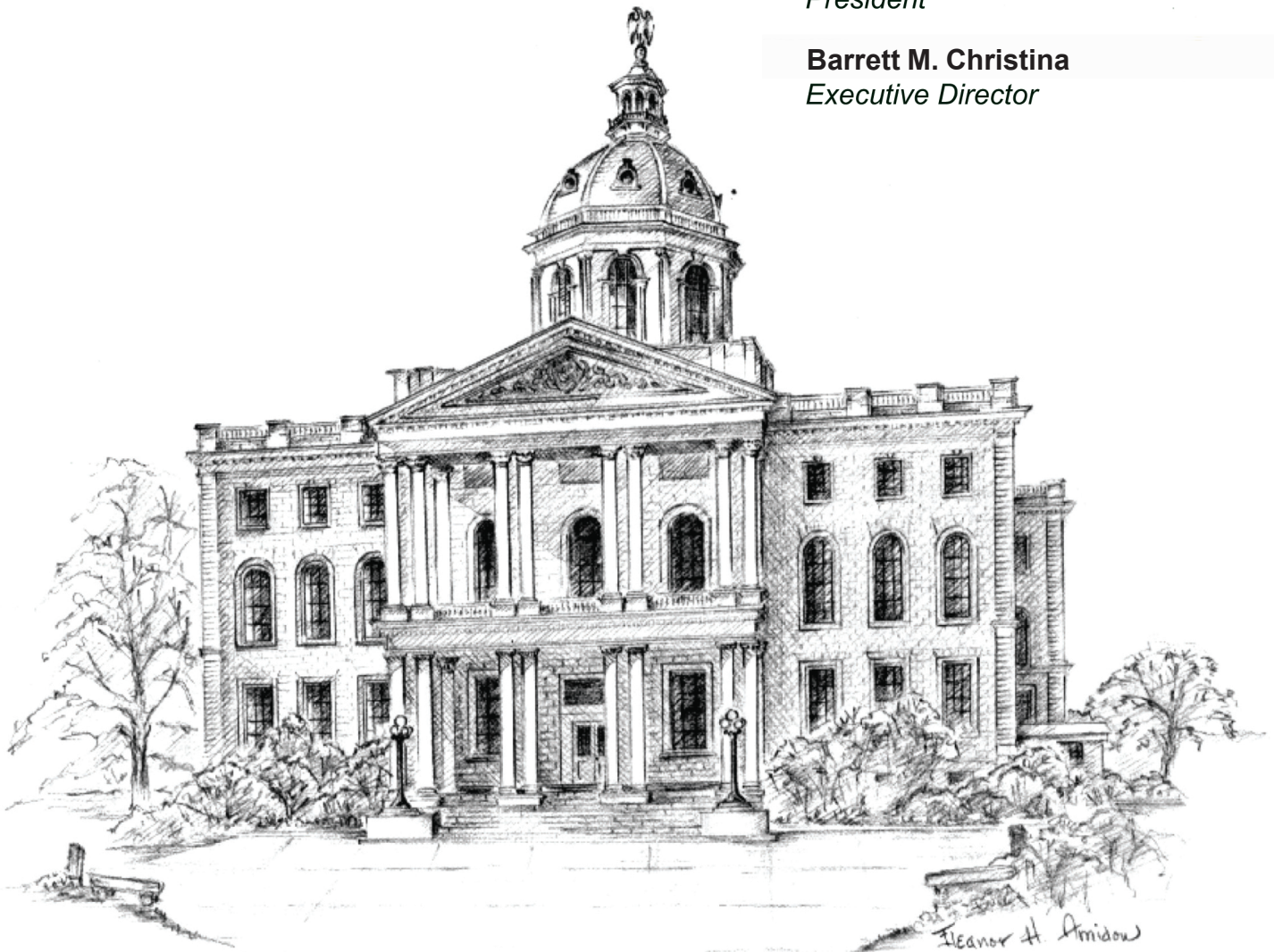




# New Hampshire School Boards Association

**Travis Thompson** President  
*President*

**Barrett M. Christina**  
*Executive Director*



**2020**

# LEGISLATIVE SUMMARY

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## 2020 NHSBA Legislative Summary

### *A Resource Guide for School Districts and Local Boards of Education*

It was an unusual legislative season, due to the numerous impacts of COVID-19. Despite needing to adjust to new electronic platforms and emergency orders and processes, both the New Hampshire House of Representatives and the New Hampshire Senate worked to pass 61 bills this past session. This is in stark contrast to the 385 bills which were passed in the 2019 session.

In efforts to be more efficient, the NH Senate assembled an “omnibus” amendment (a proposal that covers a number of diverse or unrelated topics, and which “packages” many bills/changes into one) to HB 1558. HB 1558 was signed into law with various effective dates, ranging from June 30, 2020 to July 1, 2021. Many provisions of HB 1558 impact school board governance and school district operations. As such, each provision of HB 1558 is outlined below, by appropriate category.

<b>Part I – Bills That Have Become Law</b>	
<b>SB 684 &amp; HB 1623</b>  <i>Relative to Medicaid to schools</i>	<b>Summary</b> This bill authorizes the Department of Education to adopt rules relative to federal funding available for schools under New Hampshire’s Medicaid program. These bills permit professionals certified by the Department of Education who are providing medical services in public schools to be licensed by medical and health care boards.
	<b>Legal/Practice Impact</b> These bills are a follow up relative to changes to the NH Medicaid to Schools Rules which occurred during the 2019-2020 school year.  When emergency rules were first implemented in August 2019, many school-based service providers who previously qualified for billing under Department of Education credentials (school psychologists, speech and language assistants, school social workers, rehabilitative assistants, behavior specialists, etc.) were no longer considered “billable providers” under these amended rules. As a result, many districts were not able to bill for Medicaid-related services they had previously submitted for reimbursement. This greatly impacted anticipated district revenues. Under these bills, districts are now allowed to submit reimbursement requests for some school-based providers.

	<p>Various NH medical and health boards have worked closely with NHDOE and NH DHHS to make this credentialing process as streamlined as possible to allow for timely billing and reimbursement. Administration and boards should ensure that all staff who are providing these health-related services are appropriately certified by the Department of Education, as well as carrying the appropriate license from a medical or health care board. This will require some staff to apply for such a license.</p> <p>HB 1623 permits the use of telemedicine/telehealth services for many school health and special education related services that are eligible for reimbursement through Medicaid to Schools.</p> <p><b>Policy Impact</b>  This bill does not implicate any current NHSBA sample policies. Districts should review any district specific personnel policies and or job descriptions (requirements) to assure that any current provisions reflect the new licensing provisions.</p>
<p><b>SB 625-FN</b></p> <p><i>Relative to kindergarten funding</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b>  This section of HB 1558 changes the formula for an additional adequate education grant to a school district that operates a full-day kindergarten program. <b>(Effective Immediately)</b></p> <p>This bill amends the Adequate Education Grants for Kindergarten (RSA 198:48-b) to allow those districts which operate a full-day kindergarten program in any school year, in which the adequate education grant provided pursuant to RSA 198:42 does not include a count of the full-day kindergarten students, shall receive an additional adequate education grant based on the number of pupils attending kindergarten in the district as of the beginning of the school year.</p> <p>The per pupil amount of the additional education grant for full-day kindergarten students shall be 50 percent of the amount distributed under RSA 198:40-a, based on the number of pupils enrolled and present on the first day of school in the current year in a full day-kindergarten program in the district. Once pupils enrolled in an approved kindergarten program have been counted in the average daily membership, school districts shall receive, for each pupil, an adequate education grant calculated in accordance with RSA 198:40-a, II.</p>

	<p><b>Legal/Practice Impact</b>  This section of HB 1558 applies the same formula used for full-day students in other grades, to calculate adequate education funding for students attending district full-day kindergarten programs. This will bring some relief for districts who have transitioned into a full-day kindergarten program over the past two years, by allowing them to receive funding for these students as they would for other full-day students in grades 1-12, as part of the district’s average daily membership.</p> <p><b>Policy Impact</b>  No NHSBA sample policies are impacted by this bill. Districts should review their own kindergarten policies to determine whether there are any provisions which contradict the new funding.</p>
<p><b>SB 563</b></p> <p><i>Relative to authorizing the issuance of bonds or notes by a municipality</i></p> <p><i>HB1558-§38:19</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b>  This bill amends current law by lowering the requirement for passing a bond or note from 2/3 supermajority vote to a 3/5 supermajority vote. <b>(Effective July 1, 2020)</b></p> <p><b>Legal/Practice Impact</b>  Previous law required a 2/3 vote of the voters in order to pass a bond article. This bill lowers that requirement to a 3/5 vote. The intent of this bill is to lower the supermajority threshold to make it easier for local districts to pass bonds. Testimony at various hearings stated that in the absence of school building aid, the law needed to be amended to make it easier for school districts to pass school renovation or school building needs.</p> <p><b>Policy Impact</b>  No NHSBA sample policies are amended by this bill. Traditional meeting districts may want to review any SOP’s they have regarding bonds and update to reflect the lower threshold.</p>



<p style="text-align: center;"><b>HB 1328</b></p> <p style="text-align: center;"><i>Relative to a change of school or assignment due to manifest educational hardship.</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b></p> <p>This provision modifies RSA 193:3 regarding a change of school or assignment and modifies the provisions relative to manifest educational hardship. <b>(Effective September 27, 2020)</b></p> <p>Primarily, this provision of HB 1558 primarily clarifies the procedures a school district must follow if a student or parents request a change in school assignment on either the “best interest” standard or the “manifest educational hardship” definition.</p>
	<p><b>Legal/Practice Impact</b></p> <p>The amendments to RSA 193:3 make the following changes.</p> <p>First, a student/parent may request to the superintendent that the student be reassigned to another school within the district or another public school or public academy because it is in the “best interest” of the student. In determining whether it is in the best interest of the student to change the student's school or assignment, the superintendent shall consider the student's academic, physical, personal, or social needs.</p> <p>If the superintendent finds it is in the best of the interest of the student to change the student's school or assignment, the superintendent shall initiate: (1) A change of assignment within the student's current assigned school; (2) The student's transfer to another public school or public academy within the district of residence; or (3) The student's transfer to a public school or public academy in another district.</p> <p>If the superintendent does not find that it is in the best interest of the student to change the student's school or assignment, the parent or guardian may request a hearing with the school board of residence to determine if the student is experiencing a manifest educational hardship.</p> <p>"Manifest educational hardship" means that a student has a documented hardship in his or her current educational placement; and that such hardship has a detrimental or negative impact on the student's academic achievement or growth, physical safety, or social and emotional well-being. Such hardship must be so severe, pervasive, or persistent that it interferes with or limits the ability of the student to receive an education.</p>

	<p><b>Policy Impact</b>  NHSBA will include in the Fall 2020 Policy Update revisions (if necessary) to current samples JCA, JEC, and JFAB to reflect the changes to RSA 193:3.</p>
<p><b>SB 675</b></p> <p><i>Relative to school board expenditure of year-end fund balances</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b>  This section of HB 1558 increases the amount of the year-end unassigned general funds a school district may retain and changes the purposes for which such funds may be expended. <b>(Effective September 27, 2020)</b></p> <p>A school district, by a vote of the legislative body, may authorize, the school district to retain any unused portion of the year-end unassigned general funds, from the preceding fiscal year in subsequent fiscal years, in an amount not to exceed 5%, of the current fiscal year’s net assessment under RSA 198:5.</p> <p><b>Legal/Practice Impact</b>  Previous law allowed school districts to retain up to 2.5% of the current fiscal year’s net assessment. Also, under previous law, the district was limited in how these retained funds could be spent: (1) used to reduce or offset taxes; or (2) for emergency use, provided the “emergency” was declared so or authorized by the Commissioner of Education.</p> <p>SB 675 now allows districts to retain up to 5% of the current fiscal year’s net assessment and removes restrictions for expending this retained money. Prior to expending this retained money, the school board shall: (1) hold a prior public hearing on the action to be taken with such funds; and (2) provide in the district’s annual report an annual accounting and report of the activities of the retained general funds.</p> <p>Districts which had previously established a “contingency fund” under the older version of 198:4-b should review the original warrant article to assure the language did not include the restrictions of the earlier statute. If so, consult with counsel or the DRA as to whether a new article is required/appropriate. Districts which have not already established a contingency fund are encouraged to explore this budget tool.</p>

	<p><b>Policy Impact</b></p> <p>Although contingency funds are recognized in NHSBA sample policy DIA, no revisions are necessary. Districts which have previously established contingency funds under RSA 198:4-b, should determine whether any changes to their own policies are appropriate or required in light of the broader allowances for such funds.</p>
<p><b>HB 1558</b></p> <p><i>Sections 38:32 through 38:36 (pages 17-19)</i></p>	<p><b>Summary</b></p> <p>Exempts school bus drivers and transportation monitors from certain background checks. <b>(Effective September 27, 2020)</b></p> <p>Requires the Department of Education to be a clearinghouse for certain background checks for school bus drivers. <b>(Effective September 27, 2020)</b></p> <p>Requires the Department of Education to make rules relative to the certification standards for school bus drivers and transportation monitors. <b>(Effective January 1, 2021)</b></p> <p>Establishes the position of background check coordinator within the division of educator support and higher education. <b>(Effective September 27, 2020)</b></p> <hr/> <p><b>Legal/Practice Impact</b></p> <p>This portion of HB 1558 calls for the addition of school bus drivers and transportation monitors to be added to the list of those positions which require certification standards (Amend RSA 21-N:9, II(s)) and calls upon the Department of Education to create these standards. This also calls for a new position to be put into place, established within the division of educator support and higher education- a position of background check coordinator who shall be a classified employee. This position would be responsible for ensuring that those drivers and transportation monitors meet established background check standards.</p> <p>This would mean that while SAU's and local Districts are responsible for the cost of, and carrying out of, fingerprinting and criminal background checks for most employees, specifically the cost of these checks and fingerprinting for bus drivers and transportation monitors will be borne by the Department of Education. The results of these checks will be held</p>

	<p>in a clearing house at the Department, and will be made available to towns, cities, or other organizations paying for school bus transportation.</p>
	<p><b>Policy Impact</b>  NHSBA sample policy GBCD is amended. NHSBA will include in the Fall 2020 Policy Update appropriate revisions to sample policy GBCD to reflect the changes to RSA 189:13-a and related statutes.</p>
<p style="text-align: center;"><b>HB 677</b></p> <p style="text-align: center;"><i>Relative to discipline of students, addressing students' behavioral needs, and making an appropriation therefor</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b>  Modifies the policy for discipline and expulsions from school. I. RSA 193:13, I-X as inserted by section 1 of this act <b>shall take effect July 1, 2021.</b></p> <p>There are significant implications for districts and schools, in terms of requirements of targeted, systematic responses and interventions to problematic behavior, requirements for intervention plans for students once they return from suspension, and notification requirements of related policies.</p> <p>This section amends the criteria under which a student may be suspended or expelled. Students may face discipline for: an act that constitutes an act of theft, destruction, or violence as defined in RSA 193-D; bullying pursuant to school district policy when the pupil has not responded to targeted interventions and poses an ongoing threat to the safety or welfare of another student; or possession of a firearm, BB gun, or paintball gun.</p> <p>Other changes to this section are in regard to the targeted interventions districts must have in place for students. Any time a pupil is suspended more than 10 cumulative school days in any school year, upon the pupil's return to school, the school district shall develop an intervention plan designed to proactively address the pupil's problematic behaviors. No pupil shall be penalized academically solely by virtue of missing class due to suspension. The requirement to develop an intervention plan is also new to districts.</p> <p>The bill also states that the local school board shall adopt a policy which allows the superintendent to modify the expulsion on a case by case basis. This provision would allow school boards to make the</p>

	<p>determination to enroll a student at their discretion, regardless of the pupil being expelled from another district, unless that student was expelled from school under the provisions of the Gun-Free Schools Act of 1994.</p>
	<p><b>Legal/Practice Impact</b></p> <p>For students with an excess of suspension longer than 10 days, districts will need to be sure that the new aspects of this bill are implemented. This includes being sure to create and implement an intervention plan, being sure that assignments are available to students who are serving a long-term suspension, that alternative education services are considered and provided, should a student be suspended in excess of 20 cumulative days in a school year, and that districts have a robust repertoire of targeted interventions to try with students, prior to long term suspensions or when a pattern of problematic behaviors are being seen with a student.</p> <p>Districts will also need to be mindful of also aligning these processes and procedures with those required under IDEA rules, for those students who also qualify for special education.</p> <p>Districts need to review their school discipline plans/routines/processes, to ensure that they meet the requirements set forth in section XI, to include a graduated set of age appropriate responses to misconduct that may include, but are not limited to, parent conferences, counseling, peer mediation, instruction in conflict resolution and anger management, parent counseling and training, community service, rearranging class schedules, restriction from extra-curricular activities, detention, in-school supports and consequences, out-of-school suspension, and expulsion.</p>
	<p><b>Policy Impact</b></p> <p>This portion of HB 1558 is not effective until <b>July 1, 2021</b>. NHSBA will be working over the next several months with various cohorts to develop new samples/revised policies to reflect the substantial and sweeping changes to required disciplinary frameworks. NHSBA will release the new/revised discipline policies in early Spring 2021. Samples likely to be revised include JIA, JIC, JICD, JICC, among others.</p>



<p style="text-align: center;"><b>SB 584</b></p> <p style="text-align: center;"><i>Relative to policies for students with head injuries</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b></p> <p>This portion of HB 1558 requires the NH Department of Education to collaborate with the Brain Injury Association of New Hampshire, to develop a concussion and brain injury return to learning policy and plan for school districts.</p> <p>Further, the school board of each school district shall adopt a concussion and traumatic brain injury return to learning policy school education program. <b>(Effective July 1, 2020)</b></p>
	<p><b>Legal/Practice Impact</b></p> <p>The school board of each school district shall adopt a concussion and traumatic brain injury return to learning policy school education program.</p>
	<p><b>Policy Impact</b></p> <p>Current NHSBA sample JLCJ is geared more toward student athletes. NHSBA will include in the Fall 2020 Policy Update a revision to its current sample JLCJ to reflect the broader application of new RSA 200:63.</p>
<p style="text-align: center;"><b>SB 711</b></p> <p style="text-align: center;"><i>Relative to child sexual abuse prevention education and training</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b></p> <p>This provision requires school districts to provide employees and volunteers with materials concerning sexual abuse prevention. <b>(Effective July 1, 2020).</b></p> <p>The law states: “The school district shall provide every school employee whose position requires a criminal background with informational materials, training, or other education, either online or in person, concerning child sexual abuse prevention, sexual assault and harassment policy training, warning signs of child abuse, and reporting mandates.”</p> <p>For the purposes of this section of the bill, school employees include coaches and those enumerated in RSA 189:13-a, I(a), VI, and IX(a). Such training shall be <i>completed within 30 days of employment and renewed every 2 years for all employees.</i></p>

	<p><b>Legal/Practice Impact</b></p> <p>All school district staff, coaches, volunteers or any person whose position requires a criminal background check shall participate in training on the above-mentioned areas, within the specified timeline. School districts will need to track this training to ensure compliance when new employees are hired and volunteers are authorized.</p> <p>It may be useful for districts and boards to consider how to create professional development calendars long term, how to incorporate ongoing/recurring required training schedules or modules, and modes in which the many required trainings could be provided to meet regulations.</p> <p><b>Policy Impact</b></p> <p>NHSBA sample policy JLF is amended. Given the increasing number of training requirements (e.g., Title IX Coordinator – ACAC, Suicide Prevention – JLDBB) and training recommendations (e.g., reporting obligations, meal charging, etc.), NHSBA will include in the 2020 Fall Policy Update a sample policy summarizing training requirements.</p>
<p><b>SB 665</b></p> <p><i>Relative to a children's system of care and student wellness</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary – HB 1558, Sections 27-30</b></p> <p>These sections provide that as part of the system of care for children's mental health under RSA 135-F, the Department of Education shall assist school districts in using the multi-tiered system of supports for behavioral health and wellness (MTSS-B). <b>(Effective September 27, 2020)</b></p> <p>MTSS-B is a coordinated, comprehensive and community-based system of care, which supports the use of evidence-based prevention to support behavioral health and wellness in students. MTSS-B includes a school wide system of evidence-based behavioral practices, a targeted system of practices for students who need additional support, and a tertiary system of intensive and individualized interventions for students with the greatest behavioral needs.</p> <p>This provision of HB 1558 requires, to the extent possible within existing statutory and budgetary constraints, that the commissioner of the Department of Education support the system of care and MTSS-B, through provision of technical assistance, professional development, external consultation and training, alignment of federal funding,</p>

	<p>evaluation of implementation of MTSS-B, and coordination with DHHS to strengthen school and community mental health/systems of care.</p>
	<p><b>Legal/Practice Impact</b></p> <p>Many districts have been highly engaged with MTSS-B frameworks over the past several years, including using similar frameworks to teach positive behavioral skills and positive behavioral interventions and supports (PBIS.)</p> <p>This section of the bill is meant to support and acknowledge the significant toll that ongoing mental health, substance misuse, and child protection crises have had on New Hampshire’s children, families, schools and communities. The need to focus on social and emotional wellness and learning in our schools has been evident.</p> <p>There is empirical evidence that when there is high-fidelity implementation of multi-tiered systems of supports in both schools and communities, there is a positive impact on enhanced overall behavioral health, reduced exclusionary discipline, improved student achievement, increased attendance and an overall enhanced school climate.</p> <p>However, the provision of a strong MTSS-B framework in school districts does require ongoing professional development, onboarding of new staff/families, increased mental health access/staffing within buildings and districts, and consistent evaluation to adjust the process and system to respond to current needs.</p> <p>In the past, some districts have not been able to implement such programs with high fidelity, based on fiscal impact of staffing needs, ability/availability to provide ongoing consistent training and professional development, or a lack of resources to sustain the framework over time.</p>
	<p><b>Policy Impact</b></p> <p>NHSBA will review current sample policies related to the several issues related to MTSS-B, e.g., JLDBA, JLCI, etc. and include any necessary/appropriate revisions in the 2021 Spring Policy Update (along with the policy updates related to the new student disciplinary frameworks).</p>

<p style="text-align: center;"><b>SB 556</b></p> <p style="text-align: center;"><i>Relative to violence in schools</i></p> <p><b>Complete Bill:</b> To find the complete text of this bill, please click on this link: <a href="#">HB1558</a></p>	<p><b>Summary</b></p> <p>There are several portions of HB 1558 related to school safety programs:</p> <p><b>Section V.</b> Requires school safety programs to contain a plan for responding to violent acts committed by students against employees, volunteers, and visitors. <b>(Effective July 1, 2020)</b></p> <p><b>Section VI.</b> Requires the joint loss management committee to address protocols for employees to follow. <b>(Effective June 30, 2020)</b></p> <p><b>Section VII.</b> Provides for reporting of acts of violence. <b>(Effective June 30, 2020)</b></p>
	<p><b>Legal/Practice Impact</b></p> <p>When the employer is a public school district, the district’s safety plan must contain plans or provisions for responding to violent acts committed by students against employees, volunteers or visitors.</p> <p>The Joint Loss Management Committee must also specifically establish protocols for employees to follow in regards to workplace violence, including providing training to employees. Any employer who is found to have discouraged employees from reporting such injuries to their employer shall be subject to a civil penalty of not more than \$2,500 per violation.</p> <p>The district must also keep records of any acts of violence against employees, visitors, or volunteers, and these must be reported to both the Department of Education, as well as presented in an annual incident report to their local school board.</p>
	<p><b>Policy Impact</b></p> <p>NHSBA will include updates to current samples ADD/EBB (School Safety &amp; Safe Schools), EB/JLI (Joint Loss Management Committee), and EBBB (Accident Reports).</p>

<b>Referred to Interim Study</b> (the committee would like the House or Senate to send it back down to the committee for further analysis)	
<b>SB 60</b> <i>Relative to Advance Notice to Hourly Employees of Work Schedules</i>	<b>Summary</b> This bill requires employers with 15 or more employees in the state to provide employees with advance notice of the work schedule.  <div style="text-align: right;">1/8/2020</div>
<b>SB 182</b> <i>Relative to a Duty to Report When Another Person Has Suffered Grave Physical Harm</i>	<b>Summary</b> This bill establishes a duty to report when another person has suffered grave physical harm.  <div style="text-align: right;">1/8/2020</div>
<b>HB 186</b> <i>Establishing A State Minimum Wage and Providing for Adjustments to the Minimum Wage</i>	<b>Summary</b> This bill establishes a minimum hourly rate which increases over the next 3 years, requires tipped employees to receive 50 percent of the applicable minimum hourly rate, and establishes a youth minimum wage for employees under 17 years of age.  <div style="text-align: right;">1/8/2020</div>
<b>HB 383</b> <i>Relative to the Prohibition on Unlawful Discrimination in Public and Nonpublic Schools</i>	<b>Summary</b> This bill prohibits discrimination on the basis of sex, gender identity, race, color, marital status, physical or mental disability, religious creed, or national origin in any public school, nonpublic school, or approved school tuition program.  <div style="text-align: right;">1/8/2020</div>



<p><b>HB 441</b>  <i>Relative to  Disclosure of the  Source of Legislative  Bill Proposals and  the Disclosure of  Certain Information  by Lobbyists</i></p>	<p><b>Summary</b>  This bill requires the identification of a private organization responsible for distributing a model act used by a legislator to propose legislation. The bill also requires lobbyists to disclose their affiliation upon contacting a member of the general court by telephone, email, or other electronic communication.</p> <p style="text-align: right;">1/8/2020</p>
<p><b>HB 1163</b>  <i>Requiring School to  Update Documents  and Software to  Include the Option  of Identifying a  Student as Non-  Binary</i></p>	<p><b>Summary</b>  This bill requires schools to update documents and software to include the option of identifying a student as non-binary.</p> <p style="text-align: right;">3/11/2020</p>
<p><b>HB 1232</b>  <i>Relative to the  Burden of Proof in  Special Education  Hearings</i></p>	<p><b>Summary</b>  This bill provides that the burden of proving the appropriateness of a child's special education placement or program is on the school district or other public agency.</p> <p style="text-align: right;">3/12/2020</p>
<p><b>HB 1282</b>  <i>Relative to  Changing a Pupil's  School or  Assignment Because  of a Manifest  Educational  Hardship</i></p>	<p><b>Summary</b>  This bill revises the procedures for a change of school or assignment because of manifest educational hardship.</p> <p style="text-align: right;">3/11/2020</p>

<p><b>HB 1344</b> <i>Relative to Reimbursement of Transportation Costs for Students Attending a Career and Technical Education Center</i></p>	<p><b>Summary</b> This bill amends the definition of “sending district” to allow reimbursement for the cost of a student attending a career and technical education program in the school district in which the student resides.</p> <p style="text-align: right;">3/11/2020</p>
<p><b>HB 1469</b> <i>Relative to Hazing at Educational Institutions</i></p>	<p><b>Summary</b> This bill establishes prohibitions and reporting procedures for hazing at secondary and postsecondary educational institutions.</p> <p style="text-align: right;">3/11/2020</p>
<p><b>HB 1512</b> <i>Relative to Reducing School Food Waste and Addressing Child Hunger</i></p>	<p><b>Summary</b> 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.</p> <p style="text-align: right;">3/11/2020</p>
<p><b>HB 1635</b> <i>Requiring Climate Education in Grade and Secondary Schools</i></p>	<p><b>Summary</b> This bill requires climate change instruction in all public schools grades pre-K through grade 12.</p> <p style="text-align: right;">3/12/2020</p>

**Title IX Update:**

In May 2020, the U.S. Dept. of Education released new regulations regarding sexual harassment under Title IX. The new regulations were effective on August 14, 2020, and imposed substantial policy, procedural, training, record keeping and notice requirements upon all elementary and secondary school districts. Many of these requirements demand immediate board attention. Some of the key elements of the new regulations are itemized below.

In early August, NHSBA provided its policy subscribers with a sample combined policy and grievance procedure (ACAC) to reflect the new requirements. The ongoing challenge will be in implementation, and day-to-day assurance that these policies, procedures, roles, and routines are clearly defined for actual district use.

“Highlights” of new Title IX regulations:

- narrower definition of sexual harassment under Title IX
- limitation on district’s ability to investigate unless and until receipt of a “formal complaint”
- designated – and specifically trained Title IX Coordinator, as well as investigators, decision-makers, and specifications of each role (one person cannot hold multiple roles)
- legal rights of parents to act on behalf of students and to receive notice of formal complaints
- district deemed to have knowledge of report upon receipt by **any employee** of the district (e.g., teacher, custodian, para, food service, etc.)
- required responses for known cases of sexual harassment
- mandated offerings of “supportive measures”
- a formal grievance procedure (with multiple minimum requirements, triggered only upon filing of a signed formal complaint (only victim (“complainant”), her/his parents, or the Title IX Coordinator may sign a formal complaint)
- limitation on actions against perpetrator (“respondent” under regulations) until formal grievance process is exhausted
- requirements as to when districts must dismiss complaints, and/or must conduct a formal investigation
- specific requirements relative to investigations and reports of same
- access requirements for the parties and their representatives (attorneys or other) to investigative materials (supersedes FERPA in many respects)
- optional informal resolution process (only after receipt of a formal complaint)
- training requirements for staff/personnel on *new* definition of sexual harassment, mandatory reporting, how to conduct live hearings, how to create an investigative report that meet the new requirements and on what information must be made publicly available

The impacts on districts with these new Title IX requirements are significant. The Department of Education can require schools to prove their compliance with Title IX and withhold federal financial assistance for non-compliance, regardless of whether they have made any finding of

sexual harassment. Districts and Boards are strongly encouraged to work with district counsel to assure policies, procedures, roles, and training are in place to meet these new Title IX requirements.

### **Bills Expected to See Again:**

- Education Until Age 22
- Burden of Proof in Special Education Due Process Hearings
- Overriding the State Board of Education's "Learn Everywhere" rules

### **Special Note Regarding HB 253:**

“relative to criminal records checks in the employee application process.”

The “Amended Analysis” to HB 253 states that the bill “prohibits a public employer from inquiring about or conducting a criminal background check on a prospective employee prior to an interview, unless required by state or federal law.” On review of the final language as passed, NHSBA has concluded that the new law does not apply to either school districts or SAU's. Even if the new law did apply, districts and SAUs would not be constrained by the prohibitions due to the requirements of RSA 189:13-a.

### **Vetoes:**

2020 was the second year of a legislative term comprising an executive branch and legislative branch dominated by different political parties. With this party split across the branches of state government, 2020 has continued to see a number of vetoed bills executed by the Governor's office.

**HB 1454** was a bill relative to alternative learning credit rules of the state board of education. This bill would have required the state board of education to adopt rules establishing a process for the approval of vendors offering alternative, extended learning, and work-based programs which may be accepted for credit by a local school board. This bill was vetoed by the Governor on July 24, 2020. The state board of education shall adopt rules, pursuant to RSA 541-A, that establish a process for the application, vetting, and approval of vendors offering alternative, extended learning, and work-based programs which may be accepted by the local school board for credit leading to graduation in any school district in this state. Nothing in this subparagraph shall prevent a local school district from approving vendors offering credit for alternative, extended learning, or work-based programs which do not appear on the pre-approved list maintained by the board.

This bill would have allowed the State Board of Education to vet and approve certain programs that could be accessed by local school boards when designing Extended Learning Opportunities for students. It would not mandate that these programs be used or accepted but would provide districts a consistent list of programs that could be accessed at the district’s discretion.

**SB 19** was a bill relative to the privacy of certain information concerning public employees. This bill would have required that an employee's home address, personal email address, and home or mobile telephone numbers shall not be disclosed except to an employee organization for the purpose of collective bargaining.

<p><b>Effective Dates of New Legislation Requiring Policy Review</b></p> <p><b>NHSBA</b></p> <p><b>August 2020</b></p>
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<i>Section/Bill Number</i>	<i>Title/Notes</i>	<i>Effective Date</i>
HB1558 §38:11&12	Requiring the joint loss management committee to address protocols for employees to follow relative to violence in schools	6/30/2020
HB1558 §38:11&12	Provides for reporting acts of violence	6/30/2020
HB1558 §38:16	Relative to policies for students with head injuries	7/1/2020
HB1558 §38:17	Relative to child sexual abuse prevention, education, and training	7/1/2020
HB1558 §38:11&12	Requiring school safety programs to contain a plan for responding to violent acts committed by students against employees, volunteers, and visitors	7/1/2020
Title IX New Regulations	Requiring substantial policy, procedural, training, record keeping and notice requirements upon all elementary and secondary school districts	8/14/2020



HB1558 §38:24	Relative to Manifest Education Hardship	9/27/2020
HB1558 §38:25	Relative to school board expenditure of year-end fund balance	9/27/2020
HB1558 §38:32-36	Relative to exemptions for bus drivers/transportation monitors for certain background checks	9/27/2020
HB1558 §38:32-36	Requiring the Department of Education to be a clearinghouse for certain background checks for bus drivers	9/27/2020
HB1558 §38:32-36	Establishing the position of background check coordinator within the division of educator support and higher education	9/27/2020
HB1558 §38:32-36	Requiring the Department of Education to make rules relative to the certification standards for school bus drivers and transportation monitors.	1/1/2021
HB1558 §38:1	Relative to discipline of students, addressing student's behavioral needs, and making an appropriation therefor	7/1/2021