

LEGISLATIVE BULLETIN

Bulletin #17

2010 Session

April 16, 2010

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Local Aid Figures Inflated

Question: How does state aid to “cities and towns” add up to 45% of the state budget?

Answer: When you include the amount the state is constitutionally mandated to pay for adequate education costs.

Look closely at the [information](#) distributed by the Governor in the last week and you will see on page 10 a pie chart that shows 45% of state general and education funds going to “state aid for cities and towns.” **Almost 80% of that so-called state aid, however, is adequate education aid—the amount needed to fund the state’s constitutionally mandated obligation to pay for an adequate education.** That’s \$1.9 billion for state adequacy costs out of the roughly \$2.4 billion labeled as state aid to cities and towns.

It is difficult to imagine how money that the state is constitutionally mandated to spend on education can be considered “aid” to local governments. Moreover, \$726 million of that \$1.9 billion comes from the statewide property tax which was created by the legislature exclusively to fund education! These numbers come directly from the chart of state aid to cities, towns, and school districts that can be found on the legislative web site.

Excluding the \$1.9 billion for the state’s education adequacy obligation, the remaining amount of state aid to cities, towns, and school districts is actually \$496.3 million over the biennium, not \$2.4 billion. With last year’s reductions—elimination of revenue sharing, reduction in the state’s retirement contribution, suspension of the catch-up provision in the meals and rooms tax distribution, and environmental grant reductions—cities, towns, and schools were hit with a **9 percent decrease** in state revenues for the biennium.

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Local Aid Figures – continued

The additional \$25 million of cuts proposed by the Governor (\$6 million from the meals and rooms distribution, over \$9 million in further state retirement reductions, and \$10 million in education program reductions) would lead to an overall **DECREASE** of **14 percent** in state aid to municipalities and school districts compared to the previous biennium. That's an additional 5 percent cut, not a 1 percent cut, as the Governor's office has suggested.

We are all in a bad financial situation—cities, towns, schools, counties, as well as the state. We are all suffering from losses in investment income and from drops in other sources of revenue. We are all laying off employees and dipping into reserves and cutting back on services. But we all need to be clear on the facts.

The House Finance Committee will hold work sessions next **Tuesday** and **Thursday, April 20 and 22**, on the proposed cuts, calling on specific state agencies to explain to them the implications of these reductions. **Legislators need to hear from municipalities about the impact of the state cuts on already strained local budgets.** Please get information to the [House Finance Committee](#) members by the end of next week—no later than **April 23^d**—for their consideration in their work on the budget cuts. Make sure your local delegation gets the same information, and please send it to NHMA as well.

House to Vote on Pole Tax Exemption

Next **Wednesday, April 21**, the full House will vote on **SB 492**, which would extend the property tax exemption for telecommunications poles and conduits for two more years. ***PLEASE . . . call all of your representatives before Wednesday and urge them to kill SB 492.***

The Local and Regulated Revenues Committee sent a strong message to the House this week with a **15-4 vote of Inexpedient to Legislate**. This was a great result, and a dramatic reversal of developments in recent years. It was truly a

bipartisan vote to kill the bill, with 10 of 11 Democrats and 5 of 8 Republicans supporting the ITL motion. Ten of the committee members voting this week had previously voted, in 2005, to continue the exemption; of those ten, **seven** changed their votes and supported the ITL motion this week. We have talked to many other representatives who also are ready to change their positions and vote to end the exemption.

Why the shift? In large part, it is due to the efforts of local officials who have been persistent in explaining to legislators the unfairness and the adverse effects of this single-industry property tax exemption.

It may also be because legislators are seeing the impacts of recent budget decisions on their cities and towns, and especially on property taxpayers: the loss of \$25 million per year in revenue sharing, the \$5 million reduction in meals and rooms tax distributions, the shift of \$27 million in retirement costs to municipalities and school districts. Now, with the Governor proposing another \$6 million cut in meals and rooms tax distributions for fiscal year 2011 and further shifting of retirement costs, legislators are looking for ways to stop the bleeding.

Ending the giveaway to the telecommunications industry won't come close to making up for all these lost revenues and increased costs, but it is a small step: it will bring a few million dollars more to municipalities, at no cost to the state. It also is a recognition that, especially in the current economic climate, there is no excuse for special deals that benefit telecommunications companies at the expense of homeowners and small businesses. While everyone else is heeding the call to "share the pain," FairPoint and Comcast continue to expect immunity from property taxes, and many legislators are understandably not sympathetic.

Nevertheless, we expect a spirited fight on the floor of the House next week. The absence of any principled reason for extending the exemption has not deterred the telecommunications

Pole Tax Exemption – continued

companies or their hard-core allies. We have momentum, principle, and truth on our side—but as we know, those weapons are not always enough.

Please call every one of your representatives over the weekend and tell them to support the committee’s recommendation of ITL. Remind them, as we have said in the past, that they represent municipalities and taxpayers, not FairPoint and Comcast.

If you need additional information, please read the [fact sheet](#) on **SB 492** that is available on our website. It answers all the arguments that have been raised to try to justify special treatment for phone and cable companies. Feel free to share it with your legislators—and ***PLEASE*** call the Government Affairs staff if you have any questions.

Postscript: Although the House has not even voted on the bill yet, the telecommunications lobbyists are already shifting their strategy back to the Senate. They have been meeting privately with senators to find a House bill currently in the Senate to which they can attach the language of **SB 492**. The idea—for those not familiar with parliamentary shenanigans—is to have the Senate send a House bill back to the House with the **SB 492** language attached, and then force the House to accept the amended bill in a committee of conference.

There is no telling when the industry may spring this maneuver in the Senate, so please make one more call this week: ***call your senator*** and tell him or her you won’t stand for this. It’s time to stop the back-room deals for the benefit of a privileged few. If this bill can’t pass the House legitimately, it deserves to die.

Interest Rates on Delinquent Property Taxes

On Thursday, the Senate Public and Municipal Affairs Committee heard testimony on **HB 1335** which provides a local option for lowering interest

rates on delinquent property taxes. Due to the “enabling” provision allowing this to be a local option, NHMA neither supported nor opposed the bill. Several municipal officials testified in opposition to the bill, noting that the current law provides ample opportunity to address hardship situations on a case-by-case basis by allowing the abatement of taxes and the associated interest on those taxes. They also pointed out that delinquency rates are running about 2% statewide, and that part of the reason for this low percentage is the incentive to pay on time because of the 12% pre-lien and 18% post-lien interest rates. They expressed concern that lowering interest rates might result in higher delinquencies, leading to a need for additional short-term borrowing through tax anticipation notes, both of which could potentially impact a municipality’s bond rating.

The committee recommended Inexpedient to Legislate by a vote of 4-0. The bill now moves to the full Senate for a vote.

NHMA Requests Withdrawal of Proposed Stream-Crossing Rules from JLCAR Rulemaking Proceeding

On Friday, April 9, NHMA formally requested that the Department of Environmental Services withdraw its proposed stream-crossing rules from JLCAR, stating, “[W]e believe these rules—as proposed—have serious defects, both in substance and in process.” The letter asked DES to “recommence the process to fashion a set of rules that is consistent with other water-based regulatory programs, comports with statute and the New Hampshire constitution, is more practical in its ability to consider alternative designs that meet environmental objectives, and that will not overburden the administrative appeals process in your department and in the Wetlands Council.” As of this writing, we have not yet received a response from DES.

While numerous “tweaks” have been added to the proposed rules over the last weeks, DES has yet to submit its formal reply to JLCAR’s unanimous

Stream-Crossing Rules - continued

preliminary response and, on Wednesday of this week, it asked JLCAR to postpone its appearance at the April 16th JLCAR hearing until a later date, perhaps the first or second week of May.

Once DES has replied to NHMA and/or responded to JLCAR, NHMA will get copies out to each of our interested and affected municipalities. In the interim, we wish to thank each of our members—with particular thanks to Alton, Bennington, Boscawen, Bow, Canterbury, Candia, Concord, Durham, Epsom, Fitzwilliam, Goffstown, Hanover, Lyndeborough, Milford, New London, Pembroke, Salisbury, Seabrook, Sunapee, Washington, and Wilmot—for helping us assess and document the potential impacts of these proposed rules.

Municipal Bonding for Broadband Infrastructure Study Committee

The House Science, Technology and Energy interim study committee met for 3½ hours on Tuesday on **HB 1242**, relative to modifying language contained in RSAs 33:B-1 and 38:38-40 that, as currently written, effectively prohibits municipalities from issuing revenue bonds for the construction and operation of open-access broadband infrastructure.

The Department of Resources and Economic Development (DRED) presented an overview of the application it made, in conjunction with others, to receive federal funding to build a 450-mile fiber optic network to connect the state's "community college network and anchor institutions." DRED also discussed a four-year plan, funded by a federal grant, to map existing and planned broadband access across the state.

Representatives of NH FastRoads described its plan for an open-access voice, video and data network, the brainchild of the NH Community Development Finance Authority, the Monadnock Economic Development Corporation, the thirty-four towns of the Monadnock region, and the

eight towns of the Upper Valley–Lake Sunapee region, WCNH.net.

Included as the "last mile" provider in the DRED application, FastRoads is seeking \$7.7 million; however, FastRoads stated that without changes to the current statutes, it believed bonding—which could leverage the entire proposal—would not be possible.

Representatives of private telecommunications companies spoke during the hearing as well, one arguing that his company was forced "to comply with laws that harmed it," and others stating that though they hadn't read the underlying bill or statute, they were "pretty sure" that it was anti-competitive and presented an "un-level playing field."

A nationally recognized network expert, with nearly 20 years of experience, who developed the world's first internet-based community network, spoke via conference call and stated that "towns and local governments routinely invest in many different forms of infrastructure, including roads, sidewalks, water systems, sewer systems, school systems, public safety systems and many others." When asked about the difficulty local governments might have in operating an infrastructure as complex as broadband, he replied "It's a lot easier to run a broadband infrastructure than it is a sewer system!"

The meeting will continue **Tuesday, April 20, at 1:00 pm in LOB Room 304.**

Air Quality in Ice Rinks

A bill that came to our attention late in the process is **SB 453**, relative to air quality in ice rinks. The bill requires an annual emissions inspection for each "ice resurfer, ice edger, or other machine which is powered by an internal combustion engine and which is used in an indoor ice rink." The inspection must be performed by "a person qualified to certify that the emissions emitted from the machine conform to the manufacturer's specifications for emissions."

Air Quality - continued

The bill also requires an annual inspection of the building's ventilation system by a qualified mechanical contractor "to ensure the system is operating according to the manufacturer's specifications." The bill is a response to a recent incident in which some youth hockey players and spectators became ill from carbon monoxide emissions at an indoor ice rink.

At just about the time the Senate passed the bill, one of our members pointed out that there are a number of municipalities that own ice rinks, and this bill would affect them. Our understanding is that municipalities that own ice rinks do perform regular air quality monitoring, often using their own fire department or building officials. Such officials, however, might not satisfy the requirements of the bill, and a municipality might,

therefore, have to hire outside contractors to perform the inspections.

NHMA expressed concerns last week at the hearing before the House Executive Departments and Administration Committee. Obviously, NHMA does not want to jeopardize the health of skaters or spectators, but we are concerned about the additional cost if municipalities must hire outside contractors to perform a task that could be performed competently by their own employees. Although at least some committee members seemed to appreciate the concern, the committee recommended the bill as Ought to Pass by a vote of 11-6, and it will go to the full House next **Wednesday, April 21**. If you have concerns about the bill, please contact your representatives.

HOUSE CALENDAR

Joint House /Senate Meetings Are Listed Under this Section

MONDAY, APRIL 19

COMMISSION TO STUDY LAND DEVELOPMENT REGULATIONS AND THE EFFECTS OF LAND DEVELOPMENT WITHIN UPLAND AREAS THAT MAY AFFECT WETLANDS AND SURFACE WATER OF THE STATE (HB 1579, Chapter 294:1, Laws of 2008), Room 305, LOB

1:00 p.m. Regular meeting.

TUESDAY, APRIL 20

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

1:00 p.m. Subcommittee work session on **SB 470-FN**, relative to retirement system service credit for employment as a full-time police officer with the university system of New Hampshire, **SB 504-FN**, relative to the effective date for the implementation of the retirement system employer assessments for excess benefits.

FINANCE, Rooms 210-211, LOB

10:00 a.m. Full committee work session **SB 450-FN**, relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax. The work session will include the following:

10:00 a.m. Department of Health and Human Services.
 1:00 p.m. Department of Environmental Services.
 2:00 p.m. Department of Corrections.
 3:00 p.m. Judicial Branch.

NOTE: See also Public Works and Highways and Ways and Means.

*House Calendar - continued***LOCAL AND REGULATED REVENUES, Room 303, LOB**

10:00 a.m. **SB 391-L**, relative to the payment of certain amounts from the water fund to the town general fund by the town of Hanover.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

1:00 p.m. Public hearing on proposed amendment to **SB 450-FN**, relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax. **Section 82** – debt restructuring authorization, **Sections 83 - 85** –Capital budget appropriation for KEEP NH.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:15 a.m. Subcommittee work session on **SB 166-FN**, relative to mineral extraction, mining, and reclamation in New Hampshire.

11:00 a.m. Executive session on **SB 166-FN**, relative to mineral extraction, mining, and reclamation in New Hampshire, **SB 369**, relative to the effect of changes in local permit status on large groundwater withdrawal permits issued by the department of environmental services, **SB 370**, relative to sewage disposal systems.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

11:00 a.m. Executive session on **SB 301**, relative to combustion of untreated wood at municipal transfer stations

12:30 p.m. Interim study full committee work session on **HB 1242**, relative to broadband infrastructure.

WAYS AND MEANS, Room 202, LOB

10:00 a.m. Public hearing on proposed amendment to **SB 450-FN**, relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax. **Section 99** – pet shop license fee.

10:30 a.m. Public hearing on proposed amendment to **SB 450-FN**, **Section 97** – business tax commission.

11:00 a.m. Public hearing on non-germane amendment to **SB 450-FN** (Rep. Hatch). The proposed amendment replaces the electric consumption tax with an electric generation tax. Copies of the proposed amendment are available in the Sergeant-at-Arms office and on-line.

2:30 p.m. Public hearing on proposed amendment to **SB 450-FN**, **Section 88** – dedicated funds.

THURSDAY, APRIL 22**COMMISSION TO DEVELOP ALTERNATIVES TO THE DISPOSAL OF MEDICAL SHARPS IN HOUSEHOLD WASTE (HB 1502, Chapter 259:2, Laws of 2008), Room 304, LOB**

1:30 p.m. Regular meeting.

COMMITTEE TO STUDY THE IMPOSITION OF ASSESSMENTS TO RETIREMENT SYSTEM EMPLOYERS FOR EXCESS BENEFITS PAID TO RETIREES (SB 108, Chapter 304:1, Laws of 2009), Room 103, State House.

1:00 p.m. Regular meeting.

FINANCE, Rooms 210-211, LOB

9:00 a.m. Full committee work session on **SB 481**, relative to appropriations for certain turnpike system projects.

House Calendar - continued

- 10:00 a.m. Full committee work session on **SB 465-FN-L**, relative to the transition period for implementing the adequacy aid formula.
- 1:00 p.m. Full committee work session on **SB 450-FN**, relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax. The work session will include the following.
- 1:00 p.m. Department of Administrative Services.
 - 2:00 p.m. Treasurer.
 - 2:30 p.m. Department of Resources and Economic Development.
 - 3:00 p.m. Office of Energy and Planning.
 - 3:30 p.m. Department of Education.
 - 4:00 p.m. Office of Information Technology.

TUESDAY, APRIL 27**FINANCE, Rooms 210-211, LOB**

- 9:00 a.m. Executive session on **SB 465-FN-L**, relative to the transition period for implementing the adequacy aid formula.
- 9:30 a.m. Full committee work session on **SB 481**, relative to appropriations for certain turnpike system projects.
- 1:00 p.m. Full committee work session on **SB 450-FN**, relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax.

THURSDAY, APRIL 29**ENERGY EFFICIENCY AND SUSTAINABLE ENERGY BOARD (RSA 125-O:5-a), Office of Energy and Planning, 4 Chenell Drive, Concord**

- 2:00 p.m. Public sector working group.

FINANCE, Rooms 210-211, LOB

- 10:00 a.m. Full committee work session on **SB 481**, relative to appropriations for certain turnpike system projects.
- 1:00 p.m. Full committee work session on **SB 450-FN**, relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax. Please note: The work session on SB 450 will include reports from the committees on Ways and Means, Public Works and Highways and Local and Regulated Revenues.

SENATE CALENDAR**TUESDAY, APRIL 20****EDUCATION, Room 103, LOB**

- 10:15 a.m. **HB 1400**, requiring all colleges and universities to report crimes to the local law enforcement agency.

*Senate Calendar - continued***ELECTION LAW AND VETERANS' AFFAIRS, Room 101, LOB**

- 8:40 a.m. **HB 1476**, relative to periodic verification of the checklist.
 9:00 a.m. **HB 1528**, relative to observing voter check-in.
 9:10 a.m. **HB 1529**, relative to absentee voting.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

- 2:40 p.m. **HB 1429**, establishing a committee to study the inclusion of universal design requirements in the state building code.

JUDICIARY, Room 103, SH

- 2:30 p.m. **HB 1484**, relative to residency restrictions for sex offenders.
 2:45 p.m. **HB 1628**, establishing guidelines for neighborhood notification upon release of a sexual offender.

THURSDAY, APRIL 22**ENERGY, ENVIRONMENT AND ECONOMIC DEVELOPMENT, Room 102, LOB**

- 8:30 a.m. **HB 1266**, relative to notification requirements for lowering the water level of a lake or pond.
 9:10 a.m. **HB 1450**, relative to the designation of a portion of the Cocheco River as a protected river.

PUBLIC AND MUNICIPAL AFFAIRS, Room 103, LOB

- 8:30 a.m. **HB 1439-L**, relative to tax exemptions for water and air pollution control installations.
 8:50 a.m. **HB 1571**, relative to the penalty for failure to file an annual inventory of taxable property.
 9:00 a.m. **HB 1447**, relative to authorization to use firearms in the compact part of a town.

THURSDAY, APRIL 29**TRANSPORTATION AND INTERSTATE COOPERATION, Room 101, LOB**

- 11:15 a.m. **HB 1262**, relative to disabled parking signs.

**HOUSE****Floor Action**

Wednesday, April 14

SB 481, relative to appropriations for certain turnpike system projects. **Ought to Pass; referred to Finance.**



SENATE

Floor Action

Wednesday, April 14

HB 558-FN, (2nd New Title) establishing a procedure for leasing state parks. **Inexpedient to Legislate.**

HB 1149-FN, (New Title) relative to incorporation by reference and filing of electronic documents in state agency rulemaking. **Ought to Pass with Amendment.**

HB 1153, relative to membership of the commission to study water infrastructure sustainability funding. **Ought to Pass.**

HB 1289, relative to air quality in public schools. **Ought to Pass.**

HB 1292-FN, relative to underground storage tank facility permits, compliance, and cleanup fund eligibility. **Ought to Pass.**

HB 1353, relative to group net energy metering. **Ought to Pass.**

HB 1427, relative to the conversion period for quarterly billing for property taxes. **Ought to Pass with Amendment.**

HB 1579-FN, relative to electioneering by public employees. **Tabled.**

HB 1668-FN, requiring state creditable service for group II retirees to receive state employee medical benefits. **Ought to Pass.**

Karner Blue - NH's State Butterfly



The Karner Blue (*Lycaeides melissa, subspecies samuelis*) was designated as the official state butterfly of New Hampshire in 1992. Also called the melissa blue, the karner blue butterfly is found in small isolated colonies in New Hampshire and elsewhere.

Endangered Karner Blue - photo by Debbie LaValley

NHMA 2011 - 2012 Legislative Policy Process

....still looking for a few good ideas

In a few weeks, NHMA will begin its Legislative Policy Process for the 2011-2012 biennium. Are there things about your municipal responsibilities that might work better with a legislative change? Have you received citizen complaints that you couldn't address because you needed legislative authorization? Are there out-dated provisions in the laws that need to be modernized or streamlined? Please let us know!

The members of the Committee on Government Affairs (CGA), including the Municipal Advocacy Committee (MAC), guide NHMA's legislative policy development and advocacy efforts. The CGA will hold its Legislative Policy Process organizational meeting on Friday, April 16th. The CGA will divide into three policy committees dealing with: (a) municipal administration issues; (b) general government and revenue issues; and (c) environment and planning issues. Within those committees, CGA members will review policy proposals they have suggested, as well as those submitted by other municipal officials, and formulate policy recommendations for consideration at the NHMA Legislative Policy Conference to be held on September 17, 2010.

If you have policy suggestions, please send them in as soon as possible. Policy proposals may be submitted by a board or a local official from a member municipality. A policy proposal form should accompany each proposed legislative policy. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation that describes the nature of the problem or concern from a municipal perspective and discusses the proposed action that is being advocated to address the problem.

To submit a legislative policy proposal, download the [NHMA legislative policy proposal form](#) (pdf) and submit it to governmentaffairs@nhlgc.org.

Alternatively, contact the Government Affairs department to request a printed policy proposal form by calling 800.852.3358 ext. 384. Paper forms may be mailed or faxed to:

**NHMA
Government Affairs Department
PO Box 617, Concord, NH 03302-0617
Fax #: 603.224.5406**

Due Date: May 3, 2010



TRANSPORTATION 2010 A BRIDGE TO TOMORROW

April 22, 11:30 AM - 2 PM
Center of NH, Manchester

What is the state of New Hampshire's highway program? What funding issues need to be addressed? Are there federal funds available to the state? What is happening with commuter rail?

Please join us for our annual luncheon and review of transportation and road infrastructure issues in New Hampshire.

This year's panel is designed to cover a variety of multi-model transportation topics, including road and bridge issues, air and commuter rail.



Featured panelists:

- **Mark Brewer**, Director, Manchester-Boston Regional Airport
- **Michael Pillsbury**, Deputy Commissioner, NH Department of Transportation
- **Rep. Candace Bouchard**, Chair, NH House Public Works Committee
- **Janet Kavinoky**, Director of Infrastructure, U.S.

The cost to attend is \$35 for BIA and Capitol Connect members and members of partnering organizations, and \$49 for non members.

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