

# LEGISLATIVE BULLETIN

## House and Senate Conferees Reach Budget Agreement

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The committee of conference dealing with the biennial state operating budget in **HB 144** and **HB 517** (the trailer bill containing statutory and other changes necessary to implement the budget) began deliberations last Friday and reached agreement by Wednesday afternoon, recommending an \$11.7 billion two-year spending plan. Both bills, with the committee’s recommendations, will be presented to the House and Senate next Thursday, June 22, for an up-or-down vote, with no opportunity for amendment.

While it is very likely that these bills will pass in the Senate, we cannot say with any confidence what may happen in the House, especially since the House failed to adopt its own budget last spring. Expect to hear some legislators complain about the budget, stating that revenue estimates are too low, or too high; that certain programs are not sufficiently funded, or that the overall spending plan is excessive; that there are holes in the budget that will hurt the economy, or that further reductions in business taxes are needed to support economic growth.

We are not thrilled ourselves. We are disappointed that the \$25 million per year that the House Finance Committee had included for local property tax relief is not included, and are especially troubled that the statutory catch-up formula for meals and rooms tax distributions to municipalities is suspended again, even as the state’s revenue from that source continues to pour in. But, as local officials know from their own budget experiences, balancing spending priorities with the anticipated amount of money available requires compromise that often leaves no one completely satisfied.

Budget and non-budget items in **HB 144** and **HB 517** of specific interest to municipalities include the following:

- **\$68.8 million** each year for the meals and rooms tax distribution to cities and towns. The statutory catch-up formula, intended to gradually bring the distribution amount closer to the 40% municipal share prescribed by law, is suspended for both years of the biennium. The catch-up formula would have provided an additional \$5 million each year. Suspension of the formula results in reducing the municipal share to approximately 20%.

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- **\$35 million** each year for highway block grants. An additional \$30 million for supplemental highway projects is appropriated in [SB 38](#) (see separate article below).
- **\$6.8 million** each year for municipal bridge aid. An additional \$6.8 million for bridge aid is also appropriated in [SB 38](#).
- **\$12.7 million** over the biennium for state aid grant (SAG) funding through the Department of Environmental Services for water and wastewater projects that have already received contract approval from the Governor and Executive Council. Funding for an additional 19 projects authorized or completed prior to June 2013 is contained in [SB 57](#). The moratorium on SAG funding for any projects approved or completed after June 2013 continues for the biennium.
- Continued suspension of revenue sharing, which provided \$25 million each year to municipalities up until 2010.
- Full funding of payments in lieu of taxes for flood control lands in the amount of **\$866,250** each year. The Attorney General's office is required to undertake reasonable efforts to collect amounts due to the state of New Hampshire under the interstate flood control compact.
- Full funding of the Police Standards and Training Academy with general fund money (as opposed to instituting fees from individuals or municipalities).
- A change in the administration of the drinking water and groundwater trust fund that was established in [SB 380](#) last year from the MTBE settlement of approximately \$300 million. The fund will be administered by the Drinking Water and Groundwater Advisory Commission rather than the Department of Environmental Services, with expanded membership on the commission to include additional municipal and water industry representatives.

### **New SOS Position Will Educate Local Officials on Election Laws**

One surprising addition to the budget is the creation of a new attorney position in the Secretary of State's office to address what its proponent called "great misunderstanding of election laws at the local level" and to "train town clerks on election issues." There was no explanation of what the misunderstandings are. This new position is in addition to the election investigator position necessitated by the passage of [HB 552](#).

### **Additional Highway Funding for Supplemental Projects**

As we noted in previous *Bulletins*, [SB 38](#), an **NHMA policy bill**, provides an additional \$30 million to municipalities for highway improvements along with an additional \$6.8 million for the municipal bridge aid program. The bill is awaiting signature by the Governor, which should occur within the next two weeks.

We want to emphasize that this \$30 million is for **additional** road, highway, and bridge projects beyond those included in municipalities' current budgets. The bill specifically prohibits using this money to “supplant” existing budget appropriations for road or bridge maintenance or construction. Instead, the bill authorizes this money to be treated as “unanticipated revenue” under [RSA 31:95-b](#), which allows acceptance and expenditure

- after a properly noticed public hearing if the amount is \$10,000 or more, or
- after notice and acceptance of these funds by the Board of Selectmen if the amount is less than \$10,000.

RSA 31:95-b allows the money to be accepted and spent without having to wait until next year's town meeting to appropriate the funds. At this point, we don't know the exact dollar amount that each municipality will receive from this additional highway funding. However, it should be similar to the amount received as a highway block grant in fiscal year 2017, since that was approximately \$30 million statewide also, and the **SB 38** funds will be apportioned to each municipality based on the same formula as the highway block grants. We also don't know yet when the Department of Transportation will release this money, but we expect that it may be soon, since the bill is effective upon passage (*i.e.*, Governor's signature).

The money is coming!!! Start now, if you haven't already, to identify priorities for additional road and bridge projects to be funded by **SB 38**.

### **Bonding for Public Works Projects**

**HB 371, NHMA's policy bill** on bonding for public works projects, took an exciting ride this week, ending with a happy landing. The goal of the bill was to increase the dollar threshold, currently \$35,000, above which municipalities must require a bond for a construction project. The bill as introduced would have raised the threshold to \$150,000 for both the state and municipalities. The House amended the bill to exempt municipalities entirely from the requirement—an unusual case of the legislature's offering to do more than we asked—and to increase the threshold for state projects to \$75,000.

Exempting municipalities was admittedly a reach, and the Senate amended the bill to reinstate the bonding requirement for municipalities, but raise the dollar amount to \$100,000 for both the state and municipalities. Although that was less than the original bill and certainly not as attractive as the House amendment, we considered it a reasonable compromise.

We had hoped the committee of conference would reach a quick agreement, perhaps even just adopting the Senate version, but when the committee met on Monday, both sides stuck to their positions. Rather than negotiate the dollar amount, the House conferees took the position that “the state shouldn't be telling towns what to do”—certainly music to our ears, and often a minority position in the legislature—so no dollar amount was acceptable to them. However, that approach risked losing the bill entirely. Indeed, the Senate conferees called the bluff and walked away, and that appeared to be that.

*(Bonding— Continued from Page 3)*

More than a day passed with no further activity, but on Tuesday evening, after some urging by NHMA and others that the House panel reconsider its position, another meeting was scheduled for Thursday morning. That meeting convened and recessed twice, with a few interstitial hall conversations, and finally the House came back with a proposal of \$150,000. The Senate appeared unmovable, but eventually suggested “\$125,000 and we can all go home.” The House conferees jumped on it, and the deal was sealed. Under the new law (assuming signature by the Governor), the threshold will be \$125,000 for municipal projects and \$75,000 for state projects.

Thank you to the House and Senate members who worked patiently on this. One member commented that no one was happy with the result, which is the usual definition of a good compromise. And in any event, at least *we* are happy with it.

### Other Committee of Conference Results

A few other bills went through committees of conference with less drama:

***Short-term rentals.*** As reported in [last week's Bulletin](#), the interested parties had reached an agreement on a compromise amendment to **HB 654**, relative to vacation and short-term rentals. The committee of conference agreed on that [amendment](#), which prohibits a municipality from using RSA 48-A, the housing code statute, to impose additional regulations or restrictions on properties used as vacation or short-term rentals, but does not restrict zoning authority. The final version also establishes a committee to study the regulation and taxation of vacation and short-term rentals, so that committee will begin meeting in late summer or early fall.

***Septic systems for ADUs.*** The House conferees concurred with the Senate amendment on **HB 258**, mentioned in [last week's Bulletin](#), with one minor change. As approved by the committee, the bill requires that “prior to constructing an accessory dwelling unit, an application for approval for a sewage disposal system shall be submitted in accordance with RSA 485-A as applicable. The approved sewage disposal system shall be installed if the existing system has not received construction approval and approval to operate under current rules or predecessor rules, or the system fails or otherwise needs to be repaired or replaced.”

***Emerging contaminants in drinking water.*** A committee of conference could not reach agreement on **HB 463**, the bill that, as amended by the Senate, would have required the Department of Environmental Services to initiate rulemaking to adopt a maximum contaminant limit for perfluorooctanesulfonate (PFOS) and perfluorooctanoic acid (PFOA) for public water systems, taking into consideration standards adopted by other states, including those with levels lower than those adopted by the Environmental Protection Agency. The House would not agree to that amendment, and the two sides could not reach a compromise, so the bill will die.

***Delegation of EPA authority.*** The Senate conferees concurred with the House amendment to [SB 121](#), which will establish a commission (including three members to be appointed by NHMA) to study “[whether] the department of environmental services should request delegation of the National Pollutant Discharge Elimination System from the Environmental Protection Agency.”

