

# LEGISLATIVE BULLETIN

## House Finance Committee to Vote on Proposed Biennial State Budget

This week the three divisions of the House Finance Committee completed their review of the governor’s proposed budget, amending, deleting, and adding to the budget line items in **HB 1** and associated provisions in **HB 2**, the companion budget “trailer” bill. On **Monday, Tuesday, and Wednesday** of next week, starting each day at **10:00 a.m.** in **LOB Room 210-211**, the three divisions will brief the full House Finance Committee on the budget changes recommended by each division. The Finance Committee will then vote on the recommended biennial budget, which will be presented to the House on Thursday, April 6, the last day to act on all House bills before crossover. Assuming the House passes **HB 1** and **HB 2**, the House version of the budget will go to the Senate, where the detailed deliberations will begin all over again with members of the Senate Finance Committee.

Although the divisions have finalized their recommendations, we are likely to see budget amendments proposed next week before the final House Finance Committee vote—and we can’t predict what those may be as there are a number of ideas swirling around the halls of the State House! However, we can tell you where things stand right now in terms of funding for cities and towns:

- Meals and Rooms Tax Dedicated Fund: current *estimates* of the Meals and Rooms tax distribution are about \$121 million in FY 24 and \$123 million in FY 25. Exact amounts per year will be determined by actual state revenue collected as of June 30 each year. Monthly state revenue reports can be accessed [here](#).
- Highway Block Grants: \$5.6 million less over the biennium compared to the last budget. (Exact amounts per year will be based on twelve percent of revised revenue estimates from the gas tax and motor vehicle fine revenues.)

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- Municipal Bridge Aid: \$6.8 million each year of the biennium, which should fund repairs or replacement of approximately 6 to 10 bridges each year of the biennium.
- State Aid Grants (SAG): \$27.9 million from state surplus over the biennium would fund the state share for wastewater projects identified in the 2023 [SAG Project Priority List](#) issued by the Department of Environmental Services.
- Flood Control: \$830,000 would be available for reimbursements to municipalities involved in flood control compacts each year.
- Housing Initiatives: \$15 million would be allocated to fund grants to municipalities through InvestNH, reducing the governor’s proposal of \$30 million. (Also see the article on State Investments in Housing, below.)
- Land and Community Heritage Investment Program (LCHIP): \$5 million would be allocated in level funding.
- State and Local Cybersecurity Grant Program: \$1.2 million for FY 24 and \$1.6 million for FY 25 would be appropriated for the state match to a federal cybersecurity grant, which will provide direct grants for cities and towns.
- State payment toward retirement system unfunded liability (UAAL): \$50 million in a one-time payment would be appropriated to reduce the UAAL and employer costs.
- Retirement System Contribution: no funding is proposed to restore the state share of employer costs.
- Municipal Aid: no funding is proposed.
- Revenue Sharing, RSA 31-A: this statutory obligation, which would return a portion of state general fund revenue to cities and towns, remains suspended in **HB 2**.

Of course, because we are only about halfway through the state budget process, there are likely many more changes to come. Keep reading the *Bulletin* for updates as this process progresses.

### **Attorney’s Fees Bill Set for Hearing**

**HB 307**, relative to attorney’s fees in actions under the Right-to-Know Law, has been scheduled for a hearing in the **Senate Judiciary Committee, State House Room 100**, on **March 28 at 1:45 p.m.** NHMA *opposes* **HB 307**.

In short, **HB 307** would require the governmental entity to bear the cost of resolving gray areas of the Right-to-Know Law if the plaintiff wins. As the Department of Justice noted in its fiscal note, **HB 307** “would remove the requirement that the court find that the public body or public agency knew or should have known the conduct engaged in was a violation of RSA 91-A before awarding attorney’s fees. Without this additional finding, [DOJ] assumes the bill would result in a court awarding attorney’s fee any time a petitioner was successful in obtaining a judgment that a violation of RSA 91-A occurred.”

NHMA supports the purposes of the Right-to-Know Law and measures to make the law clearer, but does not support legislation that subsidizes taxpayer lawsuits against the government to resolve gray areas of the law. There *are* areas of the Right-to-Know Law where the rules for how the government is to comply have not been clearly articulated; and one example is the process for review of sealed minutes, which this year’s **HB 321** (also being heard in Senate Judiciary on March 28, but at 2:00 p.m.) would address.

NHMA is *supporting* **HB 321** because we recognize— as attested to by our legal services division— that municipalities aren’t sure what to do, and **HB 321** is largely based on NHMA’s best practices for review of sealed minutes. But we recognize that our best practice is not the only *possible* or, even, *reasonable* practice under existing law.

It would be *unreasonable*, however, to suggest that a municipality that engaged in a different, reasonable practice should be obliged to pay for the attorney’s fees of the person suing the municipality because that person doesn’t like the municipality’s attempt to comply with an unclear law. Yet, under **HB 307**, if the municipality does not accurately predict the court’s ruling in that lawsuit, taxpayers *would* be responsible for the suing party’s attorney’s fees.

We’ve given just one example of a gray area of the Right-to-Know Law, but other areas exist. In part, that’s why the legislature created the Right-to-Know Ombudsman last year. And there is hardly a year that goes by where the New Hampshire Supreme Court doesn’t rule on an outstanding question of how to interpret some provision of the Right-to-Know Law. If the municipality makes a reasonable argument, but still gets it wrong, under **HB 307**, it would be responsible for paying for that litigation.

That’s very different than existing law. Existing law already ensures that bad faith violations of the Right-to-Know Law see the government entity pay for the litigation costs of the other side. Existing law encourages governmental actors to train their employees and officials and to follow the law, while also encouraging those who seek to resolve gray areas of the law to appeal to the legislature for clarity—as with **HB 321**— rather than appeal to the courts to divine legislative intent.

## Support State Investments in Housing

Housing—ideas about how to create more of it and how to make it affordable—continues to be a topic of debate at the legislature. The Speaker of the House even created the Special Committee on Housing, which has heard presentations from a variety of affordable housing stakeholders in the state.

Under our member-adopted [Legislative Policies](#), NHMA supports measures that enable municipalities to find innovative ways to ensure an adequate supply of housing—including legislation which promotes a collaborative approach between the state, municipalities, and other key stakeholders to address the state’s housing shortage—and supports financial incentives to municipalities to encourage development of diverse and affordable housing.

This is why NHMA is supporting both **SB 145**, the Housing Champions program, and continuance of the InvestNH program, as proposed in **HB 2**. Both programs build on the concept of InvestNH, which provides several grant opportunities to cities and towns to support the development of housing. Additionally, **SB 231** would appropriate money to the Affordable Housing Fund and to the Bureau of Economic Affairs (BEA) the purpose of improving the ability to accelerate the approval of affordable workforce housing.

InvestNH has been well received by municipalities and developers, reinforcing the need for state investment—and state-local partnerships—in addressing a statewide issue (even a nationwide issue) like housing. Although not all of the funds allocated from the governor’s program have been dispatched to applicants, significant portions of the funds are “in the pipeline” due to applications that are under review or awaiting final approval and payment. For example, the “per unit” grants for housing projects approved within six months of permitting are in progress but cannot submit a complete application until the project has been fully permitted and cannot be released until Governor & Council approval. Many applications for

demolition grants have also been submitted and are under review. Based on the current response to the InvestNH, this program is on its way to being a success and we're excited to see how this can benefit New Hampshire communities.

As of now, funding for InvestNH remains in **HB 2**, with Finance Division I positioned to recommend that all grant funding under the program go directly to municipalities. **SB 231** has been passed and tabled by the Senate, and **SB 145** will go back to the Senate next week with a 7-0 Ought to Pass recommendation from Senate Finance—presumably to pass and then be tabled. We encourage our members to continue to reinforce the need for state investments in housing and the municipal infrastructure needed to support housing.

## Retirement System Legislation Still in Play

This week, the House took actions to move forward bills that would impact the NH Retirement System (NHRS) costs for cities and towns. Next week, the House Finance Committee must vote whether to recommend including the language of these bills and their respective appropriations in **HB 1** and **HB 2**.

- **HB 436**: recommended by House Finance Division I as Ought to Pass with Amendment. The amendment would reduce the cost of this policy proposal, and the committee will be recommending it be included in **HB 2**. The bill would adjust the transition provisions for Group II, Tier B members service retirement adopted in 2011 over a 10-year period until 2033 and make a \$25 million state general fund appropriations each year for 10 years to terminally fund the cost of the benefits. The amendment would also require the state to pay all costs incurred by municipalities to enact this legislation. This bill would enact a 10-year funding plan, and future legislatures are not bound by decisions of past legislatures which remains a concern.
- **HB 461**: recommended by House Finance Division I as Ought to Pass with Amendment. This bill would require municipal employers to obtain an analysis from NHRS when eliminating or transferring a Group II position from full-time to part-time. Additionally, it would impose a costly penalty on the employer to continue to make contributions to the NHRS based on the highest compensation paid for the position in the prior five years and would impose a penalty equal to two percent of such contribution on the employer to be paid for 15 years. Both the contribution and penalty are required in perpetuity unless the position is restored to full-time status. The amendment would apply this restriction specifically to superintendents, principals, police chiefs, fire chiefs, directors, administrators, "*and the like.*" Although NHRS actuaries are unable to estimate the fiscal impact of this proposal, there would be a significant cost to any municipality that changed its staffing structure to better suit the needs of its citizens.
- **HB 250**: recommend by House Finance Division I as Ought to Pass. This bill would increase the Group II accidental death benefit from 50 percent to 100 percent of member's annual rate of earnable compensation at the date of the member's passing. The estimated increase of this legislation on the employer pension rate for police is .25 percent and .28 percent for fire, totaling just over \$1 million in additional employer costs for fiscal year 2024 alone. The New Hampshire Retirement System (NHRS) estimates a \$4 million increase in the actuarial accrued liability (UAAL).
- **HB 571**: recommended by House Finance Division I as Ought to Pass. This bill would provide a cost-of-living adjustment (COLA) in 2023 to qualified Group II retirees on the first \$50,000 of a retired Group II member's or beneficiary's allowance. As passed by the House, the cost of this COLA would be paid from the state general fund having *no impact* on municipal employers.
- **HB 50**: Passed the House and was tabled for potential inclusion in **HB 2**. This bill, as amended, proposes to pay \$50 million toward the UAAL would appropriate \$50 million in fiscal year 2024 for the purpose of reducing the retirement system's unfunded actuarial accrued liability (UAAL)

determined under RSA 100-A:16, II. Over a 20-year period a \$50 million dollar payment applied in FY 2024 could have a compounded savings impact of \$105 million.

If you have concerns about how this legislation will impact your municipality, your municipal budget, or local decision-making authority, we urge you to contact the [House Finance Committee](#) members before they begin three consecutive days of executive sessions on **Monday, March 27**, at **10:00 a.m.** in **LOB Room 210-211**, to deliberate final recommendations on **HB 1** and **HB 2**. You can look up NHMA’s positions on these (and other bills) using NHMA’s [online bill tracker](#).

### Hearing Schedule

Please [click here](#) to find a list of hearings next week on bills that NHMA is tracking. Please note that the linked PDF only covers hearings scheduled for the next week. For the most up-to-date information on when bills are scheduled for a hearing, please use our [live bill tracker](#).

<b>2023 NHMA UPCOMING MEMBER EVENTS</b>	
Mar. 29	<b>Webinar:</b> Transportation Safety – 12:00 – 1:00
Mar. 30	<b>Webinar:</b> How to Handle a First Amendment Audit – 12:00 – 1:00
Apr. 5	<b>Webinar:</b> Succeeding at Tax Deeding – 12:00 – 1:00
Apr. 5	2023 Regional Legislative Update in Exeter – 6:30 p.m.
Apr. 6	Local Officials Workshop ( <b>hybrid</b> ) – 9:00 – 4:00
Apr. 19	Right-to-Know Workshop (Public Meetings & Government Records) – 9:00 – 1:00 ( <b>Hybrid</b> )
Please visit <a href="http://www.nhmunicipal.org">www.nhmunicipal.org</a> for the most up-to-date information regarding our upcoming events. Click on the Events& Training tab to view the calendar.	
For more information, please call NHMA’s Workshop registration line: (603) 230-3350.	