

LEGISLATIVE BULLETIN

Nearing the End: But Not Quite Finished

House and Senate committees have finished their work for the year and the final committee recommendations will be acted upon on or before Thursday, May 5. Shortly after that date, committees of conference will be formed to work on the final language for any bill that passed through the second body with language to which its originating body could not agree. Those committees will begin meeting promptly and final recommendations are required by Thursday, May 19. The final meeting of the House and the Senate (other than veto override day) is expected to occur on May 26.

Although it may appear that things are winding down for the year, the truth is that the unexpected can – and will – happen. (See our articles on **SB 400** and **SB 329** below, for example.) Now is the time when representatives and senators think about what they really wanted to accomplish – and didn’t get to – and make their final push to get it done.

Barring more unexpected developments, future *Bulletins* will likely be focused on our new feature: recommendations for votes on the House and Senate floor. That new feature (which you may have noticed for the first time in last week’s [Bulletin](#)), is intended to help local officials better communicate with their senators and representatives about NHMA’s positions on the most important bills that will be acted on in the next House and Senate sessions.

Bill to Study Barriers to Affordable Housing Hijacked

On Wednesday, the House Municipal & County Government Committee recommended an unexpected amendment to **SB 329**, establishing a commission to study barriers to housing development in New Hampshire, including workforce and middle-income housing. Instead of the expected amendment, which would have changed the composition of the commission and was suggested by the prime sponsor, the committee adopted an amendment that incorporated the language of **HB 1194** into the bill. **HB 1194** has nothing to do with housing. It’s about the local procedure for overriding a tax cap.

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If the description of **HB 1194** sounds familiar, it should. We described why we opposed **HB 1194** in [Bulletin #6](#) and [Bulletin #16](#). On Monday, the Senate Election Law & Municipal Affairs Committee agreed with us and unanimously recommended **HB 1194** as Inexpedient to Legislate.

If passed, a 3/5 majority vote, by written ballot, would be needed for a town meeting to approve any appropriation that would cause the amount of local taxes raised to exceed the town's tax cap. All this legislation does is restrict the power of the local legislative body—i.e., the voters—to make budget decisions. It does nothing to restrict what the governing body can propose – which is the purpose of the tax cap in the first place. In other words, **HB 1194** does not control or reduce spending; it takes power away from voters.

The inclusion of the language of **HB 1194** in **SB 329** is a poison pill for NHMA. It will do far more damage to local legislative bodies than any good that can come from a commission to study barriers to housing. We are hopeful that the House will reject the committee amendment, and ***we urge local officials to contact their representatives and ask them to vote against the committee amendment (2022-1828h) to SB 329.***

Housing Incentive Bill Used to Resurrect Anti-Local Government Legislation

SB 400, the housing bill [championed by the governor](#) and supported by housing advocates—including bipartisan coalitions in the legislature—saw a poison pill amendment recommended by the House Municipal & County Government Committee on Wednesday in a 10-8 vote. **NHMA, which is neutral on the underlying bill, strongly opposes the committee amendment (2022-1848h).** *However*, NHMA would support an amendment that removes the language of the underlying bill relative to inclusionary zoning and the housing champion certification program, if the amendment also removed the language from **HB 1268** and **HB 1272**, as described below.

The amendment adopted by the committee included language from several House bills that NHMA opposed and were recommended as Inexpedient to Legislate or Interim Study by the relevant Senate committee. The committee amendment's new language includes the language of:

HB 1268, deleting the ability of city councils to make bylaws “for the well-being of the city” in [RSA 47:17](#) and replacing it with the problematic phrase “for the abatement of nuisances that interfere with the use or enjoyment of property.” In addition to replacing a regulatory power meant to allow city councils to deal with unanticipated local issues, the language would contravene language earlier in the statute relative to nuisances.

HB 1272, which strips away much of the power of local health officers by replacing the phrase in RSA 147:1 “and such other regulations relating to the public health as in their judgment the health and safety of the people require” with a definitive list of powers, “such as garbage, insects, unsanitary conditions, septic, rodents, and safe drinking water inspections.” This new “approach” to narrowing health officer authority would have definite unintended consequences by limiting municipalities' ability to protect local health and safety when unfamiliar circumstances arise, in addition to imposing a one size fits all approach on New Hampshire's cities and towns rather than allow each to make timely and appropriate decisions for the benefit of their residents.

HB 1393, establishing the requirements for and procedure for the adoption of a school district budget cap. While this isn't a bill that NHMA would have a position on as it is a school matter, we thought it was important to note its inclusion.

The amendment also includes language that we do not believe comes from any existing piece of legislation. That language modifying [RSA 674:59, IV](#) to allow municipalities to restrict workforce housing to locations “*already served by both water and sewer systems owned or operated by a political subdivision, public utility, or other public water or sewer utility.*” This would be a substantial change to the existing statute’s careful compromise requiring *all* municipalities to “provide reasonable and realistic opportunities for the development of workforce housing.”

The inclusion of the municipally related language creates serious problems for municipalities and should not be enacted into law. NHMA took a neutral stance on **SB 400** because, while many of its provisions would actually create incentives and new tools for municipalities to address affordable housing, some of our members had concerns about the provisions related to inclusionary zoning and the administration of the housing champion certification program. Those could negatively impact local control of zoning issues, and unfairly pit one municipality against another. But the committee amendment to **SB 400** is far worse. In fact, the committee amendment has *almost nothing* to do with housing! It’s a last-ditch effort to review bills that – rightly – died in the Senate. **HB 1268**, for instance, saw the Senate vote 21-3 to refer to interim study. **HB 1272** was placed on the consent calendar and voted Inexpedient to Legislate on a voice vote.

The one section of the committee amendment that actually does address housing shifts the responsibility of creating affordable housing onto those communities that have public water and sewer. The intent is clearly to pit municipalities against one another, singling out certain municipalities, and disincentivizing others from building public works projects that benefit communities – whether by alleviating burdens on aquifers, allowing for increased density in particular neighborhoods, or providing a safe and sustainable water source to communities affected by contaminants. Punching holes in the existing affordable housing statute to single out specific municipalities is not something the legislature should entertain.

NHMA supports a further amendment that will both remove the language of the committee amendment **and** the language of the underlying bill about inclusionary zoning and the housing champion certification program. *Please contact your representatives and ask them to support an amendment to SB 400 that removes these sections of the amended bill.*

Property Tax Relief Proposal 2.0

This week the **House Finance Committee** recommended [SB 401](#) as Ought to Pass as amended, a bill focused on providing immediate resources that will result in statewide property tax relief. Using state general fund surplus generated in fiscal year 2022, this bill proposes to appropriate \$36 million for the repair and maintenance of municipally-owned bridges, \$30 million in municipal highway block grants, and \$1 million toward the body worn and dashboard camera fund. The bill will now move to House next week for a final vote.

What is the municipal distribution formula for roads and bridges? Originally, the distribution of the \$36 million municipal bridge aid appropriation would have followed the municipal bridge aid program, which requires an application and a 20 percent municipal match to access funds. However, as amended, every municipality with a municipally-owned bridge would receive a share of the \$36 million allocated for the repair, maintenance, and construction in addition to any state or federal funds committed or available for bridge projects. **SB 401** will use the highway block grant formula and apply it to both the \$36 million in bridge funding to the \$30 million allocated for roads.

Highway Block Grants. The \$30 million allocated for roads will follow the Department of Transportation “Apportionment A” formula. Therefore, funds will be distributed among the municipalities based on their population in proportion to the entire state’s population and the other half is disbursed based on a municipality’s Class IV and V road mileage in proportion to the total statewide Class IV and V mileage.

Municipally-Owned Bridge Allocation. The appropriation for bridges will be based on a similar 50/50 formula, where \$18 million will be distributed based on a municipality’s deck area proportional to the total deck area for municipally-owned bridges, and \$18 million will be distribution based on a municipality’s total share of the state population. The bridge payment is anticipated to be a lump sum payment which we can expect closer to year end. We will update our members as details and allocations become available.

What can this money be used for? **SB 401** would provide funding with restricted uses, meaning that it may be used to (1) supplement (not supplant) local budgets; (2) repair, maintain, and construct municipal bridges; or (3) repair and maintain class IV and V roads, or acquire the equipment necessary to maintain Class IV and V roads.

Body & Dash Cameras. Municipalities can be reimbursed up to \$50,000 for the purchase of body-worn or dashboard cameras, software maintenance for the cameras, and maintenance and storage of data related to the cameras. **SB 401** would appropriate \$1 million dollars toward this fund.

How can a municipality accept and expend these funds? The bill would allow all three categories of funds to be considered “unanticipated revenue.” Therefore, a municipality may accept and expend the funds under the provisions of [RSA 31:95-b, II-IV](#), whether or not a municipality has adopted that statute. For unanticipated money in the amount of \$10,000 or more, RSA 31:95-b requires the governing body to hold a public hearing on the action to be taken, with notice of the time, place and subject of the hearing published at least seven days before the hearing is held. For unanticipated money less than \$10,000, the governing body must post notice of the funds in the agenda and include notice in the minutes of the public meeting at which the money is discussed.

The Future of the State Retirement Contribution

Yesterday, the Senate voted to table [HB 1417](#), a bill that would restore a small portion (7.5 percent) of the state contribution toward the employer’s cost of the New Hampshire Retirement System (NHRS) contribution for teachers, police, and firefighters. On the floor, the bill received bipartisan support, with the Senate members first supporting the Ought to Pass motion and recognizing that the state made a commitment to local governments that has been broken. Unfortunately, the subsequent tabling motion was not unexpected, due to the momentum of [HB 1221](#), which the Senate Finance Committee recommended as Ought to Pass as Amended in a vote of 6-0 on Tuesday. **HB 1221** would provide a one-time payment equaling 7.5 percent of the retirement costs for teachers, police, and firefighters using state surplus. Because this is not a budget year, the Senate justified tabling **HB 1417** as no funding for future contributions had been appropriated. The Senate compromise is a commitment to support **HB 1221**, a one-time payment with the same estimated fiscal impact as **HB 1417**. In fiscal year 2023, municipalities will see temporary tax relief if the Senate passes **HB 1221** on May 5.

Both the House and the Senate recognize the need to provide fiscal stability to municipalities and reduce the local tax burden. NHMA supports the reinstatement of a consistent state contribution (up to 35 percent)

that municipalities can use to build their annual budgets. We will continue to advocate for a permanent state contribution to be included next year in the state budget.

Amended Provisional Ballot Bill Headed for Another House Vote

On May 4 or 5, the House will again vote on **SB 418**. The bill was substantially amended by the House on the recommendation of the policy committee, to require, among other things, that its provisions apply only to voters who are registering to vote for the first time in New Hampshire on election day *and* do not have either valid photo identification establishing their identification or do not otherwise meet the identity requirements of [RSA 659:13](#).

Importantly, the effective date of the bill was also amended. That effective date is now set as January 1, 2023, as both the supporters and opponents of the bill expect a lawsuit to be filed if the bill passes. The new effective date gives the courts time to address the constitutionality of the bill.

We wrote about **SB 418** in [Bulletin #16](#), expressing our opposition to the bill. Just to be clear, we do not oppose efforts to ensure that voters provide proper identification and documentation, but the process created by this bill will have serious implications for our elections and for our local election officials.

Importantly, the bill as amended does not address the issue of the marking of ballots by election officers, which is prohibited by [RSA 659:36](#), except as provided in RSA 659:20, 659:22, 659:26-a, and 659:51. Nor does the amendment ([2022-1870h](#)) recommended by the finance committee, which had to review the bill after initial passage through the House, alter the provisions of RSA 659:36.

Additionally, our [previously voiced concerns](#) about the compromised secret ballot, the reality of the process actually being followed by the voter, and the concern about the logistics remain. Given the prior House vote of 180-154, it appears likely that the bill will pass, and we are hopeful that the Senate will take the opportunity to ask for a committee of conference and address our concerns as there are several ambiguities and logistical problems with the bill that need to be addressed before it could be implemented.

Public Works' Line of Duty Death Benefit

On **Thursday, May 5**, the Senate will vote on **HB 536**, a bill which expands the eligibility of a \$100,000 line-of-duty state funded death benefit for a municipal public works or highway employee killed in the line of duty. In an unexpected turn of events, **HB 536** was recommended by the Senate Finance Committee for Interim Study, but the bill was pulled off the Senate consent calendar and special ordered to next week. This bill has received near unanimous bipartisan support from both the House and Senate.

We have heard from some of our members who have expressed disappointment about the Interim Study recommendation, in part because this benefit is currently offered to municipal police and fire employees. We encourage local officials who support this legislation to contact their [Senator](#) before Thursday's Senate session.

NHMA's Floor Action Recommendations for House Session on May 4 & 5

Bill Number	Description	NHMA Position	Committee Recommendation	Vote
HB 307	Punishes municipal officials for adopting ordinances relative to firearms	Oppose	Passed Senate with amendment; House must concur, non-concur, or request CofC by May 12	NON-CONCUR
SB 249	prohibits municipalities from adopting ordinances that ban or regulate short-term rentals.	Oppose	Interim Study	YEA
SB 273-A	permits towns to authorize the borrowing of money for broadband infrastructure at special meetings.	Support	OTP	YEA
SB 317-L	reduces the interest rate applied to the amount of paid property taxes abated by a municipality.	Support	OTP	YEA
SB 329	establishing a commission to study barriers to specific housing development in New Hampshire and establishing a procedure for overriding a local tax cap.	Neutral on bill; opposed to bill as amended	OTP-A	NAY
SB 400	relative to training and procedures for zoning and planning boards; relative to financial investments and incentives for affordable housing development; limiting the authority for city council bylaws and ordinances and limiting the authority of town health officers; and relative to the adoption of school district budget caps.	Neutral on bill; opposed to bill as amended	OTP-A	NAY
SB 401-FN	makes appropriations to the department of transportation for local bridge and highway aid and to the body-worn and dashboard camera fund and permitting the department of transportation to operate dash cameras in fleet vehicles.	Support	OTP-A	YEA
SB 402-FN	creates an avenue for the governor, with the approval of the fiscal committee and the executive council, to disburse financial assistance to municipalities affected by federally declared disasters or governor-declared state of emergencies.	Support	OTP-A	YEA
SB 409	modifies the circumstances under which the governor may approve exceptional disaster relief loans.	Support	OTP-A	YEA
SB 418-FN	provides for verification of voter affidavits by establishing affidavit balloting.	Oppose	OTP-A	NAY

SB 445	appropriates \$122,100,000 to the broadband matching grant fund established in RSA 12-O:63, administered by the Department of Business and Economic Affairs. The source of this appropriation would be funds from the American Rescue Plan Act (ARPA).	Support	OTP-A	YEA
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NHMA's Floor Action Recommendations for Senate Session on May 5

Bill Number	Description	NHMA Position	Committee Recommendation	Vote
HB 1221	relative to the rate of the business profits tax, and relative to payment by the state to municipalities of an amount equal to a portion of retirement system contributions of political subdivision employers.	Support	OTP-A	YEA
HB 1194	relative to the procedure for overriding a local tax cap.	Oppose	ITL	YEA

HOUSE AND SENATE CALENDARS

There are no hearings in the House or Senate on bills of municipal interest.

SENATE FLOOR ACTION

Thursday, April 28, 2022

HB 614-FN, exempting the state and political subdivisions from payment of the costs of compliance with the renewable portfolio standard. **Interim Study.**

HB 1000, prohibiting motorcycle profiling. **Passed.**

HB 1021, prohibiting regulation of religious land use based on the religious nature of the assembly or speech taking place on the land or in the structure. **Passed with Amendment.**

HB 1070, relative to the default budget in official ballot jurisdictions. **Inexpedient to Legislate.**

HB 1153, relative to absentee ballot requests. **Interim Study.**

HB 1163, relative to over voted ballots. **Passed.**

HB 1188, establishing a commission to study OHRV use in the state. **Passed with Amendment.**

HB 1203-FN, relative to domicile residency, voter registration, and investigation of voter verification letters. **Passed with Amendment.**

HB 1268, limiting the authority for city council bylaws and ordinances. **Interim Study.**

HB 1272, limiting the authority of town health officers. **Inexpedient to Legislate.**

HB 1328-FN, authorizing a utility to petition to be relieved of their carrier of last resort obligations. **Interim Study.**

HB 1375, relative to the definition of veteran. **Tabled.**

HB 1406, authorizing municipalities to collect compost. **Inexpedient to Legislate.**

HB 1417-FN-L, relative to payment by the state of a portion of retirement system contributions of political subdivision employers. **Tabled After Passage. NHMA Policy.**

HB 1496-FN, requiring political subdivisions to make voter checklists available in spreadsheet form to any resident. **Passed with Amendment.**

HB 1535-FN, relative to a one-time allowance for certain state retirees. **Passed with Amendment.**

HB 1540-FN, relative to recording custodial interrogations. **Interim Study.**

HB 1547-FN, setting maximum contaminant levels for perfluorochemicals in the soil. **Passed.**

HB 1552-FN, establishing a board for the certification of assessors. **Passed with Amendment.**

HB 1567-FN, relative to consequences resulting from election official misconduct. **Passed with Amendment.**

HB 1587-FN-A, relative to determination of average final compensation under the retirement system and making an appropriation therefor. **Passed.**

HB 1598-FN, legalizing the possession and use of cannabis. **Inexpedient to Legislate.**

HB 1614-FN, requiring the recording and storing of digital video in all state-funded juvenile detention facilities. **Passed.**

HB 1667, relative to the standard and optional veterans' tax credits and the all veterans' tax credit. **Passed.**

2022 NHMA UPCOMING MEMBER EVENTS	
May 5	2022 A Hard Road to Travel Workshop (Hybrid) – 9:00 – 12:30
May 17	2022 Local Officials Workshop (Virtual Only) – 9:00 – 4:00
May 18	Webinar: Investigations 101 – 12:00 – 1:00
Please visit www.nhmunicipal.org for the most up-to-date information regarding our upcoming events. Click on the Events and Training tab to view the calendar.	
For more information, please call NHMA's Workshop registration line: (603) 230-3350.	