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Gas Tax Vote on Tuesday

The Senate Ways & Means Committee heard three hours of testimony over two days this week on **HB 617**, the bill to raise the road toll (a/k/a the “gas tax”) by 12 cents over a three-year period. At the end of the hearing, the committee chairman announced that the committee will vote on the bill next **Tuesday, May 14**.

*Please contact members of [the Committee](#) before Tuesday and encourage them to support **HB 617**.* Please see [Legislative Bulletin # 18](#) and [Legislative Bulletin #20](#) for information about this issue.

The committee heard from some 40 witnesses on both sides of the issue. Notably, local officials from Concord, Warner, Goffstown, Effingham, and Northwood spoke in favor of the bill, emphasizing what everyone already knows — that local roads and bridges are crumbling and failing, and, in order to fix them, the only alternative to more road toll revenue is higher property taxes. In addition to local officials, support came from road and bridge engineers, regional planning commissions, state representatives from both parties, and Executive Councilor Ray Burton. Even a bus company owner, who obviously would be affected by the increased tax on diesel fuel, spoke in support, stating that it was not about a fuel tax, but about the future of New Hampshire's economy.

The benefits of increasing the road toll were recited by many witnesses: the fairest way to pay for road improvements is through a user fee paid by those who use the roads; the cost of road maintenance has increased dramatically in the last two decades, while the road toll, both in constant dollars and as a percentage of the price of gas, has declined dramatically; improving our transportation infrastructure is essential if New Hampshire wants to attract economic development; fixing roads will create jobs, not just in road construction but in the economic expansion that will result; and there is no other credible proposal to pay for the needed improvements.

One striking fact is that of the dozens who testified, not one person suggested that New Hampshire's roads are in decent shape. There appeared to be uniform agreement that state and local roads and bridges are in need of major improvements, the only question being how to pay

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for them. Supporters of **HB 617** had a clear answer; opponents had none. One opponent of the bill acknowledged that local bridges, in particular, are in critical condition; when pressed by a committee member to explain how he would solve the problem, he allowed that he could support a one- or two-cent increase in the road toll. No one would seriously suggest, however, that that is enough to make a dent in the problem.

Opponents never really explained why the roads should not be paid for by those who use them. Their argument was, essentially, that some people, and some businesses, simply can't afford to pay—and therefore shouldn't have to. Instead, they should be subsidized by taxpayers—meaning, at the local level, property taxpayers—regardless of how much or how little the taxpayers use the roads.

In the absence of an increased road toll, the only alternative to raising property taxes and other taxes is gambling revenue—although that was rarely mentioned at the hearing. While there is a possibility that a casino would provide significant money for roads and bridges, indications now are that such revenue may be *six years* away. (See article below.) In the meantime, the default solution is to let the roads crumble and let property taxes rise for six more years.

We continue to hear objections that road toll revenues will be diverted to other uses. As we have noted repeatedly, **HB 617** prohibits any diversion. One hundred percent of the increased revenue would go to a special account to be used solely for roads and bridges. While it is true that a subsequent legislature could change the law to divert the money, the logic of the opposition is curious: “We don't want the legislature to divert money away from roads and bridges, so let's not provide any money for roads and bridges in the first place.”

Further, while the only alternative proposal on the table—**SB 152**, the casino bill—currently directs a significant amount of revenue to roads and bridges (several years from now), it does not guarantee that that money would go into a special account dedicated solely to roads and bridges, as **HB 617** does. In fact, as the article below indicates, the Joint Committee considering **SB 152** is assuming that all casino revenue would go to the general fund in the first instance. For anyone concerned about “diversion,” **HB 617** is the safest bet.

As mentioned, the Ways & Means Committee will vote on **HB 617** next Tuesday, and the bill presumably will go to the full Senate the following week. Regardless of what happens with **HB 617**, it is likely that the road toll and casino gambling will end up together in a committee of conference on the budget next month. Nevertheless, it is critical to continue gathering support for a road toll increase now, to influence the negotiations to come.

Please call Ways & Means Committee members and your own senator and urge them to support HB 617.

Gambling Reports Presented to Joint Committee

On Thursday the House Joint Committee dealing with **SB 152**, the expanded gambling bill, heard reports from the three subcommittees reviewing different aspects of the bill: regulations, community impact and revenues. Each subcommittee highlighted the strengths and weaknesses/areas of concerns with the current version of the bill.

The regulations subcommittee raised numerous concerns, from the roles of the Attorney General, state police, and Lottery Commission to the need to amend the criminal code to establish penalties for gambling-specific crimes. The community impact subcommittee discussed concerns about the impact on existing charitable gaming, problem and pathological gamblers, increased crime, the effect on local businesses and entertainment venues throughout the state, the impact on surrounding towns (other than the host municipality and abutting towns), and the impact on counties. The revenue subcommittee raised concerns about the timeframe, indicating that if all goes well, the licensure and associated license fee could come to fruition by June 2015. However, the committee indicated that revenues from a fully operational casino would most likely not occur until at least fiscal year 2019 or 2020.

The bill as passed by the Senate proposed formulas for a variety of appropriations from gambling revenues, including aid to municipalities and the Department of Transportation for road and bridge improvements; funding for North Country economic development; increased state aid to the education trust fund, the community college system, and the university system; and money to the Department of Health and Human Services for programs to address gambling afflictions. The revenue subcommittee considered those appropriation formulas and basically said, "Let's not create false hopes that could be changed by future legislatures," proceeding instead with revenue estimates under the assumption that ***all the gambling revenue will go to the state general fund to then be appropriated through the biennial budget process.*** As proposed by the subcommittee, the only exceptions would be that one percent (rather than three percent as approved by the Senate) of the net machine income would go to the host municipality, one percent would be apportioned to abutting municipalities based on population, and one percent would go to counties within a "40-minute circle" of the casino.

The Joint Committee will meet again next Wednesday to consider amendments to **SB 152** and to vote on the final committee recommendation to the full House.

Senate Budget Hearing

Also on Thursday the Senate Finance Committee held a lengthy hearing on **HB 1** and **HB 2**, the biennial state operating budget and trailer bill. Over the next few weeks the committee will finalize its budget recommendations. Since the Senate Ways and Means Committee will likely estimate biennial revenues of approximately \$300 million less than the House estimates, it is expected that Senate Finance will need to trim the House recommended appropriations significantly in order to present a balanced budget to the full Senate early next month. If you haven't already talked with your senator about the importance of the municipal funding included in the House version of the budget (see last week's [Bulletin](#) for details), now is the time to do so!

Committee Recommends Voter ID Amendment

The Senate Public & Municipal Affairs Committee voted on Wednesday to recommend passage of a watered-down version of **HB 595**, the **NHMA policy bill** that would repeal "phase 2" of the voter identification law enacted last year.

Phase 2, currently scheduled to take effect this September, would allow significantly fewer forms of identification than were allowed at elections last fall and this spring. No longer acceptable would be a student ID, many governmental IDs, other non-specified IDs deemed sufficient by election officials, or verification of the voter's identity by an election official. In addition, while a voter who does not show an ID would still be able to vote by completing a qualified voter affidavit, the moderator or designee would be required to take a photograph of the voter (unless the voter executes an affidavit of religious exemption) and attach it to the qualified voter affidavit.

HB 595, as passed by the House, would repeal phase 2. *NHMA supports the bill* because we believe the phase 2 requirements will increase costs and cause delays, while doing little or nothing to enhance the fraud prevention measures already in effect.

The Senate committee, by a 3-2 vote, recommended an amended version of the bill that would delay, rather than repeal, phase 2, and implement something we might call "phase 1.5" in the interim. (The two dissenting members support a complete repeal of phase 2 and would have passed the bill without amendment.)

Under the proposed committee amendment, implementation of phase 2 would be delayed until September 1, 2015, rather than repealed. Further, for the next two years, the amendment would allow fewer forms of ID than are currently acceptable, but more than phase 2 would allow. Very briefly, here are the forms of ID allowed under the various plans:

Voter ID - continued

Form of ID	Phase 1 (current law)	Amendment to HB 595 (proposed to take effect immediately and until 2015)	Phase 2 (takes effect in September if HB 595 does not pass)
Driver's license	Yes — issued by any state	Yes — issued by any state or federal government	Yes — issued by any state or federal government
Non-driver's ID card	Yes — issued by NH division of motor vehicles	Yes — issued by “the motor vehicles division, department, agency, or office of any state”	Yes — issued by “the motor vehicles division, department, agency, or office of any state”
U.S. armed services ID card	Yes	Yes	Yes
U.S. passport	Yes	Yes	Yes
Any other valid photo ID issued by federal, state, county, or municipal government	Yes	No	No
Valid student ID card	Yes	No	No
Any other photo ID determined legitimate by election officials, unless challenged by someone authorized to challenge a voter	Yes	Yes	No
Verification of identity by an election official, unless challenged by someone authorized to challenge a voter	Yes	Yes	No

Voter ID - continued

As this indicates, the major difference from current law is that under the amendment, student IDs and government IDs other than those specifically listed would not be allowed automatically. They *could* be allowed if election officials deem them “legitimate,” so this presumably would allow election officials in a given municipality to decide in advance that any student ID from the local college (or from any college) is acceptable. However, if even one person challenges that determination, the voter would have to show a different form of ID or, failing that, complete a qualified voter affidavit.

Again, NHMA supports **HB 595** as passed by the House, and would prefer to see the Senate pass it intact. We believe phase 1 worked well, and, in the continuing absence of any real evidence of voter fraud, we believe there is no need for further restrictions. We especially believe phase 2 should be repealed altogether, not merely delayed so there can be another fight in two years.

That said, we recognize that this appears to be a partisan issue that will be decided on a straight party-line vote. This means the amendment probably will be approved by a 13-11 vote in the Senate. Since the likely alternative is to kill the bill and let phase 2 take effect this year, we think half a loaf is better than none. If the Senate does pass the amended version, the bill will go back to the House, and a committee of conference seems inevitable.

Retirement Bills Combined

On Wednesday the Senate Executive Departments and Administration committee voted to combine **HB 364** (requiring notice of limitations on part-time employment of retirees) into **HB 342** (requiring reporting of compensation paid to retirees) and to amend the portion of **HB 364** that has caused us concern. As explained in [Legislative Bulletin #16](#), **HB 364**, as passed by the House, requires annual notification by employers to New Hampshire Retirement System (NHRS) retirees who have returned to work, and creates a potential new liability on the part of employers to have to prove in the future that such notification was provided. The combined version of the bill as recommended by the Senate ED&A committee requires annual notification by NHRS only, not by employers, thereby eliminating that potential liability.

The **HB 342** section of the combined bill requires a monthly reporting to the NHRS of the names, hours worked, and compensation paid to an NHRS retiree. This new reporting requirement is intended to capture data on the extent to which NHRS retirees are employed in both full-time and part-time positions with NHRS participating employers in order to help identify and quantify the extent of the so-called double-dipping (drawing both a pension and a salary). This reporting requirement on retirees dovetails with the current monthly reporting to NHRS on active employees and sunsets in five years.

HB 342 as amended will go to the full Senate next week.

Policy Bills Keep Moving

Five NHMA policy bills took another step toward becoming law this week. The House passed all of the following bills:

- **SB 14**, which allows a municipality to keep 100 percent (rather than 50 percent) of any fine it collects for violations of state park rules or forests and lands rules.
- **SB 49**, which amends the procedure for appeals of planning board decisions.
- **SB 58**, which allows two municipalities to enter into an agreement for a payment in lieu of taxes when one municipality owns property in the other for the purpose of a water supply or flood control.
- **SB 64**, which changes the public notification requirements for the breaching of a dam or lowering of a water body.
- **SB 197**, which authorizes SB 2 towns to submit an appropriation for a user fee-funded water or sewer system as a separate warrant article, and to include a default amount for the appropriation that will take effect if the proposed appropriation is defeated.

SB 14 was referred to the Ways & Means Committee for further review. **SB 49** and **SB 197** were amended in the House, and will go back to the Senate for concurrence or non-concurrence. The amendments to both bills were for the purpose of clarification, and NHMA supports them and will encourage the Senate to concur on both bills.

SB 58 and **SB 197** were not amended, so they will go next to the Governor for signature.

We also neglected to report last week that the Senate passed another policy bill, **HB 517**, which makes permanent the municipal transfer station exemption from the ban on combustion of construction and demolition debris. The bill was not amended, so it is ready to go to the Governor.

HOUSE/SENATE CALENDARS

There are no hearings on bills of municipal interest.

**HOUSE FLOOR ACTION**

Wednesday, May 8, 2013

SB 14, relative to the rulemaking authority of and administrative fine authority for the department of resources and economic development. **Passed. Referred to Ways and Means. NHMA Policy.**

SB 49, relative to appeals of planning board decisions. **Passed with Amendment. NHMA Policy.**

SB 50, relative to expiration of variances and special exceptions. **Passed.**

SB 58, relative to the taxation of water works or flood control land held in another town or city. **Passed. NHMA Policy.**

SB 64, relative to public informational meetings on dams. **Passed. NHMA Policy.**

SB 101, relative to collocation and modification of personal wireless services facilities. **Passed with Amendment.**

SB 111, permitting municipalities to establish a capital reserve plan for expenditure of capital reserve funds and relative to electronic billing by municipal utilities. **Passed.**

SB 124-FN, establishing an integrated land development permit. **Passed with Amendment. Referred to Finance.**

SB 128-FN-L, relative to fees for vital records. **Passed with Amendment.**

SB 163, establishing a commission to recommend legislation to prepare for projected sea level rise and other coastal and coastal watershed hazards. **Passed with Amendment.**

SB 164, authorizing coastal management provisions in master plans. **Passed with Amendment.**

SB 172-FN-L, relative to public funds. **Passed.**

SB 188-FN, relative to municipally-owned utilities. **Passed with Amendment.**

SB 192-FN-L, establishing a committee to study the establishment of a state infrastructure bank. **Passed. Referred to Finance.**

SB 197, relative to the inclusion of a default budget in separate warrant articles submitted by sewer commissions. **Passed with Amendment. NHMA Policy.**