March 5, 2015

The Honorable Neal Kurk, Chair
House Finance Committee
Room 201-212, Legislative Office Building
Concord, NH 03301

RE: NHMA Testimony on HB 1 and HB 2

Dear Chairman Kurk:

Thank you for this opportunity for the New Hampshire Municipal Association to express our member's concerns with HB 1-A and HB 2-FN-A-L, as introduced. As you know, NHMA is a nonprofit non-partisan membership association representing 232 of the 234 cities and towns in the state. Our mission is to strengthen New Hampshire cities and towns and their ability to serve the public, and we do that, in part, through the advocacy of member-determined legislative policy positions.

New Hampshire local governments have a long tradition of delivering essential public services through a close partnership with state government. This partnership, however, is in jeopardy as the state continues to downshift to cities and towns the primary responsibility to maintain and pay for these public services. We understand that state budgets and revenues are tight, but it goes without saying that the same is true at the local level.

Understanding the various types of aid provided by the state to local governments is critical to understanding the effect that state-level budgetary decisions have on municipalities and local property taxes. With the property tax as the primary source of local revenue, reductions in any state aid program, or the shift of state costs to municipalities, most likely results in increased property taxes.

Meals and Rooms Distribution

One of the most significant general state aid revenues to municipalities is the meals and rooms tax distribution under RSA 78-A:26. When the meals and rooms tax was first enacted in 1967, the statutory intent was to share the revenue with municipalities, with the state retaining 60% and municipalities receiving 40% of the revenues generated from the tax. Funding to municipalities was frozen early on, and the municipal share has never been close the 40% provided by statute. In 1993 the law was amended to provide a catch-up formula in order to reach the statutorily intended 60/40

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split. Under the formula, 75% of the year-over-year increase in revenue from the meals and rooms tax (but not more than $5 million in any one year) is added to the previous year's municipal distribution.

This was a great development for municipalities. As the meals and rooms tax revenues gradually increased, so did the municipal share of those revenues. In 2010 the state/municipal split reached 71%/29%. However, the catch-up formula was suspended from fiscal years 2010 through 2014, freezing the distribution to municipalities at the 2009 level of $53.8 million, while annual revenues from the meals and rooms tax increased by nearly $50 million over that period. The catch-up formula was re-instated for fiscal year 2015, resulting in $63.8 million paid to municipalities last December, which is approximately 25% of the revenue generated from that tax. Provisions in HB 1 and HB 2 propose to yet again suspend the catch-up formula for fiscal year 2016, thereby continuing to delay attainment of the required 40% funding level to municipalities.

Environmental State Aid Grants

For over 55 years, the state aid grant program has provided more than $400 million to eligible municipalities to help offset the cost of local water and wastewater infrastructure projects. Recognizing that these public works projects are typically driven by comprehensive federal and state regulations, are large in scope and extremely costly, and provide environmental benefits well beyond the boundaries of the host municipality, the state and federal governments have historically contributed a share of project costs. This is further recognition that cities and towns cannot bear these costs of compliance with federal and state regulations alone. While there is currently a bill (HB 511) in this session to explore future funding and redesign of the state aid grant program, this program has proven to be very effective in leveraging local and other funding toward much needed water and wastewater infrastructure projects—infrastructure assets which are vital to our state economy and environment. It is critical that the legislature continue to fund the state share of this important environmental program.

Highway Funding

NHMA members have long supported legislation to ensure that adequate state revenue is dedicated to highway improvements, including increases in the road toll (gas tax) under RSA 260:32, increases in motor vehicle registration fees, or any other source, so long as all additional revenues are used exclusively for highway purposes, and provided that the proportionate share of such additional revenues is distributed to cities and towns as required by existing law. We strongly supported the road toll increase enacted last year in SB 367, understanding that:

- 12%, or approximately $4 million, of the additional revenue raised would be distributed to municipalities under the highway block grant formula, and
- The existing annual municipal bridge aid appropriation of $6.8 million would be ***supplemented*** by an additional $6.8 million from the road toll increase for a total of $13.6

> million annually to help alleviate the 10-year waiting period for state assistance with costly municipal bridge repair/replacement projects.

HB 1 as introduced contains the $4 million increase in the block grant funding, which will be very helpful with municipal road projects. The municipal bridge aid, however, contains only the $6.8 million funding provided by the road toll increase. In other words, the road toll increase ***supplanted*** rather than ***supplemented*** the municipal bridge aid program. We were told that reduction was made because municipalities were not "spending" the additional bridge aid money that became available in fiscal year 2015. To assist municipalities with funding their required match, section 314 in HB 2 includes a provision to reduce the current 20% local match to 15%. We are confident that municipalities have the need for and can use bridge aid with annual funding of $13.6 million as contemplated during the debates on SB 367, provided they have time to make the appropriations at town meetings or council/aldermen meetings—even with a 20% match. Returning the $6.8 million highway fund portion of the municipal bridge aid program is critical, especially when there is a 10-year wait for municipal bridge aid and approximately 350 municipal bridges are red listed!

Revenue Sharing

In 1969, reform of the manner in which the state taxed businesses led to the implementation of the business profits tax (BPT). This necessitated the elimination of antiquated local taxes which were more reflective of an agricultural economy of the past, but were assessed and collected by municipalities and were part of the property tax base for municipalities, school districts and counties. The intent of RSA 31-A was stated as follows:

> In consideration of the removal of certain classes of property from taxation, which would otherwise have the effect of reducing the tax base of cities and towns of the state, it is hereby declared to be the policy of the state to return a certain portion of the general revenues of the state to the cities and towns for their unrestricted use…Chapter 5, Laws of 1970.

On March 31, 1970, in testimony on House Bill 1, then New Hampshire Attorney General Warren Rudman responded to concerns that future legislatures might choose not to honor this commitment to municipalities to fund revenue sharing, stating

> Now the charge has been leveled that future legislators might choose not to honor this pledge…***It seems quite doubtful to me that once this bill is passed that any legislator would go back on its pledge to return revenue to cities and towns that originally belonged to those cities and towns. And I might also add, in passing, that I could hardly see a Governor signing a bill which would deprive cities and towns of the revenue which they once had. (Emphasis added.)***

Despite Attorney General Rudman's argument that no legislator would ever renege on this commitment to cities and towns, revenue sharing has been suspended since 2010, resulting in a loss to municipalities and counties of $25 million per year. The impact of this loss varies among municipalities, with deferred maintenance, use of reserves or fund balance, budget reductions and/or property tax increases among the common responses to the loss of revenue sharing funds from the state.

Flood Control PILOTS

Eighteen municipalities are subject to interstate flood control compacts under which annual payments-in-lieu-of-taxes (PILOTs) are provided to compensate those municipalities for taxable property that was taken out of use to help mitigate downstream flooding from both the Merrimack and Connecticut rivers. Except for fiscal year 2013, municipalities were reimbursed by the State of New Hampshire for the full amount of the PILOTs, even if the other states (Massachusetts and Connecticut) did not fund their share of the payments under the terms of the compacts. Recently, obtaining any portion of the required payments from Massachusetts has only been successful due to the active involvement of the NH Attorney General's Office. HB 1 includes appropriations of $825,000 in both fiscal year 2016 and 2017 to fund the flood control PILOTs. However, to the extent that agency income (i.e. payments from Massachusetts and Connecticut) is not received, then the PILOT payments to municipalities would be reduced. We urge the committee to include language in HB 2 to ensure full payment of the PILOTs regardless of funds received from other states.

We understand the state's frustration with having to either utilize the Attorney General's limited resources on this issue or subsidize the Massachusetts portion of these payments. However, what appears to be absent in discussions regarding these flood control PILOTs is the correlation between the sacrifice made by these eighteen municipalities (approximately 19,500 acres of taxable land) and the benefits provided to downstream communities ***in New Hampshire***, as well as Massachusetts and Connecticut. Attached are several articles and photographs of the devastating flood of 1936 which necessitated the creation of these interstate flood control compacts in the first place. Average annual PILOT payments of merely $42 per acre ($825,000/19,500 acres) seem a very reasonable price to pay for the protection afforded by the flood control system.

FEMA Match

Section 357 of HB 2 repeals the $4.9 million appropriation provided last year in SB 409 for state matching funds for disaster assistance grants. These funds were for eight declared disasters that occurred from February 2010 through July 2013, and for which 257 local governments (including municipalities, schools and village districts) paid the required 25% FEMA match. Until 2010, the state shared the 25% FEMA match with local governments, splitting that amount equally in

recognition of the significant impact disaster-related costs could have on municipal, school and village district budgets. We ask the committee to support the appropriation enacted in SB 409.

Conclusion

On behalf of our municipal members, we urge the state to consider and re-energize the state-municipal partnership necessary to the effective provision of key public services. This includes the appropriation of the necessary resources to deliver public services critical to the economic vitality and quality of life in State of New Hampshire, as well as in cities and towns. Paying for and providing public services in New Hampshire is a joint responsibility of state and local governments. How well New Hampshire citizens are served will largely depend on how well this partnership works and we hope that our state is committed to being full partners in this important relationship with us.

I would like to acknowledge NHMA Government Finance Advisor Barbara Reid and Communications and Member Services Coordinator Timothy Fortier for their assistance in the preparation of this testimony and their work on HB1 and HB 2.

Thank you for your consideration of our municipal member's concerns and we look forward to working with you to create a good budget for the state. Please do not hesitate to contact any of us if you have any questions or if we can provide further information.

Respectfully,

Judy A. Silva
Executive Director

Cc: Members of the House Finance Committee
The Honorable Maggie Hassan, Governor
The Honorable Shawn Jasper, House Speaker
The Honorable Chuck Morse, Senate President
NHMA Board of Directors

Manchester Leader and Evening Union, Manchester, NH March 20, 1936

Manchester, New Hampshire Flood March 1936

FLOOD WORST IN HISTORY OF CITY

Soldiers, Police and Firemen on duty as Many Are Rescued from Homes

Manchester is in the throes of the worst flood conditions in its history, surpassing the conditions prevailing in 1896.

All of the city's bridges are closed with the exception of Granite and Queen City bridges.

The National Guard units were called out to assist in doing police duty.

All call men were ordered to their respective fire stations in the event of emergencies.

Police Effect Rescues.

Police effected several rescues from lowlands along the Merrimack and Piscataquog rivers, the last one being a sensational rescue of the animal trainer and the feeder at the Manchester Zoo.

Patriotic civic and fraternal clubs and other organizations have thrown open their doors to flood victims. throughout the city. Members of Legion posts, the Red Cross, Boy Scouts, Salvation Army, the Veterans of Foreign Wars, nurses of the Manchester District Association and others are standing by to aid in helping refugees.

Local telephone service is continued throughout the city but due to an unusually heavy number of calls, the service has been slowed up.

Mayor Issues Appeal.

Mayor Caron issued a statement urging all persons to keep away from bridges and banks of rivers and to remain at home until the flood dangers have subsided.

As the rampaging waters of the Merrimack and Piscataquog rivers continued to rise this forenoon, Highway Department workers closed bridge after bridge as a precautionary measure.

With the water well over 12 feet at the Amoskeag dam and with indications that the river will rise still more, Amoskeag bridge was closed at 10 o'clock several hours after the Mcgregor was closed. Water is running across the lower level of this span but there is no immediate danger of its being carried away.

Two landslides at Kelley's Falls bridge caused the Highway department to close this bridge shortly after 10 o'clock. Tons of sand rolled down into the river at the western edge of the Kelley's Falls dam but officials of the Public service company expressed no anxiety. There was another slide under the bridge at the western approach and as more slides continued later in the morning, city officials feared it might undermine the supports at that point.

The Public Service company has some poles in the section of the slides at the bridge and men were promptly sent out to anchor the power lines in the event the poles should fall.

As the Merrimack rose to unprecedented heights, a long row of summer homes on the west bank above Amoskeag were submerged and it was feared that some of them may be carried down the river. There are more than 50 homes in that group and some of them are occupied the year around but their

occupants moved out last night, according to reports.

The entire police force has been on duty since midnight and the National Guard units were called out this morning in order to give the police officers an opportunity to get much deserved rest. The men on the 4 o'clock shift had been on duty without a stop for 20 hours up to noon.

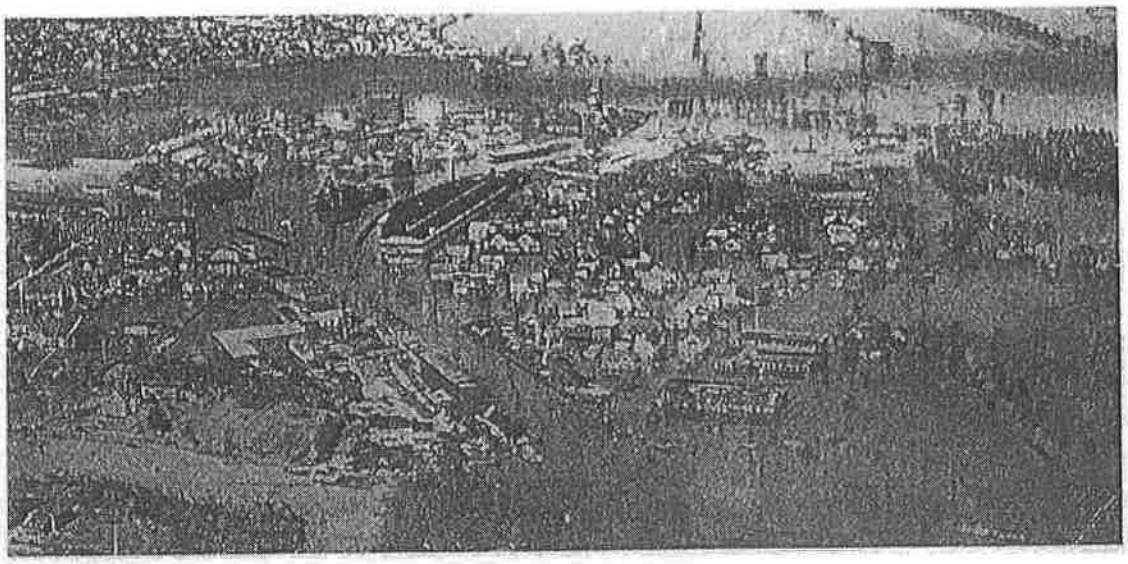
Police officers went to Wentworth street during the night and assisted in the removal of 30 persons from their homes. Last night they moved out one family from Groux's island and this morning the other family living on the island was taken to safety. They also helped in the rescue of the animal trainer and his assistant from the Manchester zoo.

Thousands of persons were out this morning watching the Merrimack and Piscataquog rivers. The police had no difficulty in keeping the crowds back. Hundreds obtained vantage points on the North Weare branch railroad overpass and had a good view of the flooded area south to the shoe factories. Granite bridge was crowded with pedestrians who watched the rise of the river. Hundreds more were on Amoskeag bridge until it was closed. A large crowd was at the South Main street bridge until it was closed.

In order to get an idea of the situation throughout the city, Mayor Caron left at 1 o'clock for a general tour of inspection in company with police and highway officials.

Manchester Leader and Evening Union, Manchester, NH 20 Mar 1936

FLOOD OF MARCH 1936



Nashua, New Hampshire

The winter of 1935-1936 was a severe one with lower than normal temperatures. As of early March it was estimated that the snowpacks in Northern New England averaged about 7.5 inches of water. In Southern New England, snow water equivalents of 3.5 inches were normal.

On March 9, a warm, moisture-laden front moved into, and stalled over New England resulting in increased temperatures as well as heavy rainfall during the period March 11-13. Rainfall amounts were significant enhanced by the orographics of the White Mountains. Large areas of 5 inch rainfall in New Hampshire and Maine were reported.

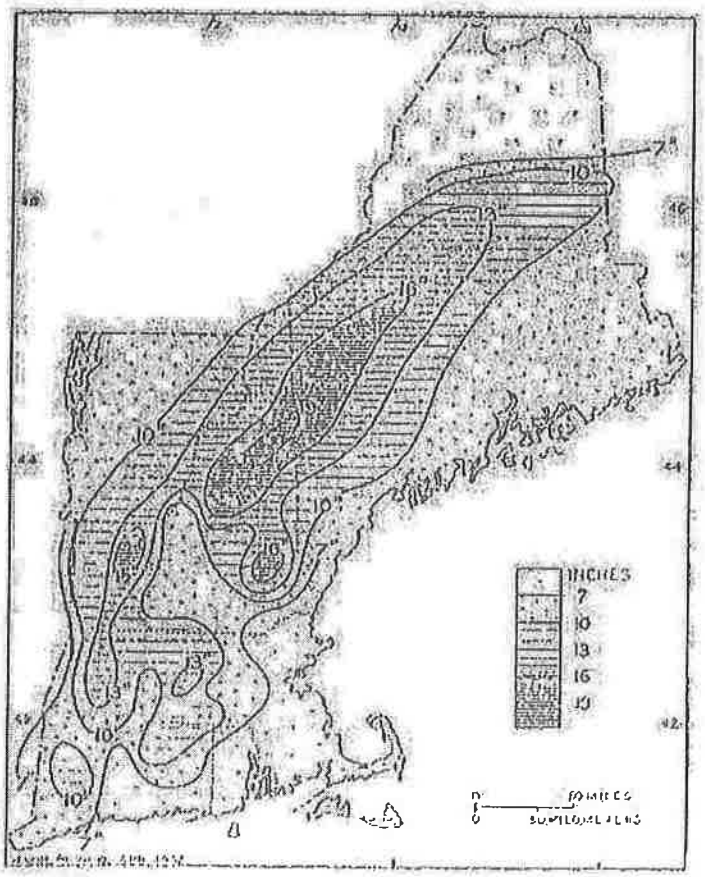
The combination of heavy rain and melting snow resulted in flooding throughout New England. A most significant damage during this period resulted from the movement of ice on the rivers, and the resultant ice jams and breaks. An example of the severe ice damage occurred at Holyoke Dam. An ice jam above the dam initally resulted in the Connecticut River cutting a new channel on the east side of the river to get around the jam. When the jam broke, it moved downstream, over the dam in over 9 feet of water. In doing so, the ice sheared off 1000 foot wide by 5 foot high section of the granite dam. The state of Maine also received a vast amount of damage from ice flows (see photo below). While the ice flood resulting from this first portion of the event was substantial, for the most part it was merely "priming the pump" for what was to come next.

The major impact occurred a few days later when a second system moved into New England dumping even more rainfall. The Pinkham Notch station on Mount Washington, which had received over 7 inches of rain during the March 11-13 rain, received over 10 inches on March 18 and 19. Other areas of heavy rainfall were focused on the Blackstone and Ware River basins, and on the east side of the

Berkshires, draining into the Deerfield and Westfield Rivers.

Again, the combination of heavy rain and melting snow resulted in severe flooding. Almost the entire snow cover in New England, except that in Northern Maine and New Hampshire contributed major runoff to the rivers. This time the most significant damage was caused by the flooding itself. In fact, at many locations, this was the most severe flooding that has ever been experienced. In the table below, for locations marked with * the 1936 flood continues to be flood of record 60 years later. The entire reach of the Connecticut River was severely impacted. New flow records were established from Hartford all the way up to northern New Hampshire. The Merrimack River basin also saw substantial damage. In Hookset NH, over 18 feet of water flowed through the downtown. Inundation in Nashua, NH is depicted in the photograph above.

A third less severe system came up a few days later. However, this final event served only to lengthen the duration of the flooding rather than cause any new significant flood peaks. During the two week period, the majority of New England was impacted by a combination of rainfall and snowmelt totalling over 10 inches. In fact, a peak estimate of nearly 30 inches was observed. (See diagram).



Rainfall and Water Equivalent of Snow Melted, March 9-21, 1936 (from Climatic Data, US Weather Bureau, New England Section, March 1936)

Unites States Geological Survey Water Science Center for Maryland, Delaware and the District of Columbia
http://md.water.usgs.gov/

Flooding of the Merrimack and Nashua Rivers at Nashua, N.H., March 19, 1936. The railroad station (center) is near Armory Street. (Photograph from the New Hampshire Water Resources Division of the Department of Environmental Services.)