

HB 1145-FN – Affordable Housing Investment Fees (11:00 AM)

Position: Opposition (ITL)

Bill Summary: This bill enables a new municipal fee ("affordable housing investment fee") that can be imposed on developments that do not meet local inclusionary zoning requirements. Fees must be segregated and used for affordable housing initiatives within the municipality.

Key Points:

1. Solving the housing shortage requires supply across all price points; this bill adds a new development fee that increases market-rate costs and constrains supply.
2. Numerous subsidy tools already support affordable housing (LIHTC, historic credits, CDBG, TIF, InvestNH); adding another mechanism is unnecessary.
3. Primary barriers to affordable housing are zoning limits, infrastructure capacity, and permitting—not financing tools.
4. Project finance challenges fall more heavily on market-rate developers, who lack comparable subsidies.
5. Effectively converts voluntary inclusionary zoning into a quasi-mandatory system through punitive fees, discouraging development.

Full Testimony

Mr. Chair, members of the Committee—

My name is Christopher Freeman. I am a housing provider in Keene, Walpole, and Lebanon, NH and a founding advisory board member of the Monadnock Housing Collaborative. All views expressed today are my own.

I urge the committee to find HB 1145 Inexpedient to Legislate.

This bill proposes to add "affordable housing investment fees" to the list of innovative land use controls under RSA 674:21. In practice, it enables municipalities to impose a new fee on any development that does not meet local inclusionary zoning requirements. The fee revenue would be segregated and directed toward affordable housing initiatives.

On its surface, this sounds reasonable. Who could be against affordable housing? But once we move past the branding and examine the mechanics, the bill reveals itself as counterproductive to the very goal it seeks to advance.

First, I submit that New Hampshire does not have an affordable housing problem. New Hampshire has a housing problem. We are short housing at every price point—entry-level,

workforce, moderate-income, and market-rate. The shortage is structural and pervasive. We need housing at every level of the market, and that includes luxury and market-rate development.

I suspect there may be members of this committee who came here to fight for the little guy and who might not lose much sleep over those of us who can afford to drop \$3,000 a month on a posh mill conversion. I understand that impulse. Luxury development may not be top of mind when constituents are struggling to find anything they can afford.

But consider what happens if we make it uneconomical to build housing for high earners. They still need somewhere to live. They don't evaporate. All that happens is they enter competition for whatever other housing exists. When landlords have their pick of the litter, who do we think they are going to approve? High income, high credit rental prospects will outcompete lower-income, lower-credit applicants every single time.

This is the logic of filtering. Housing built at any price point relieves pressure across the entire market. When we suppress market-rate construction, we do not protect affordable housing. We intensify competition for it.

Second, we already have a robust toolkit for subsidizing affordable housing. Low-Income Housing Tax Credits. Historic rehabilitation credits. CDBG. Tax increment financing. The InvestNH program. Housing trust funds. 79E. Each of these mechanisms has an established track record and institutional infrastructure. Adding yet another financing vehicle does not address the binding constraints on affordable housing production—which are zoning, infrastructure, and permitting—not the availability of another funding pot.

In fact, I would go so far as to speculate that there is so much funding available for affordable housing development that these projects have had materially distortive effects on trade labor and construction supply markets. When a LIHTC project can outbid market-rate developers for electricians, framers, and materials, the result is not more housing overall—it is a reallocation of scarce construction capacity toward the subsidized higher bidder.

It is also worth noting that market-rate developers already operate under tighter financial constraints than their subsidized counterparts. They do not have access to LIHTC equity, soft debt, or the constellation of public programs that make affordable projects pencil. Adding new fees to market-rate development pushes more projects beyond the margin of feasibility.

Third, and most troubling, this bill transforms voluntary inclusionary zoning into a stick-and-carrot regime. If a municipality adopts inclusionary zoning, a developer who cannot

meet those requirements—perhaps because unit sizes, site conditions, or project economics don't support it— could face punitive fees.

Lastly, the bill also fails to specify any cap on the fee amount, any proportionality standard, or any nexus requirement tying the fee to the actual affordable housing need generated by the development. It simply authorizes municipalities to impose whatever assessment they choose. That kind of open-ended discretion invites overreach, inconsistent application, and possibly legal challenge from aggrieved project owners.

This committee has worked tirelessly over the past several sessions to reduce barriers to housing production—parking caps, ADU reforms, multi-family allowances in commercial zones. That work has been meaningful and hard-won. HB 1145 cuts in the other direction. It raises the cost of creating housing at a moment when we need to be lowering it.

I respectfully urge the committee to vote ITL on HB 1145.

Respectfully submitted,

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