

Bill as Introduced

SB 361 - AS INTRODUCED

2012 SESSION

12-2947

09/05

SENATE BILL **361**

AN ACT establishing an interagency task force on energy infrastructure corridors.

SPONSORS: Sen. Forrester, Dist 2; Sen. Carson, Dist 14; Sen. Groen, Dist 6; Sen. Sanborn, Dist 7; Sen. Lambert, Dist 13; Rep. Rappaport, Coos 1; Rep. Ladd, Graf 5; Rep. Brosseau, Graf 6; Rep. Cali-Pitts, Rock 16

COMMITTEE: Transportation

ANALYSIS

This bill establishes an interagency task force on energy infrastructure corridors.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT establishing an interagency task force on energy infrastructure corridors.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Declaration of Purpose. The legislature finds that the state would be well served by
2 determining whether it is feasible to use existing transportation rights of way to serve as locations
3 for underground utility infrastructure. This act establishes an interagency task force to conduct a
4 feasibility study, and, if warranted, to recommend a process by which appropriate energy
5 infrastructure corridors should be identified for specific utility facilities and a process by which
6 bidding for these corridors and tariffs for the annual use of the corridors would be established.

7 2 New Chapter; Interagency Task Force on Energy Infrastructure Corridors. Amend RSA by
8 inserting after chapter 362-F the following new chapter:

9 CHAPTER 362-G

10 INTERAGENCY TASK FORCE

11 ON ENERGY INFRASTRUCTURE CORRIDORS

12 362-G:1 Definitions.

13 I. "Energy infrastructure" includes electric transmission and distribution facilities, natural
14 gas transmission lines, carbon dioxide pipelines, and other energy transport pipelines or conduits.

15 II. "Energy infrastructure corridor" means a transportation right-of-way on an existing
16 state-owned transportation right-of-way within which energy infrastructure could potentially be
17 sited underground.

18 III. "Potential developer" means a person that can demonstrate to the commission the
19 financial and technical capability to engage in the development and construction of energy
20 infrastructure.

21 IV. "Project" means the development or construction of energy infrastructure within an
22 energy infrastructure corridor.

23 V. "State-owned" means owned by the state or by a state agency or state authority.

24 362-G:2 Interagency Task Force on Energy Infrastructure Corridors.

25 I. The interagency task force on energy infrastructure corridors is established for the
26 purpose of studying the feasibility of using state-owned transportation corridors for the purpose of
27 siting future energy infrastructure.

28 II. The interagency task force shall include the following members:

29 (a) The director of the governor's office of energy and planning.

30 (b) The commissioner of administrative services, or designee.

31 (c) The commissioner of the department of transportation, or designee.

1 (d) The commissioner of the department of environmental services, or designee.

2 (e) The commissioner of the department of resources and economic development, or
3 designee.

4 (f) The chairman of the public utilities commission, or designee who must be a public
5 utilities commissioner.

6 (g) The commissioner of the department of revenue administration, or designee.

7 (h) Six members of the public appointed by the governor, one with expertise in energy
8 and/or utilities, one with expertise in finance and/or real estate, one representing residential energy
9 customers, one representing industrial and/or commercial energy consumers, one representing the
10 conservation community, and one representing municipal government. The governor shall nominate
11 one of the governor's 6 nominees as the chair of the task force.

12 (i) The senate president, or designee.

13 (j) The speaker of the house of representatives, or designee.

14 II. Public members of the interagency task force shall serve 3-year terms, except that a
15 vacancy shall be filled for the unexpired portion of the term. A public member serves until a
16 successor is appointed. A public member may serve a maximum of 2 consecutive terms.

17 III. The interagency task force shall prepare a report identifying the feasibility of using
18 state-owned transportation corridors for underground energy infrastructure and issue the report to
19 the governor, the speaker of the house, and senate president by November 1, 2012. If the report
20 finds the use of transportation corridors feasible for such underground use, the task force shall
21 specify which corridors are most appropriate for specific utility infrastructures. The task force shall
22 also recommend a process for determining a bidding process by which such corridors would be made
23 available, and a process for determining annual tariffs to be paid to the state for the use of these
24 corridors.

25 IV. Prior to preparation of its report on feasibility, the task force shall provide public notice
26 of its meetings and solicit public input as a part of its information gathering process.

27 V. In determining whether the establishment of one or more energy infrastructure corridors
28 is in the long-term public interest of the state, the task force's assessment of feasibility shall
29 consider, but shall not be limited to the following issues:

30 (a) Would such corridor or corridors materially enhance the delivery of electricity to New
31 Hampshire consumers and increase the reliability security of the electricity distribution system in
32 the state;

33 (b) Would there be long term economic benefits for the state, including but not limited to
34 direct financial benefits from leasing rights-of-ways, employment opportunities, and private sector
35 economic development;

36 (c) What would the effects of such corridor or corridors be on the retail price of electricity
37 to businesses and residential ratepayers;

1 (d) Would such corridors do any harm to the orderly development of renewable energy
2 generation in the state;

3 (e) How would a process be designed to assure the efficient development of such corridor
4 or corridors by energy distribution companies serving the state;

5 (f) What actions need to be taken to assure that conflict is minimized with the public
6 purposes for which such rights-of-way are already owned; and

7 (g) Would the development of such corridor or corridors lead to any reduction in
8 emissions of greenhouse gases.

9 VI. The task force report shall recommend a process for designation and marketing of energy
10 infrastructure corridors. This process shall address, but not be limited to, the following concerns:

11 (a) Any corridor designation shall include a public hearing in which any member of the
12 public may submit oral or written testimony or comments, which shall be incorporated into the task
13 force's record of the hearing. The process shall also allow for written comments by any member of
14 the public both before and after the hearing.

15 (b) The process shall provide for a corridor designation based on substantial evidence in
16 the record from research completed by the task force, including consideration of public input.

17 (c) The task force report shall propose recommendations, guidelines, and criteria for
18 rulemaking relative to:

19 (1) The designation and use of a specified energy infrastructure corridor.

20 (2) The level of environmental review required before an energy infrastructure
21 corridor is marketed.

22 (3) Specifying the process by which the state will market corridors designated.

23 (4) Determining annual tariffs to be collected by the state for the use of such
24 corridors.

25 (5) Determining in advance under what circumstances eminent domain can be used
26 to complete an otherwise incomplete energy infrastructure corridor.

27 3 Effective Date. The remainder of this act shall take effect upon its passage.

SB 361 – AS AMENDED BY THE SENATE

03/21/12 1172s

2012 SESSION

12-2947

09/05

SENATE BILL

361

AN ACT

establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

SPONSORS:

Sen. Forrester, Dist 2; Sen. Carson, Dist 14; Sen. Groen, Dist 6; Sen. Sanborn, Dist 7; Sen. Lambert, Dist 13; Rep. Rappaport, Coos 1; Rep. Ladd, Graf 5; Rep. Brosseau, Graf 6; Rep. Cali-Pitts, Rock 16

COMMITTEE:

Transportation

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way.

This bill also repeals the commission established in HB 648 of the 2012 regular session.

Explanation:

Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Declaration of Purpose. The legislature finds that the state would be well served by
2 determining whether it is feasible to use existing transportation rights of way to serve as locations
3 for underground utility infrastructure. This act establishes a commission to conduct a feasibility
4 study, and, if warranted, to recommend a process by which appropriate energy infrastructure
5 corridors should be identified for specific utility facilities and a process by which bidding for these
6 corridors and revenue for the annual use of the corridors would be established.

7 2 New Chapter; Commission to Study the Feasibility of Establishing Energy Infrastructure
8 Corridors Within Existing Transportation Rights of Way. Amend RSA by inserting after chapter
9 362-F the following new chapter:

CHAPTER 362-G

COMMISSION TO STUDY THE FEASIBILITY OF
ESTABLISHING ENERGY INFRASTRUCTURE CORRIDORS
WITHIN THE EXISTING TRANSPORTATION RIGHTS OF WAY

10 362-G:1 Definitions. In this chapter:

11 I. "Energy infrastructure" includes electric transmission and distribution facilities, natural
12 gas transmission lines, carbon dioxide pipelines, and other energy transport pipelines or conduits.

13 II. "Energy infrastructure corridor" means a transportation right of way on an existing
14 state-owned transportation right of way within which energy infrastructure could potentially be
15 sited underground.

16 III. "Potential developer" means a person that can demonstrate to the state the financial and
17 technical capability to engage in the development and construction of energy infrastructure.

18 IV. "Project" means the development or construction of energy infrastructure within an
19 energy infrastructure corridor.

20 V. "State-owned" means owned by the state or by a state agency or state authority.

21 362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors
22 Within the Existing Transportation Rights of Ways.

23 I. There is established a commission to study the feasibility of establishing energy
24 infrastructure corridors within the existing transportation rights of ways.

25 II. The members of the commission shall be as follows:
26
27
28
29

- 1 (a) One member of the senate, appointed by the president of the senate.
2 (b) Two members of the house of representatives, appointed by the speaker of the house
3 of representatives.
4 (c) The director of the office of energy and planning, or designee.
5 (d) The commissioner of the department of administrative services, or designee.
6 (e) The commissioner of the department of transportation, or designee.
7 (f) The commissioner of the department of environmental services, or designee.
8 (g) The commissioner of the department of resources and economic development, or
9 designee.
10 (h) The chairman of the public utilities commission, or designee.
11 (i) The commissioner of the department of revenue administration, or designee.

12 III. Legislative members of the commission shall receive mileage at the legislative rate when
13 attending to the duties of the commission.

14 IV. The commission shall identify the feasibility of using state-owned transportation
15 corridors for underground energy infrastructure and, if the commission finds the use of
16 transportation corridors feasible for such underground use, shall specify which corridors are most
17 appropriate for specific utility infrastructures. In determining whether the establishment of one or
18 more energy infrastructure corridors is in the long-term public interest of the state, the commission's
19 assessment of feasibility shall consider, but shall not be limited to the following issues:

- 20 (a) Whether such corridor or corridors materially enhance the delivery of electricity or
21 other utilities, or both, to New Hampshire consumers and increase the reliability and security of the
22 electricity distribution system in the state.
23 (b) The identification of the corridors.
24 (c) The identification of available technologies.
25 (d) The identification of the costs of available technologies.
26 (e) Whether there would be long-term economic benefits for the state, including, but not
27 limited to, direct financial benefits from leasing rights of ways; employment opportunities; and
28 private sector economic development.
29 (f) What the effects of such corridor or corridors are on the retail price of electricity or
30 other utilities, or both, to businesses and residential ratepayers.
31 (g) Whether such corridors would do any harm to the orderly development of renewable
32 energy generation in the state.
33 (h) A process design to assure the efficient development of such corridor or corridors by
34 energy distribution companies serving the state.
35 (i) What actions need to be taken to assure that conflict with the public purposes for
36 which such rights of way are already owned is minimized.
37 (j) Whether the development of such corridor or corridors would lead to any reduction in

1 emissions of greenhouse gases.

2 (k) Circumstances where eminent domain might be used to complete an otherwise
3 incomplete energy infrastructure corridor.

4 V. Chairperson; Quorum. The members of the commission shall elect a chairperson from
5 among the members. The first meeting of the commission shall be called by the first-named senate
6 member. The first meeting of the commission shall be held within 45 days of the effective date of
7 this section. Six members of the commission shall constitute a quorum.

8 VI. Report. The commission, after public hearings, shall report its findings and any
9 recommendations for proposed legislation to the president of the senate, the speaker of the house of
10 representatives, the senate clerk, the house clerk, the governor, and the state library on or before
11 December 1, 2012.

12 3 Repeal. The following are repealed:

13 I. RSA 362-G, relative to the commission to study the feasibility of establishing energy
14 infrastructure corridors within the existing transportation rights of way.

15 II. RSA 371:16-a, relative to the establishment of the commission to investigate the
16 procedural rights of the landowner when a petition is presented to the public utilities commission by
17 a utility seeking eminent domain, develop a framework for the state to provide use rights to
18 transmission developers on state owned rights-of-way, develop policies to encourage burying such
19 lines where practicable, and establish a structure for payment.

20 4 Effective Date.

21 I. Paragraph I of section 3 of this act shall take effect December 2, 2012.

22 II. The remainder of this act shall take effect upon its passage.

SB 361 – FINAL VERSION

03/21/12 1172s
25Apr2012... 1655h

2012 SESSION

12-2947
09/05

SENATE BILL **361**

AN ACT establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

SPONSORS: Sen. Forrester, Dist 2; Sen. Carson, Dist 14; Sen. Groen, Dist 6; Sen. Sanborn, Dist 7; Sen. Lambert, Dist 13; Rep. Rappaport, Coos 1; Rep. Ladd, Graf 5; Rep. Brosseau, Graf 6; Rep. Cali-Pitts, Rock 16

COMMITTEE: Transportation

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way.

This bill also repeals the commission established in HB 648 of the 2012 regular session.

.....

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Declaration of Purpose. The legislature finds that the state would be well served by
2 determining whether it is feasible to use existing transportation rights of way to serve as locations
3 for utility infrastructure, including underground installations. This act establishes a commission to
4 conduct a feasibility study, and, if warranted, to recommend a process by which appropriate energy
5 infrastructure corridors should be identified for specific utility facilities and a process by which
6 bidding for these corridors and revenue for the annual use of the corridors would be established. The
7 commission shall have no regulatory or supervisory authority over the planning, siting, construction,
8 or operation of any past, present, or future power transmission or energy infrastructure project.

9 2 New Chapter: Commission to Study the Feasibility of Establishing Energy Infrastructure
10 Corridors Within Existing Transportation Rights of Way. Amend RSA by inserting after chapter
11 362-F the following new chapter:

CHAPTER 362-G

COMMISSION TO STUDY THE FEASIBILITY OF
ESTABLISHING ENERGY INFRASTRUCTURE CORRIDORS
WITHIN THE EXISTING TRANSPORTATION RIGHTS OF WAY

16 362-G:1 Definitions. In this chapter:

17 I. "Energy infrastructure" includes electric transmission and distribution facilities, natural
18 gas transmission lines, carbon dioxide pipelines, petroleum pipelines, and other energy transport
19 pipelines or conduits.

20 II. "Energy infrastructure corridor" means a transportation right of way on an existing
21 state-owned transportation right of way within which energy infrastructure could potentially be
22 sited underground or aboveground.

23 III. "Potential developer" means a person that can demonstrate to the state the financial and
24 technical capability to engage in the development and construction of energy infrastructure.

25 IV. "Project" means the development or construction of energy infrastructure within an
26 energy infrastructure corridor.

27 V. "State-owned" means owned by the state or by a state agency or state authority.

1 362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors
2 Within the Existing Transportation Rights of Ways.

3 I. There is established a commission to study the feasibility of establishing energy
4 infrastructure corridors within the existing transportation rights of ways.

5 II. The members of the commission shall be as follows:

6 (a) One member of the senate, appointed by the president of the senate.

7 (b) Three members of the house of representatives, appointed by the speaker of the
8 house of representatives.

9 (c) The director of the office of energy and planning, or designee.

10 (d) The commissioner of the department of administrative services, or designee.

11 (e) The commissioner of the department of transportation, or designee.

12 (f) The commissioner of the department of environmental services, or designee.

13 (g) The commissioner of the department of resources and economic development, or
14 designee.

15 (h) The chairman of the public utilities commission, or designee.

16 (i) The commissioner of the department of revenue administration, or designee.

17 III. Legislative members of the commission shall receive mileage at the legislative rate when
18 attending to the duties of the commission.

19 IV. The commission shall identify the feasibility of using state-owned transportation
20 corridors for energy infrastructure and, if the commission finds the use of transportation corridors
21 feasible for such use, shall specify which corridors are most appropriate for specific utility
22 infrastructures. The commission's assessment of feasibility shall consider, but shall not be limited to
23 the following issues:

24 (a) Whether such corridor or corridors materially enhance the delivery of electricity or
25 other utilities, or both, to New Hampshire consumers and increase the reliability and security of the
26 electricity distribution system in the state.

27 (b) The identification of the corridors.

28 (c) The identification of available technologies.

29 (d) The identification of the costs of available technologies.

30 (e) Whether there would be long-term economic benefits for the state, including, but not
31 limited to, direct financial benefits from leasing rights of ways; employment opportunities; and
32 private sector economic development.

33 (f) What the effects of such corridor or corridors are on the retail price of electricity or
34 other utilities, or both, to businesses and residential ratepayers.

35 (g) A process design to assure the efficient development of such corridor or corridors by
36 energy distribution companies serving the state.

37 (h) What actions need to be taken to assure that conflict with the public purposes for

1 which such rights of way are already owned is minimized.

2 (i) Circumstances where eminent domain might be used to complete an otherwise
3 incomplete energy infrastructure corridor.

4 V. Chairperson; Quorum. The members of the commission shall elect a chairperson from
5 among the members. The first meeting of the commission shall be called by the first-named senate
6 member. The first meeting of the commission shall be held within 45 days of the effective date of
7 this section. Six members of the commission shall constitute a quorum.

8 VI. Report. The commission, after public hearings, shall report its findings and any
9 recommendations for proposed legislation to the president of the senate, the speaker of the house of
10 representatives, the senate clerk, the house clerk, the governor, and the state library on or before
11 December 1, 2012.

12 3 Repeal. The following are repealed:

13 I. RSA 362-G, relative to the commission to study the feasibility of establishing energy
14 infrastructure corridors within the existing transportation rights of way.

15 II. RSA 371:16-a, relative to the establishment of the commission to investigate the
16 procedural rights of the landowner when a petition is presented to the public utilities commission by
17 a utility seeking eminent domain, develop a framework for the state to provide use rights to
18 transmission developers on state owned rights-of-way, develop policies to encourage burying such
19 lines where practicable, and establish a structure for payment.

20 4 Effective Date.

21 I. Paragraph I of section 3 of this act shall take effect December 2, 2012.

22 II. The remainder of this act shall take effect upon its passage.

Amendments



Sen. Forrester, Dist. 2
 February 22, 2012
 2012-1005s
 06/01

Amendment to SB 361

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a commission to study the feasibility of establishing energy
 4 infrastructure corridors within existing transportation rights of way and repealing
 5 a commission.
 6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 Declaration of Purpose. The legislature finds that the state would be well served by
 10 determining whether it is feasible to use existing transportation rights of way to serve as locations
 11 for underground utility infrastructure. This act establishes a commission to conduct a feasibility
 12 study, and, if warranted, to recommend a process by which appropriate energy infrastructure
 13 corridors should be identified for specific utility facilities and a process by which bidding for these
 14 corridors and revenue for the annual use of the corridors would be established.

15 2 New Chapter; Commission to Study the Feasibility of Establishing Energy Infrastructure
 16 Corridors Within Existing Transportation Rights of Way. Amend RSA by inserting after chapter
 17 362-F the following new chapter:

18

CHAPTER 362-G

19

COMMISSION TO STUDY THE FEASIBILITY OF

20

ESTABLISHING ENERGY INFRASTRUCTURE CORRIDORS

21

WITHIN THE EXISTING TRANSPORTATION RIGHTS OF WAY

22

362-G:1 Definitions. In this chapter:

23

I. "Energy infrastructure" includes electric transmission and distribution facilities, natural
 24 gas transmission lines, carbon dioxide pipelines, and other energy transport pipelines or conduits.

25

II. "Energy infrastructure corridor" means a transportation right of way on an existing
 26 state-owned transportation right of way within which energy infrastructure could potentially be
 27 sited underground.

28

III. "Potential developer" means a person that can demonstrate to the state the financial and
 29 technical capability to engage in the development and construction of energy infrastructure.

30

IV. "Project" means the development or construction of energy infrastructure within an
 31 energy infrastructure corridor.

32

V. "State-owned" means owned by the state or by a state agency or state authority.

33

362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors



Amendment to SB 361

- Page 2 -

1 Within the Existing Transportation Rights of Ways.

2 I. There is established a commission to study the feasibility of establishing energy
3 infrastructure corridors within the existing transportation rights of ways.

4 II. The members of the commission shall be as follows:

5 (a) One member of the senate, appointed by the president of the senate.

6 (b) Two members of the house of representatives, appointed by the speaker of the house
7 of representatives.

8 (c) The director of the office of energy and planning, or designee.

9 (d) The commissioner of the department of administrative services, or designee.

10 (e) The commissioner of the department of transportation, or designee.

11 (f) The commissioner of the department of environmental services, or designee.

12 (g) The commissioner of the department of resources and economic development, or
13 designee.

14 (h) The chairman of the public utilities commission, or designee.

15 (i) The commissioner of the department of revenue administration, or designee.

16 III. Legislative members of the commission shall receive mileage at the legislative rate when
17 attending to the duties of the commission.

18 IV. The commission shall identify the feasibility of using state-owned transportation
19 corridors for underground energy infrastructure and, if the commission finds the use of
20 transportation corridors feasible for such underground use, shall specify which corridors are most
21 appropriate for specific utility infrastructures. In determining whether the establishment of one or
22 more energy infrastructure corridors is in the long-term public interest of the state, the commission's
23 assessment of feasibility shall consider, but shall not be limited to the following issues:

24 (a) Whether such corridor or corridors materially enhance the delivery of electricity or
25 other utilities, or both, to New Hampshire consumers and increase the reliability and security of the
26 electricity distribution system in the state.

27 (b) The identification of the corridors.

28 (c) The identification of available technologies.

29 (d) The identification of the costs of available technologies.

30 (e) Whether there would be long-term economic benefits for the state, including, but not
31 limited to, direct financial benefits from leasing rights of ways; employment opportunities; and
32 private sector economic development.

33 (f) What the effects of such corridor or corridors are on the retail price of electricity or
34 other utilities, or both, to businesses and residential ratepayers.

35 (g) Whether such corridors would do any harm to the orderly development of renewable
36 energy generation in the state.

37 (h) A process design to assure the efficient development of such corridor or corridors by



1 energy distribution companies serving the state.

2 (i) What actions need to be taken to assure that conflict with the public purposes for
3 which such rights of way are already owned is minimized.

4 (j) Whether the development of such corridor or corridors would lead to any reduction in
5 emissions of greenhouse gases.

6 (k) Circumstances where eminent domain might be used to complete an otherwise
7 incomplete energy infrastructure corridor.

8 V. Chairperson; Quorum. The members of the commission shall elect a chairperson from
9 among the members. The first meeting of the commission shall be called by the first-named senate
10 member. The first meeting of the commission shall be held within 45 days of the effective date of
11 this section. Six members of the commission shall constitute a quorum.

12 VI. Report. The commission, after public hearings, shall report its findings and any
13 recommendations for proposed legislation to the president of the senate, the speaker of the house of
14 representatives, the senate clerk, the house clerk, the governor, and the state library on or before
15 December 1, 2012.

16 3 Repeal. The following are repealed:

17 I. RSA 362-G, relative to the commission to study the feasibility of establishing energy
18 infrastructure corridors within the existing transportation rights of way.

19 II. RSA 371:16-a, relative to the establishment of the commission to investigate the
20 procedural rights of the landowner when a petition is presented to the public utilities commission by
21 a utility seeking eminent domain, develop a framework for the state to provide use rights to
22 transmission developers on state owned rights-of-way, develop policies to encourage burying such
23 lines where practicable, and establish a structure for payment.

24 4 Effective Date.

25 I. Paragraph I of section 3 of this act shall take effect December 2, 2012.

26 II. The remainder of this act shall take effect upon its passage.



Amendment to SB 361
- Page 4 -

2012-1005s

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way.

This bill also repeals the commission established in HB 648 of the 2012 regular session.



Amendment to SB 361

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a commission to study the feasibility of establishing energy
 4 infrastructure corridors within existing transportation rights of way and repealing
 5 a commission.
 6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 Declaration of Purpose. The legislature finds that the state would be well served by
 10 determining whether it is feasible to use existing transportation rights of way to serve as locations
 11 for underground utility infrastructure. This act establishes a commission to conduct a feasibility
 12 study, and, if warranted, to recommend a process by which appropriate energy infrastructure
 13 corridors should be identified for specific utility facilities and a process by which bidding for these
 14 corridors and revenue for the annual use of the corridors would be established.

15 2 New Chapter; Commission to Study the Feasibility of Establishing Energy Infrastructure
 16 Corridors Within Existing Transportation Rights of Way. Amend RSA by inserting after chapter
 17 362-F the following new chapter:

18

CHAPTER 362-G

19

COMMISSION TO STUDY THE FEASIBILITY OF

20

ESTABLISHING ENERGY INFRASTRUCTURE CORRIDORS

21

WITHIN THE EXISTING TRANSPORTATION RIGHTS OF WAY

22

362-G:1 Definitions. In this chapter:

23

I. "Energy infrastructure" includes electric transmission and distribution facilities, natural
 24 gas transmission lines, carbon dioxide pipelines, and other energy transport pipelines or conduits.

25

II. "Energy infrastructure corridor" means a transportation right of way on an existing
 26 state-owned transportation right of way within which energy infrastructure could potentially be
 27 sited underground.

28

III. "Potential developer" means a person that can demonstrate to the state the financial and
 29 technical capability to engage in the development and construction of energy infrastructure.

30

IV. "Project" means the development or construction of energy infrastructure within an
 31 energy infrastructure corridor.

32

V. "State-owned" means owned by the state or by a state agency or state authority.

33

362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors



1 Within the Existing Transportation Rights of Ways.

2 I. There is established a commission to study the feasibility of establishing energy
3 infrastructure corridors within the existing transportation rights of ways.

4 II. The members of the commission shall be as follows:

5 (a) One member of the senate, appointed by the president of the senate.

6 (b) Two members of the house of representatives, appointed by the speaker of the house
7 of representatives.

8 (c) The director of the office of energy and planning, or designee.

9 (d) The commissioner of the department of administrative services, or designee.

10 (e) The commissioner of the department of transportation, or designee.

11 (f) The commissioner of the department of environmental services, or designee.

12 (g) The commissioner of the department of resources and economic development, or
13 designee.

14 (h) The chairman of the public utilities commission, or designee.

15 (i) The commissioner of the department of revenue administration, or designee.

16 III. Legislative members of the commission shall receive mileage at the legislative rate when
17 attending to the duties of the commission.

18 IV. The commission shall identify the feasibility of using state-owned transportation
19 corridors for underground energy infrastructure and, if the commission finds the use of
20 transportation corridors feasible for such underground use, shall specify which corridors are most
21 appropriate for specific utility infrastructures. In determining whether the establishment of one or
22 more energy infrastructure corridors is in the long-term public interest of the state, the commission's
23 assessment of feasibility shall consider, but shall not be limited to the following issues:

24 (a) Whether such corridor or corridors materially enhance the delivery of electricity or
25 other utilities, or both, to New Hampshire consumers and increase the reliability and security of the
26 electricity distribution system in the state.

27 (b) The identification of the corridors.

28 (c) The identification of available technologies.

29 (d) The identification of the costs of available technologies.

30 (e) Whether there would be long-term economic benefits for the state, including, but not
31 limited to, direct financial benefits from leasing rights of ways; employment opportunities; and
32 private sector economic development.

33 (f) What the effects of such corridor or corridors are on the retail price of electricity or
34 other utilities, or both, to businesses and residential ratepayers.

35 (g) Whether such corridors would do any harm to the orderly development of renewable
36 energy generation in the state.

37 (h) A process design to assure the efficient development of such corridor or corridors by



1 energy distribution companies serving the state.

2 (i) What actions need to be taken to assure that conflict with the public purposes for
3 which such rights of way are already owned is minimized.

4 (j) Whether the development of such corridor or corridors would lead to any reduction in
5 emissions of greenhouse gases.

6 (k) Circumstances where eminent domain might be used to complete an otherwise
7 incomplete energy infrastructure corridor.

8 V. Chairperson; Quorum. The members of the commission shall elect a chairperson from
9 among the members. The first meeting of the commission shall be called by the first-named senate
10 member. The first meeting of the commission shall be held within 45 days of the effective date of
11 this section. Six members of the commission shall constitute a quorum.

12 VI. Report. The commission, after public hearings, shall report its findings and any
13 recommendations for proposed legislation to the president of the senate, the speaker of the house of
14 representatives, the senate clerk, the house clerk, the governor, and the state library on or before
15 December 1, 2012.

16 3 Repeal. The following are repealed:

17 I. RSA 362-G, relative to the commission to study the feasibility of establishing energy
18 infrastructure corridors within the existing transportation rights of way.

19 II. RSA 371:16-a, relative to the establishment of the commission to investigate the
20 procedural rights of the landowner when a petition is presented to the public utilities commission by
21 a utility seeking eminent domain, develop a framework for the state to provide use rights to
22 transmission developers on state owned rights-of-way, develop policies to encourage burying such
23 lines where practicable, and establish a structure for payment.

24 4 Effective Date.

25 I. Paragraph I of section 3 of this act shall take effect December 2, 2012.

26 II. The remainder of this act shall take effect upon its passage.



2012-1172s

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way.

This bill also repeals the commission established in HB 648 of the 2012 regular session.

Committee Minutes

SENATE CALENDAR NOTICE TRANSPORTATION

Senator Jim Rausch Chairman
 Senator David Boutin V Chairman
 Senator James Forsythe
 Senator Molly Kelly
 Senator Nancy Stiles

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: January 25, 2012

HEARINGS

Thursday

2/2/2012

TRANSPORTATION

LOB 103

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	SB361	establishing an interagency task force on energy infrastructure corridors.
9:45 AM	SB366-FN	relative to use of certain OHRVs on snowmobile trails.
10:30 AM	SB367	naming a bridge in the town of Londonderry in honor of Lance Corporal Peter J. Sora, Jr., U.S.M.C. and Private First Class Eric D. Currier, U.S.M.C.
11:00 AM	SB374	naming marine patrol headquarters in honor of David Barrett.
11:30 AM	SB333	relative to a surviving spouse's right to retain a Purple Heart plate.

Sponsors:

SB361

Sen. Jeanie Forrester
 Sen. Gary Lambert
 Rep. Jacqueline Cali-Pitts

Sen. Sharon Carson
 Rep. Laurence Rappaport

Sen. Fenton Groen
 Rep. Rick Ladd

Sen. Andy Sanborn
 Rep. Charles Brosseau

SB366-FN

Sen. John Gallus
 Rep. Marc Tremblay

Sen. Lou D'Allesandro

Rep. Laurence Rappaport

Rep. Robert Theberge

SB367

Sen. Sharon Carson
 Rep. Daniel Tamburello

Sen. John Barnes, Jr.
 Rep. Sherman Packard

Sen. Jeb Bradley
 Rep. Betsy McKinney

Rep. Alfred Baldasaro
 Rep. David Lundgren

SB374

Sen. James Forsythe
 Sen. Sharon Carson
 Sen. Fenton Groen
 Sen. Chuck Morse
 Rep. Elaine Swinford
 Rep. Guy Comtois

Sen. John Barnes, Jr.
 Sen. Lou D'Allesandro
 Sen. Gary Lambert
 Sen. Jim Rausch
 Rep. Alida Millham

Sen. David Boutin
 Sen. Tom De Blois
 Sen. Sylvia Larsen
 Sen. Andy Sanborn
 Rep. James Pilliod

Sen. Jeb Bradley
 Sen. John Gallus
 Sen. Jim Luther
 Sen. Nancy Stiles
 Rep. John Hikel

SB333

Sen. Lou D'Allesandro

Sen. John Barnes, Jr.

Sen. John Gallus

Jennifer Horgan 271-3091

Sen. Jim Rausch

Chairman

Transportation Committee

Hearing Report

TO: Members of the Senate

FROM: Jennifer Horgan, Legislative Aide

RE: Hearing report on SB 361 – establishing an interagency task force on energy infrastructure corridors.

HEARING DATE: 02/02/2012

MEMBERS OF THE COMMITTEE PRESENT: Senator Rausch, Senator Boutin, Senator Stiles

MEMBERS OF THE COMMITTEE ABSENT: Senator Forsythe, Senator Kelly

Sponsor(s): Sen. Forrester, Dist 2; Sen. Carson, Dist 14; Sen. Groen, Dist 6; Sen. Sanborn, Dist 7; Sen. Lambert, Dist 13; Rep. Rappaport, Coos 1; Rep. Ladd, Graf 5; Rep. Brosseau, Graf 6; Rep. Cali-Pitts, Rock 16

What the bill does: This bill establishes an interagency task force on energy infrastructure corridors.

Who supports the bill: Senator Carson; Senator Forrester; Senator Lambert; Senator Groen; Representative Ladd; Will Abbott, Forest Society; Jim Manahan, NEPGA;

Who opposes the bill: No one.

Summary of testimony received:

- **Senator Rausch** opened the hearing at 9:00am.
- **Senator Forrester** introduced the bill and stated that after speaking with state department officials she determined that NH has no plan on how energy will come into the state in the future. This bill proposes an interagency task force that would conduct a feasibility study and if warranted develop a plan to bring energy into the state and determine a process for bidding on the power corridors and establishing tariffs for the annual use. The Senator outlined that the agency would include members from the Governor's Office of Energy & Planning, Commissioners from Administrative Services, NHDOT, DES, DRED, PUC, DRA, six members of the public as well as a Senate and a House

member. Senator Forrester went on to say that she has received support from all those that would be involved and the only caution she has received has been the ambitiousness of the timeline. Therefore, Senator Forrester requested that she be allowed time to propose an amendment to the bill in order to refine the language.

- **Senator Boutin** expressed concerns about the size of the group hindering their capability to be efficient and asked what the end goal of this would be.
- **Senator Forrester** replied that she would like to see a state being proactive about how energy will be coming into the state and it has been suggested that an underground energy corridor may be the way to go. Senator Forrester continued that this study makes sense in order to have a plan that would be the most beneficial to the state.
- **Senator Boutin** pointed out on page two line 14 it talks about a three year term.
- **Senator Forrester** responded that that is part of the language they want to tighten up and that they don't intend the study committee to go on forever.
- **Senator Boutin** noted that there is no fiscal note and questioned who will staff the committee.
- **Senator Forrester** she agrees that if there is going to be a staff there needs to be a fiscal note.
- **Senator Stiles** asked if Senator Forrester would be bringing in an amendment.
- **Senator Forrester** answered yes.
- **Senator Stiles** asked if on the fiscal note would the Senator consider it possible for one of the public entities to serve as clerk at no cost to state
- **Senator Forrester** answered yes.
- **Senator Stiles** praised Senator Forrester on including all of the different entities and stated that she has worked with large groups before and it can be done.
- **Senator Forrester** replied thank you.
- **Senator Rausch** noted that if there is a fiscal note that creates another deadline.
- **Senator Forrester** replied she plans on presenting the amendment in the next two weeks.

Funding: N/A

Future Action: The committee took the bill under advisement.

Jennifer Horgan

[file: SB361 report]

Date: 02/03/2012

Speakers

Testimony

TESTIMONY OF SENATOR JEANIE FORRESTER
SB361

Good morning, Mr. Chairman, members of the committee. For the record, my name is Jeanie Forrester, Senator for District 2, which includes 31 communities in Belknap and Grafton counties.

I am here this morning to testify on behalf of Senate Bill 361, an act relative to establishing an interagency task force on energy infrastructure corridors.

During the course of the last year, I became aware of energy issues in our state---from my involvement in the Berlin Biomass project and the woodburning biomass plants, to tours of our small hydro facilities, and, of course the proposed Northern Pass and the NEL projects.

Conversations with state department officials and other legislators highlights the fact that the state of New Hampshire has no plan for how energy will come into the state.

This bill will be proactive by establishing an interagency task force to conduct a feasibility study and if warranted to recommend a process by which appropriate energy infrastructure corridors should be identified for specific utility facilities and a process by which bidding for these corridors and tariffs for the annual use of the corridors would be established.

Outlined in the SB361 are the suggested members of the task force including the Governor's Office of Energy & Planning, Commissioners from Administrative Services, NHDOT, DES, DRED, PUC, DRA, 6 members of the public, and a Senate and House member.

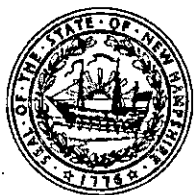
I have communicated with all the departments and have received support. The PUC staff agrees that "this bill involves important state policies concerning siting energy infrastructure in New Hampshire."

The only consistent caution I have received has been that the timeline for report completion (November 1, 2012) may be overly ambitious.

After speaking with the NHDOT Commissioner and staff, we thought it would make sense to put together a small work group to further tighten up the language in the legislation relative to the timeframe and outcomes for the report.

Therefore, I'm requesting that the Committee not Exec the bill today and give us two weeks to refine the language and bring in an amendment for your consideration.

I'd be happy to answer any questions.



Received
12-3-12

The Senate of the State of New Hampshire

107 North Main Street, Concord, N.H. 03301-4951

November 30, 2012

The Honorable John Lynch
Governor-State of New Hampshire
107 North State Street
Concord, New Hampshire 03301

Dear Governor Lynch:

As required by SB361, Chapter 220, Laws of 2012, I present the Findings and Recommendations of the Commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way.

If you have any questions or comments regarding this report or the work of the Commission, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeanie Forrester".

Jeanie Forrester, Chair
Senate District 2
SB361 Commission
New Hampshire State Senate
603.271.2104

Attachment

c-w/attachment:

Honorable Peter Bragdon, Senate President
Honorable William L. O'Brien, Speaker of the House
Tammy L. Wright, Senate Clerk
Karen O. Wadsworth, House Clerk
Michael York, State Librarian
Members of SB361 Commission

SB361
Chaptered Law 220, Laws of 2012

An act establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights-of-way and repealing a commission.

In adopting SB361, the legislature found that the state would be well-served by determining whether it is feasible to use existing transportation rights-of-way to serve as locations for utility infrastructure, including underground installations.

SB361 established this commission (the "Commission") to conduct a feasibility study, and, if warranted, to recommend a process by which appropriate energy infrastructure corridors on existing state transportation rights-of-way should be identified for specific utility facilities and a process by which bidding for these corridors and revenue for the annual use of the corridors would be established.

SB361 established that the Commission has no regulatory or supervisory authority over the planning, siting, construction, or operation of any past, present, or future power transmission or energy infrastructure project.

This is the Final Report of the Commission. This report summarizes the Commission's process in discharging its duties under SB361. The report then sets forth the Commission's findings and recommendations.

FINAL REPORT

SB361 established a commission (the "Commission") pursuant to RSA 362:G as follows:

362-G:1 Definitions. –

In this chapter:

I. "Energy infrastructure" includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines, petroleum pipelines, and other energy transport pipelines or conduits.

II. "Energy infrastructure corridor" means a transportation right of way on an existing state-owned transportation right of way within which energy infrastructure could potentially be sited underground or aboveground.

III. "Potential developer" means a person that can demonstrate to the state the financial and technical capability to engage in the development and construction of energy infrastructure.

IV. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor.

V. "State-owned" means owned by the state or by a state agency or state authority.

362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors Within the Existing Transportation Rights-of-ways. –

I. There is established a commission to study the feasibility of establishing energy infrastructure corridors within the existing transportation rights-of-ways.

II. The members of the commission shall be as follows:

- (a) One member of the senate, appointed by the president of the senate.
- (b) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The director of the office of energy and planning, or designee.
- (d) The commissioner of the department of administrative services, or designee.
- (e) The commissioner of the department of transportation, or designee.
- (f) The commissioner of the department of environmental services, or designee.
- (g) The commissioner of the department of resources and economic development, or designee.
- (h) The chairman of the public utilities commission, or designee.
- (i) The commissioner of the department of revenue administration, or designee.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall identify the feasibility of using state-owned transportation corridors for energy infrastructure and, if the commission finds the use of transportation corridors feasible for such use, shall specify which corridors are most appropriate for specific utility infrastructures. The commission's assessment of feasibility shall consider, but shall not be limited to the following issues:

- (a) Whether such corridor or corridors materially enhance the delivery of electricity or other utilities, or both, to New Hampshire consumers and increase the reliability and security of the electricity distribution system in the state.
- (b) The identification of the corridors.
- (c) The identification of available technologies.
- (d) The identification of the costs of available technologies.
- (e) Whether there would be long-term economic benefits for the state, including, but not limited to, direct financial benefits from leasing rights-of-ways; employment opportunities; and private sector economic development.
- (f) What the effects of such corridor or corridors are on the retail price of electricity or other utilities, or both, to businesses and residential ratepayers.
- (g) A process design to assure the efficient development of such corridor or corridors by energy distribution companies serving the state.
- (h) What actions need to be taken to assure that conflict with the public purposes for which such rights-of-way are already owned is minimized.
- (i) Circumstances where eminent domain might be used to complete an otherwise incomplete energy infrastructure corridor.

V. Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

VI. Report. The commission, after public hearings, shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 2012.

THE COMMISSION'S PROCESS

The Commission met on August 2nd, 16th and 30th, September 6th, 20th, and 27th, October 4th, 11th and 25th and November 1st, 15th, and 26th. A summary of public session input is attached. The Commission invited a broad range of testimony from government, industry, engineering and policy perspectives. The parties providing formal testimony (in person and written) to the Commission included George McCluskey, NH PUC, Charles Schmidt., PE, Administrator, NH Department of Transportation, N. Roger Rosenqvist, VP Business Development of ABB (Power Systems Division, Raleigh NC), Michael S. Giaimo, Esq., External Affairs, ISO New England and Eric D. Johnson, Director, External Affairs, ISO New England, Joseph M. Rossignoli, Director, U.S. Business Development, National Grid; Nabil Hitti, Director, FERC, Network Strategy National Grid; Gil Paquette, C.W.B., P.W.S., Principal TRC; Donna Gamache, Director, Governmental Affairs at Public Service of New Hampshire/Northeast Utilities and Joseph Staszowski, Director, NEPOOL and ISO Relations, Northeast Utilities; Mark A. Lambert, Director, Government Affairs, Unitil Service Corp.; Randall S. Knepper, P.E., Director of Safety and Security Safety Division, Via Teleconference Kenneth C. Fletcher, Director of the Governor's Energy Office in Maine, Michael Iacopino of Brennan, Caron, Lenehan & Iacopino, outside counsel for Site Evaluation Committee, Michael Pillsbury, Deputy Commissioner, NH Dept of Transportation, Stephan Hamilton, Dir. of Property Appraisal Division, Benoit Lamontagne, NH DRED Industrial Agent, Karen Rantamaki, Energy Manager, NH Dept of Admin. Services, Timothy Drew, Administrator, Dept of Environmental Services, Dr. G.P. Campbell McLaren, MD, FACEP of Littleton Regional Hospital and Dennis Pinski, Health Risk Assessment Supervisor, Department of Environmental Services, Susan Schibanoff, Managing Partner, Responsible Energy Action, LLC, Ann Ross, General Counsel, Public Utilities Commission, Susan Thorne, Administrator, NH Office of Energy and Planning, Andrew Smith, CCIM, Broker/Owner, Peabody & Smith Realty, Inc., Carolyn O'Connor, Director of External Affairs and Communications, Hydro-Quebec, Christophe Courchesne, Staff Attorney, CLF New Hampshire, Donald J. Pfundstein, Esq. Gallagher, Callahan & Gartrell, P.C., Robin Comstock, President and CEO, Greater Manchester Chamber of Commerce, Joint letter from Appalachian Mountain Club, Conservation Law Foundation, Conservation New Hampshire, The Nature Conservancy (NH Chapter), and the Society for the Protection of New Hampshire Forests, letter

from Responsible Energy Action, LLC, letter from Paul Conboy, Chichester, email dated 11/26/12 from Rep. Cali-Pitts, 11/28/12 email from Michael Giaimo, ISO-NE. Approximately 27 members members of the public spoke at the Commission's two public sessions held on November 7 and 14, in Concord and Plymouth respectively. The minutes of the Commission meetings and other documents relating to the Commission's proceedings are available at the NH State Library after December 1, 2012.

The members of the Commission are sincerely appreciative for the testimony and public comments provided to the Commission.

FINDINGS

The Commission was able to gather a substantial body of information relative to feasibility of using existing state transportation rights-of-way for energy infrastructure corridors. However, important gaps remain in the Commission's fact-finding efforts.

The Commission's findings and observations are as follows:

1. It appears that a number of energy projects (transmission and generation) are proposed for New Hampshire. While the NH Public Utilities Commission (PUC) does participate in planning processes run by the Independent System Operator of New England (ISO NE) and at NEPOOL, ultimate decision-making on the siting of energy projects rests with the State. Studying the inter-related factors which shape our energy infrastructure and its potential corridors has highlighted the need for a comprehensive framework for evaluating, planning and regulating such projects, to ensure not only a complete understanding of projects' technical, economic and legal feasibility, but also the assurance that the project serves a larger public benefit.

Some current transmission proposals would use New Hampshire essentially as a "through-path" to link generation capacity located outside New Hampshire with demand load centers also located outside New Hampshire. These projects raise substantial questions as to the relative benefits and burdens for the state. The Commission understands and appreciates the important regional elements of energy policy, planning and infrastructure. The Commission also heard testimony that it is incumbent upon the State of New Hampshire to take charge and formulate a state energy policy regarding new energy infrastructure that strikes the right balance between the benefits and burdens to New Hampshire, while recognizing that the Interstate Commerce Clause and other provisions of the US Constitution and Federal Law will also be important factors in addressing these issues.

2. The vast majority of state-maintained highways are constructed on easement rights-of-way. In such cases the State does not own the underlying land in fee. In fact, prior to 1992 land acquired via eminent domain (except for Limited Access Right of Way [i.e. interstate and divided highways]) were required to be taken as an easement for transportation purposes only. The use of these easement rights-of-way by the NH Department of Transportation (DOT) is restricted to construction, maintenance and operation of the roadway, which may impair their ability to identify these as potential locations of energy infrastructure corridors without further legislation.

Limited access rights-of-way (interstate, turnpike and divided highways) are the only roadways where the state owns the underlying land in fee. In accordance with RSA 236:18, the state has the exclusive rights insofar as they do not conflict with any federal statute to build, lease, or utilize for any public purpose the air space directly above or below the toll highways and the interstate system highways within the state. These limited access rights-of-way could be available for use as energy infrastructure corridors.

For the purposes of this report, the DOT has identified four highway corridors as possible energy infrastructure corridors. The DOT considered several factors in identifying these corridors, including but not limited to:

- a continuous corridor of significant length that is owned in fee by the state
- a corridor that provides connectivity with adjoining states
- corridors that are wide and well-defined
- corridors which are relatively free of existing energy infrastructure

The corridors identified include I-89 (between the intersection of I-93 and the Vermont border); I-93 (between the Massachusetts border and the Vermont border); I-95 (between the Massachusetts border and the Maine border); and NH Route 101 (between the intersection of I-93 and the intersection of I-95). These State-owned transportation rights-of-way, and potentially others, could be used to locate underground energy transmission corridors.

There are 516 miles of State-owned railroad corridors within the State. Active railroad operations occur on 202 miles of the 516 miles. Abandoned or inactive State-owned railroad rights-of-way may be potential candidates for siting energy infrastructure while recognizing the statutory requirement of RSA 228:60-a, paragraph I: "no railroad right-of-way in this State shall be used for any purpose that would unreasonably limit the ability to restore rail service over the right-of-way at minimum cost if such service were to be required in the future." Additionally, notwithstanding RSA 228:60-a, paragraph V, additional title and legal research may be needed to clarify the ownership rights of the underlying property. Further research is needed to identify railroad rights-of-way which could be used as energy infrastructure corridors.

3. Underground transmission technology is being used extensively throughout the U.S. and internationally.
4. Testimony suggests that underground corridors may increase the reliability and security of the electric transmission system.
5. Questions of technical and financial feasibility of underground transmission technology are typically site and project-specific to a significant extent. However, testimony suggests that underground transmission facilities on appropriate State transportation rights-of-way may be technically and financially competitive with other transmission designs and locations.
6. At least two pending interstate electric transmission projects in the New England/New York region have been designed with underground transmission lines located on state-owned transportation rights-of-way, indicating this approach can be technically and financially viable.
7. At least one New England state (Maine) has developed a general framework for making state-owned transportation rights-of-way available to transmission developers, including provisions for the nature and amount of compensation to be paid to the state.
8. Through testimony received at the Commission meetings, it is clear that other states are considering and implementing proactive policies to make state-owned transportation rights-of-way available for transmission infrastructure development. NH is deficient in this area, and is without any process for considering such development.

Commission members differed on their view of the Site Evaluation Committee's effectiveness. Recorded votes follow each version (9a. vs. 9b).

9. (a) The Site Evaluation Committee (SEC) was established by the Legislature for the purpose of providing a procedure "for the review, approval, monitoring, and enforcement of compliance in the planning, siting, construction, and operation of energy facilities." The Legislature in establishing the SEC recognized that the siting of energy facilities, including high voltage transmission lines and natural gas pipelines, would have a significant effect on the State, including impacts to the economy and the environment and the overall welfare of the people of New Hampshire and that it was in the public interest to maintain a balance between the need for new energy facilities and the environment.

As specified in RSA 162-H, the SEC, before issuing its approval for a proposed energy facility, must consider available alternatives and fully review the environmental impact of the

site or route. It must also find that the site and facility “will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies” and that the site and facility “will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety.” *Supporting version 9a): Steve Hamilton, DRA; Tim Drew, DES; Rep. Cali-Pitts; Mike Pillsbury, DOT; Tom Frantz, PUC; Benoit Lamontagne, DRED; Susan Thorne, OEP; Karen Rantamaki.*

or

9.(b) New Hampshire’s current Site Evaluation Committee (SEC) framework was designed before the relatively recent regulatory changes that provide the potential for multiple, competing and overlapping private transmission proposals subject to only limited regulatory review and essentially no regional planning. While the SEC framework appears to work for transmission projects subject to the full regional planning process and determined to be necessary by ISO-New England (ISO-NE) for system reliability, the SEC framework fails to serve the State as applied to optional, private transmission projects. The State needs a more robust review process for such “merchant” projects, to assure that the best interests of citizens and ratepayers are being served. *Supporting version 9b): Rep. Simard, Senator Forrester; Rep. Rappaport*

10. State agencies do not enact legislation and thus do not set legislative policy. As a result, the state agencies on the SB 361 Commission have expressed a reluctance to take advocacy positions on any public policy recommendations that the Commission might consider.

An additional hurdle faced by those State agencies assigned roles on the SEC, RSA 162-H, was their need to remain neutral on specific energy infrastructure projects which might come before the SEC for site approval. RSA 162-H requires that the SEC hold adjudicative proceedings to consider applications for energy facilities, including electric and gas transmission facilities. RSA 162-H:10, II. When conducting adjudicatory proceedings, agencies must: 1) refrain from communications about the applications outside of the proceeding, 2) refrain from pre-judging issues coming before them for hearing, and 3) remain impartial in order to render a decision which is fair to the participants and affords all parties due process. RSA 541-A:36.

Senator Forrester asked state agencies, given Finding #10, if they would like to recuse themselves from voting on the Recommendations. All state agencies voted not to recuse themselves from voting on the Recommendations (Steve Hamilton, DRA; Tim Drew, DES; Mike Pillsbury, DOT; Tom Frantz, PUC; Benoit Lamontagne, DRED; Susan Thorne, OEP; Karen Rantamaki)

11. There were two public hearings on the draft report, and a summary of public comments include:

- NH's landscape is unique, has great social and economic value and must be protected from ill-considered development, including energy infrastructure. Current law, policy, and regulatory structures related to energy transmission have gaps which leave our landscape and the way of life it supports unacceptably vulnerable. The Commission is asked to address these gaps through its study and recommendations. The public expressed concerns about the impact of energy infrastructure development on property values.
- NH needs a comprehensive energy plan.
- Improved means to more comprehensively evaluate and control proposed energy transmission and generation projects are urgently needed. Many citizens requested a moratorium.
- Undergrounding power transmission is seen as preferable to overhead power for several reasons—visual and electro-magnetic field protection. Exemplary projects in neighboring states were cited.

12. The Commission was unable to secure necessary testimony and information to provide a definitive answer to the following:

- The identification of the costs of available technologies. (The Commission notes that testimony suggests that the use of State transportation rights-of-way for underground transmission infrastructure may be cost-competitive with other designs and locations in specific circumstances. However, more data needs to be gathered on this point.)
- Whether there would be long-term economic benefits for the State, including, but not limited to, direct financial benefits from leasing rights-of-ways; employment opportunities; and private sector economic development. (The Commission notes that a grant by the State to a transmission developer for permission to use State transportation rights-of-way for transmission development could provide economic and financial benefits to the State and the construction of such transmission infrastructure could create employment opportunities and private sector economic development. However, more data needs to be gathered on this point.)
- What the effects of such corridor or corridors are on the retail price of electricity or other utilities, or both, to businesses and residential ratepayers. (The Commission notes that the price effect of transmission projects are difficult to quantify and are

highly project specific. However, the Commission believes that more firm numbers on this point would be beneficial.)

- A process design to assure the efficient and fair development of such corridor or corridors by energy companies serving the State. (The Commission notes that it has obtained information regarding the design of the comparable process in Maine, but more work is needed to develop a New Hampshire-specific framework.)
- What actions need to be taken to assure that conflict with the public purposes for which such rights-of-way are already owned is minimized? (The Commission notes that the DOT has identified four State-owned transportation rights-of-way as viable for transmission infrastructure development, however a detailed level of design review is required to determine the suitability of co-location within each corridor.)
- Circumstances where eminent domain might be used to complete an otherwise incomplete energy infrastructure corridor. (The Commission notes that it has not yet addressed this topic pending completion of the basic feasibility analysis.)

CONCLUSION

The Commission has studied both the web of systems linked to energy infrastructure development, such as technical, regulatory, economic, aesthetic and environmental, as well as the details of system components such as underground transmission lines or permitted uses of rights-of-way. The knowledge and understanding gained affirms that evaluating feasibility is complex and will require more study before a comprehensive and thorough determination can be made on most aspects of the Commission's charge. The Commission is prepared to offer the following recommendations at this time. Each recommendation is followed by a recorded vote of the Commission members.

Prior to taking the vote, Senator Forrester made the following comments:

- *As an elected official, my priority, my responsibility, is to my constituents. I have heard loud and clear their concerns about what could potentially happen to New Hampshire's beautiful vistas and landscapes with uncontrolled predatory development. It is exactly why the 361 Commission was created—to look at the feasibility of creating underground energy corridors—we haven't finished that work and until we do, it is appropriate to ask for a moratorium on projects that are not needed for reliability that have the potential to ruin our landscape until this work has been completed. To ignore comments from the public is irresponsible.*

- *I think we can all agree that we want to protect NH's scenic and natural landscapes, which are an extremely valuable resource for our people and our economy. And a one-year moratorium on elective projects will give the time needed to complete the task of finding out if underground energy corridors are feasible.*
- *I agree with Governor-elect Maggie Hassan's observation that "we must protect the scenic views of the North Country, which are vital to our tourism industry." And I also agree with her that "any proposal that would damage scenic views must be subject to a rigorous review process."*

Senator Forrester asked the full Commission to vote on the recommendations. A recorded vote follows each recommendation.

RECOMMENDATIONS

1. The Commission recommends that legislation be proposed that gives the Governor the authority to create a task force on underground and above-ground energy corridors including, but not limited to, that defined under 362-G:1. The task force shall include membership representing utility ratepayers, the business community, the conservation community, legislators, State and municipal government, and the utility industry. This would ensure that the full range of perspectives is engaged in this process to obtain the needed knowledge and draft appropriate legislation. This task force should be charged with answering the following questions:
 - What are the costs of underground electric transmission technologies (like ABB's HVDC light technology) as the technology may be applied to use in New Hampshire?
 - Are there long-term economic benefits to the State for leasing rights-of-way for energy infrastructure, including, but not limited to, direct financial benefits from leasing rights-of-ways; employment opportunities; and private sector economic development?
 - If such corridors were leased by the State, what are the economic benefits and costs to electricity ratepayers in NH?
 - If New Hampshire were to develop a process to assure the efficient and fair development of such corridor or corridors by energy companies serving the state, how would it be designed to assure that the public interest is served and that the process is open to fair competition?
 - What actions need to be taken to assure that conflict with the public purposes for which such rights-of-way are already owned is minimized?

- Are there any circumstances where eminent domain might be used to complete an otherwise incomplete energy infrastructure corridor?
- If existing State-owned rail corridors could be included as potentially viable for underground energy corridors.
- Do existing statutes fully address impacts on valuable New Hampshire landscapes.

Voting "Yes": Steve Hamilton, DRA; Tim Drew, DES; Rep. Simard; Senator Forrester; Rep. Rappaport; Rep. Cali-Pitts; Mike Pillsbury, DOT; Tom Frantz, PUC; Benoit Lamontagne, DRED; Susan Thorne, OEP; Karen Rantamaki.

2. Legislation should be introduced to require merchant or elective (non-reliability) electric transmission projects applying for a 162-H certificate from the SEC shall be required to provide a proposal for an underground alternative if it is proposing to build new overhead transmission lines. This would ensure that the SEC could fully consider requiring an underground alternative where detailed analysis indicates that such an alternative is available and serves the public interest.

Voting "No": Steve Hamilton, DRA; Tim Drew, DES; Rep. Cali-Pitts; Mike Pillsbury, DOT; Tom Frantz, PUC; Benoit Lamontagne, DRED; Susan Thorne, OEP; Karen Rantamaki. General comments: Not within the scope of the Commission.

Voting "Yes": Rep. Simard, Senator Forrester, Rep. Rappaport

General comments: Not outside the scope of the Commission. Support the finding 9b that says SEC needs a more robust review process to address elective projects.

3. The Legislature should enact a one-year moratorium on any new applications to the Site Evaluation Committee for electric transmission projects which have not been determined to be reliability projects by ISO-NE. This is to provide the Governor's task force recommended above one year to complete its charge.

Voting "No": Steve Hamilton, DRA; Tim Drew, DES; Rep. Cali-Pitts; Mike Pillsbury, DOT; Tom Frantz, PUC; Benoit Lamontagne, DRED; Susan Thorne, OEP; Karen Rantamaki.

General comments: Not within the scope of the Commission.

Voting "Yes": Rep. Simard, Senator Forrester, Rep. Rappaport

General comments: Not outside the scope, findings acknowledge that work is not done and this will give task force time to complete its work first.

4. The State of New Hampshire should develop a comprehensive state energy policy, a policy which includes a more robust regulatory review process of energy projects. This

state energy policy should take into account projects' impacts, including but not limited to the State's economy and its landscapes.

Voting "No": Steve Hamilton, DRA; Tim Drew, DES; Rep. Cali-Pitts; Mike Pillsbury, DOT; Tom Frantz, PUC; Benoit Lamontagne, DRED; Susan Thorne, OEP; Karen Rantamaki.

General Comments: Not within the scope of the Commission.

Tom Frantz: If the language was more narrow, he could support, acknowledges we need some policy.

Susan Thorne: Recognizes we need to plan, not against the plan, but has to vote no.

Rep. Cali-Pitts: Need a comprehensive plan, but has to vote no.

Voting "Yes": Rep. Simard, Senator Forrester, Rep. Rappaport

General comments: Not outside the scope of the Commission.

Senator Forrester/Rep. Rappaport: Conversations with other legislators, regulators, public indicate a need for a comprehensive energy policy.

Rep. Simard: This matter is important to the Northern part of the state. Public is upset and frustrated and we need to listen to the taxpayers.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: 03/08/2012

THE COMMITTEE ON Transportation

to which was referred Senate Bill 361

AN ACT establishing an interagency task force on energy
 infrastructure corridors.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 1172s

Senator Nancy Stiles
For the Committee

Jennifer Horgan 271-3091

New Hampshire General Court - Bill Status System

Docket of SB361

Docket Abbreviations

Bill Title: (New Title) establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

Official Docket of SB361:

Date	Body	Description
1/1/2012	S	Introduced 1/4/2012 and Referred to Transportation; SJ 1 , Pg.13
1/26/2012	S	Hearing: 2/2/12, Room 103, LOB, 9:00 a.m.; SC5
3/15/2012	S	Committee Report: Ought to Pass with Amendment #2012-1172s, NT, 3/21/12; SC11
3/21/2012	S	Committee Amendment 1172s, NT, AA, VV
3/21/2012	S	Ought to Pass with Amendment 1172s, NT, MA, VV; OT3rdg
3/21/2012	H	Introduced and Referred to Science, Technology and Energy; HJ 28 , PG.1719
3/29/2012	H	Public Hearing: 4/5/2012 9:30 AM LOB 304
4/11/2012	H	Executive Session: 4/17/2012 10:15 AM LOB 304
4/18/2012	H	Committee Report: Ought to Pass with Amendment #1655h for April 25 (Vote 13-0; CC); HC 33 , PG.1921
4/18/2012	H	Proposed Committee Amendment #2012-1655h; HC 33 , PG.1958-1959
4/25/2012	H	Amendment #1655h Adopted, VV; HJ 38 , PG.2148-2150
4/25/2012	H	Ought to Pass with Amendment #1655h: MA VV; HJ 38 , PG.2148-2150
4/25/2012	H	Referred to Transportation; HJ 38 , PG.2148-2150
5/1/2012	H	Public Hearing: 5/8/2012 10:00 AM LOB 203 ==Executive Session May Follow==
5/9/2012	H	Committee Report: Ought to Pass for May 15 (Vote 10-0; CC); HC 37 , PG.2036
5/15/2012	H	Ought to Pass: MA VV
5/23/2012	S	Sen. Rausch Concurs with House Amendment #1655h; MA, VV

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB361 ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 1005 _____ - AMENDMENT # _____
 - AMENDMENT # 1172 _____ - AMENDMENT # _____

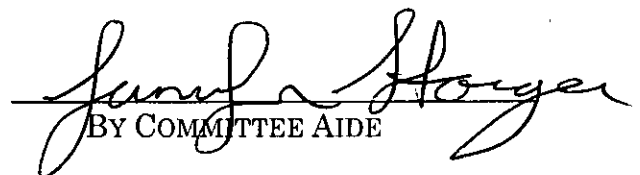
ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

DATE DELIVERED TO SENATE CLERK

6/7/12


BY COMMITTEE AIDE