

LEGISLATIVE COMMITTEE MINUTES

SB359

Bill as Introduced

SB 359-FN - AS INTRODUCED

2022 SESSION

22-3093

12/11

SENATE BILL ***359-FN***

AN ACT requiring the commissioner of the department of administrative services to conduct an inventory of all state real estate.

SPONSORS: Sen. Perkins Kwoka, Dist 21; Sen. Whitley, Dist 15; Sen. Rosenwald, Dist 13; Rep. DiLorenzo, Rock. 17; Rep. Porter, Hills. 1; Rep. Vann, Hills. 24

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill directs the commissioner of the department of administrative services to create an inventory of unused properties in the state and publish the inventory on the department's website.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT requiring the commissioner of the department of administrative services to conduct an inventory of all state real estate.

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

1 1 Purpose. The General Court finds that the deficit of supply of affordable and workforce
2 housing in New Hampshire has contributed to homelessness and housing instability for children,
3 adults, families, and businesses; driven up housing costs for everyone; impaired New Hampshire's
4 competitiveness; and harmed New Hampshire's ability to attract and retain a highly-qualified
5 workforce. It is therefore in the public interest to address New Hampshire's housing crisis by
6 making public unused state real estate.

7 2 New Section; Inventory of Public Lands. Amend RSA 21-I by inserting after section 111 the
8 following new section:

9 21-I:112 Inventory of Public Lands. On or before January 1, 2023, each commissioner of each
10 state agency shall provide a report to the commissioner of the department of administrative services
11 designating the inventory of all state real estate and whether each parcel of real estate is "in active
12 use," "not in active use," or "surplus." The commissioner shall publish the inventory on the
13 department of administrative services website and update the inventory on an ongoing basis. The
14 commissioner shall also publish on the website any known hazards, environmental or otherwise,
15 associated with said properties. For purposes of this section, "in active use" shall mean that there
16 are daily operations of the agency on that real estate, and "surplus" shall mean real property that is
17 no longer needed by the state.

18 3 Effective Date. This act shall take effect 60 days after its passage.

**SB 359-FN- FISCAL NOTE
 AS INTRODUCED**

AN ACT requiring the commissioner of the department of administrative services to conduct an inventory of all unused state real estate.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General Funds	<input type="checkbox"/> Education	<input checked="" type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Various

METHODOLOGY:

This bill requires the Department of Administrative Services to compile a list from each State agency on the inventory of all State real estate including whether each parcel of real estate is "in active use", "not in active use" or "surplus" and "also any known hazards associated with such properties."

The Department of Administrative Service states there will be an indeterminable fiscal impact on State expenditures. The Department assumes the term "real estate" refers to land and buildings only and excludes other types of real estate assets owned and held by the state. The Department states the expenditures are "likely" to increase but without further guidance on the frequency to which the new public listing must be updated it is indeterminable to what extent these new agency responsibilities will require additional staff. The Department also indicates that the new State agency obligations represent a substantial increase in staff time and for most agencies an increase in existing staff qualifications to be able to properly evaluate and classify agency uses of land assets and to properly characterize, disclose, and monitor "hazards" associated with such assets on an on going basis.

It is assumed the fiscal impact will not occur until FY 2023.

AGENCIES CONTACTED:

Department of Administrative Services

Amendments

Amendment to SB 359-FN

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

2

3 AN ACT requiring state agencies owning property to classify and report the inventory of all
4 state real estate.
5

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

7

8 1 Legislative Purpose. The general court finds that the deficit of supply of affordable and
9 workforce housing in New Hampshire has contributed to homelessness and housing instability for
10 children, adults, families, and businesses; driven up housing costs for everyone; impaired New
11 Hampshire's competitiveness; and harmed New Hampshire's ability to attract and retain a highly-
12 qualified workforce. It is therefore in the public interest to address New Hampshire's housing crisis
13 by making public unused state real estate.

14 2 Real Property Owned by State Agencies; Reporting Requirement. Amend RSA 4:39-e, I to
15 read as follows:

16 I. On or before July 1, 2013, and biennially thereafter, each state agency, as defined in RSA
17 21-G:5, III, shall make a report identifying all real property owned by the agency. For each parcel of
18 land owned by the agency, the report shall include any reversionary provisions or other deed
19 restrictions, conservation or other easements, lease arrangements with third-party tenants, and any
20 other agreement or encumbrance that may affect the future sale of the property, but only to the
21 extent known by the agency or as may be determined through reasonable efforts. ***For each parcel***
22 ***of land or building owned by the agency, the report shall include one of the following asset***
23 ***status classifications as determined by the agency: "active," "inactive," or "surplus."*** For
24 each building or parcel of land leased to a third party by the agency, the report shall include the
25 lease term. This section shall not apply to infrastructure properties used as the public rights-of-way
26 for roads, highways, bridges, railroads, rail trails, rest areas, park and rides, or turnpike toll
27 operations. ***For purposes of this section, "active" shall mean that the corresponding land or***
28 ***building asset is used in daily state government operations, or that it is held, managed, or***
29 ***used in furtherance of one or more of the responsible agency's statutory purposes or***
30 ***functions. For purposes of this section, "surplus" shall mean that the responsible agency***
31 ***has determined that it no longer has any need or use for the corresponding real property***
32 ***asset.***

Amendment to SB 359-FN

- Page 2 -

1 3 New Paragraph; Real Property Owned by State Agencies; Status Classification. Amend RSA
2 4:39-e by inserting after paragraph I the following new paragraph:

3 IV. For the status classification requirement described in paragraph I, the department of
4 transportation obligations shall only include properties in required municipalities designated
5 "potentially marketable" internally by the department. For the purposes of this section, "required
6 municipalities" shall mean the cities of Concord, Dover, Manchester, Nashua, Somersworth and
7 Rochester, and the towns of Atkinson, Auburn, Barrington, Bedford, Boscawen, Bow, Canterbury,
8 Chester, Derry, Durham, Farmington, Goffstown, Hampstead, Hollis, Hooksett, Hopkinton, Hudson,
9 Litchfield, Londonderry, Loudon, Madbury, Merrimack, Milton, Newington, Pembroke, Rochester,
10 Rollinsford, Salem, Sandown, Strafford, Webster, and Windham.

11 4 Effective Date. This act shall take effect 60 days after its passage.

UNAPPROVED

2022-0607s

AMENDED ANALYSIS

This bill requires each state agency to classify all real estate parcels in their required biennial real estate report, with exceptions for certain state agencies.

UNAPPROVED

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

Sen Sharon Carson, Chair
Sen John Reagan, Vice Chair
Sen Denise Ricciardi, Member
Sen Kevin Cavanaugh, Member
Sen Suzanne Prentiss, Member

Date: December 21, 2021

HEARINGS

Wednesday	01/12/2022	
(Day)	(Date)	
Executive Departments and Administration	State House 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	SB 223	relative to requirements for recovery houses.
9:15 a.m.	SB 226-FN	establishing a recruitment and retention program for state employment.
9:30 a.m.	SB 356-FN	relative to medical benefits payments by state retirees.
9:50 a.m.	SB 363-FN	relative to service credit for certain group II retirement eligibility.
10:10 a.m.	SB 218	declaring October 13 as Metastatic Breast Cancer Awareness Day.
10:25 a.m.	SB 219	declaring the month of September as kinship care awareness month.

10:40 a.m. SB 359-FN

requiring the commissioner of the department of administrative services to conduct an inventory of all state real estate.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 223

Sen. D'Allesandro

Sen. Watters

Sen. Soucy

Rep. Goley

SB 226-FN

Sen. D'Allesandro

Sen. Hennessey

Sen. Rosenwald

Sen. Watters

Sen. Perkins Kwoka

Sen. Gray

Sen. Bradley

Sen. Sherman

Sen. Reagan

Sen. Cavanaugh

Sen. Carson

Sen. Whitley

Sen. Prentiss

Sen. Birdsell

Sen. Kahn

SB 356-FN

Sen. D'Allesandro

Sen. Bradley

Sen. Sherman

Sen. Hennessey

Sen. Rosenwald

Sen. Watters

Sen. Whitley

Sen. Birdsell

Sen. Carson

Sen. Gannon

Sen. Cavanaugh

Sen. Prentiss

Sen. Soucy

Sen. Kahn

SB 363-FN

Sen. D'Allesandro

Sen. Bradley

Sen. Cavanaugh

Rep. Goley

Rep. Umberger

Rep. Wall

SB 218

Sen. Perkins Kwoka

Sen. Avard

Sen. Carson

Sen. D'Allesandro

Sen. Gannon

Sen. Watters

Sen. Bradley

Sen. Rosenwald

Sen. Hennessey

Sen. Whitley

Sen. Birdsell

Sen. Sherman

Sen. Soucy

Sen. Ricciardi

Sen. Kahn

Sen. Cavanaugh

Sen. Prentiss

SB 219

Sen. Perkins Kwoka

Sen. Carson

Sen. Bradley

Sen. Hennessey

Sen. Whitley

Sen. Prentiss

Sen. D'Allesandro

Sen. Watters

Sen. Cavanaugh

Sen. Kahn

SB 359-FN

Sen. Perkins Kwoka

Sen. Whitley

Sen. Rosenwald

Rep. DiLorenzo

Rep. Porter

Rep. Vann

Chantell Wheeler 271-1403

Sharon M Carson
Chairman

**Senate Executive Departments and Administration
Committee**

Chantell Wheeler 271-1403

SB 359-FN, requiring the commissioner of the department of administrative services to conduct an inventory of all state real estate.

Hearing Date: January 13, 2022

Time Opened: 10:35 a.m.

Time Closed: 11:00 a.m.

Members of the Committee Present: Senators Carson, Reagan, Ricciardi, Cavanaugh and Prentiss

Members of the Committee Absent : None

Bill Analysis: This bill directs the commissioner of the department of administrative services to create an inventory of unused properties in the state and publish the inventory on the department's website.

Sponsors:

Sen. Perkins Kwoka
Rep. DiLorenzo

Sen. Whitley
Rep. Porter

Sen. Rosenwald
Rep. Vann

Who supports the bill:

Senators Perkins Kwoka, Rosenwald and Whitley. Ellen Groh, Gregory Lessard, Jonathan Halle, Paul Hrycuna, Roseanne Haggerty, Joseph Tamposi, John Ebert, Tara Reardon, Kait Gallagher, Alexandria Panagiotakos (Concord Area Trust for Community Housing), Kelli Cicirelli, Mark Fagan, Michael Leuchtenberger, David Croft, Herbert Carpenter (Fellowship Housing Opportunities, Inc.), Ellen Fries, Jeanne Cusson, Meghan Farrell, David Fries, Stacey Brown, Frank Kenison, Caroline Corriveau, Connor Sporn, Brenda Litchfield, Michael Simchik, Elissa Margolin (Housing Action NH), Jack Ruderman (NH Housing), Ellen Groh (Concord Coalition to End Homelessness)

Who opposes the bill: None

Who is neutral on the bill:

Department of Administrative Services (DAS), Department of Natural and Cultural Resources, Division of Forests and Lands

Summary of testimony presented in support:

Senator Perkins Kwoka:

- SB 359 is intended to be a housing-related piece of legislation. This bill will state clearly that New Hampshire has a housing crisis and that that crisis is negatively impacting our state's livelihood and competitiveness, something we can easily see with the 1% vacancy rate and the skyrocketing costs of home ownership.
- This bill will require each state agency to specify to the Department of Administrative Services whether each parcel of real property it controls is in current daily use. A list of all real property exists for each agency, but the only options for designation are "surplus" and "non-surplus".
- Property designated as "surplus" by the agency, triggers processes under existing statute for disposal of state land. Thus, we want to provide a third designation - "not in current use", which opens the door to a conversation.
- The hope is that in seeing a designation of "not in current use", members of the public who see opportunity can approach the agency controlling the property and ask them to consider if such parcels could be used to accomplish another priority state goal, housing.
- Commissioner Arlinghaus was involved with this process.

Senator Whitley:

- Senator Whitley supports the bill and shared written testimony from her constituent, Concord Coalition to End Homelessness (CCEH).
- The state owns property that is not being used, especially in Concord. This property could present opportunity for affordable housing developers.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Steve LaBonte, Department of Transportation (DOT)

- Mr. LaBonte is the administrator of the Bureau Right of Way, which is the real estate section of DOT. Responsibilities include property survey, appraisal, purchase, and disposal.
- Mr. LaBonte stated that he respects the bill's intention but cautions that in the current form, the bill is overly burdensome.
- DOT has 724 properties that are outside of their active "right of way". These are categorized into 3 groups, 59 are "marketable", 185 are "less marketable", the remaining are "not marketable".
- It is unlikely that DOT can meet the January 2023 deadline as it would take years to inventory all the property.

Senator Prentiss: Asked for clarification regarding the 59 marketable properties.

- Mr. LaBonte explained that marketable properties have not necessarily been designated as surplus. Mr. LaBonte states that "in active daily use" is a narrow category as some property is only in use part of the year.

- Senator Prentiss asked if there is willingness to work with the prime sponsor. Mr. LaBonte is willing.
- Senator Prentiss stated that not every municipality has an inventory.
- Mr. LaBonte understands that municipalities are required to maintain a list of properties owned by the State of NH.
- Mr. LaBonte described the process used to designate a property as surplus. After an interested party asks about a property, and internal department review is conducted to determine if the property is surplus. From the time of inquiry to property closing can take 12-18 months.
- Senator Reagan asked if a developer is interested in a property if they could find out who owned it and then try and make a deal. Mr. LaBonte confirmed this is correct.
- Senator Carson asked if a pilot program might be more appropriate given the vast number of properties owned by the state. Senator Carson suggested that Concord might be a good location for a pilot program considering the number of state-owned properties located there. Mr. LaBonte agreed that a pilot program is a good idea, whether in Concord, or another city.

Neutral:

Patrick Hackley, NH Division of Forests and Lands (NHDFL)

- Mr. Hackley agrees with the intent of the bill and wants to work with DAS and the bill sponsors.
- NHDFL manages 218 state reservations totaling 170,000 acres. All acreage under the management of NHDFL is considered to be “in active use”.
- NHDFL has an internal process in place to identify surplus land involves the Council on Resources and Development (CORD). Additionally, this process also requires that the NH Housing Finance Authority is given the opportunity to purchase the property. Counties and municipalities are also given the opportunity to purchase the land for public benefit.

Senator Cavanaugh described his involvement with a committee tasked to look at the closing of the Sununu Center and during this process he was amazed at how many properties were available.

- Mr. Hackley described a vacant property in Manchester that is being used by un-housed people.

Jared Nyland (DAS)

- DAS is neutral on the bill but does have concerns which are outlined in the written testimony that will be provided to the committee members.

Speakers

Senate Remote Testify

Executive Departments and Administration Committee Testify List for Bill SB359 on 2022-01-12

Support: 27 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Rosenwald, Cindy	An Elected Official	SD 13	Support
Groh, Ellen	A Member of the Public	Myself	Support
Lessard, Gregory	A Member of the Public	Myself	Support
Halle, Jonathan	A Member of the Public	Myself	Support
Hrycuna, Paul	A Member of the Public	Myself	Support
Haggerty, Rosanne	A Member of the Public	Myself	Support
Tamposi, Joseph	A Member of the Public	Myself	Support
Eberth, John	A Member of the Public	Myself	Support
Reardon, Tara	A Member of the Public	Myself	Support
Gallagher, Kait	A Member of the Public	Myself	Support
Panagiotakos, Alexandria	A Member of the Public	Concord Area Trust for Community Housing	Support
Cicirelli, Kelli	A Member of the Public	Myself	Support
Fagan, Mark	A Member of the Public	Myself	Support
Leuchtenberger, Michael	A Member of the Public	Myself	Support
Croft, David	A Member of the Public	Myself	Support
Carpenter, Herbert	A Member of the Public	Fellowship Housing Opportunities, Inc.	Support
Fries, Ellen	A Member of the Public	Myself	Support
Cusson, Jeanne	A Member of the Public	Myself	Support
Farrell, Meghan	A Member of the Public	Myself	Support
Fries, David	A Member of the Public	Myself	Support
Brown, Stacey	An Elected Official	Myself	Support
Kenison, Frank	A Member of the Public	Myself	Support
Coriveau, Caroline	A Member of the Public	Myself	Support
Spern, Connor	A Member of the Public	Myself	Support
Litchfield, Brenda	A Member of the Public	Myself	Support
simchik, Michael	A Member of the Public	Myself	Support
Margolin, Elissa	A Lobbyist	Housing Action NH	Support

Testimony

New Hampshire Council on Resources and Development

NH Office of Strategic Initiatives
107 Pleasant Street, Johnson Hall
Concord, NH 03301
Phone: 603-271-2155
Fax: 603-271-2615



TDD Access: Relay NH
1-800-735-2964

New Hampshire Surplus Land Review Process

Before a state agency may dispose of state owned real estate, the proposal must undergo a review process beginning with the Council on Resources and Development (CORD). RSA 4:40 requires CORD to advise the Long Range Capital Planning and Utilization Committee on any state agency request to dispose of a state owned property interest (with the exception of real estate purchased with state or federal highway funds or turnpike funds as outlined in RSA 4:39-c and RSA 228:31-b). Such property interests range from complete ownership (a so-called “fee simple” interest) to leases of space in a state-owned office building.

CORD is composed of the heads of twelve agency members, as identified in RSA 162-C:1 (and listed below). CORD is chaired by the Director of the Office of Strategic Initiatives (OSI) (formerly the Office of Energy and Planning) and OSI staff provides CORD’s administrative support. CORD is required to meet at least quarterly, but generally meets every other month.

An agency request to dispose of state owned property is first circulated to CORD members in advance of CORD meetings for the purpose of allowing full and timely review of the disposal request. As a matter of standing CORD policy, members are provided with at least thirty days to review applications prior to CORD review.

Because RSA 4:40, I provides an option for acquisition of the property by the municipality or county in which the property is situated, both the municipality and the county are also notified of the CORD review process at the time materials are distributed to CORD members. In addition, the relevant regional planning commission is notified; this is not a statutory requirement, but is done to afford the opportunity to comment.

Three additional bodies are provided with the opportunity to comment on the land disposal process. Before state land may be recommended for disposal by CORD, the Rivers Management Advisory Committee (pursuant to RSA 483:8, VI and RSA 483:14) and the Lakes Management Advisory Committee (pursuant to RSA 483-A:5, II) both must review and make a recommendation on the proposal. The Public Water Access Advisory Board is also asked to review and comment upon proposals to dispose state property, as it serves as an advisory committee to CORD per RSA 233-A:2, II(c).

After CORD makes a recommendation, the proposal is submitted to the Legislative Long Range Capital Planning and Utilization Committee for its review and ultimate recommendation. Assuming that body’s review and approval, the proposal is then submitted to the Governor and Executive Council.

In all instances, the New Hampshire Housing Finance Authority arguably has preemptive authority under RSA 204-D:2 to acquire state property, irrespective of RSA 4:40 and the CORD review process.

Regardless of the statutory route through which the state ultimately surpluses property, in all circumstances the decision to initiate the process lies with the agency controlling that property.

If you have any questions about CORD’s role in the surplus land process, feel free to contact Michael Klass at 271-6651 or michael.klass@osi.nh.gov.



Senator Sharon Carson, Chair
Senate Executive Departments and Administrative Affairs Committee
State House
107 N. Main Street
Concord, NH 03301

RE: SUPPORT for **SB 359**

Madame Chair and Members of the Committee:

Housing Action NH is a statewide coalition of 80 organizations united around affordable housing policy and ending homelessness in New Hampshire. Our members include those who develop, manage, own and finance affordable housing, public housing agencies, supportive housing agencies and homeless service providers. They are key partners in the work to address the housing crisis in New Hampshire.

Housing Action NH supports Senate Bill 359. As you know, New Hampshire is currently experiencing a severe housing shortage. Our statewide vacancy rate is below 1% and New Hampshire Housing estimates that we lack 20,000 overall units to address the needs of our economy. The good news is that there is growing political will and popular support for the development of more housing.

SB 359 would provide an important tool for those who are seeking available property for development. As we come together as a state to address the housing crisis, we should use every tool available to help address the short supply that is driving up housing costs.

Thank you for your serious consideration and ongoing service. We urge the Committee to find SB 359 *ought to pass*.

Elissa Margolin
Director
elissa@housingactionnh.org

Chantell Wheeler

From: Herb Carpenter <hcarpenter@fellowshiphousing.org>
Sent: Wednesday, January 12, 2022 9:55 AM
To: Chantell Wheeler
Cc: Herb Carpenter
Subject: SB 359 Support - Written Testimony

As a resident of NH and the Executive Director of an local non-profit whose primary function is to provide housing to individuals living with severe and persistent mental illness I can say that this bill would be of tremendous help in efforts to locate available property quickly and efficiently in order to provide and support a "housing first" effort so that all the other factors impacting a person's well-being can be treated as well.

It seems that with very little lift both the State and the Community can benefit as a result of this initiative and so I encourage fellow associates, moreover our Legislators to support this important bill. Thank you for your work on this issue.

Herbert S Carpenter
Executive Director
Fellowship Housing Opportunities, Inc.
36 Pleasant St
Concord, NH 03301

(603) 225-1767 X203
hcarpenter@fellowshiphousing.org



January 7, 2022

To the Honorable Members of the
New Hampshire State Senate
Executive Departments and Administration Committee

Re: SB 359-FN (Inventory of State Real Estate)

The Concord Coalition to End Homelessness (CCEH) supports SB 359-FN because it helps to address a significant hurdle that thwarts the development of new affordable housing units: identifying suitable, available property for development.

CCEH's mission is to work with community partners to:

- eliminate chronic homelessness;
- support and quickly re-house people who have recently become homeless; and
- build a system that effectively responds to the diverse needs of people experiencing homelessness.

Affordable housing developers are extremely important partners in CCEH's mission. In addition to creating new units to relieve the pressure on the rental housing market, they are also able to set aside units of new housing specifically for people experiencing homelessness.

In 2020, CCEH met with five affordable housing developers to discuss their partnership in this mission. (Concord Housing & Redevelopment, Families in Transition, the Caleb Group, CATCH Housing and Community Housing of Maine). When we asked them what would be the most effective role for CCEH to play, all of the affordable housing developers attending the meeting said one thing, "find the available land".

There are several factors that make it very difficult for affordable housing developers to secure property. Affordable housing projects should ideally be close to services and/or public transportation, and property in or around a city's core is extremely limited. When suitable land is available, market rate developers typically have far greater ability to absorb high land acquisition costs into the project. Finally, affordable housing developers often need a patient seller who is willing to delay closing while the developer goes through the protracted process of obtaining the subsidized financing. Conversely, many alternative project developers have immediate access to capital and are therefore a more attractive buyer to a seller.

The Concord Coalition to End Homelessness is a 501(c)(3) charitable organization. Donations are tax deductible to the extent allowed by law. No goods or services were provided in exchange for your donation.

If this legislation is enacted and the State of New Hampshire identifies surplus property, it will open opportunities for affordable housing developers to use these properties and have a meaningful impact on the housing and homelessness crisis in New Hampshire.

Respectfully submitted by,

A handwritten signature in cursive script, appearing to read "Ellen Groh".

Ellen Groh
Executive Director



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of FORESTS and LANDS

172 PEMBROKE ROAD CONCORD, NEW HAMPSHIRE 03301
PHONE: (603) 271-2214 FAX: (603) 271-6488 WWW.NH.GOV/NHDFL

January 12, 2022

The Honorable Sharon Carson, Chair
New Hampshire State Senate
Executive Departments & Administration Committee
State House, Room 103
Concord, NH 03302

Re: SB 359 – An act requiring the commissioner of the department of administrative services to conduct an inventory of all state real estate.

Dear Chair Carson and Members of the Committee:

Thank you for the opportunity to testify on **SB 359**, an act requiring DAS to conduct an inventory of all state real estate. The Department of Natural and Cultural Resources, Division of Forests and Lands takes *no position* on this bill but offers the following comments.

The Division of Forests and Lands is the state agency charged with the execution of “all matters pertaining to forestry, forest management, and forestlands within the jurisdiction of the state. Our agency manages 218 state reservations (designated as either state forests, parks and natural areas) totaling approximately 170,000 acres.

Should SB 359 or some version of it become law, we wish to emphasize that ALL of the acreage currently under management by our agency is considered “in active use.” The following statutes provide greater detail as to the public uses for which we manage:

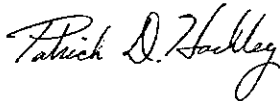
Under RSA Chapter 227-H:1 Declaration of Purpose - It is hereby recognized and declared that state-owned reservations contribute to the conservation of natural resources and distinctive quality of life in the state. The public welfare of this state is served by the prudent acquisition and management of reservations to provide forest benefits and for the purposes of demonstrating sound forestry principles, protecting habitat for plants, animals, and other organisms, conserving forested watersheds, preserving areas of rare and exemplary natural beauty and ecological value, and providing for perpetual public access and use.

The aforementioned “forest benefits” are further defined in RSA 227-G:2:

"Forest benefits" include, but are not limited to, forest products, a viable forest-based economy, recreation opportunities, scenic values, healthful surroundings, climate mitigation, clean water, and biologically diverse populations of plants and animals.

Thank you for the opportunity to provide these comments. If I can provide additional information, please don't hesitate to contact me.

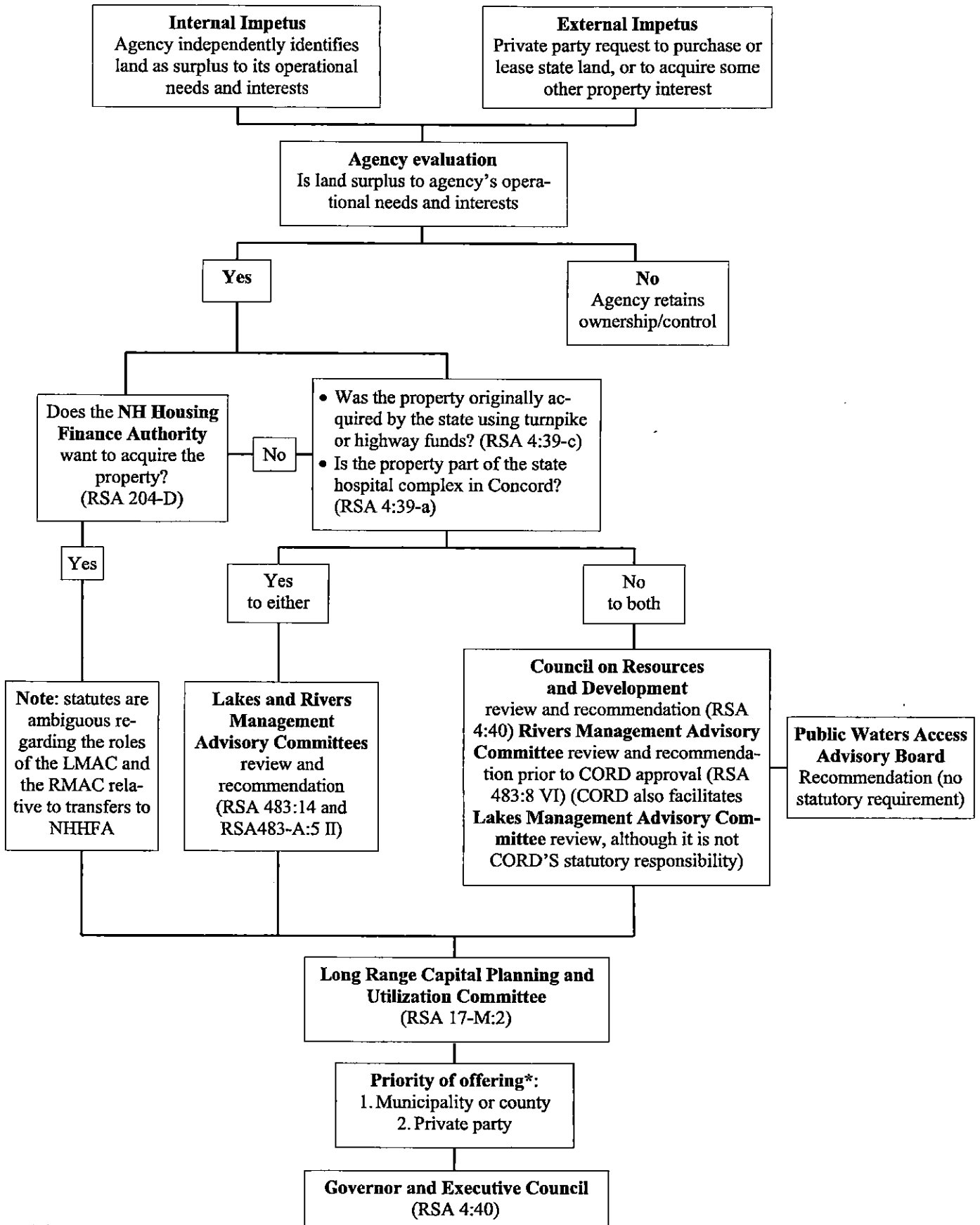
Respectfully,



Patrick D. Hackley
Director, NH Division of Forests & Lands

cc: Sarah Stewart, Commissioner, DNCR

State of New Hampshire Surplus Land Process



TESTIMONY OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES

SB 359 (2022)

DAS neither supports nor is opposed to the proposed legislation, but it has several concerns about its language and structure.

SB 359 includes a “purpose” section which suggests (without explanation) that the state’s affordable workforce housing shortage can be addressed by publishing and maintaining an inventory of all State real property, which inventory requires for each individual real property asset a determination of whether “there are daily operations of the agency on that real estate” or whether it is “no longer needed by the state”—with no available middle ground except “not in active use.” This will require active re-evaluation of each asset by the responsible agency on a regular basis, given that for some properties status will change over time. There also appear to be a lot of State real property assets that will fall into the “not in active use” category simply because there are not “daily operations” of an agency on the property. Most of the State highway rights-of-way would fall into that category, as would most State Forests, conservation easement properties, wildlife management areas, storage facilities, brownfields properties, and some State Parks. DAS suggests expanding the definition of “in active use” to include “held, managed, or used in furtherance of one or more of the responsible State agency’s statutory purposes or functions.”

DAS believes that other statutory and procedural mechanisms already exist to identify surplus State real property suitable for low and moderate income housing projects to the New Hampshire Housing Finance Authority, which has the power to request that the Governor and Executive Council transfer such property to it without charge and to make such property available for such housing projects. *See* RSA Chapter 204-D. DAS also notes that it already maintains the most comprehensive inventory available of all State real property assets in the form of the DAS Real Property Database, which is publicly accessible online and updated at least biennially by all State agencies having management responsibility for any State real property assets. The Database is used to comply with the mandatory reporting requirements of RSA 4:39-e, but it also includes other data fields in addition to those required by the statute—not all of which are currently populated for all asset records. One of those data fields that is not currently required by RSA 4:39-e is the “asset status” field, which includes among the available value options “active,” “inactive,” “surplus,” and “disposed.” At present these terms are not strictly defined for Database purposes and are therefore subject to the interpretation of each user agency. However, depending on the final purpose of the proposed legislation, population of the asset status field could be made mandatory and the values and definitions could be adjusted as appropriate.

DAS is opposed to the requirement contained in the bill to publish information on “known hazards, environmental or otherwise” associated with State real property assets. Such information is not currently collected or maintained. The bill seems to presume that such information is known to or easily discoverable by the agency responsible for a given property. However, the nature of such information tends to be fairly technical, such that even if “known” a particular hazard may not be so easy to accurately characterize or assess—especially by an untrained State employee. Environmental hazards also tend to change in character, degree, and sometimes location over time, and they can be expensive to assess. In fact, typically such hazards are only identified and assessed (and sometimes mitigated) in

the context of a sale of the associated real property, and it is usually the buyer who is responsible for investigating potential environmental issues or hazards as part of its pre-purchase due diligence. Often a buyer will hire a professional environmental consultant or engineer to identify, characterize, assess, and sometimes mitigate a particular hazard. Assuming that there will not be sufficient funding appropriated to hire qualified environmental professionals to assess all “known” hazards associated with State real property on a regular basis, DAS does not believe that the State should be publishing information on such hazards due to the resulting implication that certain (professional) assessments have been made or analyses done, when they have not.

DAS notes that the use of the term “surplus” in the bill conflicts with existing statutes. The definition provided in the proposed legislation mirrors the language of RSA 4:40, which is the default surplus State real property disposal statute. However, the context is entirely different: the RSA 4:40 determination of whether a property is surplus is only made to commence the surplus real property disposal process. This bill would require State agencies to regularly evaluate every real property asset and make a determination of whether it is surplus outside of the context of the surplus real property disposal process. Because it would appear that most of such “surplus” properties are unlikely to be disposed of by the agency solely as a result of such classification, for most agencies and properties there remains the distinct possibility that the status could change again in the future along with the needs of the agency.

DAS notes that State agencies will only have less than 6 months after the legislation takes effect to evaluate all of their real property assets and make initial determinations about which are “surplus.” This is a very short time horizon for any agency to complete such a new, introspective, and potentially consequential exercise—especially for an agency like DOT with over 1,000 real property assets or an agency like DAS which manages so many State buildings, not all of which are “in active use” at any given time.

Finally, the proposed legislation requires the inventory to be updated “on an ongoing basis.” DAS suggests specifying a concrete time interval for regular updates, preferably biennially and not more often than annually given the current structure of the bill. Otherwise it will not be clear to agencies how often they need to evaluate and update all of their real property status classifications, and it may not be clear to persons accessing the data how current it is. Realistically, no State agency is currently equipped to update this data in real time, and it will be difficult under any circumstances to engage all agencies to update it more often than annually absent a compelling purpose.

If the intention is to compel agencies to publicly identify their “surplus” real property assets annually or biennially, then DAS suggests that the bill should narrow its focus accordingly. The other two status categories do not seem like they would be particularly meaningful as presently defined. If the intention is to create a public listing of State properties that are available for sale at any given time, then DAS suggests that the bill should focus on that even smaller subset of the overall State real property inventory. Currently such properties are only listed or advertised by the individual agency that is in the process of disposing of a State real property asset (or its broker), and most State agencies do not post such information on their web sites.

Voting Sheets

**Senate Executive Departments and
Administration Committee
EXECUTIVE SESSION RECORD
2022 Session**

Bill # SB 359

Hearing date: 1/12/2022

Executive Session date: 2/23/2022

Motion of: ITL Vote: 3-2

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Motion of: Amendment adds OTP/A Vote: ~~2-3~~ 2-3 failed

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen Reagan

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, February 23, 2022

THE COMMITTEE ON Executive Departments and Administration

to which was referred **SB 359-FN**

AN ACT

requiring the commissioner of the department of administrative services to conduct an inventory of all state real estate.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 3-2

Senator John Reagan
For the Committee

Chantell Wheeler 271-1403

Docket of SB359

Docket Abbreviations

Bill Title: requiring the commissioner of the department of administrative services to conduct an inventory of all state real estate.

Official Docket of SB359.:

Date	Body	Description
12/17/2021	S	To Be Introduced 01/05/2022 and Referred to Executive Departments and Administration; SJ 1
12/21/2021	S	Hearing: 01/12/2022, Room 103, SH, 10:40 am; SC 50
3/9/2022	S	Committee Report: Inexpedient to Legislate, 03/17/2022; SC 11
3/17/2022	S	Inexpedient to Legislate, RC 13Y-11N, MA === BILL KILLED === ; 03/17/2022; SJ 5

NH House	NH Senate
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Other Referrals

