LEGISLATIVE COMMITTEE MINUTES

SB225

Bill as Introduced

2023 SESSION

23-0878
10/05

SENATE BILL ***225***

AN ACT reauthorizing the commission to study the assessing of power generation and utility transmission.

SPONSORS: Sen. Lang, Dist 2; Sen. Avard, Dist 12; Sen. Pearl, Dist 17; Rep. Bordes, Belk. 5

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill re-establishes the commission to study the assessing of power generation and utility transmission.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0878
10/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT reauthorizing the commission to study the assessing of power generation and utility transmission.

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

1 Commission to Study the Assessing of Power Generation ~~and Utility Transmission~~. RSA 78:8-f is repealed and reenacted to read as follows:

72:8-f Study Commission on the Assessing of Power Generation ~~and Utility Transmission~~. There is established a commission to study the assessing of power generation and utility transmission.

I. The commission shall:

(a) Determine the most accurate methodology for assessing power generation assets ~~and utility transmission~~.

(b) Compare the efficacy of the department of revenue administration approach to assessing the assets of the 59 power generation facilities with the approaches utilized by the municipalities.

(c) Understand how other states handle the assessing of power generation facilities ~~and utility transmission~~ for property tax purposes.

(d) Recommend a unified approach to be utilized by both the department of revenue administration and municipalities, which should include confidential data reporting requirements by the power generation companies for the methodology chosen.

II. The commission shall consist of the following members:

(a) ~~Five~~ 6 members of the house of representatives, one of whom shall be from the science, technology and energy committee, one from the ways and means committee, and one member from the minority party who shall be from either of the committees, to be appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the senate president.

(c) The chairperson of the assessing standards board, or designee.

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

(e) One member appointed by the New Hampshire Municipal Association.

(f) One member appointed by the New England Power Generators Association (NEPGA).

(g) One member appointed by the New Hampshire Association of Assessing Officials (NHAAO).

(h) One member appointed by the Granite State Hydropower Association (GSHA).

III. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member.

(1) public appointed by comm of DRA
member of public appointed by DRA

The first meeting of the commission shall be held within 45 days of the effective date of this section. A majority of the appointed members of the commission shall constitute a quorum.

IV. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2023.

2 Effective Date. This act shall take effect upon its passage.

SB 225 - AS AMENDED BY THE SENATE

02/22/2023 0537s
02/22/2023 0641s

2023 SESSION

23-0878
10/05

SENATE BILL ***225***

AN ACT establishing the commission to study the assessing of power generation.

SPONSORS: Sen. Lang, Dist 2; Sen. Avard, Dist 12; Sen. Pearl, Dist 17; Rep. Bordes, Belk. 5

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill establishes the commission to study the assessing of power generation.

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SB 225 - AS AMENDED BY THE SENATE

02/22/2023 0537s
02/22/2023 0641s

23-0878
10/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT establishing the commission to study the assessing of power generation.

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

1 Commission to Study the Assessing of Power Generation. RSA 78:8-f is repealed and reenacted to read as follows:

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(i) One member of the public, appointed by governor.

III. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member.

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2 Repeal. RSA 72:8-f, relative to the study commission on the assessing of power generation, is repealed

3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2023.

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

SB 225 - AS AMENDED BY THE HOUSE

02/22/2023 0537s
02/22/2023 0641s
4May2023... 1397h

2023 SESSION

23-0878
10/05

SENATE BILL ***225***

AN ACT establishing the commission to study the assessing of power generation.

SPONSORS: Sen. Lang, Dist 2; Sen. Avard, Dist 12; Sen. Pearl, Dist 17; Rep. Bordes, Belk. 5

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill establishes the commission to study the assessing of power generation.

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SB 225 - AS AMENDED BY THE HOUSE

02/22/2023 0537s
02/22/2023 0641s
4May2023... 1397h

23-0878
10/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT establishing the commission to study the assessing of power generation.

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

1 Commission to Study the Assessing of Power Generation. RSA 72:8-f is repealed and reenacted to read as follows:

72:8-f Study Commission on the Assessing of Power Generation. There is established a commission to study the assessing of power generation.

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(a) Determine the most accurate methodology for assessing power generation assets.

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(c) Understand how other states handle the assessing of power generation facilities for property tax purposes.

(d) Recommend a unified approach to be utilized by both the department of revenue administration and municipalities, which should include confidential data reporting requirements by the power generation companies for the methodology chosen.

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(b) Two members of the senate, appointed by the senate president.

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IV. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2023.

2 Repeal. RSA 72:8-f, relative to the study commission on the assessing of power generation, is repealed

3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2023.

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

SB 225 - VERSION ADOPTED BY BOTH BODIES

02/22/2023 0537s
02/22/2023 0641s
4May2023... 1397h

2023 SESSION

23-0878
10/05

SENATE BILL ***225***

AN ACT establishing the commission to study the assessing of power generation.

SPONSORS: Sen. Lang, Dist 2; Sen. Avard, Dist 12; Sen. Pearl, Dist 17; Rep. Bordes, Belk. 5

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill establishes the commission to study the assessing of power generation.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
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SB 225 - VERSION ADOPTED BY BOTH BODIES

02/22/2023 0537s
02/22/2023 0641s
4May2023... 1397h

23-0878
10/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT establishing the commission to study the assessing of power generation.

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

1 Commission to Study the Assessing of Power Generation. RSA 72:8-f is repealed and reenacted to read as follows:

72:8-f Study Commission on the Assessing of Power Generation. There is established a commission to study the assessing of power generation.

I. The commission shall:

(a) Determine the most accurate methodology for assessing power generation assets.

(b) Compare the efficacy of the department of revenue administration approach to assessing the assets of the 59 power generation facilities with the approaches utilized by the municipalities.

(c) Understand how other states handle the assessing of power generation facilities for property tax purposes.

(d) Recommend a unified approach to be utilized by both the department of revenue administration and municipalities, which should include confidential data reporting requirements by the power generation companies for the methodology chosen.

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(b) Two members of the senate, appointed by the senate president.

(c) The chairperson of the assessing standards board, or designee.

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

(e) One member appointed by the New Hampshire Municipal Association.

(f) One member appointed by the New England Power Generators Association (NEPGA).

(g) One member appointed by the New Hampshire Association of Assessing Officials (NHAAO).

(h) One member appointed by the Granite State Hydropower Association (GSHA).

(i) One member of the public, appointed by governor.

III. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. A majority of the appointed members of the commission shall constitute a quorum.

IV. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2023.

2 Repeal. RSA 72:8-f, relative to the study commission on the assessing of power generation, is repealed

3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2023.

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

CHAPTER 228
SB 225 - FINAL VERSION

02/22/2023 0537s
02/22/2023 0641s
4May2023... 1397h

2023 SESSION

23-0878
10/05

SENATE BILL ***225***

AN ACT establishing the commission to study the assessing of power generation.

SPONSORS: Sen. Lang, Dist 2; Sen. Avard, Dist 12; Sen. Pearl, Dist 17; Rep. Bordes, Belk. 5

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill establishes the commission to study the assessing of power generation.

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.

CHAPTER 228
SB 225 - FINAL VERSION

02/22/2023 0537s
02/22/2023 0641s
4May2023... 1397h

23-0878
10/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT establishing the commission to study the assessing of power generation.

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

228:1 Commission to Study the Assessing of Power Generation. RSA 72:8-f is repealed and reenacted to read as follows:

72:8-f Study Commission on the Assessing of Power Generation. There is established a commission to study the assessing of power generation.

I. The commission shall:

(a) Determine the most accurate methodology for assessing power generation assets.

(b) Compare the efficacy of the department of revenue administration approach to assessing the assets of the 59 power generation facilities with the approaches utilized by the municipalities.

(c) Understand how other states handle the assessing of power generation facilities for property tax purposes.

(d) Recommend a unified approach to be utilized by both the department of revenue administration and municipalities, which should include confidential data reporting requirements by the power generation companies for the methodology chosen.

II. The commission shall consist of the following members:

(a) Six members of the house of representatives, one of whom shall be from the science, technology and energy committee, one from the ways and means committee, and one member from the minority party who shall be from either of the committees, to be appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the senate president.

(c) The chairperson of the assessing standards board, or designee.

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

(e) One member appointed by the New Hampshire Municipal Association.

(f) One member appointed by the New England Power Generators Association (NEPGA).

(g) One member appointed by the New Hampshire Association of Assessing Officials (NHAAO).

(h) One member appointed by the Granite State Hydropower Association (GSHA).

(i) One member of the public, appointed by governor.

III. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. A majority of the appointed members of the commission shall constitute a quorum.

IV. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2023.

228:2 Repeal. RSA 72:8-f, relative to the study commission on the assessing of power generation, is repealed

228:3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2023.

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

Approved: August 04, 2023
Effective Date:
I. Section 2 effective November 1, 2023
II. Remainder effective August 4, 2023

Amendments

Energy and Natural Resources
February 15, 2023
2023-0537s
10/05

Amendment to SB 225

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

AN ACT establishing the commission to study the assessing of power generation.

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

1 Commission to Study the Assessing of Power Generation. RSA 78:8-f is repealed and reenacted to read as follows:

72:8-f Study Commission on the Assessing of Power Generation. There is established a commission to study the assessing of power generation.

I. The commission shall:

(a) Determine the most accurate methodology for assessing power generation assets.

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II. The commission shall consist of the following members:

(a) Six members of the house of representatives, one of whom shall be from the science, technology and energy committee, one from the ways and means committee, and one member from the minority party who shall be from either of the committees, to be appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the senate president.

(c) The chairperson of the assessing standards board, or designee.

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

(e) One member appointed by the New Hampshire Municipal Association.

(f) One member appointed by the New England Power Generators Association (NEPGA).

(g) One member appointed by the New Hampshire Association of Assessing Officials (NHAAO).

(h) One member appointed by the Granite State Hydropower Association (GSHA).

(i) One member of the public, appointed by the commissioner of the department of revenue administration.

III. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. A majority of the appointed members of the commission shall constitute a quorum.

IV. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2023.

2 Repeal. RSA 72:8-f, relative to the study commission on the assessing of power generation, is repealed

3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2023.

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

2023-0537s

AMENDED ANALYSIS

This bill establishes the commission to study the assessing of power generation.

Sen. Altschiller, Dist 24
February 21, 2023
2023-0641s
10/08

Floor Amendment to SB 225

Amend RSA 72:8-f, II(i) as inserted by section 1 of the bill by replacing it with the following:

(i) One member of the public, appointed by governor.

Committee Minutes

SENATE CALENDAR NOTICE
Energy and Natural Resources

Sen Kevin Avard, Chair
Sen Howard Pearl, Vice Chair
Sen Regina Birdsell, Member
Sen David Watters, Member
Sen Debra Altschiller, Member

Date: February 9, 2023

HEARINGS

Tuesday	02/14/2023
(Day)	(Date)

Energy and Natural Resources	State House 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)

9:00 a.m.	**SB 225**	reauthorizing the commission to study the assessing of power generation and utility transmission.
9:15 a.m.	**SB 163**	relative to agritourism and product sales at farms and farm roadside stands.
9:30 a.m.	**SB 226**	relative to the use of bait for hunting bear.
9:45 a.m.	**SB 227-FN-A**	relative to an assessment of solid waste facility setback requirements and making an appropriation therefor.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 225			
Sen. Lang	Sen. Avard	Sen. Pearl	Rep. Bordes
SB 163			
Sen. Pearl	Sen. Watters	Sen. Lang	Sen. Innis
Sen. Ward	Sen. Birdsell	Sen. Carson	Rep. Bixby
Rep. Comtois	Rep. Moffett	Rep. Aron	
SB 226			
Sen. Watters	Sen. Altschiller	Rep. C. Harvey	Rep. Read
SB 227-FN-A			
Sen. Watters	Sen. Perkins Kwoka	Sen. Rosenwald	Sen. Avard
Sen. Chandley	Sen. Carson	Sen. Ricciardi	Sen. Soucy
Sen. Altschiller	Sen. D'Allesandro	Sen. Fenton	Sen. Prentiss
Rep. Ebel	Rep. J. Sullivan		

Nikolas Liamos 271-7875

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Nikolas Liamos 271-7875

SB 225, reauthorizing the commission to study the assessing of power generation and utility transmission.

Hearing Date: February 14, 2023

Time Opened: 9:00 a.m. **Time Closed:** 9:14 a.m.

Members of the Committee Present: Senators Avard, Pearl, Birdsell, Watters and Altschiller

Members of the Committee Absent : None

Bill Analysis: This bill re-establishes the commission to study the assessing of power generation and utility transmission.

Sponsors:
Sen. Lang Sen. Avard Sen. Pearl
Rep. Bordes

Who supports the bill: Kathey Corey Fox, Pat Abrami, Senator Tim Lang (SD 2), Jim Monahan, Sandra Blanchard, Susan Richman, Barbara Southard, Richard DeMark, Harriet DeMark, Catherine Bushueff, John Keegan, Patricia Beffa-Negrini, Kate Coon, Lois Cote, Margaret Longley, Claudia Damon, Kent Hackman, Kathy Sue Spielman, Andrew Jones, Gary Devore, Laura Richardson, Lyn Lindpainter, Hannah Bissex, Susan Wessels, Jane Hershey, Patricia Martin, Susan Moore, Laurie Koch, Helmut Koch, Leslie MacGregor, Nancy Brennan, Jean Lewandowski, Bruce Berk, Heidi Kroll, Ruth Perenceviich, Claudia Istel, Jeanne Torpey, Sharon Racusin, Cindy Raspiller, Sharon Eaton, and Howard Brown

Who opposes the bill: None

Who is neutral on the bill: None

Summary of testimony presented:

Senator Timothy Lang

Senate District 2

- Senator Timothy Lang introduced Senate Bill 225.
- Senator Lang stated that former Representative Patrick Abrami asked him to introduce SB 225.

- Senator Lang stated that SB 225 reauthorizes the Commission to Study the Assessing of Power Generation in New Hampshire.
- Senator Lang stated that SB 225 makes minor changes to the Commission. This bill directs the Commission to assess power generation.
- Senator Lang stated that an amendment to SB 225 adds a member of the public.
- Senator Lang continued to explain the addition to the Commission, stating that former Representative Abrami, as the former chair, has expertise that would be valuable to the Commission.
- Senator Watters asked Senator Lang to explain the addition of the member of the public to the commission.
    - Senator Lang responded that there is a statute that states the majority of the Commission must be made up of legislators, and that former Representative Abrami will be able to offer suggestions to the make-up of the Commission.

Patrick Abrami

Former State Representative

- Patrick Abrami stated that he is a former state representative, and former chairman of the Commission to Study the Assessing of Power Generation and Utility Transmission.
- Mr. Abrami stated the state of New Hampshire has 59 power generators.
- Mr. Abarami stated that the 2022 Commission was making significant progress in their assessments, and there was a general consensus of the 2022 Commission that their Commission's work needs to continue.
- Mr. Abrami stated that during his tenure in the Commission, the Commission studied three different topics.
    - Mr. Abrami stated the first issue the Commission studied how municipalities assess telecommunication assets.
    - Mr. Abrami stated the second issue studied was utility distribution that included water, electricity and gas.
    - Mr. Abrami stated that for the third issue, the Commission was approached by hydroelectric generator advocates to study these assets.
        - Mr. Abrami stated that hydroelectric assets require more time to assess due to the transmission of these facilities all being interconnected.
    - Mr. Abrami stated the Commission considered implementing different methodologies for different types of power generator facilities.
- Mr. Abrami stated that the reason for the amendment to remove utility transmission from SB 225 is due to the Commission's findings that transmission and power generation should be studied separately.
- Mr. Abrami continued to say the proposed amendment includes the addition of a member of the public because the Commission members have expressed that they would like to see Mr. Abrami included in the Commission.
    - Mr. Abrami noted that he would humbly accept a seat in the Commission if that is what the Commission wants.
- Senator Avard asked if we could remove utility transmission and rearrange the committee makeup with a committee amendment.
    - Mr. Abrami confirmed that these changes could be made with a committee amendment.

- Senator Watters noted that if we added a member of the public, we would have to increase the members of the House of Representatives from five to six.
- Senator Pearl asked if removing the member of the New England Power Generators Association (NEPGA), would that help balancing the Commission.
  - Mr. Abrami stated that he would like to keep a member of the NEPGA, because their involvement is a great resource to the Commission.

Jim Monahan

Dupont Group, New England Power Generators Association

- Jim Monahan stated that he represents the New England Power Generators Association.
- Mr. Monahan stated that essentially the Commission is studying the issue that currently power generators in New Hampshire pay two property taxes.
  - Mr. Monahan stated that the two property taxes the power generator facilities pay are a state property tax and a local municipality property tax.
  - Mr. Monahan stated that for the same asset there is different processes to arrive at the two different property tax values.
  - Mr. Monahan stated that the Commission is trying to arrive at a solution that remedies this.
- Mr. Monahan stated that he has discussed with the commissioner of the Department of Revenue Administration (DRA) that his position be the one that appoints the member of the public, so it does not burden the governor.
  - Mr. Monahan noted that in having the commissioner of the DRA make the appointment it would speed up the appointment process.
- Senator Altschiller asked if the commissioner of the DRA already has the power to send a designee to sit on this Commission, then why do we need to add an additional appointment.
  - Mr. Monahan stated that having a member of the DRA on the Commission is valuable because they can offer their assessment expertise.
  - Mr. Monahan continued by stating that having an additional member of the public would be able to be a voice for everyday Granite Staters.
- Senator Altschiller asked a follow up question, then why do we not just a second designee, or change the language from an or to an and, to add a second designee from the DRA.
  - Mr. Monahan responded that a member of the public is necessary to represent the public and not a department.

Speakers

Senate Energy and Natural Resources Committee
SIGN-IN SHEET

ıte: 2/14/2023 **Time:** 9:00 a.m.

SB 225 AN ACT relative to reauthorizing the commission to study the assessing power generation and utility transmission

Name/Representing *(please print neatly)*						
Kathy Corey Fox - Great River Hydro	Support ☒	Oppose ☐	Speaking?	Yes ☐	No ☑
Pat Moran - Former State Rep Chair original Comm.	Support ☑	Oppose ☐	Speaking?	Yes ☑	No ☐
Sen Tim Lang	Support ☒	Oppose ☐	Speaking?	Yes ☒	No ☐
Jim Monahan - New England Power Generators	Support ☑	Oppose ☐	Speaking?	Yes ☑	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐	No ☐

Senate Remote Testify

Energy and Natural Resources Committee Testify List for Bill SB225 on 2023-02

Support: 40 Oppose: 0

Name	Title	Representing	Position
Blanchard, Sandra	A Member of the Public	Myself	Support
Richman, Susan	A Member of the Public	Myself	Support
Southard, Barbara	A Member of the Public	Myself	Support
DeMark, Richard	A Member of the Public	Myself	Support
DeMark, Harriet	A Member of the Public	Myself	Support
Bushueff, Catherine	A Member of the Public	Myself	Support
Keegan, John	A Member of the Public	Myself	Support
Beffa-Negrini, Patricia	A Member of the Public	Myself	Support
Coon, Kate	A Member of the Public	Myself	Support
Cote, Lois	A Member of the Public	Myself	Support
longley, margaret	A Member of the Public	Myself	Support
Damon, Claudia	A Member of the Public	Myself	Support
Hackmann, Kent	A Member of the Public	Myself	Support
Spielman, Kathy Sue	A Member of the Public	Myself	Support
Jones, Andrew	A Member of the Public	Myself	Support
Devore, Gary	A Member of the Public	Myself	Support
Richardson, Laura	A Member of the Public	Myself	Support
Lindpaintner, Lyn	A Member of the Public	Myself	Support
:ord, Barbara	A Member of the Public	Myself	Support
ker, Deborah Klein	A Member of the Public	Myself	Support
Bissex, Hannah	A Member of the Public	Myself	Support
Wessels, Susan	A Member of the Public	Myself	Support
Hershey, Jane	A Member of the Public	Myself	Support
Thomas, A	A Member of the Public	Myself	Support
Martin, Patricia	A Member of the Public	Myself	Support
Moore, Susan	A Member of the Public	Myself	Support
Koch, Laurie	A Member of the Public	Myself	Support
Koch, Helmut	A Member of the Public	Myself	Support
MacGregor, Leslie	A Member of the Public	Myself	Support
Brennan, Nancy	A Member of the Public	Myself	Support
Lewandowski, Jean	A Member of the Public	Myself	Support
berk, bruce	A Member of the Public	Myself	Support
Kroll, Heidi	A Lobbyist	Granite State Hydropower Association (GSHA)	Support
perenceviich, ruth	A Member of the Public	Myself	Support
Istel, Claudia	A Member of the Public	Myself	Support
Torpey, Jeanne	A Member of the Public	Myself	Support
Racusin, Sharon	A Member of the Public	Myself	Support
Raspiller, Cindy	A Member of the Public	Myself	Support
Eaton, Sharon	A Member of the Public	Myself	Support
Brown, Howard	An Elected Official	Myself	Support

Testimony

NEW HAMPSHIRE MERCHANT POWER GENERATING PLANTS
(as of 2020 tax year)

Total Count 59

# of Plants	TYPE / NAME
7	**FOSSIL-FUEL**
	ESSENTIAL POWER NEWINGTON LLC
	GRANITE RIDGE ENERGY LLC
	GSP LOST NATION LLC
	GSP MERRIMACK LLC
	GSP NEWINGTON LLC
	GSP SCHILLER LLC
	GSP WHITE LAKE LLC
1	**NUCLEAR (one plant, four partial owners)**
	HUDSON LIGHT & POWER DEPT GENERATION
	MASS MUNICIPAL WHOLESALE ELECTRIC GENERATION
	NEXTERA ENERGY SEABROOK LLC
	TAUNTON MUNICIPAL LIGHTING CO GENERATION
37	**HYDROELECTRIC**
	AMPERSAND GILMAN HYDRO LP
	ASHUELOT RIVER HYDRO INC
	BRIAR HYDRO ASSOCIATES
	CLEMENT DAM HYDROELECTRIC LLC
	CRP NH AMOSKEAG LLC
	CRP NH AYERS ISLAND LLC
	CRP NH CANAAN LLC
	CRP NH EASTMAN FALLS LLC
	CRP NH GARVIN FALLS LLC
	CRP NH GORHAM LLC
	CRP NH HOOKSETT LLC
	CRP NH JACKMAN LLC
	CRP NH SMITH LLC
	DODGE FALLS ASSOCIATES LP
	ENERGETIC ENTERPRISES INC
	ERROL HYDRO ELECTRIC CO LLC
	FIRSTLIGHT MA HYDRO LLC
	FRANKLIN POWER LLC
	GOODRICH FALLS HYDROELECTRIC
	GREAT LAKES HYDRO AMERICA LLC
	GREAT RIVER HYDRO LLC
	GREGG FALLS HYDROELECTRIC ASSOCIATES LP
	HDI ASSOCIATES I PARTNERSHIP

KTZ HYDRO LLC
LAKEPORT HYDROELECTRIC ONE LLC
MONADNOCK PAPER MILLS INC
NORTHWOODS RENEWABLES LLC
OTTER LANE HYDRO LLC
PEMBROKE HYDRO ASSOCIATES LP
PONTOOK OPERATING LP
SANDRO LLC
SFR HYDRO CORP
SILVER STREET HYDRO LLC
SPAULDING AVE INDUSTRIAL COMPLEX LLC
SQUAM RIVER HYDRO LLC
SUGAR RIVER POWER LLC
WHITE MOUNTAIN HYDROELECTRIC

5 **WIND**
ANTRIM ENERGY WIND LLC
GRANITE RELIABLE POWER LLC
GROTON WIND LLC
JERICHO POWER LLC
LEMPSTER WIND LLC

6 **BIOMASS (Woodchips)**
BERLIN STATION LLC
BRIDGEWATER POWER COMPANY LP
DG WHITEFIELD LLC
PINETREE POWER - TAMWORTH LLC
PINETREE POWER LLC
SPRINGFIELD POWER LLC

2 **METHANE (Landfill Gas)**
EPP RENEWABLE ENERGY LLC
WM RENEWABLE ENERGY LLC

1 **WASTE TO ENERY (Trash)**
WHEELABRATOR CONCORD COMPANY LP

State of New Hampshire

GENERAL COURT

CONCORD

MEMORANDUM

DATE: **October 27, 2022**

TO: **Honorable Sherman Packard, Speaker of the House**
Honorable Chuck Morse, President of the Senate
Honorable Paul C. Smith, House Clerk
Honorable Tammy L. Wright, Senate Clerk
Honorable Chris Sununu, Governor
Michael York, State Librarian

FROM: **Representative Patrick Abrami, Chairman**

SUBJECT: **Final Report of the Commission to Study the Assessing of Power Generation and Utility Transmission.**
RSA 72:8-f (HB 410, Chapter 49, Laws of 2022)

Pursuant to RSA 72:8-f (HB 410, Chapter 49, Laws of 2022), enclosed please find the Final Report of the Commission to Study the Assessing of Power Generation and Utility Transmission.

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

I would like to thank those members of the commission who were instrumental in this study. I would also like to acknowledge all those who testified before the commission and assisted the commission in our study.

Enclosures

cc: Members of the Commission

FINAL REPORT

Commission to Study the Assessing of Power Generation and Utility Transmission

RSA 72:8-f (HB 410, Chapter 49, Laws of 2022)

October 27, 2022

Member	Appointing Authority
Representative Patrick Abrami, Chair	Speaker of the House
Representative Troy Merner	Speaker of the House
Representative Lucius Parshall	Speaker of the House
Senator James Gray	Senate President
Betsey Patten	Assessing Standards Board
Adam Denoncour	Department of Revenue Administration
Christopher Boldt	NH Municipal Association
Dan Dolan	NE Power Generators Association
Scott Bartlett	NH Association of Assessing Officials
Madeleine Mineau	Granite State Hydropower Association

Commission Charge and Study Purpose:

RSA 72:8-f Study Commission on the Assessing of Power Generation and Utility Transmission.

I. The commission shall:

a. Determine the most accurate methodology for assessing power generation assets and utility transmission.

b. Compare the efficacy of the department of revenue administration approach to the assessing of the 59 power generation facilities with the approaches utilized by the municipalities.

c. Understand how other states handle the assessing of power generation facilities and utility transmission for property tax purposes.

d. Recommend a unified approach to be utilized by both the department of revenue administration and municipalities, which should include confidential data reporting requirements by the power generation companies for the methodology chosen.

Process and Procedures:

The commission organized on July 19, 2022 and elected Representative Patrick Abrami as Chair. The commission met seven times throughout the study period. The minutes of each meeting are attached.

The following table outlines key testimony accepted at each of the commission's seven meetings.

Date	Speaker/Title	Organization	Topic
August 9, 2022	Adam Denoncour, Assistant Director of the Municipal and Property Division	NH Department of Revenue Administration	DRA methodology for assessment of power generation assets
August 24, 2022	Jonathan Block, Partner	Pierce Atwood	How other states, counties, and municipalities for assess power generation assets
September 9, 2022	Peter Roth, Revenue Counsel	NH Department of Revenue Administration	DRA's position on confidentiality
September 28, 2022	Madeleine Mineau, President	Granite State Hydro-Power Association	NH Hydro-Power's position on NH assessing practices of hydropower plants
	George Sansoucy, Owner	George Sansoucy, P.E., LLC, d/b/a Sansoucy Associates	Assessors' position on the assessing of power generation assets
October 6, 2022	Dan Dolan, President	New England Power Generators Association	Summary of how the New England power grid works, how the wholesale markets work, and how NH policies affect the generators' tax burden and influence electricity prices
	Chris Boldt, Partner	Donahue, Tucker & Ciandella, PLLC	ME and MA assessing information sharing and confidentiality statutes and recent NH court cases
	Patrick Abrami, State Representative	NH House of Representatives	2019 HB 700, relative to valuation of utility company assets for local property taxation (utility distribution bill)
October 14, 2022	Chris Boldt	Donahue, Tucker & Ciandella	Other relevant court cases

Findings:

The commission worked hard to come to a consensus on the key issues within the calendar time available. Even though we have not reached a consensus yet, parties on differing sides of these issues have come to an initial meeting of the minds on certain points. The commission members feel a final consensus was not possible to reach before the November 1, 2022 statutory end date but agree that this effort should continue in the next legislative session. A summary of what has been learned thus far is as follows:

1. The commission decided early on to bifurcate transmission and to focus on generation issues only.

2. Assessing of a heterogeneous mix of power generation assets using a single cost approach such as was done with utility distribution is most likely not possible.

3. One possible approach is to recommend different methodologies for each category of power generation.

4. To adopt the DRA centralized methodology used for the state utility property tax as well as the Statewide Education Property Tax may be difficult to do, but needs further discussion.

5. Sharing confidential utility data with local assessors will require a statute change which needs more thought about the scope of that change.

6. Much more discussion and research are required on whether adopting a unified three-pronged approach (cost, income, and market sales) is an option.

7. We have current documents on all the power generation plants, the towns they impact, the municipal assessed values, who does the municipal assessing, the DRA assessed values, and which plants have settlement agreements or payments in lieu of taxes (PILOT) agreements.

8. More discussion is needed on potential expansion of the availability of PILOT agreements, especially if encouraging more such agreements is part of the solution.

9. We have a sense of how ISO New England impacts our discussion.

10. More discussion is needed on how the New Hampshire courts have ruled on this topic and the applicability of such rulings under the current industry structure.

11. Whatever models for assessing power generation assets that we contemplate, more time is needed to determine the impact on individual municipalities as well as on the individual power generation stations.

12. Even after gaining insights into how other states handle this issue, the commission needs time to speak to some of these states.

13. We believe that the significant difference between the DRA values/methodology and the municipal values/methodology for power generation assets is a contributing factor to the litigation in this area; and the commission wants to explore possible ways of providing certainty and avoiding the expenses and uncertainty of litigation to all parties.

Recommendations:

The Commission unanimously recommends that a bill be filed to continue this commission in the 2023 session. We recommend that this be a House Bill and that it be fast tracked in the House and then fast tracked in the Senate. We do not see any changes in the make-up of the commission. We recommend a final report date of November 1, 2023. We do see the need for bifurcation of the transmission issues into a separate commission to be activated after the power generation commission and its potential legislation is finalized.

Respectfully Submitted,

Representative Patrick Abrami, Chairman

Meeting Minutes

COMMISSION TO STUDY THE ASSESSING OF POWER GENERATION AND UTILITY TRANSMISSION

July 19, 2022 ORGANIZATIONAL MEETING MINUTES

Members Present: Rep. Pat Abrami, Rep. Troy Merner, Sen. Jim Gray, Adam Denoncour, Betsey Patten, Christopher Boldt, Dan Dolan, Madelaine Mineau, Scott Bartlett

Members Absent: Rep. Peter Somssich (resigning and will be replaced)

Meeting called to order at 830am and adjourned at 945am

Rep. Pat Abrami being the first named House member indicated by the Speaker of the House called the meeting to order. He asked that we go around the room to give each member a chance to introduce themselves. He then indicated that Rep. Somssich was appointed by the Speaker, but declined to participate. He indicated that the replacement was required to be someone from the minority party from either the Science and Tech Committee or the Ways and Means Committee. Several potential candidates are being considered and should be in place by the next meeting.

Rep. Abrami called for nominations for chair. Rep Merner nominated Rep Abrami with several seconds. No other nominations were made. The members voted unanimously that Rep. Abrami chair this Commission.

Rep. Abrami then reviewed the charge of the Commission contained within HB410. Copies of HB410 were before each member. All members agreed that the prime goal was to evaluate the process and methodologies utilized by state and by municipalities in the assessing of power generation assets with the goal of unifying the approach used by municipalities. Mr. Boldt suggested that attempting to also do the same

for FERC Regulated Transmission may be difficult with the time available for the Commission to do its work. Rep. Abrami indicated that his original amendment to HB410 only addressed power generation. However, the original unamended HB410 had to do with the information that the transmission companies must provide. The discussion concluded that the focus will be on power generation assets and that the Commission go as far as it can with transmission as time permits. Rep Abrami indicated that, if need be, a bill can be filed next year to look at transmission more closely.

Rep. Abrami then pointed to several sheets before each member. The first is a list of all power generation facilities in NH. There are a total of 59 facilities listed representing seven different electric generating types. Mr. Bartlett pointed out that there are several facilities that are not on the list. Mr. Denoncour from the DRA where this list originated indicated that there are several missing and that he would provide a more complete list at the next meeting. The second document produced a year ago by the DRA as HB410 was being contemplated shows for each town with power generation assets the DRA value, the MS1 value, and the Equalization value. For all assets the DRA value was 1.25B, MS1 value was 2.43B, and the Equalization value was 3.12B. The third document showed that the Seabrook Nuclear Plant represents in the mid to upper 30% of all assessed power generation value. Mr. Denoncour said he will provide the most recent data.

Rep. Abrami indicated that we needed to understand how the DRA assesses these power generation assets, needed to understand assessing norms for these types of assets, and needed to understand how other states and their municipalities assess these types of assets. Mr. Bartlett indicated that there are only one of three methodologies that can be considered. Mr. Denoncour indicated he was willing to make a full presentation of the DRA approach at our next meeting.

Everyone agreed this would be a good starting point. Mr. Dolan from the NE Power Generation Association said he can make a presentation on how other states and municipalities assess these assets. After some discussion it was agreed that should occur at our second meeting in August.

Sen. Gray suggested that we review the work done when we examined utility distribution assets. Rep. Abrami said a copy of that Commission report along with the bill that came from that work will be provided at the next meeting.

Rep. Abrami suggested August 9 from 900-1100am for our next meeting. Rep. Abrami then indicated that per House rule that we must meet offsite. Rep. Abrami asked Mr. Denoncour if we can utilize the DRA conference room. He said he would ask. Rep. Abrami asked if the DRA could also find someone to take our minutes. Mr. Denoncour said he would see what he could do. A tentative second date chosen was August 24. That was good for everyone but Ms. Mineau from the Granite State Hydropower Association. She asked if I would allow substitutions from her organization. Rep Abrami said that when he chairs that he does allow substitutes as long as they are from the same organization. There was no objection from the members to that being our practice moving forward. Ms. Patten who chairs the Assessing Standards Board indicated that she may need one of her more technical members to replace her at certain meetings. Rep. Abrami without objection said that would be fine.

The meeting was adjourned with the next meeting planned for August 9.

Commission to Study the Assessing of Power Generation and Utility Transmission

Approved as amended

DATE: August 9, 2022 **TIME**: 9:00 a.m.

LOCATION: Department of Revenue Administration, 109 Pleasant Street, Concord NH

COMMITTEE MEMBERS

Representative Patrick Abrami, Chairman –Ways & Means
Representative Troy Merner – Science, Technology & Energy
Representative Lucius Parshall - Science, Technology & Energy
Senator James Gray
Betsey Patten, Assessing Standards Board (ASB)
Adam Denoncour, Designee, Department of Revenue Administration (DRA)
Attorney Christopher Boldt, NH Municipal Association (NHMA)
Dan Dolan, New England Power Generators Association (NEPGA)
Scott Bartlett, NH Association of Assessing Officials (NHAAO)
Madeleine Mineau, Granite State Hydropower Association (GSHA) - *Absent*

Representative Abrami called the meeting of the Commission to Study the Assessing of Power Generation and Utility Transmission to order at 9:00 a.m.

Representative Lucius Parshall was introduced. He was appointed after the last meeting and is a member of the House Science, Technology and Energy Committee.

Minutes

Representative Merner ***motioned to accept the minutes of July 19, 2022***; Mr. Bartlett ***seconded the motion***. A minor correction was made to the title adding a space between Commission and To. Chairman Abrami called the motion to approve the minutes of July 19, 2022, as amended. ***Motion passed unanimously.***

The following handouts were briefly explained: The final committee report and statute from House Bill 700 relating to the valuation of distribution assets, an updated report including the owners of generation assets, the communities they are in, the type of generation, and the appraiser, an updated list of power generating plants which decreased by one due to one facility going to net metering and being exempt from the utility property tax, a list of PILOT (payment in lieu of tax) agreements for renewable power facilities as reported by municipalities on the MS-1, Summary Inventory Valuation, and a copy of the PA-20, Utility Property Tax Information Update, which is a required annual filing by utility companies that includes various information used by the Department to determine an assessed value.

DRA Presentation on the Assessment of Power Generation Assets

Adam Denoncour, Assistant Director of the Municipal and Property Division at the Department of Revenue Administration (DRA), presented an overview of how the Department values utilities and why.

The statewide utility property tax (UPT) is governed by RSA 83-F which requires the determination of market value for utility property at its highest and best use. The Department bills and collects the UPT at a set rate of $6.60 per $1,000 which is deposited into the Education Trust Fund. Utilities receive two separate valuations for their property tax for the different tax rate components: the DRA value is for the state education component and the municipal value is for the municipal, local school and county components.

Information updates (PA-20) are due to DRA by May 1 that include details of utility assets, financial and cost data, contact information and other information. Similar reporting is required by other states and jurisdictions who have a statutory requirement to value utility property. When the PA-20 is received, the document(s) are reviewed and analyzed to determine if additional information is needed. Once the data is complete, values are developed. Certified final values by the Commissioner are due December 1 and tax notices are mailed by December 15.

The DRA assignment differs from that of local assessors with respect to the subject of the appraisal. The DRA is required to value every piece of a utility property across political boundaries and to do this, the unitary valuation technique is applied. The authoritative text on utility valuation using the unitary valuation technique is the Western States Association of State Tax Administrators Handbook whose primary author is Brent Eyre. Mr. Eyre has provided joint training on utility valuation with the State of New Hampshire and Vermont. Unitary valuation requires the valuation of the whole of the utility rather than individual assets in a particular municipality. The DRA values the entire utility company, allocates the appropriate portion of value to New Hampshire and then apportions the applicable asset values to the individual municipalities, both based on company reported original costs.

There are generally three approaches to value: market, cost and income. Within these approaches, there are several methods that can be utilized depending on the subject of the appraisal. The DRA has the advantage of required reporting and relies heavily on the information received to produce accurate appraisals. An appraisal always involves some level of opinion, input or subjectivity; the DRA focuses on limiting subjective input to achieve the most accurate and defensible value.

Applicability of Approaches to Value with Respect to the Department's Assignment under RSA 83-F

The sales or market approach may be the most recognizable approach to value, but it is not practical for utility valuation in New Hampshire. To utilize the sales comparison approach, comparable sales are needed, and sales of this type do not typically occur frequently enough to provide reliable data. The DRA may use listing and sale prices as reference points, but values are not developed using the sales comparison.

Another market approach is stock and debt. This technique is used to develop accurate values for businesses across the globe. To utilize this approach, an analysis of publicly traded utility companies would be necessary and there are none in New Hampshire. Neither the sales comparison or stock and debt valuations would produce a particularly reliable result and as such, are not specifically relied on. The cost approach is a common and logical approach to value and is heavily utilized in mass appraisal of residential properties. To develop a value using historical costs less depreciation, submissions from utilities regarding the cost and depreciation of their assets needs to be analyzed. This information is included on the PA-20 however the techniques used by utilities to account for their cost and depreciation may vary, and because of this some utilities are not good candidates for this approach. Regulated utilities are required to utilize specific and controlled methodology when it comes to reporting the value

and depreciation of their assets. For regulated utilities, the DRA does develop a reliable value based on the historical cost less depreciation method.

Developing a value using replacement cost new less depreciation (RCNLD) is another commonly used cost approach method. It is generally best suited for developing values for smaller, homogenous, new utilities. Considering the range of ages and sizes of utility assets that are required to be valued, the DRA does not use this method as it is not a good fit for most of our assignments.

The DRA does use the income approach. It is the most applicable to our assignment and when combined with detailed reporting we receive annually, it produces appraisals which include very few assumptions. There are two basic methods DRA uses to apply the income approach. The first is direct capitalization which converts income into a value using a capitalization (cap) rate. It is the most basic and reliable of the income approach methods. The second is a discounted cash flow which converts future cash flows into a present value using a cap rate. This method is only used when we have explicit knowledge of future cash flows such as a power-purchase agreement or forward capacity payment. Both direct capitalization and discounted cash flow involves the development of a cap rate.

To review, the DRA does not rely on the sales comparison, stock and debt, or replacement cost to develop value for any utility in the State. Direct capitalization, historical cost, and discounted cash flow are utilized depending on the applicability of the method. The DRA values the entire utility corporation and allocates the applicable value to New Hampshire and then again to the individual communities, rather than valuing specific assets in each community and adding them up.

Direct Capitalization

This formula requires the calculation of a net operating income (NOI) and a cap rate. The NOI is determined from the revenue and expense filings on the PA-20; the cap rate is developed separately.

Discounted Cash Flow

When it comes to discounted cash flow, the appraiser is making explicit predictions of future income and expenses. The following example shows four years of revenue and expenses and an NOI calculated for each year. Each NOI prediction is discounted to the present value (PV). The Excel PV function is a standard calculation that simply reflects the time value of money. For example, $1,400 three years in the future is not worth $1,400 today when you factor in both inflation and risk, which are both included in the PV formula.

Value Development – Discounted Cash Flow
Income – Expense = Net Operating Income (NOI)

	Year 1	Year 2	Year 3	Year 4
Income	$1,000	$1,500	$2,000	$2,500
Expense	$500	$550	$600	$650
NOI	$500	$950	$1,400	$1,850
Present Value of NOI	PV (500,1)	PV (950,2)	PV (1,400,3)	PV (1,850,4)

Sum (NOI) / Cap Rate = Utility Value

Dividing the sum of the discounted cash flows (NOI) by the cap rate provides the final utility value.

To use the discounted cash flow or direct capitalization methods, a cap rate needs to be developed. For this, the DRA uses the Band of Investments technique.

Value Development – Capitalization Rate
Band of Investments

	Corporate Structure	Cost of Capital	%
Equity	**0.5**		
Debt	**0.5**	**.07**	
		Cap Rate =	

- **Corp Structure**: From Cap Rate Study per Industry
- **Cost of Capital Equity**: Build by adding risk to Risk Free Rate (Treasury Bond)
- **Cost of Capital Debt**: From Cap Rate Study per Industry

This calculation begins with corporate structure and builds out each row ending with a cap rate. We want to know what proportion of the company is funded by an equity such as stocks or debt such as loans. The portion of the company that is funded by equity and debt is reported on the PA-20, however DRA does not use this explicit corporate structure. Anyone interested in purchasing a utility in the open market may not know that utility's exact corporate structure therefore it is more appropriate to use one or more industry publications to derive this number to develop a market value.

The DRA uses publications such as Value Line to identify the appropriate figure for equity and debt depending on the industry segment (hydro, nuclear, etc.), which may have different corporate structures. Next, the cost of that debt is determined from the average cost of getting a loan for that industry segment and in this case, publications such as Moody's, are used to gather this input.

Developing the cost of equity is slightly more complicated. This is done by adding risk and industry modifiers to a Treasury Bond rate (risk-free rate) using the capital assets pricing model (below). The DRA relies heavily on industry publications like Duff and Phelps for both the average market return and beta. In general, utilities are not considered risky investments, and, in most cases, beta is below 1.

Value Development – Cost of Capital: Equity
Modified Capital Assets Pricing Model (CAPM)

$$Ke = Rf + (Rm - Rf)\,\beta$$
10.8 3 9 3 1.3

Where:

- **Ke** = Cost of equity capital
- **Rf** = Risk-free rate
- **Rm** = Average market return
- **β** = Beta factor (investment risk)

	Corporate Structure	Cost of Capital	%
Equity	**0.5**	**.108**	**.054**
Debt	**0.5**	**.07**	**.035**
		Cap Rate =	**.089**

- Multiply Equity row
- Multiply Debt row
- Sum Equity and Debt rows to determine the capitalization rate

This completes the DRA's development for the income approach.

The reconciliation process is rather simple. The DRA develops a value for each utility using the most applicable method(s). For a regulated utility, historical costs are used; for a utility that has known future cash flows, discounted cash flow, and in the other cases, direct capitalization.

Once the final utility value is determined, it is apportioned and allocated to applicable municipalities. First, the final utility value must be apportioned to New Hampshire. Because many utilities have assets outside of New Hampshire, original cost is used as a proxy for the investment a utility has made in a particular location. By comparing original cost by location, we can determine the relative percentage of operations occurring in those locations from information provided on the PA-20.

Apportion to New Hampshire

Original Cost in NH / Original Cost Everywhere * Final Utility Valuation

The resulting decimal is then multiplied by the final utility valuation to determine the amount of the final value that is specific to New Hampshire.

Utilities report their total income, expenses and assets as a corporation to DRA including construction work in progress (CWIP) and capitalized value of leases everywhere. Then, using the original cost information as a proxy for the physical investment they have made in New Hampshire, apportion the value from there. The original cost includes not only the cost of the original facility but the original cost of any improvements and current work in progress and it is used to determine how much money they have spent in a particular location to apportion the appropriate value.

Allocate to Towns

Original cost in Municipality / Original Cost in NH * NH Valuation

This formula is essentially the same calculation but going down one more level. We are taking the Original Cost in NH and then allocating it out to the specific towns that have assets. And again, the towns and the assets are reported to DRA on the PA-20 so that is where this information originates.

Then, by multiplying by the NH valuation you have the specific values for each individual municipality.

The allocated values are reported on an annual basis, and they can be found on the DRA website. A small number of municipalities use the DRA values. They are not required to use these values but if they do, they must equalize them as these values are always 100% of market value. Specific values for specific assets are not developed; the values provided to municipalities are specific only to the utility taxpayer.

The question was asked if transmission value is broken out. Mr. Denoncour stated not that he is aware of; all utilities are valued in the same way. It was noted that if the DRA utility values include transmission value, then it cannot be used by towns. It was also suggested that the town-by-town breakout is not a requirement under RSA 83-F. Mr. Denoncour stated that was correct, it is an extra step the Department has historically completed.

Some concerns were expressed about the use of un-trended original cost information that may put more weight on the newest asset location, the lack of specifics for the valuing of generation and the reliance, if any, on historical costs for power generation assets and why. It was suggested that being able to review some appraisals of generation facilities would be helpful to understand how they are valued. It was reiterated that the DRA relies on reporting of all entities to report their assets and depreciation in a particular way; numbers that are accurate and reliable.

A question was raised whether the unitary method favors global corporations that are apportioned versus the smaller generation assets that report as a single corporation and if the numbers of both appraisals are similar? Mr. Denoncour stated the unitary valuation begins with how the corporation files their PA-20. If they file as a subsidiary using the parent company's FEIN, the parent company is valued. Whether one or the other produces a higher or lower value depending on the size is a good question. It basically comes down the allocation formula using original cost as a proxy for value.

A discussion followed about using historical revenues and whether any forecasted information for revenues is used. Mr. Denoncour stated for direct capitalization, the prior year's NOI is used and if there is a future cash flow that can be counted on, the discounted cash flow is used. He does not believe there are any adjustments made based on futures. The PA-20 requires 3-years of information and anomalies are noted and accounted for. Book depreciation used; the same depreciation used the by utility.

Corporate downloading may impact reported income and Mr. Denoncour was asked whether the DRA analyzed such information for reasonableness. He replied that every reporting is annualized and if there were companies with similar situations, they would be compared however he was not aware of many corporations doing that.

Small hydros are very different from large hydros. What is the industry standard used, if any, and is there any nuance or adjustments for the different sizes? Mr. Denoncour stated the main issue is that most information is different from the way New Hampshire generates power, so the effort is made to look at a couple of different publications to decide what seems most appropriate given the context.

The commission's intent is to look at transmission if there is time, but generation is the focus. Mr. Denoncour reiterated that the DRA values the entire package of the entity whether transmission, distribution, generation or a combination of assets. Value is not separated out based on the type of asset.

There was concern and lack of understanding about the differences in value between the municipalities and DRA. Some possible reasons included:

- Different assignments:
  - DRA is valuing the entire entity and allocating value based on the original cost
  - Municipalities are valuing only the assets in their specific town

- Use of different approaches to value,
    - DRA uses the unitary valuation method and relies on the income approach
    - Municipalities commonly use replacement cost new less depreciation
- Availability of information
    - DRA has the information directly from the utilities
    - Municipalities do not have access to the same, detailed information

A request was made to add the rate of capacity (nameplate) to the report of generation entities. Mr. Boldt suggested a thought for future discussion, to change the PA-20 to a shared (in confidence) document with municipal assessing officials and assessors. It was suggested that the information on the PA-20 might not be confidential and that hearing from the utilities companies if and why they feel it is confidential would be helpful.

Meeting Schedule

Wednesday, August 24, 2022, at 9:00 a.m. at DRA

- Presentation by NE Power Generation about what other states are doing

Friday, September 9, 2022, at 9:00 a.m. at DRA

Wednesday, September 28, 2022, at 9:00 a.m. at DRA

Meeting adjourned 10:21 a.m.

Respectfully submitted,

Stephanie Martel
Municipal and Property Division
NH Department of Revenue Administration

Commission to Study the Assessing of Power Generation and Utility Transmission

Approved as Amended

DATE: August 24, 2022 **TIME**: 9:00 a.m.

LOCATION: Department of Revenue Administration, 109 Pleasant Street, Concord NH

COMMITTEE MEMBERS

Representative Patrick Abrami, Chairman –Ways & Means
Representative Troy Merner – Science, Technology & Energy
Representative Lucius Parshall - Science, Technology & Energy
Senator James Gray
Betsey Patten, Assessing Standards Board (ASB)
Adam Denoncour, Designee, Department of Revenue Administration (DRA)
Attorney Christopher Boldt, NH Municipal Association (NHMA)
Dan Dolan, New England Power Generators Association (NEPGA)
Scott Bartlett, NH Association of Assessing Officials (NHAAO)
Madeleine Mineau, Granite State Hydropower Association (GSHA) - *Excused*

Representative Abrami called the meeting of the Commission to Study the Assessing of Power Generation and Utility Transmission to order at 9:00 a.m.

Minutes

Chair Abrami reviewed the amendments and corrections that were suggested:

- Page 2, Paragraph 2, Last sentence: After individual municipalities add "***, both based on company reported original costs.***"
- Page 3, Paragraph 1, Last sentence: Attorney Boldt, suggested for consistency purposes and to avoid confusion, replacing 'historical' with 'original' costs, which is the term that has been most often used. Mr. Denoncour stated in this instance, he was referring to the actual method of valuation that the DRA uses, which is the historical costs less depreciation method. After a brief discussion, the last sentence will be amended to read, "For regulated utilities, the DRA does develop a realistic value based on the historical cost ***less depreciation method."***
- Page 6, Paragraph 4, Last sentence: the word 'depreciated' was corrected to ***'depreciation'***

Ms. Patten ***motioned to approve the minutes of August 9, 2022, as amended***; Mr. Bartlett ***seconded the motion***. Chairman Abrami called the motion to approve the minutes of August 9, 2022, as amended. ***Motion passed unanimously.***

Presentation by Jonathan Block on behalf of New England Power Generators Association (NEPGA)

The following presentation will provide the point of view from the power generation community, a summary of how New Hampshire appraises utilities compared to other states and the advantages and

disadvantages of the various methodologies. A copy of the presentation and an appendix providing details of the different methodologies of all 50 states was provided.

Mr. Block, representing Pierce Atwood on behalf of NEPGA, provided some background information about himself. His practice is in the property tax area, particularly state and local tax. He practices in Maine, New Hampshire and Massachusetts representing various power plants, utilities and pipelines. He brings a perspective of the time and money spent on cases challenging local values that often differ greatly from state values of the same property.

There are several problems he sees with the New Hampshire system including:

- A duplication of effort by the government resulting in:
  - Inefficiency and waste of government resources
- Inconsistent results lead to a perception that one of the values must be wrong
- Inconsistent values create:
  - Litigation, which is funded by taxpayers
  - Increase in costs of doing business and costs of energy
  - Winners
    - Attorneys, appraisers, people involved in litigation
  - Losers
    - Taxpayers and energy consumers who are paying for the duplicative work
- Most municipalities do not have the in-house expertise to appraise generation plants and have to hire expensive outside experts
- The DRA has historically had that expertise and have not had to hire outside experts
- New Hampshire is out of step with 48 other states in how they tax power plants

An example was presented of a power plant, confirmed to be a stand-alone plant in one town having no other assets in New Hampshire. From 2017 through 2021, the values were vastly different between the state's value and municipality's value ranging from 5% up to 47%. The company has gone through litigation and values resolved however the difference in values remained significant.

A study conducted by interns at Pierce Atwood compiled the following statistics (details provided in Appendix):

- 36 states, or 75%, have some form of centralized valuation of power plants
- 16 states, or 36%, value generation property at the local level
- In most states, the centralized value of generation property is the bases of all taxation on that property, unlike New Hampshire which has the dual system
- 27 states use the value to collect local property taxes and have no state-level property tax
- 6 states use the value to collect a state-level property tax and the property is exempt from local property taxation
- 1 state uses the value to collect both state and local property taxes

Mr. Block confirmed the research included a review of statutory requirements for the taxation of property at the local, state or both, levels, similar to the statutory requirement in New Hampshire to tax

all property within a municipality at the local level. This information along with the types of properties taxed at each level are included in the comments for each state in the appendix.

New Hampshire Differences

New Hampshire is one of two states that have both a local and state property tax on generation property but do not require the municipality to use the state value. Both the state and local municipality develop independent assessments for the same facility. Vermont is the other state with both state and local property taxes however they do not have any large-scale non-hydro power plants (above 50 megawatts). The general methodology used to value power plants across the country is fair market value of which there are various permutations however there are no statutorily required methods.

Mr. Dolan added that one of the key distinctions, regardless of it being a municipality, county or state, is having a single assessment that can be applied to the separate tax rates rather than multiple valuations for the same facility.

Mr. Block explained the 75% of the states that use centralized valuation. This means the county or state have experts that develop the utility values versus each municipality developing their own. A brief explanation of some of the column headings in the appendix followed.

Column Heading	Clarification
Local valuation?	Is the municipality required to value the power plant?
Centralized valuation?	Is the State or County required to value the power plant?
Local tax only, based on central val?	Does the state only have a local tax, but the tax is based on a centralized valuation performed by the state or county?
State tax only, based on central val?	There is no local tax, but there is a state tax only based on a centralized valuation.
State and local tax based on central val?	Is there is a state and local tax based on one central value?

The question was asked whether the municipality receives any revenue from the state tax based on a central valuation? Mr. Block believed it would be typical in those states to have some form of revenue sharing filtered down to the municipality however he could not speak to how this may work in each of the individual states. He added that in some states, there is no local property tax on power generation, only a state tax. He reiterated that New Hampshire and Vermont are the only two states to have both a local tax based on a local value and state tax based on a state value.

Mr. Dolan stated they are not trying to get into whether a municipal and state tax is right, wrong or indifferent nor change the law; the question they are posing to the Commission is under that structure, whether there should be a common valuation for the purpose of levying those taxes.

Mr. Block continued with what he feels are the benefits of central valuation:

- Expertise at the state level versus each municipality having to employ their own expert
- Produces one value for the same property for the same tax year
- Improves taxpayer acceptance and confidence in the value
- Will significantly reduce litigation and costs related to lawyers and expert appraisers
- Will remove the need for local appraisals for many utilities (similar to HB 700)

- Appeals would be concentrated at the state or county level saving municipalities money
    - Municipalities should have a right to appeal their value(s)

A couple of points were noted. Historically New Hampshire had a local tax only until 1999 or 2000 when the state-wide education property tax (SWEPT) was passed. The original language in HB 700 proposed the use of the state's unitary methodology for all distribution utilities and was rejected by the legislature. The result of HB 700 was considered a compromise between the local methodologies and the unitary methodology.

At issue is the significant differences between each municipality's value and the state's value. The industry is looking for consistency, a common (central) value for each facility that both tax rates can be applied to. Some concern was expressed with central valuation and how municipalities would be protected. A suggestion was made to remove the DRA's requirement in RSA 83-F and have the state apply the $6.60 tax rate to the municipal values.

The most prevalent issue for assessors is getting confidential information to complete appraisals. Appraisals done at the local level are public information however due to the DRA's statutory confidentiality requirements, their appraisals are confidential and unavailable for review. This was the major reason for the rejection of using the state's values. Mr. Dolan added, from their perspective, confidentiality is the biggest concern for them as well and the confidentiality requirements of the DRA are very important to protect their member's information.

Mr. Block continued that he believes the state should perform these appraisals because they have the resources and expertise as they do these appraisals every year. Statutes can be revised to use one common value versus separate values for separate taxes and that utilities could be added as an exception to the DRA's confidentiality statute. It is important to protect the utility company's financial information, but municipalities could be given the information under a confidentiality statute that protects that information similar to Maine.

The statute in Maine protects the confidentiality of information at the local level allowing assessors to request any information they might need to complete an appraisal. The documents are stamped confidential by the taxpayer, and it is a Class E crime if the assessor distributes that information to anyone not included as an exception such as an attorney or an expert. Once the appraisal is complete, confidential information is not provided to the municipalities; they are only provided a final valuation.

In New Hampshire, efforts to change statutes relating to confidential information have been extremely difficult. It is not only the utility's confidential information that statutes protect, but also the confidential information for all income producing properties. If a statutory change were to be requested for utilities, it was suggested the change also include all income-producing properties. If this type of change were not possible, keeping with the municipal system and working towards a formula to model HB 700 might be the way to go.

Due to the age of some of the facilities which limits the methodologies that may be used, one commonality with this type of property is how much energy a facility produces. As a starting point, a request was made to receive the DRA report of generation facilities in Excel to sort and review stand-alone facilities and what they are being assessed per megawatt.

A request had been made of DRA to see if they could provide redacted appraisals for review. Mr. Denoncour responded due to the amount of information that would need to be redacted, what could be

provided would not be useful. He did suggest that if there are appraisals that were provided by DRA as part of litigation, a request could be made of taxpayers to share that information. A request was made of Mr. Dolan if he could share a 5-year-old appraisal with the Commission to review; he stated would take the request back to his organization. He added that power generation is different from other industrial facilities because electricity is such a live and liquid market commonly traded every 5-minutes then through competitive annual auctions. Any individual material based on the profitability and capability of a facility impacts the behavior of its competitors and one of the reasons they, as an association representing the power generation facilities, do not want that information public. It is why confidentiality agreements exist and why the restrictions on DRA are so important to the association.

The question was asked how this is dealt with in other states that have requirements to supply income and expense information. Maine has the statute with a serious consequence which provides security to the taxpayers, and it has never been an issue. It was unknown what Massachusetts has or does.

With regards to the differences between the state and municipal utility values, for the distribution utilities, it appeared to be the net book value that was the key difference between methodologies which was ultimately discounted and left out of the formula. Mr. Bartlett stated that net book value has no relevance and nothing to do with what a company can earn. If the state were using net book value in their appraisals of power generation facilities; he would reject that approach completely. A suggestion was made to hear from Skip Sansoucy who it was felt could bring a lot of valuable information and knowledge about this industry.

How DRA Approaches Equalization

Mr. Denoncour provided a brief review of the state-wide education property tax (SWEPT) and its connection with equalization. The utility property tax (UPT) of $6.60 represents the utility's portion of the SWEPT; a fragment of the tax rate that is collected at the state level. Municipal values (not including utility values) are equalized to determine each municipality's contribution to the SWEPT, which on average is about $2.20. Attorney Boldt requested more discussion about the impact of the equalization ratio on the municipal valuation of the generation assets due to the potential swings in value that can occur from year to year.

Meeting Schedule

Friday, September 9, 2022, at 9:00 a.m. at DRA

Wednesday, September 28, 2022, at 9:00 a.m. at DRA

Meeting adjourned 10:35 a.m.

Respectfully submitted,

Stephanie Martel
Municipal and Property Division
NH Department of Revenue Administration

Commission to Study the Assessing of Power Generation and Utility Transmission

Approved as amended

DATE: September 9, 2022 **TIME**: 9:00 a.m.

LOCATION: Department of Revenue Administration, 109 Pleasant Street, Concord NH

COMMITTEE MEMBERS

Representative Patrick Abrami, Chairman –Ways & Means
Representative Troy Merner – Science, Technology & Energy - *Excused*
Representative Lucius Parshall - Science, Technology & Energy
Senator James Gray
Jim Wheeler *for* Betsey Patten, Assessing Standards Board (ASB)
Adam Denoncour, Designee, Department of Revenue Administration (DRA)
Attorney Christopher Boldt, NH Municipal Association (NHMA)
Dan Dolan, New England Power Generators Association (NEPGA)
Scott Bartlett, NH Association of Assessing Officials (NHAAO)
Madeleine Mineau, Granite State Hydropower Association (GSHA) - *Excused*

Representative Abrami called the meeting of the Commission to Study the Assessing of Power Generation and Utility Transmission to order at 9:00 a.m.

Minutes

Representative Abrami asked that those who were not in attendance be noted as "*Excused*" rather than "*Absent.*" Attorney Boldt requested the following changes:

- Page 3, Paragraph 2, Line 4 – Clarification relating to the power plants in Vermont: Add non-hydro after "large-scale" to read, "large scale ***non-hydro*** power plants"
- Page 4, Paragraph 1, Line 4 – Change "extreme methodologies" to "***local*** methodologies"

Mr. Bartlett ***motioned to approve the minutes of August 24, 2022, as amended***; Mr. Wheeler ***seconded the motion***. Chairman Abrami called the motion. ***Motion passed unanimously.***

Confidentiality Requirements of the Department of Revenue Administration (DRA)

Attorney Peter Roth, Revenue Counsel to the Department of Revenue, gave a brief overview of his work experience that includes having provided advice and counsel to the Department concerning the application of the Department's confidentiality laws and their relationship to RSA 91-A.
Under New Hampshire law RSA 21-J:14, Department records are confidential and privileged. This includes taxpayer and non-taxpayer information. RSA 21-J:14 is described as *notwithstanding any other law* and the Department interprets this as meaning that RSA 91-A, which provides for disclosure of information by government agencies, therefore, does not apply. RSA 91-A starts with the premise that government records are to be open to the public with narrow exceptions providing for confidentiality. RSA 21-J:14 starts with the opposite perspective; that Department records are confidential and

privileged with the exceptions being narrowly construed and providing for criminal penalties and dismissal of Department officials who make disclosures of Department records.

There are a couple of exceptions to RSA 21-J:14, including the use of Department information in judicial and administrative proceedings involving state tax administration and the municipal and regulatory exception. The DRA provides two distinct functions. One is the strict, normal tax administration of various taxes including the business profits tax, tobacco tax, meals and rentals and other taxes. The second are services provided by the Municipal and Property (M&P) Division whose records have historically been open due to the municipal and regulatory exception. This exception specifies certain provisions of RSA 21-J where business of the M&P Division is conducted and those provisions relating to confidentiality of records of the Department are excepted under RSA 21-J:14. A recent addition to the municipal and regulatory exception was passed this year to open Department records relating to the certification and discipline of certified property assessing personnel.

Historically, judicial decisions have favored the protection of confidential information from the public in an effort to create confidence in the tax system. RSA 21-J:14 maintains this basic principle of keeping confidential information confidential. It is an essential part of the Department's ability to administer the tax laws in a way that is fair and equitable and to maintain the confidence of taxpayers to protect their information.

Mr. Bartlett expressed concern about the forfeiture of authority by the municipalities to appraise utility property in favor of a central value provided by the DRA. He asserted that information including the qualifications of the individual(s) doing the appraisals, the type of appraisals being conducted, and the appraisal reports would need to be made available to the public. Currently, none of that information is provided by the DRA because of the requirements in RSA 21-J:14.

Attorney Roth explained that there are two distinct relationships relating to Department records. One, is the relationship between the DRA and the municipalities; the other, is the relationship between DRA and taxpayers. This issue in front of this Commission relates to the relationship between the DRA and the taxpayer. The records and information of the taxpayer are considered confidential the same way tax information reported on a federal tax return is confidential. The taxpayer also has a relationship with the municipalities but that does not change the relationship between the DRA and the taxpayer who has an expectation and assurance that their information will be held in confidence by the Department.

Mr. Bartlett reiterated that everything assessors do requires transparency, with the exception of confidential information, and for those municipalities that use the DRA value or disagree with the value, they cannot see the appraisal report unless it goes to litigation. There appears to be a disconnect between municipalities and the DRA for something that is being used for the same purpose. The confidentiality requirements of the DRA are very important and generally accepted however if authority to appraise this type of utility is going to be taken away from assessors, it is important to know that it will be done correctly from a procedural and qualification standpoint.

Attorney Roth, responding to the quality and reliability of the DRA utility appraisals, added that the DRA makes assessments of utility property tax in a roughly one hundred cases each year and only a handful of those are appealed. There are some settlements but generally, the DRA prevails on appeals.

Mr. Bartlett offered that he had made a request to Mr. Denoncour for the qualifications of the utility appraisers at DRA and the request was forwarded to the DRA's legal division for consideration. Attorney Roth restated that pursuant to RSA 21-J:14, employee information is considered Department

records and is, therefore, confidential. Employee information is also confidential under RSA 91-A however, there is an exception. There is a balancing test under RSA 91-A that has been a moving target with recent litigation concerning police officers and municipal officials. The test involves looking at the private interest being protected versus the interest in disclosing it to the public. For public officials, the balance tips towards the importance of public disclosure. Some information is public such as position held, job description and salary although maybe not for private employees. So far, only with respect to elected officials, has there been relatively full disclosure of government personnel records. Under the State personnel rules, information in personnel files is considered confidential and RSA 21-J:14 has never been interpreted to require it.

Mr. Wheeler noted that relationship between DRA and the taxpayer, the Department's authority and obligation under RSA 83-F and the need and ability to get information has been recognized and explained. The municipalities also have a statutory responsibility to appraise utility property and collect local taxes but do not have the ability to gather the same information that DRA does. What is left is to find a solution to allow the municipalities to get the same information under similar protection with penalties for disclosure.

Mr. Dolan suggested there is another path which is to follow what the vast majority of other states do and use the valuation completed at the state level, that has all of the information, for municipal taxes. Understanding that there are questions and concerns that need to be addressed including appropriate expertise, qualifications and transparency.

Attorney Boldt expressed concern with using the DRA values based on a 2015 BTLA decision to not give weight to the DRA value describing it as a black box and not rational. He reiterated his thoughts on a statutory change whether to RSA 21-J:14 as an exception or creating a statute similar to Maine's to allow municipalities to get the same information as the DRA does.

Impact of Equalization on the Municipal Valuations

Discussion about the impact of the equalization ratio on utility property and the driving force of the residential market followed. Mr. Boldt expressed some concern about the value swing the equalization ratio creates on the utility properties whose values do not change at the same rate as residential properties. Currently, statute requires assessments to be reviewed annually but only requires value updates once every 5-years. Equalization must be done annually to maintain equitable and proportional assessments. This same concern can also be said for commercial and industrial properties. No further discussion or solutions were offered on the subject.

DRA Personnel Information

Mr. Denoncour reported that the DRA has two utility appraiser positions and only one is currently occupied. Mr. Bartlett asked if they were required to be certified and Mr. Denoncour stated they were not. Mr. Bartlett referenced the following sentence in RSA 21-J:14-f, *"[...] Department of revenue administration employees shall be certified at the level appropriate to their duties..."* and asked what it meant. Attorney Roth explained that statement pertains to past requirements when the DRA set municipal values, which they no longer do. The utility appraiser does not set values on behalf of the municipalities and therefore requires no certification; they set values on behalf of the Commissioner who is authorized to make the assessments and has no requirement to be certified. Mr. Bartlett asked if a town using the DRA value established by the Commissioner violates statute? Chairman Abrami suggested these questions were not going to be answered today and moved on to the next topic.

General Conversation

Suggestions about how to assess power plant facilities were presented. One was the use of megawatt hours and while this was suggested as a good starting point, there were challenges. The kilowatt information is public information and therefore easy to gather however information about how much they sell for is difficult to find. Using ISO New England can provide some useful information, but different facilities use different pricing and have varying expenses and each type of plant would have to be looked at to determine the information needed. Another challenge is that there are some facilities that do not operate very often or only at certain times of the year which makes pricing more volatile and there are plants paid not to run but be held in reserve. A rolling average was also suggested however creating a formula that would incorporate all the varying types of plants, locations and information was not seen as practical or achievable.

Mr. Boldt suggested assessing the state tax using the municipal values. Utilities would still be exempt from the local school tax, but the RSA 83-F tax would be prescribed using the municipal values and would alleviate the unavailability of information from the DRA due to their confidentiality statute.

Mr. Dolan stated that the NEPGA's concern is with the extreme volatility in the valuations between the individual municipalities and the State. They have been consistent in saying they would like to see a central valuation that is applied at both the state and local level and as DRA already does this under statute, use that number. It is a straightforward solution recognizing that it does create other issues and questions. He agreed there have been some very good points about making sure the DRA is appropriately resourced and has the transparency to create confidence from the municipal level about having a fair valuation there and there is more discussion to be had about that and to what degree it would take to get there.

One other suggestion was to use the municipal value and adjust the tax rate to what other taxpayers are paying. The RSA 83-F rate is $6.60/$1,000 and the municipal rate, on average, is $2.20/$1,000. Currently, the DRA values are roughly 1/3 of the municipal values. Reducing the tax rate from $6.60 to $2.20, would result in the utility companies paying about the same amount of taxes.

It was noted that before moving too far forward, it was important to hear from the other generation asset owner representative who has been unable to attend the last couple meetings as their perspective will be important.

Mr. Sansoucy and Ms. Mineau, representing Granite State Hydropower Association, will be on the agenda to present at the next meeting.

Meeting Schedule

Wednesday, September 28, 2022, at 9:00 a.m. at the DRA

Thursday, October 6, 2022, at 9:00 a.m. at the DRA

Friday, October 14, 2022, at 9:00 a.m. at the DRA

Tuesday, October 18, 2022, at 9:00 a.m. at the LOB

Meeting adjourned 10:38 a.m.

Respectfully submitted,

Stephanie Martel
Municipal and Property Division
NH Department of Revenue Administration

Commission to Study the Assessing of Power Generation and Utility Transmission

Approved as amdended

DATE: September 28, 2022 **TIME**: 9:00 a.m.

LOCATION: Department of Revenue Administration, 109 Pleasant Street, Concord NH

COMMITTEE MEMBERS

Representative Patrick Abrami, Chairman –Ways & Means
Representative Troy Merner – Science, Technology & Energy
Representative Lucius Parshall - Science, Technology & Energy
Senator James Gray
Betsey Patten, Assessing Standards Board (ASB)
Adam Denoncour, Designee, Department of Revenue Administration (DRA)
Attorney Christopher Boldt, NH Municipal Association (NHMA)
Dan Dolan, New England Power Generators Association (NEPGA)
Scott Bartlett, NH Association of Assessing Officials (NHAAO)
Madeleine Mineau, Granite State Hydropower Association (GSHA)

Representative Abrami called the meeting of the Commission to Study the Assessing of Power Generation and Utility Transmission to order at 9:00 a.m.

Minutes

Representative Abrami and Attorney Boldt requested the following corrections and changes:

- Page 1, Remove opening paragraph – Unnecessary.
- Page 3, Paragraph 6, Line 6 – Add a period after the word "assessments."
- Page 4, Paragraph 1, Lines 5 and 6 – Deleted duplicate question, "*And, if a town using the DRA value, are they violating statute?*
- Page 4, Paragraph 4, Line 1 – Corrected NHPGA to NEPGA.

Mr. Bartlett ***motioned to approve the minutes of August 24, 2022, as amended***; Mr. Dolan ***seconded the motion***. Chairman Abrami called the motion. ***Motion to pass the minutes of the August 24, 2022, as amended, passed unanimously.***

Hydro-Power Generation Plants

Madeleine Mineau, representing the Granite State Hydropower Association (GSHA), presented the viewpoint of the hydroelectric generation asset class. GSHA is the trade association for small hydros, generally defined as 5 megawatts (MW) and under, who represent approximately 50-60 member projects in New Hampshire. The projects range from very small, individually owned projects to larger companies that own a portfolio of small hydros. The following is a generalization as there are very different individual cases among the projects.

Extremely important to the Association is protecting the ability to negotiate payments in lieu of taxes (PILOTs) with municipalities that many of their members use; they are beneficial for both the asset owner and municipality. PILOTs avoid the necessity of valuing the property or asset and eliminates the potential for dispute or appeal. Projects that produce 1 MW or less may be owned by a business or municipality. Some may also have an agreement to participate in a group net metering or be an off taker for power in which case the more the asset is taxed, the more expensive it is to generate power. If a municipality owns its own hydro(s), they are exempt from property tax.

A single valuation would be preferred due to the concerning differences between the Department of Revenue Administration's (DRA) and the municipalities' values. Having one value would save a lot of time and resources on both sides and potential appeals. They feel the DRA generally does a good job of valuing with a few minor concerns. One is the lag time between submitting information and receiving a value. The energy markets change very quickly and at times it is felt the data being used is a little outdated. Another concern is that they use energy-wide standards. Using a hydropower industry standard that includes mega projects out west will not be representative of the actual conditions of the smaller projects in New Hampshire because the economics are very different.

Relating to information and confidentiality, the Association is not opposed to providing assessors access to their information if there were extremely clear and strict restrictions in law with very serious consequences for a breach in confidentiality. It is vital the information be kept confidential for each specific assessment.

With regards to original cost, there are some hydro projects that are very old and have changed hands many times so owners are not going to have access to that information. There is question whether original construction cost is still relevant due to the age of some of the projects and it was suggested that the focus should be on current conditions.

The question was asked whether there were a lot of local property tax appeals for hydros. Ms. Mineau responded that there is a good amount. The smaller project owners do not have the resources to appeal so there are not a lot for the very small projects. The larger owners and corporations that might have a whole portfolio in New Hampshire or are an international corporation do have the resources and willingness to appeal.

A request was made for a list of all the dams and which ones have negotiated PILOTs. DRA has provided some of that information and there are a lot of small projects that have net metering and those who generate 1 MW or less do not pay the DRA utility property tax and are exempt. Ms. Mineau stated she would have to contact the individual project owners to gather that information. She added that there were a lot of GSHA member projects that were not listed on the report DRA provided and others that were not included that maybe should be. There are some solar participants in net metering and therefore exempt from the utility property tax however there is a 2 MW solar array owned by NH Electric Co-op in Moultonborough and a 3 MW array in Merrimack that should have been on the DRA list, so it is unclear how they are being treated.

George Sansoucy Presentation

George Sansoucy introduced himself. He is a registered professional engineer in the State of New Hampshire since the 1970s, a certified general appraiser in 16 states, and an assessing supervisor in many states including New Hampshire, approved by the DRA. He owns George Sansoucy P.E., LLC

d/b/a Sansoucy Associates, runs an engineering and appraisal firm that merges the two disciplines together, has 18 employees and works all over the U.S.

They value approximately 70 communities in New Hampshire each year and have represented up to 95 communities in court cases, on a group basis. The following information comes from decades of experience in the valuation of utility property in New Hampshire.

Mr. Sansoucy began by explaining the basic electric system in New England that impacts the generation valuation for generation plants of all kinds. ISO-NE (Independent System Operator New England) is the legally authorized RTO (Regional Transmission Organization) established by Federal law that all parts in all states must be a part of. They control the transmission line and flow of electricity, the generators that are allowed to connect to the grid and move electricity and manage the wholesale market for electricity amongst all buyers and sellers of electricity within New England. They also dispatch bilateral contracts to parties that go in and out of the grid making sure power is properly dispatched in a safe manner.

ISO-NE encompasses the following six states: Maine, New Hampshire, Vermont, Massachusetts, New York and Connecticut. Each state has a pricing node, except Massachusetts that has 2, that determines the pricing regions, zones and the final price any generation plant will get from moving its power to ISO and selling in the open market. The pricing zone and region the power generates from is the price it receives. What is most important is that ISO-NE is isolated and only connected to the grid into the Hudson River area. We essentially trade power with ISO-NY; import and export power to and from New York but that has no impact on either region's prices.

It doesn't matter what the other 44 states in the nation do on taxation, valuation, electricity pricing, etc. It has no impact on us and we have no impact on them. What matters is what we do within the six New England states. A couple points on New York who has its own ISO. The state has a lot of nuclear plants and requires all plants, all forms of power including nuclear, to keep their original costs. They are a full fair market value state, appraisals are done at the local level, they require the cost approach method, reproduction cost new less deprecation (RCNLD) and allow the use of economic obsolescence. The income and market approaches have only been used in the last 15 years to help reduce the costs created by the nuclear plants. The use of book value is not allowed, and the floor is typically about 30% on RCNLD.

Important Considerations

ISO-NE defines and operates the electricity market in New Hampshire that generators compete in and get paid if they participate in the market. They define this market and how we operate, and they price the power at the node of the generator. The entire ISO-NE market is 38,427 MW of connected load that can move around the electric wires in all 6 states. New Hampshire has 4,707 MW that are certified and approved to be connected to load, which is about 12% of the total. Any impact on costs and reduce costs does not impact the price of electricity.

All six ISO-NE states are operating on full fair market value for generation plants which is a 3-legged, USPAP valuation using the cost approach, income approach, and market sales approach. This type of property does sell and has been selling, in the big picture, in the last 30 years so there are available market sales on most of these plants and many are changing hands on a routine basis throughout the U.S. We value these utilities at fair market value using the three approaches.

The information necessary to determine fair market value is the same for a commercial property, cost and income information and market information if there has been a related sale. A methodology is needed to assure the confidentiality of this information. In Massachusetts, Vermont and Maine, they receive the necessary information under a non-disclosure agreement. If considered, a standard template would be beneficial as the agreements are all drafted differently and takes up a lot of time to review each and every one. The information the DRA receives does not provide fair market value, it is not used in a 3-legged approach, and they value for a different purpose than assessors; it is therefore useless to assessors. However, towns and cities may use this information if it is modified.

All property taxes are built into the operational cost of each generator plant connected to the grid, in all six states, and all electricity generated that carries the property tax cost is moved throughout New England by ISO-NE.

Codifying a valuation method not based on the USPAP compliant fair market value, like the RSA 83-F tax, counties and school districts would collect less in property taxes.

Electric rates in New Hampshire would not go down for New Hampshire rate payers in proportion to the reduction of property taxes because the lower cost power is merged into the entire New England market by ISO-NE and enjoyed by all 6 states.

A reduction of property taxes, under the ISO-NE system, from the generation facilities in New Hampshire would go to the bottom line of the generation companies and not reduce the market price of electricity.

There was significant disagreement relating to these last two points regarding the relationship between rising costs like property taxes, and the effect on energy prices.

Mr. Sansoucy continued and indicated that a reduction in taxes from once class of taxpayer in a taxing jurisdiction, such as generation facilities, always becomes the tax burden of all other classes of taxpayers, such as other businesses and residential homeowners in the same taxing jurisdiction.

The taxation policy of 44 other states in the nation have no bearing or consequence on the valuation of generation property in ISO-NE.

The property taxation policy of the 6 New England states for power generators are interrelated through ISO-NE. The property taxation policies of the remaining 44 states are not interrelated to the taxation policies of the ISO-NE states.

Larger Generator Diversity in New Hampshire

According to the U.S. Energy Information Administration (EIA):

- Over 50% of NH's electricity generation is from nuclear energy
- 25% is generated by natural gas
- 7% is generated by hydropower
- 6% is produced by biomass
- 3% is wind
- 1.6% comes from coal and 1% from solar

Seabrook Station Nuclear Plant

The Seabrook plant cannot be valued using a model. The Town contracts annually with Sansoucy Associates to value the plant and has for the last 30 years and is often in litigation that results in 2 or 3 year agreements. This plant is owned by Nextera, one of the best reporting companies in the state once under a non-disclosure agreement. It is a unique plant in one community that has approximately 37 pollution control exemptions, Decommissioning Trust Fund and permanent nuclear waste storage being built daily that impacts the value. Currently, the plant just finished an agreement and is working on the 2022 value. The 2021 value is in the settlement process.

The Seabrook plant has their own cost structure that is very different to value. They have refueling cycles that make them a market maker; they bid into ISO at sub wholesale and essentially create the price structure in New England that everyone else layers on top of. New York has a similar methodology of valuing plants at fair market value using the cost approach less economic obsolescence and negotiate PILOTs for 5-8 years to come out of litigation. Mr. Sansoucy asserted the system in this case is not broken and the current parties involved with Seabrook, the Town and owners, do not want any interference.

Mr. Dolan agreed that nuclear in general is what is called a price taker in the energy market because they do want to operate 24/7. Another market is the capacity market, which is where fixed costs are and where most of those taxes are recovered. They are not just entered in as a price taker but offer in those going forward costs of which taxation is a significant portion. As Seabrook Station is a member of the NEPGA, Mr. Dolan stated that they would disagree with Mr. Sansoucy' s assertion that the owners of Seabrook station are content with the current system.

Mr. Sansoucy, representing the Town, stated that the most important thing to note is their value and negotiation in Seabrook has been the value for almost 30 years, not the DRA's value which is one third of their value. Nextera knows the value of their plant. They settle the Town's value that has been negotiated with the company and it is their value that has prevailed, not the State's. Representative Abrami stated this is a conversation that will be continued in the future.

Combined Cycle Natural Gas Plants (2)

Mr. Sansoucy continued, combined cycle natural gas plants have largely replaced the coal and oil plants. There are two in New Hampshire, and each is valued differently because of the gas main they are on. Granite Ridge, located in Londonderry, is a new line that gets gas from New York before going through Boston and their fueling pricing structure is substantially less than EP Newington who gets their gas from the line that goes through Boston first. Fuel is 70% of the operating cost for gas and EP Newington's gas structure is higher and their value lower on a pound for pound basis which is why they have to be valued separately. Both plants have worked with the towns for years and both are currently under settlement agreements. Mr. Sansoucy asserted these two are not broken. A formula would cause one to gain and one to suffer and neither to be right.

Coal Plant (1)

There are two coal plants in New Hampshire, one in Portsmouth that is closed, and one still in operation in Merrimack. These are the last two coal stations in all of ISO. The plant in Portsmouth is still standing but it will never run again. The plant in Merrimack is a capacity machine. It cannot be codified or put into a model due to the various moving parts, significant pollution control exemptions which account for 35-40% of its value and additional costs of generation and carbon. This plant remains necessary in high use periods until other forms of generation such as offshore wind, solar or additional hydro lines from

Canada take its place. This is a one off valuation called a wasting asset with a terminal life and will be until it closes.

Oil Plant (1)

There is one oil plant in Newington. It is black oil plant built by Public Service that currently stores fuel providing for a high degree of reliability in case of gas shortages or a gas main goes down. It collects capacity payments and essentially does not generate other than testing.

Mr. Sansoucy concluded the presentation of the central plants and moved into biomass and peaking plants. Before beginning, he stated that the valuation of these large plants is not broken despite being in litigation. Litigation does not imply a problem; rather it is a tool used to help solve differences and negotiate multi-year settlement agreements.

Mr. Dolan disagreed, from the asset owner's perspective the system is fundamentally broken, and this is why this commission was created. Other members agreed. Mr. Sansoucy referenced the 2015 BTLA decision stating the DRA's system is fundamentally broken. He added the towns manage these values very well and the companies agree to their values sometimes 2, 3 or 4 times the DRA value; it is the state that is losing money on the $6.60.

Biomass Plants (2 Plants Currently Running; 5 Plants Closed)

Mr. Sansoucy continued with his presentation. There are seven total biomass plants in the state; two are currently running and five are closed. His company values the bulk of these; the plants closed or in bankruptcy are valued at scrap value. The Berlin plant is on a long-term PILOT with Public Service and power purchase agreement and the Bridgewater plant continues to run due to very capable management and is revalued once every five years. The company always agrees, and it never sees a courtroom. Biomass plants are the best running fossil fuel plants, outside of Seabrook, for reliability and electric generation due to fuel diversity and ability to store wood.

Fossil Fuel Peaking Plants (5-Jet Engines) Quick Start Capability

The remaining fossil plants are approximately 17-20 MW jet engines, that are strategically located throughout the state in Northumberland, Tamworth, Portsmouth and two in Merrimack. These plants can fire up and go to full load in 10 minutes and hold the grid up in their locations. These plants were built for grid reliability, they are valued as a capacity machine and get paid a capacity payment and startup fee. Old ones are scrapped to fix the ones in place and if one cannot be fixed, it is replaced. They are designed to run short term rather than day in and day out and have thousands and thousands of gallons of fuel. This type of plant sells around the Northeast so there are a lot of comparable sales; there is cost information because they are constantly being replaced and income is reported.

Other Gas Turbine Jet Plants (2) and Internal Combustion Plants (2)

There are two other sets of gas turbine jet engine plants that operate in the state, Turnkey Landfill in Rochester and the UNH Power Plant in Durham. Both run on methane gas, connect to the grid and are part of the grid capacity for New Hampshire. They value all the property at UNH plant; the plant is tax exempt, but they do make PILOT payments to the town for town services.

Turnkey Landfill, in Rochester, has a long standing tradition of long-term PILOTs with the City of Rochester. Gas turbine plants should be kept out of a model because they are running on landfill gas which is a completely different set of economics.

There are also two internal combustion plants, Turnkey Landfill in Rochester and Four Hills Landfill in Nashua. These are large, methane gas, diesel plants. Each one is unique because of the flow of gas, how the gas is cleaned up and the pollution control devices on them for the garbage. Most either have a PILOT or settlement agreement and nothing is broken there.

Stationary Waste to Energy Plants (1)

The Wheelabrator plant in Concord is a refuse to energy plant that is 100% taxable with the exception of the pollution control exemptions. It is a highly reliable generator of electricity which is a reduction to their costs and reduces the City's tipping fee for the waste. The city own's the ash pit and ash landfill creating a self-enclosed loop. The City of Concord values this plant once every five years; they negotiate with the Company and agree on a value. There is nothing broken here.

Hydroelectric Generation

There are two classes of hydroelectric plants in New Hampshire, big ones and little ones. The bigger ones are on the Connecticut, Merrimack and Androscoggin Rivers.

Connecticut and Merrimack River Systems

The Connecticut River hydro's straddle New Hampshire and Vermont. Vermont values their side of the river based on full fair market value; we value the bulk of those in New Hampshire. The chart below depicts the approximate allocated percentages of hydroelectric improvements on the Connecticut River between Vermont and New Hampshire.

	A	B	C
Row #	Facility	Percentage of Improvements in Vermont	Percentage of Improvements in New Hampshire
1	Moore	16.2%	83.8%
2	Commerford	17.5%	82.5%
3	McIndoes	11.4%	88.6%
4	Wilder	41.6%	58.4%
5	Bellows Falls	85.0%	15.0%
6	Vernon	28.0%	72.0%

This information is based on a cost base study conducted every 10-years. These are the largest hydros in New England. What is most important is that Commerford, Moore and McIndoes are 15-mile falls, they are licensed as one operating unit, they control and own all of the flowage rights of the Pittsburg Lake, upper Connecticut, Murphy Lake and Connecticut 1, 2 and 3 dams, which is their flow and storage. They are peaking hydros meaning they completely peak during the high time of the day for several hours and send their peaking power down two lines to Boston. They are exporting taxes; getting paid the highest price, including capacity payment, while generating the least. Wilder, Bellows Falls and Vernon are called modified run of the river plants, they peak less but they do not draw the pond down as much. The value on these six hydros is always higher than a standard run of the river plant because they are operating with the highest price of electricity and the least amount of generation. There are six generators in New Hampshire and four in Vermont. Each state values the assets and the split, respectively, therefore each is modeled separately. None of the towns want to upset that.

Androscoggin River

The Androscoggin is one of the most highly controlled rivers in the U.S., it is a working, industrial River with a tremendous amount of storage. All of the dams on the Androscoggin are part owners of the Androscoggin Water Company and they control those storage dams. The dams that lead into Berlin are all licensed together, they operate together, and ISO-NE lists them as one 30.4 MW group of certified plants. The major plants on this River operate as flow controlled, modified run of river through upstream river storage. This system does not respond to any other system in New England as far as its operation and its valuation and its expense ratios that include the dam's stored water dams in Maine. So that one doesn't mold into the other ones.

Merrimack River

Central Rivers owns all five plants on the Merrimack River. They have never reported any information to any of the five towns since purchasing them from Public Service and it is a serious issue. These plants run modified run of the river; they are allowed to peak so their valuation is always higher than the general average MW. In the world of hydros, nothing correlates nor should it; they are all about situs.

Other Larger Hydroelectric Plants (>3 MW)

For their purposes, the split for larger hydros is 3 MW and up and there are six plants that fall into this category. There are two conversations. One about the smaller hydros and the other about the larger hydros that are licensed together, operate together and pay operating costs together. The two groups will not conform to the valuation of the other. This line of demarcation is created because the valuation of each plant is so complex.

The question was asked whether it was fair to group those together if there are really independent. Mr. Sansoucy responded that it was because they all have license performance, revenue and expenses as a group. This is the fence line. The 15-mile falls sweeps in three plants and their costs and then you allocate the applicable plant information in a valuation. Ms. Mineau stated having the same license should not mean they are valued differently; it doesn't change where they are located or the economics of the project.

Other Small Hydroelectric Plants (<3)

There are 57 hydros in the small category, under 3 MW, that lend themselves to a particular type of formula. The bridge is those six plants on the Connecticut and Merrimack rivers. Some are going to be on one side, some are going to be on the other.

Photovoltaic Plants (18)

There are 18 photovoltaic plants in New Hampshire. Mr. Sansoucy suggested these plants lend themselves to a statewide formula because they are pretty stable, have degradation, and the same sun covers everyone. The only variables would be the operating costs and degradation of the panels. He added that he built the first valuation model for photovoltaics for the state of Massachusetts to apply statewide. He asserted it would be welcomed by towns and worthwhile.

Wind Generation Plants (5)

The five wind generation plants in New Hampshire are all on some form of PILOT formula. They are approved through a site valuation committee process to get financing, typically 20 years, and the current plants are set until 2030-2035. If valued, the common variables would include vintage, age, location and the number of turbines which would impact fixed costs. Earlier plants are less efficient because they are

shorter, new plants are bigger and higher and get more wind. The capacity factor measures the effect of the location. With only four or five variables, a formula could be used however the owners would not want to see any changes to their PILOTs.

Future Trends

Future trends include wind, as they will continue to be built and formulaically guidance could be provided to site valuation committees, owners and municipalities. Offshore wind is coming but how, when and how we may be involved, if at all, is unknown. Solar will continue and it lends itself to a formula. Battery is coming. These are different because they store power rather than generate power. The intent of the battery is to level the market during peak time.

There was some debate about whether ISO-NE has put the brakes on the approval of battery projects and is intentionally taking a slower approach or if they are the same as any other project that gets proposed through ISO with few being approved and built each for their own reasons.

Representative Merner indicated that there was a proposal for a battery facility in Littleton that was voted down due to a lack of understanding of the project by the town. A bill was passed to put it through the Senate Valuation Committee to provide more explanation and understanding.

Mr. Sansoucy suggested ISO is intentionally progressing moderately on battery projects because they bring problems that need to be resolved and they need to understand the impacts. Other states are looking for a formula that will work. Connecticut is working with a project and may be a model to work with as an example however it is in its infancy, and it does not solve all the problems.

Representative Abrami asked how many locations there are currently in New Hampshire. Ms. Mineau stated there is only one of significant size, a 2 MW solar array in Moultonborough. There have been a couple of proposals but no other approvals.

The Need for a Reporting Requirement

Mr. Sansoucy explained the reporting requirement is what started the discussion in House Bill 410, and it continues to be a significant problem. What the state receives is anecdotal to what the assessors need to value property. The available sales that may be used for the sales approach are regional and have to be as there are not enough facilities in New Hampshire alone, but the price of power is known which can be adjusted to make correlations. Information is available for the 3-legged appraisal.

The information sought by appraisers to use in producing a valuation must be plant specific; without it, they have to make assumptions which creates litigation. Accurate information into the valuation process will lead to accurate valuations out of the process. In their experience, most generators do not voluntarily provide the information requested by towns and cities.

Maine and Massachusetts have strong reporting laws that may be used as a guideline. In Massachusetts there is a provision that if the information is not provided, the owner may be barred from making an appeal. There are other states who required the taxes be paid to have the ability to file an appeal.

Representative Abrami acknowledged there is a lot of information to digest and there is some disagreement which is expected. There are three more meetings scheduled. Information relating to House Bill (HB) 700 will be distributed for review and he would like to see ideas put on the table. The

difficulty lies in the heterogenous types of facilities that may require some separation into different categories to standardize. It does not look like transmission is going to be included.

Moving forward, attempting to mirror the outcome in HB 700, would be difficult. In the case of generation facilities, information is not available to test. A process was suggested rather than a formula to ease the impact of a change and a copy of the Maine statute was requested. The idea of separating generation assets into groups was questioned whether it was practical and fair to give a formula to one category and a process to another.

There are some assets for which a formula may be an option, but those assets may also be able to enter into a PILOT agreement, which may limit the usefulness of a formula. It was stated that PILOT agreements are completely negotiated so there is no standard or floor, other than commonality for the same asset type within the same municipality, which does lead to differences and ranges in value for similar assets. PILOT agreements are typically for five years but can be extended in some cases.

Representative Abrami requested a copy of the Maine statute and the 2015 PSNH BTLA decision. He stated there are some ideas to move forward with however he is not going to rush this until a consensus is met and the impact of the solution(s) is known.

Meeting Schedule

Thursday, October 6, 2022, at 9:00 a.m. at the DRA

Friday, October 14, 2022, at 9:00 a.m. at the DRA

Tuesday, October 18, 2022, at 9:00 a.m. at the LOB

Meeting adjourned 10:38 a.m.

Respectfully submitted,

Stephanie Martel
Municipal and Property Division
NH Department of Revenue Administration

Commission to Study the Assessing of Power Generation and Utility Transmission

Approved As Amended

DATE: October 6, 2022 **TIME**: 9:00 a.m.

LOCATION: Department of Revenue Administration, 109 Pleasant Street, Concord NH

COMMITTEE MEMBERS

Representative Patrick Abrami, Chairman –Ways & Means
Representative Troy Merner – Science, Technology & Energy
Representative Lucius Parshall - Science, Technology & Energy
Senator James Gray
Betsey Patten, Assessing Standards Board (ASB)
Adam Denoncour, Designee, Department of Revenue Administration (DRA) - *Excused*
Attorney Christopher Boldt, NH Municipal Association (NHMA)
Dan Dolan, New England Power Generators Association (NEPGA)
Scott Bartlett, NH Association of Assessing Officials (NHAAO)
Madeleine Mineau, Granite State Hydropower Association (GSHA)

Representative Abrami called the meeting of the Commission to Study the Assessing of Power Generation and Utility Transmission to order at 9:00 a.m.

Minutes

Attorney Boldt requested the following changes to the minutes of September 28, 2022:

- Page 5, Paragraph 5, Line 3 – added the word "on" to read: ", is ***on*** a new line that gets from New York…"
- Page 5, Last Paragraph
  - Corrected the municipal references:
    - Line 2 - ", and one is still in operation in ~~Merrimack~~ ***Bow***.
    - Line 3 - "The plant in ~~Merrimack~~ ***Bow*** is a capacity machine.
- Page 6, Under Heading Biomass Plants (2 Plants Currently Running, 5 Plants Closed)
  - Clarified the following sentence:
    - Lines 3 and 4 – "The Berlin plant is on a long term PILOT with ~~Public Service~~ ***the city*** and power purchase agreement ***with PSNH*** and the…"
  - Line 6 – Corrected type of fuel plant , "are the best running ***non***-fossil fuel plants
- Page 6, Under the Heading Fossil Fuel Peaking Plants (5-Jet Engines) Quick Start Capability
  - Line 2 – Corrected municipality, "and two ~~in Merrimack~~ ***at Bow***.

Mr. Bartlett ***motioned to approve the minutes of September 28, 2022, as amended***; Mr. Dolan ***seconded the motion***. Chairman Abrami called the motion. ***Motion passed unanimously.***

Review of Court Cases

The following court case decisions and opinions were provided:

BTLA Decisions

- In Re: Public Service of New Hampshire (2015)
- In Re: New Hampshire Electric Cooperative Inc (2015)

Supreme Court Opinions

- Appeal of Public Service Company of New Hampshire d/b/a Eversource Energy (2017)
- Appeal of New Hampshire Electric Cooperative Inc (2017)

Attorney Boldt stated that there were two sets of cases for Tax Years 2010 thru 2012 that resulted in the BTLA issuing decisions stating the DRA's values were not valid opinions of value. Both of these decisions were appealed to and upheld by the Supreme Court.

Attorney Boldt explained that the 2015 BTLA decisions were the first in which the DRA Utility Appraiser, Scott Dickman, was put on the stand. The BTLA determined that there was one opinion of value, the total value of the company, and that the allocation was not a valid opinion of value and did not meet the standards of being an appraisal by location because of the original cost methodology used. This method considers the original cost in one community spread across the original cost of the entire system creating a percentage allocation not tied to reality. The BTLA also used the phrase "black box" to describe the lack of transparency requirements that all other property appraisals are subject to. Two different experts testified for the utility companies, with one attesting to the use of net book value versus original cost for utilities; and the Supreme Court upheld the BTLA's decisions finding the flaws of the allocation methodology reasonable.

There was discussion of the required use of the HB 700 formula for valuing distribution assets and the inability for towns to use the DRA number for companies with both transmission and generation assets because each type of asset cannot be separated out. Mr. Dolan offered, in terms of process, that generation is different from distribution because it is a revenue generation asset, that its revenue is predicated on how it performs in the market. He feels the cost base approach is difficult to use as is the market approach. As it has been stated, each of these individual assets is unique and while there are sales, most are sold in a portfolio where the costs of the individual facilities are not disclosed. With the diversity of these assets and the fluctuations in the market, they feel an income-based approach is the only way to get at this across the diversity of the different types of generating assets.

Attorney Boldt agreed that income was one of the three pillars of valuation. He added that there has been litigation, in particular Great Lakes Hydro/Brookfield facilities in Berlin in 2010 or 2011, that questioned where the income comes from. For example, there may be an entity generating the power, but it goes to a related mid-level entity that sells to a third related entity. The BTLA in that decision found that the mid-level marketing arm was too much to draw off of and a way of testing that income depending on the generator was needed.

Ms. Mineau expressed concern about drawing a line that small projects are owned by individuals and big projects by big companies. The big multi-national companies do have some very small hydros in their portfolio and complex corporate structures. Attorney Boldt suggested being part of a large corporate structure makes it something that, in theory, could be carved out; so that it is not just about the size; it is about the size and whether it is a stand-alone property. Mr. Bartlett added that property, utility assets within a municipality, are valued. He does not consider the corporate structure that the DRA does, he appraises only the property within his specific municipality, which is a statutory requirement.

Attorney Boldt referenced the Great Lakes Hydro case that found management and operating expenses associated with the corporate levels were not legitimate expenses and could not be taken out of the income generated. Ms. Mineau felt that was outrageous, stating that multiple facilities owned by one entity cannot run without employees, so not considering the pay of employees seems odd not to consider a legitimate expense. Attorney Boldt added that it was viewed as too much and could not be allocated because it was company wide. The profit was in the second and third levels up rather than where the plant was actually generating the money. A request was made for a copy of the decision.

NE Power Generators Association (NEPGA) Memorandum

Mr. Dolan explained the memo is NEPGA's view on the basic electricity market structure that has been discussed. There are several market products available. An individual facility will make a price offer to provide a service. If there is nobody else who can provide that same service for a lower price, that facility is selected and paid to provide the service. This is called a uniform clearing price, which is the last marginal unit that can meet the need for the consumer, or the reliability need in the market. If an offer is above that price, that facility is not selected and is not paid.

Ms. Mineau mentioned different market products: for hydros there are three revenue streams, energy, capacity and renewable energy certificates (recs) for the renewable generators. Companies offer recs for a price, then the utilities take the cheapest as it is their responsibility to fulfill their obligation in the most cost effective manner for the ratepayers. The Public Utilities Commission (PUC) reviews these to make sure utilities are doing what they are supposed to do.

Mr. Dolan added to the mention of the revenue streams. There are four main revenue streams the first is energy. Energy is the most volatile as it has to provide electricity in 5-minute increments. Capacity is the commitment of being online for one year at a time with an annual auction held 3-years into the future; this is also called the reliability market. If a facility commits to being there and it is not, there are significant penalties. The third is called ancillary services which is the electrical engineering, voltage support, black start reserves, and it is the smallest revenue stream at this time. However, as more wind, solar and other variable types of resources become available, the expectation is this revenue stream will grow. The fourth is the value for being a renewable, low carbon or zero carbon resource, which are the renewable energy credits.

Mr. Bartlett suggested looking more into payment in lieu of tax (PILOT) agreements for hydros because there is no limitation based on megawatts and as long as a facility is renewable, a PILOT is an option. The statute already exists; there would just need to be some guidelines for making recommendations to municipalities. It was mentioned that statute could be modified to include generation utilities and that other states have done that.

Maine and Massachusetts Statutes

The Maine statute allows for the sharing of confidential information to local assessors and strict penalties for the disclosure of that confidential information. The Massachusetts statute requires information be provided to local assessors however it lacks confidentiality requirements. It also penalizes companies for not providing information within 60 days by taking away their right to appeal. Mr. Dolan stated their biggest concern is the lack of confidentiality requirements and the penalty for not providing information has some flaws. Both statues cover all properties not just utilities.

Mr. Bartlett stated that assessors are bound by ethics and would lose their license and certification for disclosing confidential information. Mr. Dolan stated the issue would be having to negotiate non-disclosure agreements with each assessor versus having a more hardwired solution in statute.

Mr. Dolan expressed some concern with the "bleed over" effect and felt that may be causing some of the pullback on companies disclosing information; it is perceived that information is being used against them in their assessments. With the DRA, they have not seen that from one facility to another. Mr. Bartlett stated assessments are supposed to be fair and similar properties treated the same way. Assessors value property, they do not value a company.

Summary of House Bill 700 Final Version

Representative Abrami summarized the legislative changes created by House Bill 700:

- The reasoning behind the changes is explained in the Purpose and Intent. Most of the information came from the Commission Report.
- A new section was created in RSA 72:8
  - RSA 72:8-d Valuation of Electric, Gas and Water Utility Company Distribution Assets
    - "Utility company assets" was defined
    - What was not a utility, was defined
    - A 5-year glide path was implemented using a formula with 2018 values as the base for:
      - Electric, Gas and
      - Water
        - Including the assessment of well heads at current use values
        - Rights-of-ways
- The right to appeal through the BTLA only (does not include Superior Court)
- Forms
- Rulemaking
- Amended RSA 75:1 relating to RSA 72:8-d distribution assets

He concluded that the simplicity of this process was that the information was public information which allowed for testing and the ability to review impact of the change.

Discussion

Representative Abrami asked if using the DRA values was still considered an option. Mr. Dolan felt it was, with the caveat that the DRA resources be bolstered, and certification be required for the

individual(s) establishing the values. If the utility companies are to continue being taxed at both the state and local levels, efficiency dictates a common assessment be used. If the state has the resources, then it should be done at a central location and the DRA is the obvious choice.

Attorney Boldt stated that the state relies so heavily on property tax and since the beginning, statute has put it on the local municipalities. The disparity between values is a problem. The DRA values cannot be verified and there are court decisions and opinions describing flaws in their process. He does not see the municipalities agreeing with that.

Mr. Bartlett stated the DRA used to perform revaluations and their charge changed to monitoring revaluations. That is what feels the DRA should be doing for utility valuations, monitoring versus establishing values.

Ms. Mineau added that there are also significant variations between the values set by local assessors using different methods. Mr. Dolan agreed, adding that they have seen bleeding between one competitor versus another on valuation and they feel it is inappropriate, particularly a value based on an income method, for these types of facilities. Ultimately, it was suggested that assessors are not doing what the DRA is doing. Assessors value a specific property within their municipality; the DRA values the company.

A brief discussion followed about whether or not reporting of confidential information would be just for the utility companies or for all properties; the charge of the commission relates only to generation assets. There was a question whether or not this change would result in a better outcome or just more requirements for the utility companies.

Meeting Schedule

Friday, October 14, 2022, at 9:00 a.m. at the DRA

Tuesday, October 18, 2022, at 9:00 a.m. at the LOB

Meeting adjourned 10:53 a.m.

Respectfully submitted,

Stephanie Martel
Municipal and Property Division
NH Department of Revenue Administration

Commission to Study the Assessing of
Power Generation and Utility Transmission

Approved as amended

DATE: October 14, 2022 **TIME**: 9:00 a.m.

LOCATION: Department of Revenue Administration, 109 Pleasant Street, Concord NH

COMMITTEE MEMBERS

Representative Patrick Abrami, Chairman –Ways & Means
Representative Troy Merner – Science, Technology & Energy
Representative Lucius Parshall - Science, Technology & Energy
Senator James Gray
Betsey Patten, Assessing Standards Board (ASB)
Adam Denoncour, Designee, Department of Revenue Administration (DRA) - *Excused*
Attorney Christopher Boldt, NH Municipal Association (NHMA)
Dan Dolan, New England Power Generators Association (NEPGA)
Scott Bartlett, NH Association of Assessing Officials (NHAAO)
Madeleine Mineau, Granite State Hydropower Association (GSHA)

Representative Abrami called the meeting of the Commission to Study the Assessing of Power Generation and Utility Transmission to order at 9:00 a.m.

Minutes

The draft minutes of October 6, 2022, were not available for this meeting.

Hydro-Quebec Acquisition

Mr. Dolan briefly explained the acquisition of Great Lakes Hydro by Hydro-Québec. NEPGA represents Great Lakes Hydro LLC. Previously, these same group assets were once owned by TransCanada, which is now TC Energy. As part of this transaction, Great River Hydro, as an entire corporate entity, will go over to Hydro- Québec for approximately $2 billion (US) and remain a stand-alone corporate entity just with a single investor and owner. It still has to go through months of regulatory process, so it is not yet final. And, as this is a transaction for an entire company, there is no breakdown on the valuation of individual facilities. The sale impacts 13 total facilities including 10 or 11 in New Hampshire. Representing a sale of a company and not a discreet set of assets, the sale also includes a marketing arm, operations and all functions of management.

Additional Court Cases

Attorney Boldt provided copies of the BTLA decision for Great Lakes Hydro America, LLC v. City of Berlin and Great Lakes Hydro America, LLC v. Town of Gorham to show that the

hierarchal marketing function was not considered valid. Due to the marketing arms and power purchase agreement (PPA) from the generator to the mid-level marketing arm of Brookfield, this sale was not treated as an arm's length transaction. They also excluded the management fees reported by the taxpayer for those Brookfield entities. This decision was appealed to the NH Supreme Court; and the parties reached a settlement at a value higher than that awarded by the BTLA, which remained in place until last year. The new value is now under litigation.

Final Report of the Commission

Representative Abrami suggested the Commission is making some progress however not enough to support proposed legislation by November 1. He distributed and explained a draft final report for review and discussion.

The report includes members of the Commission, the Commission's charge and purpose, process and procedures including meeting dates, topics discussed and speakers, findings and recommendations. He added that the minutes will be included with the report.

Findings

Mr. Dolan requested the following change for finding number 9:

9. ~~We understand what the NH courts have ruled on this topic~~. ***More discussion is needed on how the NH courts have ruled on this topic and the applicability of such rulings under the current industry structure.***

Mr. Dolan explained that he feels the discussions on the court cases presented related to vertically integrated utilities versus emerging generation structures. He believes this would be a good place to start the second round to determine what degree utilities are bound by those precedents and where there might be room to continue to maneuver. As there has not been overall agreement, he feels further discussion is needed.

Attorney Boldt agreed that overall agreement may not have been met but felt that the court cases provided guidance to the legislature to create a system. He did not have an objection to the change and added that there may be other decisions to consider.

Representative Abrami indicated the goal is the get a bill filed to keep this in the House. He will work towards getting the bill fast tracked to be able to start back up in March of next year.

Discussion followed as to whether transmission should be included in the next bill as it had not been discussed by the Commission and, if included, whether a seat should be added to the membership. There was concern expressed about timing, expanding the focus before completing the generation task and whether or not there were issues relating to transmission that needed to be legislated.

Simon Thomson, representing Sheehan Phinney Capitol Group, stated that they represent National Grid. If transmission becomes part of the conversation, they believe a seat should be

added to the membership The question was asked whether National Grid had an issue with their assessments. He responded they do not; however, they do have an issue with providing the documentation that was in the original bill filed by Mr. Sansoucy. If transmission is part of the conversation, they feel a seat should be added to the membership.

After some discussion, it was felt that the commission should work towards completing the generation charge and that transmission was worthy of its own bill. The suggestion was made to file two bills, sequentially, so that transmission would not start until this commission ends and legislation is filed. Representative Abrami suggested a bill can be filed and passed in 2023 to be completed in 2024, which will eliminate the pause the current Commission is facing now.

Attorney Boldt suggested the following changes under Findings:

1. Assessing of a heterogeneous mix of power generation assets using a ***single*** cost approach such as was done with utility ~~generation~~ ***distribution*** is most likely not possible.

6. We have current documents on all the power generation plants, the towns they impact, the municipal assessed values, who does the municipal assessing, the DRA assessed values, and which plants have settlement agreements[~~.~~] ***or payment in lieu of tax agreements (PILOTs).***

7. More discussion is needed on ~~settlement agreements~~ ***on potential expansion of the availability of PILOTs***, especially if encouraging more such agreements is part of the solution.

9. ~~We understand what the NH courts have ruled on this topic~~. ***More discussion is needed on how the NH courts have ruled on this topic and the applicability of such rulings under the current industry structure.***

10. In the first sentence, change the semicolon after the word "contemplate" to a comma "contemplate[~~;~~],"

It was suggested to add a statement to the Findings reporting that transmission was bifurcated from the original charge. The following languages was suggested to insert as number 1: ***The Commission decided early on to bifurcate transmission and to focus on generation issues only.***

Recommendations

The Commission unanimously recommends that a bill be filed to continue this Commission in the 2023 session. We recommend that this be a House Bill and that it be fast tracked in the House and then fast tracked in the Senate. We do not see any changes in ~~the goals of the commission or~~ the make-up of the Commission. We also recommend a final report date of November 1, 2023. ***We do recommend bifurcating the transmission issues into a new bill for a separate commission to be activated after the generation commission and its potential legislation is finalized.***

Representative Abrami summarized that "transmission" will be removed in the new bill. And, at the same time in November, a new bill will be filed for transmission with an end date of 2025, with the recommendation to retain the bill to see the generation bill's impact.

This will be the last meeting of the Commission until the next bill and appointments have passed.

Attorney Boldt ***motioned to accept the final report as amended***; Mr. Dolan ***seconded the motion***. Representative Abrami called the motion. ***Motion passed unanimously***.

Meeting adjourned 9:55 a.m.

Respectfully submitted,

Stephanie Martel
Municipal and Property Division
NH Department of Revenue Administration

Voting Sheets

Senate Energy and Natural Resources Committee

EXECUTIVE SESSION RECORD

2023-2024 Session

Bill # SB 225

Hearing date: 2/14/23

Executive Session date: 2/15/23

Motion of: DPP **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	✓			✓	
Sen. Pearl, Vice Chair	✓		✓	✓	
Sen. Birdsell	✓			✓	
Sen. Watters	✓	✓		✓	
Sen. Altschiller	✓			✓	

Motion of: Comm. amend **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	✓			✓	
Sen. Pearl, Vice Chair	✓		✓	✓	
Sen. Birdsell	✓			✓	
Sen. Watters	✓	✓		✓	
Sen. Altschiller	✓			✓	

Motion of: OTPA **Vote:** 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	✓			✓	
Sen. Pearl, Vice Chair	✓		✓	✓	
Sen. Birdsell	✓			✓	
Sen. Watters	✓	✓		✓	
Sen. Altschiller	✓			✓	

Reported out by: Sen. Pearl

Notes:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, February 15, 2023

THE COMMITTEE ON Energy and Natural Resources

to which was referred **SB 225**

AN ACT	reauthorizing the commission to study the assessing of power generation and utility transmission.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0537s

Senator Howard Pearl
For the Committee

Nikolas Liamos 271-7875

ENERGY AND NATURAL RESOURCES

SB 225, reauthorizing the commission to study the assessing of power generation and utility transmission.

Ought to Pass with Amendment, Vote 5-0.

Senator Howard Pearl for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB225

Docket Abbreviations

Bill Title: (New Title) establishing the commission to study the assessing of power generation.

Official Docket of **SB225.:**

Date	Body	Description
1/24/2023	S	**Introduced** 01/19/2023 and Referred to Energy and Natural Resources; **SJ 5**
2/9/2023	S	**Hearing:** 02/14/2023, Room 103, SH, 09:00 am; **SC 10**
2/16/2023	S	Committee Report: Ought to Pass with Amendment **#2023-0537s**, 02/22/2023; **SC 11**
2/22/2023	S	Special Order to when Senator Pearl returns, Without Objection; 02/22/2023; **SJ 8**
2/22/2023	S	Sen. Bradley Withdraws Motion to Special Order; 02/22/2023; **SJ 8**
2/22/2023	S	Committee Amendment **#2023-0537s**, AA, VV; 02/22/2023; **SJ 8**
2/22/2023	S	Sen. Altschiller Floor Amendment **#2023-0641s**, AA, VV; 02/22/2023; **SJ 8**
2/22/2023	S	**Ought to Pass with Amendment**s 2023-0537s and 2023-0641s, MA, VV; OT3rdg; 02/22/2023; **SJ 8**
3/20/2023	H	Introduced (in recess of) 03/16/2023 and referred to Science, Technology and Energy
4/11/2023	H	Public Hearing: 04/17/2023 09:00 am LOB 302-304
4/11/2023	H	Full Committee Work Session: 04/17/2023 01:00 pm LOB 302-304
4/11/2023	H	Executive Session: 04/18/2023 09:00 am LOB 302-304
4/25/2023	H	Committee Report: Ought to Pass with Amendment **#2023-1397h** 04/18/2023 (Vote 20-0; CC)
5/4/2023	H	Amendment **#2023-1397h:** AA VV 05/04/2023 **HJ 13**
5/4/2023	H	**Ought to Pass with Amendment** 2023-1397h: MA VV 05/04/2023 **HJ 13**
6/1/2023	S	Sen. Avard Moved to Concur with the House Amendment, MA, VV; 06/01/2023; **SJ 16**
7/19/2023	H	Enrolled (in recess of) 06/29/2023 **HJ 17** P. 18
7/18/2023	S	Enrolled Adopted, VV, (In recess 06/29/2023); **SJ 20**
8/9/2023	S	Signed by the Governor on 08/04/2023; Chapter 0228
8/9/2023	S	I. Section 2 Effective 11/01/2023
8/9/2023	S	II. Remainder Effective 08/04/2023

NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 225 **Senate Committee:** ENR

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee
X All Calendar Notices
X Hearing Sign-up sheet(s)
X Prepared testimony, presentations, & other submissions handed in at the public hearing
X Hearing Report
___ Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

1 - amendment # 0537s ___ - amendment #_____
___ - amendment #_____ ___ - amendment #_____
X Executive Session Sheet
X Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

1 - amendment # 0641s ___ - amendment #_____
___ - amendment #_____ ___ - amendment #_____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
___ Enrolled Bill Amendment(s)
___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house
___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

[signature] 8/2/23
Committee Aide **Date**

Senate Clerk's Office _____