

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing sections 523 through 530 with the following:

2
3 523 Solid Waste Facility Site Evaluation Committee; Purpose and Findings. The general court
4 hereby finds and declares that:

5 I. There is a compelling state interest in maintaining adequate, reasonably priced disposal
6 capacity for solid waste generated in New Hampshire.

7 II. As a result of changes in federal and state law over the past 50 years and the economics
8 of solid waste management, waste disposal facilities are sited regionally in New Hampshire, but they
9 provide disposal capacity for municipalities throughout the state, often irrespective of whether a
10 municipality is in close proximity to the disposal facility.

11 III. The siting of new disposal capacity is often locally controversial and the use of local
12 land-use regulation to prevent siting of new capacity can result in the frustration of the state's
13 interest in maintaining adequate capacity. The general court prefers that new landfill capacity be
14 developed in expansions of existing permitted landfills instead of on greenfield sites because existing
15 sites have already been carefully studied before being permitted and have been found suitable for
16 landfilling by the department of environmental services.

17 IV. The department of environmental services typically has decades of familiarity with
18 conditions at such sites and the expansion of an existing use is generally consistent with the overall
19 objectives of land-use controls.

20 V. The state's preference for such expansions warrants that the state's regulatory and policy
21 interests take precedence over local regulation and restrictions, particularly because the
22 department's rules provide robust protection of human health and the environment.

23 VI. Because of the overriding state interest, the department already regulates virtually
24 every aspect of landfill siting and development that would ordinarily be regulated under local zoning
25 and planning ordinances.

26 VII. This legislation establishes a preference for siting of new landfill capacity on land
27 adjacent to existing permitted landfill capacity and gives the department of environmental services
28 comprehensive exclusive authority to approve the siting of such new capacity.

29 VIII. This legislation leaves unchanged current law regarding siting of new landfill capacity
30 on land that is not adjacent to existing permitted landfill capacity.

31 524 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-
32 M:4 by inserting after paragraph X-a the following new paragraph:

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1 X-b. "Landfill expansion" means an addition to the permitted capacity of a landfill or the
2 construction of previously permitted capacity for an existing landfill on a parcel or adjacent parcels,
3 including those separated by a right of way, owned by the landfill operator or its affiliates. A landfill
4 expansion does not include a remedial landfill expansion. A landfill expansion may either be
5 integrated into an existing landfill or be developed separately from the existing landfill.

6 525 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-
7 M:4 by inserting after paragraph XX the following new paragraph:

8 XX-a. "Recycling facility" means a collection, storage, and transfer facility which collects,
9 stores, and prepares recyclable materials for market and transfers both processed recyclable
10 materials to markets for recycling and bypass waste for disposal.

11 526 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-
12 M:4 by inserting after paragraph XXI the following new paragraph:

13 XXI-a. "Remedial landfill expansion" means an expansion of an existing landfill that has
14 ceased operating, that is not in compliance with the department's then-current rules for the design
15 and construction of landfills, and that is a source of ongoing contamination of soils, surface water, or
16 groundwater, where there is no solvent person other than state, county, or municipal government
17 that can be compelled by law to fully remediate the existing landfill site and where expansion will
18 provide the permittee with revenue to effectuate a substantial reduction in such ongoing
19 contamination and provide substantially greater protection of the environment during operation and
20 upon closure of the expansion than would be the case if the expansion were not permitted.

21 527 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-
22 M:9 by inserting after paragraph XV the following new paragraph:

23 XVI.(a) To implement the state's preference for landfill expansion over greenfield siting of
24 new landfill capacity and notwithstanding any other provision in this section, landfill expansions
25 shall be subject to approval solely by the department, and no municipal ordinance, bylaw, rule,
26 regulation, agreement, or other restriction shall be effective to prevent the siting of a landfill
27 expansion approved by the department. Nothing in this subparagraph shall be construed to limit
28 the jurisdiction that any other state department may have over such landfill expansions.

29 (b) The owner of any landfill receiving an approval of a landfill expansion under this
30 paragraph and who has an existing agreement with the host municipality to provide free services
31 and pay the municipality a fee for each ton of waste received at the landfill shall increase the total
32 value of such services and fee to a minimum of \$2.50 per ton for all waste received in the landfill
33 expansion.

34 528 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-
35 M:11 by inserting after paragraph VII the following new paragraph:

36 VII-a. Any remedial landfill expansion or facility designed to manage food waste in
37 accordance with RSA 149-M:27, V(b) shall be deemed to satisfy the requirements of paragraph III.

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1 529 New Subdivision; Solid Waste Facility Site Evaluation Committee. Amend RSA 149-M by
2 inserting after section 64 the following new subdivision:

3 Solid Waste Facility Site Evaluation Committee

4 149-M:65 Declaration of Purpose. The legislature and the executive branch recognize that the
5 selection of sites for major solid waste disposal facilities may have significant statewide, regional
6 and local impacts that are not fully evaluated through existing regulatory review. Accordingly, the
7 legislature and the executive branch find that it is in the public interest to establish a procedure to
8 evaluate the suitability of the proposed site for a new major solid waste facility, considering criteria
9 that are not captured by existing regulatory reviews, including local and in-state regional economic
10 impacts, property value impacts, and impacts on tourism and recreation.

11 149-M:66 Definitions. In this subdivision:

12 I. "Acceptance" means a determination by the committee that it finds that the application is
13 complete and ready for consideration.

14 II. "Administrator" means the administrator of the site evaluation committee established
15 pursuant to RSA 162-H:3-a.

16 III. "Affected municipality" means any municipality or unincorporated place in which a
17 major solid waste disposal facility is proposed to be located and any bordering municipality or
18 unincorporated place from which any part of the proposed major solid waste disposal facility will be
19 visible or audible.

20 IV. "Certificate" means the document issued by the committee, containing such reasonable
21 terms and conditions as the committee deems appropriate, that authorizes the use of the site for the
22 proposed facility.

23 V. "Committee" means the solid waste facility site evaluation committee established by this
24 subdivision.

25 VI. "Major solid waste disposal facility" means a location, system, or physical structure for
26 the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste with a
27 proposed waste acceptance rate greater than 100,000 tons per year and includes the real property on
28 which such structure or system is sited. Major solid waste disposal facility does not include a facility
29 designed to manage food waste in accordance with RSA 149-M:27, V(b)(1)-(5), an expansion of a
30 recycling facility, a landfill expansion, or any facility proposed to be constructed by a New
31 Hampshire municipal government.

32 VII. "Filing" means the date on which the application is first submitted to the committee.

33 VIII. "Person" means any individual or other jural entity.

34 IX. "Region" means the area of the state in which a major solid waste disposal facility is to
35 be sited if a certificate is issued.

36 149-M:67 Solid Waste Facility Site Evaluation Committee Established.

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I. There is hereby established a committee to be known as the New Hampshire solid waste facility site evaluation committee consisting of 5 members, as follows:

(a) The commissioner of the department of business and economic affairs, or designee, who shall serve as chairperson of the committee.

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

(c) Three members and, as provided by RSA 149-M:68, alternate members, appointed by the governor with the consent of the executive council, including a member with expertise in municipal planning, a member with expertise in achieving natural resource protection in the context of large project development, and a member who is representative of the business community.

II. All members, including those who sit for a member disqualified or recused under RSA 149-M:68, shall refrain from ex parte communications regarding any matter pending before the committee.

III. The committee shall be administratively attached to the department of environmental services.

IV. The chairperson shall serve as the chief executive of the committee and may:

(a) Serve as presiding officer.

(b) Delegate to other members the duties of the presiding officer, as appropriate.

(c) Establish, with the consent of the committee, the budgetary requirements of the committee.

(d) Engage personnel in accordance with this subdivision.

V. The presiding officer may appoint a retired justice of the supreme court, superior court, or circuit court or another person with similar experience adjudicating disputes as a hearing officer to perform the functions described in RSA 149-M:70, V.

149-M:68 Committee Members.

I. All members of the committee and any hearing officer appointed under RSA 149-M:67, V, shall meet the impartiality standard set forth in Part 1 Article 35 of the state constitution.

II. Members and alternate members appointed under RSA 149-M:67, I(c) shall serve 5-year terms and until their successors are appointed and qualified. Any member chosen to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term of the member who is succeeded.

III. If at any time a member appointed by the governor with the consent of the executive council is recused or otherwise disqualified from participating in a matter before the committee or is not otherwise available for good reason, an alternate member shall replace such member.

IV. If at any time an ex officio member of the committee under RSA 149-M:67, I(a) and (b) or designee is recused or otherwise disqualified from participating in a matter before the committee or is not otherwise available for good reason, the ex officio member shall designate a replacement for such member.

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V. Neither a member nor any spouse or domestic partner, parent, child, in-law, or sibling of a member shall receive income from entities that own or operate, or have applied to own or operate, major solid waste disposal facilities in New Hampshire. The members appointed by the governor with the consent of the executive council and their alternates shall comply with RSA 15-A and RSA 15-B.

VI. Any member appointed by the governor with the consent of the executive council may be removed from office in accordance with RSA 4:1 and shall be promptly replaced by the governor with the consent of the executive council.

149-M:69 Administrator and Other Committee Support. The administrator shall provide support to the committee. If the administrator is not available or the position is vacant, the committee may hire an independent contractor. The administrator shall be under the supervision of the chairperson when performing duties for the committee. The administrator shall be compensated for work performed for the committee as set forth in RSA 149-M:85. The administrator, or chairperson in the absence of an administrator, with committee approval, may engage additional technical, legal, or administrative support to fulfill the functions of the committee as necessary.

149-M:70 Powers and Duties of the Committee; Rules.

I. The committee shall:

(a) Evaluate an application on the merits after acceptance and timely grant or deny the application in accordance with this subdivision, incorporating in its decision such findings and rulings as are reasonably necessary to support its decision.

(b) Include with any decision the reasonable terms and conditions of any certificate issued under this subdivision, including, without limitation and if warranted, bonding or other form of security for performance.

(c) Assist the public in understanding the requirements of this subdivision.

II. The committee shall hold the hearings required by this subdivision and in addition to any other notice requirements provided by law it shall ensure public notice of such hearings of no less than 7 calendar days.

III. The department shall use its enforcement powers under this chapter, including its power to refer a matter to the department of justice, to enforce the terms and conditions the committee imposes on the issuance of a certificate.

IV. The committee shall not delegate its authority or duties except as provided under this subdivision.

V. In any matter before the committee, the presiding officer, or a hearing officer designated by the presiding officer, may hear and decide prehearing matters that are before the committee, including procedural schedules, consolidation of parties with substantially similar interests, discovery schedules and methods, motions, and conferences to identify witnesses and exhibits and otherwise plan for the hearing on the merits. Undisputed motions for intervention may be decided

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1 by the hearing officer and disputed motions for intervention shall be decided by the presiding officer.
2 Any party aggrieved by a decision on a motion to intervene may within 10 calendar days request
3 that the committee review such decision de novo. All prehearing decisions by the presiding officer or
4 the hearing officer shall be provided promptly to the committee members, and any such decision
5 shall be reviewed de novo by the full committee upon written request by any member to the
6 presiding officer within 7 days of the member's receipt of the decision.

7 VI. On or before July 1, 2026, the committee shall adopt rules to implement and administer
8 the requirements of this subdivision pursuant to RSA 541-A, after public notice and hearing, and
9 may adopt further rules thereafter as may from time to time be required. The committee's failure to
10 adopt rules under this paragraph shall not affect the committee's obligation to accept, process, and
11 rule upon applications for a certificate under this subdivision.

12 VII. The committee shall hold its first organizational meeting on or before September 1,
13 2025. The department shall prepare an application form for the use of applicants for a certificate
14 and shall present such application form to the committee at its first organizational meeting for the
15 committee's review and approval.

16 149-M:71 Prohibitions and Restrictions.

17 I. No person shall commence construction of any major solid waste disposal facility within
18 the state unless it has obtained a certificate pursuant to this subdivision. Such facilities shall be
19 constructed, operated, and maintained in accordance with the terms and conditions of the certificate.
20 Such a certificate shall not be transferred or assigned without approval of the committee as provided
21 by RSA 149-M:73, VII. Unless otherwise specified in this subdivision or required by any other state
22 or federal permit for the facility, any approved major solid waste facility shall not be constructed,
23 operated, or closed in a manner materially different than the manner in which it was presented in
24 the application for a certificate as modified and conditioned by such certificate.

25 II. Applications for certificates may at the election of the applicant be filed and evaluated by
26 the committee concurrently with other state approvals and public hearings may be scheduled
27 concurrently with hearings held by other state agencies as part of their permitting process for the
28 same facility.

29 III. Notwithstanding paragraph II, for permit applications under this subdivision for major
30 solid waste disposal facilities pending before the department on or prior to July 1, 2025, the
31 applicant shall make a filing with the committee within one year of the effective date of this act.

32 149-M:72 Application for Certificate.

33 I. All applications for a certificate for a major solid waste disposal facility shall be filed with
34 the administrator or the chair of the committee.

35 II. Within 30 days of the filing of an application, the committee shall notify the applicant in
36 writing whether the application contains all of the information required by this subdivision and by
37 rule for such applications. If the committee concludes that the application is not complete, it shall

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1 include in its notice the specific information the applicant must submit to render the application
2 complete. The applicant's submission of additional information in response to any notice from the
3 committee that the application is incomplete shall restart the 30-day period for the committee's
4 determination whether the application is complete. If the committee concludes that the application
5 is complete, it shall notify the applicant, and such notice shall constitute an acceptance. During any
6 period between a notice that the application is incomplete and the applicant's response to such a
7 notice, the committee shall suspend its consideration of the application.

8 III. To carry out the committee's duties in RSA 149-M:70, each application shall:

9 (a) Describe in reasonable detail the types and quantities of waste the applicant expects
10 to accept and the proposed location and dimensions of each principal component of the proposed
11 facility.

12 (b) Describe in reasonable detail the impact of the proposed facility on existing local,
13 regional, and state land uses.

14 (c) Document that copies of the application have been hand-delivered or sent by certified
15 mail to the governing body of each affected municipality. The application shall include a list of each
16 affected municipality.

17 (d) Provide analysis on the visual impact of the proposed facility during construction,
18 operation, and post-closure through a visual impact assessment prepared in accordance with
19 professional standards by an expert in the field.

20 (e) Provide information in reasonable detail about the projected impacts of the proposed
21 facility on state and regional business development, local, regional and state economies, property
22 values, aesthetics, tourism, and outdoor recreation. These analyses shall be conducted in accordance
23 with professional standards by an expert in these fields.

24 (f) Provide information in reasonable detail relative to the economic impacts of the
25 proposed facility and potential infrastructure improvements associated with the proposed project on
26 affected municipalities, the region, and the state.

27 (g) Provide information in reasonable detail about the projected impacts from noise,
28 odor, or traffic associated with the transportation of waste to the facility over roads between the
29 closest federal interstate highway and the facility site to the extent such noise, odor, or traffic is not
30 regulated by the department. These analyses shall be conducted in accordance with professional
31 standards by an expert in these fields.

32 (h) Provide such additional information regarding subjects not regulated by the
33 department or any other state agency as the committee may require by rule to carry out the purpose
34 of this subdivision.

35 IV. For all information submitted with the application that was prepared by a consultant or
36 expert retained by the applicant, the applicant shall submit the qualifications of each such
37 consultant or expert to prepare such information.

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V. The committee may seek such additional information from the applicant or a consultant or expert retained by the applicant as may be necessary for the committee to conduct its assessment of the application and proposed project and to understand the basis for the analyses and conclusions prepared by such consultant or expert as part of the application. To the extent any such consultant or expert fails to respond to such a request for additional information to the reasonable satisfaction of the committee, the committee may hire another consultant or expert with expertise in the same discipline as the applicant's retained consultant or expert to assist the commission in its assessment of the application. The applicant shall bear the reasonable fees and expenses of any such consultant or expert hired by the committee.

VI. Public information sessions shall be held in accordance with RSA 149-M:76, I and II.

VII. Within 180 days of the acceptance of an application, the committee shall issue or deny a certificate for the proposed major solid waste disposal facility.

VIII. The committee may request that state agencies with relevant technical expertise participate in committee proceedings.

IX. The committee may deny a certificate based upon the criteria in RSA 149-M:9, IX.

X. A state agency may seek intervention as a party in any proceeding before the committee in accordance with RSA 541-A:32.

149-M:73 Disclosure of Ownership. Any application for a certificate, or for change in ownership and transfer of certificate, shall be signed and sworn to by or on behalf of the person making such application and shall contain the following information:

I. Full name and address of the applicant.

II. If the applicant is not an individual,

(a) The state in which the applicant was formed and the address of the applicant's principal place of business.

(b) The names and addresses of each person having an ownership interest in the applicant, provided that if the applicant is a subsidiary of a publicly traded company it shall provide, (1) the names and addresses of each intermediate subsidiary of the publicly traded company having an ownership interest in the applicant and the names and addresses of each person having an ownership interest in each intermediate subsidiary and (2) the names and addresses of the directors and officers and the states of formation and principal places of business of the publicly traded company and each such intermediate subsidiary.

III. A statement demonstrating that the applicant will have the financial resources to develop the major solid waste disposal facility as proposed in the application.

IV. The committee shall administratively approve changes of ownership and transfers of certificates within 90 days of a petition if it determines the new certificate holder has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.

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149-M:74 Application and Filing Fees.

I. A person filing an application for a certificate for a major solid waste disposal facility under this subdivision shall pay to the committee at the time of filing the fee prescribed in paragraph II.

II. The committee shall charge the following fees for filings made pursuant to this subdivision and shall post such filing fees on its website:

(a) Application fee for a major solid waste disposal facility: \$20,000 base charge and \$1,000 per additional 10,000 tons/year throughput in excess of 100,000 tons per year.

(b) Filing fees for administrative proceedings:

(1) Petition for committee jurisdiction: \$500.

(2) Certificate transfer of ownership: \$1,000.

(3) Request to modify a certificate: \$1,000.

III. All fees charged shall be deposited in the solid waste evaluation committee fund established in RSA 149-M:84 and shall be nonlapsing and accounted for as a separate line item.

IV. Each year the committee may increase the fees prescribed in paragraph II by no more than the increase in the consumer price index from the prior year, provided that any such increase shall occur not more frequently than once during any 12-month period. Modifications to the fee schedule shall be posted on the committee website, with a link prominently displayed on the home page.

149-M:75 Counsel for the Public.

I. An application for a certificate under this subdivision shall be served contemporaneously by the applicant upon the attorney general. Upon receipt of such an application, the attorney general shall appoint an assistant attorney general as counsel for the public in connection with the committee's consideration of the application. Counsel for the public shall be deemed to represent the public as a party to the proceedings before the committee.

II. This section shall not be construed to prevent any person otherwise entitled to participate in any meeting or hearing under this subdivision from being heard or represented by counsel.

149-M:76 Public Hearing; Studies.

I. At least 30 days prior to filing an application for a certificate, an applicant shall hold at least one public information session in the affected municipality where the proposed facility is to be located. This session may be held concurrently with a public session held as a requirement of any other state or federal permit or approval.

II. Within 60 days after acceptance of an application for a certificate, the committee shall hold at least one public information session in the municipality where the major solid waste disposal facility is proposed to be located. Public information sessions under paragraphs I and II shall not be public hearings and shall be designed to reasonably explain and answer the public's questions about

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1 the proposed project and the committee's procedure for considering and deciding upon an
2 application.

3 III. Public hearings on the application shall be in the nature of adjudicative proceedings
4 under RSA 541-A and shall be held in the municipality in which the proposed major solid waste
5 disposal facility is to be located or in Concord, New Hampshire, as determined by the committee.

6 IV. The committee shall adopt rules regarding the timing and method of notices for public
7 information sessions and public hearings and any other requirements regarding such sessions and
8 hearings, provided that such rules shall not provide less protection of the public's right to know than
9 RSA 91-A provides.

10 V. The committee shall consider and weigh all evidence presented at public hearings.
11 Members of the public may provide written comments, information, reports, arguments, analyses,
12 and the like to counsel for the public who may present such comments, information, reports,
13 arguments, analyses, and the like or a compilation or summary thereof in public hearings if they are
14 relevant to the committee's jurisdiction and otherwise admissible under RSA 541-A:33. The
15 committee shall provide an opportunity at one or more public hearings for testimony from the
16 governing body of each affected municipality and the governing body of the county in which the
17 proposed facility is proposed to be located. The committee shall consider, as appropriate, prior
18 committee findings and rulings on the same or similar subject matters. The burden of establishing
19 the existence of any adverse impacts from the proposed facility at the public hearing shall be upon
20 the persons asserting their existence.

21 VI. The committee and counsel for the public shall conduct such reasonable studies and
22 investigations as are necessary or appropriate to carry out the purposes of this subdivision and may
23 employ one or more qualified experts to the extent necessary to enable them to carry out their duties
24 under this subdivision, the reasonable cost of which shall be borne by the applicant or certificate
25 holder in such amount as may be approved by the committee.

26 VII. Times for conducting public hearings and rendering a decision on the application may
27 be extended for good cause upon written request of the applicant.

28 149-M:77 Judicial Review. Decisions made pursuant to this subdivision shall be reheard and
29 appealed in accordance with RSA 541.

30 149-M:78 Monitoring and Enforcement.

31 I. The department shall monitor the construction and operation of any major solid waste
32 disposal facility granted a certificate under this subdivision to ensure compliance with the terms and
33 conditions of such certificate. With the exception of the authority retained by the state agencies in
34 accordance with paragraph V, the department may delegate the authority to monitor the
35 construction or operation of any major solid waste disposal facility granted a certificate under this
36 subdivision to such state agency or official as it deems appropriate but shall ensure that the terms
37 and conditions of the certificate are met. Any authorized representative or delegate of the

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1 department shall have a right of entry onto the premises of any part of the facility to ascertain if it is
2 being constructed or operated in continuing compliance with the terms and conditions of the
3 certificate. During normal hours of business, such a representative or delegate shall also have a
4 right to inspect such records of the certificate-holder as are relevant to the terms or conditions of the
5 certificate.

6 II. Whenever the department administratively determines, on its own or in response to a
7 complaint, that any term or condition of any certificate issued under this subdivision or prior law is
8 being violated, it shall, in writing, notify the certificate holder of the specific violation and order the
9 person to immediately terminate the violation. If, 15 days after receipt of the order, the person has
10 failed or neglected to terminate the violation, the department shall notify the committee which may
11 suspend the person's certificate. Except for emergencies posing an imminent threat to human health
12 or the environment, prior to any suspension the committee shall give written notice of its
13 consideration of suspension and of its reasons therefor and shall provide reasonable notice and an
14 opportunity for a hearing before a suspension is ordered. In addition to suspension, if, after 15 days
15 of receipt of the order, the person has failed or neglected to terminate the violation, after notice and
16 a hearing the committee may impose a fine not to exceed \$5,000 per day until the violation is
17 corrected.

18 III. In addition to other remedies provided in this subdivision, upon petition of the
19 department, the committee may suspend a certificate if the committee determines that a person has
20 made a material misrepresentation in the application, or in supplemental or additional statements
21 of fact, or studies required of the applicant, or if the committee determines that the person has
22 violated the provisions of this subdivision, or any rule adopted under this subdivision. Except for
23 emergencies, prior to any suspension, the committee shall give written notice of its consideration of
24 suspension and of its reasons therefor and shall provide an opportunity for a prompt hearing before
25 a suspension is ordered.

26 IV. Upon petition of the department, the committee may revoke any certificate that is
27 suspended after the person holding the suspended certificate has been given at least 90 days' written
28 notice of the committee's consideration of revocation and of its reasons therefor and has been
29 provided an opportunity for a full hearing before a revocation is ordered.

30 V. Notwithstanding any other provision of this subdivision, each state agency having
31 permitting or other regulatory authority shall retain all of its powers and duties of enforcement.

32 VI. The full amount of actual costs and expenses incurred by the department and committee
33 in connection with any enforcement action against a person holding a certificate, in which the person
34 is determined to have violated any provision of this subdivision, any rule adopted by the committee,
35 or any of the terms and conditions of the issued certificate, shall be assessed to the person and shall
36 be paid by the person to the committee. Any amounts paid by a person to the committee pursuant to
37 this paragraph shall be deposited in the state's general fund.

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1 VII. The department may adopt rules in furtherance of its monitoring and enforcement
2 responsibilities under this subdivision.

3 149-M:79 Records. Complete verbatim records shall be kept by the committee of all hearings,
4 and records of all other actions, proceedings, and correspondence of the committee, including
5 submittals of information and reports by members of the public, shall be maintained, all of which
6 records shall be open to the public inspection and copying as provided for under RSA 91-A and made
7 available on the committee's website unless such records were submitted under seal and are exempt
8 from public disclosure under RSA 91-A.

9 149-M:80 Findings and Certificate Issuance.

10 I. The decision to issue or deny a certificate shall be based on the hearing record and made
11 by a majority of the committee.

12 II. In order to issue a certificate, the committee shall find that:

13 (a) The applicant has adequate financial, technical, and managerial capability to assure
14 construction, operation, and closure of the facility in continuing compliance with the terms and
15 conditions of the certificate.

16 (b) The facility will not unduly interfere with the orderly development of the region with
17 due consideration having been given to the views of municipal and regional planning commissions
18 and municipal governing bodies.

19 (c) The public benefit of the facility outweighs any adverse impact of the facility on
20 aesthetics, historic preservation, economic impacts to the region, tourism, outdoor recreation,
21 regional and statewide business development, existing land uses, and property values and from
22 noise, odor, or traffic associated with the transportation of waste to the facility over roads between
23 the closest federal interstate highway and the facility site to the extent such noise, odor, or traffic is
24 not otherwise regulated by the department.

25 III. The committee shall issue a written order granting or denying a certificate. Within 90
26 days of an order granting a certificate the committee shall issue a written summary and analysis of
27 each issue raised in the public hearing in opposition to issuance of the certificate unless such issue
28 addresses a subject matter regulated by a division of the department created by RSA 21-O or any
29 other state agency, in which case the committee shall refer such issue in writing to such division or
30 agency for analysis and response as part of the division or agency's consideration of an application
31 for a permit for such facility. Motions for rehearing of an order granting a certificate under RSA
32 541:3 shall not be due until 30 days after the committee has issued such written summary and
33 analysis.

34 IV. A certificate, when issued, shall be final and subject only to rehearing and judicial
35 review.

36 V. The committee shall condition the certificate upon the applicant's obtaining the requisite
37 federal and state approvals.

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1 149-M:82 Penalties.

2 I. Any construction or operation of major solid waste disposal facilities without first
3 obtaining a certificate from the committee, or any material violation of the terms and conditions of a
4 certificate issued by the committee, shall be subject to a civil penalty not to exceed \$10,000 for each
5 violation or for each day of a continuing violation. Such violation may also be enjoined by the
6 superior court upon application of the attorney general.

7 II. Whoever purposely or knowingly commits any violation of any provision of this section
8 shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

9 149-M:83 Severability. If any provision of this subdivision, or application thereof to any person
10 or circumstance is held invalid, the invalidity does not affect other provisions or applications of the
11 subdivision which can be given effect without the invalid provisions or applications, and to this end,
12 the provisions of this subdivision are severable.

13 149-M:84 Fund Established; Funding Plan; Fines and Penalties.

14 I. There is hereby established in the office of the state treasurer a nonlapsing, special fund
15 to be known as the solid waste facility site evaluation committee fund. All application and other
16 filing fees received by the committee under this subdivision shall be deposited in the fund. All
17 moneys in the fund shall be continually appropriated to the committee and shall be used to pay for
18 operating costs of the committee and the partial salary of the administrator. If the administrator
19 position is vacant, the fund may be used to pay an independent contractor to perform the duties of
20 the administrator for the committee. Notwithstanding any other provision of law, the committee
21 may engage the department for technical, legal, or administrative support to fulfill the requirements
22 of this subdivision. Any cost incurred by the committee for such support shall be charged directly to
23 the applicant.

24 II. In the event lawful expenditures by the committee in a fiscal year are greater than the
25 total monies held in the solid waste evaluation committee fund, the chair of the committee may
26 request, with prior approval of the legislative fiscal committee, that the governor and council
27 authorize additional funding from general funds not otherwise appropriated.

28 III. All fines and civil penalties recovered by the committee, the department, or the
29 department of justice from the enforcement of the provisions of this subdivision shall be deposited
30 into the state's general fund.

31 149-M:85 Compensation and Reimbursement.

32 I. The public members of the committee shall be compensated for all time spent on
33 committee business, including compensation and reimbursement for major solid waste disposal
34 facility proceeding time and expenses. Compensation shall be provided on a pro rata basis, based
35 upon the daily salary rate of an unclassified position at the initial step in grade FF under RSA 94:1-
36 a, I(a).

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1 II. State agencies represented on the committee shall be reimbursed for major solid waste
2 disposal facility proceeding time and expenses incurred by their respective members or designees,
3 except that time spent for the first 5 full days of their participation with respect to any application or
4 other proceeding concerning a major solid waste disposal facility shall not be subject to
5 reimbursement. The rate of reimbursement to each respective agency shall be based on a pro rata
6 share of the employee's salary, benefits, and related costs.

7 III. The department of justice shall be reimbursed in the same manner as described in
8 paragraph II for major solid waste disposal facility proceeding time and expenses that are incurred
9 by the counsel for the public.

10 IV. All persons or agencies seeking compensation or reimbursement under this section shall
11 keep detailed time and expense records which shall be submitted to the chairperson or administrator
12 and used to determine the amount of compensation or reimbursement. The chairperson or
13 administrator shall develop a recordkeeping system and accounting and payment procedures.

14 V. Compensation shall not be provided to members of the committee for initial meetings
15 conducted prior to acceptance of application fees. The department shall provide support for the
16 adoption of rules established by the committee.

17 149-M:86 Solid Waste Permit Applications Suspended. Except for an application for a landfill
18 expansion or a remedial landfill expansion, the department shall not issue any permit approvals that
19 authorize new capacity for major solid waste disposal facilities until July 1, 2026. During the period
20 that the department's authority to issue such permit approvals is suspended under this section, the
21 department shall accept applications for new capacity at such facilities, evaluate such applications
22 for completeness, request more information to make such applications complete, and, if warranted
23 under the department's rules, find such applications to be complete, but shall not further evaluate or
24 process any such complete applications, notwithstanding RSA 149-M:9, VIII.

25 530 New Subparagraph; The State and Its Government; State Treasurer; Application of
26 Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (399) the following new
27 subparagraph:

28 (400) Moneys deposited in the solid waste facility site evaluation committee fund as
29 established in RSA 149-M:84.

2025-2736s

AMENDED ANALYSIS

260. Creates a subcommittee and rules regarding solid waste facility sites and their evaluation.

UNAPPROVED