

Amendment to HB 707-FN

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

2

3 AN ACT establishing a solid waste site evaluation committee.

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

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7 1 Solid Waste Facility Site Evaluation Committee; Purpose and Findings. The general court
8 hereby finds and declares that:

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

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

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

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

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

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

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

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

6 2 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-M:4
7 by inserting after paragraph X-a the following new paragraph:

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

13 3 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-M:4
14 by inserting after paragraph XX the following new paragraph:

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

18 4 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-M:4
19 by inserting after paragraph XXI the following new paragraph:

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

28 5 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-M:9
29 by inserting after paragraph XV the following new paragraph:

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

36 (b) The owner of any landfill receiving an approval of a landfill expansion under this
37 paragraph and who has an existing agreement with the host municipality to provide free services

1 and pay the municipality a fee for each ton of waste received at the landfill shall increase the total
2 value of such services and fee to a minimum of \$2.50 per ton for all waste received in the landfill
3 expansion.

4 6 New Paragraph; Public Health; Solid Waste Management; Definitions. Amend RSA 149-M:11
5 by inserting after paragraph VII the following new paragraph:

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

8 7 New Subdivision; Solid Waste Facility Site Evaluation Committee. Amend RSA 149-M by
9 inserting after section 64 the following new subdivision:

10 Solid Waste Facility Site Evaluation Committee

11 149-M:65 Declaration of Purpose. The legislature and the executive branch recognize that the
12 selection of sites for major solid waste disposal facilities may have significant statewide, regional
13 and local impacts that are not fully evaluated through existing regulatory review. Accordingly, the
14 legislature and the executive branch find that it is in the public interest to establish a procedure to
15 evaluate the suitability of the proposed site for a new major solid waste facility, considering criteria
16 that are not captured by existing regulatory reviews, including local and in-state regional economic
17 impacts, property value impacts, and impacts on tourism and recreation.

18 149-M:66 Definitions. In this subdivision:

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

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

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

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

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

32 VI. "Major solid waste disposal facility" means a location, system, or physical structure for
33 the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste with a
34 proposed waste acceptance rate greater than 100,000 tons per year and includes the real property on
35 which such structure or system is sited. Major solid waste disposal facility does not include a facility
36 designed to manage food waste in accordance with RSA 149-M:27, V(b)(1)-(5), an expansion of a

1 recycling facility, a landfill expansion, or any facility proposed to be constructed by a New
2 Hampshire municipal government.

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

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

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

7 149-M:67 Solid Waste Facility Site Evaluation Committee Established.

8 I. There is hereby established a committee to be known as the New Hampshire solid waste
9 facility site evaluation committee consisting of 7 members, as follows:

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

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

13 (c) Five members and, as provided by RSA 149-M:68, alternate members, appointed by
14 the governor with the consent of the executive council, including a member with expertise in
15 municipal planning, a member with expertise in achieving natural resource protection in the context
16 of large project development, a member who has expertise in the private waste management
17 industry, a member who serves on the state conservation commission, and a member who is
18 representative of the business community.

19 II. All members, including those who sit for a member disqualified or recused under RSA
20 149-M:68, shall refrain from ex parte communications regarding any matter pending before the
21 committee.

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

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

25 (a) Serve as presiding officer.

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

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

29 (d) Engage personnel in accordance with this subdivision.

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

33 149-M:68 Committee Members.

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

36 II. Members and alternate members appointed under RSA 149-M:67, I(c) shall serve 5-year
37 terms and until their successors are appointed and qualified. Any member chosen to fill a vacancy

1 occurring other than by expiration of a term shall be appointed for the unexpired term of the
2 member who is succeeded.

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

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

10 V. Neither a member nor any spouse or domestic partner, parent, child, in-law, or sibling of
11 a member shall receive income from entities that own or operate, or have applied to own or operate,
12 major solid waste disposal facilities in New Hampshire. The members appointed by the governor
13 with the consent of the executive council and their alternates shall comply with RSA 15-A and RSA
14 15-B.

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

18 149-M:69 Administrator and Other Committee Support. The administrator shall provide
19 support to the committee. If the administrator is not available or the position is vacant, the
20 committee may hire an independent contractor. The administrator shall be under the supervision of
21 the chairperson when performing duties for the committee. The administrator shall be compensated
22 for work performed for the committee as set forth in RSA 149-M:85. The administrator, or
23 chairperson in the absence of an administrator, with committee approval, may engage additional
24 technical, legal, or administrative support to fulfill the functions of the committee as necessary.

25 149-M:70 Powers and Duties of the Committee; Rules.

26 I. The committee shall:

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

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

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

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

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

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

6 V. In any matter before the committee, the presiding officer, or a hearing officer designated
7 by the presiding officer, may hear and decide prehearing matters that are before the committee,
8 including procedural schedules, consolidation of parties with substantially similar interests,
9 discovery schedules and methods, motions, and conferences to identify witnesses and exhibits and
10 otherwise plan for the hearing on the merits. Undisputed motions for intervention may be decided
11 by the hearing officer and disputed motions for intervention shall be decided by the presiding officer.
12 Any party aggrieved by a decision on a motion to intervene may within 10 calendar days request
13 that the committee review such decision de novo. All prehearing decisions by the presiding officer or
14 the hearing officer shall be provided promptly to the committee members, and any such decision
15 shall be reviewed de novo by the full committee upon written request by any member to the
16 presiding officer within 7 days of the member's receipt of the decision.

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

22 VII. The committee shall hold its first organizational meeting on or before September 1,
23 2025. The department shall prepare an application form for the use of applicants for a certificate
24 and shall present such application form to the committee at its first organizational meeting for the
25 committee's review and approval.

26 149-M:71 Prohibitions and Restrictions.

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

35 II. Applications for certificates may at the election of the applicant be filed and evaluated by
36 the committee concurrently with other state approvals and public hearings may be scheduled

1 concurrently with hearings held by other state agencies as part of their permitting process for the
2 same facility.

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

6 149-M:72 Application for Certificate.

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

9 II. Within 30 days of the filing of an application, the committee shall notify the applicant in
10 writing whether the application contains all of the information required by this subdivision and by
11 rule for such applications. If the committee concludes that the application is not complete, it shall
12 include in its notice the specific information the applicant must submit to render the application
13 complete. The applicant's submission of additional information in response to any notice from the
14 committee that the application is incomplete shall restart the 30-day period for the committee's
15 determination whether the application is complete. If the committee concludes that the application
16 is complete, it shall notify the applicant, and such notice shall constitute an acceptance. During any
17 period between a notice that the application is incomplete and the applicant's response to such a
18 notice, the committee shall suspend its consideration of the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 149-M:73 Disclosure of Ownership. Any application for a certificate, or for change in ownership
30 and transfer of certificate, shall be signed and sworn to by or on behalf of the person making such
31 application and shall contain the following information:

32 I. Full name and address of the applicant.

33 II. If the applicant is not an individual,

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

36 (b) The names and addresses of each person having an ownership interest in the
37 applicant, provided that if the applicant is a subsidiary of a publicly traded company it shall provide,

1 (1) the names and addresses of each intermediate subsidiary of the publicly traded company having
2 an ownership interest in the applicant and the names and addresses of each person having an
3 ownership interest in each intermediate subsidiary and (2) the names and addresses of the directors
4 and officers and the states of formation and principal places of business of the publicly traded
5 company and each such intermediate subsidiary.

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

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

12 149-M:74 Application and Filing Fees.

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

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

18 (a) Application fee for a major solid waste disposal facility: \$20,000 base charge and
19 \$1,000 per additional 10,000 tons/year throughput in excess of 100,000 tons per year.

20 (b) Filing fees for administrative proceedings:

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

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

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

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

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

31 V. If the committee expends funds under RSA 149-M:85 in order to review and process the
32 applicant's application, and such funds exceed the value of the original filing fee under paragraph II,
33 then the committee may charge an additional fee to the applicant to cover such costs but such
34 additional fee shall not exceed the value of the original fee.

35 149-M:75 Counsel for the Public.

36 I. An application for a certificate under this subdivision shall be served contemporaneously
37 by the applicant upon the attorney general. Upon receipt of such an application, the attorney

1 general shall appoint an assistant attorney general as counsel for the public in connection with the
2 committee's consideration of the application. Counsel for the public shall be deemed to represent the
3 public as a party to the proceedings before the committee.

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

7 149-M:76 Public Hearing; Studies.

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

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

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

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

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

36 VI. The committee and counsel for the public shall conduct such reasonable studies and
37 investigations as are necessary or appropriate to carry out the purposes of this subdivision and may

1 employ one or more qualified experts to the extent necessary to enable them to carry out their duties
2 under this subdivision, the reasonable cost of which shall be borne by the applicant or certificate
3 holder in such amount as may be approved by the committee.

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

6 149-M:77 Judicial Review. Decisions made pursuant to this subdivision shall be reheard and
7 appealed in accordance with RSA 541.

8 149-M:78 Monitoring and Enforcement.

9 I. The department shall monitor the construction and operation of any major solid waste
10 disposal facility granted a certificate under this subdivision to ensure compliance with the terms and
11 conditions of such certificate. With the exception of the authority retained by the state agencies in
12 accordance with paragraph V, the department may delegate the authority to monitor the
13 construction or operation of any major solid waste disposal facility granted a certificate under this
14 subdivision to such state agency or official as it deems appropriate but shall ensure that the terms
15 and conditions of the certificate are met. Any authorized representative or delegate of the
16 department shall have a right of entry onto the premises of any part of the facility to ascertain if it is
17 being constructed or operated in continuing compliance with the terms and conditions of the
18 certificate. During normal hours of business, such a representative or delegate shall also have a
19 right to inspect such records of the certificate-holder as are relevant to the terms or conditions of the
20 certificate.

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

33 III. In addition to other remedies provided in this subdivision, upon petition of the
34 department, the committee may suspend a certificate if the committee determines that a person has
35 made a material misrepresentation in the application, or in supplemental or additional statements
36 of fact, or studies required of the applicant, or if the committee determines that the person has
37 violated the provisions of this subdivision, or any rule adopted under this subdivision. Except for

1 emergencies, prior to any suspension, the committee shall give written notice of its consideration of
2 suspension and of its reasons therefor and shall provide an opportunity for a prompt hearing before
3 a suspension is ordered.

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

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

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

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

18 149-M:79 Records. Complete verbatim records shall be kept by the committee of all hearings,
19 and records of all other actions, proceedings, and correspondence of the committee, including
20 submittals of information and reports by members of the public, shall be maintained, all of which
21 records shall be open to the public inspection and copying as provided for under RSA 91-A and made
22 available on the committee's website unless such records were submitted under seal and are exempt
23 from public disclosure under RSA 91-A.

24 149-M:80 Findings and Certificate Issuance.

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

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

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

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

34 (c) The public benefit of the facility outweighs any adverse impact of the facility on
35 aesthetics, historic preservation, economic impacts to the region, tourism, outdoor recreation,
36 regional and statewide business development, existing land uses, and property values and from
37 noise, odor, or traffic associated with the transportation of waste to the facility over roads between

1 the closest federal interstate highway and the facility site to the extent such noise, odor, or traffic is
2 not otherwise regulated by the department.

3 III. The committee shall issue a written order granting or denying a certificate. Within 90
4 days of an order granting a certificate the committee shall issue a written summary and analysis of
5 each issue raised in the public hearing in opposition to issuance of the certificate unless such issue
6 addresses a subject matter regulated by a division of the department created by RSA 21-O or any
7 other state agency, in which case the committee shall refer such issue in writing to such division or
8 agency for analysis and response as part of the division or agency's consideration of an application
9 for a permit for such facility. Motions for rehearing of an order granting a certificate under RSA
10 541:3 shall not be due until 30 days after the committee has issued such written summary and
11 analysis.

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

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

16 149-M:82 Penalties.

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

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

24 149-M:83 Severability. If any provision of this subdivision, or application thereof to any person
25 or circumstance is held invalid, the invalidity does not affect other provisions or applications of the
26 subdivision which can be given effect without the invalid provisions or applications, and to this end,
27 the provisions of this subdivision are severable.

28 149-M:84 Fund Established; Funding Plan; Fines and Penalties.

29 I. There is hereby established in the office of the state treasurer a nonlapsing, special fund
30 to be known as the solid waste facility site evaluation committee fund. All application and other
31 filing fees received by the committee under this subdivision shall be deposited in the fund. All
32 moneys in the fund shall be continually appropriated to the committee and shall be used to pay for
33 operating costs of the committee and the partial salary of the administrator. If the administrator
34 position is vacant, the fund may be used to pay an independent contractor to perform the duties of
35 the administrator for the committee. Notwithstanding any other provision of law, the committee
36 may engage the department for technical, legal, or administrative support to fulfill the requirements

1 of this subdivision. Any cost incurred by the committee for such support shall be charged directly to
2 the applicant.

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

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

10 149-M:85 Compensation and Reimbursement.

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

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

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

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

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

32 149-M:86 Solid Waste Permit Applications Suspended. Except for an application for a landfill
33 expansion or a remedial landfill expansion, the department shall not issue any permit approvals that
34 authorize new capacity for major solid waste disposal facilities until July 1, 2027. During the period
35 that the department's authority to issue such permit approvals is suspended under this section, the
36 department shall accept applications for new capacity at such facilities, evaluate such applications
37 for completeness, request more information to make such applications complete, and, if warranted

1 under the department's rules, find such applications to be complete, but shall not further evaluate or
2 process any such complete applications, notwithstanding RSA 149-M:9, VIII.

3 8 New Subparagraph; The State and Its Government; State Treasurer; Application of Receipts.
4 Amend RSA 6:12, I(b) by inserting after subparagraph (400) the following new subparagraph:

5 (411) Moneys deposited in the solid waste facility site evaluation committee fund as
6 established in RSA 149-M:84.

7 9 Effective Date. This act shall take effect July 1, 2026.

2025-3050s

AMENDED ANALYSIS

This bill creates the solid waste facility site evaluation committee in order to evaluate applications for solid waste facility siting and to grant or deny such applications.