

# Senate Energy and Natural Resources Committee

*Joshua Schauer 271-3077*

**HB 1141**, relative to permitting and fee authority for mining and prospecting.

**Hearing Date:** April 21, 2026

**Time Opened:** 9:10 a.m.

**Time Closed:** 9:44 a.m.

**Members of the Committee Present:** Senators Avard, Pearl, McConkey, Watters and Rosenwald

**Members of the Committee Absent :** None

**Bill Analysis:** This bill adds definitions for mining-related terms, authorizes rulemaking for permitting, reclamation, and fees based on mineral volume, and establishes a transition period for pending applications under the current law.

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**Sponsors:**

Rep. Caplan

Rep. Bixby

Rep. N. Germana

Rep. Parshall

Rep. Read

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**Who supports the bill:** Representative Judy Aron (Sull. 4), Commissioner Adam Crepeau (DNCR), Richard Head (DES)

**Who opposes the bill:** None

**Summary of testimony presented:**

**Representative Judy Aron, Sullivan 4**

- Representative Aron introduced the bill on behalf of the prime sponsor and explained that the amendment arose after an incident in her town. In that specific case, a company seeking to continue mining had to apply for a permit, which turned into a very difficult and costly process costing them about \$40,000 in fees and took years to complete the process.
- She argued that the current permitting process is unacceptable. Currently, the responsibility lies with the Department of Natural and Cultural Resources (DNCR), but she said the agency lacked both the staffing and the technical expertise to effectively manage these permits. As a result, the process became confusing and burdensome, with applicants often unclear about what was required of them.

- She also noted that DNCR’s legal department struggled to interpret and apply the law because the statute is outdated.
- Following discussions with both DNCR and DES, the conclusion was that permitting authority should be transferred to DES, which is better equipped to handle the process. She urged the committee to pass the legislation in order to modernize and improve the mining and permitting statutes.

**Senator Watters** referred to page 3, lines 31–33, noting that the amendment removes language requiring consultation with the DNCR. He asked whether eliminating that consultation could be an issue, particularly in cases where a proposed mining site might involve an area with historical significance.

**Representative Aron** said that both DES and DNCR discussed this change and agreed it was reasonable and would help streamline the permitting process. She added that she did not anticipate mining permits being issued in areas where there are known historical sites.

**Senator McConkey** then asked what type of mining was being done.

**Representative Aron** explained that it was a rock quarry. The company had taken over an existing operation that produces stone and granite for road construction. She noted that the previous permit was conditional and limited to removing material from the site, whereas the new permit allows them to fully carry out their work.

**Richard Head, DES Legal unit**

- He explained that his department participated in drafting the legislation with the goal of creating a more efficient permitting process. Currently, two departments are effectively performing the same role, so the bill consolidates responsibilities by incorporating DNCR’s functions into DES’s existing Alteration of Terrain program. This change is intended to streamline operations and improve consistency.
- He noted that while this would increase the number of applications handled by the program, DES already has the structure and experience to manage that type of regulatory workload. The department is also already heavily invested in the permitting framework, so the transition builds on an established system rather than creating something new.
- He then walked through how the bill is organized and said the regulatory framework itself already exists. The legislation primarily adds definitions and clarifies which activities, previously under DNCR, would now fall under DES authority. The bill is divided into four main parts, including provisions related to financial assurance requirements.
- He also pointed out that a gap was created in the previous session when the Alteration of Terrain permitting program was modified. Specifically, projects in the 125,000 to 150,000 square foot range were subject to a fee structure that

capped fees at \$1,000, which did not fully reflect the cost of processing those applications. This bill adjusts the fee structure to better align with actual costs, and in some cases may even reduce fees for certain applicants.

- He emphasized that the fees in the bill are not intended to generate revenue for the state based on the value of minerals extracted. He said that the broader policy question is whether to impose such revenue mechanisms which is outside the scope of this legislation and could be considered in a future session. The intent here is simply cost recovery and fee reduction.

**Senator Watters** asked whether the issue was intended to be addressed through rulemaking, noting that he reviewed RSA 485-A:17 and did not see any specific reference to it. He expressed concern that the rulemaking should explicitly require consideration of historic burial grounds, archaeological resources, and particularly Native American cultural sites, which are protected under statute. He said he wanted assurance that the review process would clearly include these and other historical resources.

**Mr. Head** responded that if Senator Watters wanted that requirement to be explicit, it could be incorporated into the bill as part of the rulemaking section. He explained that the current language only references the state geologist under RSA 21:O, who is not responsible for permitting in this context. However, he said the bill could be amended to clearly require that applications address or include consideration of those cultural and historical resources.

**Senator Watters** said he recalled a past case involving an abandoned colonial village near Chesterfield that consisted of historic cellar holes and other significant sites, and he emphasized that similar important resources exist. He asked whether staff could provide draft language for a possible amendment, subject to the chair's approval. He stated that while he supports the intent of the bill, he wants statutory assurance that the rulemaking process will require consultation on cultural resources, particularly historic burial grounds, archaeological sites, Native American sites, and other relevant historical resources.

**Mr. Head** replied that, if it would be helpful, the bill could be amended to explicitly include in the rulemaking section a requirement that applicants, prior to filing with the department, consult with appropriate cultural resource experts to ensure there are no adverse impacts.

**Senator Watters** added that, based on his experience with the department during his years on the board, the review process is similar to a Section 106 review and is typically very quick.

Mr. Head confirmed and said that an explicit reference to that type of review could be added within the rulemaking authority.

**McConkey** asked about page 2, lines 31–36 referring to projects in shoreland areas that range in size from approximately 50,000 to 150,000 square feet. However, the language appeared to apply only to projects involving mining or prospecting in that area and it does not address shoreland applications, he asked for clarification.

**Mr. Head** explained that the provision would apply when an alteration-of-terrain (AOT) project occurs within protected shoreland. Jurisdiction would begin at 50,000 square feet rather than 100,000 and extend upward from there. He also noted that, while this issue was raised in last year’s session, the specific fee discussed is unrelated to the mining portion of the bill. It is intended to address a loophole created by the permit-by-notification process. An AOT permit within protected shoreland is not handled as a permit by notification. The permit-by-notification fee, which is significantly lower than a standard application fee, was not fully covering the department’s costs for reviewing the full application. He added that this adjustment addresses that loophole. It ensures that for projects in the 50,000 to 150,000 square foot range requiring a full application, the fee structure better reflects the actual cost of review. He emphasized that this applies to properties under RSA 483-B:9.

**Senator McConkey** said the section was written under provisions related to permitting authority for mining and prospecting, yet the discussion involved AOT permits. He acknowledged that the bill appeared to shift permitting authority for these projects but asked whether lines 31–36 were intended to apply only to AOT permits covered by this legislation or to all AOT projects within that size range.

**Mr. Head** said yes, all AOT’s in that size.

**Senator McConkey** said it was an unusual place to slip that provision into the legislation and asked for an explanation as to why that was.

**Mr. Head** explained that the provision was included simply because the subject matter related to AOT. He noted that if the fee adjustment was a concern for the committee, it could be removed without impacting the rest of the legislation.

**Senator McConkey** noted that the category had been established last year. He also said that it had been used on a limited basis and asked how limited that use had been.

**Mr. Head** stated that he did not have data on how many applications fell within the 50,000 to 150,000 square foot range requiring a full application compared to permit by notification. He added that he would have to get back to the committee with that information.

**Senator McConkey** asked whether the application fee had been reduced from \$500 to \$250 and from \$0.05 per square foot to \$0.04 per square foot, and whether he was reading that correctly.

**Mr. Head** confirmed that it was correct.

**Senator Pearl** asked whether the proposal would affect activities such as land reclamation, converting woodland to agricultural use, or flood restoration projects that may involve moving material. He noted that he did not believe the measure would apply to those situations and asked for confirmation.

**Mr. Head** agreed, explaining that the changes were addressed through revised definitions. He stated that the bill specifically added the extraction of dimensional stone and the mining of minerals which is defined to include materials such as copper, gold, and silver. He added that the provisions applied only to those mining and prospecting activities, not to reclamation work.

**Senator Pearl** clarified that he was particularly thinking of flood restoration projects, where off-site materials are sometimes brought in and later removed.

**Mr. Head** responded that such activities could still fall under existing AOT requirements if they exceeded 100,000 square feet, or 50,000 square feet in shoreland areas. However, he emphasized that the provisions applied strictly to mining and prospecting activities.

**Senator Pearl** asked whether those restoration activities would be considered mining.

**Mr. Head** confirmed that they would not.

**Adam Crepeau, Commissioner of DNCR Nathan Kenison-Marvin, legal Counsel**

- Commissioner Crepeau stated that the proposal had been under consideration for several years, dating back to around 2020 or 2021. He explained that it had remained a lower priority until DNCR began seeing an increase in mining permit applications. This exposed a gap, as the department did not yet have formal rules in place and had limited staffing; initially only one staff member which later expanded to two that reviewed what were often complex applications for mining within the State.
- The agencies found significant overlap in their responsibilities. The remaining portion under DNCR primarily involved financial assurance. He added that DNCR staff already relied on DES expertise, including consultation with the state geologist.
- Commissioner Crepeau explained that this overlap led to the development of the current proposal. He also clarified that historic reviews for burial grounds are not currently required as part of the mining permit application process and, therefore, were not added to the new framework to avoid introducing additional review layers.
- He said that when addressing the AOT issue that a change made in the previous session, establishing a permit-by-notification process, had inadvertently created a small loophole. Some applicants who did not qualify for permit by notification but also did not undergo full permitting were paying significantly less than the cost of the review. The intent of the proposed fee adjustment is to correct that imbalance for a very limited number of cases. He emphasized that there was no intention to alter or undermine the broader improvements made in the prior session.

- He stated that DES has the technical expertise to handle mining permit reviews, whereas DNCR currently lacks the staffing capacity to do so efficiently. He said that this proposal was part of a broader effort to streamline permitting across agencies, similar to prior transfers of responsibilities, while maintaining environmental protections and making the process more navigable for applicants.
- Mr. Kenison-Marvin noted that Representative Aron had expressed frustration with DNCR and that he had worked with DNCR on those matters in his prior role at the Department of Justice. Drawing on both external and internal perspectives, he observed inefficiencies in the system and significant strain on resources, particularly on the land use administrator, who was effectively managing the mining program alongside multiple other responsibilities.
- He explained that it made sense to move the work to the agency with the appropriate expertise. He had frequently seen the land use administrator consulting with DES on matters within the department's statutory jurisdiction, which created inefficiencies.

**Senator McConkey** noted the support for reducing the fee from \$500 to \$250 but he raised a concern about sustainably funding cyanobacteria efforts. He referenced the task force aimed at long-term funding solutions and asked whether, if the legislation moved forward, the fee could remain unchanged, with a portion of it being redirected to the existing cyanobacteria fund.

**Commissioner Crepeau** stated that while possible, current permitting fees for this small subset of applications did not cover the department's workload. It was suggested that if there were concerns about the proposed fee change, it could be removed from the bill and addressed later through the task force. He explained that the number of applications was likely only a handful and would not generate enough revenue for cyanobacteria funding. However, there was openness to discussing broader AOT permitting fees, which relate to stormwater infrastructure and water quality protection.

**Senator McConkey** asked for Clarification that the proposal would reduce the base fee from \$500 to \$250.

**Commissioner Crepeau** said as it is set up, it would reduce the fee from \$500 to \$250 but would be increasing the variable rate up to four cents as projects scaled, primarily affecting a small subset of smaller projects.

**Senator McConkey** acknowledged the explanation but expressed concern about reducing revenue from smaller projects while only incrementally increasing it for larger ones. He emphasized that small contributions could accumulate over time and viewed the proposal as a potential funding opportunity. He indicated interest in continuing the discussion after the meeting.