

Amendment to SB 302-FN

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

2

3 AN ACT requiring background checks for solid waste and hazardous waste facility owners,  
4 establishing a solid waste site evaluation committee and temporarily suspends the  
5 issuance of solid waste permits by the department of environmental services.  
6

7 Amend RSA 147-A:4, II-c(b)(4) as inserted by section 1 of the bill by replacing it with the following:

8

9 (4) All persons set forth in subparagraph (b)(3) shall submit to the department a  
10 New Hampshire department of safety, division of state police, criminal history records release  
11 authorization form, as provided by the division of state police, which authorizes the division of state  
12 police to conduct a criminal history records check through its state records and through the Federal  
13 Bureau of Investigation and to release to the department, for the purposes of this section, a report of  
14 the criminal history and record information, including confidential criminal history record  
15 information, of the applicant and all persons set forth in subparagraph (b)(3). The release form shall  
16 name the assistant director of the department of environmental services waste management division  
17 and the administrator of the department of environmental services, hazardous waste management  
18 bureau as authorized recipients and shall specify any payment required by the division of state  
19 police.  
20

21 Amend RSA 147-A:4, II-c(b)(6) as inserted by section 1 of the bill by replacing it with the following:

22

23 (6) The department shall submit the criminal records release authorization forms  
24 and fingerprint forms to the department of safety, division of state police, which shall conduct a  
25 criminal history records check through its records and through the Federal Bureau of Investigation.  
26 Upon completion of the records check, the division of state police shall release copies of the criminal  
27 history records to the assistant director of the department of environmental services waste  
28 management division and the administrator of the department of environmental services, hazardous  
29 waste management bureau. The department shall maintain the confidentiality of all criminal  
30 history records information received pursuant to this section.  
31

32 Amend RSA 147-A:4,II-d(a)-(b) as inserted by section 1 of the bill by replacing it with the following:

33

**Amendment to SB 302-FN**  
**- Page 2 -**

1           (a) The person fails to demonstrate sufficient reliability, expertise, integrity and  
2 competence to operate a hazardous waste facility.

3           (b) The person or any person set forth in RSA 147-A:4, II-c(b)(3) has been convicted of, or  
4 pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of  
5 the permit application.

6  
7 Amend RSA 147-A:4, IV-a as inserted by section 2 of the bill by replacing it with the following:

8  
9           IV-a. No permit issued by the department under this section shall be transferred by the  
10 permittee to any person without the prior written approval of the department. Applications for the  
11 transfer of permits shall be upon such forms and shall include such information as the department  
12 requires by rules adopted under RSA 147-A:3, IX. ***The applicant and all related persons as set***  
13 ***forth RSA 147-A:4, II-c(b) shall comply with the performance history review and criminal***  
14 ***record provisions of RSA 147-A:4, II-c in all respects.*** [~~The application information shall~~  
15 ~~include, but not be limited to, a performance history of the applicant and of its officers and directors~~  
16 ~~relative to the operation, financial security, and ownership of all facilities owned or operated by the~~  
17 ~~applicant. Whenever requested by the department, the attorney general shall conduct a background~~  
18 ~~investigation of the performance history and criminal record of the applicant and of its officers and~~  
19 ~~directors, partners, and individuals or entities having managerial, supervisory, or substantial~~  
20 ~~decision-making authority and responsibility for the management of operations or activities for~~  
21 ~~which a permit is being sought, if any, and make a report to the department. The criminal~~  
22 ~~background check shall consist of and follow the same procedures set forth in paragraph II c. The~~  
23 ~~applicant shall also submit a statement that the proposed facility is consistent with the provisions of~~  
24 ~~a district plan. The cost of any investigation under this paragraph shall be borne by the applicant.]  
25 The department shall hold a public hearing no later than 30 days prior to making any final decision  
26 on an application to transfer a permit issued under this section. Notice of such public hearing shall  
27 be published in a newspaper of local circulation within the region of the public or private hazardous  
28 waste facility at least 2 weeks prior to such public hearing. The applicant shall notify abutters of the  
29 request for transfer of a permit under this section.~~

30  
31 Amend RSA 149-M:9, III(a) as inserted by section 4 of the bill by replacing it with the following:

32  
33           III.(a) Applications for permits shall be upon such forms and shall include such information  
34 as the department requires by rules adopted under RSA 149-M:7. The application information shall  
35 include, but not be limited to, a performance history of the applicant and of its owners, officers,  
36 directors, partners, members, or managers relative to the operation, financial security, and

**Amendment to SB 302-FN**  
**- Page 3 -**

1 ownership of all facilities owned or operated by such persons. The applicant shall also demonstrate  
2 that the proposed facility provides a substantial public benefit pursuant to RSA 149-M:11.

3  
4 Amend RSA 149-M:9, III(b)(4) as inserted by section 4 of the bill by replacing it with the following:

5  
6 (4) All persons set forth in subparagraph (b)(3) shall submit to the department a  
7 New Hampshire department of safety, division of state police, criminal history records release  
8 authorization form, as provided by the division of state police, which authorizes the division of state  
9 police to conduct a criminal history records check through its state records and through the Federal  
10 Bureau of Investigation and to release to the department, for the purposes of this section, a report of  
11 the criminal history and record information, including confidential criminal history record  
12 information, of the applicant and all persons set forth in subparagraph (b)(3). The release form shall  
13 name the assistant director of the department of environmental services waste management division  
14 and the administrator of the department of environmental services, solid waste management bureau  
15 as authorized recipients and shall specify any payment required by the division of state police.

16  
17 Amend RSA 149-M:9, III(b)(6) as inserted by section 4 of the bill by replacing it with the following:

18  
19 (6) The department shall submit the criminal records release authorization forms  
20 and fingerprint forms to the department of safety, division of state police, which shall conduct a  
21 criminal history records check through its records and through the Federal Bureau of Investigation.  
22 Upon completion of the records check, the division of state police shall release copies of the criminal  
23 history records to the assistant director of the department of environmental services waste  
24 management division and the administrator of the department of environmental services, solid  
25 waste management bureau. The department shall maintain the confidentiality of all criminal  
26 history records information received pursuant to this section.

27  
28 Amend the bill by replacing all after section 7 with the following:

29  
30 8 New Subdivision; Solid Waste Facility Site Evaluation Committee. Amend RSA 149-M by  
31 inserting after section 64 the following new subdivision:

32 Solid Waste Facility Site Evaluation Committee

33 149-M:65 Declaration of Purpose.

34 The legislature and the executive branch recognize that the selection of sites for major solid  
35 waste disposal facilities may have significant statewide, regional and local impacts that are not fully  
36 evaluated through existing regulatory review. Accordingly, the legislature and the executive branch  
37 find that it is in the public interest to establish a procedure to evaluate the local, regional and

**Amendment to SB 302-FN**  
**- Page 4 -**

1 statewide benefits and burdens of a new major solid waste facility that are not captured by existing  
2 regulatory reviews, including noise, odor, aesthetics, local and regional economic impacts, property  
3 value impacts, nature and source of waste, need, impacts on tourism, recreation and traffic, and  
4 other similar impacts.

5 149-M:66 Definitions. In this subdivision:

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

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

10 III. "Affected municipality" means any municipality or unincorporated place in which any  
11 part of a major solid waste disposal facility is proposed to be located and any municipality or  
12 unincorporated place from which any part of the proposed major solid waste disposal facility will be  
13 visible or audible, including off-site traffic impacts.

14 IV. "Certificate" means the document issued by the committee, containing such terms and  
15 conditions as the committee deems appropriate, that authorizes the applicant to proceed with the  
16 proposed site and facility.

17 V. "Commence construction" means any clearing of the land, excavation or other substantial  
18 action that would result in long-term impacts to the site of the proposed facility, but does not include  
19 land surveying, optioning or acquiring land or rights in land, changes desirable for temporary use of  
20 the land for public recreational uses, necessary subsurface explorations to determine hydrogeologic  
21 and soil conditions, work required as part of an application to any federal, state, or local authority,  
22 or other preconstruction monitoring or testing to establish background information related to the  
23 suitability of the site for the proposed use.

24 VI. "Committee" means the solid waste evaluation committee established by this chapter.

25 VII. "Department" means the department of environmental services.

26 VIII. "Major solid waste disposal facility" means a location, system, or physical structure for  
27 the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste with a  
28 proposed waste acceptance rate greater than 100,000 tons per year. Major solid waste disposal  
29 facility does not include any facility proposed to be constructed by a New Hampshire municipal  
30 government.

31 IX. "Filing" means the date on which the application is first submitted to the committee.

32 X. "Person" means any individual, group, firm, partnership, corporation, cooperative,  
33 municipality, political subdivision, government agency, or other organization.

34 149-M:67 Solid Waste Evaluation Committee Established.

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

**Amendment to SB 302-FN**  
**- Page 5 -**

1           (a) The chairperson of the waste management council established under RSA 21-O:9,  
2 who shall serve as chairperson of the committee. If there is an appeal pending before the waste  
3 management council related to the major solid waste disposal facility, then the chairperson of the  
4 wetlands council, water council or air resources council established under RSA 21-O, selected by the  
5 commissioner of the department, shall serve as chairperson of the committee.

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

7           (c) Two members and, when required by RSA 149-M:68, an alternate member,  
8 appointed by the governor with the consent of the executive council, including a member who serves  
9 on a local conservation commission and a member who has expertise in the private waste  
10 management industry.

11           (d) One public member and, when required by RSA 149-M:68, an alternate public  
12 member, appointed by the governor with the consent of the executive council as described in RSA  
13 149-M:68, with expertise or experience in one or more of the following areas: business management;  
14 environmental protection; natural resource protection; solid waste disposal facility design,  
15 construction, operation, or management; community and regional planning or economic  
16 development; municipal or county government; or the governing of unincorporated places.

17           II. All members, including those who sit for a member recused under RSA 149-M:68, shall  
18 refrain from ex parte communications regarding any matter pending before the committee. A  
19 majority of the members of the committee shall constitute a quorum for the purpose of conducting  
20 the committee's business.

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

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

24           (a) Serve as presiding officer.

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

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

28           (d) Engage personnel in accordance with this chapter.

29           V. The presiding officer may appoint a hearing officer to perform the functions described in  
30 RSA 149-M:70, V.

31           149-M:68 Members Appointed By The Governor With The Consent Of Council.

32           I. Members and alternate members appointed under RSA 149-M:67, I(c) and (d) shall serve  
33 4-year terms and until their successors are appointed and qualified. Any member chosen to fill a  
34 vacancy occurring other than by expiration of a term shall be appointed for the unexpired term of the  
35 member who is succeeded.

**Amendment to SB 302-FN**  
**- Page 6 -**

1           II. If at any time the member appointed by the governor with the consent of the executive  
2 council must recuse himself or herself from a matter before the committee or is not otherwise  
3 available for good reason, the alternate member shall replace such member.

4           III. No member nor any member of his or her family shall receive income from entities that  
5 own or operate, or have applied to own or operate, major solid waste disposal facilities in New  
6 Hampshire. The members appointed by the governor with the consent of the executive council and  
7 their alternates shall comply with RSA 15-A and RSA 15-B.

8           IV. Any member appointed by the governor with the consent of the executive council may be  
9 removed from office in accordance with RSA 4:1.

10           149-M:69 Administrator and Other Committee Support.

11           The administrator shall provide support to the committee. If the administrator is not available  
12 or the position is vacant, the committee may hire an independent contractor at the expense of the  
13 applicant. The administrator shall be under the supervision of the chairperson when performing  
14 duties for the committee. The administrator shall be compensated for work performed for the  
15 committee as set forth in RSA 149-M:85. The administrator, or chairperson in the absence of an  
16 administrator, with committee approval, may engage additional technical, legal, or administrative  
17 support to fulfill the functions of the committee as necessary.

18           149-M:70 Powers and Duties of the Committee; Rules.

19           I. The committee shall:

20           (a) Evaluate and issue any certificate under this chapter for a major solid waste  
21 disposal facility.

22           (b) Determine the terms and conditions of any certificate issued under this chapter.

23           (c) Adjudicate enforcement matters.

24           (d) Assist the public in understanding the requirements of this chapter.

25           (e) Deny applications for a certificate based on such findings and rulings as may be  
26 necessary to support its decision to deny.

27           II. The committee shall hold hearings as required by this chapter and such additional  
28 hearings as it deems necessary and appropriate and, in addition to the requirements under RSA 91-  
29 A, ensure adequate and timely public notice of no less than 7 calendar days.

30           III. The committee may delegate to the administrator or such state agency or official as it  
31 deems appropriate the authority to specify the use of any technique, methodology, practice, or  
32 procedure approved by the committee within a certificate issued under this chapter, or the authority  
33 to specify minor changes in the major solid waste disposal facility configuration to the extent that  
34 such changes are authorized by the certificate for those portions of a proposed major solid waste  
35 disposal facility project.

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

**Amendment to SB 302-FN**  
**- Page 7 -**

1           V. In any matter before the committee, the presiding officer, or a hearing officer designated  
2 by the presiding officer, may hear and decide procedural matters that are before the committee,  
3 including procedural schedules, consolidation of parties with substantially similar interests,  
4 discovery schedules and motions, and identification of significant disputed issues for hearing and  
5 decision by the committee. Undisputed petitions for intervention may be decided by the hearing  
6 officer and disputed petitions shall be decided by the presiding officer. Any party aggrieved by a  
7 decision on a petition to intervene may within 10 calendar days request that the committee review  
8 such decision. Other procedural decisions may be reviewed by the committee at its discretion.

9           VI. The committee shall issue such rules to administer this chapter, pursuant to RSA 541-  
10 A, after public notice and hearing, as may from time to time be required.

11           149-M:71 Prohibitions and Restrictions.

12           I. No person shall commence construction of any major solid waste disposal facility within  
13 the state unless it has obtained a certificate pursuant to this chapter. Such facilities shall be  
14 constructed, operated, and maintained in accordance with the terms of the certificate and any other  
15 federal, state, or local permits or approvals. Such certificates are required for changes or additions  
16 to existing facilities that propose an annual throughput of greater than or equal to 100,000 tons per  
17 year. Such a certificate shall not be transferred or assigned without approval of the committee.  
18 Unless otherwise specified in this chapter, any approved major solid waste facility shall not be  
19 constructed, operated, or closed in a manner materially different than the manner in which it was  
20 presented in the application for a certificate as modified and conditioned by such certificate.

21           II. Notwithstanding RSA 541-A:29 or any other law to the contrary, an application for a  
22 certificate from the committee shall be approved or denied by the committee prior to final decisions  
23 on all other state agency permit applications. Applications for certificates may be filed and  
24 evaluated by the committee concurrently with other state approvals and public hearings may be  
25 scheduled concurrently with hearings held by other state agencies as part of their permitting process  
26 for the same facility.

27           III. Notwithstanding paragraph II, for facilities under review by the department for a  
28 permit on or prior to July 1, 2025, an application for a certificate from the committee shall be  
29 approved or denied after other state agency approvals have been obtained. The committee shall not  
30 consider technical questions already considered by other state or federal agencies, nor include terms  
31 or conditions in a certificate that have already been reviewed and decided upon by other state or  
32 federal agency regulatory reviews.

33           149-M:72 Application for Certificate.

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

36           II. Upon filing of an application, the chairperson or designated presiding officer shall  
37 expeditiously conduct a preliminary review to ascertain if the application contains sufficient

**Amendment to SB 302-FN**  
**- Page 8 -**

1 information to carry out the purposes of this chapter. If the application does not contain such  
2 sufficient information, the chairperson or designated presiding officer shall, in writing, expeditiously  
3 notify the applicant of that fact and specify what information the applicant must supply.

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

5 (a) Describe in reasonable detail the types and quantities of waste and their  
6 characteristics proposed to be accepted and size of each major part of the proposed facility.

7 (b) Describe in reasonable detail the source of waste to be accepted.

8 (c) Describe how the proposed facility satisfies the criteria listed under RSA 149-  
9 M:11,III.

10 (d) Identify both the applicant's preferred choice and other alternatives it considers  
11 available for the site and configuration of each major part of the proposed facility and the reasons for  
12 the applicant's preferred choice.

13 (e) Describe in reasonable detail the impact of each major part of the proposed facility  
14 on existing local, regional, and state land uses.

15 (f) Document that written notification of the proposed project, including appropriate  
16 copies of the application, has been given to the appropriate governing body of each affected  
17 municipality, as defined in RSA 149-M:66, III. The application shall include a list of the affected  
18 municipalities.

19 (g) Provide analysis on the local, regional and statewide visual impact of the proposed  
20 facility during construction, operation, and post-closure and the visual impacts as evaluated through  
21 a visual impact assessment prepared in accordance with professional standards by an expert in the  
22 field.

23 (h) Provide information in reasonable detail about the impacts on local, regional and  
24 state property values, human health, tourism, outdoor recreation, wildlife, traffic, noise, and odor by  
25 the proposed facility. These analyses shall be conducted in accordance with professional standards  
26 by an expert in these fields.

27 (i) Provide a reasonable amount of information relative to how new contaminants of  
28 concern not regulated by a permit issued by the department, will be monitored, evaluated and  
29 managed over the proposed life of the facility.

30 (j) Provide a reasonable amount of information relative to the economic impacts of the  
31 proposed facility on affected municipalities, the region, and the state.

32 (k) An assessment of greenhouse gas and other emissions emanating from the facility  
33 and from transport of solid waste-related material and by-products to and from the proposed facility.

34 (l) Potential economic benefits to the local area and potential infrastructure  
35 improvements associated with the proposed project.

36 (m) Provide such additional information as the committee may require or request to  
37 carry out the purpose of this chapter.

**Amendment to SB 302-FN**  
**- Page 9 -**

1           IV. To the extent any information provided in the application was submitted and considered  
2 by a state agency as part of its permitting evaluation and decision under RSA 149-M:71, III, the  
3 applicant shall specify what information was so considered and the statutory and regulatory  
4 authority for that agency's consideration of the information.

5           V. For all information submitted with the application that was prepared by an outside  
6 consultant or expert, the applicant shall submit the qualifications of such consultants or experts to  
7 prepare such information.

8           VI. The committee shall require the applicant to hire an independent third party at the  
9 expense of the applicant and agreed upon by the committee in consultation with the municipality  
10 where the facility is proposed to be located, to peer review any assessments provided under this  
11 section.

12           VII. The chairperson or designated presiding officer shall decide whether to accept the  
13 application as administratively complete within 60 days of filing. If the chairperson or designated  
14 presiding officer rejects an application because it determines it to be administratively incomplete,  
15 the applicant may choose to file a new and more complete application or cure the defects in the  
16 rejected application within 10 days of receipt of notification of rejection.

17           VIII. Public information sessions shall be held in accordance with RSA 149-M:76.

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

20           X. The applicant shall immediately inform the committee of any substantive modification to  
21 its application.

22           XI. The committee may require state agencies with relevant technical expertise to  
23 participate in committee proceedings.

24           XII. The department shall conduct a review of the application information submitted  
25 pursuant to RSA 149-M:72, III(c) to determine whether the facility has demonstrated that it satisfies  
26 the criteria in RSA 149-M:11, III. Such review shall be conducted in accordance with RSA 149-M:11.  
27 The department shall report its findings to the committee in order to inform the committee's decision  
28 on the application.

29           XIII. The committee may deny a permit application based upon the criteria in RSA 149-M:9,  
30 IX.

31           XIV. A state agency may intervene as a party in any committee proceeding in the same  
32 manner as other persons under RSA 541-A.

33           149-M:73 Disclosure of Ownership.

34           Any application for a certificate, or for change in ownership and transfer of certificate, shall be  
35 signed and sworn to by the person or executive officer of the association or corporation making such  
36 application and shall contain the following information:

37           I. Full name and address of the person, association, or corporation.

1           II. If an association or limited liability company, the name of the state under which it was  
2 formed, the names and residences of the members of the association or limited liability company.

3           III. If a corporation, the name of the state under which it is incorporated with its principal  
4 place of business and the names and addresses of its directors, officers and stockholders.

5           IV. If doing business in a form other than as an association, limited liability company or  
6 corporation, the form of the business, the name of the state under which it was formed, and the  
7 names and residences of anyone with a financial, ownership or control interest in the organization.

8           V. The location or locations where an applicant is to conduct its business.

9           VI. A statement of assets and liabilities of the applicant and other relevant financial  
10 information of such applicant.

11           VII. The committee shall administratively approve changes of ownership and transfers of  
12 certificates within 90 days of a petition if it determines the new certificate holder has adequate  
13 financial, technical, and managerial capability to assure construction and operation of the facility in  
14 continuing compliance with the terms and conditions of the certificate and any federal, state and  
15 local permits.

16           149-M:74 Application and Filing Fees.

17           I. A person filing with the committee an application for a certificate for a major solid waste  
18 disposal facility, shall pay to the committee at the time of filing a fee determined in accordance with  
19 the fee schedule described in paragraph II. If an application for a certificate for a major solid waste  
20 disposal facility is deemed incomplete pursuant to RSA 149-M:72, VII, and a new application is  
21 submitted thereunder, the unused portion of the initial application fee shall be refunded to the  
22 applicant or credited to the filing of the new application. The committee may in its discretion  
23 provide for a credit or refund in other circumstances that are unforeseen by the applicant.

24           II. The fees under paragraph I shall be determined in accordance with a fee schedule posted  
25 by the committee on its website, which shall include the following amounts:

26               (a) Application fee for a major solid waste disposal facility: \$20,000 base charge and  
27 \$1,000 per additional 10,000 tons/year throughput in excess of 100,000 tons per year.

28               (b) Filing fees for administrative proceedings:

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

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

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

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

34           IV. The committee shall review and evaluate the application fees and filing fees in the fee  
35 schedule in subparagraphs II(a) and (b) at least once each year. The committee may increase any  
36 amount in the fee schedule by no more than the increase in the consumer price index from the prior  
37 year, provided that any such increase shall occur not more frequently than once during any 12-

**Amendment to SB 302-FN**  
**- Page 11 -**

1 month period. Modifications to the fee schedule shall be posted on the committee website, with a  
2 link prominently displayed on the home page.

3 149-M:75 Counsel for the Public.

4 I. The chair or the administrator shall notify the attorney general of all administrative  
5 proceedings. The attorney general may appoint an assistant attorney general as counsel for the  
6 public in administrative proceedings. Upon notification that an application for a certificate has been  
7 filed with the committee in accordance with RSA 149-M:72, the attorney general shall appoint an  
8 assistant attorney general as a counsel for the public. The counsel shall represent the public in all  
9 aspects of the committee's authority. The counsel shall be accorded all the rights and privileges,  
10 and responsibilities of an attorney representing a party in formal action and shall serve until the  
11 decision to issue or deny a certificate is final.

12 II. This section shall not be construed to prevent any person from being heard or  
13 represented by counsel; provided, however, the committee may compel consolidation of  
14 representation for such persons as have, in the committee's reasonable judgment, substantially  
15 identical interests.

16 149-M:76 Public Hearing; Studies.

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

21 II. The committee may order the applicant to provide such additional public information  
22 sessions in affected municipalities as are reasonable to inform the public of the proposed project.

23 III. Within 90 days after acceptance of an application for a certificate, the committee shall  
24 hold at least one public information session in each the municipality where the proposed facility is  
25 proposed to be located.

26 IV. Subsequent public hearings shall be in the nature of adjudicative proceedings under  
27 RSA 541-A and shall be held in the municipality in which the proposed facility is to be located or in  
28 Concord, New Hampshire, as determined by the committee. The committee shall give adequate  
29 public notice of the time and place of each subsequent hearing.

30 V. The committee shall adopt rules regarding the timing and method of notices for public  
31 information sessions and public hearings and the any other requirements regarding such sessions  
32 and hearings.

33 VI. The committee shall consider and weigh all evidence presented at public hearings and  
34 shall consider and weigh written information and reports submitted to it by members of the public  
35 prior to the closing of the record of the proceeding. The committee shall provide an opportunity at  
36 one or more public hearings for comments from the governing body of each affected municipality and  
37 residents of each affected municipality. The committee shall consider, as appropriate, prior

**Amendment to SB 302-FN**  
**- Page 12 -**

1 committee findings and rulings on the same or similar subject matters, but shall not be bound  
2 thereby.

3 VII. The solid waste evaluation committee shall require from the applicant whatever  
4 information it deems necessary to assist in the conduct of the hearings, and any investigation or  
5 studies it may undertake, and in the determination of the terms and conditions of any certificate  
6 under consideration.

7 VIII. The committee and counsel for the public shall conduct such reasonable studies and  
8 investigations as they deem necessary or appropriate to carry out the purposes of this chapter and  
9 may employ a consultant or consultants, legal counsel and other staff in furtherance of the duties  
10 imposed by this chapter, the cost of which shall be borne by the applicant or certificate holder in  
11 such amount as may be approved by the committee. The committee and counsel for the public are  
12 further authorized to assess the applicant or certificate holder for all travel and related expenses  
13 associated with the processing of an application or other proceedings under this chapter.

14 IX. Times for conducting public hearings and rendering a decision on the application may be  
15 extended for good cause upon written request of the applicant.

16 149-M:77 Judicial Review.

17 Decisions made pursuant to this chapter shall be appealed in accordance with RSA 541.

18 149-M:78 Monitoring and Enforcement.

19 I. The department shall monitor the construction and operation of any major solid waste  
20 disposal facility granted a certificate under this chapter, after all other subsequent approvals are  
21 obtained, to ensure compliance with such certificate and enforce the terms and conditions of any  
22 such certificate. With the exception of the authority retained by the state agencies in accordance  
23 with paragraph V, the department may delegate the authority to monitor the construction or  
24 operation of any major solid waste disposal facility granted a certificate under this chapter to such  
25 state agency or official as it deems appropriate but shall ensure that the terms and conditions of the  
26 certificate are met. Any authorized representative or delegate of the department shall have a right  
27 of entry onto the premises of any part of the solid waste generation facility to ascertain if the facility  
28 is being constructed or operated in continuing compliance with the terms and conditions of the  
29 certificate. During normal hours of business administration and on the premises of the facility, such  
30 a representative or delegate shall also have a right to inspect such records of the certificate-holder as  
31 are relevant to the terms or conditions of the certificate.

32 II. Whenever the department administratively determines, on its own or in response to a  
33 complaint, that any term or condition of any certificate issued under this chapter or prior law is  
34 being violated, it shall, in writing, notify the certificate holder of the specific violation and order the  
35 person to immediately terminate the violation. If, 15 days after receipt of the order, the person has  
36 failed or neglected to terminate the violation, the department shall notify the committee, which may  
37 suspend the person's certificate. In addition to suspension, if, after 15 days of receipt of the order,

**Amendment to SB 302-FN**  
**- Page 13 -**

1 the person has failed or neglected to terminate the violation, the committee may impose a fine not to  
2 exceed \$5,000 per day until the violation is corrected. Except for emergencies, prior to any  
3 suspension or imposition of a fine, the committee shall give written notice of its consideration of  
4 suspension or imposition of a fine and of its reasons therefor and shall provide opportunity for a  
5 prompt hearing.

6 III. In addition to other remedies provided in this chapter, upon petition of the department,  
7 the committee may suspend a certificate if the committee determines that a person has made a  
8 material misrepresentation in the application, or in the supplemental or additional statements of  
9 fact, or studies required of the applicant, or if the committee determines that the person has violated  
10 the provisions of this chapter, or any rule adopted under this chapter. Except for emergencies, prior  
11 to any suspension, the committee shall give written notice of its consideration of suspension and of  
12 its reasons therefor and shall provide an opportunity for a prompt hearing.

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

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

19 VI. The full amount of costs and expenses incurred by the department and committee in  
20 connection with any enforcement action against a person holding a certificate, in which the person is  
21 determined to have violated any provision of this chapter, any rule adopted by the department or  
22 committee, or any of the terms and conditions of the issued certificate, shall be assessed to the  
23 person and shall be paid by the person to the committee. Any amounts paid by a person to the  
24 committee pursuant to this paragraph shall be deposited in the solid waste evaluation committee  
25 fund established in RSA 149-M:84.

26 VII. The department may adopt rules in furtherance of its monitoring and enforcement  
27 responsibilities under this chapter.

28 149-M:79 Records.

29 Complete verbatim records shall be kept by the committee of all hearings, and records of all  
30 other actions, proceedings, and correspondence of the committee, including submittals of information  
31 and reports by members of the public, shall be maintained, all of which records shall be open to the  
32 public inspection and copying as provided for under RSA 91-A. Committee records regarding  
33 pending applications for a certificate shall also be made available on a website.

34 149-M:80 Temporary Suspension of Deliberations.

35 If the committee, at any time while an application for a certificate is before it, deems it to be in  
36 the public interest, it may temporarily suspend its deliberations and time frames established under  
37 this chapter.

1           149-M:81 Findings and Certificate Issuance.

2           I. Any certificate issued by the committee shall be based on the record. The decision to  
3 issue a certificate in its final form or to deny an application once it has been accepted shall be made  
4 by a majority of the committee.

5           II. The committee may consult with interested regional agencies and agencies of border  
6 states in the consideration of certificates.

7           III. After due consideration of all relevant information regarding the potential siting,  
8 including potential significant impacts and benefits, the committee shall determine if issuance of a  
9 certificate will serve the objectives of this chapter. In order to issue a certificate, the committee  
10 shall find that:

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

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

17           (c) The facility satisfies the criteria in RSA 149-M:11, III.

18           (d) The net public benefit of the facility to the region shall outweigh any adverse impact  
19 of the facility on human health, aesthetics, historic preservation, economic impacts to the region,  
20 tourism, outdoor recreation, regional and statewide business development, wildlife, noise, odor,  
21 traffic impacts, existing land uses, including property values, characteristics and source of waste,  
22 and any other impacts assessed as part of the application pursuant to RSA 149-M:72, III.

23           (e) Issuance of a certificate will serve the public interest of the citizens of New  
24 Hampshire.

25           IV. The committee shall issue an order granting or denying a certificate. Such order shall  
26 summarize and address issues of concern expressed during public information sessions and hearings  
27 to ensure that the public's voice has been heard and recorded.

28           V. A certificate of site and facility may contain such reasonable terms and conditions,  
29 including, but not limited to the authority to require bonding, as the committee deems necessary.  
30 Such certificates, when issued, shall be final and subject only to judicial review.

31           VI. The committee shall condition the certificate upon the results of applicable federal and  
32 state approvals or appeal processes and required federal and state agency studies whose study  
33 period exceeds the application period.

34           149-M:82 Penalties.

35           I. Any construction or operation of major solid waste disposal facilities without first  
36 obtaining a certificate from the committee, or any material violation of the terms and conditions of a  
37 certificate issued by the committee, shall be subject to a civil penalty not to exceed \$10,000 for each

**Amendment to SB 302-FN**  
**- Page 15 -**

1 violation or for each day of a continuing violation. Such violation may also be enjoined by the  
2 superior court upon application of the attorney general.

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

5 149-M:83 Severability.

6 If any provision of this chapter, or application thereof to any person or circumstance is held  
7 invalid, the invalidity does not affect other provisions or applications of the chapter which can be  
8 given effect without the invalid provisions or applications, and to this end, the provisions of this  
9 chapter are severable.

10 149-M:84 Fund Established; Funding Plan.

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

20 149-M:85 Compensation and Reimbursement.

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

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

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

35 IV. All persons or agencies seeking compensation or reimbursement under this section shall  
36 keep detailed time and expense records which shall be submitted to the chairperson or administrator

**Amendment to SB 302-FN**  
**- Page 16 -**

1 and used to determine the amount of compensation or reimbursement. The chairperson or  
2 administrator shall develop a recordkeeping system and accounting and payment procedures.

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

6 149-M:86 Solid Waste Permit Applications Suspended.

7 I. The department shall not issue any permit approvals that authorize new capacity for  
8 major solid waste disposal facilities until rules are adopted by the committee or until July 1, 2026,  
9 whichever is later.

10 II. Notwithstanding RSA 149-M:9, the department shall not issue any permit to construct or  
11 operate a new landfill facility in New Hampshire under RSA 149-M:9 until July 1, 2028. The  
12 department may accept applications, evaluate them for completeness, and request more information  
13 to make an application complete, but shall not proceed to further evaluation or process any  
14 applications, notwithstanding RSA 541-A:29, in order that any evaluation of need, benefit, harm, or  
15 appropriateness of the site proposed will await the development of new regulations, data,  
16 technologies, and policies.

17 III. Nothing in paragraph II shall be construed to prohibit the expansion or modification of  
18 any landfill facilities on any site on which, as of December 1, 2022, a Resource Conservation and  
19 Recovery Act (RCRA) Subtitle D landfill exists that has been permitted in accordance with RSA 149-  
20 M:9.

21 IV. In this section, the term “site” means a single parcel or adjacent parcels, owned in their  
22 entirety by a landfill operator or its affiliates as of December 1, 2022, including a site where one or  
23 more public utility easements traverse the site.

24 9 New Subparagraph; Solid Waste Evaluation Committee Fund. Amend RSA 6:12, I(b) by  
25 inserting after subparagraph (399) the following new subparagraph:

26 (400) Moneys deposited in the solid waste evaluation committee fund as established  
27 in RSA 149-M:84.

28 10 Effective Date.

29 I. Sections 8-9 of this act shall take effect July 1, 2025.

30 II. The remainder of this act shall take effect 60 days after its passage.

2025-2012h

AMENDED ANALYSIS

This bill:

I. Requires background checks for solid waste and hazardous waste facility owners including partners and managers.

II. Establishes the solid waste facility site evaluation committee, requires major solid waste disposal facilities to be certified by the solid waste facility site evaluation committee, and temporarily suspends the issuance of solid waste permits by the department of environmental services.