

SB 302-FN - AS AMENDED BY THE HOUSE

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2025 SESSION

25-1167

08/09

SENATE BILL

302-FN

AN ACT

requiring background checks for solid waste and hazardous waste facility owners, establishing a solid waste site evaluation committee and temporarily suspends the issuance of solid waste permits by the department of environmental services, relative to the confiscation of animals from persons suspected of or charged with abuse of animals, and establishing a committee to study the animal cruelty statutes.

SPONSORS: Sen. Pearl, Dist 17

COMMITTEE: Executive Departments and Administration

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.

III. Prohibits the confiscation of animals from persons suspected of abuse of animals unless such person is charged with cruelty to animals or the animals require temporary protective custody.

IV. Requires the state veterinarian or their designee to accompany an investigating officer when livestock are the subject of a cruelty case in order to set probable cause criteria for the taking of the animal.

V. Establishes a committee to study certain animal cruelty statutes.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough]~~.

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT requiring background checks for solid waste and hazardous waste facility owners, establishing a solid waste site evaluation committee and temporarily suspends the issuance of solid waste permits by the department of environmental services, relative to the confiscation of animals from persons suspected of or charged with abuse of animals, and establishing a committee to study the animal cruelty statutes.

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

1 1 Background Checks. RSA 147-A:4, II-c and II-d is repealed and reenacted to read as follows:

2 II-c.(a) Applications for permits shall be upon such forms and shall include such information
3 as the department requires by rules adopted under RSA 147-A:3. The application information shall
4 include, but not be limited to, a performance history of the applicant and of its owners, officers,
5 directors, partners, members, or managers relative to the operation, financial security, and
6 ownership of all facilities owned or operated by such persons.

7 (b)(1) The applicant and all persons and entities set forth in subparagraph (b)(2) seeking
8 a permit under this chapter shall be subject to a criminal records check consisting of a New
9 Hampshire criminal records check and a fingerprint-based criminal record check utilizing national
10 crime information databases, as set forth in subparagraphs (b)(3) through (b)(6). The department
11 may make rules under RSA 541-A exempting certain types of permit applications from the
12 performance history and criminal records check requirements of this section.

13 (2) In this paragraph:

14 (A) "Owner" means each owner or part owner of a privately held corporation;

15 (B) "Officer" means those persons described in a corporation's bylaws or articles
16 of incorporation or elected or appointed by the board of directors to manage the daily operations of a
17 corporation, such as a chief executive officer, chief financial officer, secretary, treasurer, president,
18 and vice president. "Officer" includes those persons described within RSA 293-A:8.40.

19 (C) "Director" means a person appointed or elected to sit on a governing board of
20 a corporation. "Director" includes trustees, managers, and governors and those persons described
21 within New Hampshire RSA 293-A:8.01-8.11.

22 (D) "Partner" means one of 2 or more persons carrying on as co-owners of a
23 business for profit. "Partner" includes, but is not limited to, a limited or general partner of a
24 partnership, professional association, or foreign partnership or such partners as set forth in title
25 XXVIII.

26 (E) "Member" means a person who has been admitted to a limited liability
27 company as a member in accordance with RSA 304-C or in accordance with the laws of the state or

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foreign country or jurisdiction under which the limited liability company is organized. "Member" includes each member of a limited liability company, foreign limited liability company, or professional limited liability company as set forth in RSA 304-C and RSA 304-D.

(F) "Manager" means a person who is named or designated as a manager of a limited liability company in an operating agreement. "Manager" includes each manager of a limited liability company, foreign limited liability company, or professional limited liability company as set forth in RSA 304-C and RSA 304-D.

(3) Except for governmental entities and municipalities, the persons subject to the criminal records checks pursuant to subparagraph (b)(1) above are as follows:

(A) The applicant;

(B) If the applicant is an individual(s), each individual;

(C) If the applicant is a publicly traded corporation, each officer and director;

(D) If the applicant is a privately held corporation, each owner, officer, and director;

(E) If the applicant is a general or limited partnership, each partner;

(F) If the applicant is a limited liability company, foreign limited liability company, or professional limited liability company, each manager and member;

(G) If the permit sought is for the transfer of a permit to a new person or a change in ownership of the current permit holder at an existing facility, then the transferee applicant and all persons related to the transferee applicant as set forth in subparagraph (b)(3).

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

(5) All persons set forth in subparagraph (b)(3) shall submit to the department, along with their criminal record release authorization form required in subparagraph (b)(4), a complete set of fingerprints taken by a qualified law enforcement agency or authorized employee of the department of safety. If the national crime information database is unavailable for any reason, the department may accept New Hampshire criminal records or police clearances from every city, town, or county where the person has lived during the past 5 years.

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

(7) The department may bill the applicant for any costs or fees associated with the performance history review and the criminal records check, including, but not limited to, any fee charged by the department of safety or the Federal Bureau of Investigation for the criminal records checks set forth in this subsection. The department shall destroy all criminal history record information within 60 days after the department's decision on the application or upon the conclusion of any appeal of the department's decision, whichever is later.

II-d. The department may deny a permit application under this section to a person if any of the following applies:

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

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

2 Permit Applicants; Criminal Records. Amend RSA 147-A:4, IV-a to read as follows:

IV-a. No permit issued by the department under this section shall be transferred by the permittee to any person without the prior written approval of the department. Applications for the transfer of permits shall be upon such forms and shall include such information as the department requires by rules adopted under RSA 147-A:3, IX. ***The applicant and all related persons as set forth RSA 147-A:4, II-c(b) shall comply with the performance history review and criminal record provisions of RSA 147-A:4, II-c in all respects.*** ~~[The application information shall include, but not be limited to, a performance history of the applicant and of its officers and directors relative to the operation, financial security, and ownership of all facilities owned or operated by the applicant. Whenever requested by the department, the attorney general shall conduct a background investigation of the performance history and criminal record of the applicant and of its officers and directors, partners, and individuals or entities having managerial, supervisory, or substantial decision-making authority and responsibility for the management of operations or activities for which a permit is being sought, if any, and make a report to the department. The criminal background check shall consist of and follow the same procedures set forth in paragraph II-c. The applicant shall also submit a statement that the proposed facility is consistent with the provisions of~~

~~a district plan. The cost of any investigation under this paragraph shall be borne by the applicant.]~~
The department shall hold a public hearing no later than 30 days prior to making any final decision on an application to transfer a permit issued under this section. Notice of such public hearing shall be published in a newspaper of local circulation within the region of the public or private hazardous waste facility at least 2 weeks prior to such public hearing. The applicant shall notify abutters of the request for transfer of a permit under this section.

3 Disclosure of Ownership. Amend RSA 147-A:4-b, II to read as follows:

II. If the applicant is a corporation, the state of incorporation, the address of its principal place of business, and the names and addresses of its **owners**, directors, **and** officers~~], and shareholders]~~; if the applicant is a partnership, the state of formation, the address of its principal place of business, and the names and addresses of its partners, whether general or limited; and if the applicant is any other kind of association, the state of formation, the address of its principal place of business, and the names and addresses of its **partners**, members, **managers**, or participants.

4 Background Checks. RSA 149-M:9, III is repealed and reenacted to read as follows:

III.(a) Applications for permits shall be upon such forms and shall include such information as the department requires by rules adopted under RSA 149-M:7. The application information shall include, but not be limited to, a performance history of the applicant and of its owners, officers, directors, partners, members, or managers relative to the operation, financial security, and ownership of all facilities owned or operated by such persons. The applicant shall also demonstrate that the proposed facility provides a substantial public benefit pursuant to RSA 149-M:11.

(b)(1) The applicant and all persons and entities set forth in subparagraph (b)(2) seeking a permit, permit modification, or permit transfer under this chapter shall be subject to a criminal records check consisting of a New Hampshire criminal records check and a fingerprint-based criminal record check utilizing national crime information databases, as set forth in subparagraphs (b)(3) through (b)(6). The department may make rules under RSA 541-A exempting certain types of permit applications from the performance history and criminal records check requirements of this section.

(2) In this paragraph:

(A) "Owner" means each owner or part owner of a privately held corporation;

(B) "Officer" means those persons described in a corporation's bylaws or articles of incorporation or elected or appointed by the board of directors to manage the daily operations of a corporation, such as a chief executive officer, chief financial officer, secretary, treasurer, president, and vice president. "Officer" includes those persons described within RSA 293-A:8.40.

(C) "Director" means a person appointed or elected to sit on a governing board of a corporation. "Director" includes trustees, managers, and governors and those persons described within New Hampshire RSA 293-A:8.01 through RSA 293-A:8.11.

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(D) "Partner" means one of 2 or more persons carrying on as co-owners of a business for profit. "Partner" includes, but is not limited to, a limited or general partner of a partnership, professional association, or foreign partnership or such partners as set forth in title XXVIII.

(E) "Member" means a person who has been admitted to a limited liability company as a member in accordance with RSA 304-C or in accordance with the laws of the state or foreign country or jurisdiction under which the limited liability company is organized. "Member" includes each member of a limited liability company, foreign limited liability company, or professional limited liability company as set forth in RSA 304-C and RSA 304-D.

(F) "Manager" means a person who is named or designated as a manager of a limited liability company in an operating agreement. "Manager" includes each manager of a limited liability company, foreign limited liability company, or professional limited liability company as set forth in RSA 304-C and RSA 304-D.

(3) Except for governmental entities and municipalities, the persons subject to the criminal records checks pursuant to subparagraph (b)(1) above are as follows:

(A) The applicant.

(B) If the applicant is an individual(s), each individual.

(C) If the applicant is a publicly traded corporation, each officer and director.

(D) If the applicant is a privately held corporation, each owner, officer, and director.

(E) If the applicant is a general or limited partnership, each partner.

(F) If the applicant is a limited liability company, foreign limited liability company, or professional limited liability company, each manager and member.

(G) If the permit sought is for the transfer of a permit to a new person or a change in ownership of the current permit holder pursuant to RSA 149-M:9, XII an rules adopted by the department under RSA 541-A, then the transferee applicant and all persons related to the transferee applicant as set forth in subparagraph (b)(3).

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

(5) All persons set forth in subparagraph (b)(3) shall submit to the department, along with their criminal record release authorization form required in subparagraph (b)(4), a complete set of fingerprints taken by a qualified law enforcement agency or authorized employee of the department of safety. If the national crime information database is unavailable for any reason, the department may accept New Hampshire criminal records or police clearances from every city, town, or county where the person has lived during the past 5 years.

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

(7) The department may bill the applicant for any costs or fees associated with the performance history review and the criminal records check, including, but not limited to, any fee charged by the department of safety or the Federal Bureau of Investigation for the criminal records checks set forth in this subsection. The department shall destroy all criminal history record information within 60 days after the department's decision on the application or upon the conclusion of any appeal of the department's decision, whichever is later.

5 Denial of Application. Amend RSA 149-M:9, IX(b) and (c) to read as follows:

(b) The person *or any person defined in RSA 149-M:9, III(b)* has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of the permit application.

~~[(c) In the case of a corporation or business entity, if any of its officers, directors, partners, key employees or persons or business entities holding 10 percent or more of its equity or debt liability has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of the permit application.]~~

6 Applications; Transfer of Permits. Amend RSA 149-M:9, XII(a) to read as follows:

(a) Applications for the transfer of permits shall be filed by the person to whom such permit is to be transferred upon such forms and shall include such information as the department requires by rules adopted under RSA 149-M:7. ***The applicant and all related persons as set forth in RSA 149-M:9, III(b) shall comply with the performance history review and criminal provisions of RSA 149-M:9, III in all respects.*** ~~[The application information shall include, but not be limited to, a performance history of the applicant and of its officers and directors relative to the operation, financial security, and ownership of all facilities owned or operated by the applicant. Whenever requested by the department, the attorney general shall conduct a background~~

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~~investigation of the performance history and criminal record of the applicant and of its officers and directors, partners, and individuals or entities having managerial, supervisory, or substantial decision-making authority and responsibility for the management of operations or activities for which a permit is being sought, if any, and make a report to the department. The criminal background check shall consist of and follow the same procedures set forth in paragraph III.]~~ The applicant shall also submit a statement that the proposed facility is consistent with the provisions of a district plan. ~~[The cost of any investigation under this paragraph shall be borne by the applicant.]~~

7 Disclosure of Ownership. Amend RSA 149-M:10, I to read as follows:

I. Any application for a permit under RSA 149-M:9 shall be signed under oath by a representative of the applicant and shall contain the following information:

(a) Name and address of the applicant.

(b) If the applicant is a corporation, the state of incorporation, the address of its principal place of business, and the names and addresses of its **owners**, directors, **and** officers~~[-and shareholders]~~; if the applicant is a partnership, the state of formation, the address of its principal place of business, and the names and addresses of its partners, whether general or limited; and if the applicant is any other kind of association, the state of formation, the address of its principal place of business, and the names and addresses of its principals, **partners**, members, **managers**, **and** ~~or~~ participants.

(c) The exact location where the applicant intends to conduct the business for which it is seeking the permit.

(d) Such financial information as the department may require under RSA 149-M:9 **or rules adopted by the department**.

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

Solid Waste Facility Site Evaluation Committee

149-M:65 Declaration of Purpose.

The legislature and the executive branch recognize that the selection of sites for major solid waste disposal facilities may have significant statewide, regional and local impacts that are not fully evaluated through existing regulatory review. Accordingly, the legislature and the executive branch find that it is in the public interest to establish a procedure to evaluate the local, regional and statewide benefits and burdens of a new major solid waste facility that are not captured by existing regulatory reviews, including noise, odor, aesthetics, local and regional economic impacts, property value impacts, nature and source of waste, need, impacts on tourism, recreation and traffic, and other similar impacts.

149-M:66 Definitions. In this subdivision:

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

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

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

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

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

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

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

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

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

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

27 149-M:67 Solid Waste Evaluation Committee Established.

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

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

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

36 (c) Two members and, when required by RSA 149-M:68, an alternate member,
37 appointed by the governor with the consent of the executive council, including a member who serves

1 on a local conservation commission and a member who has expertise in the private waste
2 management industry.

3 (d) One public member and, when required by RSA 149-M:68, an alternate public
4 member, appointed by the governor with the consent of the executive council as described in RSA
5 149-M:68, with expertise or experience in one or more of the following areas: business management;
6 environmental protection; natural resource protection; solid waste disposal facility design,
7 construction, operation, or management; community and regional planning or economic
8 development; municipal or county government; or the governing of unincorporated places.

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

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

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

16 (a) Serve as presiding officer.

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

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

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

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

23 **149-M:68 Members Appointed By The Governor With The Consent Of Council.**

24 I. Members and alternate members appointed under RSA 149-M:67, I(c) and (d) shall serve
25 4-year terms and until their successors are appointed and qualified. Any member chosen to fill a
26 vacancy occurring other than by expiration of a term shall be appointed for the unexpired term of the
27 member who is succeeded.

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

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

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

37 **149-M:69 Administrator and Other Committee Support.**

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

8 149-M:70 Powers and Duties of the Committee; Rules.

9 I. The committee shall:

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

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

13 (c) Adjudicate enforcement matters.

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

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

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

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

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

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

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

1 149-M:71 Prohibitions and Restrictions.

2 I. No person shall commence construction of any major solid waste disposal facility within
3 the state unless it has obtained a certificate pursuant to this chapter. Such facilities shall be
4 constructed, operated, and maintained in accordance with the terms of the certificate and any other
5 federal, state, or local permits or approvals. Such certificates are not required for changes or
6 additions to existing facilities unless they propose an increase in existing permitted annual
7 throughput of greater than or equal to 50,000 tons per year. Such a certificate shall not be
8 transferred or assigned without approval of the committee. Unless otherwise specified in this
9 chapter, any approved major solid waste facility shall not be constructed, operated, or closed in a
10 manner materially different than the manner in which it was presented in the application for a
11 certificate as modified and conditioned by such certificate.

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

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

24 149-M:72 Application for Certificate.

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

27 II. Upon filing of an application, the chairperson or designated presiding officer shall
28 expeditiously conduct a preliminary review to ascertain if the application contains sufficient
29 information to carry out the purposes of this chapter. If the application does not contain such
30 sufficient information, the chairperson or designated presiding officer shall, in writing, expeditiously
31 notify the applicant of that fact and specify what information the applicant must supply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 VI. The committee shall require the applicant to hire an independent third party at the
37 expense of the applicant and agreed upon by the committee in consultation with the municipality

1 where the facility is proposed to be located, to peer review any assessments provided under this
2 section.

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

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

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

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

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

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

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

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

24 149-M:73 Disclosure of Ownership.

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

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

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

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

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

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

1 VI. A statement of assets and liabilities of the applicant and other relevant financial
2 information of such applicant.

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

8 149-M:74 Application and Filing Fees.

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

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

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 fee charges 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. The committee shall review and evaluate the application fees and filing fees in the fee
27 schedule in subparagraphs II(a) and (b) at least once each year. The committee may increase any
28 amount in the fee schedule by no more than the increase in the consumer price index from the prior
29 year, provided that any such increase shall occur not more frequently than once during any 12-
30 month period. Modifications to the fee schedule shall be posted on the committee website, with a
31 link prominently displayed on the home page.

32 149-M:75 Counsel for the Public.

33 I. The chair or the administrator shall notify the attorney general of all administrative
34 proceedings. The attorney general may appoint an assistant attorney general as counsel for the
35 public in administrative proceedings. Upon notification that an application for a certificate has been
36 filed with the committee in accordance with RSA 149-M:72, the attorney general shall appoint an
37 assistant attorney general as a counsel for the public. The counsel shall represent the public in all

1 aspects of the committee's authority. The counsel shall be accorded all the rights and privileges,
2 and responsibilities of an attorney representing a party in formal action and shall serve until the
3 decision to issue or deny a certificate is final.

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

8 149-M:76 Public Hearing; Studies.

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

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

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

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

22 V. The committee shall adopt rules regarding the timing and method of notices for public
23 information sessions and public hearings and the any other requirements regarding such sessions
24 and hearings.

25 VI. The committee shall consider and weigh all evidence presented at public hearings and
26 shall consider and weigh written information and reports submitted to it by members of the public
27 prior to the closing of the record of the proceeding. The committee shall provide an opportunity at
28 one or more public hearings for comments from the governing body of each affected municipality and
29 residents of each affected municipality. The committee shall consider, as appropriate, prior
30 committee findings and rulings on the same or similar subject matters, but shall not be bound
31 thereby.

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

36 VIII. The committee and counsel for the public shall conduct such reasonable studies and
37 investigations as they deem necessary or appropriate to carry out the purposes of this chapter and

1 may employ a consultant or consultants, legal counsel and other staff in furtherance of the duties
2 imposed by this chapter, the cost of which shall be borne by the applicant or certificate holder in
3 such amount as may be approved by the committee. The committee and counsel for the public are
4 further authorized to assess the applicant or certificate holder for all travel and related expenses
5 associated with the processing of an application or other proceedings under this chapter.

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

8 149-M:77 Judicial Review.

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

10 149-M:78 Monitoring and Enforcement.

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

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

35 III. In addition to other remedies provided in this chapter, upon petition of the department,
36 the committee may suspend a certificate if the committee determines that a person has made a
37 material misrepresentation in the application, or in the supplemental or additional statements of

1 fact, or studies required of the applicant, or if the committee determines that the person has violated
2 the provisions of this chapter, or any rule adopted under this chapter. Except for emergencies, prior
3 to any suspension, the committee shall give written notice of its consideration of suspension and of
4 its reasons therefor and shall provide an opportunity for a prompt hearing.

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

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

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

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

20 149-M:79 Records.

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

26 149-M:80 Temporary Suspension of Deliberations.

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

30 149-M:81 Findings and Certificate Issuance.

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

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

36 III. After due consideration of all relevant information regarding the potential siting,
37 including potential significant impacts and benefits, the committee shall determine if issuance of a

1 certificate will serve the objectives of this chapter. In order to issue a certificate, the committee
2 shall find that:

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

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

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

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

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

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

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

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

26 149-M:82 Penalties.

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

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

34 149-M:83 Severability.

35 If any provision of this chapter, or application thereof to any person or circumstance is held
36 invalid, the invalidity does not affect other provisions or applications of the chapter which can be

1 given effect without the invalid provisions or applications, and to this end, the provisions of this
2 chapter are severable.

3 149-M:84 Fund Established; Funding Plan.

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

13 149-M:85 Compensation and Reimbursement.

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

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

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

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

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

35 149-M:86 Solid Waste Permit Applications Suspended.

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

1 whichever is later. Nothing in this paragraph shall be construed to prohibit the approval of the
2 design, construction, or operation of new waste disposal cells at existing facilities for which the
3 waste disposal capacity has been approved prior to the effective date of this section.

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

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

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

18 9 New Subparagraph; Solid Waste Evaluation Committee Fund. Amend RSA 6:12, I(b) by
19 inserting after subparagraph (399) the following new subparagraph:

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

22 10 Repeal. The following are repealed:

23 I. RSA 21-O:9, relative to the waste management council.

24 II. RSA 146-A:16, III, relative to appeals regarding oil discharge or spillage in surface water
25 or groundwater.

26 III. RSA 146-C:9-a, III, relative to appeals regarding underground storage facilities.

27 IV. RSA 147:15, relative to appeals regarding hazardous waste management.

28 V. RSA 147-C:7, relative to appeals regarding hazardous waste facility reviews.

29 VI. RSA 149-M:8, relative to appeals regarding solid waste management.

30 11 Cruelty to Animals; Livestock. Amend RSA 644:8, IV(a) to read as follows:

31 IV.(a)(1) Any person charged with animal cruelty under paragraphs III or III-a may have his
32 or her animals confiscated by the arresting officer. ***The investigating officer for a case involving***
33 ***livestock as defined in RSA 427:38, III shall be accompanied by the state veterinarian or***
34 ***their designee who shall set probable cause criteria for the taking of the animal or***
35 ***animals. No animal shall be confiscated unless a person is charged under this section,***
36 ***except when the officer believes that the animal's life is in imminent danger.***

(2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332-B of his or her choice at the expense of the person charged. ***The person charged shall be made aware of such right in writing by the arresting officer.***

(3) If a person is charged under this section and is presented with any document to sign, the arresting officer shall explain the document to the person and the person shall affirm that they understand the document they are signing.

~~[(3)]~~ (4) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.

~~[(4)]~~ (5) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.

~~[(5)]~~ (6) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal ***or the owner of the animal agrees in writing to the procedure or treatment. If the treating veterinarian determines the animal is in a state of extreme suffering, the animal may be euthanized.***

~~[(6)]~~ (7) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.

~~[(7)]~~ (8) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.

(9) No confiscated animal or animals shall be used in any manner to solicit donations or to raise funds by any individual or organization that has protective custody of the animal or animals prior to a conviction for abuse or neglect under this section.

12 Confiscation of Animal. RSA 644:8, IV-a is repealed and reenacted to read as follows:

IV-a.(a) Except as provided in subparagraph (b) any appropriate law enforcement officer or municipal animal control officer may take into temporary protective custody any animal when the owner or caretaker is not present and there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. Unless charges have been filed or a warrant establishing probable cause has been issued, the animal or animals shall be returned to the owner or their designee or caretaker upon request. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department. The department may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court. An owner of an animal taken into protective custody shall have the right as referenced in subparagraph IV(a)(2).

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c) In cases where one or more lactating animals are confiscated, proof shall be provided by the confiscating party to the attending veterinarian and the owner or caretaker that proper care and facilities shall be provided for adults and offspring. No lactating animal shall be separated from its non-weaned offspring and vice versa.

(d) No person who has initiated an animal welfare complaint may take part in or be present during any investigation into such complaint, unless the complainant is an employee of a governmental agency. No person who may be called upon to take possession of any animal seized as a result of a complaint under this section may have taken part in the decision to seize any animal.

(e) In order to protect the integrity of complaint investigations an appropriate law enforcement officer shall require any person or their designated agent called upon to take possession

of any animal seized or to assist during any complaint investigation, to sign a binding nondisclosure agreement intended to protect any shared or confidential information against unauthorized use pending final adjudication or dismissal of such complaint; provided that information may be disclosed only to officials with a need to know who are subject to confidentiality obligations.

(f) The confiscation of any animal or animals without the charging of the owner or caretaker, or without a warrant specifying probable cause, under paragraph IV shall be theft by unauthorized taking under RSA 637:3.

(g) No custodian of an animal in temporary protective custody under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal or the owner of the animal agrees in writing to the procedure or treatment. If the treating veterinarian determines the animal is in a state of extreme suffering, the animal may be euthanized.

13 Veterinarian Assistant. Amend RSA 644:8, V to read as follows:

V. A veterinarian licensed to practice in the state *and any individual requested to provide assistance by law enforcement or the state veterinarian* shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian *or assisting individual* is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

14 State Veterinarian; Powers. Amend RSA 436:8 to read as follows:

436:8 Powers. The state veterinarian, under the direction of the commissioner, shall have all of the powers of the commissioner and shall have general charge of the enforcement of this chapter. Complaints under RSA 644:8, 644:8-a, 644:8-aa and any other law pertaining to the abuse of domestic animals, as defined under RSA 436:1, shall initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints. ~~[In the event the commissioner becomes incapacitated or a vacancy occurs in the office, the state veterinarian shall perform all the duties of that office during any such incapacity or until any such vacancy is filled. The commissioner may direct the state veterinarian to act for him or her in an official capacity whenever he or she may be absent from his or her duties.]~~

15 New Paragraph; Assessing Applications Under the Cost of Care Fund; Use for Livestock. Amend RSA 437-B:1 by inserting after paragraph III the following new paragraph:

III-a. Applications for reimbursement for the care of livestock shall demonstrate to the commissioner that the livestock were seized properly according to statute with assurance that

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- Page 24 -

1 individuals with experience and professional knowledge in the care of the type of livestock seized
2 were consulted and that proper due process was afforded to the animal owner.

3 16 Committee Established. There is established a committee to study review RSA 644:8 and
4 RSA 644:8-a through 644:8-g to identify elements to clarify, reorganize, and update these sections.

5 17 Membership and Compensation.

6 I. The members of the committee shall be as follows:

7 (a) Three members of the house of representatives, appointed by the speaker of the
8 house of representatives.

9 (b) One member of the senate, appointed by the president of the senate.

10 II. Members of the committee shall receive mileage at the legislative rate when attending to
11 the duties of the committee.

12 18 Duties. The committee shall:

13 I. Review RSA 644:8 and RSA 644:8-a through 644:8-g and address the following:

14 (a) Are these statutes consistent with current regulatory needs and practices?

15 (b) Are there overlapping, redundant, outdated, or conflicting statutes in RSA 644:8 and
16 RSA 644:8-a through 644:8-g?

17 (c) Do any statutes need to be transferred from one chapter to another for clarity and
18 consistency?

19 II. Work with agencies involved in the enforcement of RSA 644:8 and RSA 644:8-a through
20 644:8-g.

21 III. Identify any other issues that may be needed to fulfill the mission of this committee.

22 19 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
23 among the members. The first meeting of the committee shall be called by the first-named house
24 member. The first meeting of the committee shall be held within 45 days of the effective date of this
25 section. Three members of the committee shall constitute a quorum.

26 20 Report. The committee shall report its findings and any recommendations for proposed
27 legislation to the speaker of the house of representatives, the president of the senate, the house
28 clerk, the senate clerk, the governor, and the state library on or before November 1, 2025.

29 21 Effective Date.

30 I. Sections 1-7 of this act shall take effect 60 days after its passage.

31 II. Sections 8-9 of this act shall take effect July 1, 2025.

32 III. Sections 11-16 of this act shall take effect January 1, 2026

33 IV. The remainder of this act shall take effect up on its passage.

SB 302-FN- FISCAL NOTE
AS INTRODUCED

AN ACT requiring background checks for solid waste facility owners.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2025 through 2028.

AGENCIES CONTACTED:

Department of Environmental Services