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Another Landfill Moratorium Bill, With A Twist

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During a New Hampshire Senate committee hearing on Tuesday, state Sen. David Rochefort, R-Littleton, foreground, and state Rep. Jared Sullivan, D-Bethlehem, spoke in support of a Rochefort-sponsored bill to impose a 6-year moratorium on the permitting of new landfills to allow a study committee to explore the feasibility of solid waste incineration technology.

Aired before a New Hampshire Senate committee on Tuesday was another landfill moratorium bill, but with a twist — a 6-year pause on permitting new landfills to establish a study committee to explore the evolving technology of solid waste incineration.

As the talk of trash in the Granite State undergoes greater scrutiny and discussion, that bill and another went to two hours of testimony and questions before the Senate Energy and Natural Resources Committee.

“Someone just came to one of my committees and said it feels like groundhog day,” said state Sen. David Rochefort, R-Littleton, the prime sponsor of Senate Bill 226. “To take a line from my revered colleague that speaks to this. But it isn’t really Groundhog Day because if you look at the movie, it was the same thing that happened over and over and over again. Although this bill is familiar to many of the committee members here, the problem is the state of trash and landfills and permitting. That is evolving.”

He said state rules are in flux, and a new governor has called to pump the brakes on new landfills.

SB 226 would pause the permitting of new landfills until July 2031 (while allowing expansions of existing landfills) and give the committee that would include lawmakers time to review the permit process, the environmental impacts on air, soil, and water, and study the feasibility of incineration and the impact it would have on landfill capacity.

The committee would report its findings and make any recommendations for legislation on or before Nov. 1, 2025.

“This gives us six years,” said Rochefort. “We have capacity. We’re not going to see trash build up on the streets if we do this.”

Speaking in support was state Rep. Jared Sullivan, D-Bethlehem, who said existing regulations around landfill siting are antiquated and a pause will allow time to study incineration but also look at expanded recycling and better sites for a landfill.

Although in support of SB 226, Sullivan said he he disagrees with the fiscal note of the bill, which states that SB 226 would increase disposal costs for municipalities and counties.

He said that any cost increases would happen regardless because there will be a lag between when the NCES landfill in Bethlehem closes after 2026 and when a new commercial landfill proposed for Dalton would be built.

The fiscal note incorrectly assumes that there would be decreasing capacity as demand remains constant, although it is not clear there will be a capacity shortage, said Sullivan.

“There’s a long runway for us to work on getting these results in place before we have to worry about constructing a new landfill,” he said.

State Sen. Kevin Avard, R-Nashua, who chairs the committee, said while incineration could also generate power, his biggest concern is if SB 226 will put “a big wet blanket on anybody who wants to do business in the state.”

To the extent that rules need to be modernized, the current regulations are 30 or 40 years old, and the Forest Lake site in Dalton “is objectively not a good site,” and there are concerns about the possibility of contaminants leaking into nearby rivers, said Sullivan.

“This gives us time to address that,” he said.

Opposed to SB 226 is the New Hampshire Business and Industry Association, whose membership includes the solid waste industry and whose staff attorney, Natch Greyes, said the BIA doesn’t have an opinion on incineration but opposes the moratorium part because of what he said would be a 6-year delay in the possibility of increasing capacity.

As for a “wet blanket” on the solid waste business, Wayne Morrison, of Whitefield and the president of the North Country Alliance for Balanced Change, said the state has already agreed to target a 25-percent reduction in land-filling by 2035, which equates to 375 tons annually, or the equivalent of one landfill, through measures such as diversion, composting and more recycling, and has a 45-percent reduction target by 2050, which equates to 675,000 tons annually, or two landfills.

The “North Country is booming,” and any impacts on business would be adverse ones for local breweries, restaurants, retail shops, and the tourism industry, the latter of which in the North Country is now year-round and only works with clean air and open spaces, he said.

“There’s too much at risk to not do the right thing here,” said Morrison, who added that environmental risks and spills of toxins, such as PFOA/PFAS contamination in tap water in Merrimack from the St. Gobain Performance Plastics facility, impact New Hampshire citizens and the new state rules in development don’t go far enough.

Although the New Hampshire Department of Environmental Services is neutral on SB 226, Mike Wimsatt, director of DES’s Waste Management Bureau, said the bill, as written, could still impact capacity beyond 2031 because permitting takes years and landfill construction takes another set of years.

Michael Wright, a resident of Littleton, spoke in support of SB 226 and referenced written testimony by Adam Finkel, a former federal environmental regulator, Dalton resident, and opponent of the proposed Granite State Landfill in Dalton.

New Hampshire has zero need for another landfill, “let alone one sited in one of the hydro-geologically worst tracts in the state,” wrote Finkel.

“Waste Management Inc. just told the House E&A Committee last month that it likely has capacity until 2036 and will definitely file an application to expand for roughly 20 years beyond that date,” said Finkel. “Please ‘do the math’: all of New Hampshire generates 1.1 metric tons a year, and Rochester has room for 1.4MMT, plus 200,000 at Carberry, which is now serving almost every community north of the Notch ...Rochester and Carberry provide all the capacity, and then some, that New Hampshire will need for the next 30 to 40 years. It is not possible for a needless addition to surplus capacity to provide any benefits ... A new landfill would merely be a trash magnet for Massachusetts/Connecticut, and it will then send up to one billion gallons of PFAS-containing leachate to Concord and points south. The so-called ‘Granite State Landfill’ is in fact the ‘Bay State Magnet.’”

Rochefort is also the prime sponsor of SB 227, which, following SB 226, went to its hearing on Tuesday and seeks a 5-year landfill setback from surface waters based on how fast the groundwater beneath flows, intending to allow time for remediation if groundwater becomes contaminated.

It is similar to a current House bill and the past HB 1454, which was supported by the House and Senate three years ago, but did not survive a veto of the former governor.

The current setback of 500 feet lengthened from 200 feet is still too arbitrary, said Rochefort.

SB 227 provides more specificity to DES regarding a site's particular hydrology and allows DES to determine leachate flow and water flows toward drinking water supplies, he said.

In support was Morrison, who noted that several years ago, NCES, a subsidiary of Casella Waste Systems, had a 154,000-gallon leachate spill in Bethlehem that was the largest in New Hampshire history, and Casella's landfill in Coventry, Vt. had a leachate spill that occurred during an experimental PFAS treatment.

"Failures of systems and monitors happen," he said. "Maybe sensors work, but they didn't work in these cases. I don't think you have to be an engineer to see a tank is overflowing."

Timothy Kopczynski, an environmental attorney for NCACB, said that the siting rules SB 227 would put New Hampshire "on an equal footing with its neighbors."

One representative for the industry, from Waste Management, spoke at Tuesday's hearing to express neutrality on SB 226 and concerns with parts of SB 227.

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