

Senate Energy and Natural Resources Committee

Max Taylor 271-1403

SB 226-FN, suspending applications for new landfills and establishing a committee to study the feasibility of incinerating solid waste.

Hearing Date: February 18, 2025

Time Opened: 10:00 a.m.

Time Closed: 10:59 a.m.

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

Members of the Committee Absent : None

Bill Analysis: This bill suspends applications for new landfills and establishes a committee to study the feasibility of incinerating solid waste.

Sponsors:

Sen. Rochefort

Sen. Fenton

Sen. Ricciardi

Rep. N. Germana

Rep. Wheeler

Who supports the bill: Senator David Rochefort (District 1), Representative Jonah Wheeler (District 33), Representative Jared Sullivan (District 2), Tom Tower (North Country Alliance for Balanced Change), Wayne Morrison (North Country Alliance for Balanced Change)

Who opposes the bill: Natch Greyes (Business & Industry Association)

Who is neutral on the bill: Michael Wimsatt (NH Department of Environmental Services)

Summary of testimony presented in support:

Senator David Rochefort

Prime Sponsor, Senate District 1

- Senator Rochefort introduced SB 226-FN, emphasizing the need to pause new landfill applications and study solid waste incineration as a potential alternative.
- Senator Rochefort acknowledged that landfill capacity and waste management policies are evolving, making it critical to reassess current strategies.
- He stressed that the bill does not take a position on incineration but creates a study committee to evaluate its viability. Additionally, he explained there are

ongoing debates about whether incineration is outdated and polluting or if new technologies have made it a safe and clean alternative.

- He argued that New Hampshire has at least six years of landfill capacity remaining, so taking time to carefully study waste management alternatives will not cause immediate disposal issues.
- Senator Rochefort framed SB 226-FN as a moderate and responsible approach, allowing the state to pause and evaluate before committing to long-term policies.

Representative Jonah O. Wheeler

Hillsborough District 33

- Representative Wheeler highlighted the importance of SB 226-FN, as it addresses growing concerns about landfill expansion in New Hampshire.
- Representative Wheeler stated there is uncertainty about the environmental cleanliness of waste incineration but emphasized the need to explore alternatives for managing solid waste.
- He highlighted that the residents in northern New Hampshire strongly oppose new landfills, due to concerns over water, air, and land quality.

Representative Jared Sullivan

Hillsborough District 2

- Representative Sullivan testified in support of SB 226-FN, as it would allow for a moratorium on new landfill applications to allow time for modernizing state regulations on landfill siting and design,
- He argued that current landfill regulations are outdated, and a pause would allow policymakers to develop more thoughtful and efficient rules.
- Representative Sullivan questioned the fiscal note's claim that a moratorium would increase costs for state and local governments. He argued that landfill closures, such as Bethlehem's closure scheduled for 2026-27, would create disposal challenges regardless of SB 226-FN.
- He noted that SB 226-FN covers more than just the moratorium, emphasizing the importance of evaluating incineration and other potential solutions before committing to more landfill development.
- Senator Avar asked when the Bethlehem landfill is expected to close.
 - Representative Sullivan estimated closure would occur between 2026 and early 2027.
- Senator Avar followed up asking where the waste from Bethlehem would go after closure.
 - Representative Sullivan said it would likely be sent to Berlin, Carberry, or Rochester. He noted that transportation costs play a major role in determining where trash is sent, with southern New Hampshire waste likely going to Rochester and out-of-state waste potentially being handled elsewhere.
- Senator Avar asked if Representative Sullivan knew what percentage of Rochester's waste came from out-of-state.
 - Representative Sullivan said he did not know the exact percentage.

- Senator Avard asked if Representative Sullivan could provide clarification on Senator Rochefort’s statement about New Hampshire having six years before a new landfill is needed.
 - Representative Sullivan agreed that six years of capacity remains, giving the state time to improve regulations and explore other options.
- Senator Avard emphasized that incineration needs to be studied as a potential waste solution, noting that it could generate power if done cleanly. He asked Representative Sullivan if the proposed moratorium could discourage future business investment in landfill development.
 - Representative Sullivan acknowledged that a moratorium could affect landfill operators but pointed out that only one landfill application is currently pending, and landfill projects take years to permit and construct.
 - He argued that the greater uncertainty comes from outdated regulations, which lead to legal battles over landfill siting.
 - He stated that strong, modern regulations provide businesses with clarity, allowing for more efficient and predictable landfill development.
- Senator Avard asked if the 26 new rules recently passed by the Department of Environmental Services sufficiently address the concerns raised.
 - Representative Sullivan stated he was not familiar enough with the new rules to comment on them.

Wayne Morrison

North Country Alliance for Balanced Change

- Mr. Morrison argued that New Hampshire has ample landfill capacity and should take the time to modernize regulations and explore alternatives before permitting new landfills.
- He stated his disagreement with the BIA’s argument that a moratorium would harm business investment, stating that New Hampshire has sufficient landfill capacity until at least 2034.
- He pointed out that the Turnkey Landfill has publicly stated its intent to expand, meaning the 2034 capacity estimate assumes there will be no expansion, which is unrealistic.
- Mr. Morrison stated New Hampshire’s solid waste management plan already aims to reduce landfill use, setting goals to divert 25% of waste by 2030 and 45% by 2050, which could eliminate the need for additional landfill capacity.
- He emphasized the environmental risks posed by landfills, particularly from leachate containing PFAS, heavy metals, and toxins, which are not fully removed by wastewater treatment and can contaminate rivers, lakes, and drinking water.
- He stressed that proper landfill siting is critical, arguing that current setback rules, set at 500 feet from water bodies, are arbitrary and insufficient without scientific studies on soil permeability.
- He stated his support for the incineration study component of SB 226-FN, arguing that waste-to-energy incineration could be a positive change in waste

management, and should be examined as a potential clean and efficient alternative to landfills.

- Mr. Morrison urged the committee to take action now, rather than continuously revisiting the issue, arguing that New Hampshire has a rare opportunity to modernize waste management policy before a crisis emerges.
- Senator Rosenwald asked if the scope of the proposed study commission is too narrow and if it should also examine energy generation and public health impacts.
 - Mr. Morrison emphasized the importance of acknowledging critical waste policy issues. He cited the issue of out-of-state waste, which accounts for nearly 50% of New Hampshire's landfill use, and suggested that New Hampshire needs a clear policy on whether to continue accepting so much waste from other states.
 - Mr. Morrison highlighted that landfill operators are required to prioritize New Hampshire waste under their permits, meaning if capacity became strained, out-of-state waste would be redirected elsewhere, not New Hampshire's trash.
 - He argued that New Hampshire should explore ways to reduce reliance on landfills, improve waste diversion strategies, and set clear policies on waste importation.

Michael Wright

Resident of Littleton, New Hampshire

- Mr. Wright testified in support of SB 226-FN, arguing that New Hampshire has no need for additional landfill capacity, particularly the proposed Dalton landfill, which he described as being located on one of the worst hydrological sites in the state.
- He emphasized that the Turnkey Landfill in Rochester, NH has capacity until at least 2036 and will likely apply for an expansion that could extend capacity for another 20 years.
- Mr. Wright explained New Hampshire generates approximately 1.1 million metric tons of waste annually, while Rochester alone has capacity for 1.4 million metric tons, with an additional 200,000 tons available at Carberry.
- He stated that the state could achieve its goal of reducing landfill waste by 25% and estimated that New Hampshire has enough capacity for the next 30 to 40 years without requiring new landfills.
- Mr. Wright raised concerns about landfill leachate, particularly PFAS contamination. He stated that a new landfill would generate up to a billion gallons of PFAS-laden leachate, much of which would be processed in Concord or Merrimack.
- Mr. Wright highlighted there is currently no effective industrial-scale technology to remove PFAS from leachate, posing a long-term environmental hazard.
- He explained that a five-year pause on new landfills would provide time to explore PFAS annihilation technologies, allowing the state to develop better waste management solutions before increasing capacity.

- Mr. Wright concluded by emphasizing that the state focus on addressing PFAS contamination and other waste management improvements rather than adding unnecessary landfill capacity.

Summary of testimony presented in opposition:

Natch Greyes

Business & Industry Association (BIA)

- Mr. Greyes stated the BIA opposed SB 226-FN, specifically opposing the moratorium on new landfill applications but remaining neutral on the study committee.
- The BIA believes that the moratorium would discourage business investment and create uncertainty for companies interested in operating in New Hampshire.
- Mr. Greyes explained new landfill regulations were adopted by DES in December 19, 2024, meaning the state is not operating under outdated rules, but rather a new regulatory framework that has only been in effect for a few months.
- He stated a six-year moratorium would significantly delay any new landfill projects, beyond the already length multi-year permitting process.
- The BIA is concerned about potential capacity shortfalls, particularly since New Hampshire may struggle to dispose of all its waste in-state by 2034.
- Mr. Greyes emphasized that less competition in the waste disposal market could drive up costs, as fewer landfill operators limit bargaining power and force higher transportation costs for waste that must be sent out of state.
- Mr. Greyes stated transportation costs are unpredictable, and regulations in other states could further increase disposal costs for New Hampshire businesses.
- Senator Avard asked for clarification on landfill capacity limits and whether New Hampshire could still handle its waste if a moratorium were enacted.
 - Mr. Greyes deferred to DES to provide specific details on landfill capacity.

Neutral Information Presented:

Mike Wimsatt

Director of the Waste Management Division, New Hampshire Department of Environmental Services

- Mr. Wimsatt stated that DES is neutral on SB 226-FN, but wanted to provide technical observations and concerns with the bill.
- Mr. Wimsatt stated there could be unintended consequences of suspending landfill permitting.
- He explained that the bill allows DES to accept applications but not process them, which could conflict with RSA 541-A:29-a, requiring agencies to act on

applications within set timeframes. If DES does not act within the statutory timeline, the permit could be automatically approved, which likely is not the bill's intent.

- Mr. Wimsatt suggested that future changes include either explicitly overriding RSA 541-A:29-a or requiring DES to deny applications outright rather than leave them pending.
- Mr. Wimsatt also stated the proposed moratorium could cause significant delays beyond 2031.
- He explained landfill permitting is a multi-year process, requiring extensive review and revision before an application is deemed complete. If DES is barred from reviewing applications until 2031, additional years will be required after the moratorium before any new landfill could be built.
- A possible solution would be to allow preliminary review for completeness, so applications are ready to proceed once the moratorium expires.
- Mr. Wimsatt highlighted that the bill states that fully permitted facilities can continue operations and expansions, but no landfill is ever technically “fully permitted” since landfills undergo continuous permitting modifications.
- Mr. Wimsatt suggested removing this provision, stating it may not be relevant.
- Senator Pearl asked what the cost of permitting a landfill in New Hampshire would be.
 - Mr. Wimsatt estimated that landfill permit application fees range from \$35,000 to \$50,000, but this represents only a small fraction of total costs.
 - The bulk of the cost comes from land acquisition, legal fees, hydrogeological studies, and engineering work.
 - He stated the total cost could reach millions of dollars.
- Senator Watters asked Mr. Wimsatt to clarify the Governor's proposal on landfill siting in HB 2.
 - Mr. Wimsatt explained that HB 2 proposes a Solid Waste Facility Siting Evaluation Committee, which would introduce a two-step permitting process. Existing DES permits would continue as usual. After receiving all necessary permits, the application would go before a new independent siting committee for evaluation.
 - Mr. Wimsatt explained the bill also includes a temporary moratorium on landfill permitting until this siting committee's rules are established.
 - The moratorium is currently set at one year, but if the rulemaking process takes longer, the moratorium would last until the rules are complete.
- Senator Watters asked if the Governor's proposal amounts to a 15-month moratorium.
 - Mr. Wimsatt clarified that the bill sets a one-year moratorium, but if rulemaking takes longer than 12 months, the pause would continue until the rules are finalized.
- Senator Watters asked whether SB 226-FN's moratorium would also apply to landfills that process materials other than municipal solid waste.
 - Mr. Wimsatt confirmed that SB 226-FN applies to all landfills, regardless of the type of waste they accept.

- Senator Watters asked whether the moratorium would prevent municipalities from building their own landfills, such as those seen in Nashua.
 - Mr. Wimsatt confirmed that municipal landfills would also be prohibited from being built until 2031 under SB 226-FN.
- Senator Rosenwald asked whether municipalities would still be allowed to expand existing landfills under SB 226-FN.
 - Mr. Wimsatt confirmed that the bill does not restrict landfill expansions, only the development of new landfills.
- Senator Watters asked if landfills prioritize New Hampshire waste over out-of-state waste when capacity is limited.
 - Mr. Wimsatt confirmed that landfill operators are required to prioritize in-state waste under their permit conditions.

Henry Veilleux

New Hampshire Waste Management

- Mr. Veilleux clarified that he did not sign up to speak but was happy to answer any questions.
- Senator Watters asked if SB 226-FN would interfere with Waste Management’s expected expansion application in 2028.
 - Mr. Veilleux confirmed that SB 266-FN would not impact the planned Rochester landfill expansion, since it applies only to new landfills and not existing permitted sites.
- Senator Watters asked Mr. Veilleux to clarify Turnkey’s expected landfill capacity and expansion timeline.
 - Mr. Veilleux explained that Turnkey’s current permit guarantees capacity until 2034, but efficient management may extend that to 2036.
 - If the expansion is approved in 2027 or 2028, it would add at least another decade of capacity, potentially extending into the mid-2040s. Further expansion beyond that would depend on available land and the community’s support.
- Senator Watters asked for clarification on out-of-state waste percentage at Turnkey Landfill.
 - Mr. Veilleux provided recent figures from Turnkey’s facility manager confirming that in 2023 out-of-state made up 53% of the facilities intake, and 55% in 2024.