

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

HB 177, prohibiting the siting of a landfill near a state park.

Hearing Date: May 10, 2021.

Time Opened: 1:10 p.m.

Time Closed: 4:37 p.m.

Members of the Committee Present: Senators Avard, Gray, Watters and Perkins Kwoka.

Members of the Committee Absent: Senator Giuda.

Bill Analysis: This bill prohibits the siting of new landfills, excluding expansions of existing landfills, near state parks. This bill also defines state parks for the purposes of prohibiting the siting of new landfills.

Sponsors:

Rep. Tucker

Rep. Egan

Rep. Hatch

Rep. Thompson

Rep. Laflamme

Sen. Hennessey

Who supports the bill: Bruce Ahern; Janis Ahern; Jean Akers; Laurene Allen; Fred Anderson, Bethlehem, NH; Larra Anderson; Questa Anderson, Whitefield, NH; Susan Antoscia; Luis Aranzabal; Sarah Armstrong; Susan Arnold, Appalachian Mountain Club; Laura Aronson; John Atherton; Nicole Baet; Jeremy Baldauf; Kirstin Baldauf; Veronica Baldauf; Heidi Ballentine; Vicky Ballentine; Thomas Banit; Nina Banwell; Connie Barnes; Cynthia Barrett; Tim Barretto; Representative Christy Bartlett, Merrimack - District 19; David Bates; Robert Baum; Cheryl Baxter; Scott Baytosh; Representative Jane Beaulieu, Hillsborough - District 45; Claire Beckler; Patricia Beffa-Negrini; Michael Beier; Phyllis Bellavance; Katherine Bennett; Kristen Bennett; Rebecca Beno; Leslie Bergevin; Representative Peter Bixby, Strafford - District 17; Peter Blair, Conservation Law Foundation - NH; Sandra Blanchard; Bruce Blaney; Joanne Blaney; Lori Bluhm; Bonnie Boswell; Laurie Boswell; Representative Andrew Bouldin, Hillsborough - District 12; David J. Boyle; Stephen Boyle; Nancy Brennan, Weare, NH; Ron Briggs; Caleb Brooks; Danuta Brooks; Howard Brown; James Brown; Morgan Brown; Susan Brown; William Brown; Anna Bruce; Malcolm Bruce; Mary Bruce; Susan Bruce; Tom Bruce; Troy Burdick; Catherine Bushueff, Sunapee, NH; Honorable Ed Butler, Hart's Location, NH; Sam Butterfield; Leonard Cadwallader; Miriam Caldwell; Representative Tony Caplan, Merrimack - District 6; Jean Caputo; Lucas Carroll; Alison & Tom Caruso; Joanne Casino; Margaret Caudill Slosberg; Cliff Cayer; Richard Cayer; Susan Cayer; Tim Cayer; Karin Cevasco; Representative Wendy Chase, Strafford - District 18; Donna Ciechon; Denise Clark; Emma Clippinger; Sandra Cohen-Holmes; Mike Colbeth; Alex Colebourn; Chris Colebourn; Craig Colebourn; Donald Colebourn; Jenn Colebourn; Laura Colebourn; Marylou Colebourn; Matthew Colebourn; Kelsie Collins; Margaret Connors; Amy Conway; Glen Conway; Kaitlyn Conway; Michael Conway; Kate Coon; Catherine Corkery, NH Sierra Club; Cici Coughlan; Amy Cozens; Andrea Craxton; Ann Craxton; David Craxton; Edward Craxton; Gregg Crowell; Kevin Crowell; Michael Crowell; Phyllis Crowell; Renee Crowell; Dorothy Currier; Catherine Cutshall; Larry Daloz; Janet Damiano; Paul Damiano; Anthony Danos; John Danos; Michelle Davis, NH Lakes; Peggy Davis; Marilyse de

Boissezon; Amy Delventhal; Jeffrey DeRosa; Jon DeRosa; Mae DesTroismaisons; Donna Devlin; Gary Devore; Karen Dewey; Nancy Dickowski; Angelina Donahue; Tom Donahue; Anne Dontonville, Enfield, NH; Representative Roger Dontonville, Grafton - District 10; Jim Doucette; Peter Doucette; Roger Doucette; Sarah Doucette; Leslie Dreier; Beth Jo Dudley; Jay Duguay; Susan Dunker; Juliana Duran; Denise Durkee; Jeremiah Eames; Yvonne Eames; Derek Edry; Representative Timothy Egan, Grafton - District 2; Mary Eisner; Maureen Ellermann; Kristina Ennis; Donna Kaye Erwin; Peter Essi; Anne Evans; Makayla Evans; Harlan Fair; Stephen Farrell; Lily Featherston; Phyllis Fenander; Elizabeth Lukaitis-Fenner; James Fieseher; Adam Finkel; Andrea Folsom; Honorable Sue Ford, Easton, NH; Anastasia French; Elaine French; Rob French; Gina Frey; Kevin Frey; Jean Furbush; Margaret Gale; Judi Garfinkel; Ashley Garrison; Jennifer Gaudette; Representative Betty Gay, Rockingham - District 8; Leon Geil; Melanie Gentile; RJ Gentile; Gary Ghioto; Elizabeth Gibbs; Robert Giroux; Michael Glazner; Linda Godfrey; Celeste Goodhue; Martha Goodnow; Laurie Gordon; Margaret Gordon; Representative Suzanne Gottling, Sullivan - District 2; David Govatski; Kathleen Govatski; Forrest Govoni; John Gramatikas, Manchester, NH; Representative Chuck Grassie, Strafford - District 11; Nancy Greenwood; Ann Griffin; Johann Griffin; Peter Griffin; Bob Grosholz; Bruce Grover; Nicholas Guider; Kent Hackmann; Joan Hackmann; Representative Joan Hamblet, Rockingham - District 31; Gary Hamer; Geoff Hamer; Heidi Hamer; Ernie Hannford; Barbara Hanson; Nicole Hanson; Susan Hanson; Elizabeth Hanson; Cynthia Harris; Adrienne Harrison; Roslynn Hatch; Phil Hatcher; Randy Hayes; Ellen Hays; Holly Hayward; Shirley Heath; Senator Erin Hennessey, NH Senate District 1; Mad Hesler; Janet Hill; Mel Hinebauch; Melissa Hinebauch; Robert Hinkel; Tina Hodge; Anthony Holtz; Gabriella Horvath; Karla Houston; Carl Howes; Deb Howes; Samantha Hubbard; Connie Huggett; Corry Hughes; Judith Hull; Janet Hurd; Jim Hykle; Joe Hykle; Stephanie Hyland; Caroleann Impemba; Geno Impemba; Claudis Istel; Nancy Jachim; Deborah Jakubowski; Dennis Jakubowski; Margaret Jernstedt; Honorable John Tuthill, Acworth, NH; David Johnson; Erik Johnson; Katie Johnson; Kevin Johnson; Peter Johnson; Andrew Jones; Kayley Jones; Jacki Katzman, Bethlehem, NH; Robert Keene; Martin Kessel; Jane King; Walter King; Hanna Kinne; Dave Koerner; Lorraine Koerner; Susan Kraabel; Lowe, Kris; Ann Laflamme; Katherine LaJoie, Charlestown, NH; Irene Lambert; Ovide Lamontagne, Bernstein-Shur; Barbara Langworthy; Matt Leahy, Society for the Protection of NH Forests; Kathleen Letellier; Lyn Lindpaintner; Judith Lindsey; William Livengood, III; Linda Lloyd; Al Lombardi; Eryka Lowe; Janet Lucas; Debbey Lukaszewicz; Brian Lund; Claire Lupton; Elmer Lupton; Annie Lynch-Ambrose; Dennis Mackay; Jane Mackay; Jonna Mackin; Alicia Maclellan; Linda Maclellan; Marty Maclellan; Tyler MacLeod; David Madden; Jeanne Madden; Amy Manzelli, North Country Alliance for Balanced Change; Elizabeth Marietta; James Martin; Victoria Martin; Burton Mary; Shelley McCollum; Martha McLeod; Philip McMahon; John McNulty; John Meisse; Joyce Menard; Mary Menzies; Amber Merkens; Jennifer Merredew; Representative David Meuse, Rockingham - District 29; Frank Miles; Nancy Miles; Elaine Millen; Stanley Millen; Brown Milton; Nancy Mittleman; Marilyn Monsein; Birdie Mooney; John Moore; Michael Moore; Natalie Moore; Rick Moore; Sandy Moore; Susan Moore; Nancy Morrison, Mont Vernon, NH; Wayne Morrison, Mont Vernon, NH; Robin Mower; Megan Muldoon; Toni Muldoon; Patricia Mullin; Bob Murray; Representative Megan Murray, Hillsborough - District 22; Woodroffe Natalie; Faith Northrop; Mary Northrup; Susan Noyes; Dana Nute; Kevin O'Brien; Margaret O'Donnell; Caitlin O'Leary; Rita Dee-O'Brien; Gregory Odell, Dalton, NH; Joseph Orzech; Stephanie Osborne; Joanne Oscadal; Theodore Osgood; Margaret Parenteau; Richard Parenteau; Sharon Parks; Christine Patnaude; James Patnaude; Patricia O'Leary; Jay Peabody; Tina Peabody; Michael Peacock; Ruth Perencevich; Representative Maria Perez, Hillsborough - District 23; Anthony Perrotta; Dan Perrotta; Kim Perrotta; Kylee Perrotta; Natasha Perrotta; Terri Perrotta; Tim Perrotta; Tom Perrotta; Lee Petruk; Betsey Phillips;

Charles Phillips; Judson Pierson; Susan Pierson; Diana Pietrowski; Patricia Pietrowski; Representative Roderick Pimentel, Merrimack - District 6; Elizabeth Anne-Platt; Granthia Preston; Edward Quigley, II; Cora Quisumbing-King; James Radmore; Alan Rashkin; Donna Reardon; John Reardon; Barbara Reed; Ron Renaud; Chris Rennie; Ellen Rennie; Annie Rettew; Representative Cecilia Rich, Strafford - District 18; Martha Richards; Susan Richman, Durham, NH; Patrick Rimoshytus; Jeanne Robillard; Gail Robinson; Dennis Robison; Aileen Robitaille; Andy Robitaille; Elaine Robitaille; Keith Robitaille; Luke Robitaille; Samatha Robitaille; Ted Robitaille; Antonio Rosa; Lowen Rosalind; Duncan Ross; Kathleen Ross; Ralph Ross; George Russell; Alyce Russo; Kristina Russo; Victoria Russo; Vinny Russo; Sarah Sallade; Loretta Saucier; Judith Saum; Eileen Savage-Creedon; Representative Joe Schapiro, Cheshire - District 16; Caryn Shamey; Shannon Shepard; Senator Tom Sherman, NH Senate District 24; Joshua Simonds; Wesley Simonson; Jack Sinibaldi; Richard Slosberg; Sara Smith; Representative Suzanne Smith, Grafton - District 8; Margaret Smither; Representative Judith Spang, Strafford - District 6; Richard Spence; Susan Spence; Louise Spencer; Rob Spencer; Diane St. Germain; Denise St. Jean; Janet Staats; William Stiffler; Mary-Ann Stokes; Steven Stokes; Jane Storella; Christine Sundman; David Sundman; Jon Swan, Save Forest Lake; Austin Taylor; Representative Laura Telerski, Hillsborough - District 35; Shaun Terhune; Mildred Thayer; Barbara Thompson; Elise Thompson; Representative Dennis Thompson, Coos - District 1; Representative Amanda Toll, Cheshire - District 16; Jeanne Torpey; Alyssa Tower; Ann Marie Tower; Kim Tower; Thomas Tower; Scott Townes; Alex Tremblay; Sarah Tremblay; Kathy Tucker; Representative Edith Tucker, Coos - District 5; Lucy Tupaj; Amy Turner; Amy Venezia; Kelsey Venezia; Laura Vincent; Mauricio Vivado; Traci Wagner; Stephen Walker; Brian Warwick; Representative Safiya Wazir, Merrimack - District 17; Nina Webb; Rebecca Webb; Jill Weber; Stephanie Weiner; Lee Wells; Shand Wentworth; Daniel Wessler; Eliot Wessler; Christie West; Jane Westlake; Connie White; Jean White; Joel White; John White; Stuart White; Jessica Williams; Emma Woo; Michael Wright; Rick Wright; Lidia Yen; Barbara Zaenglein; Eric Zaenglein; James Zaniewski; John Zavgren; Andrew Zboray; Susan Zielinski.

Who opposes the bill: Jeffrey Adams; Karin Anderson, Goodwill - Northern New England; Representative Judy Aron, Sullivan - District 7; Anne Barbara; Kenneth Beach; Jeanne Beaudin, Town of Belmont; Jonathan Bell; Maureen Brentrup; Jane Brickett; Bob Cappadona, Casella Waste Systems; Joanne Carey; Steven Changaris, National Waste and Recycling Association; Sherry Cotton; Kenneth Beach; Jonathan Bell; Andrew Bourdon; Maureen Brentup; Jane Brickett; Bob Cappadona, Joseph Fusco, Bryan Gould, and Samuel Nicolai, Casella Waste Systems, Inc.; Joanne Carey; Steven Changaris, National Waste and Recycling Association; Frank Clark; Sherry Cotton; David Creer, Business and Industry Association; Charles Crocetti, Sanborn, Head, & Associates; Representative Joseph DePalma, Grafton - District 1; Donna Devlin; Denise Durkee; Joanne Fiola; Robert Giroux; Bruce Grover; Scott Hazelton, Town of Sunapee, NH; Kevin Johnson; Pamela Kathan, Dalton, NH; Evan Kelly; Alex Koutroubas, American Council of Engineering Companies - New Hampshire; Thomas Lacroix; Pam Ladds; David Leonard, Whitefield, NH; Annette Marquis; Gerald Marquis; Alexandra Mennella; Rebecca Metcalf; Natalie Moore; Marilyn Nadeau; Richard Nadeau; Christine Patnaude; James Patnaude; Representative Howard Pearl, Merrimack - District 26; Robin Pilotte, Dalton, NH; Scott Pinson; Natalie Pugachevsky; Cindy Raspiller; Ann Richmond; Alexander Rybak; Loretta Saucier; Alvin See; Elise Thompson; Kevin Whittum, Sr., Dalton, NH; Kevin Whittum, Jr.; Tanya Whittum;

Who is neutral on the bill: Michael Wimsatt, NH Department of Environmental Services.

Summary of testimony presented in support:

Representative Edith Tucker – provided written testimony
Coos – District 5

- HB 177 prohibits the siting of any new landfills, excluding expansions of existing landfills, within two miles of any state park. For the purposes of HB 177, a state park is defined as any state park managed by the state director of the NH Division of Parks and Recreation pursuant to RSA 216-A:2. A state park shall not include state historic sites and recreational rail trails.
- There is strong opposition to siting Casella's Granite State Landfill (GSL) in Dalton, NH near the nearly 400-acre Forest Lake State Park (FLSP), a very attractive, low-key location where locals and visitors swim, boat, fish, and enjoy nature. NH acquired FLSP in 1935 and is one of the state's original ten state parks.
- Opponents of HB 177 contend that there are very few locations to site a landfill and NH should not give up ideal land in Dalton, NH to do so. Representative Tucker said the NH State Parks Director has said that it is possible to develop a campground at FLSP as it has enough appropriate terrain. Campground sites are very popular amongst tourists and visiting families.
- HB 177 does not solely seek to protect FLSP but all state parks. State parks play a significant role in NH, especially in the North Country where tourism represents a large part of the local economy.

Senator Erin Hennessey
NH Senate District 1

- HB 177 would protect a key part of NH's advantage: its state parks. NH's state parks are a treasure for residents and visitors.
- Currently, NH allows landfills to be sited within 100 feet of any abutter, which includes state parks. The two-mile buffer outlined in HB 177 is a reasonable standard that other states have already enacted. Some states have buffers that are greater than two miles.
- HB 177 would help protect wetlands, water and air quality, wildlife habitats, and property values. HB 177 would prevent negative visual impacts, odors, and noise. HB 177 would help protect three elementary schools near FLSP. These schools would be impacted by waste disposal trucks that would drive by on their way to the proposed GSL site in Dalton, NH. While NHDES has the authority to regulate nuisance conditions, these conditions can and will happen.
- While HB 177 would address a proposed landfill site near FLSP, this situation could occur at any other state park. HB 177 does not ban landfills in NH, but requires people, companies, and municipalities to be thoughtful of landfill locations.

Representative Tony Caplan – provided written testimony
Merrimack – District 6

- HB 177 is not an example of "not in my backyard" or spot zoning. HB 177 would protect NH's 68 state parks.
- A two-mile boundary around NH's state parks would leave around 10,000 times the land area for landfill developers to choose from to meet NH's projected disposal needs in the coming decades.
- A two-mile boundary around NH's state parks for landfill projects is not arbitrary. The boundary is a scientifically defensible distance to enable managers to detect toxic leaks with enough time to carry out mitigation efforts, given that all landfill liners leak at some point and given the speed and difficulty to predict the direction of groundwater flows.
- The NH Department of Environmental Services (NHDES) has been operating without a mandated Solid Waste Plan since 2003 and is currently being sued in district court for issuing landfill permits without a plan.
- NHDES' current review process for siting landfills is troubling. NHDES's Solid Waste Management Bureau has been underfunded years. NHDES officials publicly question their capability to carry out their duties. HB 177 takes the option of siting landfills near state parks off the table.
- Tourism is NH's second largest industry, generating roughly five billion dollars in state revenues and supporting 70,000 jobs. State parks represent some of the most scenic and precious recreation and tourism destinations, which bring in half a billion to the state's economy per year. These figures do not include the economic activity generated by seasonal homeowners and their families. Many seasonal homeowners have owned their properties for generations. Those families concluded that NH would not abdicate its fiduciary duties to protect its valued and identified assets.
- Senator Avard asked if Representative Caplan had any data that demonstrated the two-mile boundary in HB 177 had a scientific basis.

- Representative Caplan said he would send along his written testimony, which included a reference to a scientific study.

Representative Andrew Bouldin

Hillsborough – District 12

- Rejected Representative Pearl's conclusion that HB 177 passed in the House due to House representatives leaving during the House Session. The House record shows that 356 House representatives voted on HB 177, which is consistent with the attendance numbers on other House bills considered on April 9, 2021.
- HB 177 is smart economic policy to protect NH's natural resources. Tourism is a major economic driver in NH and state parks play a role in that.
- While there is currently only one state park with a landfill proposal next to it, HB 177 protects all of NH's state parks from the negative economic and environmental consequences of landfills. The Environmental Protection Agency (EPA) concluded that all landfills will leak eventually. If a landfill is sited next to a state park, the question is not if that state park will be negatively impacted by the landfill, but when. When a state park is impacted, NH will need to determine if it should undertake a costly cleanup or close the state park. Landfill remediation is not cheap – the Coakley Landfill's remediation in North Hampton has cost tens of millions of dollars with no end in sight.
- HB 177 follows the path of other states and their landfill siting policies. North Carolina has a two-mile buffer for landfills around its state parks, as well as a one-mile buffer around game land and a five-mile buffer around wildlife refuges. New Jersey has a 6.25-mile buffer around its state parks and wildlife areas. Georgia has a 3.2-mile buffer around its historic parks. Eight other states – Delaware, Mississippi, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin – have buffers protecting their parks or natural resources. These states know the impact that landfills can have on state parks, such as diminished public enjoyment, reduced visitation, various harmful effects to wildlife, modification of hydrology patterns, degraded water quality, alteration of wetland areas, and increased vehicular traffic.
- Landfills will be needed over the next 100 years, but efforts should be taken in NH to reduce any consequences to NH and its economy. Placing a landfill 190 feet from a state park is not the way to reduce these consequences, but to guarantee them.
- Some claim that HB 177 will reduce the amount of land that can be used to site a landfill by 9%. That figure is correct but needs to be put into context. Currently, NH has 12,000 times more land available for landfilling than it needs for the next 100 years. Passing HB 177 would still leave roughly 11,000 times more land area than NH needs.

Representative Betty Gay

Rockingham – District 8

- Landfills are guaranteed to leak eventually even if constructed with a liner. There is no way to fully prevent a landfill leak. There is no way to block groundwater contamination from a landfill.
- There are many Superfund sites around NH. NH does not need another one next to a pristine lake.

Representative Peter Bixby

Strafford – District 17 and ranking member of the House Environment and Agriculture Committee

- HB 177 protects NH's tourism industry. NH's state parks are tourist magnets and many small businesses rely on the visitors they attract.
- HB 177 does not diminish NH's landfill capacity. Those who claim that NH will run out of landfill capacity in the next decade are only citing current solid waste permits and are assuming that current landfills will not expand in the future. Additionally, these arguments do not consider ongoing efforts in solid waste diversion, such as diverting municipal solid waste from landfills. HB 413 (2021) would help NH conduct more long-term strategic solid waste planning and help NHDES craft administrative rules for composting. HB 413 can also help explore ways to reduce the amount of out-of-state solid waste coming into NH.

Representative Suzanne Smith

Grafton – District 8

- State parks are an economic driver. They should not be put at risk by siting landfills nearby.
- HB 177 does not solely apply to FLSP, but to all state parks. State parks are popular, given the amount of money raised by the NH State Park License Plate program. Individuals may purchase a state park license plate for an additional fee to support NH's state parks while receiving free entry into NH's state parks for one year.

Representative Megan Murray
Hillsborough – District 22

- Served on the Committee to Study Recycling Streams and Solid Waste Management in NH (2019).
- HB 177 is an effort to protect NH's natural resources and tourism. Protecting NH's natural resources is important to future generations.
- Per RSA 149-M:3, landfilling solid waste is the least preferred method of solid waste management.

Representative Maria Perez
Hillsborough – District 23

- Visited a lot of NH state parks and nearby businesses. State parks are important revenue generators for NH. They are known for their beauty and draw in visitors. HB 177 will help protect important water resources.

Representative Timothy Egan
Grafton – District 2

- Governor Sununu and the NH Department of Business and Economic Affairs recently created the Office of Outdoor Recreation Industry Development, which displays the state's awareness of the importance of recreation-based tourism in NH. This type of tourism requires the continued protection of NH's natural resources, including NH's state parks.
- According to data 2017 data from the NH Division of Travel and Tourism Development, travel and tourism was responsible for \$5.5 billion in visitor spending. Pristine state parks should be maintained by the state.

Representative Dennis Thompson
Coos – District 1

- The North Country's economy is dependent on tourism and recreation. The economic disruptions caused by the COVID-19 pandemic were experienced greatly in the North Country, as in other parts of NH. A 168-acre landfill within sight of state roads in Dalton, NH next to FLSP would be a further economic disruption.
- Representative Thomas noted that Casella's proposed GSL next to FLSP would have out-of-state waste account for 49.1% of its intake. Dalton has already passed zoning to prohibit Casella's GSL.
- HB 177 is a state parks bill. NH needs to protect its wildlife, waste quality, and the \$5.5 billion in visitor spending from tourism and travel.
- HB 177 will compel the state to come up with recycling solutions, compost solutions, and waste diversion methods to extend the life of existing landfills. While understanding the interstate commerce clause, there must be a way around it to protect NH's landfill capacity, limit the amount of waste coming in from out-of-state, and protect NH's state parks.

Jon Swan – provided written testimony
Founder, Save Forest Lake

- HB 177 would protect all of NH's state parks for future generations from the threats and nuisances of abutting landfill facilities. NH should not sacrifice its state parks for an out-of-state garbage corporation.
- FLSP plays an important role in NH's economy. Tourism is NH's second largest industry. Siting a landfill next to a state park is not a good idea.
- Mr. Swan noted the testimony from House representatives and the e-mails and letters sent to the committee in support of HB 177. The NH State Senate should side with the NH's citizens, residents, businesses, and property owners instead of the lobbyists and employees of an out-of-state garbage corporation that seeks to import nine million tons of out-of-state waste into NH and bury it 190 feet from a state park.

Peter Blair – provided written testimony
Staff Attorney, Conservation Law Foundation – New Hampshire (CLF)

- HB 177 is a commonsense measure that will protect NH's state parks by imposing a two-mile buffer between important public resources and prospective landfills. NH state parks were created for the use and enjoyment of all – now and in the future. These parks are diverse and special places of natural, environmental, and cultural significance. The two-mile buffer proposed by HB 177 is critical to protecting these areas from the negative impacts that landfills impose on surrounding communities and environments.
- CLF's Zero Waste Project works to address and understand the numerous issues landfills create. This includes the emission of noxious odors, spread of airborne dust and debris, attraction of pests and vermin, as well as increased regional and local traffic. Fires are also a significant concern. Landfill fires are especially dangerous as they can emit harmful fumes from the wide array of waste contained in the facility. This includes carbon monoxide, hydrogen sulfide, and particulate matter. On average, 8,300 landfill fires occur in

the US each year. Allowing the construction and operation of landfills within two miles of state parks may subject visitors to these impacts. In some instances, landfills may even be visible from state parks, greatly reducing the natural viewsheds that are essential to experience and enjoying the beauty of NH's state parks.

- Even after a landfill closes, it will still perpetually threaten the surrounding area. Landfills, even those that only accept municipal solid waste, are known to contain dangerous substances like volatile organic compounds, polychlorinated biphenyls, heavy metals, radioactive material, and pharmaceuticals. There is increasing concern regarding the levels of PFAS in landfills. These forever chemicals must be handled with the utmost care.
- All landfills eventually leak. While the liner system placed under the buried waste may delay the leakage, these systems will inevitably deteriorate overtime and fail to contain the leachate. Once these liners fail, the leachate will begin polluting the surrounding groundwater indefinitely, as there is no way to repair the liners after the landfill is constructed.
- Senator Avard asked how NH stops other states from bringing their trash into NH.
 - Mr. Blair said NH could stop private landfill development. ME has worked to take state control of its landfills. When the state controls its landfills, states can get around the interstate commerce clause. Those landfills are state resources and states can determine what they can and cannot accept.

Fred Anderson

President, Forest Lake Association

- HB 177 promotes the public health, safety, and prosperity for everyone in NH and those who use NH's state parks. HB 177 is bipartisan and protects NH's precious water resources, property values, and its tourism economy.
- HB 177 does not establish an arbitrary two-mile buffer or rescind local zoning control with spot zoning. Some fifteen states have landfill buffer limits, with eleven states requiring a buffer for state parks. A two-mile buffer is rational – the current 200-foot buffer in NH is madness.
- Mr. Anderson said Mr. Lamontagne will speak to HB 177's constitutionality.

Ovide Lamontagne – provided written testimony

Shareholder, Bernstein-Shur, representing Fred Anderson

- Enacting HB 177 would be a constitutional exercise of the NH General Court's police power in creating a two-mile buffer zone around NH's state parks for any new landfills. HB 177 conserves and protects all state parks equally and does not single out any specific landfill operator. HB 177 does not violate the Takings or Commerce clauses under the US Constitution.
- HB 177 is not an example of spot zoning. In its *Miller v. Town of Tilton* (1995) ruling, the NH Supreme Court ruled "an area is spot zoned when it is singled out for treatment different from that of similar surrounding land which cannot be justified on the bases of health, safety, morals or general welfare of the community and which is not in accordance with a comprehensive plan." NH case law supports HB 177.
- It has been a long-held public policy for NH to preserve and protect NH's natural resources for the benefits of its citizens and visitors. RSA 216-A provided for the expansion of the state park system. HB 177 is entirely consistent with NH's public policy to conserve and protect its state parks.

Catherine Corkery

NH Chapter Director, NH Sierra Club

- State parks are an important economic driver for travel, tourism, and recreation activities, especially in NH's rural areas. State parks protect vital habitats and ecosystems. HB 177 recognizes the critical importance of NH's state parks and the benefits the public derives from them.

Eliot Wessler – provided written testimony

President, North Country Alliance for Balanced Change

- HB 177 had bipartisan support in the House, meaning it is a good bill and reflects sound public policy. HB 177 will not impose any additional costs on NH taxpayers.
- HB 177 opponents have nine key arguments against the bill. However, these arguments are unsupported and misleading.
- It is wishful thinking to believe NHDES can protect NH's state parks. NHDES has admitted that they are underfunded and understaffed. NHDES is operating on outdated and potentially illegal procedures. The NH General Court needs to enact HB 177, which represents a good start to resolving NHDES' issues. NHDES needs to update its rules and procedures that have not been revised in twenty years.

- HB 177 will require Casella to go back to the drawing board if it wants to build a new landfill in NH. The proposed site for the GSL is the worst possible site for a landfill in all of New England.

Amy Manzelli

Attorney, BCM Environmental & Land Law, PLLC, representing the North Country Alliance for Balanced Change

- HB 177 is constitutional as it does not violate the Takings or Commerce clauses in the US Constitution. HB 177 protects all state parks and addresses all new landfills, regardless if they are controlled by in-state or out-of-state entities.
- There is no reported court case in NH or elsewhere in the US that protecting parks with a two-mile buffer would be unconstitutional. A North Carolina law prohibited landfills within five miles of the outer most boundary of any national wildlife refuge, one mile of the outer most boundary of a state game land, and two miles of the outer most boundary of a state park. A North Carolina court of appeals found this law constitutional.
- The NH Supreme Court has continually ruled that setbacks and buffers are constitutional. Some examples include the Shoreland Protection Act, which has a variety of use limitations.

Adam Finkel – provided written testimony

Dalton, NH

- HB 177 corrects a glaring mistake in state statute and imposes a two-mile buffer between state parks and landfills. Casella has estimated in one of its partial permit applications that groundwater moves up to 9.5 feet a day at its proposed GSL site, so the 175 feet to FLSP could be traversed in three weeks when the landfill leaks in the future. HB 177 will create a buffer of roughly three years lead time to get ready for any groundwater leak.
- Separating incompatible uses is not rocket science, not zoning, and not a slippery slope to anywhere.
- NHDES needs direction from the NH General Court. NHDES has not even complied with the six-mile buffer between new landfills and airports that the federal government passed overwhelmingly 21 years ago – NHDES still has a two-mile buffer. NHDES needs more guidance on what kinds of solid waste permit applications that NHDES should not waste their time and resources on.
- Taking 9% of the NH's land out of landfill use will have no impact on the supply of landfills or disposal costs.

Nina Webb – provided written testimony

Bethlehem, NH

- Private landfills prioritize their pockets, not the states. Casella makes money by hauling out of state trash into NH. Casella also has a history of failed landfill operations and maintenance in other states. Bethlehem has been engaging in legal battles with Casella over its North Country Environmental Services landfill for years. Hosting a landfill does not produce any long-term benefits.
- NH is not in dire need for new landfills.
- Having landfills invade state park habitats will disrupt ecosystems. Water resources will suffer. Landfills will need to be remediated in the future at significant cost.
- HB 177 will ensure that future generations have protected water sources, forests, and a tourism economy.

Sarah Doucette – provided written testimony

Whitefield, NH

- In response to Mr. Whittum and Ms. Pilotte's testimony regarding Forest Lake's water quality, Mrs. Doucette said annual tests have demonstrated that Forest Lake has good water quality.
- In response to Mr. Whittum, Ms. Kathan, and Ms. Pilotte's testimony about town officials, Mrs. Doucette said town officials are responsive.
- In response to Mr. Wessler's testimony, Mrs. Doucette said she believed that Mr. Wessler was not arguing that NHDES does not protect state parks, but that current regulations do not prevent a landfill from being sited next to a state park.
- Opponents of HB 177 claim that the bill infringes on the rights of an individual to sell their land to a private company to develop a landfill. Such self-interested parties could impose a devastating landfill on a state park treasured by different park user groups, many of whom are property owners with rights themselves, and countless NH visitors and others who bolster NH's economy.
- HB 177 is not a clash of equally weighted values. On one hand are the interests of a few private entities, while in the other hand, the entire population of NH natives and its visitors.

Wayne Morrison

Mont Vernon, NH

- Landfills and state parks are incompatible land uses. It is not a good idea to site the GSL so closely next to FLSP. The landfill project is not just a local issue, but a regional issue – surrounding towns have adopted warrant articles opposing GSL's siting.

*Nancy Mittleman – provided written testimony
Dalton, NH*

- GSL's impact goes beyond Dalton, affecting surrounding communities and the entire North Country. Decisions about landfill siting should reflect the thoughts of the people and communities that are impacted.
- NH state parks are an important asset in drawing tourism and travel to the state.
- In response to Mr. Whittum, Ms. Kathan, and Ms. Pilotte's testimony about town officials, Ms. Mittleman said that local elected officials reflect the sentiments of those who elected them.
- Encouraged the committee to review Casella's infractions in NH and other states.

*Honorable John Tuhill
Acworth, NH*

- Much of NH's regulations are outdated. The solid waste industry has come close to being a monopoly that NH should consider whether to manage landfills as a utility. HB 177 is a way to hit the pause button and bring NH's solid waste regulations into the 21st century.

Hayley Jones

Vermont and New Hampshire Community Organizer, Community Actions Works

- All landfills inevitably leak, which detrimentally impact ecosystems, wildlife habitats, and water supplies. There is currently a lawsuit in Bethlehem against the North Country Environmental Services landfill for discharging illegal pollutants into the Ammonoosuc River. NH cannot afford such incidents occurring near their state parks. Permitting landfills near state parks will decrease tourism and discourage recreational activities.

*Roger Doucette – provided written testimony
Whitefield, NH*

- HB 177 is a simple bill that protects NH's state parks from the well-documented detrimental impacts of landfills. HB 177 will safeguard those special places that NH has deemed essential to preserve for both current and future generations. NH's identity is tied to its state parks.
- Landfills are forever and their problems are long lasting. A state park near a landfill would be damaged for generations and its waters permanently comprised. There is other land in NH more suitable for a landfill than beside a state park.
- Passing HB 177 would protect NH's state parks while the state assesses its solid waste management plan and regulations for the future. Current NHDES regulations are not adequate to keep landfills away from our parks by more than 100-200 feet.

*Christine Sundman
Littleton, NH*

- The enjoyment of FLSP is threatened by the proposed GSL that abuts the park. The North Country should not be turned into the state's trash can. HB 177 will preserve the North Country's natural resources and NH's state parks.

Summary of testimony presented in opposition:

Representative Howard Pearl

Merrimack – District 26 and Chairman of the House Environment and Agriculture Committee

- The House Environment and Agriculture Committee had recommended HB 177 be found "inexpedient to legislate" by a vote of 10-9. The committee received a lot of testimony on HB 177. A majority of the committee felt HB 177 violated landowner rights and used the state legislative process to address a specific landfill proposal near FLSP in Dalton, NH. The dispute was a local zoning issue and the NH Department of Environmental Services (NHDES) has a siting process to fully vet landfill proposals.
- HB 177 does nothing to specifically protect water quality, private property, or business owners. HB 177 is an example of spot zoning. The two-mile buffer in HB 177 is arbitrary and has no scientific basis.

- Senator Avarad noted that the House Environment and Agriculture Committee recommended HB 177 be found “inexpedient to legislate,” but HB 177 was later recommended “ought to pass with amendment” by the full House. Senator Avarad asked Representative Pearl how that transpired.
 - Representative Pearl explained that HB 177 was part of a marathon House session from April 7-9, 2021. HB 177 was toward the end of the House’s regular calendar. However, HB 177 was later special ordered to the front of the calendar. Many representatives left House session for the day, believing the calendar was done as many of the bills recommended “ought to pass” were addressed. The House Environment and Agriculture’s committee report on HB 177 was overturned by the full House by a vote of 171-187. The House later recommended HB 177 “ought to pass with amendment” by a vote of 197-159.
- Senator Avarad wondered what the reason was for the House’s action in overturning the House Environment and Agriculture’s committee recommendation on HB 177.
 - Representative Pearl said he could not speak for the intentions of others, but it was his understanding that many felt that the House session was going to end. Many House representatives had left and did not believe HB 177 was going to be acted on.

*Joseph Fusco – provided written testimony
Vice President, Casella Waste Systems, Inc.*

- It is vital to develop solid waste infrastructure under a rigorous policy and regulatory framework that prioritizes science and fact-based examination of many critical factors, including technology, safety, hydrogeology, and relentless engineering and operating standards.
- HB 177 is unnecessary from a regulatory, permitting, and public policy standpoint. Any technical, scientific, environmental concerns or standards for siting a landfill on any square inch of NH land is covered and addressed under a very sophisticated and comprehensive regulatory and permitting regimen. This regimen reviews hundreds of criteria and requires the extensive, scientific review of multiple environmental and quality of life impacts.
- In fact, the protections that proponents of HB 177 seek are covered by NH’s regulatory and permitting standards and processes. The fears proponents seek to soothe with this bill are superseded by an existing public policy process containing an immense amount of diligence on every aspect of the appropriate siting, permitting, construction, operation, closure, and post-closure monitoring of New Hampshire’s landfills.
- HB 177 is not a scientific, fact-based approach to policymaking around the management of NH’s environmental infrastructure. HB 177 represents the inconsistent, hypocritical targeting of a specific industry, a specific company, and a specific project. It puts NH’s waste disposal infrastructure at risk in the face of a capacity shortfall of 9 to 23 million tons in the next two decades and threatens over \$400 million dollars in direct economic impact to the state.
- Senator Avarad asked how greenhouse gases released from landfills are managed.
 - Mr. Fusco said the general approach under current modern landfill management is to harvest landfill gases, primarily methane, to ensure they do not escape into the atmosphere. The methane is captured, cleaned, and engineered to produce electricity. Some larger landfills can produce between 5-6 megawatts of electricity.
- Senator Avarad said MA will send its trash into NH. He asked if Mr. Fusco could comment on the amount of greenhouse gas emission reductions at landfills.
 - Mr. Fusco said he could not answer that question but encouraged Senator Avarad to ask Mr. Nicolai.

*Sam Nicolai – provided written testimony
Vice President of Engineering and Compliance, Casella Waste Systems, Inc.*

- HB 177 proposes to restrict the location of new landfills in NH by establishing a new setback distance of two miles or 10,560 feet from state parks. The existing NH Solid Waste Rules contain various existing setback criteria which all landfills must comply with – including 200 feet from surface water, 500 feet from an occupied residence, and 1,000 feet from a drinking water intake. These setback criteria work hand-in-hand with the operational and engineering requirements for a facility. For example, the environmental monitoring systems, the design of access roads, and the appearance of the facility are designed knowing that there can be surface water at a distance of 200 feet and occupied houses at a distance of 500 feet.
- If NHDES has determined that 500 feet is the appropriate distance for someone’s home, why would it make sense to establish a setback from state parks that is twenty times greater? The answer is that there is no technical basis for this type of setback. It is simply an attempt to go around the existing solid waste rules and NHDES’ authority. Instead of evaluating a proposed facility on its merits, the bill arbitrarily picks a

restriction to ban one proposed project. HB 177's prime sponsor testified before the House Environment and Agriculture Committee that the bill's aim was to oppose Casella's GSL in Dalton, NH.

- HB 177 excludes existing landfills from this setback criteria, but a review of the existing facilities is informative:
 - The Mt. Carberry Landfill is located within a mile of the Appalachian Trail, which of course has a significant level of day-to-day foot traffic. Almost all of the City of Berlin is within two miles of the landfill.
 - The Lebanon Solid Waste Facility is within two miles of nearly all of West Lebanon and a large portion of White River Junction.
 - The Four Hills Landfill is within two miles of a significant portion of the City of Nashua, including large residential areas.
 - Our North Country Landfill is within two miles of the White Mountain National Forest, and significant land areas which are in environmental conservation.
- Landfills and other types of solid waste management facilities can be operated effectively in concert with the surrounding community and well within two miles of other uses. Of the facilities listed above, Casella's proposed GSL project is sited in a location with far less development and far more similar uses – the nearest properties include a rock quarry, asphalt plant, gravel pits, gun club, drag strip, log processing facility and similar uses, as well as the state park and its managed forests. More critical than the precise make-up of the surrounding uses, is the extensive engineered systems, monitoring programs, and operational resources that make up a state-of-the-art landfill in 2021. Casella's proposed GSL will be exactly that – a well-designed, well-operated facility managing solid waste from more than 150 New Hampshire communities.
- Senator Avard asked if Mr. Nicolai felt that HB 177 targets Casella and its GSL project.
 - Mr. Nicolai said Casella believes HB 177's purpose is to prevent Casella's GSL project from moving forward. The bill's sponsors have testified to that effect. HB 177 only establishes a two-mile boundary for state parks. There is no mention of local or national parks, conservation areas, or historic areas. The purpose of HB 177 is spot zoning.
- Senator Avard said some people are concerned about potential water contamination with Casella's proposed GSL. NH has a history of PFAS water contamination. He asked if Mr. Nicolai to comment as to whether HB 177 protect NH's water resources.
 - Mr. Nicolai referenced Director Wimsatt's testimony in that each solid waste permit application is evaluated for its impacts to groundwater. Setting an arbitrary two-mile boundary from a state park does not offer any actual environmental protection. FLSP and Forest Lake are in a different watershed than the landfill itself. Projects should be evaluated on a hydrological standpoint, not selecting a number on a map, and claiming it will offer environmental protection. If a landfill is good enough to be within a reasonable distance of local homes and water supplies, then state parks should be protected as well.
- Senator Avard referenced Representative Thompson's testimony where he said that Dalton has enacted zoning to prohibit Casella's GSL. He asked if Dalton enacted a zoning ordinance that would restrict the GSL.
 - Mr. Nicolai said Dalton enacted temporary zoning. Any solid waste facility would need to abide by local zoning ordinances. Casella is working closely with support they have in Dalton and expect the GSL would be approved through the permitting process.
- Senator Avard asked if Casella offered recycling to local municipalities.
 - Mr. Nicolai deferred Senator Avard's question to Mr. Cappadona.

Bob Cappadona – provided written testimony

Vice President of Resource Solutions, Casella Waste Systems, Inc.

- Casella Waste Systems, Inc. is a regional solid waste resource management company serving more than 50,000 households and 5,500 businesses across 150 towns and cities in NH through collection, transfer, recycling, and waste disposal operations. Casella Waste Systems, Inc. has helped reduce, reuse, or recycle more than 1 million tons of material in 2019. Casella hopes to double that number by 2030.
- Over the last three years since National Sword and the ban of certain recyclable materials by China, domestic recycling infrastructure has been built and we see commodity markets beginning to rebound over the last six months. One of the unintended consequences of HB 177 is that it will have a negative impact on the advancement of those efforts in NH.
- Within the United States, 80 percent of curbside recycling programs are single stream recycling programs. NH and MS are the only two states nationwide without a traditional, technological Material Recovery Facility (MRF).

- Even without that critical infrastructure in place, Casella diverted more than 40,000 tons of NH waste from landfills or incinerators through Casella's Recycling and Organics operations. Casella is currently collecting 30,000 tons of recyclables from NH annually and transporting them for processing at Casella's MRFs in Auburn and Boston, MA. While these facilities are capable of handling NH's recyclables, it does pose a challenge when it comes to transportation costs. Casella is seeing NH municipalities abandon their recycling programs at alarming rates due to these costs, which are in the six-figures in many instances and could be controlled better by an investment in local processing infrastructure in NH. However, to maximize environmental and economic outcomes associated with recycling, an integrated system that includes modern landfill options is needed.
- A recent study conducted by DSM Environmental Services estimated that this comprehensive approach – including a state-of-the-art landfill in the North Country, and a new MRF in the more densely populated Southern portion of the state would result in an annual reduction of greenhouse gas emissions by more than 29,000 metric tons of carbon due to increased recycling rates and the avoidance of additional transportation. That's equivalent to taking more than 6,200 passenger cars off the road each year.
- Casella's unique partnership with Goodwill Northern New England will allow Casella to collect textiles and other resalable goods at this proposed facility creating more reuse opportunity that will help further New Hampshire's waste reduction goals and put the state at the forefront of recycling innovation. In addition to the environmental benefits, it is also estimated that the proposed MRF will provide an additional \$10 million to the state's economy each year through the creation of 45-60 well-paid jobs. In closing, Casella believes the recycling industry will continue to make strides, and Casella is poised to invest in NH by locating a state-of-the-art MRF.
- Senator Watters said MRFs have been an issue in NH for several years. Senator Watters referenced his SB 629-FN (2020) to impose a surcharge on out-of-state waste to help provide matching grant funding to municipalities and private entities for waste diversion projects like MRFs. Senator Watters asked if Casella was committed to building a MRF in NH regardless of what happened to their proposed GSL.
 - Mr. Cappadona said a comprehensive program was needed. The issue is not just constructing a MRF but extracting recyclables from a landfill. 20-25% of municipal solid waste in a landfill can be extracted from a MRF standpoint.
- Senator Avar referenced Mr. Cappadona's testimony in that NH municipalities are abandoning their recycling programs due to significant transportation costs. He asked Mr. Cappadona to elaborate.
 - Mr. Cappadona said 30,000 tons of recycling is exported from NH annually to Casella's MA MRFs. There are significant transportation costs for doing so, which NH municipalities are finding burdensome. It would be more economical to have a MRF sited in NH rather than transporting NH's recycling to MA, saving NH municipalities money, and allowing them to continue on with their recycling programs.
- Senator Avar asked if an MRF sited in NH would reduce NH's carbon emissions.
 - Mr. Cappadona said a study conducted by DSM Environmental Services estimated an MRF sited in NH would reduce greenhouse gas emissions annually by more than 29,000 metric tons.
- Senator Avar said there were significant concerns about potential impacts to groundwater quality with a new landfill. He asked Mr. Cappadona to elaborate on that.
 - Mr. Cappadona acknowledged that PFAS is an issue around the country. Testing is conducted daily, weekly, and monthly at Casella's organics facilities. That same testing regimen would be conducted at any new landfill.
- Senator Avar referenced Representative Bixby's testimony about composting and asked about Casella's efforts to compost waste.
 - Mr. Cappadona said composting is not done at MRFs, but at separate organics facilities to process biosolids. This composting is often used on farmlands.
- Senator Avar asked if construction and demolition debris would go to a MRF.
 - Mr. Cappadona said construction and demolition debris is not processed at a MRF, but at processing facilities specifically designed for construction and demolition debris. A MRF is a facility that handles traditional recycling materials, such as cardboard, metal, plastics, and glass.
- Senator Avar asked if Mr. Cappadona could estimate how much a MRF would save local taxpayers.
 - Mr. Cappadona said a MRF would provide \$10 million to NH's economy each year and provide 45-60 well-paying jobs. There would also be municipal cost savings as municipalities would not have to pay significant transportation costs to process their recycling.

*Charles Crocetti – provided written testimony
Senior Vice President and Principal, Sanborn, Head & Associates, Inc.*

- Sanborn, Head & Associates is an engineering and geosciences consulting firm that provides environmental and engineering services to public and private solid waste clients. Casella has hired the firm to characterize the location of their proposed GSL. Based upon site characterization, the GSL meets the criteria contained in NH's Geologic Siting Limitations for landfills. The groundwater at the site will be continually monitored with a release detection permit issued by NHDES.
- HB 177 makes two basic assumptions: 1) land within two miles of a state park is necessarily unsuitable for a landfill, and 2) the GSL poses environmental risks to Forest Lake. Neither assumption is correct. Concerns regarding negative impacts to Forest Lake's water quality due to a nearby landfill are unfounded after evaluating the surface water and groundwater flow in the area during the site characterization process.
 - Surface Water Flow: The Phase I landfill footprint of the GSL lies within the eastern portion of the roughly 2,900-acre Alder Brook/Hatch Brook watershed. A natural high ridgeline located near the landfill site forms a surface water divide which determines the direction of surface water drainage. The proposed landfill is located on the western side of this surface water divide. Forest Lake is located on the eastern side. Gravity prevents surface water from traveling uphill or otherwise crossing this topographical ridgeline. Thus, surface water cannot move over the divide from the proposed landfill facility to Forest Lake.
 - Groundwater Flow: groundwater evaluation measurements gathered at the GSL site indicate the presence of a groundwater divide along and beneath the ridgeline that separates surface water drainage flowing to the west and flowing to the east. Like the surface water flow, the subsurface groundwater divide results in a similar flow pattern in groundwater: east of the divide, the groundwater flows toward Forest Lake, and west of the divide, the groundwater flows toward the proposed landfill site. In the unlikely event of a release of leachate from the liner system that reaches groundwater, it is not possible that the contaminants could reach Forest Lake.

Karin Anderson – provided written testimony

Senior Director for Community & Donor Relations, Goodwill Northern New England

- Goodwill operates 16 stores throughout NH and provides services to more than 28,000 people throughout its three-state footprint. Goodwill is committed to sustainable practices. In 2020, Goodwill diverted 50 million pounds of donations from landfills in ME, NH, and VT.
- In the last year, Goodwill disposed of 13,216,580 pounds of unusable donations, resulting in trash bills that added up to more than \$1.2 million. This is a problem Goodwill continually faces. HB 177 would make it more difficult to site new landfills, causing major ripple effects in Goodwill's efforts to serve NH residents. HB 177 will make landfill capacity scarcer, potentially eliminate competition, and drive disposal costs higher. Every additional dollar that Goodwill spends on waste disposal in NH is a dollar that does not go to work for NH residents who need it most in the form of the wrap-around social services.
- Environmental considerations are always central to any discussion regarding landfill development in NH. That should always remain and be a point of robust discussion.
- Casella has been a vital partner in helping achieve Goodwill's triple bottom line sustainability goals, enhancing its facilities, and expanding Goodwill's knowledge around recycling, while growing Goodwill's wrap-around support programs. Goodwill accepted the NH Businesses for Social Responsibility Partnership for Innovation Award alongside Casella in 2020. Goodwill's partnership with Casella continues to grow, and we are currently in the process of exploring what has been dubbed "the Materials Recovery Facility (MRF) of the Future" to be constructed in the southern part of New Hampshire. This facility is expected to create 45-60 well-paid jobs. Casella is committed to working with us to hire a significant percentage of these employees through Goodwill's workforce programs; many of Goodwill's clients are affected by substance use disorder or other personal, and significant, barriers to employment. This goal is well-aligned with Governor Sununu's Recovery Friendly Workplace Program.
- HB 177 threatens the design and creation of that MRF facility and all the economic and many environmental benefits that would serve NH residents both now and well into the future.

Robin Pilotte – provided written testimony

Dalton, NH

- There are many people in Dalton who are not full-time residents that do not like the idea of a landfill near their property on Forest Lake. Some Dalton residents support Casella's GSL project and Dalton should have the opportunity to make up its own mind about whether the project should be allowed in Dalton. Dalton has temporary zoning that is up for a vote at the next town meeting in June. HB 177 takes away local control. There is local support for the project, but many are unwilling to speak out due to fears of being harassed or bullied by landfill opponents.

- Ms. Pilotte visited the North Country Environmental Services landfill in Bethlehem, NH and was impressed by how a modern landfill operates.
- Ms. Pilotte inquired with local transfer station managers about the impact of not having a landfill in Bethlehem or Dalton. Those managers said that tipping fees and transportation costs would increase, leading these transfer stations to charge users more. This will detrimentally impact local businesses.
- The State of NH has not maintained the FLSP for some time. The Town of Dalton took over mowing and minor cleanup duties. Forest Lake closes due to E. coli a few times each season, making it unhealthy to swim.
- There has been a lot of talk about more truck traffic with the proposed GSL. This is a scare tactic. There has always been truck traffic in the North Country – loggers, contractors, gravel trucks, haulers – and they represent a large part of the local economy.
- Senator Avard asked how local residents are being bullied.
 - Project supporters are often called shills on social media. There are many elderly Dalton residents who do not voice their opinions as the Dalton Selectboard does not listen to them. Unless you support Forest Lake, your voice does not matter. Forest Lake has never been as popular as when HB 177 was introduced. Forest Lake does not attract that much tourism. Dalton is a low-income community and the GSL could provide much needed economic activity.

*Pamela Kathan – provided written testimony
Dalton, NH*

- The true residents of Dalton, NH are being bombarded by seasonal residents who have partnered with interest groups like Save Forest Lake, the CLF, and the North Country Alliance for Balanced Change. GSL supporters in Dalton are treated poorly by landfill opponents through harassment, ridicule, and videos posted on social media.
- Forest Lake could have been developed into a campground long ago, but there is an intensity to develop the campground now as an excuse to not have the GSL. The GSL could provide an economic boost to Dalton.
- Dalton's Selectboard and Conservation Commission are self-centered interest groups working to destroy Dalton without considering the interest and needs of Dalton's full-time residents. One Selectboard member is a Community Action Works activist. Dalton should be allowed to make its own decisions without input from interest groups and part-time residents.
- NHDES has proper regulations in place to vet any proposed landfill project.
- Senator Avard asked if Ms. Kathan could share any evidence of the bullying and harassment taking place in Dalton, NH.
 - Ms. Kathan said she would send information to the committee.

*Kevin Whittum, Sr. – provided written testimony
Dalton, NH*

- HB 177 ties the hands of Dalton residents in weighing in on a project in their own town.
- NHDES has a sufficient scientific process for siting landfills and safeguards in place already.
- Forest Lake's water quality has been an issue for years. NH has been inactive in maintaining the lake for the past 15 years. If Forest Lake has such significant value, why has the lake been ignored?
- Dalton is fortunate enough to have a place to site the GSL in an area that is already being used by industry. A host agreement would be very beneficial to the local economy and the retired, elderly, and low-income Dalton residents.
- Mr. Whittum explained that Mr. Swan has been very combative in Dalton against HB 177 opponents and frequently harasses and bullies individuals on social media.
- Senator Avard asked if Mr. Whittum felt Dalton residents were being bullied. He referenced Ms. Pilotte and Ms. Kathan's testimony.
 - Town residents in support of the GSL cannot get information from town officials because town officials oppose the landfill. This is a town issue and should not be addressed at the state level.

*Alex Koutroubas – provided written testimony
Executive Director, American Council of Engineering Companies – New Hampshire*

- HB 177 enacts statewide zoning to derail one proposed landfill project in Dalton, NH. Similar efforts were made in the past regarding the Northern Pass project. Nine pieces of legislation were introduced before the NH General Court between 2012 and 2018 and each bill was defeated. Similar legislation was introduced to derail the Kinder Morgan pipeline project. Legislating against specific public works projects is a bad idea.

- The GSL project will help bring a MRF to NH and advance recycling in the state. Prohibiting new landfills hardly seems like a solution. Trash must go somewhere. Existing landfills have finite capacity and recycling opportunities are slim. If NH runs out of landfills, the only option is to send waste out of state facilities at dramatically increased costs.
- If permitted by NHDES, the GSL will be a safe and secure landfill created by qualified engineers and geologists. There is a process to site landfills in NH and that process should move forward.

Steven Changaris – provided written testimony

Northeast Region Vice President, National Waste and Recycling Association

- HB 177 is an attempt to stop a landfill siting and permitting process already underway. Current state law, administrative rule, and legal precedents that govern landfill siting in NH is balanced and should be allowed to move forward.

David Leonard – provided written testimony

Whitefield, NH

- HB 177's sole objective is to stop the GSL project. HB 177 does nothing to control the flow of out-of-state waste into NH and takes a lot of land out of consideration to site any future landfill projects.
- Reiterated previous testimony made by Ms. Pilotte, Ms. Kathan, and Mr. Whittum about the bullying and harassment taking place in Dalton, NH against GSL supporters, with specific reference to Mr. Swan.

David Creer – provided written testimony

Director of Public Policy, Business and Industry Association (BIA)

- HB 177 would have a detrimental effect on business costs. By prohibiting new or expanded landfills within two miles of state parks, NH would be restricting the availability of landfills for waste disposal. As landfill availability decreases, disposal costs will increase for businesses.

Scott Hazelton

Highway Director, Town of Sunapee, NH

- The residents of Sunapee and Springfield deliver 18,000 tons of solid waste to the North Country Environmental Services landfill in Bethlehem, NH. The tipping fee is roughly under \$60. The Bethlehem landfill, which serves roughly 150 vendors, will likely reach its capacity in the next five years, leading nearby municipalities to look for alternative locations to get rid of their solid waste product at an additional cost. Those costs could be significant. Without a nearby landfill, Sunapee's transfer station costs could increase by \$75,000 if Sunapee had to send its waste to Turnkey in Rochester or Mount Carberry in Success, NH. Sending solid waste out-of-state could increase costs to more than \$250,000.
- Passage of HB 177 will lead to significant solid waste disposal costs for Sunapee and Springfield, as well as for the other municipalities that use the North Country Environmental Services landfill in Bethlehem, NH.

Bryan Gould

Director and Shareholder, Cleveland, Waters and Bass, P.A, representing Casella Waste Systems, Inc.

- NHDES is forecasting that there will be 40 million tons of trash generated in NH over the next twenty years. With a 25% recycling rate, that means 30 million tons will require disposal in a landfill. NH currently has 7.5-21 million tons of landfill capacity over the same twenty-year period. Without factoring in out-of-state waste, NH clearly has a shortfall in landfill capacity.
- Over 1 million tons of out-of-state waste is sent to NH landfills on an annual basis, with 80% going to the Turnkey landfill in Rochester, NH.
- Although property has not been afforded a great deal of protection under court decisions, there must be a rational basis for any distinction drawn in state statute. A setback of 100 feet between a landfill and adjoining property and a setback of 500 feet between a landfill and a residence is in the administrative rule right now. Passage of HB 177 would mean that it is reasonable to have a setback of 500 feet between a residence and a landfill, but a two-mile setback is required between any landfill and state park. HB 177 does not have a rational basis for this distinction.

Neutral Information Presented:

Michael Wimsatt – provided written testimony

Waste Management Division Director, NHDES

- HB 177 as amended by the House would prohibit NHDES from issuing permits for a new landfill, if any part of the actual solid waste disposal area is proposed to be located within two miles of the boundary of any state park.
- NHDES takes no position on HB 177 as it did when the bill was being considered by the House Environment and Agriculture Committee. NHDES provided written testimony about how NHDES processes solid waste permits. After listening to testimony on HB 177 in the House, NHDES identified issues that can be grouped into two overarching topics relative to potential off-site impacts from landfill operations that were raised by witnesses at the House Environment and Agriculture Committee hearing and that addressed by NHDES' regulatory program from landfills. These topics are nuisance conditions (odors, noise, vectors, litter) and groundwater and surface water contamination.
- First, witnesses expressed concerns about the potential impact of nuisance conditions such as odors, litter, vectors (birds), and noise. NHDES acknowledges that almost any facility that handles solid waste has the potential to be a source of nuisance conditions. The Solid Waste Rules include multiple specific requirements that limit the potential for odors and other nuisance conditions from landfills, in addition to the requirement in Env-Sw 1005.01, *General Operating Requirements*, that solid waste facilities "...be operated and maintained in a manner that controls to the greatest extent practicable" nuisance conditions. Common control methods include:
 - applying daily and intermediate cover over waste.
 - limiting exposed waste during filling operations to the smallest area practicable.
 - installing litter fences and policing the surrounding areas for windblown litter.
 - Installing and operating a landfill gas collection and control system.
 - Conducting periodic landfill cover integrity checks and surface emission monitoring.
 - Rejecting odorous wastes.
 - Requiring odorous wastes be treated prior to arrival at the facility.
 - Using odor neutralizing products or misting agents.
 - Limiting operations to between the hours of 6:00 a.m. and 6:00 p.m.
 - Using static alarms on equipment; properly maintaining equipment, from construction and compaction equipment to landfill gas collection, control and destruction (e.g., flare) systems.
 - Implementing a bird depredation program.
- In addition, the Rules require permittees to report and respond to complaints of recurring or persistent nuisance situations such as noise, litter, odor, dust or vectors.
- Second, witnesses expressed concerns about the potential for contamination of groundwater and surface water from landfill operations and management of leachate. A proposed landfill site must undergo rigorous hydrologic and hydrogeological evaluations to ensure that the proposed facility location meets siting criteria, and to ensure that surface and groundwater conditions are well understood, and the fate and transport of any potential contamination can be predicted. The Solid Waste Rules require that landfills be designed and constructed with two synthetic liner systems, each of which has its own leachate collection system. Leachate collection systems are designed to rapidly move leachate off the liner and collect it for proper disposal at an authorized treatment facility. Liners and leachate collection systems are required to be monitored and maintained throughout the operating life of the landfill, and during the closure and post-closure periods. Further, landfill permittees are required to obtain and comply with a Groundwater Release Detection Permit under Env-Or 700, which requires the permittee to monitor groundwater quality in the vicinity of the facility. If a release is detected, groundwater monitoring intensity is immediately increased, and appropriate actions are required to identify and remedy the source of the release. All these systems and requirements are designed to ensure that both groundwater and surface water resources near the landfill are protected.
- Mr. Wimsatt offered a brief description of the public benefit requirements of NH's Solid Waste Management Act. In order to approve a permit application, NHDES must determine that a proposed solid waste facility provides a substantial public benefit, based upon the three criteria in RSA 149-M:11, III(a) through (c), as follows:
 - (a) "The short- and long-term need for a solid waste facility of the proposed type, size, and location to provide capacity to accommodate solid waste generated within the borders of New Hampshire....;"
 - (b) "The ability of the proposed facility to assist the state in achieving the implementation of the hierarchy and goals (identified in the statute);"
 - (c) "The ability of the proposed facility to assist in achieving the goals of the state solid waste management plan, and one or more solid waste management plans submitted to and approved by the department...."

- The applicant must demonstrate in its application that the proposed facility satisfies all three of these criteria for NHDES to determine that it provides a substantial public benefit.
- Senator Gray said he lives in and represents the City of Rochester, which is home to Waste Management, Inc.'s Turnkey landfill. Senator Gray received a copy of Turnkey's first quarterly report of 2021 from the City of Rochester. Senator Gray found there was only one filed complaint in the report that dealt with noise from road construction. Senator Gray asked Director Wimsatt if that was unusual for a modern landfill that follows NHDES' rules and regulations.
 - Director Wimsatt said he could not comment elaborately on Turnkey's quarterly report, but the amount of complaints Turnkey received would be unusual. NHDES usually hears more noise and odor complaints in any given quarter. However, not all complaints are received by NHDES. Solid waste permits require facilities to educate nearby residents on how to file a complaint directly with the facility. It is more efficient and effective for a facility to hear about a complaint directly in real time rather than file a complaint with NHDES.
- Senator Watters said there were a lot of concerns about groundwater. Wherever a facility is sited, NHDES will review a solid waste permit application very closely to ensure there are no detrimental impacts to wetlands and groundwater quality.
 - Director Wimsatt said Senator Watters was correct. Any new solid waste facility or expansion of an existing facility, to the extent wetlands are impacted, would need to acquire a wetlands permit. This is required to move forward with a solid waste permit. NHDES would review applicable administrative rule relative to setbacks from water features and ensure the siting criteria relative to groundwater and surface water protection.
- Senator Watters said there have been legislative efforts over the years to have NH conduct long-range solid waste planning. He noted SB 146 (2021) and HB 413 (2021) would build upon the work of the Committee to Study Recycling Streams and Solid Waste Management in NH (2019). NH needs to emphasize source reduction. Senator Watters asked if he was correct in that NHDES cannot refuse to consider a solid waste permit application during the process of developing its Solid Waste Plan.
 - Director Wimsatt said NHDES has a very clearly defined role in permitting solid waste facilities. NHDES is the state agency responsible for planning and regulating solid waste management through a permit system. Anyone is eligible to apply for a solid waste facility permit. NHDES reviews permit applications to ensure that the application fulfills all the criteria under relevant state statute and administrative rule.
- Senator Avard referenced Representative Bixby's testimony and asked if NH is recycling at all.
 - Director Wimsatt said NH has been recycling for decades and continues to do so. People have the impression that recycling has been in decline in recent years. Recycling became very globalized and much of the nation's recycling was sent to China. China received much of the world's recycling as China wanted raw materials to grow their economy. After several years, China determined that they were becoming the world's trash can. Countries often used single stream recycling – where all recycling was grouped together – and used material recovery facilities (MRFs) to process their recycling before sending it to China. China found the level of contamination in the recycling it received was very high. For example, a bale of HDPE 1 plastic may have some aluminum or paper in it, significantly decreasing its value. In response, China enacted Operation Green Fence, an aggressive inspection effort aimed at curtailing the amount of contaminated recyclables and waste that was being sent to China. China later adopted its National Sword policy, refusing to take any recyclable material unless that material met very stringent contamination standards. This policy upended the global recycling market. Much of the US's recycling did not meet the National Sword standards, meaning the US's recyclable materials did not have an outlet. The capacity to manage recyclables and reuse recyclables in the US was diminished. The commodity price for these recyclables dropped significantly. The requirement to operate MRFs as effectively as possible to reduce contamination became very expensive. To put into perspective, the average tipping fee at a landfill was \$80-90 a ton. MRFs charged up to \$140 a ton. When communities looked at their solid waste options, they often went for the least expensive option for their local taxpayers, so communities sent their recyclables to landfills. Communities still using single stream recycling continue to face these economic challenges. The US is clearly going through a recycling reset because of the National Sword policy.
- Senator Avard noted Representative Bixby's comments about landfill capacity. Landfilling recyclables became the cheapest option and must have had an impact on NH's landfill capacity. Senator Avard asked Director Wimsatt to comment on NH's landfill capacity.

- Director Wimsatt said there are a few municipal landfills that have some commercial operations, but their service areas are limited. Director Wimsatt detailed the three major commercial landfills currently operating in NH. The first and largest landfill is the Turnkey landfill in Rochester, NH operated by Waste Management, Inc. Turnkey landfill had a solid waste permit approved for an expansion and expected to operate through 2034. Turnkey landfill has some additional land to potentially expand in the future, but such a proposal is not before NHDES. The second landfill is the Mount Carberry landfill in Success, NH operated by the Androscoggin Valley Regional Refuse Disposal District. Though operated by a public entity, Mount Carberry landfill operates commercially. Mount Carberry is permitted to operate through 2025 and is expected to expand in the future. The third landfill is Casella's North Country Environmental Services landfill in Bethlehem, NH and is permitted to operate through 2026. While the landfill has land adjacent to it for potential expansion, a local zoning change would be required for any expansion.
- Senator Avard said previous public hearings demonstrated that MA and other states dispose of their waste in NH.
 - Director Wimsatt said Senator Avard was correct.
- Senator Avard asked if NH sends its trash to other states like MA.
 - Director Wimsatt NH sends its trash to other states like MA to a much lesser degree. Solid waste disposal is considered subject to the interstate commerce clause under the US Constitution. Therefore, NH cannot enact something that unfairly discriminates against the interstate commerce of solid waste. While any commercial landfill operating in NH must demonstrate that it provides a substantial public benefit to the state, such as handling NH's solid waste, it does not preclude a facility from also seeking to operate at a much greater quantity to accept out-of-state waste. For example, the Turnkey landfill's solid waste intake was roughly 50% from in-state and 50% from out-of-state. The North Country Environmental Services landfill took in roughly 25% out-of-state waste in 2020.
- Senator Avard asked what happens to solid waste from the North Country if the landfills in the North Country fill up in the next five to ten years.
 - Director Wimsatt said one would have to assume that no new landfills get sited and there are no expansions of existing landfills. Other states that are more aggressive on landfill development are shipping their solid waste out of state. States like NY, OH, PA have constructed very large landfills. Some states are sending their solid waste to those states by truck or train.
- Senator Avard summarized that NH could beef up its recycling to reduce its landfill intake.
 - Director Wimsatt said current state statute makes clear that the NH General Court makes it a priority to divert solid waste from landfills and maximize recycling. However, those efforts are market based due to the cost to process recyclables. Making recycling easier and less expensive will reduce the amount of waste disposed of in NH's landfills.
- Senator Avard referenced Representative Egan's testimony that travel and tourism accounts for \$5.5 billion in visitor spending. He asked if there has been an economic impact study on how tourism will be affected if more landfills are constructed.
 - Director Wimsatt said he could not answer Senator Avard's question. He was not aware of any economic impact study.
- Senator Avard asked Director Wimsatt to comment on Mr. Wessler's testimony in that NHDES cannot protect NH's state parks and NHDES' rules and procedures have not been updated for twenty years.
 - Director Wimsatt said previous testimony may have been referring to NH's Solid Waste Plan, which has not been updated since 2003. NHDES' administrative rules, which are used to implement state statute and regulate solid waste facilities, have been modified a number of times since 2003 and are constantly revised. In response to protecting state parks, NHDES' role in solid waste permitting is to apply the rules and standards that are set out through state statute and administrative rule. Solid waste facilities that meet those rules and standards will typically get a solid waste permit to operate. If a solid waste facility does not meet those rules and standards, the facility will not get a solid waste permit.
- Senator Avard asked Director Wimsatt to comment on Mr. Wessler's testimony that NHDES' Solid Waste Management Bureau is underfunded and understaffed.
 - The Committee to Study Recycling Streams and Solid Waste Management in NH (2019) suggested that the Solid Waste Management Bureau in NHDES has been underfunded for a number of years due to budget cuts that occurred some twenty years ago, particularly with respect to solid waste planning. That is a reason why NHDES is behind in updating its Solid Waste Plan, as well as previous staff retirements and an inability to refill those positions overtime. However, the ongoing

budget discussions in HBs 1 and 2 (2021) provide significant funding to NHDES for the Solid Waste Management Bureau. Should HBs 1 and 2 get signed into law with that additional funding, NHDES will be able to stand up active solid waste planning efforts.

- Senator Avar asked Director Wimsatt to comment on the status of NH's Solid Waste Plan.
 - Director Wimsatt referenced SB 146 (2021), which would reframe NH's Solid Waste Plan to be due in the fall of 2022. There is also HB 413 (2021) that would assist in long-range solid waste planning.
- Senator Avar referenced Mr. Finkel's testimony in that NHDES is not following federal law. He asked Director Wimsatt to comment.
 - Director Wimsatt clarified that NH's solid waste permitting program is approved by the federal government and meets its requirements. Director Wimsatt said the claim that NHDES is not following federal law in having adequate setbacks between landfills and airports was the first time he had heard it. Director Wimsatt said he will be sure to look into it as he wants to ensure NHDES is following federal requirements. NHDES takes no position on HB 177 as it is currently reviewing permit applications under its wetlands program and solid waste program for the GSL in Dalton.
- Senator Avar referenced Mr. Gould's testimony in that NH is facing a landfill capacity crisis. He asked Director Wimsatt to comment.
 - Director Wimsatt said NHDES' landfill capacity analysis only takes into consideration current permitted capacity at NH landfills. Director Wimsatt referenced his earlier testimony about NH's three commercial landfills and how long they are permitted to operate. The public benefit determination on a solid waste facility is, in part, predicated on a certain service life for the solid waste facility. For example, the Turnkey landfill is permitted through 2034. Under the terms of Turnkey's solid waste permit, Turnkey must provide solid waste capacity for NH until 2034. NHDES has not made all the solid waste permit decisions that it will make for the next twenty years. This does not mean that NHDES will not receive a solid waste permit application to expand capacity. Director Wimsatt has been loath to describe landfill capacity as a crisis. NHDES responds to proposed solid waste permit applications as they come up.
- Senator Avar referenced testimony from Mr. Hazelton about the potential closure of the North Country Environmental Services landfill and its impact on surrounding municipalities. If there is no replacement for that landfill, Sunapee and Springfield will have to transport their solid waste to other landfills at higher cost. Senator Avar asked what the timeframe was to undertake a solid waste permit process.
 - Director Wimsatt said a solid waste permit application for a new landfill could take roughly 3-4 years from conception to getting a decision for NHDES on a solid waste permit. The timeline could vary based on the circumstances of the solid waste permit application.

GJR

Date Hearing Report completed: May 10, 2021.