

Senate Commerce Committee

Aaron Jones 271-2609

HB 1245-FN, relative to voluntary portable benefits plans for independent contractors.

Hearing Date: April 7, 2026

Time Opened: 11:03 a.m.

Time Closed: 11:10 a.m.

Members of the Committee Present: Senators Innis and Birdsell

Members of the Committee Absent : Senators Ricciardi, Murphy, Fenton and Reardon

Bill Analysis: This bill establishes a voluntary framework allowing independent contractors to participate in portable benefit plans through authorized providers.

Sponsors:

Rep. Farrington
Rep. Warden

Rep. Granger
Sen. Innis

Rep. Labrie

Who supports the bill: Representative Brian Labrie, Senator Daniel Innis, Jonathan Wolfson (Institute for American Worker), Sarah Scott (Americans for Prosperity), Curtis Howland, Timothy Finney, Pamela Harders, James Gardner

Who opposes the bill: Kate Horgan (NHAC)

Who is neutral on the bill: Cassie Abbott (NH DOL)

Summary of testimony presented in support:

Representative Brian Labrie

- Currently, Representative Labrie said New Hampshire's independent workforce has been stuck in a binary trap because they can have flexibility or benefits, but they can rarely have both.
- Many small businesses want to keep their independent contractors coming back by offering health and retirement benefits, but they are afraid those benefits will be used against them in a misclassification audit.
- Representative Labrie said businesses are being punished for being good actors.
- This bill would create a safe harbor by allowing benefits to be portable. Benefits would belong to a worker, not a company, and they would follow the worker from project to project.

- Representative Labrie said the mechanics of this bill would be entirely market driven. An independent worker could open a personal benefits account with a third-party provider, and a company could add a benefits tipline to the contract with the worker.
- This bill would ensure payments cannot be used in court to trigger a change in employment status.
- Representative Labrie said this bill would not mandate anything, nor would it create new taxes or bureaucracy. Instead, it would help small businesses to remain competitive.
- Similar legislation has been passed in Utah, Tennessee, and other states.
- For New Hampshire to remain a magnet for top talent, Representative Labrie said legal certainty must be provided.

Jonathan Wolfson, Institute for the American Worker

- There are 70 million independent workers throughout the U.S. In New Hampshire, there are about 120,000 residents who are small business owners and independent contractors that must pay extra to receive access to health savings or flexible spending account benefits.
- Mr. Wolfson said the challenge has been that an attorney for a business who retains a worker will say if money is placed into benefits, then the Department of Labor, the Workers' Compensation Board, or the courts, will say that worker is an employee.
- This bill would provide safe harbor to a worker and a business if they have agreed that they would like money diverted into a portable retirement, health savings, or flexible child spending account.

Sarah Scott, Deputy State Director, Americans for Prosperity

- Independent contractors are about 11 percent less likely to have health insurance than traditional employees, and a majority have health insurance through their spouse.
- Ms. Scott said this bill made an easy change to allow for more flexible working arrangements.
- While other states have passed similar legislation, New Hampshire would be the only state in New England. Massachusetts passed the Driver Portable Health Fund in April 2025, which was limited to a specific industry.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Cassie Abbott, Legislative Liaison, New Hampshire Department of Labor

- The Department understood that when they review a workers' classification, they could not consider an offer or contribution to a portable benefit account by the hiring party or participation in it by an independent contractor. They also could not consider control over a plan or an account as an administrative act of withholding or remitting contractor funds authorized under RSA 283-A:2.
- The Department did not view themselves as a dispute resolution venue. If a dispute arose between an independent contractor and a hiring party, they would have to go to court to resolve the issue.

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Date Hearing Report completed: April 10, 2026