

Senate Commerce Committee

Aaron Jones 271-2609

HB 1072, relative to employer notice of department of labor investigations.

Hearing Date: April 14, 2026

Time Opened: 10:10 a.m.

Time Closed: 10:27 a.m.

Members of the Committee Present: Senators Birdsell, Murphy, Fenton and Reardon

Members of the Committee Absent : Senators Innis and Ricciardi

Bill Analysis: This bill:

I. Requires the labor commissioner to give at least 30 days' written notice before any visit or inspection, including the purpose, complaint status, and alleged violation.

II. Requires at least 30 days for establishments to respond to document or interview demands, regardless of complaint status.

III. Allows shorter notice only with attorney general approval and only if:

(a) The establishment violated labor laws within the past 36 months.

(b) There is imminent risk to health or safety.

(c) Notice would likely lead to evidence destruction or interference.

Sponsors:

Rep. Labrie

Rep. Creighton

Rep. Giasson

Rep. Granger

Rep. Warden

Rep. Drago

Sen. Murphy

Who supports the bill: Representative Brian Labrie, Natch Greyes (BIA), John Reynolds (NFIB NH), Alison Milioto (BlueLion), Henry Veilleux (NHLRA), Cory Stone

Who opposes the bill: Representative Janet Lucas, Glenn Brackett (NH AFL-CIO), Alan Raff (NH AFL-CIO), Brian Hawkins (NEA-NH), Linda Burnap, Amy Erickson, William Copeland Jr., Cindy Deal, Joyce Weston, Julie Retelle, Stephanie Osborne, Richard Osborne, Carol Lenahan, Sally Widerstrom, Alexis Eynon, Sheila Donahue, Nancy Donahue, Lisa Day-Copeland, Richard Hunnewell, Anne Hunnewell, Gary McCool

Who is neutral on the bill: John Garrigan (NH DOL)

Summary of testimony presented in support:

Representative Brian Labrie

- This bill would update RSA 273:9, which was originally enacted in 1911 during the textile boom.
- Under this statute, the Department of Labor can conduct unannounced inspections of any business without notice, and they do not need to state the scope or nature of the investigation.
- Representative Labrie said surprise visits can cause significant disruptions during the workday.
- This bill introduced a standard procedure for inspections, while also maintaining rapid response capabilities to respond to bad actors.
- This bill would require 30 days' written notice for routine inspections, and it would grant businesses 30 days to compile records and documents. The notice must include the purpose of the inspection and a description of the alleged violations. A notice can be waived if there has been a violation in the previous 36 months, there is an imminent risk to the health or safety of employees or the public, or there is reasonable belief that evidence will be destroyed.
- Representative Labrie said whistleblower protections would be unchanged and employee information would remain confidential.

Natch Greyes, Business and Industry Association

- Mr. Greyes did not object to the Department's recommendation of substituting the phrase "substantial evidence" with "probable cause," but he did need to think about the wage issue.
- By putting this language into statute, the notice requirement would be standardized regardless of who the commissioner is.
- For businesses, Mr. Greyes said it was helpful for rules to be consistent. It also was helpful for businesses to be able to plan in advance to ensure the necessary individuals are on-site and the correct documents are available for inspection.

John Reynolds, State Director, NFIB NH

- Mr. Reynolds said small businesses have voiced their frustration over their interactions with state agencies.
- In Grafton County, Mr. Reynolds said he visited a flower shop consisting of a husband who handled the books and a wife who handled the orders. During Thanksgiving week, an inspector showed up for a non-routine, non-complaint driven inspection. Since this occurred during their busiest time, the owner was unable to fulfill customer orders. If the owner had been given advanced notice, they could have planned ahead or brought in a part-time employee.

- Mr. Reynolds said this structure would benefit both sides, and it could lead to faster completion of the Department's work.
- On the Seacoast, an independent auto dealer hired a production company to help film a commercial. When an inspector showed up, they would not reschedule. Mr. Reynolds said this cost the owner significant money to manage both.
- Similar advance notice requirements for inspections and audits exist in other statutes, such as RSA 400-D:10.
- Mr. Reynolds said they had no problem with changing "substantial evidence" to "probable cause".

Alison Milioto, Co-Owner, BlueLion

- Ms. Milioto said the ability to obtain records and get everything together for an inspection takes time and resources.
- Ms. Milioto said a challenge has been when the commissioner and directors change within the Department.
- While the Department's practice might be 2 weeks or 30 days, Ms. Milioto said they are not always given notice.
- If there is a wage claim, an employee can submit a request to reach a resolution between themselves and their employer. Since wage claims are time sensitive, Ms. Milioto said adding it to this bill was unnecessary.
- Ms. Milioto said most employers do not have a dedicated employee in human resources. While their ability to obtain records might be quicker since they use an electronic system, most business owners in those roles are running the day-to-day operations.
- Ms. Milioto said anything to simplify the process and make it more consistent was beneficial.

Henry Veilleux, New Hampshire Lodging and Restaurant Association

- Given the organized chaos of restaurant work, Mr. Veilleux said it would be beneficial if this were in statute.

Summary of testimony presented in opposition: None

Neutral Information Presented:

John Garrigan, General Counsel, New Hampshire Department of Labor

- The Department provides notice for nearly all inspections; however, there are some cases that are emergent or they involve allegations from employees or companies themselves that they are unable to pay wages. Unlike other violations, Attorney Garrigan said the Department does not provide a warning in these circumstances before a civil penalty is assessed.

- Attorney Garrigan believed this bill needed to be amended to allow the Department to quickly respond to complaints about non-payment of wages. Specifically, he said Section 3, Line 21, should be amended to include instances where the Department has evidence that an employer will fail to pay wages on-time or in full.
- The phrase “substantial evidence” was not defined, and it was not similar to other evidentiary standards. Attorney Garrigan suggested it should be replaced with “probable cause,” which is a standard consistently used across other areas of law.
- Attorney Garrigan said they could enforce this bill as it is written, and the Department understood the need for consistency and credibility within the business community.
- **Senator Reardon** asked how much notice is given typically.
 - **Attorney Garrigan** said it was between 2 weeks and 30 days.
- **Senator Fenton** asked if the 2 weeks to 30 days’ notice applied to surprise inspections.
 - **Attorney Garrigan** said for the rare surprise inspections, they will just show up. Even if there is an inspection the next day, they will attempt to make contact to ensure there is a manager or owner to talk to and access to the location.
- **Senator Fenton** asked what if there is a rare inspection and an employer cannot provide documents right away.
 - **Attorney Garrigan** said every employer’s situation and work location is different. An inspector will wait if documents are in a filing cabinet. If they need access to online financial or payroll accounts, an inspector will leave a copy of the notice, provide a list of what is needed, and set up a time to pick them up.
- **Senator Fenton** asked if the Department charged an employer during surprise visits.
 - **Attorney Garrigan** said they do not.