

Senate Commerce Committee

Aaron Jones 271-2609

HB 1043, relative to employer discretion in offering minimum payment options to employees.

Hearing Date: April 14, 2026

Time Opened: 10:27 a.m.

Time Closed: 10:49 a.m.

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

Members of the Committee Absent : Senator Ricciardi

Bill Analysis: This bill allows employers to establish their own pay policies for employees reporting to work, making the statutory minimum pay requirement applicable only when no alternative company policy exists.

Sponsors:

Rep. Labrie

Rep. B. Boyd

Rep. Creighton

Rep. Drago

Rep. Farrington

Rep. Flanagan

Rep. Granger

Rep. Morton

Rep. Warden

Sen. Murphy

Sen. Ricciardi

Who supports the bill: 6 individuals were in support. Full sign in sheets are available upon request by contacting the Legislative Aide, Aaron Jones (aaron.jones@gc.nh.gov).

Who opposes the bill: 66 individuals were in opposition. Full sign in sheets are available upon request by contacting the Legislative Aide, Aaron Jones (aaron.jones@gc.nh.gov).

Who is neutral on the bill: 1 individual was neutral. Full sign in sheets are available upon request by contacting the Legislative Aide, Aaron Jones (aaron.jones@gc.nh.gov).

Summary of testimony presented in support:

Representative Brian Labrie

- Under RSA 275:43-a, private employers must pay a minimum of 2 hours to any employee who reports to work. Public employers and other sectors are exempt from this requirement.

- Representative Labrie said this statute was inconsistent, and it applied a rigid mandate to remote and gig workers.
- Representative Labrie said the workplace has evolved significantly since 1985.
- This bill would bring New Hampshire into alignment with 42 other states.
- This bill would empower business owners and employers to agree on a policy that made sense for their workplace.
- If there is no written policy, the 2-hour rule would be the default.

Henry Veilleux, New Hampshire Lodging and Restaurant Association

- This bill would allow non-traditional work arrangements, such as remote work, to move forward.
- Mr. Veilleux said employees are looking for greater flexibility. He said it is already hard enough to find staff, so it was important to keep workers as happy as possible.

Alison Milioto, Co-Owner, BlueLion

- Ms. Milioto said every time there is an administration change at the Department of Labor, there is leeway for interpretation, which can be hard to keep up with as an employer.
- The phrase “unless a policy exists” is used in other statutes. If an employee is fired by an employer, for example, accrued vacation time must be paid out if there is no written policy.
- This bill would allow an employer to decide what is right for their company.
- Based on guidance from the Department, Ms. Milioto said at their group team meeting every two weeks, employees are verbally told there is no expectation for them to answer e-mails on the weekend.
- Ms. Milioto said she did not want to write an employee up because they worked for 20 minutes on Sunday to prepare for Monday.
- There were carveouts for ski and yoga instructors because they are regularly scheduled for less than an hour.
- Ms. Milioto said it is hard to find help in the current market. If an employer does not have an employee friendly policy, they might not keep their employees.
- Violations are commonly found during investigations or wage audits, not by an individual calling and filing a wage claim.

Summary of testimony presented in opposition:

Representative Michael Cahill

- Representative Cahill said remote work was part of a growing trend. In Amherst, for example, 17 percent of individuals were doing remote work.
- Representative Cahill said the 2-hour rule should not be completely left to the discretion of employers. He provided an amendment from SB 171, which would modify requirements for remote workers.

- If an employer made a call sooner, an employee might have been able to make other arrangements. Representative Cahill said dropping a child off at daycare was expensive.
- Representative Cahill said this has worked for 40 years, and while the work environment has changed, he felt the Legislature needed to honor its commitment.
- Representative Cahill said 2 hours pay was small compensation compared to the total loss incurred for the day.

Neutral Information Presented:

John Garrigan, General Counsel, New Hampshire Department of Labor

- Attorney Garrigan said the Department could enforce this bill as it was written.
- Currently, the statute has remained the same regardless of the location where work is performed.
- An employee is entitled to at least 2 hours of pay if they report to work at the request of their employer. This does not apply to employees who work outside of the employer's request.
- The difficult cases are where there is no clear policy or communication between employers and employees. The Department uses an expectation-based analysis, and unsurprisingly, Mr. Garrigan said both employees and employers have different views.
- This bill would allow employers to establish written policies, which would make expectations clear as well as greatly reduce confusion.
- **Senator Birdsell** asked if this policy differentiated between non-exempt and exempt payroll.
 - **Attorney Garrigan** said there was a difference between salaried and non-salaried employees. This bill would not apply to salaried employees. The exemption of overtime would be a separate question, and it would depend on the situation.
- **Senator Fenton** believed this would create more complaints and disputes rather than fewer. He asked if there would be more policies and inconsistent treatment across workplaces.
 - **Attorney Garrigan** said potentially. Policies could be different across divisions, but they would still apply to a particular employee. If there is no written policy, the default within the statute would be used. Reducing confusion would help the Department, employees, and employers.
- **Senator Fenton** asked why ski and snowboard instructors received special treatment.
 - **Attorney Garrigan** said those exemptions were in existing statute.
- **Senator Murphy** asked if an employer would receive a fine if a manager sent employees home 45 minutes into their shift because it was snowing.

- **Attorney Garrigan** said they would only be liable if they did not provide 2 hours' pay and they appeared at the employer's request.
- **Senator Murphy** asked if it was correct that an employer was doing the right thing, but based on the law, they could not let them leave.
 - **Attorney Garrigan** said correct.
- **Senator Fenton** asked what recourse an employee had to recoup costs if they drove for 2 hours, put gas in their car, and dropped their children off at a babysitter, yet they were told they were not needed.
 - **Attorney Garrigan** said under this bill, there was no way to recoup. If they appeared at the employer's request, they would be entitled to 2 hours of pay.

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Date Hearing Report completed: April 17, 2026