

Senate Commerce Committee

Aaron Jones 271-2609

HB 280, relative to wage payments.

Hearing Date: May 6, 2025

Time Opened: 10:01 a.m.

Time Closed: 10:32 a.m.

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

Members of the Committee Absent : None

Bill Analysis: This bill repeals the weekly or biweekly payment of wage methods and authorizes employers to choose the payment method of their employees.

Sponsors:

Rep. Turcotte

Rep. Bernardy

Rep. Hill

Rep. Sirois

Rep. Soti

Rep. Granger

Who supports the bill: Representative Greg Hill, Timothy Finney, James Gardner, Curtis Howland, Dana Pappalardo, Aubrey Freedman

Who opposes the bill: 136 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: Danielle Albert (NHDOL), John Garrigan (NHDOL)

Summary of testimony presented in support:

Representative Greg Hill, on behalf of Len Turcotte

- This bill would remove 430 words from RSA 275:43. It would allow payment for work performed to be determined by the employer and employee through a mutual agreement.
- This bill aimed to reduce regulatory burdens on businesses and allow employees to negotiate how they are paid through mutual agreements.
- **Senator Ricciardi** said payroll debit cards, Mastercard, ADP, and hidden fees were not mentioned in this bill. There was no requirement that pay was in a form that was readily convertible to U.S. currency. She asked for clarification on payment because it could be gold, silver, or cryptocurrency.
 - **Representative Hill** said he asked that question of the prime sponsor, and it was difficult when an agreement between the employee and the

employer must follow a list of dos and don'ts. When direct deposit happened, the Legislature had to pass legislation to allow it. He stated he would provide this question to the prime sponsor. He believed employees and employers would be able to work out issues in a mutual fashion.

- **Senator Ricciardi** said one constituent employed 130 people, and they gave an option of direct deposit or check. Two employees requested a Green Dot card, and despite working with their bank, the money could not be recovered. This type of scam tended to come from overseas, which is why they refused to use prepaid debits cards for payroll. She said she was nervous that employees would not get their funds.
 - **Representative Hill** said he would pass this along to the prime sponsor.
- **Senator Reardon** said he referred in his testimony to an employer and an employee agreeing on payment, but on Page 2, Line 21, it stated “The manner in which payment is made shall be determined by the employer”. On Page 1, Line 3, it stated “Every employer shall pay all wages due to employees”. She said it did not appear employees had any discretion at all.
 - **Representative Hill** said on Line 20 of the bill as amended, it stated “The manner in which payment is made shall be determined by the employer and employee.”

Summary of testimony presented in opposition:

Representative Dan LeClerc

- Changes to electronic funds transfers, direct deposit, and being paid in debit card have often been shot down in Committee.
- During the public hearing, Representative LeClerc did not remember any businesses saying they wanted to do this.
- An employee could be hired, and they could choose direct deposit. The day after, however, the employer could change it.
- Representative LeClerc said he would not want to be paid in Bitcoin, gold, or cords of wood.

Alan Raff, New Hampshire AFL-CIO

- Mr. Raff said this bill unnecessarily changed the statute. It would hinder the ability of employees to feel secure in their employment, create uncertainty with compliance and enforcement of wage payments, and likely lead to unintended consequences.
- Presently, nothing prohibited an employer or an employee from being compensated with something else.
- **Senator Innis** asked if he could be paid in Bitcoin.
 - **Mr. Raff** said it would be a separate agreement called an in-kind payment because freedom of contract still existed.

Claudia Istel, Economic Justice Ministry, United Church of Christ

- There is an inequity in the relationship between an employer and an employee. The employer has the power whereas the employee must follow the rules.
- If she were hired, and she were presented with a written paper on how she would be paid, she was not sure she would have the freedom to make another choice.
- Ms. Istel said employees need to be protected.

Gail Kinney, Pastor, South Danbury Christian Church

- If this were in the national news, Ms. Kinney said others would see that employees did not have to be paid in legal U.S. currency.
- Ms. Kinney implored the Committee to think about the insanity of this bill.

Representative Kathy Staub

- In Ward 5, there are a lot of individuals who are living paycheck to paycheck. They need money to pay their rent, their groceries, their gas to get to work, and clothing for their children. Representative Staub said their life was hard enough without introducing something like this.
- If they were not paid in legal tender, and they were paid in kittens, Representative Staub asked if they would have the capacity to fight back.
- We have a sophisticated economy, and their ability to pay their rent helps landlords pay their mortgage, and their ability to buy food helps to keep grocery stores open.

Neutral Information Presented:

Danielle Albert, Deputy Commissioner, and John Garrigan, General Counsel, New Hampshire Department of Labor

- This bill sought to remove certain protections and requirements related to employers and how they make wage payments to employees, specifically that they pay in legal tender.
- This bill would add language that would require employers and employees to determine the manner of how wages are paid.
- This bill would require an employer to provide at least 90 days' written notification if they intend on changing the method of wage payment. This is not an agreement-based change; instead, an employer would make the determination as long as the 90-day notification has been provided.
- Certain sections from RSA 275:43 would be struck. Specifically, it would remove requirements that wages are paid in legal tender, such as cash, direct deposit, check or pay card.
- If wages are paid via check, this bill would remove the requirement that a financial institution is convenient to the place of employment and there would be suitable arrangements made for cashing the check for the full wage.
- Certain requirements for pay cards would be removed. Currently, there are a host of requirements, such as a notification of fees deducted, third-party transaction fees, and not issuing cards with expiration dates.

- This bill would remove the process that employers are required to make payment of wages in the form of health, welfare, or other pension contributions within 30 days.
- The manner of payment being determined by an employer and an employee would be broader, and there would be no parameters around it. Payment could be agreed to in gold, silver, trade services, or cryptocurrency. The Department reiterated their concerns in regulating these broad parameters.
- The existing statute has a defined expectation that employers are paid in legal tender, so disputes can be resolved when they arise.
- There is uncertainty when paying in trade or services, or cryptocurrency where the value can change overnight. There could be an increase in wage-based complaints, and a potential increase in inspection and resolution periods.
- Under FLSA, there are certain federal requirements for how wages are paid. The Department said employers would still need to comply with federal requirements.
- There could be an impact on the workers' compensation system. To calculate the amount of indemnity benefits owed, the Department looks at wages. If broader wages are being paid, and it is difficult to quantify their value, it could be difficult to calculate the injured workers' rate.
- **Senator Innis** asked if they were aware of anyone paying their employees with Bitcoin.
 - **Deputy Commissioner Albert** said she was not aware. Under the existing statute, it would not be a permissible form of payment.
- **Senator Innis** asked if they were aware of employers paying their employees with gold.
 - **Deputy Commissioner Albert** said she was not.
- **Senator McGough** said he was not as concerned there would be a huge number of employers who would want to pay in Bitcoin or precious metals. He asked how many employers have asked for a waiver to pay less frequently than biweekly or twice a month to avoid the four months where they have to pay three times a month.
 - **Deputy Commissioner Albert** said she would follow up with the Committee. They do receive requests, and there are parameters around those requests. Employers cannot go longer than a month.
- **Senator McGough** asked if this would be affected if this legislation were passed. He asked if it would make it easier for an employer to pay 12 or 24 times a year.
 - **Deputy Commissioner Albert** said it could potentially as a result of the broad way payments could be agreed to. Other parameters and sections of protective legislation under RSA 275 would still apply, such as notification requirements or permission to pay more than weekly. With trade or services, she could see complications in getting approval or determining if it was fully or accurately carried out. As a result, it could add potential complications that do not currently exist.
- **Senator Fenton** said as a Department, he would be terrified over the amount of litigation from wage claims. An employer could pay in kittens if they have

provided the 90-day notice. He asked what recourse they would have to go after a business.

- **Deputy Commissioner Albert** said the employee and employer must agree on the manner of payment. If an employer determined it was going to be changed, they must give written notice. An employee does not have to agree, but if an employer made a notification as required by the proposed legislation, there would be no recourse. If a complaint was made, the Department would determine if the requisite notification was provided. If not, the recourse would be an assessment and a warning followed by civil penalty if it was not corrected or if there were repeated violations under RSA 273:11-a.
- **Senator Ricciardi** said this bill would completely gut the requirement for payment in legal tender as well as common secure practices like direct deposit. An employee could be paid in kittens or chickens. If they used a debit card, there could be fees issued. She asked if this was wage theft.
 - **Deputy Commissioner Albert** said it could be. RSA 275:43 ensured an employer must make payments of wages at no cost to the employee. There would be numerous protections for pay cards or debit card payments that would be struck. Employers would not have to provide notifications on deductions or associated fees.
- **Senator Ricciardi** asked if this was problematic because an individual could feel uncomfortable resulting in labor issues and lawsuits.
 - **Deputy Commissioner Albert** said it could be possible, but she did not want to speak for employers and employees. As the regulatory agency, they would determine if the requirements were met. It could lead to complaints or contacts with the Department if an employee is unhappy with the changes being made. The Department would have no recourse if the requisite notification was provided within the specified timeframe.

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Date Hearing Report completed: May 13, 2025