

**REGULAR CALENDAR**

**March 1, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Majority of the Committee on Labor, Industrial and Rehabilitative Services to which was referred HB 1514-FN,**

**AN ACT relative to an employee's unused earned time.**

**Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Lino Avellani**

**FOR THE MAJORITY OF THE COMMITTEE**

**MAJORITY  
COMMITTEE REPORT**

<b>Committee:</b>	<b>Labor, Industrial and Rehabilitative Services</b>
<b>Bill Number:</b>	<b>HB 1514-FN</b>
<b>Title:</b>	<b>relative to an employee's unused earned time.</b>
<b>Date:</b>	<b>March 1, 2022</b>
<b>Consent Calendar:</b>	<b>REGULAR</b>
<b>Recommendation:</b>	<b>INEXPEDIENT TO LEGISLATE</b>

**STATEMENT OF INTENT**

This iteration of this bill, while well intentioned, seeks to redefine certain employer benefits as compensation and constitute wages due. Yet, it also redefines sick time benefits, as not wages due. While the sponsor looks to address this issue by legislation, it is best left up to the employer/employee relationship to define benefits and wages. Also, redefining compensation and wages to include certain benefits could cause other conflicts within existing employment compensation laws, including but not limited to, the timely payment of wages when earned. For these reasons, the majority felt it was Inexpedient to Legislate.

Vote 11-10.

Rep. Lino Avellani  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Labor, Industrial and Rehabilitative Services

**HB 1514-FN**, relative to an employee's unused earned time. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Lino Avellani for the **Majority** of Labor, Industrial and Rehabilitative Services. This iteration of this bill, while well intentioned, seeks to redefine certain employer benefits as compensation and constitute wages due. Yet, it also redefines sick time benefits, as not wages due. While the sponsor looks to address this issue by legislation, it is best left up to the employer/employee relationship to define benefits and wages. Also, redefining compensation and wages to include certain benefits could cause other conflicts within existing employment compensation laws, including but not limited to, the timely payment of wages when earned. For these reasons, the majority felt it was Inexpedient to Legislate. **Vote 11-10.**

Original: House Clerk

Cc: Committee Bill File

**REGULAR CALENDAR**

**March 1, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Labor, Industrial and Rehabilitative Services to which was referred HB 1514-FN,**

**AN ACT relative to an employee's unused earned time.**

**Having considered the same, and being unable to agree with the Majority, report with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.**

**Rep. Michael Cahill**

**FOR THE MINORITY OF THE COMMITTEE**

**MINORITY  
COMMITTEE REPORT**

<b>Committee:</b>	<b>Labor, Industrial and Rehabilitative Services</b>
<b>Bill Number:</b>	<b>HB 1514-FN</b>
<b>Title:</b>	<b>relative to an employee's unused earned time.</b>
<b>Date:</b>	<b>March 1, 2022</b>
<b>Consent Calendar:</b>	<b>REGULAR</b>
<b>Recommendation:</b>	<b>OUGHT TO PASS WITH AMENDMENT 2022-0787h</b>

**STATEMENT OF INTENT**

With amendment 2022-0787h, the bill applies only when employment terminates under two circumstances: a permanent layoff or the sale of the company. The employee's earned but unused time (excluding sick) would be paid or transferred if they continue working for the new owner. While these steps are common practice, incidents have occurred where the employer did not do as one might reasonably expect. This legislation would protect employees from loss of hours that were on their pay stub prior to the unanticipated layoff or sale of the company.

Rep. Michael Cahill  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

## **REGULAR CALENDAR**

Labor, Industrial and Rehabilitative Services

**HB 1514-FN**, relative to an employee's unused earned time. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Michael Cahill for the **Minority** of Labor, Industrial and Rehabilitative Services. With amendment 2022-0787h, the bill applies only when employment terminates under two circumstances: a permanent layoff or the sale of the company. The employee's earned but unused time (excluding sick) would be paid or transferred if they continue working for the new owner. While these steps are common practice, incidents have occurred where the employer did not do as one might reasonably expect. This legislation would protect employees from loss of hours that were on their pay stub prior to the unanticipated layoff or sale of the company.

Original: House Clerk

Cc: Committee Bill File

Amendment to HB 1514-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Section; Day's Work; Days of Rest; Unused Earned Time. Amend RSA 275 by inserting  
4 after section 35 the following new section:

5 I. An employer that employs 15 or more employees and offers paid earned time to such  
6 employees shall comply with the following:

7 (a) Inform employees in writing of any policy regarding accrual or use of unused earned  
8 time and any limits on accrual or use.

9 (b) Provide a means through which earned time requests and approvals are processed.

10 (c) Provide employees with an accounting of earned time used and unused earned time  
11 remaining.

12 II. For the purpose of this section, the terms "earned time," "vacation" or "vacation time,"  
13 and "paid time off" shall be considered compensation and therefore constitute wages due. For the  
14 purposes of this section, "sick time" or "sick days" shall not be considered as wages due.

15 2 New Paragraph; Protective Legislation; Wages. Amend RSA 275:43 by inserting after  
16 paragraph V the following new paragraph:

17 V-a. An employee whose termination is the result of a permanent layoff, shall be paid for  
18 unused earned time no later than the next regular pay period. If the termination is the result of a  
19 change of business ownership, the prior employer shall, upon completion of the transfer of  
20 ownership, pay the employee's unused earned time wages or transfer the employee's unused earned  
21 time to the new employer. For the purpose of this paragraph, the terms "earned time," "vacation" or  
22 "vacation time," and "paid time off" shall be considered compensation and therefore constitute wages  
23 due. For the purposes of this paragraph, "sick time" or "sick days" shall not be considered as wages  
24 due. In the absence of an accrual system, unused earned time shall be paid on a prorated basis.

25 3 Effective Date. This act shall take effect 60 days after its passage.

**HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES**

**EXECUTIVE SESSION on HB 1514-FN**

**BILL TITLE:** relative to an employee's unused earned time.

**DATE:** February 24, 2022

**LOB ROOM:** 305 - 307

**MOTIONS: OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Cahill

Seconded by Rep. Toomey

AM Vote: 11-10

Amendment # 2022-0787

Moved by Rep. Cahill

Seconded by Rep. Sullivan

Vote: 10-11

**MOTIONS: INEXPEDIENT TO LEGISLATE**

Moved by Rep. Turcotte

Seconded by Rep. Warden

Vote: 11-10

**CONSENT CALENDAR: NO**

**Statement of Intent: Refer to Committee Report**

Respectfully submitted,

Rep Jonathan Mackie, Clerk



HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

EXECUTIVE SESSION on HB 1514-FN

BILL TITLE: relative to an employee's unused earned time.

DATE: ~~3/5~~ 2/22/24

LOB ROOM: 305-307

MOTION: (Please check one box)

OTP                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of Amendment # 2022-0787  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. Cahill                      Seconded by Rep. Toomey                      Vote: 11-10

MOTION: (Please check one box)

OTP                       OTP/A                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. Cahill                      Seconded by Rep. Sullivan                      Vote: 10-11

MOTION: (Please check one box)

OTP                       OTP/A                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. Turcotte                      Seconded by Rep. Wardlaw                      Vote: 11-10

MOTION: (Please check one box)

OTP                       OTP/A                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. \_\_\_\_\_                      Seconded by Rep. \_\_\_\_\_                      Vote: \_\_\_\_\_

CONSENT CALENDAR:    YES     NO

Minority Report?  Yes    \_\_\_\_\_ No    If yes, author, Rep: \_\_\_\_\_ Motion \_\_\_\_\_

Respectfully submitted: [Signature]  
Rep Jonathan Mackie, Clerk



## 2022 SESSION

## Labor, Industrial and Rehabilitative Services

Bill #: 1514 Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: \_\_\_\_\_

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Infantine, William J. Chairman	11		
Seaworth, Brian Vice Chairman	1		
Avellani, Lino M.	2		
Callum, John M.	3		
Mackie, Jonathan D. Clerk	4		
Love, David C.	5		
Warden, Mark	6		
Turcotte, Leonard P.	7		
Prout, Andrew J.	8		
Boyd, Stephen E.	9		
Hough, Gregg	10		
Sullivan, Brian M.		1	
Soucy, Timothy A.		2	
<del>Baroody, Benjamin C.</del> <i>sultz</i>		3	
Cahill, Michael D.		4	
<del>DiSilvestro, Linda A.</del> <i>fellows</i>		5	
Schmidt, Janice E.		6	
Toomey, Dan		7	
Bouchard, Donald J.		8	
Adjutant, Joshua		9	
Maneval, Andrew		10	



2022 SESSION

## Labor, Industrial and Rehabilitative Services

 Bill #: 1514 Motion: OPT/A AM #: \_\_\_\_\_ Exec Session Date: 2/24/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Infantine, William J. Chairman	<del>11</del>	11	
Seaworth, Brian Vice Chairman		1	
Avellani, Lino M.		2	
Callum, John M.		3	
Mackie, Jonathan D. Clerk		4	
Love, David C.		5	
Warden, Mark		6	
Turcotte, Leonard P.		7	
Prout, Andrew J.		8	
Boyd, Stephen E.		9	
Hough, Gregg		10	
Sullivan, Brian M.	1		
Soucy, Timothy A.	2		
Baroody, Benjamin C. <i>selu</i>	3		
Cahill, Michael D.	4		
DiSilvestro, Linda A.	5		
Schmidt, Janice E.	6		
Toomey, Dan	7		
Bouchard, Donald J.	8		
Adjutant, Joshua	9		
Maneval, Andrew	10		



## 2022 SESSION

## Labor, Industrial and Rehabilitative Services

 Bill #: 1514 Motion: Amend AM #: 2022-0787 Exec Session Date: 2/24/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Infantine, William J. Chairman	11		
Seaworth, Brian Vice Chairman		1	
Avellani, Lino M.		2	
Callum, John M.		3	
Mackie, Jonathan D. Clerk		4	
Love, David C.		5	
Warden, Mark		6	
Turcotte, Leonard P.		7	
Prout, Andrew J.		8	
Boyd, Stephen E.		9	
Hough, Gregg		10	
Sullivan, Brian M.	1		
Soucy, Timothy A.	2		
<del>Baroody, Benjamin C.</del> Schultz	3		
Cahill, Michael D.	4		
<del>DiSilvestro, Linda A.</del> Fellows	5		
Schmidt, Janice E.	6		
Toomey, Dan	7		
Bouchard, Donald J.	8		
Adjutant, Joshua	9		
Maneval, Andrew	10		

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

PUBLIC HEARING ON HB 1514-FN

**BILL TITLE:** relative to an employee's unused earned time.

**DATE:** February 10, 2022

**LOB ROOM:** 305 - 307

**Time Public Hearing Called to Order:** 1:07 p.m.

**Time Adjourned:** 2:28 p.m.

**Committee Members:** Reps. Infantine, Seaworth, Mackie, Avellani, Callum, Love, Warden, Turcotte, Prout, S. Boyd, Hough, Sullivan, Soucy, Cahill, DiSilvestro, J. Schmidt, Toomey, Bouchard, Adjutant and Maneval

**Bill Sponsors:**

Rep. Cahill

Rep. Renzullo

Rep. Spang

Sen. Perkins Kwoka

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Michael Cahill** introduced the bill. This bill is to give employees payment for earned vacation time when terminated or when the company is sold. It would also apply if an employee leaves on his own on good terms.

**Rep. Maneval:** How would this improve the situation in the case of a business being sold?

**Rep. Cahill:** Sometimes new owners honor previous owners vacation policies and accrued time, but not always.

**Rep. Avellani:** If the company does not have an accrual system, how would you determine the amount

**Rep. Cahill:** You would figure it as if they had an accrual system.

**Rep. Warden:** How did you come up with the limit of 15 employees?

**Rep. Cahill:** That is a common number used in these types of regulations.

**Rudy Ogden, Deputy Commissioner of Labor** gave some background on the situation of unused vacation time. We do get questions about this quite often.

**Rep Infintine:** What is the department's opinion regarding a new owner of a business negating previous deals for employees?

**Rudy Ogden:** At time of sale the seller of the business should pay off those employee deals. We cannot hold the new owner responsible.

**Rep. Love:** Clarification. Is it shall

**Rudy Ogden:** Yes.

**Dave Juvet from BIA** spoke against the bill, but thanked Rep. Cahill for all his time put into this. But disagrees that the government should enforce this as a one size fits all solution. The question is whether this is compensation or a benefit. Use it or lose it time off is definitely a benefit not compensation.

**Rep Avellani:** So you're OK with the 15-employee limit?

Dave Juvet: Yes.

Rep. Adjutant: You said the government should not prescribe job benefits?

Dave Juvet: Correct.

Rep. Avellani: Your issue is with benefits being considered earned income?

Dave Juvet: Yes. Part of the difficulty are the different descriptions of time off; Sick time, personal days off, vacation etc.

Rep. Schmidt: You use the word benefit as if it is a gift. It is not a gift it is part of a contract. Am I understanding you correctly?

Dave Juvet: I think it is largely a matter of semantics.

Rep. Adjutant: Would it be better to put the various types of paid time off into the definitions?

Dave Juvet: I think it still would be the government determining what benefits an employer has to offer.

Dave Juvet: Do you have a problem with line 6?

Dave Juvet: No. I testified I agreed with that.

Rep. Avellani: Under this if sick time was banked they would lose it, correct?

Dave Juvet: Yes. I read it that way.

**Bruce Berke representing the NFIB testified in opposition of the bill. We have tried to find common ground with Rep. Cahill, but are not there yet. We are concerned that although this effects only employers with more than 15 employees, once this is passed it would be simple to lower that number. This really is an invasion into the employee/employer relationship. Companies have rules usually written into an employment agreement. Those should not be dictated by the government.**

Rep. Infintine: Would you be more agreeable if it was only over 100 employees?

Bruce Berke: It would be an improvement

Rep. Adjutant: Where would you draw the line as to where it is an invasion into the employer/employee relationship?

Bruce Berke: The preference would be to have no further regulations

Rep. Adjutant: Would forcing employers to pay workers be an invasion into that relationship?

Bruce Berke: No.

Rep. Maneval: Do you think a clarity of this in law would reduce litigation and further regulation?

Bruce Berke: Perhaps a law like this would have clarity, but could negatively affect employers' ability to offer benefits.

**Alison Milioto of Blue Lion LLC spoke against the bill. We should be figuring out how to help employers not putting additional regulations on them. This legislation actually encourages employers to reduce benefits in order to reduce their liability in case an employee leaves.**

Rep. Adjutant: How many companies offer unlimited time off.

Alison Milioto: No specific numbers, but it is common among some white collar professions.

Rep. Adjutant: How many minutes would it take to handle cutting a check

Alison Milioto: Five minutes

Rep. Seaworth: You imply there is a difference between paying you for vacation vs paying you for vacation after you quit?

Alison Milioto: Yes. I expect to pay you for your time off, but not to pay you and the person taking your place when you quit.

Rep. Seaworth: What is the difference between frontloaded vacation and accrual vacation?

Alison Milioto: With frontloaded vacation time your total vacation time for the year is credited to you all at once. For instance, if you were to get 3 weeks of vacation time that could be credited to you on January 1<sup>st</sup> (or another specified date such as the anniversary date of hire) to be used during that year. Under an accrual formula you would get (rounded off) 2.3 hours per week that you worked starting on that date. You would not be eligible to take the full 3 weeks until the end of the year.

Rep. Seaworth: What happens when an employee with front loaded vacation time quits right after taking their vacation at the beginning of the year. Can the employer get the money back?

Alison Milioto: No.

Rep. Maneval: If there is no policy relating to unused vacation time then the employer must pay the unused time if you quit?

Alison Milioto: Yes. Unless the company policy says you forfeit the earned time.

**Gary Abbott of Associated General Contractors** testified against the bill. This converts benefits into wages. The idea of benefits is to reward employees for their continued work. It is not meant to be given to employees when they quit. Employers need to have the flexibility to make the agreement with their employees that works for both of them. We think the current laws work. We do perhaps need a law to address what happens when a company is bought out.

Rep. Avellani: On seasonal jobs what happens to the vacation time?

Gary Abbott: It depends on company policy. Companies do what they think works best for them and their employees.

Rudy Ogden, Deputy Commissioner of Labor, wanted to clarify the law. If there is no policy by the company of what happens to accrued time, the department would look to what the company has done in the past.

Rep. Avellani: Does this redefine wages and benefits?

Rudy Ogden: Yes.

Respectfully submitted,

Rep. Jonathan Mackie

Clerk







# House Remote Testify

## Labor, Industrial and Rehabilitative Services Committee Testify List for Bill HB1514 on 2022-02-10

Support: 38 Oppose: 4 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Perkins Kwoka, Senator Rebecca	Portsmouth, NH rebecca.perkinskwoka@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/26/2022 2:05 PM
EVANS, MICHAEL	Concord, NH mevansnh@tds.net	A Member of the Public	Myself	Support	No	No	2/5/2022 4:19 PM
Fenner-Lukaitis, Elizabeth	Warner, NH glukaitis@mcttelecom.com	A Member of the Public	Myself	Support	No	No	2/7/2022 4:58 AM
Hunt, Wendy	AMHERST, NH whunt@nashuachamber.com	A Member of the Public	Greater Nashua Chamber of Commerce members	Oppose	No	No	2/7/2022 8:33 AM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	2/7/2022 9:58 AM
Hamer, Heidi	Manchester, NH heidi.hamer@leg.state.nh.us	An Elected Official	Myself	Support	No	No	2/7/2022 11:32 AM
Hamer, Gary	Manchester, NH grhamer@aol.com	A Member of the Public	Myself	Support	No	No	2/7/2022 11:32 AM
Dontonville, Roger	Enfield, NH rdontonville@gmail.com	An Elected Official	Myself	Support	No	No	2/7/2022 12:44 PM
Bouchard, Donald	MANCHESTER, NH donaldjbouchard@gmail.com	An Elected Official	Myself	Support	No	No	2/7/2022 1:04 PM
Tucker, Katherine	Wilmot, NH katherine.s.tucker@valley.net	A Member of the Public	Myself	Support	No	No	2/7/2022 1:36 PM
Chase, wendy	Rollinsford, NH wendy.chase@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	2/7/2022 2:07 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 4:12 PM
Peterson, Susan	Newton, NH susanrp@aol.com	A Member of the Public	Myself	Support	No	No	2/7/2022 6:18 PM

Turnbull, Shauna	Andover, NH shaunaturnbull@yahoo.com	A Member of the Public	Myself	Support	No	No	2/7/2022 7:37 PM
Chase-Rowell, Lauren	Nottingham, NH laurencaserowell@gmail.com	A Member of the Public	Myself	Support	No	No	2/7/2022 7:50 PM
Rich, Cecilia	Somersworth, NH cecilia.rich@leg.state.nh.us	An Elected Official	Myself	Support	No	No	2/7/2022 8:32 PM
Sauvageau, Shirley	Rochester, NH nh7sam@gmail.com	A Member of the Public	Myself	Support	No	No	2/7/2022 9:05 PM
Kudlik, Cindy	Grafton, NH CindyKudlik@protonmail.com	An Elected Official	Myself	Oppose	No	No	2/7/2022 11:27 PM
Couture, Matthew	Rochester, NH coochdog@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 6:07 AM
Dontonville, Anne	Enfield, NH Ardontonville@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 8:31 AM
Weston, Joyce	Plymouth, NH jweston14@roadrunner.com	An Elected Official	Myself	Support	No	No	2/8/2022 9:45 AM
Umiker, Richard	Randolph, NH rick.umiker@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 10:06 AM
orion, Janice	Cornish, NH jorion@myfairpoint.net	A Member of the Public	Myself	Support	No	No	2/8/2022 10:29 AM
Hamblet, Joan	Portsmouth, NH jhamblet4@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 10:49 AM
Wazir, Safiya	Concord, NH S.wazir@leg.state.nh.us	An Elected Official	Myself and my constituents	Support	No	No	2/8/2022 11:07 AM
Doherty, David	Pembroke, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 11:26 AM
Richards, Martha	Holderness, NH Maplerichards@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 12:35 PM
Grassie, Chuck	Rochester, NH chuck.grassie@leg.state.nh.us	An Elected Official	Strafford 11	Support	No	No	2/8/2022 10:26 PM
Lewis, Elizabeth	Nashua, NH ecop.lewis@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 7:02 AM
Palmer, William	Cornish, NH wspalmer56@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 9:02 AM
Murray, Kate	New Castle, NH dr.karma2000@gmail.com	An Elected Official	Myself	Support	No	No	2/9/2022 11:39 AM

DePuy, Charles	Lebanon, NH c.depuy@yahoo.com	A Member of the Public	Myself	Support	No	No	2/9/2022 12:00 PM
Kaufman, Judith	Cornish, NH jpk52@aol.com	A Member of the Public	Myself	Support	No	No	2/9/2022 12:27 PM
Almy, Susan	Lebanon, NH Susan.almy@comcast.net	An Elected Official	Myself	Support	No	No	2/9/2022 1:14 PM
Lewandowski, Jean	Nashua, NH jlewando@hotmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 2:28 PM
Kiely, Cecilia	Nottingham, NH cecilia.kiely@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 4:20 PM
Hallock, Linda	Cornish, NH LINDASH@MAIL.COM	A Member of the Public	Myself	Support	No	No	2/9/2022 7:45 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 9:48 PM
Gulla, Carol	NEWMARKET, NH crgulla@gmail.com	A Member of the Public	Myself	Support	No	No	2/10/2022 7:47 AM
Diehl, Stanford	Concord, NH loki1958@yahoo.com	A Member of the Public	Myself	Support	No	No	2/10/2022 8:44 AM
Meuse, David	Portsmouth, NH David.Meuse@leg.state.nh.us	An Elected Official	Rockingham 29	Support	No	No	2/10/2022 12:45 PM
Lane, Connie	Concord, NH connie.lane@leg.state.nh.us	An Elected Official	Merrimack District 12	Support	No	No	2/10/2022 6:44 PM



Comments on HB 1514

Dear Chairman Infantine and committee members:

My name is Wendy Hunt, President and CEO of the Greater Nashua Chamber of Commerce.

On behalf of our almost 400 business members, I write to oppose HB 1415, **relative to an employee's unused time earned.**

We are opposed to any restrictions that put in place mandates as to how an employer and employee operate in respect to one another. Our Chamber member businesses support a healthy work environment which encourages their employees to take paid time off.

Most employment agreements already have in place policies that limit the amount of rollover time of earned from one year to the next, as a means to specifically encourage their employees to take a vacation and avoid burnout of their staff.

Finally, without a limit as to how much an employee can accrue (as set by employer-employee), a small business could find itself financially strapped if it was mandated to pay for years of earned time that the employee chose not to take.

Thank you for your time and consideration.

Wendy Hunt, President & CEO  
Greater Nashua Chamber of Commerce  
60 Main Street, Suite 200  
Nashua, NH 03060  
603.881.8333  
whunt@nashuachamber.com

## Heather Goley

---

**From:** Ogden, Rudolph <Rudolph.W.Ogden@dol.nh.gov>  
**Sent:** Monday, February 28, 2022 8:40 AM  
**To:** ~House Labor, Industrial and Rehabilitative Services  
**Cc:** Will Infantine; Michael Cahill  
**Subject:** HB1514

Good morning Committee Members –

I received a question concerning clarification relative to certain provisions of the above referenced bill. Specifically I was asked how the Department of Labor would interpret the provisions of lines 12-14 (where, in short there is a declarative statement that earned time is wages) and lines 17-23 (where, in short, there is explanation of how such wages are paid). In short, and in practice, the Department would apply the provisions of lines 17-23 in the context of considering payouts of earned time, if any.

While the language in 12-14 indicates that “earned time is wages” the Department would look towards RSA 275:42- RSA 275:55 in order to practically consider the parameters pertaining to the payment of said wages. Said another way, RSA 275:42-RSA 275:55 is the subsection of the Labor Title dealing with the “Payment of Wages” and we would apply the provisions of that section when determining when wages, in this case earned time, were due. Lines 17-23 of the proposed legislation states when such wages would be due (or not due) and that is the section that would be considered relative to a demand for those wages.

Apologies if the above is unclear/unhelpful, please feel free to reach out to me if/as needed.

Have a great morning!

Rudy

Rudolph W. Ogden III  
Deputy Commissioner  
New Hampshire Department of Labor  
(603) 271-8496

**275:44 Employees Separated From Payroll Before Pay Days. –**

- I. Whenever an employer discharges an employee, the employer shall pay the employee's wages in full within 72 hours.
- II. Whenever an employee quits or resigns, the employer shall pay the employee's wages no later than the next regular payday, as provided under RSA 275:43, either through the regular pay channels or by mail if requested by the employee, except that if the employee gives at least one pay period's notice of intention to quit the employer shall pay all wages earned by the employee within 72 hours.

Again, I appreciate your input and will seek it when considering future legislation.

*Regards,*

*Michael Cahill*

*State Representative*

*Labor, Industrial and Rehabilitative Services*

*Rockingham 17*

Newfields, Newmarket

**From:** Michael Cahill <Michael.Cahill@leg.state.nh.us>  
**Sent:** Saturday, February 12, 2022 9:56 AM  
**To:** Alison Milioto <amilioto@bluelionllc.com>  
**Cc:** Will Infantine <will.infantine@optisure.com>; ~House Labor, Industrial and Rehabilitative Services <HouseLaborIndustrialandRehabilitativeServices@leg.state.nh.us>  
**Subject:** HB 1514-FN

Ms. Milioto,

Thank you for your testimony. Although it was not as I anticipated following our phone conversations and emails when I reached out for your input on the bill, it is always useful to discuss these issues from different perspectives. With this in mind, I'd like to address some points from your testimony.

We are in an employee's market with more openings than applicants, higher wages, sign-on bonuses and employers are sometimes willing to train. Some of this is our older demographic, housing and childcare costs contribute to the demand for higher wages. This may continue or revert back to an employer's market. While the labor market affects the type of legislation we pass, it is intended to remain in effect under different conditions giving employers and employees some stability.

The "leaves in good standing" language was added in response to prior objections to paying this out to an employee who was fired or quit without notice. This practice is something I have experienced personally though it was done voluntarily or perhaps without knowledge that it was not required under NH law. For some employers, it is simply what they view as fair.

Front loading is very risky as someone may take their annual two weeks just three months into the employment and leave. How much did this flexibility cost the employer? I believe an accrual system offers better protection and is easily understood. The employer has the option to allow borrowing (for the trip to Disney) but must make it clear that the value of any negative balance will be deducted from final wages in the event of termination. 275:48 Withholding of Wages. –

I. No employer may withhold or divert any portion of an employee's wages unless:

C) A specific agreement regarding whether the employer is allowed to deduct any amount outstanding from final wages at the termination of employment.

Prorating in the absence of accrual actually protects the employer from having to pay the full annual when the employee leaves thus "Jane Doe" has no opportunity to reap benefits she's not earned.

As for having sick and vacation in a single bucket, this would remain at the discretion of the employer. The only circumstance where HB 1514-FN comes into play is at termination and the employer can pay the entire amount remaining. If the employer views the single bucket method as preferable to a separate sick day item, that is their choice. We want employees to stay home when sick but if they're never sick, some employers roll into the next year or an extended illness category; some pay out unused sick days at 50% of their value.

In view of the controversy of "leaves in good standing" and somewhat greater agreement for the "sale of the company" and "layoff without notice", I'll offer an amendment removing the former and specifying permanent for the layoff which should cover the seasonal employees.

Should this be approved, HB 1514-FN will only apply under these circumstances and for employers with 15 or more employees.

Regarding RSA 275:44, the payment of wages within 72 hours is only when the employee is fired. The next payday applies when they quit or resign.

So in conclusion I feel this legislation will push employers to offer diminished benefits and reward employees for changing their place of employment. An employer often cannot control an employees decision to leave employment, why should they be rewarded?

In closing, I have an additional question that should be considered.

How does this effect unlimited time policies? It is very hard to create legislation that is one size fits all. Should we not let the private employers determine their policy based on their business needs, industry and labor market.

Employees have the ability to ask these questions and know in the hiring process how their potential employer handles time off upon termination.

The current landscape and labor pool to me, does not justify a bill of this measure.



For simplicity in administration and enhanced benefits a lot of our clients have stopped separating sick and vacation time. It is just all paid time off.

You are never sick, great, you get a bonus 5 more days to spend at the beach. Having staff take Scheduled time off is easier for a business to manage. Most businesses encourage their staff to take scheduled time vs “sick time”.

This legislation encourages employers to split sick time from vacation time to protect their liability. Again, decreased benefits for most employees.

As a company we like to allow all our staff to have their time available at the beginning of the annual period so they can take it when is best for them and their family. This is commonly called “Front loaded”. With this proposed legislation, employers are going to need to be cautious of “front loading” time for staff. This legislation would encourage them to move to an accrual basis.

Have you ever worked at a company with an accrual system and had to tell your wife you can't go to Disney for February vacation because you have not yet accrued enough time?

Again, this legislation is encouraging employers to provide a diminished benefit to their “Good employees” to ensure they are protecting themselves from a liability they cannot control.

When a business puts together their budget for labor for the year, it accounts for someone's annual earnings. That annual amount includes the benefit of time off. You are paid if you work, and when you don't if you have paid time off available then you are still paid. Even with this benefit, the annual amount should not exceed an annual amount.

With this legislation, employers would now have to have a line item in their budget for the liability of all the earn time not yet taken. If you quit, I now need to pay you for weeks that you will not be working and god willing, I will have replaced you and also paying someone new. Therefore paying in excess the annual amount I originally budgeted. If we experience high turnover, that could drastically impact our budget.

Lets look at some industries specifically. How about a restaurant, they typically will have more than 15 employees. Super competitive industry for labor, want to add great benefits to attract employees, be careful, that one could get very expensive.

It is proposed in this legislation that these unused vacation time would have to be paid by the next regular pay cycle. This is a direct contradiction to RSA 275:44 that indicates upon termination an employer has 72 hours to pay all wages due in full. Yet again complicating the process for employers.

**Alison Milioto**

**Owner and Consultant at BlueLion LLC – NH Based HR Consulting firm**

**Thank you for your time and allowing me to speak in opposition of House Bill 1514-FN**

**Currently our state is suffering from labor shortages, a mental health crisis and massive resignation wave. Employers are having to work twice as hard to attract and retain quality employees.**

**Employees are able to call the shots, they are requesting well above market wages and are often receiving them.**

**I believe this proposed legislation is coming at a time when we need to be figuring out how to help employers stay in business, not add more layers of complexity and liability when trying to make business decisions.**

**If you were to be let go from your job today, how long do you think it would take to be gainfully employed again? and I mean in almost every industry? I would argue less than a week.**

**In this proposed legislation it states that if an employee gives notice, in good standing they are to be paid all accrued vacation time.**

**So as a small business owner with 20 employees, I now need to try and fill a position in a labor market that makes that virtually impossible, while still paying someone that has made the personal decision to leave my business.**

**What safety net are we providing employers from “Bad Employees”? While we don’t like to make laws for them, we do need to consider them when making legislation that would benefit them.**

**Jane doe can now hop from job to job, just staying long enough to cash in on her vacation pay. Now you may suggest that her next employer should do their due diligence before hiring. Well, unfortunately we are only able to ask her prior employers so many questions. And we have all met Jane, she is a good actress. And, that’s right, the only person that showed up for an interview for this position. Pickings are slim.**

**I want to offer paid time off to be competitive as an employer.**

**If this legislation passes, do I add a long waiting period to protect myself? In turn diminishing the benefits for most.**

## Heather Goley

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**From:** Alison Milioto <amilioto@bluelionllc.com>  
**Sent:** Monday, February 14, 2022 9:31 AM  
**To:** Michael Cahill  
**Cc:** Will Infantine; ~House Labor, Industrial and Rehabilitative Services  
**Subject:** RE: HB 1514-FN

Thank you for your email Rep Cahill.

Also I want to again thank you for the conversations we have had around this proposed legislation. Thank you for taking the time to detail out the below response.

I do agree that removing the language relating to an employee leaving by choice would be a step in the right direction. I do agree that most employees do not read the handbook prior to beginning employment however employees do now often negotiate benefits, waiting periods and amount of time off. Should a prospective employee ask to see a company handbook prior to accepting an offer, I do not believe would draw any red flags. We are in a market where employees often have multiple offers.

I will however still argue that paid time off is a **benefit** as you illustrated in a prior email "time away from work that is paid at the same rate as when working." Therefore, the benefit is time away from work. The individual is no longer working and therefore the benefit no longer exists.

Again I truly thank you for the dialogue and understand your view points. It is refreshing to see people so passionate about their constituents.

Have a great week!  
Alison

**Alison Milioto, SHRM-SCP**  
Human Resource Consultant



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***Ask me about 100 Women Who Care!***

State	Statutory Requirements Addressing Vacation Pay	Use-It-or-Lose-It Policy	Payment of Accrued Vacation on Separation
Montana	Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time.	Prohibited by state law. However, policies that put a maximum cap on vacation time are permitted for employers.	If vacation has been "contracted for" (i.e., promised, in writing or verbally) then it must be paid out on separation.
Nebraska	Vacation pay is a type of fringe benefit in the state of Nebraska and considered wages.	Prohibited by state law.	Employers are liable to pay separating employees any earned, unused vacation time.
North Dakota	Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time.	Permitted by state law. Requires a notice of the policy and reasonable opportunity for employees to use the vacation time.	Employers are liable to pay a separating employee for earned, unused vacation time before separation.  For private employers: You may revoke payment for accrued vacation time if: The employer gave the employee written notice at the time of hiring about this policy. The employee has been employed for less than one year. The employee gave fewer than five days' notice before separation.
Rhode Island	Earned vacation time is considered wages after one year of service when an organization has established policies or precedent of paying employees for this time.	Not addressed by state law.	Employers are liable to pay separated employees accrued vacation pay if they have served one year, or more, at their organization.



State	Statutory Requirements Addressing Vacation Pay	Use-It-or-Lose-It Policy	Payment of Accrued Vacation on Separation
California	Earned vacation time is considered wages.	Prohibited by state law. Employers may implement a practical accrual cap on vacation time	Employees cannot be deprived of earned, unused vacation time, no matter the reason for separation, unless a willful agreement has been met by both parties.
Colorado	Earned vacation time is considered wages.	Permitted by state law. The Colorado Division of Labor established that a use-it-or-lose-it policy is permitted if: The policy does not strip an employee of earned vacation time or associated wages. The policy is addressed in a written agreement between the employer and employee.	Upon employment separation, all vacation pay must be accurately paid and delivered to the appropriate parties.
Indiana	When an employer provides paid vacation, it's considered deferred compensation in place of wages.	Permitted by state law.	An employer's policy or agreement determines whether earned, unused vacation is paid on separation. Without a policy in place, employees are entitled to any and all earned and unused vacation pay.
Louisiana	For payment of unused vacation time, an employee must: Hold accrued vacation time. Be eligible to take a vacation at separation.	Permitted by state law.	Employers are required to pay employees any accrued, unused vacation time at separation.
Maryland	Employers that elect to provide vacation pay must comply with their established policies or employment contract.	Not addressed by state law.	Without a written policy in place, highlighting the forfeiture of pay for accrued, unused vacation to a separating employee, the employee must be paid a cash value for earned, unused vacation.
Massachusetts	Earned vacation time is considered wages and employers are required to compensate employees for vacation pay.	Permitted by state law. Employers may establish a cap on vacation accrual but are required to give employees a fair notice of the policy.	Employers are liable to pay separating employees any earned, unused vacation time.
Michigan	Willfully contracted vacation pay is considered a fringe benefit, not wages.	Not addressed by state law.	Employers are liable to pay fringe benefits if outlined in their written policy or contract. Employers cannot revoke or withhold any payments due at an employee's separation.
Missouri	Not addressed by state law.	Not addressed by state law.	Final wages do not include vacation pay.

**From:** Wendy Hunt <[whunt@nashuachamber.com](mailto:whunt@nashuachamber.com)>  
**Sent:** Wednesday, February 9, 2022 7:07:25 AM  
**To:** ~House Labor, Industrial and Rehabilitative Services  
<[HouseLaborIndustrialandRehabilitativeServices@leg.state.nh.us](mailto:HouseLaborIndustrialandRehabilitativeServices@leg.state.nh.us)>  
**Subject:** Change of position on HB 1514- GNCC now supports HB 1514

Members of the committee:

On behalf of the Greater Nashua Chamber of Commerce, I sent a previous letter in opposition to HB 1514. Our Advocacy committee felt at the time (Monday), that this bill was not a good one for business owners.

After further educating ourselves on this bill, we have decided to support it. Please disregard our earlier letter in opposition.

Our major areas of concern were addressed after corresponding with Rep. Michael Cahill on this committee, especially in these areas:

HB 1514 applies only to businesses with 15 or more employees.

The bill is silent on "use it or lose it" so the employer can in fact, limit carryover and hours in excess would be forfeited by the employee.

Employers continue to set policies - HB 1514 seeks to protect employees from losing accrued wages when they are laid off, when the business is sold or when they leave in good standing. These are circumstances where the employee is not at fault, had little to no control and would not be anticipated when reading the employee handbook.

Please let me know if you have any further questions.

Wendy Hunt, President & CEO  
Greater Nashua Chamber of Commerce  
60 Main Street, Suite 200  
Nashua, NH 03060  
603.881.8333  
[www.nashuachamber.com](http://www.nashuachamber.com)

HB 1514-FN - AS INTRODUCED

2022 SESSION

22-2203

04/08

HOUSE BILL            ***1514-FN***

AN ACT                relative to an employee's unused earned time.

SPONSORS:            Rep. Cahill, Rock. 17; Rep. Renzullo, Hills. 37; Rep. Spang, Straf. 6; Sen. Perkins  
Kwoka, Dist 21

COMMITTEE:          Labor, Industrial and Rehabilitative Services

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ANALYSIS

This bill requires an employer to pay an employee for unused earned time.

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Explanation:        Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to an employee's unused earned time.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Section; Day's Work; Days of Rest; Unused Earned Time. Amend RSA 275 by inserting  
2 after section 35 the following new section:

3 275:35-a Unused Earned Time.

4 I. An employer that employs 15 or more employees and offers paid earned time to such  
5 employees shall comply with the following:

6 (a) Inform employees in writing of any policy regarding accrual or use of unused earned  
7 time and any limits on accrual or use. In the absence of an accrual system, earned time shall be paid  
8 on a prorated basis.

9 (b) Provide a means through which earned time requests and approvals are processed.

10 (c) Provide employees with an accounting of earned time used and unused earned time  
11 remaining.

12 II. For the purpose of this section, the terms "earned time," "vacation" or "vacation time,"  
13 and "paid time off" shall be considered compensation and therefore constitute wages due. For the  
14 purposes of this section, "sick time" or "sick days" shall not be considered as wages due.

15 2 New Paragraph; Protective Legislation; Wages. Amend RSA 275:43 by inserting after  
16 paragraph V the following new paragraph:

17 V-a. An employee who leaves in good standing, or whose termination is the result of a layoff,  
18 shall be paid for unused earned time no later than the next regular pay period. If the termination is  
19 the result of a change of business ownership, the prior employer shall, upon completion of the  
20 transfer of ownership, pay the employee's unused earned time wages or transfer the employee's  
21 unused earned time to the new employer. For the purpose of this paragraph, the terms "earned  
22 time," "vacation" or "vacation time," and "paid time off" shall be considered compensation and  
23 therefore constitute wages due. For the purposes of this paragraph, "sick time" or "sick days" shall  
24 not be considered as wages due.

25 3 Effective Date. This act shall take effect 60 days after its passage.



**HB 1514-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to an employee's unused earned time.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Up to \$5.06 million	Up to \$5.06 million	Up to \$5.06 million
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General state funds	<input type="checkbox"/> Education	<input checked="" type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Various

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill requires the State to recognize that all full-time employees are afforded paid time off, even in the absence of a system to allocate and track the use of that and/or allow for paid leave to be carried forward from one year to the next.

The Department of Administrative Services states this bill has an indeterminable fiscal impact of zero to \$5.06m in State expenditures as they are unable to estimate the proportion of paid leave that will be utilized versus paid out to applicable employees. However, the Department did identified 1,218 full-time employees that do not currently accrue paid leave in the State's NH FIRST system. The Department calculated if the maximum value of paid leave for these individuals, allocated at the same rate as proscribed by the Personnel Rules and was paid out at each employee's current hourly rate (as of 10/12/2021), the maximum fiscal impact would be \$5.06 million. If these same individual were paid out at anything less than the maximum the fiscal impact would be reduced.

County and local expenditures would also have an indeterminable increase to the extent that they have employees who would be impacted by this bill.

It is assumed any this fiscal impact would not occur until FY 2023.

**AGENCIES CONTACTED:**

Department of Administrative Services