

# Senate Commerce Committee

*Aaron Jones 271-2609*

**SB 169**, requiring employers to provide certain information regarding cost sharing to employees receiving workers' compensation benefits.

**Hearing Date:** February 18, 2025

**Time Opened:** 9:31 a.m.

**Time Closed:** 9:43 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 requires employers who provide supplemental pay to employees receiving workers' compensation benefits to notify the employee with a breakdown of payments, anticipated financial adjustments, employee costs of withholdings, and method of payment options.

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**Sponsors:**

Sen. Rosenwald

Sen. Long

Sen. Reardon

Sen. Gannon

Sen. Prentiss

Rep. Bordes

Rep. Gregg

Rep. Sorensen

Rep. Coker

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**Who supports the bill:** Senator Cindy Rosenwald, Brian Ryll (PFFNH), Sarah Vishton, Cheryl Spagnuolo, Janet Lucas, Glenn Brackett (NH AFL-CIO), Steven Hussey, Matthew Cole, Lacey Fehrenbach

**Who opposes the bill:** Julie Smith, Curtis Howland, James Gardner

**Who is neutral on the bill:** Danielle Albert (NHDOL)

**Summary of testimony presented in support:**

***Senator Cindy Rosenwald***

- This bill would provide individuals who are receiving workers' compensation benefits with additional information.
- Under RSA 281-A, benefits are paid weekly by an employer's insurance carrier. Benefits are intended to replace a portion of an employee's lost wages that were caused by a work-related injury or illness. Traditionally, it is about 60 percent of an individual's regular wage; however, an employer can pay more.
- When an employee receives their benefits, there can be a duplication of wages paid since an employer pays on a contingent basis along with an insurance

carrier paying as well. In many cases, an employer pays the cost of voluntary withholdings and deductions. Subsequently, an employee would owe the duplicated amount back to an employer.

- For employees who are on workers' compensation for an extended period, they may receive minimal communication from their employer. When they have returned to work, they are notified that they owe an amount back. At times, it can be a significant amount of money.
- Employees may fail to plan ahead due to a lack of understanding or education on the subject.
- An employee in Portsmouth returned to work, for example, and they owed back \$18,000.
- This bill would eliminate surprise payments by creating a system of transparency and routine communication between an employer and an employee.
- This bill would not shift any costs; instead, Senator Rosenwald reiterated that it would simply notify the employee of what they are anticipated to owe and what methods are available to pay it back.

***Brian Ryll, President, Professional Fire Fighters of New Hampshire***

- When an employee has been sent home, they are paid their salary and benefits until a claim with the insurance carrier has been ruled upon.
- If a claim is accepted and paid, the salary being paid by an employer is duplicated.
- Upon their return to work, an employer would notify the employee of the amount owed. An employee, however, does not know what the amount is based on taxes and deductions.
- Employers are already required to provide notification, but this bill would shift the notification within 30 days of a long-term injury. In addition, a comprehensive breakdown of what is owed or a payment method prior to their return to work would be required every 30 days thereafter.
- This bill would not shift the cost burden from an employee to an employer.

**Summary of testimony presented in opposition:** None

**Neutral Information Presented:**

***Danielle Albert, Deputy Commissioner, New Hampshire Department of Labor***

- An employer would have to provide notification to employees who are receiving supplemental pay while they are out on workers' compensation.
- Within the workers' compensation statute, supplemental pay has not been defined. It could mean a salary continuation where an employer is paying the earnings of an employee, or they could be paying the difference between the insurance carrier and the injured employee's average weekly wage. If this bill

were passed, Deputy Commissioner Albert said the notification provisions would apply in both scenarios.

- Supplemental payment would be subject to RSA 275, which covers the notification of deductions and the record keeping of wage payments.
- Specifically, RSA 275:49 requires employers to provide notice about withholdings, which are required every pay period. Also, it requires that certain records of payment are kept for up to 3 years.
- If enforcement became an issue, the Department would view these as wage payments. Employers would need to be mindful if they are providing supplemental pay because the notification provisions of RSA 275:49 are more frequent.
- **Senator Fenton** asked what would happen to the employer if the notification were not sent out.
  - **Deputy Commissioner Albert** said employers who do not comply with requirements are subject to civil penalties in some instances.

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Date Hearing Report completed: February 20, 2025