

HB 1569-FN - AS INTRODUCED

2022 SESSION

22-2516

04/11

HOUSE BILL

1569-FN

AN ACT relative to the status of "totally unemployed" for purposes of unemployment compensation.

SPONSORS: Rep. Layon, Rock. 6; Rep. Pauer, Hills. 26; Rep. Andrus, Merr. 1; Rep. Notter, Hills. 21; Rep. Johnson, Belk. 3; Rep. Blasek, Hills. 21; Rep. Binford, Graf. 15; Rep. Cushman, Hills. 2; Rep. Nunez, Hills. 37

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill provides that an individual who has not been terminated but has been prohibited from entering his or her place of employment shall be deemed totally unemployed for the purposes of unemployment compensation.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the status of "totally unemployed" for purposes of unemployment compensation.

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

1 1 New Subparagraph; Unemployment Compensation; Total and Partial Unemployment. Amend
2 RSA 282-A:14, I by inserting after subparagraph (b) the following new subparagraph:

3 (c) An individual who has not been terminated but has been prohibited from entering his
4 or her place of employment shall be deemed "totally unemployed."

5 2 Unemployment Compensation; Total and Partial Unemployment. Amend RSA
6 282-A:14, III(a) to read as follows:

7 III.(a) For the purposes of paragraphs I and II, the term "wages" shall include compensation
8 for temporary partial disability under the workers' compensation law of any state or under a similar
9 law of the United States, payments in lieu of notice, a sickness or separation allowance, payment of
10 accrued leave or sums of whatever type or nature, except those specifically excluded elsewhere in
11 this subparagraph, payments upon discharge from military service from either the state or federal
12 government, or both, and earnings from self-employment. "Wages" shall not mean and shall not
13 include payments from a supplemental unemployment plan as defined in RSA 282-A:3-a or any
14 portion of a lump sum payment for workers' compensation made pursuant to RSA 281-A:37. Wages
15 or earnings or both shall be deemed to have been received for such week or weeks as the
16 commissioner may find can be reasonably said to apply. The application of longevity, stay, retention,
17 attendance, and similar payments commencing with a period of one or more weeks of partial or total
18 unemployment shall be presumed reasonable if such payment was received 90 or fewer days prior to
19 the commencement of such period. An individual's maximum weekly benefit amount shall be
20 reduced by all wages and earnings in excess of 30 percent, rounded to the nearest dollar, of the
21 individual's weekly benefit amount. Wages shall not include any payment made to an individual by
22 reason of the individual's permanent separation from employment, for reasons other than
23 retirement, under a prior existing plan maintained by employer contributions vested in the
24 individual before the date of separation. ***Wages shall not include any inactive duty pay or***
25 ***"drill pay" earned by a reservist or national guardsman serving in the United States armed***
26 ***forces.***

27 3 Effective Date. This act shall take effect 60 days after its passage.

HB 1569-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the status of "totally unemployed" for purposes of unemployment compensation.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	☒ General State Funds ☐ Education ☐ Highway ☒ Other - Various			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill provides that an individual who has not been terminated but has been prohibited from entering his or her place of employment shall be deemed totally unemployed for the purposes of unemployment compensation. The bill also provides inactive duty pay or 'drill pay' earned by a reservist or national guardsman serving in the United States armed forces shall not be included as wages when determining if an individual is totally or partially unemployed.

The Department of Employment Security states the mission of the unemployment system, which is implemented pursuant to RSA 282-A, is to provide temporary financial relief for workers unemployed through no fault of their own. In analyzing eligibility to receive unemployment compensation benefits, each individual case is unique and is analyzed on its own merits to determine whether the person was in covered employment, whether they had sufficient earnings in their base period to qualify for unemployment benefits as well as reviewing the details of their separation from employment.

Under current law, RSA 282-A:14, an individual who performs no services and receives no wages in a given week is considered to be “totally unemployed” regardless of whether they can enter their place of employment. To the extent that an individual receives wages of less than 130% of their weekly benefit amount or performs services less than 37.5 hours per week, they are considered to be “partially unemployed” regardless of access to their employer’s premises. An individual who is limiting themselves to seeking part-time work is also considered to be “partially unemployed” in any week in which the individual performs fewer than 20 hours of services and earns less than 130% of the individual’s weekly benefit amount. These criteria are without reference to access/non access to an employer’s premises and consider hours worked and wages received in determining total and partial unemployment. If an exception is created under the proposed bill, benefits could be awarded to individuals who were prohibited from entering their places of employment, even if such individuals were working full-time remotely and receiving full pay, receiving sick pay, or receiving workers’ compensation. The Department indicates, without more information surrounding the intent of the bill, it is unable to accurately project a fiscal impact.

Relative to the proposed amendment at RSA 282-A:14, III(a), the bill adds language which provides that “wages shall not include any inactive duty pay or ‘drill pay’ earned by a reservist or national guardsman serving in the United States armed forces.” The exception proposed by the bill already exists at RSA 282-A:15. There is no language in RSA 282-A:14, III(a) that includes drill pay as wages. The Department concludes that the proposed amendment to RSA 282-A:14, III(a) is duplicative and there would be no fiscal impact relative to this section.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Department of Employment Security