

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing sections 531-571 with the following:

2  
3 531 New Paragraph; Definition; Vested. Amend RSA 100-A:1 by inserting after paragraph  
4 XXXVII the following new paragraph:

5 XXXVIII. "Vested" means that a member is eligible for a benefit after 10 years of service.  
6 The calculations of earnable compensation under RSA 100-A:1, XVII, and average final  
7 compensation under RSA 100-A:1, XVIII, shall not be reduced after 10 years of service.

8 532 Earnable Compensation. Amend RSA 100-A:1, XVII to read as follows:

9 XVII. "Earnable compensation" shall mean:

10 (a) For **group I** members who have attained vested status prior to January 1, 2012, the  
11 full base rate of compensation paid, as determined by the employer, plus any overtime pay, holiday  
12 and vacation pay, sick pay, longevity or severance pay, cost of living bonus, annual attendance  
13 stipend or bonus, additional pay for extracurricular and instructional activities for full-time teachers  
14 and full-time employees who are employed in paraprofessional or support position, additional pay for  
15 instructional activities of full-time faculty of the community college system, and any military  
16 differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the  
17 member for meals or living quarters if subject to federal income tax, but excluding other  
18 compensation except cash incentives paid by an employer to encourage members to retire,  
19 supplemental pay paid by the employer while the member is receiving workers' compensation, and  
20 teacher development pay that is not part of the contracted annual salary. ~~[Compensation for extra~~  
21 ~~and special duty, as reported by the employer, shall be included but limited during the highest 3~~  
22 ~~years of creditable service as provided in paragraph XVIII.]~~ However, earnable compensation in the  
23 final 12 months of creditable service prior to termination of employment shall be limited to 1-1/2  
24 times the higher of the earnable compensation in the 12-month period preceding the final 12 months  
25 or the highest compensation year as determined for the purpose of calculating average final  
26 compensation, but excluding the final 12 months. Any compensation received in the final 12 months  
27 of employment in excess of such limit shall not be subject to member or employer contributions to  
28 the retirement system and shall not be considered in the computation of average final compensation.  
29 Provided that, the annual compensation limit for members of governmental defined benefit pension  
30 plans under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended,  
31 shall apply to earnable compensation for all employees~~[;]~~ **and** teachers~~[; permanent firemen, and~~  
32 ~~permanent policemen]~~ who first become eligible for membership in the system on or after July 1,

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1996. Earnable compensation shall not include compensation in any form paid later than 120 days after the member's termination of employment from a retirement eligible position, with the limited exceptions of disability related severance pay paid to a member or retiree no later than 120 days after a decision by the board of trustees granting the member or retiree disability retirement benefits pursuant to RSA 100-A:6 and of severance pay which a member was entitled to be paid within 120 days after termination but which, without the consent of the member and not through any fault of the member, was paid more than 120 days after the member's termination. The member shall have the burden of proving to the board of trustees that any severance payment paid later than 120 days after the member's termination of employment is earnable compensation and meets the requirements of an asserted exception to the 120-day post-termination payment requirement.

(b)(1) For **group I** members who have not attained vested status prior to January 1, 2012, the full base rate of compensation paid, as determined by the employer, plus compensation over base pay. Compensation over base pay shall include as applicable, subject to subparagraphs (2)~~], (3), and (4)]~~ **and (3)**, any overtime pay, cost of living bonus, annual attendance stipend or bonus, annual longevity pay, additional pay for extracurricular and instructional activities for full-time teachers and full-time employees who are employed in paraprofessional or support position, additional pay for instructional activities of full-time faculty of the community college system~~], compensation for extra and special duty,~~ and any military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living quarters if subject to federal income tax, but excluding other compensation except supplemental pay paid by the employer while the member is receiving workers' compensation and teacher development pay that is not part of the contracted annual salary.

(2) Compensation over base pay shall be limited during the highest 5 years of creditable service as provided in paragraph XVIII.

~~[(3) Earnable compensation shall not include compensation for extra and special duty for members who commence service on and after July 1, 2011.]~~

(4) **(3)** Earnable compensation shall not include incentives to encourage members to retire, severance pay or end-of-career additional longevity payments, and pay for unused sick or vacation time. Earnable compensation in the final 12 months of creditable service prior to termination of employment shall be limited to 1 1/2 times the higher of the earnable compensation in the 12-month period preceding the final 12 months or the highest compensation year as determined for the purpose of calculating average final compensation, but excluding the final 12 months. Any compensation received in the final 12 months of employment in excess of such limit shall not be subject to member or employer contributions to the retirement system and shall not be considered in the computation of average final compensation. Provided that, the annual compensation limit for members of governmental defined benefit pension plans under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable compensation for all

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1 employees[;] **and** teachers[; ~~permanent firemen, and permanent policemen~~] who first become eligible  
2 for membership in the system on or after July 1, 1996. Earnable compensation shall not include  
3 compensation in any form paid later than 120 days after the member's termination of employment  
4 from a retirement eligible position.

5           ***(c) For group II members who attained vested status prior to January 1, 2012,***  
6 ***the full base rate of compensation paid, as determined by the employer, plus any overtime***  
7 ***pay, holiday and vacation pay, sick pay, longevity or severance pay, cost of living bonus,***  
8 ***annual attendance stipend or bonus, additional pay for instructional activities, and any***  
9 ***military differential pay, plus the fair market value of non-cash compensation paid to, or***  
10 ***on behalf of, the member for meals or living quarters if subject to federal income tax, but***  
11 ***excluding other compensation except cash incentives paid by an employer to encourage***  
12 ***members to retire, supplemental pay paid by the employer while the member is receiving***  
13 ***workers' compensation. Compensation for extra and special duty, as reported by the***  
14 ***employer, shall be included but limited during the highest 3 years of creditable service as***  
15 ***provided in paragraph XVIII. However, earnable compensation in the final 12 months of***  
16 ***creditable service prior to termination of employment shall be limited to 1-1/2 times the***  
17 ***higher of the earnable compensation in the 12-month period preceding the final 12 months***  
18 ***or the highest compensation year as determined for the purpose of calculating average***  
19 ***final compensation, but excluding the final 12 months. Any compensation received in the***  
20 ***final 12 months of employment in excess of such limit shall not be subject to member or***  
21 ***employer contributions to the retirement system and shall not be considered in the***  
22 ***computation of average final compensation. Provided that, the annual compensation limit***  
23 ***for members of governmental defined benefit pension plans under section 401(a)(17) of the***  
24 ***United States Internal Revenue Code of 1986, as amended, shall apply to earnable***  
25 ***compensation for all permanent firemen and permanent policemen who first become***  
26 ***eligible for membership in the system on or after July 1, 1996. Earnable compensation***  
27 ***shall not include compensation in any form paid later than 120 days after the member's***  
28 ***termination of employment from a retirement-eligible position, with the limited exceptions***  
29 ***of disability-related severance pay paid to a member or retiree no later than 120 days after***  
30 ***a decision by the board of trustees granting the member or retiree disability retirement***  
31 ***benefits pursuant to RSA 100-A:6 and of severance pay which a member was entitled to be***  
32 ***paid within 120 days after termination but which, without the consent of the member and***  
33 ***not through any fault of the member, was paid more than 120 days after the member's***  
34 ***termination. The member shall have the burden of proving to the board of trustees that***  
35 ***any severance payment paid later than 120 days after the member's termination of***  
36 ***employment is earnable compensation and meets the requirements of an asserted exception***  
37 ***to the 120-day post-termination payment requirement.***

(d)(1) For group II members who have not attained vested status prior to January 1, 2012, the full base rate of compensation paid, as determined by the employer, plus compensation over base pay. Compensation over base pay shall include as applicable, subject to subparagraphs (2), (3), and (4), any overtime pay, holiday and vacation pay, sick pay, cost of living bonus, annual attendance stipend or bonus, annual longevity pay, additional pay for extracurricular and instructional activities for full-time teachers and full-time employees who are employed in paraprofessional or support position, additional pay for instructional activities of full-time faculty of the community college system, compensation for extra and special duty, and any military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living quarters if subject to federal income tax, but excluding other compensation except supplemental pay paid by the employer while the member is receiving workers' compensation and teacher development pay that is not part of the contracted annual salary.

(2) Compensation over base pay shall be limited during the highest 5 years of creditable service as provided in paragraph XVIII.

(3) Earnable compensation shall not include compensation for extra and special duty for members who commence service on and after July 1, 2011.

(4) Earnable compensation shall not include incentives to encourage members to retire, severance pay, end-of-career additional longevity payments. Earnable compensation in the final 12 months of creditable service prior to termination of employment shall be limited to 1 1/2 times the higher of the earnable compensation in the 12-month period preceding the final 12 months or the highest compensation year as determined for the purpose of calculating average final compensation, but excluding the final 12 months. Any compensation received in the final 12 months of employment in excess of such limit shall not be subject to member or employer contributions to the retirement system and shall not be considered in the computation of average final compensation. Provided that, the annual compensation limit for members of governmental defined benefit pension plans under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable compensation for all permanent firemen and permanent policemen who first become eligible for membership in the system on or after July 1, 1996. Earnable compensation shall not include compensation in any form paid later than 120 days after the member's termination of employment from a retirement-eligible position.

533 Average Final Compensation. RSA 100-A:1, XVIII is repealed and reenacted to read as follows:

XVIII. "Average final compensation" shall mean:

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1 (a) For group I members who have attained vested status prior to January 1, 2012, the  
2 average annual earnable compensation of a member during his or her highest 3 years of creditable  
3 service, or during all of the years in his or her creditable service if less than 3 years.

4 (b) For group II members who attained vested status prior to January 1, 2012, the  
5 average annual earnable compensation shall be calculated based on the member's highest 3 years of  
6 creditable service, or during all years of creditable service if less than 3 years. For this calculation,  
7 the average annual compensation for extra and special duty in the 3 years shall not exceed the  
8 average annual amount paid to the member for extra and special duty over the member's last 7  
9 years of creditable service on or after July 1, 2009, as reported by the employer in accordance with  
10 RSA 100-A:16, VI, or over all the years of creditable service on or after July 1, 2009, if less than 7  
11 years.

12 (c) For group I members who commenced service on or after July 1, 2011, or who have  
13 not attained vested status prior to January 1, 2012, the average annual earnable compensation of a  
14 member during his or her highest 5 years of creditable service, or during all of the years in his or her  
15 creditable service if less than 5 years. For purposes of inclusion in this calculation, the average  
16 percentage of compensation paid in excess of the full base rate of compensation in the highest 5  
17 years shall not exceed the average percentage of compensation paid in excess of the full base rate of  
18 compensation over all the member's years of service on or after January 1, 2012, but excluding the  
19 highest 5 years.

20 (d)(1) For group II members who commenced service prior to July 1, 2011, and who have  
21 not attained vested status prior to January 1, 2012, the average annual earnable compensation of a  
22 member during his or her highest 3 years of creditable service, or during all of the years in his or her  
23 creditable service if less than 3 years. For purposes of inclusion in this calculation, the average  
24 percentage of compensation paid in excess of the full base rate of compensation in the highest 3  
25 years shall not exceed the average percentage of compensation paid in excess of the full base rate of  
26 compensation over all the member's years of service on or after January 1, 2012, but excluding the  
27 highest 3 years.

28 (2) For group II members who commenced service on or after July 1, 2011, the  
29 average annual earnable compensation of a member during his or her highest 5 years of creditable  
30 service, or during all of the years in his or her creditable service if less than 5 years. For purposes of  
31 inclusion in this calculation, the average percentage of compensation paid in excess of the full base  
32 rate of compensation in the highest 5 years shall not exceed the average percentage of compensation  
33 paid in excess of the full base rate of compensation over all the member's years of service on or after  
34 January 1, 2012, but excluding the highest 5 years.

35 534 Normal Retirement Age Group II. Amend RSA 100-A:1, XXXVII(b)(3) to read as follows:

36 (3) For a group II member who commenced service prior to July 1, 2011, and who  
37 has not attained vested status prior to January 1, 2012, ***the later of the date that the member***

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1 ***has both attained age 45 and completed 23 years of creditable service*** ~~[as provided in the~~  
2 ~~transition provisions in RSA 100-A:5, II(d)]~~; or

3 535 Service Retirement Benefits Group II. Amend RSA 100-A:5, II(a) to read as follows:

4 (a) Any group II member in service, who is in vested status before January 1, 2012, who  
5 has attained age 45 and completed 20 years of creditable service, and any group II member who  
6 commenced service on or after July 1, 2011, who has attained age 50 and completed 25 years of  
7 creditable service, and group II members who have not attained vested status prior to January 1,  
8 2012 ~~[as provided in the transition provisions in RSA 100-A:5, II(d)]~~ ***who has attained age 45 and***  
9 ***completed 23 years of creditable service***, or any group II member in service who has attained age  
10 60 regardless of the number of years of creditable service, may retire on a service retirement  
11 allowance upon written application to the board of trustees setting forth at what time not less than  
12 30 days nor more than 90 days subsequent to the filing thereof the member desires to be retired,  
13 notwithstanding that during such period of notification the member may have separated from  
14 service. Provided, however, that a group II member who commenced service on or after July 1, 2011,  
15 shall not receive a service retirement allowance until attaining the age of 52.5; but may receive a  
16 reduced allowance after age 50 if the member has at least 25 years of creditable service where the  
17 allowance shall be reduced, for each month by which the date on which benefits commence precedes  
18 the month after which the member attains 52.5 years of age, by 1/4 of one percent.

19 536 Service Retirement Benefits Group II. Amend RSA 100-A:5, II(b)(2) to read as follows:

20 (2) For members who are in vested status before January 1, 2012, a state annuity  
21 which, together with his or her member annuity, shall be equal to 2-1/2 percent of his or her average  
22 final compensation multiplied by the number of years of his or her creditable service not in excess of  
23 40 years, or for members who commenced service on or after July 1, 2011, a state annuity which,  
24 together with his or her member annuity, shall be equal to 2 percent of his or her average final  
25 compensation multiplied by the number of years of his or her creditable service not in excess of 42.5  
26 years, and group II members who have not attained vested status prior to January 1, 2012, ~~[shall be~~  
27 ~~as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum number of years of~~  
28 ~~creditable service not in excess of the limits under RSA 100-A:6-a, but only for group II members in~~  
29 ~~service who have attained age 60 regardless of the number of years of creditable service, or who work~~  
30 ~~up to their full age and service requirements and retire under service retirement]~~ ***a state annuity***  
31 ***which, together with his or her member annuity, shall be equal to 2-1/2 percent of his or her***  
32 ***average final compensation multiplied by the number of years of his or her creditable***  
33 ***service not in excess of 40 years.*** If a member retires prior to reaching full age and service  
34 requirements, then their annuity multiplier remains the same as their first 15 years of creditable  
35 service.

36 537 Maximum Retirement Benefit Group II. Amend RSA 100-A:6-a to read as follows:

37 100-A:6-a Maximum Retirement Benefit.

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1           **(a)** Notwithstanding any other provision of this chapter to the contrary, for members  
2 who commenced service before ~~[July 1, 2009, or have attained vested status prior to January 1,~~  
3 ~~2012,]~~ **January 1, 1999**, a member's initial calculation of the retirement benefit granted under the  
4 provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's highest year  
5 of earnable compensation.

6           **(b)** For members who commenced service on or after ~~[July 1, 2009, and have not~~  
7 ~~attained vested status prior to January 1, 2012]~~ **January 1, 1999, and before July 1, 2011**, a  
8 member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6  
9 shall not exceed the lesser of ~~[85]~~ **100** percent of the member's average final compensation or  
10 ~~[\$120,000]~~ **\$125,000**.

11           **(c)** *For members who commenced service on or after July 1, 2011, a member's*  
12 *maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6*  
13 *shall not exceed the lesser of 85 percent of the member's average final compensation or*  
14 *\$125,000.*

15           **(d)** Nothing in this section shall affect the ability of a member to receive disability  
16 benefits, pursuant to RSA 100-A:6, II(b) and (c) or RSA 100-A:6, II(e) and (f). This provision shall  
17 not limit the application of supplemental allowances.

18           538 Retirement System Funding; Appropriation.

19           The sum of \$30,000,000 for fiscal year ending June 30, 2026, is hereby appropriated to the  
20 retirement system to fund the cost of benefits under this act. The governor is authorized to draw a  
21 warrant for said sum out of any money in the treasury not otherwise appropriated.

22           539 New Section; Re-retiring. Amend RSA 100-A by inserting after section 7-b the following  
23 new section:

24           100-A:7-c Re-retiring. Notwithstanding any other provisions of RSA 100-A to the contrary, any  
25 retiree who returns to active service shall only retain eligibility for the benefits applicable to their  
26 initial retirement and the calculation of average final compensation. The calculation of other benefits  
27 resulting from the return to active service under RSA 100-A shall not apply.

28           540 Repeal. RSA 100-A:5, II(d), relative to the retirement group II annuity multiplier table, is  
29 repealed.

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2025-2833h

AMENDED ANALYSIS

Keep:

261. Makes significant changes to the New Hampshire retirement system, including modifying the maximum retirement benefits for certain public employees, adjusting the dates and percentages related to the calculation of retirement benefit, and adjusting the definition of "earnable compensation."

UNAPPROVED