HOUSE RECORD

First Year of the 162nd General Court
Calendar and Journal of the 2011 Session

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Contains: Corrected Committee Report, Additional Amendments for May 4

ADDENDUM TO HOUSE CALENDAR 36
WEDNESDAY, MAY 4
REGULAR CALENDAR

ELECTION LAW

CORRECTED COMMITTEE REPORT

SB 129-FN, relative to presenting photo identification to vote in person and relative to the election fund. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kathleen M Hoelzel for the **Majority** of Election Law: This bill requires a voter to present a valid photo I.D. to the ballot clerk prior to voting. There are provisions in the bill to allow a "provisional ballot" to be submitted if the individual does not have the identification with them. The individual would need to present the valid photo I.D. within three days of the election in order that the provisional ballot be counted. There are also provisions for a voter to obtain a photo I.D. card free of charge if he/she does not have a valid photo I.D. **Vote 13-5.**

Rep. David M Pierce for the **Minority** of Election Law: The amendment to this bill passed even though there were substantial questions that were not answered, or even discussed, before the majority moved to call the question so a vote could be taken. The chair did not accept the motion, but the unmistakable import of that move was that the majority of the committee was not going to investigate the issues any further. The few answers the committee did get should have compelled a vote to retain the bill. Here's what the committee did discuss and learn: The Secretary of State testified extensively about the bill. From that testimony and from his deputy's testimony before the subcommittee the day before, it was made clear that that the bill's provisional ballot requirement is unworkable because of New Hampshire's uniquely short statutory and constitutional timeframes between the state's primary election and general election and between the general election and the legislative summons. The secretary pointed out that it will also profoundly affect the recount process for the worse by inviting protracted battles over the counting of the provisional ballots. More frightening, though, was the secretary's sense that the bill actually opens up the system to a new and different types of election fraud instead of combating it. The Secretary of State, the state's chief election officer, said that if the committee wanted to pass a photo id requirement it would be prudent for it to pass something else and not this legislation. But probably the most disturbing thing that the committee learned was that the provisional ballot is not a secret ballot because it removes safeguards so that it would be easier to see how an individual voter voted. Here's what the committee did not discuss: The committee never got to a whole host of other questions about the bill. The committee did not discuss whether the bill is constitutional under Part I, Article 11 of the New Hampshire constitution. The committee never even discussed the framework that

should be used to analyze its constitutionality. The committee couldn't answer the question about whether the bill would be subject to the constitution's rational basis test or to a strict scrutiny analysis. The list of substantial and genuine questions about the bill goes on and on. Here's what the committee should have done: The bottom line is that the committee should have retained the bill. It should have honored its constitutional duty to pass legislation only once it satisfied itself that the bill is itself constitutional and that all relevant questions were asked, answered and adequately addressed. What the committee passed on to the House falls far below the high standards that the House Election Law Committee usually sets for itself and is not yet worthy of the House's consideration. The right to vote is the most fundamental right we have to keep government in its place. We ought to know what we're doing before we reform it in such a profound and fundamental way.

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2011-1697h

Floor Amendment to CACR 5
Proposed by Rep. Terrio

Amend the resolution by replacing the title with the following:
RELATING TO: the governor's power to reduce appropriations.
PROVIDING THAT: the governor, with the consent of the majority of the executive council, shall have line item reduction power of items in any bill making appropriations of money.
Amend the resolution by replacing paragraph I with the following:

I. That the second part of the constitution be amended by inserting after article 44 the following new article:

[Art.] 44-a. [Line Item Veto to Appropriations Bills.] The governor, with the consent of the majority of the executive council, shall have the power to reduce separate items of appropriation in any bill. Items not reduced shall then become law. Items reduced shall be returned to the general court for reconsideration singly in the same manner as provided for the reconsideration of bills pursuant to Article 44. If the governor's reduction is overturned then the item with the amount originally presented to the governor shall become law, otherwise the item with the reduced amount shall become law.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be:
"Are you in favor of amending the second part of the constitution by inserting after article 44 the following new article to read as follows:

[Art.] 44-a. [Line Item Veto to Appropriations Bills.] The governor, with the consent of the majority of the executive council, shall have the power to reduce separate items of appropriation in any bill. Items not reduced shall then become law. Items reduced shall be returned to the general court for reconsideration singly in the same manner as provided for the reconsideration of bills pursuant to Article 44. If the governor's reduction is overturned then the item with the amount originally presented to the governor shall become law, otherwise the item with the reduced amount shall become law."

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution affords the governor, with the consent of the majority of the executive council, line item reduction power of any items in any bill which makes appropriations of money.

2011-1710h

Floor Amendment to SB 3-FN-A-LOCAL
Proposed by Rep. Hawkins

Amend the bill by replacing section 15 with the following:

15 Financing; Contribution Rates; Group II Member Payroll Deduction. Amend RSA 100-A:16, I(a) to read as follows:

(a)***(1)*** The member annuity savings fund shall be a fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their member annuities together with any amounts transferred thereto from a similar fund under one or more of the predecessor systems. Such contribution shall be, for each member***, subject to the additions to member contributions under RSA 100-A:16, II(f)***, dependent upon the member's employment classification at the rate determined in accordance with the following table:

[~~Employees of employers other than the state 5.00~~
~~Employees of the state hired on or before June 30, 2009 5.00~~
~~Employees of the state hired after June 30, 2009 7.00~~
~~Teachers 5.00~~
~~Permanent Policemen 9.30~~
~~Permanent Firemen 9.30~~]
Group I members, 7.00
Group II permanent fireman members, 11.80
Group II permanent police members, 11.55

(2) The board of trustees shall certify to the proper authority or officer responsible for making up the payroll of each employer, and such authority or officer shall cause to be deducted from the compensation of each member, except group II members ***who are in vested status before July 1, 2011*** with creditable service in excess of 40 years ***or group II members who are not in vested status on July 1, 2011 with creditable service in excess of 25 years,*** as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), on each and every payroll of such employer for each and every payroll period, the percentage of earnable compensation applicable to such member. No deduction from earnable compensation under this paragraph shall apply to any group II member ***who is in vested status before July 1, 2011*** with creditable service in excess of 40 years, ***or group II member who is not in vested status on July 1, 2011 with creditable service in excess of 25 years,*** as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), and this provision for such members shall not affect the method of determining average final compensation as provided in RSA 100-A:1, XVIII. In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if such person was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of one percent of the annual earnable compensation upon the basis of which such deduction is made. The amounts deducted shall be reported to the board of trustees. Each of such amounts, when deducted, shall be paid to the retirement system at such times as may be designated by the board of trustees and credited to the individual account, in the member annuity savings fund, of the member from whose compensation the deduction was made.

Amend the bill by replacing section 40 with the following:

40 Applicability. Provisions of this act in sections 2, 4–14, RSA 100-A:16, I(a)(2) as inserted by section 15, 27, 35, and 39 containing references to or applicability on June 30, 2011 and July 1, 2011 shall be changed to November 30, 2011 and December 1, 2011, respectively.

41 Effective Date.

I. Section 36 of this act shall take effect as provided in section 38 of this act.

II. RSA 100-A:16, I(a)(1) as inserted by section 15 of this act shall take effect July 1, 2011.

III. The remainder of this act shall take effect December 1, 2011.

2011-1674h

Floor Amendment to SB 3-FN-A-LOCAL
Proposed by Rep. Shurtleff

Amend the bill by replacing sections 2-4 with the following:

2 Retirement System; Definition of Earnable Compensation. Amend RSA 100-A:1, XVII to read as follows:

XVII. "Earnable compensation" shall mean***:***

(a) For all members ***who commenced service on or before August 31, 2011,*** the full base rate of compensation paid plus any overtime pay, holiday and vacation pay, sick pay, longevity or severance pay, cost of living bonus, additional pay for extracurricular and instructional activities or for other extra or 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 cash incentives paid by an employer to encourage members to retire, 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. However, 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 employees, teachers, 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, 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) For any member who commenced service on or after September 1, 2011, the full base rate of compensation paid plus any compensation for mandatory training and any military differential pay. However, earnable compensation in the final 2 12-month periods of creditable service prior to termination of employment shall each be limited to 1-1/2 times the highest compensation year as determined for the purpose of calculating average final compensation, but excluding the final 24 months. Any compensation received in the final 24 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 employees, teachers, permanent firemen, and permanent policemen. 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.

3 Retirement System; Definitions; Average Final Compensation. Amend RSA 100-A:1, XVIII to read as follows:

XVIII. "Average final compensation" shall mean***, for members who commenced service prior to September 1, 2011,*** the average annual earnable compensation of a member

during his or her highest 3 years of creditable service, or during all of the years in his or her creditable service if less than 3 years. ***For members who commenced service on or after September 1, 2011, "average final compensation" shall mean the average annual earnable compensation of a member during his or her highest 5 years of creditable service, or during all of the years in his or her creditable service if less than 5 years.***

4 New Section; Retirement Qualification Age and Benefit Calculation Tables. Amend RSA 100-A by inserting after section 1 the following new section:

100-A:1-a Retirement Qualification Age and Benefit Calculation Tables. Where applicable the following tables shall apply to group I and group II members for the purpose of determining the member's retirement qualification age, years of service, and benefit calculation:

I. For Group I members who:

	Retirement qualification age	Multiplier
Commenced service before September 1, 2011	60	1/60
Commenced service on or after September 1, 2011	65, subject to paragraph III	1/66

II. For Group II members who:

	Minimum years of service	Minimum age attained	Annuity multiplier
Commenced service before September 1, 2011	20	45	2.5%
Commenced service on or after September 1, 2011	25	50, subject to paragraph III	2.0%

III. The regular retirement qualification age for group I and group II members who commenced service on or after September, 1, 2011 shall be subject to increase according to the following procedure:

(a) Beginning July 1, 2016 and on every subsequent 5-year anniversary thereafter, the executive director shall adjust the ages required according to the increase in the average life expectancy at birth for persons born in the United States as reported in that year by the United States Census Bureau. For each increase in such average life expectancy of at least one full year which occurred during the immediately preceding five-year period, the corresponding number of full years shall be added to the ages identified in this section. Any unused portion of a full-year increase in the average life expectancy shall be carried forward to the subsequent 5-year period.

(b) The board of trustees, following each such 5-year anniversary, shall certify the average life expectancy to be used by the executive director in adjusting the ages according to this section, and shall inform all employers and members of the changes to be applied.

Amend the bill by replacing section 7 with the following:

7 Service Retirement; Age Increased. Amend RSA 100-A:5 to read as follows:

100-A:5 Service Retirement Benefits.

I. Group I Members.

(a) Any group I member may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the filing thereof, the member desires to be retired, provided the member at the time so specified for retirement has attained [~~age 60~~] ***the retirement qualification age under RSA 100-A:1-a, I*** and notwithstanding that during such period of notification the member may have separated from service. For the purposes of this section, a teacher member of group I who remains in service throughout a school year shall be deemed to be in service during July and August at the end of such school year.

(b) Upon service retirement, an employee member or teacher member of group I shall receive a service retirement allowance which shall consist of a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a state annuity. Prior to the member's attainment of age 65, the state annuity, together with the member annuity, shall be equal to [~~1/60 of the member's average final compensation~~] ***the benefit multiplier under RSA 100-A:1-a, I*** multiplied by the number of years of creditable

service. After attainment of age 65, the state annuity, together with the member annuity, shall be equal to 1/66 of the member's average final compensation multiplied by the number of years of creditable service. ***Provided, however, that for members who commenced service on or after September 1, 2011, the number of years of his or her creditable service used to determine the retirement allowance under this subparagraph shall not exceed 33 years***.

(c) Notwithstanding any other provision of law, any group I member who meets the requirements of RSA 100-A:10, I(a), and who has either completed at least 20 years of creditable service which, when combined with his age equals at least 70 years, or who has attained the age of 50, but not the [~~age of 60~~] ***retirement qualification age under RSA 100-A:1-a, I***, may elect to retire and have benefits commence immediately as a reduced service retirement allowance upon written application to the board of trustees setting forth the time, not less than 30 days nor more than 90 days subsequent to the filing thereof, at which the member desires to have benefits commence. The service retirement allowance shall be determined in accordance with RSA 100-A:5, I(b) and shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains [~~60 years of age~~] ***the retirement qualification age under RSA 100-A:1-a, I***, by 1/8 of one percent if the member has 35 years or more of creditable service, by 1/4 of one percent if the member has 30 years but less than 35 years of creditable service, by 1/3 of one percent if the member has at least 25 years but less than 30 years of creditable service, by 5/12 of one percent if the member has at least 20 years but less than 25 years of creditable service, and by 5/9 of one percent if the member has less than 20 years of creditable service.

(d) [Repealed.]

II. Group II Members.

(a)***(1)*** Any group II member in service who has attained [~~age 45 and completed 20~~] ***the retirement qualification age and attained the minimum*** years of creditable service ***under RSA 100-A:1-a, II***, or who has attained age 60 regardless of the number of years of creditable service, may retire on a service retirement allowance upon written application to the board of trustees***; provided however that a group II member who commenced service on or after September 1, 2011 may retire and receive a service retirement allowance beginning upon the attainment of age 55 upon written application to the board of trustees.***

(2) [~~setting~~] ***The written application shall set*** forth at what time not less than 30 days nor more than 90 days subsequent to the filing thereof the member desires to be retired, notwithstanding that during such period of notification the member may have separated from service.

(b) Upon service retirement ***and attainment of the required age***, a group II member shall receive a service retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his ***or her*** accumulated contributions at the time of retirement; and

(2) A state annuity which, together with his ***or her*** member annuity, shall be equal to [~~2 1/2 percent of his average final compensation~~] ***the annuity multiplier under RSA 100-A:1-a, II*** multiplied by the number of years of his ***or her*** creditable service [~~not in excess of 40 years~~] ***provided the product does not exceed 100 percent, and then multiplied by the member's average final compensation***. ***Provided, however, that for members who commenced service on or after September 1, 2011, the number of years of his or her creditable service used to determine the retirement allowance under this subparagraph shall not exceed 25 years***.

(c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member who has retired on or after the effective date of this subparagraph after attaining the [~~age of 45 with at least 20~~] ***retirement qualification age and minimum*** years of creditable service ***under RSA 100-A:1-a, II*** shall receive a minimum annual service retirement allowance of $10,000. If such group II member has elected to convert the retirement allowance into an

optional allowance for the surviving spouse under RSA 100-A:13, the surviving spouse shall be entitled to a proportional share of the $10,000.

(2) [Repealed.]

(3) [Repealed.]

Amend the bill by replacing sections 9-11 with the following:

9 Ordinary Disability Retirement; Group II. Amend RSA 100-A:6, II(b) to read as follows:

(b) Upon ordinary disability retirement, the group II member shall receive an ordinary disability retirement allowance which shall consist of: a member annuity which shall be the actuarial equivalent of his ***or her*** accumulated contributions at the time of his ***or her*** ordinary disability retirement; and a state annuity which, together with his ***or her*** member annuity, shall be equal to [~~2 1/2 percent of his average final compensation~~] ***the annuity multiplier under RSA 100-A:1-a, II*** at the time of [~~his~~] ordinary disability retirement multiplied by the number of years of his ***or her*** creditable service [~~not in excess of 40 at the time of his ordinary disability retirement~~] ***provided the product does not exceed 100 percent, and then multiplied by the member's average final compensation***, provided, ***further,*** however, that such allowance shall not be less than 25 percent of the member's final compensation at the time of his ***or her*** disability retirement. ***Provided, however, that for members who commenced service on or after September 1, 2011, the number of years of his or her creditable service used to determine the retirement allowance under this subparagraph shall not exceed 25 years***.

10 Accidental Disability Retirement; Group I. Amend RSA 100-A:6, I(d) to read as follows:

(d)(1) Upon accidental disability retirement, the group I member who has attained [~~age 60~~] ***the retirement qualification age under RSA 100-A:1-a, I*** shall receive an accidental disability retirement allowance which shall consist of a member annuity and shall be the actuarial equivalent of the member's accumulated contributions at the time of his accidental disability retirement, and a state annuity as follows:

(A) Prior to the member's attainment of age 65, the state annuity, together with the member annuity, shall be equal to [~~1/60 of the member's average final compensation~~] ***the benefit multiplier under RSA 100-A:1-a, I*** at the time of his ***or her*** accidental disability retirement multiplied by the number of years of creditable service at the time of his ***or her*** accidental disability retirement;

(B) After attainment of age 65, the state annuity, together with the member annuity, shall be equal to 1/66 of the member's average final compensation at the time of his ***or her*** accidental disability retirement multiplied by the number of years of creditable service at the time of his ***or her*** accidental disability retirement;

(C) Regardless of age at disability, ***for a member who commenced service before September 1, 2011,*** such allowance shall not be less than 50 percent of the member's average final compensation at the time of his ***or her*** accidental disability retirement.

(2) Upon accidental disability retirement, the group I member who has not attained [~~age 60~~] ***the retirement qualification age under RSA 100-A:1-a, I*** shall receive an accidental disability retirement allowance which shall consist of: the member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of his accidental disability retirement; and a state annuity which, together with the member annuity, shall be equal to 50 percent of the member's average final compensation at the time of his ***or her*** disability retirement.

11 Accidental Disability Retirement; Group II. Amend RSA 100-A:6, II(d) to read as follows:

(d)***(1)*** Upon accidental disability retirement, the group II member ***who commenced service before September 1, 2011,*** shall receive an accidental disability retirement allowance equal to 2/3 of his ***or her*** average final compensation at the time of [~~his~~] disability retirement***, and the group II member who commenced service on or after September 1, 2011, shall receive an accidental disability retirement allowance equal to 1/2 of his or her average final compensation at the time of disability retirement***.

(2) For any group II member who has more than 26-2/3 years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2-1/2 percent of his ***or her*** average final compensation multiplied by the number of years of his ***or her*** creditable service in excess of 26-2/3 but not in excess of 40 years. ***Provided, however, that for a member who commenced service on or after September 1, 2010, an accidental disability retirement allowance together with a supplemental disability retirement allowance, as provided in this subparagraph, shall not exceed 100 percent of the disability retiree's average final compensation.***

Amend the bill by replacing section 13 with the following:

13 Split Benefits; Minimum Age. Amend RSA 100-A:19-b to read as follows:

100-A:19-b Minimum Age. For the purposes of this subdivision only, minimum age shall mean:

I. For a member who has completed less than [~~20 years~~] ***the minimum years of*** combined creditable service in both group I and group II ***as provided in RSA 100-A:1-a, II***, 60 years ***if the member commenced service before September 1, 2011, or otherwise 65 years***.

II. For a member who has completed [~~20 or more~~] ***at least the minimum*** years of combined creditable service ***as provided in RSA 100-A:1-a, II***, one year shall be deducted from age 60 ***if the member commenced service before September 1, 2011, or otherwise age 65,*** for each year of creditable group II service, provided that the age shall not be less than [~~45 years~~] ***the retirement qualification age under RSA 100-A:1-a, II***.

Amend the bill by replacing sections 15 and 16 with the following:

15 Financing; Contribution Rates; Group II Member Payroll Deduction. Amend RSA 100-A:16, I(a) to read as follows:

(a) The member annuity savings fund shall be a fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their member annuities together with any amounts transferred thereto from a similar fund under one or more of the predecessor systems. Such contribution shall be, for each member, dependent upon the member's employment classification at the rate determined in accordance with the following table:

Employees of employers other than the state ***hired on or before August 31, 2011,*** 5.00
Employees of the state hired on or before June 30, 2009***,*** 5.00
Employees of the state hired after June 30, 2009***,*** 7.00
Teachers ***hired on or before August 31, 2011,*** 5.00
Permanent Policemen ***hired on or before August 31, 2011,*** 9.30
Permanent Firemen ***hired on or before August 31, 2011,*** 9.30
Group I members hired after August 31, 2011, 7.00, subject to RSA 100-A:16, II(f)(2)
Group II permanent fireman members hired after August 31, 2011, 11.80, subject to RSA 100-A:16, II(f)(2)
Group II permanent police members hired after August 31, 2011, 11.55, subject to RSA 100-A:16, II(f)(2)

The board of trustees shall certify to the proper authority or officer responsible for making up the payroll of each employer, and such authority or officer shall cause to be deducted from the compensation of each member, except group II members ***who commenced service before September 1, 2011*** with creditable service in excess of 40 years ***or group II members who commenced service on or after September 1, 2011 with creditable service in excess of 25 years,*** as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), on each and every payroll of such employer for each and every payroll period, the percentage of earnable compensation applicable to such member. No deduction from earnable compensation under this paragraph shall apply to any group II member ***who commenced service before September 1, 2011*** with creditable service in excess of 40 years, ***or group II member who commenced service on or after September 1, 2011 with creditable service in excess of 25 years,*** as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), and this provision for such members shall not affect the method of determining average final compensation as provided in RSA 100-A:1, XVIII. In

determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if such person was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of one percent of the annual earnable compensation upon the basis of which such deduction is made. The amounts deducted shall be reported to the board of trustees. Each of such amounts, when deducted, shall be paid to the retirement system at such times as may be designated by the board of trustees and credited to the individual account, in the member annuity savings fund, of the member from whose compensation the deduction was made.

16 Employer Contributions; Limitation Beginning 2013. Amend RSA 100-A:16, II(f) to read as follows:

(f)***(1)*** The total amount payable to the state annuity accumulation fund in each year on account of each member classification shall not be less than normal contribution rate multiplied by the total compensation earnable by all members in such classification for such year, plus the amount of the accrued liability contribution necessary to liquidate the unfunded accrued liability on behalf of such classification as determined by the actuary under subparagraph (e) above.

(2) Notwithstanding any provision of this paragraph to the contrary, if in any fiscal year after the fiscal year ending June 30, 2012, the total of the amount payable determined under subparagraph (1) plus the member contributions anticipated for such fiscal year, exceed the total amount payable determined under subparagraph (1) plus the member contributions as determined for fiscal year 2012, then, for members who commenced service after August 31, 2011, a proportionate share of the amount for the upcoming fiscal year which exceeds such total for fiscal year 2012 shall be assessed one-half as employer contributions and one-half as additions to the member contribution rates under RSA 100-A:16, I(a) as determined by the board.

Amend the bill by replacing section 27 with the following:

27 State Employees; Retirement. Amend RSA 21-I:30, II(a) to read as follows:

(a) Has at least 10 years of creditable service for the state if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003, and who also is at least 60 years of age at the time of retirement ***if the employee commenced service before September 1, 2011 or at least 65 years of age at the time of retirement if the employee commenced service on or after September 1, 2011***; or

Amend the bill by replacing all after section 35 with the following:

36 Repeal. RSA 100-A:41-d, relative to additional temporary supplemental allowances, is repealed.

37 Severability. The provisions of this act making various amendments concerning the New Hampshire retirement system shall be severable and if any phrase, clause, sentence, or provision of this act is declared to be contrary to the constitution of this state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this act and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

38 Retirement System; Recalculation of Employer Rates; Recertification. Notwithstanding the notice requirements of RSA 100-A:16, III, the board of trustees of the retirement system shall recalculate employer contribution rates for the state fiscal years 2012 and 2013 to reflect the requirements of RSA 100-A as amended by this act. Notwithstanding the notice requirements of RSA 100-A:16, III, such employer contribution rates shall be effective as provided during the biennium beginning July 1, 2011, and the recertification of employer contribution percentages shall be provided to each employer within a reasonable period of time not to exceed 30 days from the effective date of this section. The exception to the notice requirements of RSA 100-A:16, III

in this section shall be limited to the applicable employer contribution rates for the biennium beginning July 1, 2011.

39 Effective Date. This act shall take effect September 1, 2011.

2011-1712h

Floor Amendment to SB 129-FN

Proposed by Reps. Bates, Jasper, Hoelzel, Scala and DeLemus

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

1 Obtaining a Ballot. Amend RSA 659:13 to read as follows:

659:13 Obtaining a Ballot.

I. A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, the ballot clerk shall put a checkmark beside it and again repeat the name. The ballot clerk shall state the address listed on the checklist for the voter, and ask if the address is correct; if the address on the checklist is not correct, the ballot clerk shall correct the address in red on the paper checklist and the supervisors of the checklist shall cause the centralized voter registration database to reflect the correction. ***The ballot clerk shall request that the voter present a valid photo identification meeting the requirements of paragraph II. If the voter does not have a valid photo identification, the ballot clerk shall inform the voter that he or she may vote by provisional ballot in accordance with RSA 659:13-b and present a valid photo identification, official documentation of driver's license suspension or revocation, waiver issued by the secretary of state under RSA 659:13-d, or affidavit of religious exemption to the city or town clerk by noon of the third business day after the election. If the photo identification is an out-of-state driver's license, the ballot clerk shall record the state of issuance on the checklist in a color designated for such entries and the supervisors of the checklist shall submit the information to the secretary of state.*** The voter, if still qualified to vote in the town or ward ***and having presented a valid photo identification verifying the voter's identity,*** and unless challenged as provided for in RSA [~~659:27-33~~] ***659:27 through 659:33***, shall then be allowed to enter the space enclosed by the guardrail. After the voter enters the enclosed space, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state.

II. A valid photo identification shall satisfy all the following:

(a) The identification shows the name of the individual to whom the identification was issued, and the name substantially conforms to the name in the individual's voter registration record.

(b) The identification shows a photograph of the individual to whom the identification was issued.

(c) The identification was issued by the United States or the state of New Hampshire, or is a valid state driver's license.

2 New Sections; Provisional Ballot. Amend RSA 659 by inserting after section 13-a the following new sections:

659:13-b Provisional Ballot.

I. If a voter has not presented a valid voter identification under RSA 659:13 and is otherwise qualified to vote, the voter may cast a provisional ballot. The ballot clerk shall indicate on the checklist that the voter has voted by provisional ballot. The provisional ballot shall be the same as the ballot used at the polling place, but shall be sealed in a plain envelope by the voter after he or she has marked the ballot. The voter shall insert the plain envelope into an envelope on which is printed the same information as the affidavit of a challenged voter to be executed by the voter and shall sufficiently identify the voter to allow verification of the ballot once the voter has confirmed his or her identity.

II. The moderator shall prepare a list of all voters who cast provisional ballots and shall retain possession of the provisional ballots in their sealed envelopes until the closing of the polls, at which time the moderator shall cause the provisional ballots and the list to be delivered to the city or town clerk. The clerk shall seal all provisional ballots in a separate box marked "provisional ballots."

III. By noon of the third business day after the election, a voter who has cast a provisional ballot may appear in person before the city or town clerk and present a valid photo identification meeting the requirements of RSA 659:13, II, official documentation of driver's license suspension or revocation, a waiver issued by the secretary of state under RSA 659:13-d, or an affidavit of religious exemption. Upon presentation of a valid photo identification, verification of driver's license suspension or revocation, or receipt of a waiver issued by the secretary of state under RSA 659:13-d or an affidavit of religious exemption, the clerk shall mark the list prepared by the moderator to that effect. The clerk shall require each person presenting a valid photo identification, official documentation of driver's license suspension or revocation, or a waiver issued by the secretary of state under RSA 659:13-d, or executing an affidavit of religious exemption to sign the list next to or beneath his or her name. At noon of the third business day after the election, the clerk shall forward all provisional ballots for which verification of identity has been provided to the moderator. The clerk shall post notice of the time and place of the processing of provisional ballots in accordance with RSA 91-A.

IV. The moderator, upon receipt of the provisional ballots, shall immediately verify that the signatures on the affidavit envelopes match the signatures on the list of provisional voters and shall process the ballots so verified in the same manner as absentee ballots. The clerk shall prepare an amended election return, which shall be prepared and forwarded in the same manner as any other election return. Provisional ballots shall be sealed and preserved in the same manner as other ballots. The duties of the moderator under this section may be fulfilled by another election official designated by the moderator; the official so designated may be an official from another ward in the same city or town and the same official may fulfill the moderator's duties for multiple wards.

659:13-c Affidavit of Religious Exemption. The affidavit of religious exemption shall be in the following form:

AFFIDAVIT OF RELIGIOUS EXEMPTION

Name: _____

Address: _____

Date of birth: _____

I hereby swear and affirm that I adhere to the beliefs of _____ religion and therefore have a religious objection to having my photograph taken and that I do not possess a valid form of identification showing my photograph.

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am the identical person whom I represent myself to be and that to the best of my knowledge and belief the information above is true and correct.

_____

(Signature of affiant)

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed $2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed $5,000.

659:13-d Waiver by Secretary of State. Upon presentation of sworn evidence satisfactory to the secretary of state that a voter does not possess photo identification and also does not possess documentation necessary to obtain a nondriver's picture identification card, the secretary of state may issue a waiver of the photo identification requirement that may be presented to the clerk under RSA 659:13-b. The waiver shall be valid only for the election specified in the waiver.

3 Election Fund Reimbursement. Amend RSA 5:6-d, III to read as follows:

III. The secretary of state is authorized to accept, budget, and, subject to the limitations of this paragraph, expend monies in the election fund received from any party for the purposes of conducting elections, voter and election official education, the purchase or lease of voting equipment which complies with Help America Vote Act of 2002, Public Law 107-252, ***reimbursing the department of safety for nondriver's picture identification cards,*** election law enforcement, and improvements to related information technology, including acquisition and operation of an automated election management system. The secretary of state shall not expend any monies in the election fund unless the balance in the fund following such expenditures shall be at least 15 times the estimated annual cost of maintaining the programs established to comply with the Help America Vote Act of 2002, Public Law 107-252.

4 Identification Cards; Voucher. Amend RSA 260:21, V to read as follows:

V. The fee for such card shall be $10 and is not refundable, except that no fee shall be charged to any person who, for reason of health or age, turns in his ***or her*** driver's license before the expiration date of such license. For purposes of this section, reasons of age shall be deemed to apply only to those persons over age 65. ***A person who requires a photo identification card for voter identification purposes may obtain a voucher from his or her town or city clerk or the secretary of state exempting the person from the identification card fee. Upon presentation of the voucher to the division, the actual costs of issuing the card shall be paid by the secretary of state from the election fund established under RSA 5:6-d. An identification card paid for by the secretary of state shall be valid for voter identification purposes only, and the card shall be marked "for voter identification only."***

5 Final Counting; Announcement. Amend RSA 659:70 to read as follows:

659:70 Final Counting; Result. The final count of all votes on all ballots cast at the central and additional polling places, if any, shall be combined and the moderator shall announce the final count for each office ***and the number of provisional ballots cast***.

6 Voter Education.

I. The department of state shall prominently display on the department's website information for voters relating to the photo identification requirements established by this act. The department shall also provide explanatory information relating to this act to media outlets for the purpose of educating the public regarding voter identification requirements.

II. Every town and city clerk shall prominently display a notice prepared by the secretary of state explaining the photo identification requirements for voters and directing voters to the department of state's website for additional information. Such notice shall be displayed for at least 14 days prior to each election held after the effective date of this act during 2011 and 2012.

7 Applicability. In accordance with RSA 659:13, as amended by this act, ballot clerks shall request that the voters present a valid photo identification at all elections after the effective date of this act. However, notwithstanding such provisions, no person shall be denied the right to vote for failure to present a valid photo identification or other documentation acceptable under this act prior to November 1, 2012. The ballot clerks shall tally the number of voters that do not present a valid photo identification at each election prior to November 1, 2012, and the town or city clerk shall report the number with the election return.

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

AMENDED ANALYSIS

This bill requires that a voter present a valid photo identification to vote in person. Voters without photo identification may vote by provisional ballot, provided that they subsequently appear in person before the city or town clerk and present a valid photo identification, official documentation of driver's license suspension or revocation, a waiver issued by the secretary of state, or an affidavit of religious exemption. This bill also requires that the secretary of state pay the cost for a nondriver's picture identification card upon presentation of a voucher to the division of motor vehicles.