

SB 364-FN – AS INTRODUCED

2014 SESSION

14-2765  
10/03

SENATE BILL        **364-FN**

AN ACT            relative to group II service retirement allowances and relative to establishing a supplemental savings plan in the retirement system.

SPONSORS:        Sen. Larsen, Dist 15; Rep. Porter, Hills 1; Rep. Perry, Straf 3; Rep. Stroud, Hills 21

COMMITTEE:      Executive Departments and Administration

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ANALYSIS

This bill increases group II service retirement allowances for members who commenced service on or after January 1, 2012. The bill also establishes a supplemental savings plan within the retirement system, administrated by the board of trustees.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT                   relative to group II service retirement allowances and relative to establishing a supplemental savings plan in the retirement system.

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

1           1 Retirement System; Group II Service Retirement Benefit. Amend RSA 100-A:5, II(b)(2) to  
2 read as follows:

3                       (2) For members who are in vested status before January 1, 2012, a state annuity  
4 which, together with his or her member annuity, shall be equal to 2- 1/2 percent of his or her average  
5 final compensation multiplied by the number of years of his or her creditable service not in excess of  
6 40 years, or for members who commenced service on or after July 1, 2011, a state annuity which,  
7 together with his or her member annuity, shall be equal to 2 percent of his or her average final  
8 compensation multiplied by the number of years of his or her creditable service not in excess of 42.5  
9 years, and group II members who have not attained vested status prior to January 1, 2012 shall be  
10 as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum number of years of  
11 creditable service not in excess of 40.5 years. ***For members who commenced service on or after***  
12 ***January 1, 2012, a state annuity which, together with his or her member annuity, shall be***  
13 ***equal to 2-1/2 percent of his or her average final compensation multiplied by the number of***  
14 ***years of his or her creditable service not in excess of 40 years.***

15           2 Retirement System; Limitation on Membership; Exception Added. Amend RSA 100-A:28 to  
16 read as follows:

17           100-A:28 Limitation on Membership. This retirement system and the provisions hereof shall not  
18 apply to any person benefited by or entitled to participate under any other provisions of law which  
19 provides wholly or in part at the expense of the state or any other employer, for retirement benefits  
20 for employees, teachers, permanent policemen, and permanent firemen employed by the state or  
21 such other employer, their widows or other dependents, with respect to the same period of service for  
22 which they are eligible for benefits under the terms of this chapter. The provisions of this section  
23 shall not apply to any person participating in, or receiving or eligible to receive benefits under the  
24 old-age and survivors insurance provisions of Title II of the federal Social Security Act, as amended  
25 or under a retirement arrangement federally tax-qualified under sections 403(b) or 457 of the  
26 United States Internal Revenue Code of 1986, as amended. The provisions of this section shall not  
27 apply with respect to the purchase of prior service credit under RSA 100-A:3, VI by any person who  
28 had participated in or deemed eligible to receive benefits under a retirement arrangement funded,  
29 wholly or in part, by contributions from a political subdivision of the state, or an agency or  
30 instrumentality of a political subdivision of the state; provided, that such arrangement shall first be

1 terminated in full, but in no event later than December 31, 2005; and, further provided, that the  
2 benefits thereunder shall be distributed in their entirety to eligible participants and beneficiaries in  
3 accordance with the terms and conditions of such terminated retirement arrangement. ***The***  
4 ***provisions of this section shall not apply to any person participating in, or receiving or***  
5 ***eligible to receive benefits under the supplemental savings plan established in this chapter.***

6 3 New Subdivision; Supplemental Savings Plan. Amend RSA 100-A by inserting after section 57  
7 the following new subdivision:

8 Supplemental Savings Plan

9 100-A:58 Supplemental Savings Plan of the State of New Hampshire; Definitions.

10 I. There is hereby established a defined contribution plan for group I members who  
11 commenced service on or after January 1, 2012, the plan to be effective April 1, 2014. The plan is  
12 established effective as of April 1, 2014 for the purpose of providing retirement benefits for eligible  
13 employees in addition to the benefits provided in the defined benefit plan under this chapter.

14 II. In this subdivision:

15 (a) “Account” means the separate bookkeeping account established and maintained on  
16 behalf of each member under RSA 100-A:62.

17 (b) “Supplemental savings plan” or “plan” means the supplemental savings plan of  
18 New Hampshire established by this subdivision.

19 (1) The supplemental savings plan is intended to be qualified under Internal  
20 Revenue Code section 401(a), and be a governmental plan under Internal Revenue Code section  
21 414(d). Accordingly, any provision of this subdivision that is subject to more than one construction or  
22 interpretation shall be resolved in favor of the construction or interpretation that is consistent with  
23 the requirements of Internal Revenue Code section 401(a) and section 414(d).

24 (2) Notwithstanding any other provision of this subdivision, other than  
25 subparagraph (3), no part of the assets of the supplemental savings plan may be used for or diverted  
26 to any purposes other than for the exclusive benefit of members and beneficiaries.

27 (3) An employer contribution made by mistake of fact may be returned to the  
28 appropriate participating employer within, but not later than, one year after payment of the  
29 mistaken contribution. At least 90 days prior to the return of contributions, the board shall provide  
30 a written explanation to those members who have an account balance as of the beginning of the  
31 calendar year in which the contribution is returned.

32 100-A:59 Administration of the Supplemental Savings Plan.

33 I. The board of trustees for the supplemental savings plan shall be composed of the same  
34 members as the board provided for under RSA 100-A:14.

35 II. The board is responsible for:

36 (a) The general administration and proper operation of the plan; and

37 (b) Effectuating the provisions of this subdivision.

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1           III. The board is the trustee of the plan assets, and is responsible for:

2                 (a) Determining the manner of investing all accounts;

3                 (b) Selecting investment funds, including a default investment fund, under RSA 100-A:62;

4                 (c) Monitoring these investment funds on an ongoing basis, and adding or replacing  
5 these investment funds as the board considers prudent.

6           IV. The board of trustees shall meet once during each calendar quarter, unless the chairman  
7 determines that additional meetings are required. All meetings of the board shall be conducted in  
8 accordance with RSA 91-A.

9           V. The board shall keep a record of all of its proceedings.

10          VI. From time to time and subject to the approval of the board, as the board of trustees  
11 determines necessary for the efficient administration of the supplemental savings plan, the  
12 board may:

13                 (a) Retain the services of a third-party administrator to provide administrative and  
14 recordkeeping services for the plan;

15                 (b) Retain the services of one or more investment advisors to provide investment  
16 assistance and advice;

17                 (c) Retain the services or secure the advice of any other person or entity; and

18                 (d) Appoint an executive director for the plan and delegate to the executive director and  
19 the executive director's staff any of the board's duties or responsibilities under this subtitle. The  
20 board shall also have the full power to compensate and remove the executive director.

21          VII.(a) The board of trustees is entitled to rely conclusively on, and is fully protected in any  
22 action or omission taken by it in good faith reliance on, the advice of any person or entity.

23                 (b) The board is not liable for any act or omission of any person to whom the board has  
24 delegated any of its duties or responsibilities.

25          VIII. Subject to any limitations imposed by this subdivision, the board of trustees may adopt  
26 rules and regulations for the efficient administration of the supplemental savings plan.

27          IX. The members of the board of trustees shall serve without compensation but shall be  
28 reimbursed for actual and necessary travelling and other expenses and disbursements incurred or  
29 made by them in the discharge of their official duties under this subdivision.

30          X. The board of trustees shall hire a legal advisor. The legal advisor for this subdivision  
31 shall not be the same as selected under RSA 100-A:15, IV.

32          XI. Except for investment fund fees and expenses paid under RSA 100-A:62, all expenses  
33 incurred in the administration of the supplemental savings plan and in the management of plan  
34 assets may only be paid as follows:

35                 (a) First out of any surcharge to the contributions of the employers to cover reasonable  
36 anticipated expenses,

37                 (b) Then, to the extent expenses remain unpaid, by the state.

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1 XII. If the board of trustees determines that a member or beneficiary has received from the  
2 supplemental savings plan a distribution that exceeds the amount to which the member or  
3 beneficiary was entitled, the board shall take all necessary steps to recover the overpayment.

4 XIII. Any person aggrieved by a determination made or action taken with respect to a  
5 person's eligibility for membership in or benefits under the supplemental savings plan may appeal  
6 that determination or action to the board of trustees.

7 (a) A notice of appeal shall be filed with the board within 5 years of the determination or  
8 action in question.

9 (b) On receipt of a notice of appeal, the board shall hold a hearing on the appeal as soon  
10 as administratively practicable.

11 (c) Except as otherwise provided in this subdivision or by rule or regulation of the board:

12 (1) The hearing shall be conducted in an orderly but informal manner; and

13 (2) Formal rules of evidence and trial procedures shall not apply.

14 (d) The person filing the appeal may be represented by counsel at the hearing. The plan  
15 shall be represented by the board's legal advisor.

16 (e) All witnesses testifying at the hearing shall do so under oath or by affirmation,  
17 subject to the penalties of perjury.

18 (f) As soon as administratively practicable after the hearing, the board shall render its  
19 decision and notify the person filing the appeal of that decision. In its decision, the board may  
20 affirm, modify, or reverse the determination or action from which the appeal was taken.

21 (g) A party aggrieved by a final decision of the board of trustees may seek judicial review  
22 of that decision by petition to the New Hampshire supreme court.

23 XIV. The board may create its own set of ethics rules to be followed by the board and its  
24 employees for the administration of this subdivision. No trustee or board employee may do business  
25 with the plan.

26 100-A:60 Membership in Supplemental Savings Plan.

27 I. Any group I member who commences service on or after January 1, 2012 and is  
28 employed on or after April 1, 2014, is a member of the supplemental savings plan. Any member  
29 earning benefits in this plan shall also be a member and earning benefits in the defined benefit  
30 retirement plan.

31 II. An employee initially employed by a participating employer on or after April 1, 2014,  
32 shall commence participation in the plan as of the date on which that initial employment begins.

33 III. A group I member who was employed by a participating employer before April 1, 2014  
34 but who commenced service on or after January 1, 2012 shall commence participation in the plan  
35 on April 1, 2014.

1 IV. A plan member who terminates employment with a participating employer and is  
2 subsequently reemployed by that or another participating employer recommences participation in  
3 the plan as of the date on which that reemployment begins.

4 V. A member's participation in the supplemental savings plan terminates on the complete  
5 distribution to the member or the member's beneficiary of the member's account.

6 100-A:61 Contributions.

7 I. For each payroll period the member's employer shall contribute to the supplemental  
8 savings plan an amount equal to 4 percent of the employee's base pay for that payroll period. As  
9 soon as administratively practicable after the employer contribution is made, the contribution will be  
10 credited to the member's employer contribution sub-account.

11 II.(a) Subject to the requirements of this section, a member may make one or more rollover  
12 contributions to the supplemental savings plan. As soon as administratively practicable after a  
13 rollover contribution is made; the contribution will be credited to the member's rollover contribution  
14 sub-account.

15 (b) A member who wishes to make a rollover contribution shall:

16 (1) File a request with the board of trustees in the form required by the board; and

17 (2) Establish to the satisfaction of the board that amounts intended to be rolled over  
18 satisfy the conditions of subparagraph (c).

19 (c) Every rollover contribution shall be:

20 (1) An "eligible rollover distribution", as defined in Internal Revenue Code section  
21 402(f)(2)(A);

22 (2) Made solely in cash;

23 (3) Distributed from:

24 (A) A qualified plan under Internal Revenue Code section 401(a) or section 403(a),  
25 except that amounts rolled over may not include nondeductible or after tax contributions;

26 (B) A tax-sheltered annuity under Internal Revenue Code section 403(b);

27 (C) An eligible plan under Internal Revenue Code section 457(b) that is  
28 maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state  
29 or political subdivision of a state; or

30 (D) An individual retirement account under Internal Revenue Code section  
31 408(a) or an individual retirement annuity under Internal Revenue Code section 408(b), except that  
32 amounts rolled over may not include nondeductible or after tax contributions; and

33 (4) Either transferred directly to the supplemental savings plan or, within 60 days of  
34 its receipt, contributed to the plan by the member.

35 III.(a) To the extent required by USERRA, a member returning from an unpaid leave of  
36 absence on account of military service shall receive the employer 4 percent contributions the member  
37 would have received had he or she remained actively employed by a participating employer.

1 (b) The employer’s makeup contribution is based on what the member’s base pay would  
2 have been had the member remained actively employed.

3 (c) As soon as administratively practicable, after the employer contribution is made, the  
4 contribution will be credited to the member’s employer contribution sub-account.

5 IV. In this section, the following terms have the meanings indicated.

6 (a) “Annual additions” means the amount of the mandatory employer contributions made  
7 under paragraph I credited to a member’s account for the limitation year. “Annual additions”  
8 includes makeup contributions made under paragraph III for the limitation year to which the  
9 contributions relate, not for the limitation year in which the contributions are made. “Annual  
10 additions” shall not include rollover contributions made under paragraph II.

11 (b) “Limitation year” means a calendar year.

12 (c)(1) “Section 415 compensation” means wages, within the meaning of Internal Revenue  
13 Code section 3401, plus amounts that would be included in wages but for an election under Internal  
14 Revenue Code section 125, section 132(f)(4), section 402(e)(3), section 402(h)(1)(B), section 402(k), or  
15 section 457(b), and all other payments of compensation to an employee by a participating employer  
16 for which the employer is required to furnish the employee a written statement under Internal  
17 Revenue Code section 6041(d), section 6051(a)(3), or section 6052.

18 (2) Section 415 compensation shall be determined without regard to any rules  
19 under Internal Revenue Code section 3401 that limit the remuneration included in wages based on  
20 the nature or location of the employment or the services performed, such as the exception for  
21 agricultural labor in Internal Revenue Code section 3401(a)(2).

22 (3) Section 415 compensation for a limitation year is the section 415 compensation  
23 actually paid or made available in gross income for that limitation year.

24 (4) Section 415 compensation includes the following amounts paid after an  
25 employee’s severance from employment with a participating employer, if those amounts would have  
26 been included in subparagraph (A) had they been paid before severance and if those amounts are  
27 paid to the employee before the later of 2-½ months after severance or the end of the calendar year in  
28 which the severance becomes effective:

29 (A) Regular payments made after severance, if:

30 (i) The payments are compensation for services during the employee’s  
31 regular working hours; compensation for services outside the employee’s regular working hours, such  
32 as overtime or shift differential; or commissions, bonuses, or other similar payments; and

33 (ii) The payments would have been paid to the employee before severance  
34 had the employee continued to be employed by the employer; and

35 (B) Payments made after severance for accrued and unused bona fide sick,  
36 vacation, or other leave, if the employee would have been able to use that leave had the employee  
37 continued to be employed by the employer.

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1           (5) Section 415 compensation for a limitation year does not include compensation in  
2 excess of the compensation limit applicable to that limitation year under Internal Revenue Code  
3 section 401(a)(17).

4           V. Notwithstanding any other provision of this section, to the extent required under the  
5 internal revenue code, the annual additions that are credited to the account of any member in any  
6 limitation year may not exceed the lesser of:

7           (a) \$40,000, as adjusted by cost-of-living increases under Internal Revenue Code section  
8 415(d); or

9           (b) 100 percent of the member's section 415 compensation for the limitation year.

10          VI. If, for any limitation year, the annual additions that are credited to the account of a  
11 member exceed the limitation set forth in paragraph V, the employer and trustees shall follow any  
12 applicable correction methodology authorized by the Internal Revenue Service under the employee  
13 plans compliance resolution system ("EPCRS") or otherwise.

14          VII. Pursuant to Internal Revenue Code section 401(a)(17) and the regulations adopted  
15 under that section, the annual compensation of each member taken into account in determining the  
16 amount of contributions under the supplemental savings plan may not exceed \$200,000, as adjusted  
17 by cost-of-living increases under Internal Revenue Code section 415(d).

18          100-A:62 Accounts Establishment.

19          I.(a) A separate account on behalf of each member will be established and maintained under  
20 the supplemental savings plan.

21          (b) The establishment and maintenance of an account is for bookkeeping purposes only  
22 and does not require or permit assets held in any account to be segregated for investment purposes.

23          II. A member's account consists of the following sub-accounts:

24          (a) A mandatory employer contribution sub-account, also called employer contribution  
25 sub-account;

26          (b) If applicable, a rollover contribution sub-account.

27          III. To each member sub-account:

28          (a) Contributions are credited under RSA 100-A:61, I or RSA 100-A:61, II, respectively;

29          (b) Gains and losses are allocated paragraph VII; and

30          (c) Fees and expenses are charged under paragraph VIII.

31          IV. The board of trustees shall select one or more separate investment funds in which a  
32 member may elect to have the member's account invested and a default investment fund for the  
33 automatic investment of the account of a member who fails to make an affirmative investment  
34 election under paragraph V. From time to time, the board may change any or all of the investment  
35 funds or the default investment fund, and any change shall be communicated to members before its  
36 effective date.



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1           V.(a) Each member shall be provided a list that identifies the available investment funds,  
2 including the default investment fund, when commencing participation in the supplemental savings plan.

3           (b) In accordance with procedures established by the board, each member may affirmatively  
4 elect to have the member's account invested in one or more of the listed investment funds.

5           (c) An affirmative investment election remains in effect until the member changes it by  
6 making a new election in accordance with the board's procedures; a new election revokes all prior  
7 elections.

8           (d) As soon as administratively practicable after a member's affirmative investment  
9 election is received, the member's account shall be invested in accordance with that election.

10          VI. Unless and until a member makes an affirmative investment election under paragraph  
11 V, the member is deemed to have made an election to have the member's account invested  
12 automatically in the default investment fund.

13          VII. All gains and losses of an investment fund in which a member's account is invested  
14 shall be allocated to that account based on established procedures applied on a uniform and  
15 nondiscriminatory basis.

16          VIII. All fees charged and expenses incurred by an investment fund in which a member's  
17 account is invested, including servicing fees paid by the investment fund to the plan's third-party  
18 administrator, shall be charged to that account based on established procedures applied on a  
19 uniform and nondiscriminatory basis.

20          IX.(a) In this section, "valuation date" means the date, no less frequently than the last day of  
21 each calendar quarter, for determining:

22               (1) The fair market value of each investment fund, including the default  
23 investment fund;

24               (2) The portion of each member's account invested in that fund; and

25               (3) The total value of each member's account.

26          (b) The fair market value of each investment fund, the portion of each member's account  
27 invested in that fund, and the total value of each member's account shall be determined as of each  
28 valuation date, based on established procedures applied on a uniform and nondiscriminatory basis.

29          (c) The date as of which a member's account is valued on a distributable event under  
30 RSA 100-A:65 shall be determined on the basis of established procedures applied on a uniform and  
31 nondiscriminatory basis.

32          X. On a periodic basis, but no less frequently than quarterly, a statement showing the value  
33 of a member's account as of the most recent valuation date shall be made available to each member.

34          100-A:63 Entitlement to Accounts.

35          I. A member's employer contribution sub-account becomes nonforfeitable when the member  
36 enters permanent employment.

37          II. A member's rollover contribution sub-account is immediately non-forfeitable.

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1           100-A:64 Forfeitures. There shall be no forfeiture of any accounts under this subdivision.

2           100-A:65 Distributions.

3           I. Distributions from the supplemental savings plan may only be made in one lump-sum  
4 cash payment.

5           II. A member who terminates employment on or after the member's normal retirement age  
6 is entitled to receive, as soon as administratively practicable after the termination, the value of the  
7 member's:

8                   (a) Employer contribution sub-account; and

9                   (b) If applicable, rollover contribution sub-account.

10          III.(a) "Social Security Administration (SSA) determination of disability" means a written  
11 determination, made by a Social Security Administration's disability determination service, hearing  
12 officer, or administrative law judge, that a member is disabled under the Social Security Act.

13           (b) If a member terminates employment as a result of a disability incurred while an  
14 employee, the member is entitled to receive:

15                   (1) The value of the member's rollover contribution sub-account, as soon as  
16 administratively practicable after the termination; and

17                   (2) The value of the member's employer contribution sub-account, determined as of  
18 the date of termination of employment, as soon as administratively practicable after the member  
19 provides the board of trustees with the SSA determination of disability required by subparagraph (c).

20           (c) A member who seeks to receive a distribution of his or her employer contribution sub-  
21 account as a result of a disability shall provide the board of trustees, in accordance with procedures  
22 established by the board, with an SSA determination of disability no later than 36 months after the  
23 member's termination. If a determination of disability is not provided by that deadline, the member  
24 is not eligible to receive the distribution as a result of a disability, but the member might still be  
25 eligible for a distribution of that subaccount under paragraph II or paragraph V.

26           (d) The final determination of whether a member is eligible to receive a distribution of  
27 the member's employer contribution sub-account as a result of a disability is made by the board of  
28 trustees and shall be final and binding on all persons, subject to the rights of appeal and review  
29 under RSA 100-A:59, XIII.

30          IV.(a) On the death of a member while an employee, or before receiving a distribution under  
31 paragraph II, III, or V, the member's beneficiary is entitled to receive, as soon as administratively  
32 practicable after the board of trustees has determined that the member has died, the value of the  
33 member's employer contribution sub-account and, if applicable, rollover contribution sub-account.

34           (b) In accordance with procedures established by the board, a member may designate a  
35 beneficiary to receive death benefits from the plan. The designation remains in effect until the  
36 member changes it by making a new designation in accordance with the board's procedures; a new  
37 designation revokes all prior designations.

1 (c) To receive a death benefit under this section, the member's beneficiary shall establish  
2 to the satisfaction of the board that the member has died.

3 (d) If the board determines that a member has died without validly designating a  
4 beneficiary or that no validly-designated beneficiary is still alive, the value of the member's account  
5 will be paid to:

6 (1) The member's surviving spouse;

7 (2) If there is no surviving spouse, to the member's surviving children, in equal  
8 shares;

9 (3) If there are no surviving children, to the member's surviving parents, in equal  
10 shares; and

11 (4) If there are no surviving parents, to the member's estate.

12 (e)(1) If any question or dispute arises regarding payment of a death benefit under this  
13 section, the board may:

14 (A) Distribute the death benefit to the member's estate;

15 (B) Retain the death benefit until the board is satisfied that the right to payment  
16 has been finally determined; or

17 (C) Deposit the amount of the death benefit into any court of competent  
18 jurisdiction.

19 (2) A determination by the board under this section is final and binding on all  
20 persons, subject to the rights of appeal and review under RSA 100-A:59, XIII.

21 V. If a member terminates employment before the member's normal retirement age and not  
22 as a result of disability or death, the member is entitled to receive, as soon as administratively  
23 practicable after the termination, the value of the member's mandatory employer contribution sub-  
24 account and, if applicable, rollover contribution sub-account.

25 VI. No loan against nor in-service withdrawal from any part of a member's account is  
26 permitted.

27 VII. In this section, the following terms have the meanings indicated:

28 (a) "Distributee" means:

29 (1) An employee or former employee;

30 (2) The employee's or former employee's spouse or former spouse who is the  
31 alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code  
32 section 414(p), with regard to the interest of the spouse or former spouse; or

33 (3) The employee's or former employee's nonspouse designated beneficiary, if the  
34 direct rollover is made to an individual retirement account or annuity ("IRA") under Internal  
35 Revenue Code section 408(a) or section 408(b) that:

36 (A) Is established on behalf of the designated beneficiary; and

1 (B) Is treated as an inherited IRA under Internal Revenue Code section  
2 402(c)(11).

3 (b) “Eligible retirement plan” means any of the following that accepts a distributee’s  
4 eligible rollover distribution:

5 (1) An individual retirement account under Internal Revenue Code section 408(a);

6 (2) An individual retirement annuity under Internal Revenue Code section 408(b);

7 (3) A qualified plan under Internal Revenue Code section 401(a);

8 (4) An annuity plan under Internal Revenue Code section 403(a);

9 (5) An eligible deferred compensation plan under Internal Revenue Code section  
10 457(b) that is maintained by a state, a political subdivision of a state, or any agency or  
11 instrumentality of a state or political subdivision of a state and that agrees to separately account for  
12 amounts transferred from the supplemental savings plan;

13 (6) An annuity contract described in Internal Revenue Code section 403(b); and

14 (7) A Roth IRA described in Internal Revenue Code section 408-A.

15 (c)(1) “Eligible rollover distribution” means any distribution of all or any portion of the  
16 balance to the credit of the distributee. “Eligible rollover distribution” does not include:

17 (A) Any distribution that is one of a series of substantially equal periodic  
18 payments, not less frequently than annually, made for the life, or life expectancy, of the distributee  
19 or the joint lives, or joint life expectancies, of the distributee and the distributee’s designated  
20 beneficiary, or for a specified period of 10 years or more;

21 (B) Any distribution to the extent that it is required under Internal Revenue  
22 Code section 401(a)(9);

23 (C) Any distribution that is made on account of hardship; and

24 (D) Subject to subparagraph (c)(2), the portion of any distribution that is not  
25 includible in gross income.

26 (2) A portion of a distribution does not fail to be an “eligible rollover distribution”  
27 merely because the portion consists of after-tax employee contributions that are not includible in  
28 gross income. This provision applies only if the portion is transferred to:

29 (a) A traditional individual retirement account or annuity under Internal  
30 Revenue Code section 408(a) or section 408(b) or a Roth individual retirement account or annuity  
31 under Internal Revenue Code section 408-A; or

32 (b) A qualified plan under Internal Revenue Code section 401(a) or section 403(a)  
33 or an annuity contract under Internal Revenue Code section 403(b), if the plan or contract provides  
34 for separate accounts for amounts so transferred, including earnings on the transferred amounts,  
35 and separate accounting for the portion of the distribution that is includible in gross income and the  
36 portion of the distribution that is not so includible.

1 VIII. Notwithstanding any provision of this section that would otherwise limit a  
2 distributee's election under this paragraph, a distributee may elect, at the time and in the manner  
3 directed by the board of trustees, to have any portion of an eligible rollover distribution paid directly  
4 to an eligible retirement plan specified by the distributee in a direct rollover.

5 IX.(a) Notwithstanding any other provision of this section, distributions under this section  
6 shall be made in accordance with a reasonable good faith interpretation of Internal Revenue Code  
7 section 401(a)(9), as applicable to the supplemental savings plan.

8 (b) The member's entire interest shall be distributed to the member no later than the  
9 April 1 of the calendar year following the later of:

10 (1) The calendar year in which the member attains age 70-½; or

11 (2) The calendar year in which the member terminates employment with a  
12 participating employer.

13 (c) If the member dies before distribution is made, the member's entire interest shall be  
14 distributed no later than December 31 of the calendar year in which the fifth anniversary of the  
15 member's death occurs.

16 100-A:66 Anti-Alienation Provisions.

17 I. Except as otherwise expressly provided in paragraphs II through IX, all current and  
18 future benefits provided under the supplemental savings plan and all amounts that have been  
19 credited to a member's account are unassignable, and no person may attach, execute, garnish, or  
20 otherwise seize any current or future benefit provided under the supplemental savings plan or any  
21 amount that has been credited to a member's account.

22 II.(a) All or any portion of a member's account may be assigned pursuant to:

23 (1) A decree or order of alimony or child support issued by a court of competent  
24 jurisdiction;

25 (2) A court order issued by a court of competent jurisdiction appointing the assignee  
26 as guardian over the property of the member; or

27 (3) A domestic relations order, as defined in subparagraph (b).

28 (b) In this paragraph, "domestic relations order" means either of the following that  
29 satisfies the conditions of subparagraph (c):

30 (1) A member's court-approved property settlement agreement incident to a divorce  
31 decree; or

32 (2) A division of marital property pursuant to a court order that:

33 (A) Creates the right or recognizes the existence of the right of an alternate  
34 payee, as defined in Internal Revenue Code section 414(p)(8), to receive all or a portion of a member's  
35 benefit under the supplemental savings plan; or

36 (B) Assigns to an alternate payee the right to receive all or a portion of a  
37 member's benefit under the plan.

1 (c) The property settlement agreement or court order:

2 (1) May not require the plan to make any distribution to the alternate payee in a  
3 form of payment other than as required by RSA 100-A:65, I;

4 (2) May not require the plan to provide to the alternate payee an amount greater  
5 than the value of the member's account;

6 (3) May not require the payment of benefits to an alternate payee if the benefits are  
7 required to be paid to another alternate payee under another order previously accepted as a domestic  
8 relations order;

9 (4) Shall clearly specify the percentage or amount of the member's account to be  
10 distributed to the alternate payee or the manner in which the percentage or amount is to be  
11 determined; and

12 (5) Shall clearly specify, or, to protect the parties' privacy, require submission by  
13 separate writing of, the name, social security number, birth date, and last known mailing address of  
14 the member and the alternate payee.

15 (d) Following a determination by the board of trustees that a property settlement  
16 agreement or court order is a domestic relations order:

17 (1) A separate account shall be established and maintained on behalf of the alternate  
18 payee;

19 (2) The alternate payee shall be afforded the same rights with respect to the account  
20 as a member has under this section, including the right to make an investment election under  
21 RSA 100-A:62, V; and

22 (3) Distributions to the alternate payee shall be made at the time specified in the  
23 domestic relations order, which may be before the member to whom the domestic relations order  
24 relates has a distributable event under RSA 100-A:65.

25 III. All or any portion of a member's account may be paid in satisfaction of a federal or state  
26 tax lien.

27 IV. The amount otherwise due a member or beneficiary may be paid to the member's or  
28 beneficiary's attorney-in-fact, as agent of the member or beneficiary, if the member or beneficiary  
29 has properly designated the attorney-in-fact to act as agent under a duly-executed durable power of  
30 attorney.

31 V. The amount otherwise due a member or beneficiary may be paid to the member's or  
32 beneficiary's trustee, if the trustee was designated trustee of the member or beneficiary under an  
33 enforceable inter vivos or testamentary trust agreement.

34 VI. The amount otherwise due a member or beneficiary may be paid to the member's or  
35 beneficiary's social security "representative payee" pursuant to the Social Security Act, 42 U.S.C.  
36 section 405(j).

1 VII. All or any portion of a member's account that is payable on account of a member's death  
2 may be paid to a funeral establishment providing funeral services to the deceased member, if the  
3 member's beneficiary files with the board of trustees, in the form required by the board, the  
4 beneficiary's consent to that payment.

5 VIII. An assignment under paragraphs II through VII may be made only after the board of  
6 trustees receives:

7 (a) A copy, as appropriate, of the court order or decree, notice of tax lien, power of  
8 attorney, custodial designation, trust document, certification of representative payee, or consent to  
9 assignment to funeral establishment; and

10 (b) Any additional documents or information that the board requires.

11 IX. If the board, the Social Security Administration, or a court of competent jurisdiction  
12 determines that any amount paid under paragraphs II through VII was obtained by fraud or  
13 misused, the board shall take all necessary steps to recover that amount.

14 100-A:67 Plan Modifications.

15 I. Subject to the limitations of paragraph II, the state reserves the right, at any time, to  
16 amend any provision of this subdivision.

17 II. Notwithstanding paragraph I, no amendment may cause any contributions made before  
18 the amendment's effective date to become forfeitable.

19 III. The state reserves the right, at any time, to permanently discontinue contributions to  
20 the plan or to terminate the plan. On the effective date of a permanent discontinuance of  
21 contributions or a plan termination, and notwithstanding any other provision of this section:

22 (a) No person who is not already a member may become a member;

23 (b) No further contributions may be made to the plan; and

24 (c) The employer contribution sub-account of any member that is not already 100 percent  
25 nonforfeitable becomes 100 percent nonforfeitable.

26 IV. As soon as administratively practicable after the effective date of a permanent  
27 discontinuance of contributions or a plan termination, the value of each member's account shall be  
28 paid to the member in one lump-sum cash payment.

29 V. In the case of a merger or consolidation of the supplemental savings plan with, or a  
30 transfer of plan assets or liabilities to, any other plan, each member of the supplemental savings  
31 plan is entitled to receive, immediately after the merger consolidation, or transfer, as if the other  
32 plan had then terminated, a benefit that is equal to or greater than the benefit the member would  
33 have been entitled to receive immediately before the merger, consolidation, or transfer, as if the  
34 supplemental savings plan had then terminated.

35 4 Effective Date. This act shall take effect April 1, 2014.

**SB 364-FN - FISCAL NOTE**

AN ACT relative to group II service retirement allowances and relative to establishing a supplemental savings plan in the retirement system.

**FISCAL IMPACT:**

The New Hampshire Retirement System states this bill, **as introduced**, will have an indeterminable impact on state and local expenditures in FY 2014 and each year thereafter. There will be no impact on county expenditures, or state, county, and local revenue.

**METHODOLOGY:**

The New Hampshire Retirement System states this bill increases Group II service retirement allowances for members who commenced service on or after January 1, 2012. In addition, the bill establishes a defined benefit contribution supplemental savings plan within the System, administered by the board of trustees. The System states that the bill's impact on the System's administrative costs is indeterminable. With respect to employer costs, the System's contracted actuary has estimated the combined increase in employer contributions resulting from the Group II service retirement allowance charge and the four percent employer contribution to the supplemental savings plan for Group I members who commenced service on or after January 1, 2012 and then entered the plan on April 1, 2014. The System estimates the bill will have the following impact on employer pension rates as a percentage of payroll for each employee category:

	<b>Employees</b>	<b>Teachers</b>	<b>Police</b>	<b>Fire</b>
<b>Current Proposed 2016-2017 Rates</b>	10.86%	12.72%	22.54%	25.32%
<b>Impact of Proposed Bill</b>	0.79%	0.67%	0.21%	0.10%
<b>Proposed 2016-2017 Rates</b>	11.65%	13.39%	22.75%	25.42%

The System estimates these changes will result in the following dollar increase to employer payroll costs for each employee category:

	<b>Employees</b>	<b>Teachers</b>	<b>Police</b>	<b>Fire</b>
<b>FY 2014</b>	\$ 860,000	\$ 640,000	\$ -	\$ -
<b>FY 2015</b>	\$ 6,390,000	\$ 4,990,000	\$ -	\$ -
<b>FY 2016</b>	\$ 9,230,000	\$ 7,390,000	\$ 630,000	\$ 130,000
<b>FY 2017</b>	\$ 12,100,000	\$ 9,820,000	\$ 650,000	\$ 130,000
<b>FY 2018</b>	\$ 15,020,000	\$ 12,280,000	\$ 670,000	\$ 140,000