

HB 436-FN-LOCAL - AS AMENDED BY THE HOUSE

22Feb2023... 0483h

2023 SESSION

23-0713

10/08

HOUSE BILL

436-FN-LOCAL

AN ACT relative to group II retirement under transition provisions in the retirement system.

SPONSORS: Rep. Pratt, Rock. 4

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill adjusts the transition provisions for group II service retirement adopted in 2011 over a 10 year period until 2033, and makes general fund appropriations each year to fund the cost of the benefits.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to group II retirement under transition provisions in the retirement system.

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

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

3 XXXVIII. "Vested" means that a member is qualified for a benefit upon 10 years of service.
4 The calculations of earnable compensation under RSA 100-A:1, XVII and average final compensation
5 under RSA 100-A:1, XVIII cannot be reduced after 3 years of service.

6 2 Definition of Earnable Compensation; Group II. Amend RSA 100-A:1, XVII to read as follows:

7 XVII. "Earnable compensation" shall mean:

8 (a) For **group I** members who have attained vested status prior to January 1, 2012 the
9 full base rate of compensation paid, as determined by the employer, plus any overtime pay, holiday
10 and vacation pay, sick pay, longevity or severance pay, cost of living bonus, annual attendance
11 stipend or bonus, additional pay for extracurricular and instructional activities for full-time teachers
12 and full-time employees who are employed in paraprofessional or support position, additional pay for
13 instructional activities of full-time faculty of the community college system, and any military
14 differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the
15 member for meals or living quarters if subject to federal income tax, but excluding other
16 compensation except cash incentives paid by an employer to encourage members to retire,
17 supplemental pay paid by the employer while the member is receiving workers' compensation, and
18 teacher development pay that is not part of the contracted annual salary. ~~[Compensation for extra~~
19 ~~and special duty, as reported by the employer, shall be included but limited during the highest 3~~
20 ~~years of creditable service as provided in paragraph XVIII].~~ However, earnable compensation in the
21 final 12 months of creditable service prior to termination of employment shall be limited to 1-1/2
22 times the higher of the earnable compensation in the 12-month period preceding the final 12 months
23 or the highest compensation year as determined for the purpose of calculating average final
24 compensation, but excluding the final 12 months. Any compensation received in the final 12 months
25 of employment in excess of such limit shall not be subject to member or employer contributions to
26 the retirement system and shall not be considered in the computation of average final compensation.
27 Provided that, the annual compensation limit for members of governmental defined benefit pension
28 plans under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended,
29 shall apply to earnable compensation for all employees~~[,~~ **and** teachers~~[, permanent firemen, and~~
30 ~~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)(1) For **group I** members who have not attained vested status prior to January 1, 2012, the full base rate of compensation paid, as determined by the employer, plus compensation over base pay. Compensation over base pay shall include as applicable, subject to subparagraphs (2)~~[(3), and (4)]~~ **and (3)**, any overtime pay, cost of living bonus, annual attendance stipend or bonus, annual longevity pay, additional pay for extracurricular and instructional activities for full-time teachers and full-time employees who are employed in paraprofessional or support position, additional pay for instructional activities of full-time faculty of the community college system~~compensation for extra and special duty,~~ and any military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living quarters if subject to federal income tax, but excluding other compensation except supplemental pay paid by the employer while the member is receiving workers' compensation and teacher development pay that is not part of the contracted annual salary.

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

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

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

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

5 *(c) For group II members who have attained vested status prior to January 1,*
6 *2013, the full base rate of compensation paid, as determined by the employer, plus any*
7 *overtime pay, holiday and vacation pay, sick pay, longevity or severance pay, cost of living*
8 *bonus, annual attendance stipend or bonus, additional pay for instructional activities,*
9 *and any military differential pay, plus the fair market value of non-cash compensation*
10 *paid to, or on behalf of, the member for meals or living quarters if subject to federal income*
11 *tax, but excluding other compensation except cash incentives paid by an employer to*
12 *encourage members to retire, supplemental pay paid by the employer while the member is*
13 *receiving workers' compensation. Compensation for extra and special duty, as reported by*
14 *the employer, shall be included but limited during the highest 3 years of creditable service*
15 *as provided in paragraph XVIII. However, earnable compensation in the final 12 months*
16 *of creditable service prior to termination of employment shall be limited to 1-1/2 times the*
17 *higher of the earnable compensation in the 12-month period preceding the final 12 months*
18 *or the highest compensation year as determined for the purpose of calculating average*
19 *final compensation, but excluding the final 12 months. Any compensation received in the*
20 *final 12 months of employment in excess of such limit shall not be subject to member or*
21 *employer contributions to the retirement system and shall not be considered in the*
22 *computation of average final compensation. Provided that, the annual compensation limit*
23 *for members of governmental defined benefit pension plans under section 401(a)(17) of the*
24 *United States Internal Revenue Code of 1986, as amended, shall apply to earnable*
25 *compensation for all permanent firemen and permanent policemen who first become*
26 *eligible for membership in the system on or after July 1, 1996. Earnable compensation*
27 *shall not include compensation in any form paid later than 120 days after the member's*
28 *termination of employment from a retirement eligible position, with the limited exceptions*
29 *of disability related severance pay paid to a member or retiree no later than 120 days after*
30 *a decision by the board of trustees granting the member or retiree disability retirement*
31 *benefits pursuant to RSA 100-A:6 and of severance pay which a member was entitled to be*
32 *paid within 120 days after termination but which, without the consent of the member and*
33 *not through any fault of the member, was paid more than 120 days after the member's*
34 *termination. The member shall have the burden of proving to the board of trustees that*
35 *any severance payment paid later than 120 days after the member's termination of*
36 *employment is earnable compensation and meets the requirements of an asserted exception*
37 *to the 120-day post-termination payment requirement.*

(d)(1) *For group II members who have not attained vested status prior to January 1, 2013, the full base rate of compensation paid, as determined by the employer, plus compensation over base pay. Compensation over base pay shall include as applicable, subject to subparagraphs (2), and (3), any overtime pay, cost of living bonus, annual attendance stipend or bonus, annual longevity pay, compensation for extra and special duty, and any military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living quarters if subject to federal income tax, but excluding other compensation except supplemental pay paid by the employer while the member is receiving workers' compensation that is not part of the contracted annual salary.*

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

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

3 Definition of Average Final Compensation; Group II. Amend RSA 100-A:1, XVIII to read as follows:

XVIII. "Average final compensation" shall mean:

(a) For **group I** members who have attained vested status prior to January 1, 2012, 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 purposes of this calculation, the inclusion of the average annual compensation for extra and special duty in the 3 years shall not exceed the average annual amount of compensation for extra and special duty paid to the member over the member's last 7 years of creditable service on or after July 1, 2009, as~~

reported by the employer in accordance with RSA 100-A:16, VI, or over all of the years in his or her creditable service on or after July 1, 2009 if less than 7 years.]

(b) *For group II members who have attained vested status prior to January 1, 2013, 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 purposes of this calculation, the inclusion of the average annual compensation for extra and special duty in the 3 years shall not exceed the average annual amount of compensation for extra and special duty paid to the member over the member's last 7 years of creditable service on or after July 1, 2009, as reported by the employer in accordance with RSA 100-A:16, VI, or over all of the years in his or her creditable service on or after July 1, 2009 if less than 7 years.*

~~[(b)]~~ (c) For group I members who commenced service on or after July 1, 2011 or who have not attained vested status prior to January 1, 2012, 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. For purposes of inclusion in this calculation, the average percentage of compensation paid in excess of the full base rate of compensation in the highest 5 years shall not exceed the average percentage of compensation paid in excess of the full base rate of compensation over all the member's years of service on or after January 1, 2012, but excluding the highest 5 years.

~~[(c)(1)]~~ (d)(1) For group II members who commenced service prior to July 1, 2011 and who have not attained vested status prior to January 1, ~~[2012]~~ **2013**, 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. For purposes of inclusion in this calculation, the average percentage of compensation paid in excess of the full base rate of compensation in the highest 5 years shall not exceed the average percentage of compensation paid in excess of the full base rate of compensation over all the member's years of service on or after January 1, **2013**.

(2) For group II members who commenced service on or after July 1, 2011 ~~[and who have not attained vested status prior to January 1, 2012]~~, 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. For purposes of inclusion in this calculation, the average percentage of compensation paid in excess of the full base rate of compensation in the highest 5 years shall not exceed the average percentage of compensation paid in excess of the full base rate of compensation over all the member's years of service on or after January 1, 2012, but excluding the highest 5 years.

4 Group II Service Retirement Benefits. Amend RSA 100-A:5, II to read as follows:

II. Group II Members.

(a) Any group II member in service, who is in vested status before January 1, ~~2012~~ **2013**, who has attained age 45 and completed 20 years of creditable service, and any group II member who commenced service on or after July 1, 2011 who has attained age 50 and completed 25 years of creditable service, and group II members who have not attained vested status prior to January 1, ~~2012~~ **2013** as provided in the transition provisions in RSA 100-A:5, II(d), or any group II member in service 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 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, notwithstanding that during such period of notification the member may have separated from service. Provided, however, that a group II member who commenced service on or after July 1, 2011 shall not receive a service retirement allowance until attaining the age of 52.5; but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 52.5 years of age, by 1/4 of one percent.

(b) Upon service retirement, 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) For members who are in vested status before January 1, ~~2012~~ **2013**, a state annuity which, together with his or her member annuity, 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 not in excess of 40 years, or for members who commenced service on or after July 1, 2011, a state annuity which, together with his or her member annuity, shall be equal to 2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service not in excess of 42.5 years, and group II members who have not attained vested status prior to January 1, ~~2012~~ **2013** shall be as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum number of years of creditable service not in excess of 40.5 years.

(3) Provided, however, that a group II member who commenced service on or after July 1, 2011 shall not receive a service retirement allowance until attaining the age of 52.5; but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 52.5 years of age, by 1/4 of one percent.

(c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member who is in vested status before January 1, ~~2012~~ **2013** and has retired on or after the effective date of this subparagraph after attaining the age of 45 with at least 20 years of creditable service, and any group II member who commenced service on or after July 1, 2011 and retires after the effective date

of this subparagraph after attaining the age of 50 with at least 25 years of creditable service, and group II members who have not attained vested status prior to January 1, [2012] **2013** who qualify as provided in the transition provisions in RSA 100-A:5, II(d), 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.]

(d) Active group II members who commenced service prior to July 1, 2011 and who have not attained vested status prior to January 1, [2012] **2013** shall be subject to the following transition provisions for years of service required for regular service retirement, the minimum age for regular service retirement, and the multiplier used to calculate the retirement annuity[~~which shall be applicable on or after January 1, 2012~~] according to the following table:

Creditable service on	Minimum years	Minimum	Annuity
January 1, 2012	of service	age attained	multiplier
(1) Less than 4 years	24	age 49	2.1%
(2) At least 4 years	23	age 48	2.2%
but less than 6 years			
(3) At least 6 years but	22	age 47	2.3%
less than 8 years			
(4) At least 8 years but	21	age 46	2.4%
less than 10 years]			
(1) Less than 1 year	24	age 49	2.1%
(2) At least 1 years	24	age 49	2.1%
but less than 2 years			
(3) At least 2 years but	24	age 49	2.1%
less than 3 years			
(4) At least 3 years but	24	age 49	2.1%
less than 4 years			
(5) At least 4 years	23	age 48	2.2%
but less than 5 years			
(6) At least 5 years	23	age 48	2.2%
but less than 6 years			
(7) At least 6 years but	22	age 47	2.3%
less than 7 years			
(8) At least 7 years but	22	age 47	2.3%
less than 8 years			

(9) At least 8 years but 21 age 46 2.4%
less than 9 years

(e) Notwithstanding the transition provisions of subparagraph (d), the member may replace the additional years of service required for minimum retirement age with the years of service that are purchased under RSA 100-A:4, IX. Therefore, allowing the member to retire between the age of 45 and 49 depending upon the years of service purchased. The purchased years under RSA 100-A:4, IX shall have an annual multiplier of 2.5 percent regardless of the percentage listed in subparagraph (d).

5 Retirement; Maximum Retirement Benefit. Amend RSA 100-A:6-a to read as follows:

100-A:6-a Maximum Retirement Benefit.

(a) Notwithstanding any other provision of this chapter to the contrary, for members who commenced service before ~~[July 1, 2009]~~ **July 1, 2001**, ~~[or have attained vested status prior to January 1, 2012,]~~ a member's initial calculation of the retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's highest year of earnable compensation.

(b) For members who commenced service on or after ~~[July 1, 2009 and have not attained vested status prior to January 1, 2012,]~~ **January 1, 2001 and before July 1, 2011**, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed the lesser of ~~[85]~~ **100** percent of the member's average final compensation or ~~[\$120,000]~~ **\$125,000. The maximum benefit shall increase annually 1.25 percent on January 1 of each year. The retirement system shall publish the current maximum benefit.**

(c) For members who commenced service on or after July 1, 2011, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed the lesser of 85 percent of the member's average final compensation or **\$125,000. The maximum benefit shall increase annually 1.25 percent on January 1 of each year. The retirement system shall publish the current maximum benefit.**

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

6 Retirement System; Group II; Date Change for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the following RSA provisions by replacing the term "January 1, 2012" with the term "January 1, 2013": 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1, XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d)-(except table heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a) and (c); 100-A:19-d.

7 Subsequent Changes Effective January 1, 2025; Retirement System; Group II; Date Change for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the

HB 436-FN-LOCAL - AS AMENDED BY THE HOUSE
- Page 9 -

1 following RSA provisions by replacing the term "January 1, 2013" with the term "January 1, 2014":
2 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1,
3 XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d)-(except table
4 heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a)
5 and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (9) from the table in RSA 100-A:5, II(d).

6 8 Subsequent Changes Effective January 1, 2026; Retirement System; Group II; Date Change
7 for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the
8 following RSA provisions by replacing the term "January 1, 2014" with the term "January 1, 2015":
9 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1,
10 XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d)-(except table
11 heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a)
12 and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (8) from the table in RSA 100-A:5, II(d).

13 9 Subsequent Changes Effective January 1, 2027; Retirement System; Group II; Date Change
14 for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the
15 following RSA provisions by replacing the term "January 1, 2015" with the term "January 1, 2016":
16 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1,
17 XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d)-(except table
18 heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a)
19 and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (7) from the table in RSA 100-A:5, II(d).

20 10 Subsequent Changes Effective January 1, 2028; Retirement System; Group II; Date Change
21 for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the
22 following RSA provisions by replacing the term "January 1, 2016" with the term "January 1, 2017":
23 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1,
24 XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d)-(except table
25 heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a)
26 and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (6) from the table in RSA 100-A:5, II(d).

27 11 Subsequent Changes Effective January 1, 2029; Retirement System; Group II; Date Change
28 for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the
29 following RSA provisions by replacing the term "January 1, 2017" with the term "January 1, 2018":
30 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1,
31 XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d)-(except table
32 heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a)
33 and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (5) from the table in RSA 100-A:5, II(d).

34 12 Subsequent Changes Effective January 1, 2030; Retirement System; Group II; Date Change
35 for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the
36 following RSA provisions by replacing the term "January 1, 2018" with the term "January 1, 2019":
37 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1,

HB 436-FN-LOCAL - AS AMENDED BY THE HOUSE
- Page 10 -

XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d) -(except table heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a) and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (4) from the table in RSA 100-A:5, II(d).

13 Subsequent Changes Effective January 1, 2031; Retirement System; Group II; Date Change for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the following RSA provisions by replacing the term "January 1, 2019" with the term "January 1, 2020": 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1, XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d) -(except table heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a) and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (3) from the table in RSA 100-A:5, II(d).

14 Subsequent Changes Effective January 1, 2032; Retirement System; Group II; Date Change for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the following RSA provisions by replacing the term "January 1, 2020" with the term "January 1, 2021": 21-I:30, VIII; 100-A:1, XVII(c); 100-A:1, XVII(d)(1); 100-A:1, XVIII(b); 100-A:1, XVIII(d)(1); 100-A:1, XXXVII (b)(1) and (3); 100-A:5, II(a); 100-A:5, II(b)(2); 100-A:5, II(c)(1); 100-A:5, II(d)-(except table heading); 100-A:6, II(b); 100-A:6, II(d)(1) and (3); 100-A:10, II(b); 100-A:16, I(aa); 100-A:19-b, II(a) and (c); 100-A:19-d; 100-A:5, II (d); and delete subparagraph (2) from the table in RSA 100-A:5, II(d).

15 Subsequent Changes Effective January 1, 2033; Retirement System; Group II; Date Change for Application of Retirement Provisions Adopted in 2011 to Members in Vested Status. Amend the following RSA provisions as follows:

I. 21-I:30, VIII; remove “and group II members who have not attained vested status prior to January 1, 2021 shall be as provided in the transition provisions in RSA 100-A:5, II(d)”.

II. 100-A:1, XVII(c); replace “who have not attained vested status prior to January 1, 2021” with “who commenced service prior to July 1, 2011”.

III. 100-A:1, XVII(d)(1); replace “who have not attained vested status prior to January 1, 2021” with “who commenced service on or after July 1, 2011”.

IV. 100-A:1, XVIII(b); replace “who have not attained vested status prior to January 1, 2021” with “who commenced service prior to July 1, 2011”.

V. 100-A:1, XVIII(d)(1); delete subparagraph (1).

VI. 100-A:1, XXXVII (b)(1) and (3); in (1), replace “in vested status before January 1, 2021” with “who commenced service before July 1, 2011”, and delete subparagraph (3).

VII. 100-A:5, II(a); replace “who is in vested status before January 1, 2021” with “who commenced service prior to July 1, 2011”; delete “and group II members who have not attained vested status prior to January 1, 2012 as provided in the transition provisions in RSA 100-A:5, II(d),”.

VIII. 100-A:5, II(b)(2); replace “who is in vested status before January 1, 2021” with “who commenced service prior to July 1, 2011”; delete “, and group II members who have not attained

HB 436-FN-LOCAL - AS AMENDED BY THE HOUSE
- Page 11 -

1 vested status prior to January 1, 2012 as provided in the transition provisions in RSA 100-A:5, II(d)
2 with maximum number of years of credible service not in excess of 40.5 years”.

3 IX. 100-A:5, II(c)(1); replace “who is in vested status before January 1, 2021 and” with “who
4 commenced service prior to July 1, 2011”; delete “and group II members who have not attained
5 vested status prior to January 1, 2012 as provided in the transition provisions in RSA 100-A:5,
6 II(d),”.

7 X. 100-A:5, II(d), delete the subparagraph.

8 XI. 100-A:6, II(b); replace “in vested status before January 1, 2021” with “who commenced
9 service before July 1, 2011”; delete “and group II members who have not attained vested status prior
10 to January 1, 2021 as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum
11 number of years of credible service not in excess of 40.5 years”.

12 XII. 100-A:6, II(d)(1) and (3); in (1) replace “who are in vested status before January 1, 2021”
13 with “who commenced service before July 1, 2011”, and delete subparagraph (3).

14 XIII. 100-A:10, II(b); replace “who are in vested status before January 1, 2021” with “who
15 commenced service before July 1, 2011”. Delete “and group II members who have not attained
16 vested status prior to January 1, 2021 shall be as provided in the transition provisions in RSA 100-
17 A:5, II(d)”.

18 XIV. 100-A:16, I(aa); replace “who is in vested status before January 1, 2021” with “who
19 commenced service prior to July 1, 2011”.

20 XV. 100-A:19-b, II(a) and (c); in (a) replace “who is in vested status before January 1, 2021”
21 with “who commenced service prior to July 1, 2011”, and delete subparagraph (c).

22 XVI. 100-A:19-d; replace “for members who are in vested status with Group II service before
23 January 1, 2012” with “for members who commenced service before July 1, 2011”.

24 16 Funding; Appropriations. The sum of \$25,000,000 per state fiscal year is hereby
25 appropriated to the retirement system to fund the cost of benefits under this act. Such sums shall be
26 transferred on the July 1 each year until 2033. The governor is authorized to draw a warrant for
27 said sums out of any money in the treasury not otherwise appropriated.

28 17 Effective Date.

29 I. Section 7 of this act shall take effect January 1, 2025.

30 II. Section 8 of this act shall take effect January 1, 2026.

31 III. Section 9 of this act shall take effect January 1, 2027.

32 IV. Section 10 of this act shall take effect January 1, 2028.

33 V. Section 11 of this act shall take effect January 1, 2029.

34 VI. Section 12 of this act shall take effect January 1, 2030.

35 VII. Section 13 of this act shall take effect January 1, 2031.

36 VIII. Section 14 of this act shall take effect January 1, 2032.

37 IX. Section 15 of this act shall take effect January 1, 2033.

HB 436-FN-LOCAL - AS AMENDED BY THE HOUSE
- Page 12 -

1 X. The remainder of this act shall take effect January 1, 2024.

HB 436-FN-LOCAL- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2023-0483h)

AN ACT relative to group II retirement under transition provisions in the retirement system.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$25,000,000	\$25,000,000
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$165,000+		\$3,280,000
Funding Source:	<div><input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Various Agency Funds</div>			

**POLITICAL
SUBDIVISIONS:**

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable		\$13,860,000

*The New Hampshire Retirement System states it is not able to separate the fiscal impact of this legislation between county and local government, therefore the fiscal impact is shown together as political subdivisions.

METHODOLOGY:

This bill restores, to Group II members, age and service requirements, benefit calculations, and definition related to average final compensation and enable compensation to its original form prior to 2011 amendments. It also adopts an adjustment in transition provisions also adopted in 2011 for Group II members who were in service prior to July 1, 2011, but not vested prior to January 1, 2012. The bill establishes a \$25,000,000 General Fund appropriation each year from July 1 ,2024 thru July 1, 2033 to the Retirement System to fund the cost of this bill.

The New Hampshire Retirement System (NHRS) states this bill restores the provisions previously amended in 2011 by amending the "vested by" date in RSA 100-A:5,II(d) between January 1, 2024 and January 1, 2033 in effect allowing a member who has completed 21 to 22 years of service to have the applicable vested date when the law becomes effective. The chart below assumes no breaks in employment during the first 10 years of service. The NHRS states there are provisions in the bill for members who become eligible to retire before the change in the vested date is applicable to them and has become law.

Hired In Calendar Year	Effective Date of Law
2002	1/1/2024

2003	1/1/2025
2004	1/1/2026
2005	1/1/2027
2006	1/1/2028
2007	1/1/2029
2008	1/1/2030
2009	1/1/2031
2010	1/1/2032
Between 1/1/11 and 6/30/11	1/1/2033

The NHRS states this bill clarifies and establishes a definition for the term "Vested" to mean "qualified for a benefit upon 10 years of service". The bill establishes a definition change for earnable compensation for Group II members subject to the transition rules, essentially reinstating certain types of earnable compensation, including payouts of unused earned time, changing the calculation of the pension benefit from high 5 years to high 3, and eliminating the limit on compensation over base pay. The NHRS states the bill restores Group I and Group II members, active but not vested prior to January 1, 2012, maximum benefit provision to a maximum equal to the lesser of 100% of average final compensation or \$125,000. For members commencing service on or after July 1, 2011, the maximum percentage remains at 85%. In each case, the bill would also increase the fixed dollar maximum by 1.25% each year. Lastly, the NHRS notes in section 5 there is an overlap of dates in sections (a) and (b) of 100-A:6-a, which may need addressing as well as some ambiguity in the new proposed RSA 100-A:1, XVII,(b)(2) concerning the non-reduction of service after 3 years in terms of calculation for “earnable compensation” and “average final compensation”

The NHRS actuary states since contributions rates for FY 2024-2025 have been certified they are not subject to change and there will be no fiscal impact in FY 2024-2025. The NHRS actuary states the FY 2026-2027 contribution rates will be set using the June 30, 2023 valuation. Since the rates for the 2026-2027 biennium are unknown at this time, only the net impact for FY 2026 is shown. It should be noted the fiscal impact of this bill will go well beyond FY 2026. The actuary assumes the \$25,000,000 annual appropriation will be split proportionally based on the increase of benefit changes between Group II members.

STATE

Increase (Decrease) in Employer Pension Rates as a Percent of Payroll	
	Net Impact of Proposal
Employees	0.06%
Police	2.62%

Fire	2.72%
------	-------

Expected Employer Dollar Increase (Decrease) Due to Proposal				
	FY 2023	FY 2024	FY 2025	FY 2026
Employees	-	-	-	\$400,000
Police	-	-	-	\$2,750,000
Fire	-	-	-	<u>\$130,000</u>
TOTAL	\$0	\$0	\$0	\$3,280,000

POLITICAL SUBDIVISIONS

**Increase (Decrease) in Employer Pension Rates
as a Percent of Payroll**

	Net Impact of Proposal
Employees	0.06%
Teachers	0.14%
Police	2.62%
Fire	2.72%

Expected Employer Dollar Increase (Decrease) Due to Proposal				
	FY 2023	FY 2024	FY 2025	FY 2026
Employees	-	-	-	\$490,000
Teachers	-	-	-	\$1,870,000
Police	-	-	-	\$7,070,000
Fire	-	-	-	<u>\$4,430,000</u>
TOTAL	\$0	\$0	\$0	\$13,860,000

The NHRS assumes the annual \$25 million appropriations will be made annually from July 1, 2024 through July 1, 2033. If the appropriation is not paid employer contributions rates for police and fire would increase by 5.58% and 5.41% and the actuarial accrued liability would increase by \$203.5 million. If the appropriation is made annually, the actuarial accrued liability would increase by \$13.8 million based on the provisions in the bill and will be amortized over a fixed period of no longer than 20-years..

The NHRS states the proposed changes in the bill will involve significant administrative costs relating to reprogramming of the pension administration system, revisions to administrative procedures and staff training which will result in an indeterminable increase in expenditures. The NHRS also states they are currently in the process of upgrading the pension

administration system and the proposed changes would require updates to the current and future systems with \$64,000 in reprogramming costs for the current system and \$101,000 for the future system starting in FY 2024. In addition, the NHRS states the changes could delay the implementation of the new system by an indeterminable time and any related staffing, professional and consultant expenses are not included in this estimate of programming costs. Lastly, the NHRS indicates the change in the definition to the earnable compensation will require substantial reeducation regarding the proper reporting to NHRS and revisions to training materials and numerous interpretive memorandums that provide guidance to employers. NHRS states the changes will also result in possible significant costs to 461+ participating employers relating to reprogramming of employer payroll systems all of which is an indeterminable increase in expenditures reflected in both the State and Political Subdivisions expenditures in FY 2024 and FY 2025.

AGENCIES CONTACTED:

New Hampshire Retirement System