

Bill as Introduced

HB 580-FN-LOCAL - AS INTRODUCED

2011 SESSION

11-0488

10/09

HOUSE BILL **580-FN-LOCAL**

AN ACT relative to the New Hampshire retirement system.

SPONSORS: Rep. Kurk, Hills 7; Rep. Hawkins, Hills 18; Sen. White, Dist 9

COMMITTEE: Special Committee on Public Employee Pensions Reform

ANALYSIS

This bill makes various changes to the state retirement system including:

I. Increasing retirement ages of group I and group II members for service retirement, disability retirement, vested deferred retirement, and split benefits.

II. Changing the definitions of earnable compensation and average final compensation used in calculating retirement benefits.

III. Changing the composition of the board of trustees.

IV. Eliminating the special account.

V. Eliminating the retirement system funding of medical benefits premium payments.

VI. Increasing contribution rates.

VII. Establishing a voluntary defined contribution plan administered by the board of trustees.

VIII. Prohibiting a member in service from concurrently receiving benefits.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

* AN ACT relative to the New Hampshire retirement system.

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

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

3 XVIII. "Average final compensation" shall mean, *for members who retire prior to July 1,*
4 *2016*, the average annual earnable compensation of a member during his or her highest 3 years of
5 creditable service, or during all of the years in his or her creditable service if less than 3 years. *For*
6 *members who retire on or after July 1, 2016, "average final compensation" shall mean the*
7 *average annual earnable compensation of a member during his or her highest 5 years of*
8 *creditable service, or during all of the years in his or her creditable service if less than 5*
9 *years.*

10* 2 Retirement System; Definition of Earnable Compensation. Amend RSA 100-A:1, XVII to read
11 as follows:

12 XVII. "Earnable compensation" shall mean:

13 (a) For all members *in service on or before June 30, 2011 and who retire prior to*
14 *before July 1, 2016*, the full base rate of compensation paid plus any overtime pay, holiday and
15 vacation pay, sick pay, longevity or severance pay, cost of living bonus, additional pay for
16 extracurricular and instructional activities or for other extra or special duty, and any military
17 differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the
18 member for meals or living quarters if subject to federal income tax, but excluding other
19 compensation except cash incentives paid by an employer to encourage members to retire,
20 supplemental pay paid by the employer while the member is receiving workers' compensation, and
21 teacher development pay that is not part of the contracted annual salary. However, earnable
22 compensation in the final 12 months of creditable service prior to termination of employment shall
23 be limited to 1- 1/2 times the higher of the earnable compensation in the 12-month period preceding
24 the final 12 months or the highest compensation year as determined for the purpose of calculating
25 average final compensation, but excluding the final 12 months. Any compensation received in the
26 final 12 months of employment in excess of such limit shall not be subject to member or employer
27 contributions to the retirement system and shall not be considered in the computation of average
28 final compensation. Provided that, the annual compensation limit for members of governmental
29 defined benefit pension plans under section 401(a)(17) of the United States Internal Revenue Code of
30 1986, as amended, shall apply to earnable compensation for all employees, teachers, permanent
31 firemen, and permanent policemen who first become eligible for membership in the system on or

1 after July 1, 1996. Earnable compensation shall not include compensation in any form paid later
 2 than 120 days after the member's termination of employment from a retirement eligible position,
 3 with the limited exceptions of disability related severance pay paid to a member or retiree no later
 4 than 120 days after a decision by the board of trustees granting the member or retiree disability
 5 retirement benefits pursuant to RSA 100-A:6 and of severance pay which a member was entitled to
 6 be paid within 120 days after termination but which, without the consent of the member and not
 7 through any fault of the member, was paid more than 120 days after the member's termination. The
 8 member shall have the burden of proving to the board of trustees that any severance payment paid
 9 later than 120 days after the member's termination of employment is earnable compensation and
 10 meets the requirements of an asserted exception to the 120-day post-termination payment
 11 requirement.

12 *(b) For any member in active service on and after July 1, 2011 and who retires*
 13 *after July 1, 2016, the full base rate of compensation paid plus any compensation for*
 14 *mandatory training and any military differential pay. However, earnable compensation in*
 15 *the final 2 12-month periods of creditable service prior to termination of employment shall*
 16 *each be limited to 1-1/2 times the highest compensation year as determined for the purpose*
 17 *of calculating average final compensation, but excluding the final 24 months. Any*
 18 *compensation received in the final 24 months of employment in excess of such limit shall*
 19 *not be subject to member or employer contributions to the retirement system and shall not*
 20 *be considered in the computation of average final compensation. Provided that, the*
 21 *annual compensation limit for members of governmental defined benefit pension plans*
 22 *under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended,*
 23 *shall apply to earnable compensation for all employees, teachers, permanent firemen, and*
 24 *permanent policemen. Earnable compensation shall not include compensation in any form*
 25 *paid later than 120 days after the member's termination of employment from a retirement*
 26 *eligible position.*

27 3 Membership; Employees; Full-Time Requirement. Amend RSA 100-A:3, III to read as
 28 follows:

29 III. The board of trustees may, in its discretion, accept as members any class of *full-time*
 30 employees, *or any class of* teachers, permanent policemen or permanent firemen, whose
 31 compensation is only partly paid by an employer or who are serving on a temporary or other than per
 32 annum basis, and it may also, in its discretion, make optional with *such* employees, teachers,
 33 permanent policemen or permanent firemen in any such class their individual entrance into
 34 membership. *Provided, however, that membership as an employee as defined in RSA 100-*
 35 *A:1, V shall require full-time employment, which shall not be satisfied by the combination*
 36 *of service in one or more part-time positions. In addition, no member in a full-time*
 37 *position as an employee shall be permitted to make contributions or to accrue benefits*

1 *under this chapter on account of any such part-time employment. Any rule or practice*
2 *adopted by the board which is inconsistent with the requirements of this paragraph shall*
3 *be without effect.*

4 4 Service Retirement; Age Increased. Amend RSA 100-A:5 to read as follows:

5 100-A:5 Service Retirement Benefits.

6 I. Group I Members.

7 (a) Any group I member, *who* may retire on a service retirement allowance upon written
8 application to the board of trustees setting forth at what time, not less than 30 days nor more than
9 90 days subsequent to the filing thereof, the member desires to be retired, provided the member at
10 the time so specified for retirement has attained age 60 *if the member is in vested status before*
11 *July 1, 2011 or age 65 if the member is not in vested status on or after July 1, 2011*, and
12 notwithstanding that during such period of notification the member may have separated from
13 service. For the purposes of this section, a teacher member of group I who remains in service
14 throughout a school year shall be deemed to be in service during July and August at the end of such
15 school year.

16 (b) Upon service retirement, an employee member or teacher member of group I shall
17 receive a service retirement allowance which shall consist of a member annuity which shall be the
18 actuarial equivalent of the member's accumulated contributions at the time of retirement, and a
19 state annuity. Prior to the member's attainment of age 65, the state annuity, together with the
20 member annuity, shall be equal to 1/60 of the member's average final compensation multiplied by
21 the number of years of creditable service. After attainment of age 65, the state annuity, together
22 with the member annuity, shall be equal to 1/66 of the member's average final compensation
23 multiplied by the number of years of creditable service.

24 (c) Notwithstanding any other provision of law, any group I member who meets the
25 requirements of RSA 100-A:10, I(a), and who has either completed at least 20 years of creditable
26 service which, when combined with his age equals at least 70 years, or who has attained the age of
27 50, but not the age of 60 *if the member is in vested status before July 1, 2011 or the age of 65 if*
28 *the member is not in vested status on or after July 1, 2011*, may elect to retire and have benefits
29 commence immediately as a reduced service retirement allowance upon written application to the
30 board of trustees setting forth the time, not less than 30 days nor more than 90 days subsequent to
31 the filing thereof, at which the member desires to have benefits commence. The service retirement
32 allowance shall be determined in accordance with RSA 100-A:5, I(b) and shall be reduced, for each
33 month by which the date on which benefits commence precedes the month after which the member
34 attains 60 years of age *if the member is in vested status before July 1, 2011 or 65 years of age*
35 *if the member is not in vested status on or after July 1, 2011*, by 1/8 of one percent if the
36 member has 35 years or more of creditable service, by 1/4 of one percent if the member has 30 years
37 but less than 35 years of creditable service, by 1/3 of one percent if the member has at least 25 years

1 but less than 30 years of creditable service, by 5/12 of one percent if the member has at least 20
 2 years but less than 25 years of creditable service, and by 5/9 of one percent if the member has less
 3 than 20 years of creditable service.

4^d (d) [Repealed.]

5 II. Group II Members.

6 (a) Any group II member in service, *who is in vested status before July 1, 2011*, who
 7 has attained age 45 and completed 20 years of creditable service, or who has attained age 60
 8 regardless of the number of years of creditable service, *and a group II member who commenced*
 9 *service or is not in vested status on or after July 1, 2011, who has attained age 50 and*
 10* *completed 25 years of creditable service, or who has attained age 65 regardless of the*
 11 *number of years of creditable service*, may retire on a service retirement allowance upon written
 12 application to the board of trustees setting forth at what time not less than 30 days nor more than
 13 90 days subsequent to the filing thereof the member desires to be retired, notwithstanding that
 14 during such period of notification the member may have separated from service.

15 (b) Upon service retirement, a group II member shall receive a service retirement
 16* allowance which shall consist of:

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

19 (2) *For members who are in vested status before July 1, 2011*, a state annuity
 20 which, together with his *or her* member annuity, shall be equal to 2-1/2 percent of his *or her*
 21 average final compensation multiplied by the number of years of his *or her* creditable service not in
 22* excess of 40 years, *or for members who commenced service or are not in vested status on or*
 23 *after July 1, 2011, a state annuity which, together with his or her member annuity, shall be*
 24 *equal to 2 percent of his or her average final compensation multiplied by the number of*
 25 *years of his or her creditable service not in excess of 50 years.*

26 (c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member
 27 *who is in vested status before July 1, 2011 and* has retired on or after the effective date of this
 28* subparagraph after attaining the age of 45 with at least 20 years of creditable service, *and any*
 29 *group II member who commenced service or is not in vested status on or after July 1, 2011*
 30 *and has retired on or after the effective date of this subparagraph after attaining the age*
 31 *of 50 with at least 25 years of creditable service*, shall receive a minimum annual service
 32 retirement allowance of \$10,000. If such group II member has elected to convert the retirement
 33 allowance into an optional allowance for the surviving spouse under RSA 100-A:13, the surviving
 34* spouse shall be entitled to a proportional share of the \$10,000.

35 (2) [Repealed.]

36 (3) [Repealed.]

37 5 Disability Retirement; Group I Age Increased. Amend RSA 100-A:6, I(b) to read as follows:

1 (b)(1) Upon ordinary disability retirement, the group I member who has attained age 60
 2 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is not in*
 3 *vested status on or after July 1, 2011* shall receive an ordinary disability retirement allowance
 4 which shall consist of a member annuity and shall be the actuarial equivalent of the member's
 5 accumulated contributions at the time of his ordinary disability retirement, and a state annuity as
 6 follows:

7 (A) Prior to the member's attainment of age 65, the state annuity, together with
 8 the member annuity, shall be equal to 1/60 of the member's average final compensation at the time
 9 of his ordinary disability retirement multiplied by the number of years of creditable service at the
 10 time of his ordinary disability retirement;

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

15 (C) Regardless of age at disability, the ordinary disability retirement allowance
 16 shall not be less than 25 percent of the member's average final compensation at the time of his *or*
 17 *her* disability retirement.

18 (2) Upon ordinary disability retirement, the group I member who has not attained
 19 age 60 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is*
 20 *not in vested status on or after July 1, 2011* shall receive an ordinary disability retirement
 21 allowance which shall consist of: a member annuity which shall be the actuarial equivalent of the
 22 member's accumulated contributions at the time of his ordinary disability retirement; and a state
 23 annuity which, together with the member annuity, shall be equal to 1.5 percent of the member's
 24 average final compensation at the time of his ordinary disability retirement multiplied by the
 25 number of years of creditable service at that time of his ordinary disability retirement. However,
 26 regardless of age at disability, the ordinary disability retirement allowance shall not be less than 25
 27 percent of the member's average final compensation at the time of his *or her* disability retirement.

28 6 Accidental Disability Retirement; Group I. Amend RSA 100-A:6, I(d) to read as follows:

29 (d)(1) Upon accidental disability retirement, the group I member who has attained age
 30 60 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is not*
 31 *in vested status on or after July 1, 2011* shall receive an accidental disability retirement
 32 allowance which shall consist of a member annuity and shall be the actuarial equivalent of the
 33 member's accumulated contributions at the time of his accidental disability retirement, and a state
 34 annuity as follows:

35 (A) Prior to the member's attainment of age 65, the state annuity, together with
 36 the member annuity, shall be equal to 1/60 of the member's average final compensation at the time

1 of his accidental disability retirement multiplied by the number of years of creditable service at the
2 time of his accidental disability retirement;

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

7 (C) Regardless of age at disability, such allowance shall not be less than 50
8 percent of the member's average final compensation at the time of his accidental disability
9 retirement.

10 (2) Upon accidental disability retirement, the group I member who has not attained
11 age 60 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is*
12 *not in vested status on or after July 1, 2011* shall receive an accidental disability retirement
13 allowance which shall consist of: the member annuity which shall be the actuarial equivalent of the
14 member's accumulated contributions at the time of his accidental disability retirement; and a state
15 annuity which, together with the member annuity, shall be equal to 50 percent of the member's
16 average final compensation at the time of his disability retirement.

17 7 Ordinary Disability Retirement; Group II. Amend RSA 100-A:6, II(b) to read as follows:

18 (b) Upon ordinary disability retirement, the group II member shall receive an ordinary
19 disability retirement allowance which shall consist of: a member annuity which shall be the
20 actuarial equivalent of his accumulated contributions at the time of his *or her* ordinary disability
21 retirement; and a state annuity which, together with his *or her* member annuity, *for members who*
22 *are in vested status before July 1, 2011*, shall be equal to 2-1/2 percent of his *or her* average final
23 compensation at the time of [his] ordinary disability retirement multiplied by the number of years of
24 his *or her* creditable service not in excess of 40 at the time of [his] ordinary disability retirement, *or*
25 *for members who commenced service or are not in vested status on or after July 1, 2011,*
26 *shall be equal to 2 percent of his or her average final compensation at the time of ordinary*
27 *disability retirement multiplied by the number of years of his or her creditable service not*
28 *in excess of 50 at the time of ordinary disability retirement*, provided, however, that such
29 allowance shall not be less than 25 percent of the member's final compensation at the time of his *or*
30 *her* disability retirement.

31 8 Accidental Disability Retirement; Group II. Amend RSA 100-A:6, II(d) to read as follows:

32 (d) Upon accidental disability retirement, the group II member shall receive an
33 accidental disability retirement allowance equal to 2/3 of his *or her* average final compensation at
34 the time of [his] disability retirement.

35 (1) *For members who are in vested status before July 1, 2011*, any group II
36 member who has more than 26-2/3 years of service, a supplemental disability retirement allowance
37 shall be paid. Such supplement shall be equal to 2-1/2 percent of his *or her* average final

1 compensation multiplied by the number of years of his *or her* creditable service in excess of 26-2/3
2 but not in excess of 40 years.

3 (2) *For members who commenced service or are not in vested status on or*
4 *after July 1, 2011, any group II member who has more than 33-1/3 years of service, a*
5 *supplemental disability retirement allowance shall be paid. Such supplement shall be*
6 *equal to 2 percent of his or her average final compensation multiplied by the number of*
7 *years of his or her creditable service in excess of 33-1/3 but not in excess of 50 years.*

8 (3) *An accidental disability retirement allowance together with a*
9 *supplemental disability retirement allowance, as provided in this subparagraph, shall not*
10 *exceed 100 percent of the disability retiree's average final compensation.*

11 9 Vested Deferred; Group II Age Increased. Amend RSA 100-A:10, II(b) to read as follows:

12 (b) *For members who are in vested status before July 1, 2011, upon the member's*
13 *attainment of age 45, provided the member would then have completed 20 years of creditable service,*
14 *otherwise the subsequent date on which such 20 years would have been completed, or at any time*
15 *after age 60, or for members who commenced service or are not in vested status on or after*
16 *July 1, 2011, upon the member's attainment of age 50, provided the member would then*
17 *have completed 25 years of creditable service, otherwise the subsequent date on which such*
18 *25 years would have been completed, or at any time after age 65, a group II member who*
19 *meets the requirement of subparagraph (a) may make application on a form prescribed by the board*
20 *of trustees and receive a vested deferred retirement allowance which shall consist of: (1) A member*
21 *annuity which shall be the actuarial equivalent of accumulated contributions on the date the*
22 *member's retirement allowance commences; and (2) A state annuity which, together with the*
23 *member annuity, shall be equal to a service retirement allowance based on the member's average*
24 *final compensation and creditable service at the time the member's service is terminated.*

25 10 Return of Contributions. Amend RSA 100-A:11, I(c) to read as follows:

26 (c) Upon the death of a group I member who has elected, pursuant to RSA 100-A:10, to
27 receive a vested deferred retirement allowance before his *or her* attainment of age 60 *if the*
28 *member is in vested status before July 1, 2011 or the age of 65 if the member is not in vested*
29 *status on or after July 1, 2011, the amount of his accumulated contributions at the time of his or*
30 *her death shall be paid to the person or persons, if any, nominated by [him] the member, if living,*
31 *otherwise to the member's estate.*

32 11 Split Benefits; Minimum Age. Amend RSA 100-A:19-b to read as follows:

33 100-A:19-b Minimum Age. For the purposes of this subdivision only, minimum age shall mean:

34 I. For a member who has completed less than 20 years combined creditable service in both
35 group I and group II, 60 years *if the member is in vested status before July 1, 2011 or 65 years*
36 *if the member is not in vested status on or after July 1, 2011.*

1 II. For a member *who is in vested status before July 1, 2011 and*, who has completed 20
 2 or more years of combined creditable service, one year shall be deducted from age 60 for each year of
 3 creditable group II service, provided that the age shall not be less than 45 years. *For a member*
 4 *who commenced service or is not in vested status on or after July 1, 2011 and, who has*
 5 *completed 25 or more years of combined creditable service, one year shall be deducted from*
 6 *age 65 for each year of creditable group II service, provided that the age shall not be less*
 7 *than 50 years.*

8 12 Split Benefits; Reduced Early Retirement; Minimum Age. Amend RSA 100-A:19-d to read as
 9 follows:

10 100-A:19-d Reduced Early Retirement. Notwithstanding any other provision of law, any
 11 retirement system member who has creditable service in both group I and group II with at least
 12 10 years combined creditable service, and who has attained an age which is at least 45 *for members*
 13 *who are in vested status with group II service prior to July 1, 2011 or at least 50 for*
 14 *members who commenced group II service or are not in vested status on or after*
 15 *July 1, 2011* and is within 10 years of the minimum age set forth in RSA 100-A:19-b, may elect to
 16 retire and have benefits commence immediately as a reduced split-benefit service retirement
 17 allowance. Application shall be as provided in RSA 100-A:5, I(c). The allowance shall be determined
 18 as a split-benefit service retirement allowance in accordance with RSA 100-A:19-c, and the total
 19 combined split-benefit service allowance shall be reduced by the percentages shown in RSA 100-A:5,
 20 I(c), based on the total combined length of creditable service, for each month by which the date on
 21 which benefits commence precedes the month after which the member attains the minimum age set
 22 forth in RSA 100-A:19-b.

23 13 State Employees; Retirement. Amend RSA 21-I:30, II(a) to read as follows:

24 (a) Has at least 10 years of creditable service for the state if the employee's service began
 25 prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July
 26 1, 2003, and who also is at least 60 years of age at the time of retirement *if the employee is in*
 27 *vested status before July 1, 2011 or at least 65 years of age at the time of retirement if the*
 28 *employee is not in vested status on or after July 1, 2011; or*

29 14 State Employees; Group Insurance Benefits; Group II. Amend RSA 21-I:30, III to read as
 30 follows:

31 III. Any vested deferred state retiree may receive medical and surgical benefits under this
 32 section if the vested deferred state retiree is eligible. To be eligible, a group I vested deferred state
 33 retiree shall have at least 10 years of creditable service with the state if the employee's service began
 34 prior to July 1, 2003 or 20 years of creditable service with the state if the employee's service began
 35 on or after July 1, 2003 and a group II vested deferred state retiree shall have at least 20 years of
 36 creditable service with the state if the employee's service with the state began on or after July 1,
 37 2010. In addition, if the vested deferred state retiree is a member of group I, such retiree shall be at

1 least 60 years of age to be eligible *if the member is in vested status before July 1, 2011 or 65*
2 *years of age if the member is not in vested status on or after July 1, 2011.* If the vested
3 deferred state retiree is a member of group II *who is in vested status before July 1, 2011,* such
4 retiree shall not be eligible until 20 years from the date of becoming a member of group II and shall
5 be at least 45 years of age, *and any group II member who commenced service or is not in*
6 *vested status on or after July 1, 2011 shall not be eligible until 25 years from the date of*
7 *becoming a member of group II and shall be at least 50 years of age.*

8 15 Retirement Age Changed; Vested Status. Notwithstanding the provisions of RSA 100-A:5,
9 RSA 100-A:6, RSA 100-A:10, RSA 100-A:11, RSA 100-A:19-b, and RSA 21-I:30 relating to retirement
10 at age 60, persons who are in vested status in the retirement system or as a state employee under
11 RSA 21-I:30 on the effective date of this section shall be permitted to retire on an unreduced service
12 retirement, disability retirement, vested deferred retirement, or split benefit retirement at the
13 following ages, based on the corresponding number of years of creditable service:

- 14 I. At least 10 but not 15 years of creditable service, age 64.
15 II. At least 15 but not 20 years of creditable service, age 63.
16 III. At least 20 but not 25 years of creditable service, age 62.
17 IV. At least 25 but not 30 years of creditable service, age 61.
18 V. At least 30 years of creditable service, age 60.

19 16 Financing; Contribution Rates; Group II Member Payroll Deduction. Amend RSA 100-A:16,
20 I(a) to read as follows:

21 (a) The member annuity savings fund shall be a fund in which shall be accumulated the
22 contributions deducted from the compensation of members to provide for their member annuities
23 together with any amounts transferred thereto from a similar fund under one or more of the
24 predecessor systems. *Except as provided in RSA 100-A:24, I,* such contribution shall be, for each
25 member, dependent upon the member's employment classification at the rate determined in
26 accordance with the following table:

27 ~~Employees of employers other than the state 5.00~~
28 ~~Employees of the state hired on or before June 30, 2009 5.00~~
29 ~~Employees of the state hired after June 30, 2009 7.00~~
30 ~~Teachers 5.00~~
31 ~~Permanent Policemen 9.30~~
32 ~~Permanent Firemen 9.30]~~
33 *Group I members, 7.00*
34 *Group II members, 11.00*

35 The board of trustees shall certify to the proper authority or officer responsible for making up the
36 payroll of each employer, and such authority or officer shall cause to be deducted from the
37 compensation of each member, except group II members *who are in vested status before July 1,*

1 *2011 with creditable service in excess of 40 years or group II members who commenced service*
 2 *or are not in vested status on or after July 1, 2011 with creditable service in excess of 50*
 3 *years, as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), on each and every payroll of such*
 4 *employer for each and every payroll period, the percentage of earnable compensation applicable to*
 5 *such member. No deduction from earnable compensation under this paragraph shall apply to any*
 6 *group II member who is in vested status before July 1, 2011 with creditable service in excess of*
 7 *40 years, or group II member who commenced service or is not in vested status on or after*
 8 *July 1, 2011 with creditable service in excess of 50 years, as provided in RSA 100-A:5, II(b) and*
 9 *RSA 100-A:6, II(b), and this provision for such members shall not affect the method of determining*
 10 *average final compensation as provided in RSA 100-A:1, XVIII. In determining the amount earnable*
 11 *by a member in a payroll period, the board may consider the rate of compensation payable to such*
 12 *member on the first day of a payroll period as continuing throughout the payroll period and it may*
 13 *omit deduction from compensation for any period less than a full payroll period if such person was*
 14 *not a member on the first day of the payroll period, and to facilitate the making of deductions it may*
 15 *modify the deduction required of any member by such an amount as shall not exceed 1/10 of one*
 16 *percent of the annual earnable compensation upon the basis of which such deduction is made. The*
 17 *amounts deducted shall be reported to the board of trustees. Each of such amounts, when deducted,*
 18 *shall be paid to the retirement system at such times as may be designated by the board of trustees*
 19 *and credited to the individual account, in the member annuity savings fund, of the member from*
 20 *whose compensation the deduction was made.*

21 17 Local Adoption of Contribution Rates for Political Subdivision Members. Amend RSA 100-
 22 A:24, I to read as follows:

23 I. Employees who have become members of the retirement system under the provisions of
 24 this subdivision shall contribute at the [same] rates of contribution [~~and on the same basis as state~~
 25 ~~employees]~~ *required by RSA 100-A:16, I, except that a governing body participating as an*
 26 *employer under this chapter may elect to apply a higher or lower rate of employee*
 27 *contribution.*

28 18 Retirement System; Recalculation of Employer Rates; Recertification. Notwithstanding the
 29 notice requirements of RSA 100-A:16, III, the board of trustees of the retirement system shall
 30 recalculate employer contribution rates for the state fiscal years 2012 and 2013 to reflect the
 31 requirements of RSA 100-A:16, II(a) and RSA 100-A:24, I as amended by this act. Notwithstanding
 32 the notice requirements of RSA 100-A:16, III, such employer contribution rates shall be effective for
 33 the biennium beginning July 1, 2011, and the recertification of employer contribution percentages,
 34 applicable beginning July 1, 2011, shall be provided to each employer within a reasonable period of
 35 time not to exceed 30 days from the effective date of this section. The exception to the notice
 36 requirements of RSA 100-A:16, III in this section shall be limited to the applicable employer
 37 contribution rates for the biennium beginning July 1, 2011.

1 19 New Section; Retirement System; Return to Work. Amend RSA 100-A by inserting after
2 section 27 the following new section:

3 100-A:27-a Return to Work; Suspension of Benefits. Beginning July 1, 2011, no person for
4 whom membership in the retirement system is optional under RSA 100-A:3, I, and no person
5 employed by an employer on a full- or part-time basis or as a consultant for longer than 3 months in
6 a year, may concurrently receive benefits under this chapter as a retired member. Benefits shall be
7 suspended during any such period of employment.

8 20 Repeal. 2002, 137:7, relative to the application of the repeal of former RSA 100-A:3, I(c), is
9 repealed.

10 21 Retirement System; Administration; Membership of Board. Amend RSA 100-A:14, I to read
11 as follows:

12 I. The administration of this system is vested in a board of ~~[14]~~ **13** trustees. Each newly
13 appointed or reappointed trustee shall have familiarity with or experience in finance or business
14 management. The state treasurer shall be an ex officio voting member of the board. The governor
15 and council shall appoint ~~[2]~~ **4** trustees, to be known as non-member trustees, who shall be qualified
16 persons with investment and/or financial experience as provided in this paragraph and not be
17 members of the system, and who shall serve for a term of 2 years and until their successors are
18 appointed and qualified. The non-member trustees of the board shall have substantial experience in
19 the field of institutional investment or finance, taking into account factors such as educational
20 background, business experience, and professional licensure and designations. The original
21 appointment of ~~[one]~~ **2** of the non-member trustees shall be for a term of one year. The remaining
22 ~~[11]~~ **8** members of the board shall consist of ~~[2 employees, 2 teachers, 2 permanent policemen, 2~~
23 ~~permanent firemen, one member of the senate who shall be appointed annually by the senate~~
24 ~~president, one member of the house of representatives who serves on the executive departments and~~
25 ~~administration committee and who shall be appointed annually by the speaker of the house, and one~~
26 ~~person representing management in local government. Whenever a vacancy occurs, the senate~~
27 ~~president or the speaker of the house shall fill the vacancy in the same manner by appointing a~~
28 ~~senate or a house member who shall serve for the unexpired term.]~~ **4 member representatives and**
29 **4 employer representatives.** The New Hampshire state employees' association, the
30 New Hampshire education association, the New Hampshire police association, *and* the
31 New Hampshire state permanent firemen's association, ~~[and the New Hampshire Local Government~~
32 ~~Center]~~ shall each annually nominate from their members a panel of 5 persons, ~~[all of whom except~~
33 ~~for the panel of the Local Government Center shall be active members of the retirement system, or~~
34 ~~one of the 4 predecessor systems,]~~ no later than May 31 of each year, and the panels so named shall
35 be filed with the secretary of state no later than June 10 of each year. From ~~[each of]~~ the above
36 named panels, the governor and council shall appoint ~~[one person annually to]~~ **the active member**
37 **representatives of the board**, ~~except for the panel of the Local Government Center, which shall~~

1 ~~have one person appointed every 2 years]~~ *as needed so as to maintain the representation on the*
2 *board. The governor and council shall appoint the employer representatives of the board*
3 *with the advice of employer organizations.* Members appointed to the board in the manner
4 aforesaid shall serve for a term of 2 years. Each member so appointed shall hold office until his or
5 her successor shall be appointed and qualified. Whenever a vacancy occurs, the governor and council
6 shall fill the vacancy by appointing a member who shall serve for the unexpired term [~~from the same~~
7 ~~panel from which the former member was appointed~~]. The governor shall designate one of the non-
8 member trustees to serve as chairman of said board of trustees.

9 22 Application; Board of Trustees Membership. Members of the board of trustees for the
10 retirement system on the effective date of this section shall serve for the remainder of their terms.
11 In order to conform to changes to the retirement system board of trustees made by this act, upon a
12 vacancy occurring in the membership on the board of trustees after the effective date of this section,
13 the appointment of a trustee shall be made to reasonably conform to the trustee designations in
14 RSA 100-A:14, I.

15 23 Repeal of Special Account. RSA 100-A:16, II(h) - (j), relative to the special account, are
16 repealed.

17 24 Transfer of Balance of Special Account. Any funds remaining in the special account on the
18 effective date of the repeal of the special account by this act shall be transferred to the respective
19 components of the state annuity accumulation fund.

20 25 Definition of Terminal Funding. Amend RSA 100-A:1, XXX to read as follows:

21 XXX. "Terminal funding" shall mean providing the full present value of the total liability for
22 benefit improvement. [~~Unless otherwise specified, the source of terminal funding shall be the special~~
23 ~~account established under RSA 100-A:16, II(h).~~]

24 26 Benefits Upon Death After Retirement; References to Special Account. Amend RSA 100-
25 A:12, I-a and II to read as follows:

26 I-a. In addition to any other provision of this section, upon the death of a retired group II
27 member of the New Hampshire retirement system or any predecessor system, who retired pursuant
28 to RSA 100-A:5, II with at least 20 years of creditable service or pursuant to RSA 100-A:6, II(a) prior
29 to April 1, 1987, there shall be paid to the member's spouse at the time of retirement, if surviving, an
30 allowance to continue until the spouse's death or remarriage equal to 50 percent of the service or
31 ordinary disability retirement allowance payable to the retired member prior to the member's death.
32 The total cost of terminally funding the benefits provided by this paragraph shall be funded from the
33 [~~special account established under RSA 100-A:16, II(h)~~] *state annuity accumulation fund.*

34 II. Upon the death of a group II member who has retired on or after April 1, 1987, or upon
35 the death of a group II member who has filed an application for retirement benefits with the board of
36 trustees after January 1, 1991, there shall be paid to the person nominated by the member by
37 written designation filed with the board, if living, otherwise to the retired member's estate, in

1 addition to the amount payable under RSA 100-A:11 a lump sum of \$3,600 if the member retired
 2 before July 1, 1988, and if the member is married on the date of such member's retirement, there
 3 shall be paid to such surviving spouse an allowance to continue until the spouse's death or
 4 remarriage equal to 50 percent of the member's service, ordinary disability, or accidental disability
 5 retirement allowance payments. For any person who is a group II member as of June 30, 1988, and
 6 who retires on or after July 1, 1988, the lump sum payment shall be \$10,000. For any person who
 7 becomes a member of group II on or after July 1, 1988, and on or prior to July 1, 1993, the lump sum
 8 payment shall be \$3,600. It is the intent of the legislature that future group II members shall be
 9 included only if the total cost of such inclusion can be *terminally* funded [~~by reimbursement from~~
 10 ~~the special account established under RSA 100-A:16, II(h)~~].

11 27 Supplemental Allowance; Reference to Special Account. Amend RSA 100-A:41-a, III to read
 12 as follows:

13 III.(a) The payment of any such supplemental allowance shall be contingent on terminal
 14 funding of the total actuarial cost thereof. [~~Such terminal funding shall be from the special account~~
 15 ~~established under RSA 100-A:16, II(h)~~].

16 (b) [~~No supplemental allowance shall reduce the funds in the respective component of~~
 17 ~~the special account to an amount less than zero.~~

18 (e) Cost of living adjustments shall be retroactive to the member's eligibility date
 19 pursuant to paragraph I.

20 28 Additional Temporary Supplemental Allowances. Amend RSA 100-A:41-d to read as follows:

21 100-A:41-d Additional Temporary Supplemental Allowances.

22 I. The additional supplemental allowance in this paragraph shall apply only for the fiscal
 23 year beginning July 1, 2008, the state fiscal year beginning July 1, 2009, and the state fiscal year
 24 beginning July 1, 2010. Any retired member of the New Hampshire retirement system or any of its
 25 predecessor systems who has been retired for at least 12 months and whose annual retirement
 26 allowance is based on at least 15 years of service and is \$20,000 or less, or any beneficiary of such
 27 member who is receiving an allowance, shall be entitled to receive an additional supplemental
 28 allowance, in addition to the provisions of RSA 100-A:41-a, on the retired member's latest
 29 anniversary date. The amount of the additional temporary supplemental allowance under this
 30 paragraph shall be \$1,000 [~~paid from the respective component of the special account~~].

31 II. The supplemental allowance in this paragraph shall apply only for the fiscal year
 32 beginning July 1, 2008, the state fiscal year beginning July 1, 2009, and the state fiscal year
 33 beginning July 1, 2010. Any retired member of the New Hampshire retirement system or any of its
 34 predecessor systems who retired prior to January 1, 1993, or any beneficiary of such member who is
 35 receiving an allowance, shall be entitled to receive an additional supplemental allowance, in addition
 36 to the provisions of RSA 100-A:41-a and paragraph I, on the retired member's latest anniversary

1 date. The amount of the additional temporary supplemental allowance under this paragraph shall
2 be \$500~~[, paid from the respective component of the special account]~~.

3 III. The supplemental allowance in this paragraph shall apply only for the fiscal years
4 beginning July 1, 2008 up to and including the fiscal year beginning July 1, ~~[2011]~~ 2010. In addition
5 to paragraphs I and II, any retired member of the New Hampshire retirement system or any of its
6 predecessor systems or any beneficiary of such retired member who is receiving an allowance, except
7 for a retired state member, or his or her beneficiary, whose medical benefits are paid by the state
8 pursuant to RSA 21-I~~[, who is receiving a medical benefit subsidy payment under RSA 100-A:52 or~~
9 ~~RSA 100-A:52-a]~~, shall be entitled to receive an additional supplemental allowance, in addition to the
10 provisions of RSA 100-A:41-a, on the retired member's latest anniversary date. The amount of the
11 additional temporary supplemental allowance under this paragraph shall be \$500 for retirees taking
12 a one-person medical benefit and \$1,000 for retirees taking a 2-person medical benefit~~[, paid from~~
13 ~~the respective component of the special account]~~. Provided, however that no 2-person subsidy
14 recipient may receive more than \$1,000 per year under this paragraph, and that once a recipient is
15 entitled to Medicare, the additional allowance under this paragraph shall be reduced to 60 percent of
16 the non-Medicare eligible retiree amounts.

17 IV. The additional supplemental allowances under this section shall be issued as separate
18 payment to eligible members or their beneficiaries on or after July 1. Supplemental allowances
19 under this section shall not become a permanent addition to the base retirement allowance.

20 ~~[V. No supplemental allowance shall be paid if it would reduce the funds in the respective~~
21 ~~component of the special account to an amount less than zero. If insufficient funds exist in the~~
22 ~~special account to fund all the supplemental allowances provided for in this section and in RSA 100-~~
23 ~~A:41-a, the available funds shall be used first to fund the supplemental allowance in RSA 100-A:41-a~~
24 ~~then to fund the supplemental allowance in paragraphs I, II, and III of this section, in that order.]~~

25 29 Repeal of Medical Benefits Provisions. The following are repealed:

26 I. RSA 100-A:52 through RSA 100-A:52-b, relative to payment by the retirement system for
27 certain group I and group II medical benefits.

28 II. RSA 100-A:53, relative to method of financing group II medical benefits.

29 III. RSA 100-A:53-b through RSA 100-A:53-d, relative to the method of financing group I
30 medical benefits.

31 IV. RSA 100-A:53-e, relative to temporary contribution amounts and ratification.

32 V. RSA 100-A:55, relative to application of medical benefits payments.

33 VI. RSA 21-I:30-a, II, relative the offset of retirement system medical benefits payments.

34 VII. RSA 99:9, V, relative to benefits for certain classified employees laid off in 1998.

35 30 Medical Benefits; Miscellaneous Provisions; Discontinuance. Amend RSA 100-A:54 to read
36 as follows:

37 100-A:54 Miscellaneous Provisions.

1 I. ~~[It is the intention of the state of New Hampshire that the New Hampshire retirement~~
 2 ~~system continue to provide medical benefits under RSA 100-A:52 subject to RSA 100-A:55, and that~~
 3 ~~the employer make contributions in such amounts as the board of trustees shall deem necessary and~~
 4 ~~appropriate under RSA 100-A:16 for such purpose. Any forfeitures of a member's interest in the~~
 5 ~~medical benefit accounts as provided under this section prior to any discontinuance of medical~~
 6 ~~benefits by the legislature shall be applied to reduce any subsequent employer contributions made~~
 7 ~~pursuant to this section.~~

8 II.] The legislature [~~may~~] *shall* discontinue contributions under this subdivision with respect
 9 to medical benefits provided under *former* RSA 100-A:52 [~~or~~] *and* cease providing such medical
 10 benefits [~~for any reason, at any time, in which event~~]. The funds allocated to provide such medical
 11 benefits, if any remain, shall be used to continue medical benefits to members who were eligible for
 12 them under *former* RSA 100-A:52 and 100-A:55 prior to the discontinuance date as long as any
 13 funds remain. However, if after the satisfaction of all medical benefits provided under *former*
 14 RSA 100-A:52 there remain any funds, the program shall be deemed to be terminated and such
 15 remainder shall be returned to the appropriate employer, as defined in RSA 100-A:1, IV, in
 16 accordance with section 401(h)(5) of the Internal Revenue Code.

17 [III.] II. The retirement system shall deduct from the monthly retirement allowance of
 18 retired state employees under the age of 65 years receiving medical and surgical benefits provided
 19 pursuant to RSA 21-I:30, the premium contribution amounts of \$65 per month for each such retiree
 20 and \$65 per month for each applicable spouse; provided that the charge to each household shall not
 21 exceed \$130 per month. Deducted amounts[~~, which shall be in addition to and notwithstanding any~~
 22 ~~amounts payable by the retirement system pursuant to RSA 100-A:52, RSA 100-A:52-a, and~~
 23 ~~RSA 100-A:52-b,~~] shall be deposited in the employee and retiree benefit risk management fund. In
 24 the event the retiree's monthly allowance is insufficient to cover the certified contribution amount,
 25 the retirement system shall so notify the department of administrative services, which shall invoice
 26 and collect from the retiree the remaining contribution amount.

27 31 Purchase of Creditable Service. Amend RSA 100-A:3, VI to read as follows:

28 (c) Except for service described in subparagraph (d), in no case shall prior service
 29 purchased as credible service in the New Hampshire retirement system under the provisions of this
 30 section be deemed to be creditable service for the purposes of eligibility for medical benefits after
 31 retirement under the provisions of RSA 21-I:30[~~, RSA 100-A:52, RSA 100-A:52-a, or RSA 100-A:52-b~~].

32 32 Armed Forces Credit. Amend RSA 100-A:4, VI(c) to read as follows:

33 (c) Additional creditable service purchased under this paragraph shall not be used as
 34 creditable service for the purpose of determining service retirement eligibility or for the purpose of
 35 eligibility for medical and surgical benefits as a retired employee under RSA 21-I:30[~~, RSA 100-A:52,~~
 36 ~~RSA 100-A:52-a, or RSA 100-A:52-b~~].

37 33 Peace Corps and AmeriCorps Credit. Amend RSA 100-A:4, VIII to read as follows:

VIII. Any employee, teacher, permanent policeman, or permanent fireman who has completed at least 5 years of membership service and who terminates his or her employment in order to enter directly into the Peace Corps or AmeriCorps, shall be entitled to service credit for the period of such Peace Corps or AmeriCorps service, provided he or she again becomes employed within a year after the termination of such service and provided further that he or she elects to make, and makes while in active service and within a period of time equal to 3 times the length of time of such service, but not more than 5 years, all payments of the full actuarial cost to the system. The full actuarial cost of service credit purchases under this paragraph shall be determined by the actuary based on methods and assumptions recommended by the actuary and approved by the board of trustees. The member may be required to prepay all or part of the actuarial calculation fee, as determined by the board. Credit shall not be granted until the active member has fully paid for such service credit in a lump sum or by installment payments as permitted by the board. The member's payment shall be credited to the member annuity savings fund. The amount of service credit purchased under this paragraph shall not exceed the least of (a) 2 years or (b) the member's actual period of Peace Corps and AmeriCorps service or (c) 5 years minus the period of nonqualified service credit purchased by the member pursuant to former RSA 100-A:4, VII. Creditable service purchased under this paragraph shall not be used for the purpose of eligibility for medical and surgical benefits as a retired employee under RSA 21-I:30~~[, RSA 100-A:52, RSA 100-A:52-a, or RSA 100-A:52-b]~~.

34 Purchase of Out-of-State Credit. Amend RSA 100-A:4-b, III to read as follows:

III. In no case shall out-of-state service purchased as creditable service in the New Hampshire retirement system under the provisions of this section be deemed to be creditable state service for the purposes of eligibility for medical benefits after retirement under the provisions of RSA 21-I:30 ~~[or RSA 100-A:52-a]~~.

35 Purchase of Out-of-State Group II Service. Amend RSA 100-A:4-c, IV to read as follows:

IV. In no case shall out-of-state service purchased as creditable service in the New Hampshire retirement system under the provisions of this section be deemed to be creditable service for the purposes of eligibility for medical benefits after retirement under the provisions of ~~[RSA 100-A:52 through 100-A:55 or]~~ RSA 21-I:26 through 21-I:36.

36 Political Subdivision Members. Amend RSA 100-A:22 to read as follows:

100-A:22 Modifications. Membership in the retirement system shall be optional for officers and employees of the employer who are in the service of the employer on the date when participation becomes effective, and any such officer or employee who elects to join the retirement system within one year thereafter shall be credited with prior service covering such periods of prior service rendered to such employer for which the employer is willing to make accrued liability contributions. If the employer is unable or unwilling to make such contributions, a member in service may petition the board of trustees for periods of prior service rendered to such employer. Upon payment by the member of the amount determined in accordance with RSA 100-A:3, VI(b) and with the approval of

1 the board, the member shall receive credit for such prior service. Thereafter, service for such
2 employer on account of which contributions are made by the employer and member shall also be
3 considered as creditable service. However, in no event shall prior service purchased as creditable
4 service under this section be used as creditable service for the purpose of eligibility for medical
5 benefits [~~under RSA 100-A:52, RSA 100-A:52-a, or RSA 100-A:52-b~~]. Membership shall be
6 compulsory for all employees entering the service of such employer after the date participation
7 becomes effective. Municipalities may, by action of their city council or board of selectmen, exempt
8 their chief administrative officer, at the time of initial hiring or appointment, from compulsory
9 membership provided herein. The chief fiscal officer of the employer, and the heads of its
10 departments, shall submit to the board of trustees such information and shall cause to be performed
11 with respect to the employees of such employer, who are members of the retirement system, such
12 duties as shall be prescribed by the trustees in order to carry out the provisions of this chapter.

13 37 New Subdivision; Voluntary Contribution Plan. Amend RSA 100-A by inserting after section
14 57 the following new subdivision:

15 Voluntary Contribution Plan

16 100-A:58 Voluntary Contribution Plan Established. There is hereby established a voluntary
17 retirement benefit plan for members of the retirement system which shall be in addition to and
18 separate from the provisions of RSA 100-A:1 through RSA 100-A:57, except for definitions in RSA
19 100-A:1 used in this subdivision. The voluntary contribution plan is intended to qualify under 26
20 U.S.C. section 401(a) and section 414(d), the Internal Revenue Code, as a qualified retirement plan
21 established and maintained by the state for its employees and for the employees of political
22 subdivision employers in the state. All contributions and all investments, reinvestments, interest, or
23 other moneys held by the board shall not be assets of the retirement system administered by the
24 board of trustees or subject to control of the board of trustees of the retirement system. All assets
25 received by the plan shall be held for the exclusive benefit of plan participants and their beneficiaries
26 and applied solely as provided by the plan.

27 100-A:59 Participation. Any active member of the retirement system may elect to participate in
28 the voluntary contribution plan established in this subdivision.

29 100-A:60 Administration; Rulemaking.

30 I. The administrator of the plan shall be the board of trustees of the retirement system, who
31 shall carry out all duties and responsibilities under this subdivision.

32 II. The board shall adopt rules, pursuant to RSA 541-A, relative to the procedure for payroll
33 deductions or other participant contributions, administration of the investment choices of members
34 and beneficiaries, and forms necessary for the administration of this subdivision.

35 III. The board shall obtain or cause to be obtained any necessary approvals, rulings,
36 opinions, and confirmations from federal authorities or agencies.

1 100-A:61 Administration of Plan. The board shall have the authority to contract with a third-
2 party administrator for the voluntary contribution plan for the administration of assets accumulated
3 under each participant's account. Expenses of the implementation, administration, and
4 maintenance of the voluntary contribution plan shall be paid from contributions to the plan, income
5 and assets of the plan, or fees or charges imposed on the participants.

6 100-A:62 Limitations on Contributions. Notwithstanding any other provisions of this plan, the
7 annual additions to each member's individual account under this plan may not exceed, for any
8 limitation year, the amount permitted under 26 U.S.C. section 415 at any time. If the amount of a
9 member's voluntary contribution plan contributions exceeds the limitation of 26 U.S.C. section 415(c)
10 for any limitation year, the administrator shall take any necessary remedial action to correct an
11 excess contribution. The provisions of 26 U.S.C. section 415, and the regulations adopted under that
12 statute, as applied to qualified defined contribution plans of governmental employees are
13 incorporated as part of the terms and conditions of the plan.

14 100-A:63 Investment of Individual Accounts.

15 I. The administrator shall provide a range of investment options and permit a participant to
16 exercise investment control over the participant's assets in the member's individual account as
17 provided in this section. If a participant exercises control over the assets in the individual account,
18 the participant is not considered a fiduciary for any reason on the basis of exercising that control.

19 II. A participant may direct investment of plan funds held in an account among available
20 investment funds in accordance with rules established by the administrator.

21 III. A participant may elect to change or transfer all or a portion of the participant's existing
22 account balance among available investment funds in accordance with the rules established by the
23 administrator. Only the last election received by the administrator before the transmittal of
24 contributions to the trust fund for allocation to the individual account shall be used to direct the
25 investment of the contributions received.

26 IV. Except to the extent clearly set out in the terms of the investment plans offered by the
27 employer to the employee, the employer is not liable to the participant for investment losses if the
28 prudent investment standard has been met.

29 V. The employer, administrator, state, or board, or a person or entity who is otherwise a
30 fiduciary, is not liable for any participant's investment loss that results from the participant's
31 directing the investment of plan assets allocated to the participant's account.

32 100-A:64 Withdrawal of Funds. Distributions from an account of a member shall be permitted
33 in the following circumstances, subject to applicable limitations under federal regulations:

34 I. Termination of employment.

35 II. Retirement.

36 III. Upon turning age 59-½ and still employed as limited by federal regulations.

37 IV. If the member becomes disabled.

1- V. If the member dies.

2 VI. Based on financial hardship as defined in applicable federal regulations.

3 100-A:65 Assets and Liabilities.

4 I. This subdivision does not create or permit any obligation on the board or the state to
5 provide any guarantee of investment return or any other guarantee for the benefit of any individual
6 or entity.

7²⁰ II. Moneys or other assets of the voluntary contribution plan shall not be considered state
8 moneys or assets.

9 III. The board and the state may not insure, guarantee, or have any similar responsibility or
10 any liability with respect to accounts, moneys, or gains or losses of investment returns, under the
11 voluntary contribution plan.

12 38 Severability; Contingent Amendment; Effective Date.

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

19^{..} II. If as provided in paragraph I of this section, any phrase, clause, sentence, or provision is
20 held contrary to the constitution of this state or of the United States, the remaining provisions of the
21 act shall be in full force and effect as to all severable matters, and section 39 of this act shall take
22 effect on the July 1 next following the date that the board of trustees certifies to the secretary of
23 state and the director of legislative services of the occurrence of a final ruling on the declaration
24 described in paragraph I.

25^{..} 39 Member Contribution Rates; Contingent Version. Amend the introductory paragraph of
26 RSA 100-A:16, I(a) and the contribution rates following the introductory paragraph to read as
27 follows:

28 (a) The member annuity savings fund shall be a fund in which shall be accumulated the
29 contributions deducted from the compensation of members to provide for their member annuities
30 together with any amounts transferred thereto from a similar fund under one or more of the
31 predecessor systems. [~~Except as provided in RSA 100-A:24, I,~~] Such contribution shall be, for each
32 member, [~~dependent upon the member's employment classification at the rate determined in~~
33 ~~accordance with the following table:~~

34 ~~Group I members, 7.00~~

35 ~~Group II members, 11.00]~~ *the rate percent of each member's compensation as*
36 *determined by the retirement system which shall by annual total represent 75 percent of*

1 *the normal contribution and accrued liability contribution determined under paragraph*
2 *II.*

3 40 Effective Date.

4 I. Section 39 of this act shall take effect as provided in section 38 of this act.

5 II. The remainder of this act shall take effect July 1, 2011.

LBAO
11-0488
01/18/11

HB 580-FN-LOCAL - FISCAL NOTE

AN ACT relative to the New Hampshire retirement system.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

HB 580-FN-LOCAL - AS AMENDED BY THE HOUSE

30Mar2011... 1174h

2011 SESSION

11-0488

10/09

HOUSE BILL **580-FN-LOCAL**

AN ACT relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

SPONSORS: Rep. Kurk, Hills 7; Rep. Hawkins, Hills 18; Sen. White, Dist 9

COMMITTEE: Special Committee on Public Employee Pensions Reform

AMENDED ANALYSIS

This bill makes various changes to the state retirement system including:

I. Increasing retirement ages of group I and group II members for service retirement, disability retirement, vested deferred retirement, and split benefits.

II. Changing the definitions of earnable compensation and average final compensation used in calculating retirement benefits.

III. Changing the composition of the board of trustees.

IV. Eliminating the special account.

V. Increasing contribution rates.

VI. Establishing a committee to study the establishment of a voluntary defined contribution plan.

VII. Prohibiting a member in service from concurrently receiving benefits.

This bill also establishes a program allowing a state employee to refuse his or her rights as a state employee to receive state medical, dental, and retirement benefits in order to instead receive an increase in his or her base salary or wage; and provides that after the end of a collective bargaining agreement, the public employer has exclusive authority for continuation of benefits.

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.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

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

1 1 Findings and Intent.

2 I. It is imperative for the state to take immediate action to assure the state retirement
3 system's future financial health.

4 (a) The Pew Institute has concluded that unfunded pension and healthcare liabilities are
5 a nationwide problem, estimated at over \$1 trillion.

6 (b) The New Hampshire retirement system has an estimated unfunded pension liability
7 of \$3.7 billion and \$1.5 billion of unfunded medical insurance liability. Although a plan is underway
8 for recovery over 30 years, uncertainties in future market returns, rapid increases in medical costs,
9 increases in life expectancy, and slower growth in public sector employment require prudent
10 intervention to assure financial viability.

11 (c) The level of federal debt of almost \$14 trillion and growing rapidly suggests that
12 federal assistance to the states may be significantly reduced in the future, adding to the problem.

13 (d) The budget reductions planned for the state fiscal years 2012 and 2013 are large, and
14 do not fully meet the state's commitments to health and human services, education, transportation,
15 and other services. Reductions in state retirement costs are a necessary part.

16 II. The current level of benefits for public employees is unsustainable.

17 (a) On average, benefits constitute an additional 52 percent increase to the cost of public
18 salaries. This is significantly higher than the percent paid in the private sector, and taxpayers are
19 increasing unable to continue this level of support, especially in our recessionary climate.

20 (b) Public employees are increasingly not cost-competitive with private alternatives to
21 providing state and municipal services.

22 (c) Public employee contributions to their pensions have not been increased for many
23 years.

24 III. The financial viability of the state retirement system must be preserved.

25 (a) Simply shifting who pays (i.e., employees or employers) will not solve the problem.

26 (b) It is important to adjust the system fairly among employee classes, and to introduce
27 changes in a way to ameliorate impact on present employees, especially those closest to retirement.

28 (c) Pension costs must not make public employees uncompetitive with the private sector.

29 2 Retirement System; Definitions; Average Final Compensation. Amend RSA 100-A:1, XVIII to

1 read as follows:

2 XVIII. "Average final compensation" shall mean, *for members who retire prior to July 1,*
 3 *2016*, the average annual earnable compensation of a member during his or her highest 3 years of
 4 creditable service, or during all of the years in his or her creditable service if less than 3 years. *For*
 5 *members who retire on or after July 1, 2016, "average final compensation" shall mean the*
 6 *average annual earnable compensation of a member during his or her highest 5 years of*
 7 *creditable service, or during all of the years in his or her creditable service if less than 5*
 8 *years.*

9 3 Retirement System; Definition of Earnable Compensation. Amend RSA 100-A:1, XVII to read
 10 as follows:

11 XVII. "Earnable compensation" shall mean:

12 (a) For all members *in service on or before June 30, 2011 and who retire prior to*
 13 *July 1, 2016*, the full base rate of compensation paid plus any overtime pay, holiday and vacation
 14 pay, sick pay, longevity or severance pay, cost of living bonus, additional pay for extracurricular and
 15 instructional activities or for other extra or special duty, and any military differential pay, plus the
 16 fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living
 17 quarters if subject to federal income tax, but excluding other compensation except cash incentives
 18 paid by an employer to encourage members to retire, supplemental pay paid by the employer while
 19 the member is receiving workers' compensation, and teacher development pay that is not part of the
 20 contracted annual salary. However, earnable compensation in the final 12 months of creditable
 21 service prior to termination of employment shall be limited to 1- 1/2 times the higher of the earnable
 22 compensation in the 12-month period preceding the final 12 months or the highest compensation
 23 year as determined for the purpose of calculating average final compensation, but excluding the final
 24 12 months. Any compensation received in the final 12 months of employment in excess of such limit
 25 shall not be subject to member or employer contributions to the retirement system and shall not be
 26 considered in the computation of average final compensation. Provided that, the annual
 27 compensation limit for members of governmental defined benefit pension plans under section
 28 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable
 29 compensation for all employees, teachers, permanent firemen, and permanent policemen who first
 30 become eligible for membership in the system on or after July 1, 1996. Earnable compensation shall
 31 not include compensation in any form paid later than 120 days after the member's termination of
 32 employment from a retirement eligible position, with the limited exceptions of disability related
 33 severance pay paid to a member or retiree no later than 120 days after a decision by the board of
 34 trustees granting the member or retiree disability retirement benefits pursuant to RSA 100-A:6 and
 35 of severance pay which a member was entitled to be paid within 120 days after termination but
 36 which, without the consent of the member and not through any fault of the member, was paid more
 37 than 120 days after the member's termination. The member shall have the burden of proving to the

1 board of trustees that any severance payment paid later than 120 days after the member's
2 termination of employment is earnable compensation and meets the requirements of an asserted
3 exception to the 120-day post-termination payment requirement.

4 *(b) For any member in service on and after July 1, 2011 and who retires after*
5 *July 1, 2016, the full base rate of compensation paid plus holiday pay, vacation pay, and*
6 *sick pay, and any compensation for mandatory training and any military differential pay.*
7 *Earnable compensation shall not include pay for accumulated unused sick or vacation*
8 *time. However, earnable compensation in the final 2 12-month periods of creditable service*
9 *prior to termination of employment shall each be limited to 1-1/2 times the highest*
10 *compensation year as determined for the purpose of calculating average final*
11 *compensation, but excluding the final 24 months. Any compensation received in the final*
12 *24 months of employment in excess of such limit shall not be subject to member or employer*
13 *contributions to the retirement system and shall not be considered in the computation of*
14 *average final compensation. Provided that, the annual compensation limit for members of*
15 *governmental defined benefit pension plans under section 401(a)(17) of the United States*
16 *Internal Revenue Code of 1986, as amended, shall apply to earnable compensation for all*
17 *employees, teachers, permanent firemen, and permanent policemen. Earnable*
18 *compensation shall not include compensation in any form paid later than 120 days after*
19 *the member's termination of employment from a retirement eligible position.*

20 4 Membership; Employees; Full-Time Requirement. Amend RSA 100-A:3, III to read as follows:

21 III. The board of trustees may, in its discretion, accept as members any class of *full-time*
22 *employees, or any class of* teachers, permanent policemen or permanent firemen, whose
23 compensation is only partly paid by an employer or who are serving on a temporary or other than per
24 annum basis, and it may also, in its discretion, make optional with *such* employees, teachers,
25 permanent policemen or permanent firemen in any such class their individual entrance into
26 membership. *Provided, however, that membership as an employee as defined in RSA 100-*
27 *A:1, V shall require full-time employment, which shall not be satisfied by the combination*
28 *of service in one or more part-time positions. In addition, no member in a full-time*
29 *position as an employee shall be permitted to make contributions or to accrue benefits*
30 *under this chapter on account of any such part-time employment. Any rule or practice*
31 *adopted by the board which is inconsistent with the requirements of this paragraph shall*
32 *be without effect.*

33 5 Service Retirement; Age Increased. Amend RSA 100-A:5 to read as follows:

34 100-A:5 Service Retirement Benefits.

35 I. Group I Members.

36 (a) Any group I member, *who* may retire on a service retirement allowance upon written
37 application to the board of trustees setting forth at what time, not less than 30 days nor more than

1 90 days subsequent to the filing thereof, the member desires to be retired, provided the member at
2 the time so specified for retirement has attained age 60 *if the member is in vested status before*
3 *July 1, 2011 or age 65 if the member is not in vested status on July 1, 2011*, and
4 notwithstanding that during such period of notification the member may have separated from
5 service. For the purposes of this section, a teacher member of group I who remains in service
6 throughout a school year shall be deemed to be in service during July and August at the end of such
7 school year.

8 (b) Upon service retirement, an employee member or teacher member of group I shall
9 receive a service retirement allowance which shall consist of a member annuity which shall be the
10 actuarial equivalent of the member's accumulated contributions at the time of retirement, and a
11 state annuity. Prior to the member's attainment of age 65, the state annuity, together with the
12 member annuity, shall be equal to 1/60 of the member's average final compensation multiplied by
13 the number of years of creditable service. After attainment of age 65, the state annuity, together
14 with the member annuity, shall be equal to 1/66 of the member's average final compensation
15 multiplied by the number of years of creditable service.

16 (c) Notwithstanding any other provision of law, any group I member who meets the
17 requirements of RSA 100-A:10, I(a), and who has either completed at least 20 years of creditable
18 service which, when combined with his *or her* age equals at least [70] 75 years, or who has attained
19 the age of [50] 55, but not the age of 60 *if the member is in vested status before July 1, 2011 or*
20 *the age of 65 if the member is not in vested status on July 1, 2011*, may elect to retire and have
21 benefits commence immediately as a reduced service retirement allowance upon written application
22 to the board of trustees setting forth the time, not less than 30 days nor more than 90 days
23 subsequent to the filing thereof, at which the member desires to have benefits commence. The
24 service retirement allowance shall be determined in accordance with RSA 100-A:5, I(b) and shall be
25 reduced, for each month by which the date on which benefits commence precedes the month after
26 which the member attains 60 years of age *if the member is in vested status before July 1, 2011*
27 *or 65 years of age if the member is not in vested status on July 1, 2011*, by 1/8 of one percent if
28 the member has 35 years or more of creditable service, by 1/4 of one percent if the member has 30
29 years but less than 35 years of creditable service, by 1/3 of one percent if the member has at least 25
30 years but less than 30 years of creditable service, by 5/12 of one percent if the member has at least
31 20 years but less than 25 years of creditable service, and by 5/9 of one percent if the member has less
32 than 20 years of creditable service.

33 (d) [Repealed.]

34 II. Group II Members.

35 (a)(1) Any group II member in service, *who is in vested status before July 1, 2011*,
36 who has attained age 45 and completed 20 years of creditable service, or who has attained age 60
37 regardless of the number of years of creditable service, may retire on a service retirement allowance

1 upon written application to the board of trustees setting forth at what time not less than 30 days nor
2 more than 90 days subsequent to the filing thereof the member desires to be retired,
3 notwithstanding that during such period of notification the member may have separated from
4 service.

5 (2) *Any group II member in service who is not in vested status on July 1,*
6 *2011, who has attained age 50 and completed 25 years of creditable service, or who has*
7 *attained age 65 regardless of the number of years of creditable service, may retire and*
8 *receive a service retirement allowance beginning upon the attainment of age 55 upon*
9 *written application to the board of trustees setting forth at what time not less than 30 days*
10 *nor more than 90 days subsequent to the filing thereof the member desires to be retired,*
11 *notwithstanding that during such period of notification the member may have separated*
12 *from service.*

13 (b) Upon service retirement, a group II member shall receive a service retirement
14 allowance which shall consist of:

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

17 (2) *For members who are in vested status before July 1, 2011, a state annuity*
18 *which, together with his or her member annuity, shall be equal to 2-1/2 percent of his or her*
19 *average final compensation multiplied by the number of years of his or her creditable service not in*
20 *excess of 40 years, or for members who commenced service or are not in vested status on July*
21 *1, 2011, a state annuity which, together with his or her member annuity, shall be equal to 2*
22 *percent of his or her average final compensation multiplied by the number of years of his*
23 *or her creditable service not in excess of 25 years.*

24 (c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member
25 who *is in vested status before July 1, 2011 and* has retired on or after the effective date of this
26 subparagraph after attaining the age of 45 with at least 20 years of creditable service shall receive a
27 minimum annual service retirement allowance of \$10,000, *and any group II member who is not*
28 *in vested status on July 1, 2011 and has retired on or after the effective date of this*
29 *subparagraph after attaining the age of 50 with at least 25 years of creditable service,*
30 *shall receive beginning upon the attainment of age 55 a minimum annual service*
31 *retirement allowance of \$10,000.* If such group II member has elected to convert the retirement
32 allowance into an optional allowance for the surviving spouse under RSA 100-A:13, the surviving
33 spouse shall be entitled to a proportional share of the \$10,000.

34 (2) [Repealed.]

35 (3) [Repealed.]

36 6 Disability Retirement; Group I Age Increased. Amend RSA 100-A:6, I(b) to read as follows:

37 (b)(1) Upon ordinary disability retirement, the group I member who has attained age 60

1 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is not in*
2 *vested status on July 1, 2011* shall receive an ordinary disability retirement allowance which shall
3 consist of a member annuity and shall be the actuarial equivalent of the member's accumulated
4 contributions at the time of his ordinary disability retirement, and a state annuity as follows:

5 (A) Prior to the member's attainment of age 65, the state annuity, together with
6 the member annuity, shall be equal to 1/60 of the member's average final compensation at the time
7 of his ordinary disability retirement multiplied by the number of years of creditable service at the
8 time of his ordinary disability retirement;

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

13 (C) Regardless of age at disability, the ordinary disability retirement allowance
14 shall not be less than 25 percent of the member's average final compensation at the time of his *or*
15 *her* disability retirement.

16 (2) Upon ordinary disability retirement, the group I member who has not attained
17 age 60 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is*
18 *not in vested status on July 1, 2011* shall receive an ordinary disability retirement allowance
19 which shall consist of: a member annuity which shall be the actuarial equivalent of the member's
20 accumulated contributions at the time of his ordinary disability retirement; and a state annuity
21 which, together with the member annuity, shall be equal to 1.5 percent of the member's average final
22 compensation at the time of his ordinary disability retirement multiplied by the number of years of
23 creditable service at that time of his ordinary disability retirement. However, regardless of age at
24 disability, the ordinary disability retirement allowance shall not be less than 25 percent of the
25 member's average final compensation at the time of his *or her* disability retirement.

26 7 Accidental Disability Retirement; Group I. Amend RSA 100-A:6, I(d) to read as follows:

27 (d)(1) Upon accidental disability retirement, the group I member who has attained age
28 60 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is not*
29 *in vested status on July 1, 2011* shall receive an accidental disability retirement allowance which
30 shall consist of a member annuity and shall be the actuarial equivalent of the member's accumulated
31 contributions at the time of his accidental disability retirement, and a state annuity as follows:

32 (A) Prior to the member's attainment of age 65, the state annuity, together with
33 the member annuity, shall be equal to 1/60 of the member's average final compensation at the time
34 of his accidental disability retirement multiplied by the number of years of creditable service at the
35 time of his accidental disability retirement;

36 (B) After attainment of age 65, the state annuity, together with the member
37 annuity, shall be equal to 1/66 of the member's average final compensation at the time of his

1 accidental disability retirement multiplied by the number of years of creditable service at the time of
2 his accidental disability retirement;

3 (C) Regardless of age at disability, such allowance shall not be less than 50
4 percent of the member's average final compensation at the time of his accidental disability
5 retirement.

6 (2) Upon accidental disability retirement, the group I member who has not attained
7 age 60 *if the member is in vested status before July 1, 2011 or the age of 65 if the member is*
8 *not in vested status on July 1, 2011* shall receive an accidental disability retirement allowance
9 which shall consist of: the member annuity which shall be the actuarial equivalent of the member's
10 accumulated contributions at the time of his accidental disability retirement; and a state annuity
11 which, together with the member annuity, shall be equal to 50 percent of the member's average final
12 compensation at the time of his disability retirement.

13 8 Ordinary Disability Retirement; Group II. Amend RSA 100-A:6, II(b) to read as follows:

14 (b) Upon ordinary disability retirement, the group II member shall receive an ordinary
15 disability retirement allowance which shall consist of: a member annuity which shall be the
16 actuarial equivalent of his accumulated contributions at the time of his *or her* ordinary disability
17 retirement; and a state annuity which, together with his *or her* member annuity, *for members who*
18 *are in vested status before July 1, 2011*, shall be equal to 2-1/2 percent of his *or her* average final
19 compensation at the time of [~~his~~] ordinary disability retirement multiplied by the number of years of
20 his *or her* creditable service not in excess of 40 at the time of [~~his~~] ordinary disability retirement, *or*
21 *for members who are not in vested status on July 1, 2011, shall be equal to 2 percent of his*
22 *or her average final compensation at the time of ordinary disability retirement multiplied*
23 *by the number of years of his or her creditable service not in excess of 25 at the time of*
24 *ordinary disability retirement*, provided, however, that such allowance shall not be less than 25
25 percent of the member's final compensation at the time of his *or her* disability retirement.

26 9 Accidental Disability Retirement; Group II. Amend RSA 100-A:6, II(d) to read as follows:

27 (d)(1) Upon accidental disability retirement, the group II member *who is in vested*
28 *status before July 1, 2011*, shall receive an accidental disability retirement allowance equal to 2/3
29 of his *or her* average final compensation at the time of [~~his~~] disability retirement, *and the group II*
30 *member who is not in vested status on July 1, 2011, shall receive an accidental disability*
31 *retirement allowance equal to 1/2 of his or her average final compensation at the time of*
32 *disability retirement*.

33 (2) For any group II member who has more than 26-2/3 years of service, a
34 supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2-1/2
35 percent of his *or her* average final compensation multiplied by the number of years of his *or her*
36 creditable service in excess of 26-2/3 but not in excess of 40 years. *Provided however that an*
37 *accidental disability retirement allowance together with a supplemental disability*

1 *retirement allowance, as provided in this subparagraph, shall not exceed 100 percent of*
2 *the disability retiree's average final compensation.*

3 10 Vested Deferred; Group II Age Increased. Amend RSA 100-A:10, II(b) to read as follows:

4 (b) *For members who are in vested status before July 1, 2011*, upon the member's
5 attainment of age 45, provided the member would then have completed 20 years of creditable service,
6 otherwise the subsequent date on which such 20 years would have been completed, or at any time
7 after age 60, *or for members who are not in vested status on July 1, 2011, upon the member's*
8 *attainment of age 50, provided the member would then have completed 25 years of*
9 *creditable service, otherwise the subsequent date on which such 25 years would have been*
10 *completed, or at any time after age 65*, a group II member who meets the requirement of
11 subparagraph (a) may make application on a form prescribed by the board of trustees and receive a
12 vested deferred retirement allowance which shall consist of: (1) A member annuity which shall be
13 the actuarial equivalent of accumulated contributions on the date the member's retirement
14 allowance commences; and (2) A state annuity which, together with the member annuity, shall be
15 equal to a service retirement allowance based on the member's average final compensation and
16 creditable service at the time the member's service is terminated.

17 11 Return of Contributions. Amend RSA 100-A:11, I(c) to read as follows:

18 (c) Upon the death of a group I member who has elected, pursuant to RSA 100-A:10, to
19 receive a vested deferred retirement allowance before his *or her* attainment of age 60 *if the*
20 *member is in vested status before July 1, 2011 or the age of 65 if the member is not in vested*
21 *status on July 1, 2011*, the amount of his *or her* accumulated contributions at the time of his *or*
22 *her* death shall be paid to the person or persons, if any, nominated by [~~him~~] *the member*, if living,
23 otherwise to the member's estate.

24 12 Split Benefits; Minimum Age. Amend RSA 100-A:19-b to read as follows:

25 100-A:19-b Minimum Age. For the purposes of this subdivision only, minimum age shall mean:

26 I. For a member who has completed less than 20 years combined creditable service in both
27 group I and group II, 60 years *if the member is in vested status before July 1, 2011 or 65 years*
28 *if the member is not in vested status on July 1, 2011.*

29 II. For a member *who is in vested status before July 1, 2011 and*, who has completed 20
30 or more years of combined creditable service, one year shall be deducted from age 60 for each year of
31 creditable group II service, provided that the age shall not be less than 45 years. *For a member*
32 *who commenced service or is not in vested status on July 1, 2011 and, who has completed 25*
33 *or more years of combined creditable service, one year shall be deducted from age 65 for*
34 *each year of creditable group II service, provided that the age shall not be less than 50*
35 *years.*

36 13 Split Benefits; Reduced Early Retirement; Minimum Age. Amend RSA 100-A:19-d to read as
37 follows:

1 100-A:19-d Reduced Early Retirement. Notwithstanding any other provision of law, any
 2 retirement system member who has creditable service in both group I and group II with at least
 3 10 years combined creditable service, and who has attained an age which is at least 45 *for members*
 4 *who are in vested status with group II service prior to July 1, 2011 or at least 50 for*
 5 *members who commenced group II service or are not in vested status on July 1, 2011* and is
 6 within 10 years of the minimum age set forth in RSA 100-A:19-b, may elect to retire and have
 7 benefits commence immediately as a reduced split-benefit service retirement allowance. Application
 8 shall be as provided in RSA 100-A:5, I(c). The allowance shall be determined as a split-benefit
 9 service retirement allowance in accordance with RSA 100-A:19-c, and the total combined split-benefit
 10 service allowance shall be reduced by the percentages shown in RSA 100-A:5, I(c), based on the total
 11 combined length of creditable service, for each month by which the date on which benefits commence
 12 precedes the month after which the member attains the minimum age set forth in RSA 100-A:19-b.

13 14 State Employees; Retirement. Amend RSA 21-I:30, II(a) to read as follows:

14 (a) Has at least 10 years of creditable service for the state if the employee's service began
 15 prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July
 16 1, 2003, and who also is at least 60 years of age at the time of retirement *if the employee is in*
 17 *vested status before July 1, 2011 or at least 65 years of age at the time of retirement if the*
 18 *employee is not in vested status on July 1, 2011; or*

19 15 State Employees; Group Insurance Benefits; Group II. Amend RSA 21-I:30, III to read as
 20 follows:

21 III. Any vested deferred state retiree may receive medical and surgical benefits under this
 22 section if the vested deferred state retiree is eligible. To be eligible, a group I vested deferred state
 23 retiree shall have at least 10 years of creditable service with the state if the employee's service began
 24 prior to July 1, 2003 or 20 years of creditable service with the state if the employee's service began
 25 on or after July 1, 2003 and a group II vested deferred state retiree shall have at least 20 years of
 26 creditable service with the state if the employee's service with the state began on or after July 1,
 27 2010. In addition, if the vested deferred state retiree is a member of group I, such retiree shall be at
 28 least 60 years of age to be eligible *if the member is in vested status before July 1, 2011 or 65*
 29 *years of age if the member is not in vested status on July 1, 2011.* If the vested deferred state
 30 retiree is a member of group II *who is in vested status before July 1, 2011*, such retiree shall not
 31 be eligible until 20 years from the date of becoming a member of group II and shall be at least 45
 32 years of age, *and any group II member who is not in vested status on July 1, 2011 shall not*
 33 *be eligible until 25 years from the date of becoming a member of group II and shall be at*
 34 *least 50 years of age.*

35 16 Retirement Age Changed; Vested Status; Group I. Notwithstanding the provisions of RSA
 36 100-A:5, RSA 100-A:6, RSA 100-A:10, RSA 100-A:11, RSA 100-A:19-b, and RSA 21-I:30 relating to
 37 retirement at age 60, persons who are in vested status in the retirement system or as a state

1 employee under RSA 21-I:30 on the effective date of this section shall be permitted to retire on an
2 unreduced service retirement, disability retirement, vested deferred retirement, or split benefit
3 retirement at the following ages, based on the corresponding number of years of creditable service:

- 4 I. At least 10 but not 15 years of creditable service, age 64.
5 II. At least 15 but not 20 years of creditable service, age 63.
6 III. At least 20 but not 25 years of creditable service, age 62.
7 IV. At least 25 but not 30 years of creditable service, age 61.
8 V. At least 30 years of creditable service, age 60.

9 17 Retirement Qualifications; Members Not in Vested Status; Group II. Notwithstanding the
10 provisions of RSA 100-A:5, RSA 100-A:6, RSA 100-A:10, RSA 100-A:11, RSA 100-A:19-b, and RSA
11 21-I:30 relating to retirement qualifications and calculation of benefits for group II members, any
12 group II member not in vested status on July 1, 2011 shall be subject to the transition provisions of
13 this section for years of service required for regular service retirement, the minimum age for regular
14 service retirement, and the multiplier used to calculate the retirement annuity, which shall be
15 applicable on July 1, 2011 according to the following table:

<u>Creditable service</u>	<u>Minimum years of service</u>	<u>Minimum age attained</u>	<u>Annuity multiplier</u>
<u>on July 1, 2011</u>			
(1) Less than 4 years	24	age 49	2.1%
(2) At least 4 years but less than 6 years	23	age 48	2.2%
(3) At least 6 years but less than 8 years	22	age 47	2.3%
(4) At least 8 years but less than 10 years	21	age 46	2.4%

25 18 Financing; Contribution Rates; Group II Member Payroll Deduction. Amend RSA 100-A:16,
26 I(a) to read as follows:

27 (a) The member annuity savings fund shall be a fund in which shall be accumulated the
28 contributions deducted from the compensation of members to provide for their member annuities
29 together with any amounts transferred thereto from a similar fund under one or more of the
30 predecessor systems. Such contribution shall be, for each member, dependent upon the member's
31 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.]

1 **Group I members, 7.00**

2 **Group II permanent fireman members, 11.80**

3 **Group II permanent police members, 11.55**

4 The board of trustees shall certify to the proper authority or officer responsible for making up the
5 payroll of each employer, and such authority or officer shall cause to be deducted from the
6 compensation of each member, except group II members *who are in vested status before July 1,*
7 *2011 with creditable service in excess of 40 years or group II members who are not in vested*
8 *status on July 1, 2011 with creditable service in excess of 25 years,* as provided in RSA 100-
9 A:5, II(b) and RSA 100-A:6, II(b), on each and every payroll of such employer for each and every
10 payroll period, the percentage of earnable compensation applicable to such member. No deduction
11 from earnable compensation under this paragraph shall apply to any group II member *who is in*
12 *vested status before July 1, 2011 with creditable service in excess of 40 years, or group II*
13 *member who is not in vested status on July 1, 2011 with creditable service in excess of 25*
14 *years,* as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), and this provision for such members
15 shall not affect the method of determining average final compensation as provided in RSA 100-A:1,
16 XVIII. In determining the amount earnable by a member in a payroll period, the board may consider
17 the rate of compensation payable to such member on the first day of a payroll period as continuing
18 throughout the payroll period and it may omit deduction from compensation for any period less than
19 a full payroll period if such person was not a member on the first day of the payroll period, and to
20 facilitate the making of deductions it may modify the deduction required of any member by such an
21 amount as shall not exceed 1/10 of one percent of the annual earnable compensation upon the basis
22 of which such deduction is made. The amounts deducted shall be reported to the board of trustees.
23 Each of such amounts, when deducted, shall be paid to the retirement system at such times as may
24 be designated by the board of trustees and credited to the individual account, in the member annuity
25 savings fund, of the member from whose compensation the deduction was made.

26 19 Retirement System; Recalculation of Employer Rates; Recertification. Notwithstanding the
27 notice requirements of RSA 100-A:16, III, the board of trustees of the retirement system shall
28 recalculate employer contribution rates for the state fiscal years 2012 and 2013 to reflect the
29 requirements of RSA 100-A as amended by this act. Notwithstanding the notice requirements of
30 RSA 100-A:16, III, such employer contribution rates shall be effective for the biennium beginning
31 July 1, 2011, and the recertification of employer contribution percentages, applicable beginning July
32 1, 2011, shall be provided to each employer within a reasonable period of time not to exceed 30 days
33 from the effective date of this section. The exception to the notice requirements of RSA 100-A:16, III
34 in this section shall be limited to the applicable employer contribution rates for the biennium
35 beginning July 1, 2011.

36 20 New Section; Retirement System; Return to Work. Amend RSA 100-A by inserting after
37 section 27 the following new section:

1 100-A:27-a Return to Work; Suspension of Benefits. Beginning July 1, 2011, no person for
2 whom membership in the retirement system is optional under RSA 100-A:3, I, and no person
3 employed by an employer on a full- or part-time basis or as a consultant for longer than 3 months in
4 a year, may concurrently receive benefits under this chapter as a retired member. Benefits shall be
5 suspended during any such period of employment.

6 21 Repeal. 2002, 137:7, relative to the application of the repeal of former RSA 100-A:3, I(c), is
7 repealed.

8* 22 Retirement System; Administration; Membership of Board. Amend RSA 100-A:14, I to read
9 as follows:

10 I. The administration of this system is vested in a board of ~~[14]~~ **13** trustees. Each newly
11 appointed or reappointed trustee shall have familiarity with or experience in finance or business
12 management. The state treasurer shall be an ex officio voting member of the board. The governor
13 and council shall appoint ~~[2]~~ **4** trustees, to be known as non-member trustees, who shall be qualified
14* persons with investment and/or financial experience as provided in this paragraph and not be
15 members of the system, and who shall serve for a term of 2 years and until their successors are
16 appointed and qualified. The non-member trustees of the board shall have substantial experience in
17 the field of institutional investment or finance, taking into account factors such as educational
18 background, business experience, and professional licensure and designations. The original
19 appointment of ~~[one]~~ **2** of the non-member trustees shall be for a term of one year. The remaining
20* ~~[14]~~ **8** members of the board shall consist of ~~[2 employees, 2 teachers, 2 permanent policemen, 2~~
21 ~~permanent firemen, one member of the senate who shall be appointed annually by the senate~~
22 ~~president, one member of the house of representatives who serves on the executive departments and~~
23 ~~administration committee and who shall be appointed annually by the speaker of the house, and one~~
24 ~~person representing management in local government. Whenever a vacancy occurs, the senate~~
25 ~~president or the speaker of the house shall fill the vacancy in the same manner by appointing a~~
26* ~~senate or a house member who shall serve for the unexpired term.]~~ **4 member representatives and**
27 **4 employer representatives.** The New Hampshire state employees' association, the
28 New Hampshire education association, the New Hampshire police association, **and** the
29 New Hampshire state permanent firemen's association, ~~[and the New Hampshire Local Government~~
30 ~~Center]~~ shall each annually nominate from their members a panel of 5 persons, ~~[all of whom except~~
31 ~~for the panel of the Local Government Center shall be active members of the retirement system, or~~
32* ~~one of the 4 predecessor systems,]~~ no later than May 31 of each year, and the panels so named shall
33 be filed with the secretary of state no later than June 10 of each year. From ~~[each of]~~ the above
34 named panels, the governor and council shall appoint ~~[one person annually to]~~ **the active member**
35 **representatives of the board**~~[, except for the panel of the Local Government Center, which shall~~
36 ~~have one person appointed every 2 years]~~ **as needed so as to maintain the representation on the**
37 **board. The governor and council shall appoint the employer representatives of the board**

1 *with the advice of employer organizations.* Members appointed to the board in the manner
2 aforesaid shall serve for a term of 2 years. Each member so appointed shall hold office until his or
3 her successor shall be appointed and qualified. Whenever a vacancy occurs, the governor and council
4 shall fill the vacancy by appointing a member who shall serve for the unexpired term [~~from the same~~
5 ~~panel from which the former member was appointed~~]. The governor shall designate one of the non-
6 member trustees to serve as chairman of said board of trustees.

7 23 Application; Board of Trustees Membership. Members of the board of trustees for the
8 retirement system on the effective date of this section shall serve for the remainder of their terms.
9 In order to conform to changes to the retirement system board of trustees made by this act, upon a
10 vacancy occurring in the membership on the board of trustees after the effective date of this section,
11 the appointment of a trustee shall be made to reasonably conform to the trustee designations in
12 RSA 100-A:14, I.

13 24 Repeal of Special Account. RSA 100-A:16, II(h)-(j), relative to the special account, are
14 repealed.

15 25 Transfer of Balance of Special Account. Any funds remaining in the special account on the
16 effective date of the repeal of the special account by this act shall be transferred to the respective
17 components of the state annuity accumulation fund.

18 26 Definition of Terminal Funding. Amend RSA 100-A:1, XXX to read as follows:

19 XXX. "Terminal funding" shall mean providing the full present value of the total liability for
20 benefit improvement. [~~Unless otherwise specified, the source of terminal funding shall be the special~~
21 ~~account established under RSA 100-A:16, II(h).~~]

22 27 Benefits Upon Death After Retirement; References to Special Account. Amend RSA 100-
23 A:12, I-a and II to read as follows:

24 I-a. In addition to any other provision of this section, upon the death of a retired group II
25 member of the New Hampshire retirement system or any predecessor system, who retired pursuant
26 to RSA 100-A:5, II with at least 20 years of creditable service or pursuant to RSA 100-A:6, II(a) prior
27 to April 1, 1987, there shall be paid to the member's spouse at the time of retirement, if surviving, an
28 allowance to continue until the spouse's death or remarriage equal to 50 percent of the service or
29 ordinary disability retirement allowance payable to the retired member prior to the member's death.
30 The total cost of terminally funding the benefits provided by this paragraph shall be funded from the
31 [~~special account established under RSA 100-A:16, II(h)~~] **state annuity accumulation fund.**

32 II. Upon the death of a group II member who has retired on or after April 1, 1987, or upon
33 the death of a group II member who has filed an application for retirement benefits with the board of
34 trustees after January 1, 1991, there shall be paid to the person nominated by the member by
35 written designation filed with the board, if living, otherwise to the retired member's estate, in
36 addition to the amount payable under RSA 100-A:11 a lump sum of \$3,600 if the member retired
37 before July 1, 1988, and if the member is married on the date of such member's retirement, there

1 shall be paid to such surviving spouse an allowance to continue until the spouse's death or
2 remarriage equal to 50 percent of the member's service, ordinary disability, or accidental disability
3 retirement allowance payments. For any person who is a group II member as of June 30, 1988, and
4 who retires on or after July 1, 1988, the lump sum payment shall be \$10,000. For any person who
5 becomes a member of group II on or after July 1, 1988, and on or prior to July 1, 1993, the lump sum
6 payment shall be \$3,600. It is the intent of the legislature that future group II members shall be
7 included only if the total cost of such inclusion can be *terminally* funded [~~by reimbursement from~~
8 ~~the special account established under RSA 100-A:16, II(h)~~].

9 28 Supplemental Allowance; Reference to Special Account. Amend RSA 100-A:41-a, III to read
10 as follows:

11 III.(a) The payment of any such supplemental allowance shall be contingent on terminal
12 funding of the total actuarial cost thereof. [~~Such terminal funding shall be from the special account~~
13 ~~established under RSA 100-A:16, II(h)~~].

14 (b) [~~No supplemental allowance shall reduce the funds in the respective component of~~
15 ~~the special account to an amount less than zero.~~

16 (e) Cost of living adjustments shall be retroactive to the member's eligibility date
17 pursuant to paragraph I.

18* 29 Management of Funds; Investment Committee. Amend RSA 100-A:15, I to read as follows:

19 I. The members of the board of trustees shall be the trustees of the several funds created
20 hereby and shall set the investment policy relative to those funds. The independent investment
21 committee shall have full power to invest and reinvest such funds in accordance with the policy set
22 by the board. The board of trustees *and the members of the independent investment committee*
23 shall have the powers, privileges, and immunities of a corporation. The independent investment
24* committee shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the
25 securities and investments in which any of the funds created hereby have been invested, as well as
26 the proceeds of such investments in accordance with the policy set by the board. All of the assets and
27 proceeds, and income therefrom, of the New Hampshire retirement system, and all contributions and
28 payments made thereto, shall be held, invested, or disbursed in trust.

29 30 Independent Investment Committee Amend RSA 100-A:15, IX to read as follows:

30* IX. The non-trustee members of the independent investment committee shall be afforded the
31 same liability insurance [~~and~~], indemnification, *and statutory protections* as board members.

32 31 New Section; Retirement System; Construction of Provisions; Member Acknowledgement.
33 Amend RSA 100-A by inserting after section 1 the following new section:

34 100-A:1-a Construction of Provisions; Member Acknowledgement.

35 I. The benefits provided under this chapter shall not be construed to constitute a binding
36* contractual obligation with respect to members and may be modified or discontinued by the adoption
37 of appropriate legislation.

1 II. Every employer shall keep on file for each member commencing service after June 30
2 2011 a statement of the employee's, teacher's, policeman's, or fireman's acknowledgement of the
3 provisions of paragraph I of this section.

4 32. New Paragraph; Public Employee Labor Relations; Status Quo; Authority of Employer.
5 Amend RSA 273-A:11 by inserting after paragraph II the following new paragraph:

6 III. Following the end of the term of a collective bargaining agreement and during any
7 period of negotiation, the status quo shall be maintained as to the wages, hours, and conditions of
8 employment of employees in good standing. Except where required by statute, the continuation,
9 after the expiration of the agreement, of the provision of any medical, dental, and life insurance
10 benefits, retirement or pension benefits, and any other fringe benefits, shall be subject to the
11 exclusive authority of the public employer.

12 33 New Section; Department of Administrative Services; State Employee Refusal of Benefits
13 Program. Amend RSA 21-I by inserting after section 43-a the following new section:

14 21-I:43-b State Employee Refusal of Benefits Program.

15 I. The commissioner of the department of administrative services shall establish and
16 administer a program which shall allow a permanent full-time state employee to refuse his or her
17 rights as a state employee to receive state medical, dental, and retirement benefits in order to
18 instead receive an increase in his or her base salary or wage.

19 II. The department shall develop forms, establish procedures, and adopt rules for
20 administering the program established by this section. The forms shall include specific notice of the
21 details of the benefits refused by the election of a state employee under this section. Any such
22 election shall be required to be signed and dated by the state employee.

23 III. A permanent full-time state employee paid through the office of the state treasurer shall
24 be eligible to refuse state employee benefits as described in paragraph I. Upon verification by the
25 department of the state employee's refusal of employment benefits, the state employee shall be
26 granted an increase of 25 percent of his or her base salary or wage, excluding pay related to
27 overtime, unused vacation time, unused sick time, longevity pay, or other compensation not deemed
28 by the department to be base salary or wages, to be paid on regular pay schedule for employment
29 during good standing.

30 IV. The election to refuse state employment benefits for an increase in base salary or wages
31 shall only be available to a permanent full-time state employee who first commenced service with the
32 state on or after July 1, 2004.

33 V. The source of funds for the payment of the increase of 25 percent for a state employee
34 electing to refuse state employment benefits under this section shall be the employee and retiree
35 benefit risk management fund established in RSA 21-I:30-e.

36 34 Severability; Contingent Amendment; Effective Date.

37 I. The provisions of this act making various amendments concerning the New Hampshire

1 retirement system shall be severable and if any phrase, clause, sentence or provision of this act is
2 declared to be contrary to the constitution of this state or of the United States or the applicability
3 thereof to any government, agency, person, or circumstance is held invalid, the validity of the
4 remainder of this act and the applicability thereof to any government, agency, person, or
5 circumstance shall not be affected thereby.

6 II. If as provided in paragraph I of this section, any phrase, clause, sentence, or provision is
7 held contrary to the constitution of this state or of the United States, the remaining provisions of the
8 act shall be in full force and effect as to all severable matters, and section 35 of this act shall take
9 effect on the July 1 next following the date that the board of trustees certifies to the secretary of
10 state and the director of legislative services of the occurrence of a final ruling on the declaration
11 described in paragraph I.

12 35 Member Contribution Rates; Contingent Version. Repeal and reenact the introductory
13 paragraph of RSA 100-A:16, I(a) and the contribution rates following the introductory paragraph to
14 read as follows:

15 (a) The member annuity savings fund shall be a fund in which shall be accumulated the
16 contributions deducted from the compensation of members to provide for their member annuities
17 together with any amounts transferred thereto from a similar fund under one or more of the
18 predecessor systems. Such contribution shall be, for each member, the rate percent of each
19 member's compensation as determined by the retirement system which shall by annual total
20 represent 50 percent of the normal contribution and accrued liability contribution determined under
21 paragraph II.

22* 36 Study Committee Established; Voluntary Defined Contribution Plan. There is established a
23 committee to study the establishment of a federal tax qualified voluntary defined contribution plan.

24 I. The members of the committee shall be as follows:

25 (a) Three members of the senate, who shall be from the executive departments and
26 administration committee, appointed by the president of the senate.

27 (b) Three members of the house of representatives, each of whom shall be from the
28* special committee on public employee pensions reform, appointed by the speaker of the house of
29 representatives.

30 II. Members of the committee shall receive mileage at the legislative rate when attending to
31 the duties of the committee.

32 III. The members of the study committee shall elect a chairperson from among the members.
33 The first meeting of the committee shall be called by the first-named house member. The first
34* meeting of the committee shall be held within 45 days of the effective date of this section. Four
35 members of the committee shall constitute a quorum.

36 IV. The committee shall report its findings and any recommendations for proposed
37 legislation to the president of the senate, the speaker of the house of representatives, the senate

HB 580-FN-LOCAL - AS AMENDED BY THE HOUSE

- Page 17 -

1 clerk, the house clerk, the governor, and the state library on or before November 1, 2011.

2 37 Repeal. RSA 100-A:41-d, relative to additional temporary supplemental allowances, is
3 repealed.

4 38 Effective Date.

5 I. Section 35 of this act shall take effect as provided in section 34 of this act.

6 II. The remainder of this act shall take effect July 1, 2011.

LBAO
11-0488
Revised 03/24/11

HB 580 FISCAL NOTE

AN ACT relative to the New Hampshire retirement system.

FISCAL IMPACT:

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

METHODOLOGY:

The New Hampshire Retirement System states RSA 100-A:16, I stipulates the NHRS member contribution rates for each of the four classifications of employees, however section 17 of this bill would permit the governing body of each participating political subdivision to deviate from stipulated rates by setting a higher or lower member contribution rate with respects to its members. The System states the total amount of anticipated member contributions is a key component in the actuary's determination of employer contribution rates. The System states there are currently more than 50,000 System members and more than 475 political subdivisions which are employers participating in the System. The System states given those statistics, the range of member contribution rates and total member contributions is virtually limitless and totally unpredictable and without being able to reasonably estimate the total member contributions, the actuary could not determine with any actuarial certainty the employer contribution rates and therefore the fiscal impact of this bill is indeterminable.

The System further states it would incur \$250,800 in computer programming costs to implement the changes in this bill.

CHAPTER 101
HB 580-FN-LOCAL - FINAL VERSION

30Mar2011... 1174h
04/27/11 1527s

2011 SESSION

11-0488
10/09

HOUSE BILL ***580-FN-LOCAL***

AN ACT establishing a committee to study collective bargaining by public employees.

SPONSORS: Rep. Kurk, Hills 7; Rep. Hawkins, Hills 18; Sen. White, Dist 9

COMMITTEE: Special Committee on Public Employee Pensions Reform

AMENDED ANALYSIS

This bill establishes a committee to study collective bargaining by public employees.

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.

CHAPTER 101
HB 580-FN-LOCAL - FINAL VERSION

30Mar2011... 1174h
04/27/11 1527s

11-0488
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT establishing a committee to study collective bargaining by public employees.

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

1 101:1 Committee Established. There is established a committee to study collective bargaining
2 by public employees.

3 101:2 Membership and Compensation.

4 I. The members of the committee shall be as follows:

5 (a) Three members of the senate, appointed by the president of the senate.

6 (b) Four members of the house of representatives, appointed by the speaker of the house
7 of representatives.

8 II. Members of the committee shall receive mileage at the legislative rate when attending to
9 the duties of the committee.

10 101:3 Duties. The committee shall study matters as it deems necessary related to public
11 employer collective bargaining agreements with public employees under RSA 273-A.

12 101:4 Chairperson; Quorum. The members of the study committee shall elect a chairperson
13 from among the members. The first meeting of the committee shall be called by the first-named
14 senate member. The first meeting of the committee shall be held within 45 days of the effective date
15 of this section. Three members of the committee shall constitute a quorum.

16 101:5 Report. The committee shall report its findings and any recommendations for proposed
17 legislation to the president of the senate, the speaker of the house of representatives, the senate
18 clerk, the house clerk, the governor, and the state library on or before December 1, 2011.

19 101:6 Effective Date. This act shall take effect upon its passage.

20

21 Approved: May 27, 2011

22 Effective Date: May 27, 2011

HB 580 FISCAL NOTE

AN ACT establishing a committee to study collective bargaining by public employees.

FISCAL IMPACT:

This bill, as amended by the Senate (Amendment #2011-1527s), will have no fiscal impact on state, county, and local revenues or expenditures.

METHODOLOGY:

This bill establishes a committee to study collective bargaining by public employees, and will have no fiscal impact on state, county, and local revenue or expenditures.

Amendments

Amendment to HB 580-FN-LOCAL

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a committee to study collective bargaining by public employees.

4

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

6

7 1 Committee Established. There is established a committee to study collective bargaining by
8 public employees.

9 2 Membership and Compensation.

10 I. The members of the committee shall be as follows:

11 (a) Three members of the senate, appointed by the president of the senate.

12 (b) Four members of the house of representatives, appointed by the speaker of the house
13 of representatives.

14 II. Members of the committee shall receive mileage at the legislative rate when attending to
15 the duties of the committee.

16 3 Duties. The committee shall study matters as it deems necessary related to public employer
17 collective bargaining agreements with public employees under RSA 273-A.

18 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
19 among the members. The first meeting of the committee shall be called by the first-named senate
20 member. The first meeting of the committee shall be held within 45 days of the effective date of this
21 section. Three members of the committee shall constitute a quorum.

22 5 Report. The committee shall report its findings and any recommendations for proposed
23 legislation to the president of the senate, the speaker of the house of representatives, the senate
24 clerk, the house clerk, the governor, and the state library on or before December 1, 2011.

25 6 Effective Date. This act shall take effect upon its passage.

Amendment to HB 580-FN-LOCAL
- Page 2 -

2011-1462s

AMENDED ANALYSIS

This bill establishes a committee to study collective bargaining by public employees.

Draft Amendment to HB 580-FN-LOCAL

1 Amend the bill by replacing section 20 with the following:

2
3 20 Restoration to Service; Limited to Part-time. RSA 100-A:7 is repealed and reenacted to read
4 as follows:

5 100-A:7 Service After Retirement; Part-time. No employer shall employ a member in other than
6 a part-time position after the member's retirement pursuant to this chapter.

7
8 Amend the bill by inserting after section 37 the following and renumbering the original section 38 to
9 read as 41:

10
11 38 New Paragraph; Definition Added; Part-time Employment. Amend RSA 100-A:1 by inserting
12 after paragraph XXXIII the following new paragraph:

13 XXXIV. "Part-time," for purposes of employment of a member, means employment by an
14 employer depending on the group classification of the employment as follows:

15 (a) For group I:

16 (A) Employment of the member for not more than 20 hours per week during each
17 week of a calendar year; except that

18 (B) Employment may exceed 20 hours in a week for not more than 13 total weeks
19 in a calendar year; provided that

20 (C) In no instance shall part-time employment of the member exceed 1,040 hours
21 in a calendar year.

22 (b) For group II:

23 (A) Employment of the member for not more than 30 hours per week during each
24 week of a calendar year; except that

25 (B) Employment may exceed 30 hours in a week for not more than 13 total weeks
26 in a calendar year; provided that

27 (C) In no instance shall part-time employment of the member exceed 1,560 hours
28 in a calendar year.

29 39 Membership; Optional. Amend the introductory paragraph of RSA 100-A:3, I(a) to read as
30 follows:

31 I.(a) Any person who becomes an employee, teacher, permanent policeman, or permanent
32 fireman after the date of establishment, working in a position for an employer under this chapter as

Draft Amendment to HB 580-FN-LOCAL

- Page 2 -

1 determined by common law standards, shall become a member of the retirement system as a
2 condition of employment; except that membership shall be optional in the case of *persons who*
3 *commenced service prior to July 1, 2008 who are* elected officials, officials appointed for fixed
4 terms, [~~unclassified state employees,~~] or those employees of the general court who are eligible for
5 membership in the retirement system. Elected officials and officials appointed for fixed terms shall,
6 however, be eligible for membership in the retirement system only under the following conditions:

7 40 Membership; Employees; Full-Time Requirement. Amend RSA 100-A:3, III to read as
8 follows:

9 III. The board of trustees may, in its discretion, accept as members any class of *full-time*
10 employees, *or any class of* teachers, permanent policemen or permanent firemen, whose
11 compensation is only partly paid by an employer or who are serving on a temporary or other than per
12 annum basis, and it may also, in its discretion, make optional with *such* employees, teachers,
13 permanent policemen or permanent firemen in any such class their individual entrance into
14 membership. *Provided, however, that membership as an employee as defined in RSA 100-*
15 *A:1, V shall require full-time employment, which shall not be satisfied by the combination*
16 *of service in one or more part-time positions. In addition, no member in a full-time*
17 *position as an employee shall be permitted to make contributions or to accrue benefits*
18 *under this chapter on account of any such part-time employment. Any rule or practice*
19 *adopted by the board which is inconsistent with the requirements of this paragraph shall*
20 *be without effect.*

2011-1510h

AMENDED ANALYSIS

This bill makes various changes to the state retirement system including:

- I. Increasing retirement ages of group I and group II members for service retirement, disability retirement, vested deferred retirement, and split benefits.
- II. Changing the definitions of earnable compensation and average final compensation used in calculating retirement benefits.
- III. Changing the composition of the board of trustees.
- IV. Eliminating the special account.
- V. Increasing contribution rates.
- VI. Establishing a committee to study the establishment of a voluntary defined contribution plan.
- VII. Defining part time employment for purposes of the New Hampshire retirement system
- VIII. Prohibits members in retirement from returning to full-time employment.
- IX. Modifies optional membership in the retirement system.

This bill also establishes a program allowing a state employee to refuse his or her rights as a state employee to receive state medical, dental, and retirement benefits in order to instead receive an increase in his or her base salary or wage; and provides that after the end of a collective bargaining agreement, the public employer has exclusive authority for continuation of benefits.

Amendment to HB 580-FN-LOCAL

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a committee to study collective bargaining by public employees.

4

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

6

7 1 Committee Established. There is established a committee to study collective bargaining by
8 public employees.

9 2 Membership and Compensation.

10 I. The members of the committee shall be as follows:

11 (a) Three members of the senate, appointed by the president of the senate.

12 (b) Four members of the house of representatives, appointed by the speaker of the house
13 of representatives.

14 II. Members of the committee shall receive mileage at the legislative rate when attending to
15 the duties of the committee.

16 3 Duties. The committee shall study matters as it deems necessary related to public employer
17 collective bargaining agreements with public employees under RSA 273-A.

18 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
19 among the members. The first meeting of the committee shall be called by the first-named senate
20 member. The first meeting of the committee shall be held within 45 days of the effective date of this
21 section. Three members of the committee shall constitute a quorum.

22 5 Report. The committee shall report its findings and any recommendations for proposed
23 legislation to the president of the senate, the speaker of the house of representatives, the senate
24 clerk, the house clerk, the governor, and the state library on or before December 1, 2011.

25 6 Effective Date. This act shall take effect upon its passage.



2011-1527s

AMENDED ANALYSIS

This bill establishes a committee to study collective bargaining by public employees.

Committee Minutes

AMENDED
SENATE CALENDAR NOTICE

Printed: 04/14/2011 at 12:42 pm

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

- ✓ Senator Sharon Carson Chairman
- ✓ Senator Fenton Groen V Chairman
- ✓ Senator Sylvia Larsen *out of town (in 10:58)*
- ✓ Senator Jim Luther
- ✓ Senator Raymond White

For Use by Senate Clerk's Office ONLY

Bill Status

Docket

Calendar

Proof: Calendar Bill Status

Date: April 14, 2011

HEARINGS

Thursday

4/21/2011

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SH 100

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: PLEASE NOTE: HB 450, which was recessed on 4-14-11, will reconvene at 9:30 a.m. on 4-21-11.
No other changes.

- 9:00 AM HB331-FN relative to posting agency expenditures on the state transparency website.
- 9:15 AM HB418-FN (New Title) relative to the use of open source software and open data formats by state agencies and relative to the adoption of a statewide information policy regarding open government data standards.
- 9:30 AM HB450 relative to the regulatory authority of the board of barbering, cosmetology, and esthetics.
- 10:00 AM HB580-FN-L (New Title) relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

Sponsors:

HB331-FN

- Rep. David Bates
- Rep. Seth Cohn
- Rep. Robert Foose

- Rep. Andrew Manuse
- Sen. Sharon Carson
- Rep. George Lambert

- Rep. Lynne Ober
- Sen. Jim Luther
- Rep. Jenna Roberts

- Rep. Neal Kurk
- Sen. Raymond White

HB418-FN

- Rep. Seth Cohn
- Rep. Bruce MacMahon

- Rep. Calvin Pratt
- Rep. Joshua Davenport

- Rep. George Lambert

- Rep. Sean Cox

HB450

- Rep. David Bates
- Sen. Jim Luther

- Rep. Carol McGuire
- Sen. Raymond White

- Rep. Dan McGuire

- Rep. Spec Bowers

HB580-FN-L

- Rep. Neal Kurk

- Rep. Kenneth Hawkins

- Sen. Raymond White

Deborah Chroniak 271-1403

Sen. Sharon Carson

Chairman

Executive Dept. and Administration Committee

Hearing Report

TO: Members of the Senate

FROM: Deb Chroniak, Legislative Aide

RE: Hearing report on HB 580-FN-L – (New Title) relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

HEARING DATE: April 21, 2011

MEMBERS OF THE COMMITTEE PRESENT: Senator Sharon Carson, District 14; Senator Fenton Groen, District 6; Senator Sylvia Larsen, District 15; Senator Jim Luther, District 12; Senator Ray White, District 9.

MEMBERS OF THE COMMITTEE ABSENT: No one.

Sponsor(s): Rep. Kurk, Hills 7; Rep. Hawkins, Hills 18; Sen. White, Dist 9

What the bill does: This bill makes various changes to the state retirement system including:

I. Increasing retirement ages of group I and group II members for service retirement, disability retirement, vested deferred retirement, and split benefits.

II. Changing the definitions of earnable compensation and average final compensation used in calculating retirement benefits.

III. Changing the composition of the board of trustees.

IV. Eliminating the special account.

V. Increasing contribution rates.

V. Establishing a committee to study the establishment of a voluntary defined contribution plan.

VII. Prohibiting a member in service from concurrently receiving benefits.

Who supports the bill: Rep. Neal Kurk, Hills 7; Rep. Ken Hawkins, Hills 18; Rep. Edith Hogan, Dist 25; Representative Andrew J. Manuse; Rock 5; Pam Reynolds, Laconia; Kevin Smith, Cornerstone Action.

Who opposes the bill: Major David Kelley, Retired Troopers; Major Ernest Loomis, Retired Troopers; Justice Howard Zibel (Section 20), Judicial Branch; Robin McBrearty, Self; Chas Gills, Self; Jay Ward, SEA; Rick Trombly, NEA-NH; Laura Hainey, AFT-NH; Bryan Murray, Self; Roger Amadon, State Police – Retired; David Goldstein, NH Chiefs' Association; Arthur J. Beaudry, NH State Permanent Firefighters; Oscar J. Serard, Retired teacher; Arthur J. Pippo, NEA-NH; Jay Drye, NEA-NH; Donna Christman, NEA-NH; Warren Brown, NH State Police, Retired; Wayne Vetter, NH Fish and Game; Jay Tolman, NEA-NH; Jim Allmandinger, NEA-NH; Bob Whitehead, NEA-NH; Col. Paul O'Leary, NH State Police, Retired; Gail Laker-Phelps, Retiree; Jason Newman, Firefighter, Mary Broderick, Retiree; Frank Broderl, Retiree; Janice Kebble, Self; Tom Kilrain, Retired; Peter Lally, Retired; David Pelletier, Plumber 131; Dean Sulw, Professional Firefighters of New Hampshire; Nancy Loud, Rochester; representative John Cloutier, Sull 4; Penny J. Culliton, Temple; Debra Parsons, Madison, Gary Arsenault, Bethlehem; Scott McGilvray, Hooksett teacher; Diana St. Germain, Barrington Elementary; Donald E. Mitchell, Public Employee Labor Realtors Board, former Director; Arnie Alpert, American Friends Service Committee; Rep. Mark Proulx, Hills 15; George Walker, Nashua; Gail Kinney, Canaan, Self; Brenda Thomas, Self, SEA; Rep. Daniel Sullivan, Hills 8; Melissa Bernardin, Self; Jositt White, Self; Rep. Laurie Harding, Graf 11.

The public hearing on HB 580-FN-L opened at 10:38 a.m.

The Chair, Senator Sharon Carson opened the hearing by calling on Senator Ray White to introduce the bill.

Summary of testimony received:

- Ray White introduced HB 580-FN-L as a retirement bill stating that there was going to be brought forward to the Committee a significant amendment, which will substantially change this bill.

- Senator Jeb Bradley then stated that he is submitting the original to the amendment to HB 580-FN-L, and that given the fact that there are two significant retirement bills, of which HB 580-FN-L is one, and SB 3 is the other, he thought it was appropriate to try and bring some closure to the issue of collective bargaining for purposes of this legislative session, or at least some opportunity for the Legislature to look at all the issues involved that have been raised, both in the House Version of HB 2, and the House Version of HB 580-FN.

• The amendment (#1462s, dated April 18, 2011) before the Committee today would turn HB 580 into a one page bill that would replace everything in the bill with a study committee (legislative study committee), that would look at all the issues raised by collective bargaining. Senator Bradley stated that he believed this is the appropriate way to proceed, and labor officials have said that they are open to the ability to be able to have a legislative discussion about collective bargaining.

• Senator Bradley then stated that the amendment is a relatively simple amendment that replaces a retirement bill that is similar to SB 3. The House presently has SB 3, and Senator Bradley stated that he expects that many of the provisions in HB 580 will land in SB 3 when the House adopts its version. So there will be one bill to debate retirement in SB 3, and one bill, if all concur, to study the issues of collective bargaining with all voices being at the table.

• Representative Neal Kurk (testimony provided) then testified to HB 580-FN-L (prime sponsor) stating that this bill was designed to put the retirement system back on track to a firm financial future.

• He went on to explain to the Committee what HB 580 does, so that the Committee could make a more informed decision on Senator Bradley's amendment, but also because, in the play of House and Senate, the House Version of HB 580 will be substituted for the Senate Version of SB 3, so the Committee of Conference on SB 3 will have before it both the House Version and Senate Version.

• Representative Kurk brought in testimony stating his 14 points of the major changes that this bill makes. He then stated that his summary is in relation to the HB as amended, and not as introduced; for some unknown reason believing that only "as introduced" copies of the bill were the only ones available; as amended copies of HB 580 were also available at this public hearing.

• There are several reasons why the retirement system is unfunded, stating that we are funded at about 58%, and should be at least over 80%. One fact is, that in the 80's, gain sharing was introduced – excess profits over ½% over the assumed rate of return was taken and placed into a special account to pay for COLAs. That cost us about \$900 million, plus accumulated interest and earnings for roughly 30 years. This provision was suspended by bills passed in 2008.

• Using an assumed rate of return – we do not make 8.5%. He stated that the reason that we have an assumed high rate of return is because it is in the best political interest; the higher the assumed rate of return, the lower the employer contribution. The problem is that people are living longer. The

assumed rate of return is taken care of by the Board and when that changes it means more money in the system for more years, which will help pay.

- Representative Kurk then went through his summary of testimony of 14 points (see **Representative Kurk's Summary sheet attached for review of testimony which was discussed**).

- In regard to No. 7 of Representative Kurk's summary sheet, he stated that the House will be changing its position in regard to how double-dipping is handled in SB 75 with an amendment (2011-1509h, dated April 20, 2011, Draft Amendment to SB 75-FN).

- Representative Kurk (No. 9) summary sheet indicated that the special account is eliminated and all the money goes into the corpus. He has been told that there is approximately \$262 million unencumbered in the special account; this money, under HB 580 would be returned to the corpus, which would do two things; it would reduce the unfunded liability, and it would reduce employer's rates.

- Because there has been so much controversy as to whether or not the statutory regulation of pensions constitute a contractual obligation on the state, which cannot be changed, language has been added under No. 10 stating that pensions are not contractual, and will require employees to acknowledge this provision in writing.

- Under No. 11, the status quo doctrine will be eliminated with respect to employee's benefits. (This is not the infamous Kurk amendment.)

- Under No. 12, optional refusal of benefits, with an option to opt out of the system and forgo health benefits in exchange for a 25% increase in yearly base pay. (NOTE HERE: this may not be offered due to IRS rules).

- Under No. 13, Severability; contingent severability, inserts a clause and provides, that if any section is determined to violate the constitution, employee contribution rates shall be 50% of the normal and accrued liability contribution rates. If it is determined unconstitutional, the rest goes ahead; if the court determines at any time, part of this is unconstitutional, the change in employee contribution will be 50%, which would be the sharing of all costs; certainty to uncertainty, from 7% to 50%.

- Under No. 14, this establishes a study committee to look at a voluntary defined contribution plan option. Utah has done this, and possibly Peru, switched their public sector employees from a defined benefit plan to a defined contribution plan.

- Senator White commented that he wanted to make sure that he was clear on the original bill because it seemed as if the House made changes to the bill which made it unrecognizable from the bill he originally signed on to as a co-sponsor, asking Representative Kurk if he was okay with his bill being turned into a study committee.

- Representative Kurk asked Senator White if he were asking him to slit his throat, and then stated that he would prefer that the Committee pass the bill as passed by the House.

- Senator Luther then asked for clarification regarding how this will be in the Committee of Conference.

- Representative Kurk stated that SB 3, as amended by the Senate – with four amendments on it is before the House Special Pensions Committee now. The House Special Pensions Committee is going to replace SB 3 with HB 580, as it passed the House – that means the Conference Committee on SB 3 will have before it everything in SB 3 and everything in HB 580 and that he anticipates there will probably be a merger of various provisions of the bills.

- Senator Groen asked, on the Summary sheet, page 2, number 11, “status quo doctrine”, and asked if there was a difference between this and the Kurk amendment.

- Representative Kurk stated that once a contract was over, while negotiations could continue, that this would not change collective bargaining, but that once the contract was finished, provisions ended, then employees would become at-will employees, and it was then up to the employer to change working conditions, wages, and benefits. This version says that benefits are removed from collective bargaining and would be at the discretion of the employer.

- Senator Groen asked for clarification stating that this does not remove the benefits from the status quo after the contract expires, and before a new contract comes in to effect.

- Representative Kurk stated that it removes “benefits” from being a subject of collective bargaining.

- Kim France (testimony provided), (opposes Section 33 of HB 580 as passed by the House), Interim Executive Director for the New Hampshire Retirement System stating that, generally, the Retirement System Board of Trustees does not take a position on legislation, although the retirement system counsel believes there may be contractual claims against HB 580, such claims do not fall within the fiduciary duty of the Board. However, as fiduciary, the Board has a duty to oppose legislation that would result in a

decreased funding status or that would result in a violation of the Internal Revenue Code.

- * ● It has been brought to the attention of the Board, by its fiduciary counsel, that section 33 of HB 580, as passed by the House, appears to be a potential violation of the Internal Revenue Code. As such, the NHRS opposes Section 33 of HB 580. Section 33 proposes to allow state employees to reduce certain benefits in order to receive an additional 25% increase in base salary.

- * ● Ms. France also indicated that the July 1, 2011 date for implementation of a plan design could not be met, but after further conversations with bill sponsors relative to the implementation date, the retirement system identified that "some" individual provisions of HB 580 may be implemented prior to January 1, 2012.

- * ● Barbara Reid, New Hampshire Municipal Association stated that she did not check off whether they were opposed or in favor because they appreciated the efforts both the House and Senate have undertaken this session, stating that they are seeing very similar, but different proposals. SB 3 proposal is more reflective of the legislative policy that their members voted on last fall (cities and towns), and that when their members look at retirement reforms, the criteria that they wanted addressed through legislative action, there were three criteria.

- * ● One was that if there were any changes to retirement reform that these changes would not impact the benefits that current retirees receive. This was a very critical issue in their parameters in designing their policy. The second was to make sure that those close to retirement were not pushed or forced out the door. And, the third would be meaningful changes in the escalating costs of this plan.

- * ● These are three very difficult goals to accomplish, and they do believe that the language in SB 3 is far more focused and goes a significant way in accomplishing these criteria; more targeted to those areas.

- * ● One thing Ms. Reid wanted to address, with all due respect to Representative Kurk's summary, was that he talked about the increase in the employee contribution rates and how the House was approaching that increase, and she wanted to give a little bit of a different interpretation of what the House did with that. In Representative Kurk's statement that he just made, he indicated that the House was increasing the employee's contribution, which would then result in a decrease in the employer's contribution rates, but that was intended to offset what the state's contribution share has traditionally been for teachers, police and firefighters.

- They have approached that issue, not as a retirement reform issue, but see it as more of an approach to a budget issue, through the Finance Committee and the budget process, and not in retirement reform bills.
- What their members are looking for are reforms which would address the growing cost of this benefit locally. The House proposal, as they understand it, would have the employee increases go towards offsetting the state's contribution. This would not provide the meaningful change in increasing costs.
- Senator Larsen stated that one of the Municipal Association's policies was not to promote a rush to the door. Senator Larsen is fearful that the most talented folks will leave the state to avoid this.
- Ms. Reid stated that SB 3 has far less changes, but that Senator Larsen was absolutely correct with the timing of how soon the House and Senate could come to agreement; that it was important that employees understand before they have to make these significant changes. With their policy, the intent was not to have those kinds of changes on vested employees, and noted that this was reflected in SB 3.
- This is a timing issue and Ms. Reid was not sure how to address that unless the Legislature took action quickly.
- Senator Larsen stated that maybe we should put this off for a couple of years while it is being studied.
- Senator Groen asked about the implementation date of January 1, 2012, which would give an additional full six months after a decision was made, and was that not adequate time for employees to make decisions and understand what the ramifications were.
- Ms. Reid stated that employees cannot submit their retirement paperwork more than 90 days in advance from when they want to retire, and they can withdraw any time within that period. She thought a six-month period would work, but also thought the difficulty is the uncertainty of what the Legislature will do. In SB 3 there is an implementation date of January 1, 2012, whereas, in HB 580 there is an implementation date of July 1, 2011. Right now there is no definitive answer, and the uncertainty is causing people to be ready to act.
- Donald E. Mitchell, up until last year he was the Director of Public Employees Labor Relations Board with the responsibility of providing continuous harmonious labor relations, and the continual provision of public service by all public employees, stating that he will only address what was in section 32, at one point it was the expiration of a contract.

- In the House bill, as submitted, it was to go at-will and that would bring utter chaos into the public sector, to go completely at-will. There are arguments that support that which are not based on accurate pillars of reason, and that you cannot compare this context with the private sector and with the public sector.

- The amended version only deals with what happens when a contract expires in place of a status quo period. The bill, as amended before the Committee, speaks and tries to draw a distinction between employment and conditions of employment of employees in good standing. What is the difference between the condition of employment and the condition of fringe benefits?

- Mr. Mitchell then mentioned "safety equipment" and asked if that was a fringe benefit or a condition of work, since they were set into those circumstances. And, so, there are great difficulties in delineating the differences between those. He suggested looking at any typical contract or bargaining agreement, and go through the 27 different articles in there to see what that covers, and try to define for yourself, what is a condition of work and what is a benefit.

- In respect of this House, what Mr. Mitchell understands now to be Senator Bradley's suggestion of an amendment of establishing a committee, Mr. Mitchell has long held that many of these bills that are directed at public employment need to be addressed in a very cautious way. That caution extends to things that have already been processed and voted on. But, Mr. Mitchell would say, in respect to Senator Bradley's amendment that he would make that one of the Senate's open study committees, noting that the composition of the committee members is what he is mostly suggesting, and to approach it by having the experts, and those with a vested interest at the table.

- Mr. Mitchell also stated that at the Local Government Center there are 560 other units, contracts out there for fire districts, school districts, municipalities, and all of those will suffer the same fate as state workers.

- David Goldstein, (testimony provided) representing the New Hampshire Chiefs of Police Association noting that in summary he would like these changes only apply to new employees only, and that he wanted to address a couple of issues on Representative Kurk's summary.

- Base pay only, which is No. 3 (Earnable Compensation) in Representative Kurk's Summary (again, see attachment). Mr. Goldstein stated that we generate our own overtime by doing a good job, and unlike most jobs, police generate more overtime.

- In No. 7, double-dipping (Kurk's Summary) he takes exception to, as well, and that there really is an issue here. He stated, let them retire and bring them back is a good thing and a very important concept.

- In section 11, status quo, Mr. Mitchell stated, "Thank you, Representative Kurk", I now have power and authority over individuals to make my job easier – if I do not like how things are done, I can now tell people that without doing an inquiry.

- Chief Justice Howard Zibel, General Counsel to the Supreme Court and Judicial Branch, who is appearing on behalf of the Judicial Branch only with relation to section 20 of HB 580, as amended, which is the so-called double-dipping. Chief Justice Zibel stated that an enactment of this section in its current form would cripple the Judicial Branch.

- He then stated that they currently have close to 100 plus part-time employees, and who collect pensions from the New Hampshire Retirement System. These part-time employees are in three categories; 23 retired employees, regular full-time Judicial Branch employees who have retired and then rehired into part-time positions. As everyone knows, this is a time of great budget constraints, and, within a few weeks the Judicial Branch will be laying off a number of people to meet their budget, and in order to implement the circuit court.

- The Judicial Branch has used part-time people, to whom they do not pay benefits, saving money.

- In the realm of court security, this Division would be devastated. Most of the court security is done by per diem at \$85 per day – just over \$10 per hour to stand in front of a bullet, perhaps. The estimate for their per diem court security officers, which they have 145 of them; and estimate that 50 of them are retired law enforcement officers who are trained, capable to provide our security, and they would lose that experienced group of people if this bill were to pass.

- Also, they have permanent part-time employees, not per diem, who provide court security; seven of them who are experienced, and six of the seven are getting pensions from the New Hampshire Retirement System.

- The third group of people, and some of you who are new to the Legislature may not be aware of, many years ago the Legislature passed Chapter 105, which allowed certain people to retire and stay employed and collect their salary. That was something the Legislature passed, but they eventually repealed it. There are 15 employees currently on their staff, who retired under Chapter 105. These people make plans based on legislative enactment. Chief Justice Zibel stated that it would be patently unfair to

those people to tell them, that now they have to leave government service; most retired at an early age, so they took a reduced pension.

- So, for all those reasons, the Judicial Branch opposes section 20 of HB 580, further stating that this is the first time the Judicial Branch has made public testimony on the bill.

- Rick Trombly from NEA-NH stating that last year the average teacher pension was \$21,000. At age 65, they receive a permanent one time deduction of 10%. Under this legislation they will receive no COLA, and currently, there is no medical subsidy. That is what educators retire on here in the State of New Hampshire.

- Mr. Trombly wanted to leave the Committee with one other thought. The consequences of making these types of changes have real time, real life effects. A 2% increase in teacher pension contribution is a 40% increase in their pension rates.

The locals working the school districts are trying to manage budgets, money coming from Concord, which was promised the school districts, are being cut. One of those areas that is being cut is the pension subsidy. The school districts have to deal with that and our members are ready, willing, and able to do that because they understand the burden the tax payers are under.

- Laura Hainey, (testimony provided) (in opposition) President of American Federation of Teachers stated that, with the amendment she would like to say that, Senator Bradley, she thought had said that this would bring all voices to the table. Ms. Hainey stated that a "committee" does not allow that, but a "commission" would allow all voices to be heard.

- AFT-NH represents almost 4,000 employees in New Hampshire, mostly public employees who work in your cities, towns, and school districts. The members of AFT-NH are teachers and other school workers.

- Mark MacKenzie, New Hampshire AFL-CIO who wanted to raise one question relative to cost of living increase for retirees, because it is an enormous problem for retired members with their pensions being eaten up by the increase in medical costs, and the decrease in their actual pension as a result of the lack of cost of living increases.

- Speaking to the amendment which was presented, Mr. MacKenzie wanted to echo the sentiments of other people stating that there is a real concern about opening up collective bargaining.

- Mr. MacKenzie believes that the Committee's responsibility should be to improve collective bargaining in the state. If the purpose of this committee is to erode collective bargaining, Mr. MacKenzie suggests that the

amendment be killed, and do not study collective bargaining in this legislative session.

- Mr. MacKenzie stated that people should go to the table who understand collective bargaining, and that maybe there should be some type of certification process or training. He then stated that to go in to collective bargaining with no understanding of how it works is just setting people up for failure.

- Arnie Alpert, New Hampshire Program Coordinator for the American Friends Service Committee wanted to make two points about HB 580 as amended by the House. First, about one of the so-called findings, which said, public employees are increasingly not cost competitive with private alternatives. He went on to suggest that calling out a finding is short sided and unproven, and that if privatized services are somehow cost competitive, he wondered what happened to people who do not get the health insurance. What happens when these people get sick? Who is paying for that? Well, he stated, maybe they are getting Medicaid and who pays for that? What happens if they go to the hospital and they do not have insurance? Who pays for that? We do, the tax payers.

- The second point that Mr. Alpert stated was that of provision 32, public employee, which has similar language, and which was attached to the HB 2 budget. But, when the Senate Finance Committee considered that, they said that did not belong in that type of bill, and that it really was not a budget matter.

- Mr. Alpert said that using the complexities of the pension system in ways to try and destroy public sector collective bargaining is ill-advised at best.

- Scott McGilvray (testimony provided), President, Manchester Education Association stating that without the ability to negotiate for healthcare benefits and pensions, meaningful collective bargaining will end and the employees will be forced to accept any wage offered and risk cuts to benefits.

- Mr. McGilvray stated that collective bargaining process is a meaningful process to both sides and the elimination of collective bargaining does nothing to improve education in our classrooms or create jobs.

- For a teacher to retire in 2011, they would have to give their notice by December 31, 2010. Teachers do not have a 90-day window. Once they notify their district of their intent to retire, it is a legal obligation, and you are not allowed to rescind that at any time.

- Penny Culliton, resident of Temple who is concerned about the proposed changes to RSA 273 –A that section 32 of this bill would create. As for the Kurk amendment – it would force employees to bargain in good faith.
- Recommend this Committee to accept Senator Bradley’s amendment and that SB 3 certainly can deal with issues of retirement reform, pension reform.
- Debra Parsons from Madison, New Hampshire stated that she is the daughter of two teachers, and a 15-year veteran who teaches first grade in Madison. Ms. Parsons is excited to work with students every day. She stated that if collective bargaining rights are taken away, then you take part of their voice away from them. Help stand up for those that do not have a voice.
- Gail Kinney, resident of Canaan, and a member of the United Church of Christ, made up of all those old congregational churches. She is a member of the United Church of Christ’s state-wide commission.
- Stated that her focus was on Section 32 and 33, but felt that the Committee was leaning toward the Bradley amendment. She will not go in to details, but has a few things to say.
 - Section 32 is about forever removing the benefit of collective bargaining and there is a concern, of many people of faith, that there are a variety of things going on to attack collective bargaining, and some of the specific provisions about making health care optional, is the unintended consequence of really doing significant damage to the community. People of faith are trying to help lift up the sense of community.
- Major David Kelly (strong opposition), representing the State Retired Troopers Association, stated they were in strong opposition to HB 580.
- Major Kelly believes that the general terms in HB 580 are unneeded and unnecessary because it duplicates much of SB 3. Secondly, the removal of the special account, stating that, again, presently there are 41% of the retirees that are living below poverty level, their retirement pensions are below poverty level.
- Bryan Murray, representing himself, stated that he filed for retirement yesterday. Mr. Murray stated that to have a July 1, 2011 effective date to this bill forces people to make life changing decisions without having all the information. Mr. Murray went on to state that the retirement system cannot make the program changes needed for a full six months, but then stating that the retirement system may be able to complete a partial implementation.

- In some of the mathematics, you could capture people and push them past that date. It appears that they are trying to drive people out of the system, and will lose a lot of long-term employees.
- Attorney Jim Allmandinger, NEA-NH, staff Attorney stating that Section 32, the collective bargaining provision, will drive the public section of collective bargaining off the cliff, in addition to raising constitutional issues.
- Attorney Allmandinger stated that in a Senate Journal issued in 1975, there was a listing of study committee members who initially drafted the original collective bargaining bill, which Attorney Allmandinger believes would be a good choice to start with, relating to Senator Bradley's amendment, for a study committee (or possible commission).
- Colonel Paul O'Leary stated that he hoped that the Committee will deal with HB 580 in the same manner as they dealt with HB 231, and stated that he was in support of Senator Bradley's amendment.
- Representative Mark Proulx stated that in going over the Kurk testimony, he discussed No. 2, No. 6, No 8; No. 10 where an employee signs a waiver, that pension is not a contractual obligation – pensions are a contractual obligation and in that case, should be coming to us. No.13 was also discussed.
- Representative Proulx was told that, the fix was in three years ago, when the rates were changed.

The hearing on HB 580-FN-L closed at 12:30 p.m.

Funding: The New Hampshire Retirement System states this bill will have an indeterminable impact on state, county, and local expenditures in FY 2014 and each year thereafter. There will be no impact on state, county, and local revenues.

Action: Senator Ray White motioned "Ought to Pass" on Amendment 1462s, which was seconded by Senator Groen, with a vote of 5-0 in favor. Senator Groen motioned "Ought to Pass as Amended, and Senator Luther seconded the motion. The vote was 5-0 in favor, and Senator Carson will take the bill out of Committee.

DAC

[file: HB 580-FN-L report]

Date: 4-24-11

Speakers

SENATE EXECUTIVE DEPARTMENTS AND ADMINISTRATION COMMITTEE

Date: April 21, 2011

Time: 10:00 a.m.

Public Hearing on HB 580-FN-L

HB 580-FN-L - (New Title) relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

Please check box(es) that apply:

Please check if

SPEAKING FAVOR OPPOSED

NAME (Please print)

REPRESENTING

			NAME (Please print)	REPRESENTING
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Mrs. David Kelley	Retired Trooper
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Mrs. Ernest Loomis	" "
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Andrew J. Manuse	Rockingham 5
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Edith Hogan	Madison 25 Ward 4
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Ken Hawkins	Hills 18
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOWARD ZIBEL	JUDICIAL BRANCH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Robin McBREARTY	self
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Chas Allen	self
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JAY WARD	SEA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Rick Trombly	MEA-NH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Laura Hainey	WIFT-NH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MARK S. MacKenzin	NHIAFLCID
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	BRYAN MURRAY	SELF
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGER AMADON	STATE POLICE - Retired
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	DAVID GOLDSTEIN	NH CHIEFS' ASSN.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Barbara Reid	NH Municipal Assn.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Arthur J. Beaudry	NH State Permanent Firefighters
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Oscar J. Serard	Retired Teacher

SENATE EXECUTIVE DEPARTMENTS AND ADMINISTRATION COMMITTEE

2

Date: April 21, 2011

Time: 10:00 a.m.

Public Hearing on HB 580-FN-L

HB 580-FN-L - (New Title) relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

Please check box(es) that apply:

Please check if

SPEAKING FAVOR OPPOSED

NAME (Please print)

REPRESENTING

		NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> ARTHUR J. PIPPO	NEA-NH
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Jay Duz	nea-nh
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Donna Christman	NEA-NH
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Warren Brown	NHSP Ret
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Wayne Vetter	NH F&G
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Jay Solman	NEA-NH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Jim Allmandinger	NEA-NH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Bob Whitehead	NEA-NH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Col PAUL O'HEARY	NHSP (RET)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> GAIL LAKER-PHELPS	Retiree
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Jason Newman	Firefighter
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Mary Broderick	Retiree
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Frank Bodes	Retiree
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> James Kelleher	Self
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Tom Kilrain	RETIRED
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Peter Lally	RETIRED
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> David Pelletier	Plumber (31)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Dean Sulow	PFF-NH

SENATE EXECUTIVE DEPARTMENTS AND ADMINISTRATION COMMITTEE

Date: April 21, 2011 Time: 10:00 a.m. Public Hearing on HB 580-FN-L

HB 580-FN-L - (New Title) relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

Please check box(es) that apply:

Please check if

SPEAKING FAVOR OPPOSED NAME (Please print) REPRESENTING

Table with 3 columns: SPEAKING (checkbox), FAVOR (checkbox), OPPOSED (checkbox), NAME (Please print), REPRESENTING. Rows include: Pam Reynolds Laconia, Rep. Kunk Hills #7, Nancy Loud Rochester, Rep. John Clossier Claremont Sull. #4, Penny J. Culliton Temple, Debra Parsons Madison, Rhonda Weselowski NEA-ATL, Kim France, Interim Exec. Director NH Retirement System, GARY ARSENAW H Bethlehem, Scott McGilvray IT WORKS TEACHING, Diane St. Germain Barrington Elementary, DONALD E. MITCHELL (Public Employee Labor Relations Board) FORMER DIRECTOR, ARNIE ALPERT American Friends Service Committee, REP MARK PROULX HILLS 15, Kevin Smith Cornerstone Action, Rep. Brian D. Rhodes Hills #22, George Walker WASHUA, Gail Kinney Canaan self, Senator White introduce Bill

Testimony

**HB 580-FN-Local
relative to the New Hampshire retirement system**

SUMMARY

Rep. Neal M. Kurk
April 21, 2011

1. Group I: increases the retirement age to 65 (up from the current 60) for new group I employees and for current group I employees with less than 10 years of creditable service and gradually for those group I employees with more than 10 years of service: 10 – 15 years, 64; 15 – 20 years, 63; 20 – 25 years, 62; 25 – 30 years, 61; more than 30 years, 60. [Page 3, sec. 5; page 9, sec. 16]

2. Group II: increases the retirement age to 50 years (up from the current 45) after 25 years of service (up from the current 20) for new group II members and for current group II employees with less than 10 years of creditable service, with the retiree's pension beginning at age 55. The percentage of one's pension earned each year is changed to 2.0% from 2.5%. [Page 3, sec. 5]

3. Earnable compensation: defines earnable compensation to mean base pay only effective for all employees retiring after June 30, 2016 (a five-year window). [Page 2, sec. 2]

4. Average final compensation: computes the average final compensation on five years instead of three for all employees retiring after June 30, 2016 (a five-year window). [Page 2, sec. 2]

5. Part-time positions: repeals the Board's recent decision to treat the state as a single employer. The repeal means that two or more part-time positions can no longer be combined to create a position that qualifies for pension benefits. [Page 3, sec. 4]

6. Employee contribution rates: increases employee contribution rates to more equitably share the risks associated with a defined benefit plan: group I - 7%; group II firefighters – 11.8%; group II police – 11.55%. [Page 10, sec. 18]

7. Double-dipping: bans so-called "double-dipping" by state and local governments, preventing an individual who is receiving NHRS benefits from simultaneously receiving compensation in any form from the same employer member of the system for services rendered after the date benefits were first paid, whether as a full-time or part-time employee for any period of time, or as a consultant for a period longer than three months. [Page 11, secs. 19, 20]

8. **Board membership:** changes the composition of the Board so that there are four employee representatives (teacher, police, fire, state employee), four employer representatives (municipal, school, county and state), four public members appointed by the governor and the state treasurer ex officio, for a total of 13. [Page 12, sec. 22; page 13, sec. 23]

9. **Special account:** eliminates the so-called special account by repealing the current provision authorizing the transfer to the special account of investment earnings greater than 10.5% once the funding ratio reaches 85%. Transfers the balance in each special account component (employees, teachers, police and fire) to the corresponding components of the state annuity accumulation fund. [Page 13, sec. 24, 25; reference changes in secs. 26-28;]

10. **Pensions not contractual:** establishes that pension benefits are not a contractual obligation and may be changed; requires employees to acknowledge this provision in writing. [Page 14, sec. 31]

11. **"Status quo" doctrine limited:** provides that, at the end of the term of a public employees labor contract, the status quo continues with respect to wages and working conditions but not with respect to benefits, which may be changed by the employer. [Page 14, sec. 32]

12. **Optional refusal of benefits:** allows state employees who were hired on or after July 1, 2004, to opt out of receiving employee benefits, including health insurance and pension benefits, and instead receive a 25% increase in their yearly base pay for as long as they work for the state. [Page 16, sec. 33]

13. **Severability; contingent severability:** inserts a severability clause and provides that if any section is determined to violate the constitution, employee contribution rates shall be 50% of the normal and accrued liability contribution rates. [Page 15, secs. 34, 35]

14. **Defined contribution plan study:** establishes a committee to study a voluntary defined contribution plan option to be administered by NHRS. [Page 16, sec. 36]

Testimony # 2

**NH Retirement System (NHRS)
Written Testimony – HB 580
Presented to the Senate ED&A Committee
April 21, 2011
By Kim France, NHRS Interim Executive Director**

For the record, my name is Kim France. I am the Interim Executive Director for the New Hampshire Retirement System.

Generally, the retirement system Board of Trustees does not take a position on legislation. Although retirement system counsel believes there may be contractual claims against HB 580, such claims do not fall within the fiduciary duty of the Board. However, as fiduciary, the Board has a duty to oppose legislation that would result in a decreased funding status or would result in a violation of the Internal Revenue Code.

At its monthly meeting on April 12th, the Board was advised by its fiduciary counsel, the Groom Law Group, that section 33 of HB 580 as passed by the House last month, appears to be a potential violation of the Internal Revenue Code. As such, the New Hampshire Retirement System opposes Section 33 of HB 580.

Section 33 proposes to allow state employees to refuse certain benefits, including NHRS benefits, “in order to instead receive an [25 percent] increase in his or her base salary or wage.” If that provision is enacted, it would likely be viewed as an impermissible cash-or-deferral election under Internal Revenue Code section 401(k) and consequently jeopardize the favorable NHRS tax-status as a qualified plan.

The New Hampshire Retirement System requires a January 1, 2012, implementation date due to extensive information technology modifications that will be required in order for the retirement system to implement the significant plan design changes proposed in HB 580. The retirement system is unable to implement such plan design changes by July 1, 2011. However, after receiving inquiries from Bill sponsors relative to the implementation date, the retirement system identified that some individual provisions of HB 580 may be implemented prior to January 1, 2012, but we reaffirm that the January 1, 2012 implementation date is required for comprehensive benefit changes.

Thank you for the opportunity to speak today. I would be happy to answer any questions you may have.

Testimony #3

House Bill 580-FN-L
Relative to the New Hampshire retirement system

Testimony before the Senate Executive Departments and Administration Committee

21 April 2011

by

Chief David B. Goldstein
NH Association of Chiefs of Police

Dear Senator Carson, Members of the Committee:

My name is David Goldstein. I am the Police Chief for the City of Franklin, and I have been in law enforcement for 32 years. I am here today representing the New Hampshire Association of Chiefs of Police.

The NH Association of Chiefs of Police has worked as a group to address the real problems of the retirement system. As leaders in public safety and in the cities and towns we represent, we see the need for real change which must be balanced with the need for stability in recruitment and retention of personnel within our departments.

The NH Association of Chiefs of Police is here to work WITH the legislature to build a better retirement system.

I am here on behalf of the Chiefs' Association to oppose the bill as presently drafted but even more importantly to propose some positive changes that we hope that you will consider.

The bill redefines earnable compensation in the retirement system for new and non-vested members in service. The Association supports redefining earnable compensation in the retirement system for NEW members only.

We feel that extra details should remain in the system because they account for a positive contribution to the retirement system. These details are paid by an outside vendor, and they pay the employer portion of the retirement.

The bill increases the number of years for calculating average final compensation from 3 to 5. The Association supports this change for NEW members only.

The bill increases the retirement age for group II retirement system members. The Association supports this change for NEW members only.

The Association also supports changing the age from 45 to 50 and the years of service from 20 to 25 years for NEW members only.

The Association supports the 2 percent multiplier for NEW members only.

The Association is in opposition to the \$89 million transfer from the special account to the corpus of the fund. After a great deal of work, several years ago, the legislature put in a safety mechanism for excess earnings. Currently, there will be no COLA granted unless the fund is 85% funded and the assumed rate of return exceeds 10.5%.

And, now for what we believe is an important part. The NH Association of Chiefs of Police would like to suggest that you increase the employee contribution to 1% for ALL active participants now. We believe that will provide an immediate infusion of much needed cash, perhaps as much as \$40 million. We would also suggest an additional 1% increase in employee contribution in the next biennium.

Calculation of Details

The Association believes that details should be left in and used to calculate annual final compensation, but perhaps they could be spread out over a longer period of time such as 7-8 years. This would alleviate concerns of inflating a pension based on one working all details at the end of one's career.

We hope that we can continue talking with you on these and some of your other concerns.

Thank you.



AFT-NH

Testimony #4

AFT, AFL-CIO
"Union of Professionals"

April 21, 2011

Dear Senate Executive Departments And Administration Committee Members,

Today I am going to focus most of my comments on the part of the bill that reads:

"Employers can unilaterally decide your health, dental, life, and retirement benefits upon the expiration of a contract".

I ask that you make the recommendation of ITL on HB 580.

This what I call the "Kurk" amendment would strip hard working New Hampshire citizens of their collective bargaining rights that have been the law of the land in New Hampshire since 1975. The passage of the NH Public Employee Labor Relations Act brought harmonious workplace relations between public employees and employers since that time. We do not want to revert to the pre-1975 issues.

It is outrageous that the Special Committee on Pension Reform saw fit to act on this amendment in the late hours of their deliberations. This move provided no opportunity for public debate and input.

Public employers and employees work together to reach agreements that are ultimately approved by the voters or legislative body in cities and towns across the state. Why is the NH House trying to become a third party in that process?

This significant change in the law is an attack on over 70,000 public employees in NH.

AFT-NH represents almost 4,000 employees in NH, mostly public employees who work in your cities, towns and school districts. The members of AFT-NH are teachers-like me—and other school workers, like librarians and even cafeteria workers. Some of us are police officers who work to ensure safe and orderly communities. Our members work in higher education preparing new generations of citizens and leaders. Moreover, our members provide vital public services in towns all over New Hampshire.

AFT New Hampshire members ensure the safety and well-being of our fellow citizens and help build stronger communities throughout our state. We are proud of the work we do for the citizens of NH.

AFT-NH has always been willing to have the difficult conversations on any bill brought forward in the light of day. These tactics do not reflect well upon the NH House and its members. Please say no to this unnecessary and spiteful attack on your public employees. Please do not fall for the hollow arguments that this in everyone's best interests-it is not.

The total lack of transparency in the process is an affront to New Hampshire's tradition of doing the public's business in public. By tacking this on to a retirement bill, the Committee chose to ignore the public's voice on an issue that is central to the well-being of all middle class families in our state.

We thought the NH House was going to focus on the budget, improving our economy and creating jobs. This amendment is spiteful towards public employees and does not advance your mission of addressing the serious fiscal issues we face in the state.

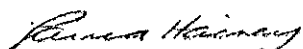
In closing, I ask that you consider the recommendations of the NHRSC. These recommendations along with past changes to the NHRS I believe over time will lead to a system that beneficiaries can count on, promises will be kept, and member will not have to make hasty retirement decision due to the drastic changes that this bill recommends

The recommendation of the NHRSC ensure the long-term viability of the plan for current and future public employees and will maintain benefits that are essential tools for recruiting and retaining skilled people to proved essential public services in New Hampshire.

On behalf of AFT-NH members and working class families in NH, I urge you to resoundingly defeat this bill and amendment and let us all get back to the business of getting our financial house in order and improving NH's economy. If you would like to discuss this very serious issue, please feel free to call me at 603-661-7293.

Thank you for your support.

Sincerely,



Laura Hainey
AFT-NH President

Petition 5 Submission

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

We, the under-signed, who work for the Rochester School District, ^{and those who support public employees} are asking that you REJECT the changes in the NH RETIREMENT SYSTEM proposal that are not endorsed by the NH Retirement Security Coalition. We support the NHRSC's positions for the following reasons: We should not be the ones paying more and collecting less in retirement, when we kept our end of the agreement; Cities and towns, whether they were aware of it or not, paid inadequately; the governing body of the NHRS did not manage the fund well. Therefore, we should not be the ones penalized.

Name:

Address:

- Sandra Dore 100 Charles St Rochester NH 03867
- Kim Behrens 45 Randalls Dr Wakefield NH 03872
- Bobby Lee 92 Woodland Green Rochester NH 03868
- Gwen Rhodes 158 Cross Rd, Strafford, NH 03884
- Sally Ferris PO Box 771 Barrington NH 03825
- Joni West 123 Winkley Farm Ln. Rochester, NH 03867
- Karen Lindsay 26 Ian's Way Rochester, NH 03867
- Shara Huhn 17 Sherman St Rochester, NH 03839
- Michelle Leary 45 Blue Hills Dr. Rochester, NH 03839
- Jillian Burnas 271 Main St., Union NH 03887
- Margan Rossini 54 Lowell Street Rochester, NH 03867
- Jane Jett 694 Salmon Falls Rd Rochester, NH 03868
- Anne Smith 9 Sackett Rd. Lee, NH 03861
- Debra Manotto 246 Silver St., Milton, NH 03851
- Jana L. Amorini 30 Riverlane Ave. Rochester, NH 03868
- Maura Pequan 5 Shelby Ln. Rochester, NH 03835
- Ashley Moffitt 19 Paulson Rd. Farmington, NH 03835
- Dorina Gagnon 1 Tuttle Court Gonic, NH 03839
- Christine Norris 404 Old Dover Rd Rochester NH 03867
- Anne = Mine Gonic Elem. Gonic, NH 03839
- Heene Hestman " "

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

and those who support public employees

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Name:

Address:

- Mary Hotel 18 Echo Brook Rd. Rochester
- Olga Muller 24 Chamberlains to Rochester
- Julia Johnson 67 Crowhill Rd E. Rochester
- Charles Bellman 7 Respect St. Springvale ME 04083
- Theresa Daulton 54 Franklin Heights Rochester 03867
- Chris Turgeon 6 Page St. Rochester NH 03867
- Robert Luce 306 Riverside Garage
- Gladys Kuyoff 13 Draw Rd. Limerick
- Laura Hodgkins 235 Stepping Stones Rd - Rampton
- Jay Warkudge 15 Warkudge Ct Rochester 03868
- Brenda Fraser 75 Ten Rod Rd. Rocker, NH 03867
- Bob Corbett 179 Chestnut Hill Rd Roch. NH
- David McLaren 14 Wynewood, Rochester NH
- M. G. G. 27 Western Ave Rochester, NH
- Stewart King 135 Eastern Ave, Park NH
- Sue J. J. 531 Center Rd. Lebanon, Me.
- Michael Porter 82 Milton Rd Rochester NH 03868
- Tam Tabin 208 S. Main St., Rochester, NH 03867
- Helen Margolis 14 Adrien Circle Roch. NH 03867
- Maggie Savage 28 N. Main St. Roch, NH 03867
- Janne Mercher 65 Washington St Rolla NH 03867



PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

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Name:

Address:

Melanie Paul 10 Windling Bk Ln. Merrimack
 moira Conley 80 LOX ST Nashua
 Kristine Jannini 893 N. Barnstead Rd. Ctr. Barnstead
 Carolyn M Simpson 82 Daniel Dr. Sanbornville, NH 03871
 Pam Pascale 192 Barden Hill Rd, Hillsboro, NH
 Judith G Higgins 4 Dartmouth St Nashua NH
 Erin Kelly 17A ^{2nd} ND St Somersworth NH
 Janthi Ramarany 14 Myrtle Ave Westford MA
 Karen Beaver 47 Lawton Rd Shirley, MA ~~01464~~
 Marc Richard Craney Hill Rd. Henniker, NH 03242
 Abby Capow 24 Centre St Concord NH 03301
 Terry Desjardins 1 Glen St Rochester, N.H. 03867
 Carol Lepore 35 Lepore Dr. Farmington, NH 03835
 Stacey Zumpfe 732 Sulmon Falls Rd. Rochester, NH 03868
 Paul Pollans 19 Denise Ct NASHUA, NH 03063
 Susan Pullan 19 Denise Street, Nashua, NH 03063
 Bob Foudrat 27 Patten Road Bedford NH 03110
 Kim Cook 24 Meadowbrook Crossing, ~~Sandown~~ Sandown, NH
 JUDIE FISHER 21 INDIANA PK NASHUA NH 03060
 Tom Gulyak 16 BROOKVIEW DR. PELITAM

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Name:

Address:

Margaret Manoni 57 Summit Rd Plymouth NH
 Judy Hy 62 Ray St. Rochester, N.H.
 Maureen A Boisvert 178 Proctor Hill Rd Hollis N.H. 03049
 MARGARET PROLMAN 31 CHASEBROOK CR LITCHFIELD NH
 Marie Barowski 48 Greatstone Dr. Merrimack NH 03054
 Judi D'Amico 27 Starbrooke Ln, Amherst, NH 03031
 Stanley D. Stone 244 Day St Manchester, NH 03104
 WILLIAM DONOVAN 20 DONOVAN ROAD G. L. MANTON N.H. 03237
 Laura Hodgkins 4 Tower Hill Rd Bow, NH 03304
 Harold A. Hight 41 Tower Hill Rd Bow NH 03304
 Lea Hill 31- Kearsall Lane Pittsfield, 03263
 E. C. Youngs 15 Clough St., Lisbon, N.H., 03585
~~D. O. O'Neil~~
 D. O. O'Neil 12 WATSON ST PITTSFIELD NH 03263
 Marie Tessier 46 Gendron St NASHUA NH 03062
 Dale A. Tessier 46 GANDRON ST. NASHUA, N.H. 03062
 Debbie Freyman PO 176 Newhendon NH 03257
 Michael Valentin PO Box 364 Lincoln, NH 03251
 Andrea Steen 22 Lee Rd Madley NH 03823
 Jeffrey Bourque 6 Star Post Ln. Raymond, NH 03077
 Linda Ryan 35 Vespa Ln Nashua NH 03064

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

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Name:

Address:

Melinda Jette / 40 University Drive, Rindge, NH 03461
Greg Winters / 9 Century Lane, Whitefield NH 03092
BRUCE J MARKS / 1465 HOOKSETT RD # 244 HOOKSETT NH 03106
MARY DZIECZKOWSKI / 1465 HOOKSETT RD # 244 HOOKSETT, NH 03106
Greg S. Goldberg / 37 Tanglewood Dr. Henniker NH 03242
Charles J. [unclear] / 20 Pine Tree Dr. Lebanon NH
Thasom Seed-Crusher / 123 Dry Hill Rochester NH
Sue Eliseu / 82 Bellamy Woods Dover NH
Jean Stimmie / 11 524 Jewness Pond Rd Northwood 03061
DAVID FOOTR / 302 Pond Hill Rd, BARRINGTON NH 03821
Sue Schuler / 11 MOOSE RUN, BARRINGTON, NH 03825
Margaret Higgins / 124 Pine St. Rochester, NH 03868
Linda Plaga / 75 Woodland Dr, Strufford NH 03855
Barbara Feldman / 306 BATES TURN BARRINGTON NH 03825
Miss [unclear] / 5 [unclear] Rd Deerfield NH 03037
Anne T. Kelly / 373 Bridge St. Manchester, NH 03104
Ellen Barber / 48 Edinburgh Dr. Bedford, N.H. 03110
Jacalyn Lesser / 4 Berwick St. Nashua NH 03063
Mark Lesser / 4 Berwick St Nashua NH 03063

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

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Name:

Address:

Joanne Johnson 4 Loggase St. Rochester, N.H. 03867

- Kawalito 30 Dodge St. Rochester, NH 03867
- Jennifer Gilman 55 Paulson Rd Farmington, NH 03835
- Paula Getman 40 Labrador Drive Rochester NH 03867
- Susan Kelley 407 Berry Rd. New Durham, NH 03855
- Julie Thompson 20 Watson Rd Durham, NH 03824
- Margaret H. Richard 51 Oak St. Dover NH 03820
- Linda G. Sullivan 346 Stagecoach Ct. Barrington, NH 03825
- Paula M. Meehan 7 Nokes Rd Dover, NH 03820
- Kyle J. Angell 6 Smith Well Rd. Dover NH 03820
- David Fisher 15 Ryan Circle Rochester, NH 03867
- Ann Brown 1 Sheridan Ave Rochester NH 03867
- Coral Bayer 1 Sheridan Ave Rochester NH 03867
- Lisa Dentora 40 Betts Rd Rochester, NH 03867
- William M. Maw 9 Rebekah Ln Rochester, NH 03839
- M. J. Morrison 34 TORRELLA DR DOVER NH 03820
- Shaili Gola 3 Hillside Drive Rochester, NH 03867
- Jessica Parks 126 Gar Rd Gorham, NH 03839
- Hatsumi 27 Winthrop St Dover NH 03820
- Billy Borish 76 Cottonwood Dr. Dover, NH 03820
- Rosemarie Hoffmann 132 Sampson Rd, Rochester NH 03867
- Mary Rose 28 First St Rochester NH 03867
- Donna Cushing 275 Green Rd Milton, NH 03851
- Jean Craig 4 Dodge St. Rochester, N.H. 03867
- DB Betz 23 Unity St. East Rochester, NH 03868
- Audrey D. 9 1/2 South Street Dover NH 03820

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Name:

Address:

Sandra Roy 42 Union St. Dovermouth, NH 03878
 Bruce Laurent P.O. Box 778 Milton, NH 03851
 Elizabeth Collier 194 Old Ridge Rd. Strufford, NH 03884
 James Melina 435 Salmon Falls, Rochester, NH 03868
 Vicki J. O'Donnell 110 Governors Rd., Rochester, NH 03867
 Amy O'Call 26 Atlantic Ave Dover 03820
 Cindy Koste 141 Wakefield Rd Union NH 03887
 Luke Stan 56 Governors Rd Milton NH 03851
 Wayne E Herman 23 Silver St. Rochester NH 03867
 Jamie R 103 Bellamy woods Dover, NH 03820
 Chatter Fiorini 26 Justin Ln. Rochester, NH 03867
 Beth Alford 2 Concord Way Rochester NH 03867
 Karen Stoudt 77 Rochester Hill Rd, Rochester, NH
 Ken Daymond 244 Raleigh Way Portsmouth, NH 03801
 James O'Connell 9 Mockingbird Lane Kingston, NH 03848
 Elizabeth 157 Central Ave #10 Dover, NH 03820
 Jackie Buelter 1 Wakefield St, St 204, Rochester, NH 03867
 Kinshah Robinson 37 Old Concord Turnpike Lee, NH 03861
 Jennifer Anderson 36 Victoria Drive Epping, NH 03867
 Linda Melina 435 Salmon Falls Road Rochester, NH 03868
 Kate Morrison 388 State St # Portsmouth, NH 03801

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

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Name:

Address:

- Melinda Pichon 64 Whitehouse Rd Rochester NH
- Trish Wilson 35 Tingley St Roch NH
- W. Kafdar 20 Quarry Dr S Berwick, ME
- Sue Caplan 129 Ester Rd Rochester NH
- Cathy Wolf 20 Walnut St #7 Somersworth NH
- Carla Ferraro 356A Livingston St Rochester NH 03875
- Mary Hoyt 70 Countrybrook Ln Rochester NH 03832
- Jody Braggins 18 Old Tabbatts Rd Rochester, NH
- Beth Ann Bridges 80 Berry Rd New Durham NH
- Blair Kahan 33 Highland St #15 E Rochester NH
- Sean Sullivan 48 Langdon St Portsmouth NH 03801
- Dan Colm 3 Hillside Dr Rochester NH 03867
- Mary Farley 5 Vernon Ave Rochester, NH
- Wendy King 20 Pearl St E Rochester NH
- Ally Ralph 86 Heron Cr. Milton 03851
- John Egan 26 Cowhill rd Rochester 03868
- Joyce Bowen 16 Harvard St Rochester NH
- Michele Demant 11 Isabelle Lane Rochester
- Tina Litchfield 21 Magic Ave Rochester 03888

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

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Name:	Address:
<i>George King</i>	Rochester
Karen Halliday	2 Tall Pine Lane, Rochester, NH
County Clerk	47 Brock St. Rochester
Becky Ricker	47 Brock St. Rochester, NH
Jane Rice	47 Brock St. Rochester NH
Jane Johnson	47 Brock St. Rochester NH
Judith	47 Brock St. Rochester NH 0386
Maria Bahert	133 Telleys, Nash, NH
Francis Holt	
Arlene Marie	582 Middle St #4 Portsmouth NH 0380
Cheryl J Hanson	Po Box 402, Sanbarnville, NH 0387K
Francesca Bauer	42 Goldstone Dr Dover, NH
<i>[Signature]</i>	47 Brock St
<i>[Signature]</i>	47 Brock St. Rochester NH
Jane K. Gossaint	129 Governors Rd Rochester, NH
Janet Welch	80 Walnut Rochester NH
Cathy Cheney - Weston	266 Evans Mtn Rd. Strafford, NH
A. Black	15 Whig Hill Rd. Strafford NH
Carol Burden	13 Crestview Dr, Dover, NH

Alle's Spader
Paul Lewis

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

and those who support public employees

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Name:

Address:

- Amey M. Bess 55 Knight Rd Silver Lake, NH
- [Signature] 730 2nd Crown Point Rd Sanford NH
- S.H.P. 60 PROSPECT STREET ROCHESTER N.H.
- [Signature] 531 Toland Rd Dover, NH
- [Signature] 149 PORTLAND AVE DOVER NH
- [Signature] 86 Church St., GRANIC
- [Signature] 24 Fremont St. Sanisworth NH 03878
- Elizabeth Gouzouls-Walton 18 Rolston Ave Greenland, NH 03840
- Kelly Gray 10 Vinewood Lane Rochester NH 03867
- Dennis B. Egan 196 A Chestnut Hill Rd., Roch. NH 03867
- Kirsten de Sturtevant 9 Apple orchard Rd Roch. NH 03867
- [Signature] 101 Glenwood Ave, Apt 6 Dover, NH 03820
- Christie Wilkin 717 Scriven Pond rd Barrington NH 03825
- [Signature] 88 Gebig Rd., W. Nottingham, NH 03291
- [Signature] 7 Wickory Lane Rochester, N.H. 03867
- Jon Petcher 387 Twin Slag Rd Sanford NH 04073
- [Signature] 11 Acme Ln, NH
- Brenda Walker PO Box 101 Belmont NH 03220
- Chris Perkins 189 South Main St. Rochester, NH 03867

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

and those who support public employees

We, the under-signed, who work for the Rochester School District, are asking that you REJECT the changes in the NH RETIREMENT SYSTEM proposal that are not endorsed by the NH Retirement Security Coalition. We support the NHRSC's positions for the following reasons: We should not be the ones paying more and collecting less in retirement, when we kept our end of the agreement; Cities and towns, whether they were aware of it or not, paid inadequately; the governing body of the NHRS did not manage the fund well. Therefore, we should not be the ones penalized.

Name:

Address:

- Steve Began 3 Page St, Rochester NH 03602
- Charles Bismant 1000 NH 03602
- Tim Bismant 47 Main St, Rochester, NH
- Morgan Gagnon 92 Cole St, Rochester, NH
- Russell Hickey 66 Eagle Pt, NH 03608
- Ramona Banta P.O. Box 825 Wolfeboro Falls, NH 03896
- Nicholas St Pierre 20 Carson St, Rochester, NH 03607
- Tammy Bott 61 Franklin Hgts, Rochester NH
- Christina Gragg 72 Cornice Avenue, Rochester, NH 03607
- Julie ... P.O. Box 352, Rollinsford NH, 03867
- Andrea ... 156 Charles St, Rochester NH 03867
- Julia ... 251 NH 03867
- Ronan ... 133 Eastern Ave Rochester, NH 03607
- Ciana D. Boeate 31 Stonewall Rd Alton NH 03809
- Victor ... 73 NH 03801
- Eric Dancy 112 Cottonwood Dr Dixie, NH 03820
- William ... 91 NH 03607
- Cynthia ... 31 NH 03807
- ... P.O. Box 304 NH 03807
- NH 03807
- NH 03807
- NH 03807

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

and those who support public employees

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Name:	Address:
Caitlen McFarthy	26 Atlantic Ave Dover, NH
Pahma Allard	2A HANCOCK ST. Dover NH
Thomas McCarley	50 Broadway Farmhouse NH
Curtis M. Lalonde	16 Forest Park Drive, Rochester NH
Mary Plouffe	14 D St. Dracut, MA 01826
Sheryl Lachar	4 Litch Ct Nashua NH 03063
Paul Plouffe	14 D St Dracut, MA 01826
Laurel Plouffe	4 Francoeur dr. Somersworth, NH 03878
J. E. Ahj	679 Pine River Road Wakefield NH
Brooke Stebbins	7 Merrimack St Concord NH 03304
Marilyn Heathcote	5 Cold Spring Circle Rock NH
Tom Swall	138 Newton Rd. Plaistow N.H. 03865
Nancy Loud	60 Lowell St. Rochester NH 03867
Mike Bradley	Box 68 Hillsboro NH 03244
Armelle Trogiseti	18 Villager Rd, Chester NH 03036
STANLEY SOLOMON	Box 997 ALBANY, NH 03818
JEROTHY SOLOMON	" " "
Christina Lacourse	104 Mt Delight Rd Deerfield NH 03037
Richard Lacourse	104 Mt Delight Rd. Deerfield, NH 03037

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

and those who support public employees

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Name:

Address:

Michael Gott	486 W River Road Hooksett NH
Keely Gott	486 W. River Rd Hooksett
Oliver Bohn	711 Piscassic St Newmarket, NH
Vickie Pelletier	9 Brickyard Ln Nashua
Pat McKeown	1 Beatus St Nashua
Uthara Bood	286 Stonebridge Dr. Nashua
Jan Soares	179 Peppercill Rd. Hollis N.H 03049
Alison Marling	1 Grater Rd Amherst NH 03031
Kristine Rousseau	86 Beauvieu Ave Nashua
Paul Martin	15th Ave Amherst NH 03031
Paul Francis	48 Thurston Ferry 2 Amherst NH 03031
Melanni Beliveau	45 South near Londonderry NH 03053
Karen Quinno	3 Tracy St Salem NH 03079
LAWRENCE CASSEY	35 FOREST ST Londonderry NH 03053
Ellen Cassey	35 Forest St Londonderry NH 03053
Caithlin Maynard	130 S. Lowell Rd. Windham, NH 03087
Nancy Bozek	276 Woodcrest Ct, Manchester NH 03109
Mark Beaulieu	478 Kelley St Manchester NH 03102
EVAN MURPHY	478 Kelley St Manchester NH 03102

03102

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

And those who support public employees

We, the under-signed, who work for the Rochester School District, are asking that you REJECT the changes in the NH RETIREMENT SYSTEM proposal that are not endorsed by the NH Retirement Security Coalition. We support the NHRSC's positions for the following reasons: We should not be the ones paying more and collecting less in retirement, when we kept our end of the agreement; Cities and towns, whether they were aware of it or not, paid inadequately; the governing body of the NHRS did not manage the fund well. Therefore, we should not be the ones penalized.

Name:

Address:

Dorothy J. Weymouth	25 th Academy St. Rochester NH 03867
Margaret B. Jurd	30 Sme Ellen way Milton
Michelle B.	54 Peacham Rd. Braintree
Susan L. Crichton	77 Washburn Street Rochester, NH 03867
S. Edmund Lou	6 Sheffield Rd Nashua NH 03062
Andy Juggan	3 Daylily Ln Rochester NH 03868
Shirley	3 Daylily Lane E Rochester, NH 03868
Maureen Gray	11 Fairhill Avenue - Ky NH 03870
Donald R. Koverda	289 Pinebrook Pl. Manchester NH 03109
Susan C. Lord	66 Alexander Drive Manchester NH 03103
Debrah L. Howes	2 Glenview Drive Hudson NH 03051
Karen E. Hoffman	18 Harbor Ave. Unit 104 Nashua, NH 03060
Robert B. Graham	19 Melody Lane, Pt 2 Ham, NH 03076
Theresa Reich	21 Raccoonlily Nelsboro NH 03044
Diane Hines	187 Black Pond Rd Windsor NH 03241
Kathy Channon	987 Bennington Rd Franconia, NH 03040
Virginia E. M. Gray	5 Old Carr Rd Androm NH 03440
Maria	37 Madison Circle, Hillsboro, NH 03244
John	52 Malison Circle, Hillsboro, NH 03244

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

name of school who support public employees

We, the under-signed, who work for the Rochester School District, are asking that you REJECT the changes in the NH RETIREMENT SYSTEM proposal that are not endorsed by the NH Retirement Security Coalition. We support the NHRSC's positions for the following reasons: We should not be the ones paying more and collecting less in retirement, when we kept our end of the agreement; Cities and towns, whether they were aware of it or not, paid inadequately; the governing body of the NHRS did not manage the fund well. Therefore, we should not be the ones penalized.

Name:

Address:

Bonnie Bonneau	13 Wildflower Way Rochester
Denise Crinsi	40 Dodge St Rochester
Kelly Bonnell	5 Green St Rochester
Danielle Varr	16 Hawaii Ln. Rochester
Susan Flaisted	7 Duquette St Rochester, NH
Nicole Olsen	27 Leonard Street
Tracy Taif	1 Carpenter Ln
Megan Walkamp	48 Main St. Apt. 2 E Rochester
Mickelle D. Pyrucl	35 Davis Blvd Rochester, NH
Sheila Compost	8 Lagasse St. Rochester N.H.
Jamie Grant	4E Cedarbrook Vlg. Rochester, NH
Liza K. Kuno	40 Glenwood Ave Dover, NH
Margaret Richards	8 Francoeur Dr Somersworth
Dorothy Sylvia	2 Erin Ln Rochester
Nancy Booth	700 Province Rd Barnstead
Linda Hopkins	11 Frost Dr Durham
Diana M. Lacey	7 Hampshire Ave Rochester

PETITION TO REJECT CHANGES IN NH RETIREMENT SYSTEM

and those who support public employees

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Name:

Address:

Ellen Scroitti

75 Evergreen Cir Henniker

Mama + Mam

28 Cheney Hill Rd. Weare, NH

Dee Ford

347 Stark Highway N., Dunbarton NH

Mary Kingdon + David

PO Hutchins Hill Rd Hopkinton NH

Ellen & Walter Barber

48 Edinburgh Dr. Bellows Falls, NH 05610

Kelly Salois

48 Lakeshore Dr Dracut, MA 01826

THOMAS F. BURKE

7 SULLIVAN AVE, SALEM, NH

Multiple horizontal lines for additional signatures and addresses.

HB 580 #6
4-21-11
SCOTT MCGILVRAY

~~Without the ability to negotiate for health care benefits and pensions meaningful collective bargaining will lead and employees will be forced to accept any wage offered and risk cuts to benefits. Attacks on collective bargaining are attacks on the middle class and disproportionately an attack on women. As President of the NEA 1200 members 75% women. According to the Dept. Labor during 2010 women lost 72% of all government sector job cuts. The highest concentration of those at the local level and especially in the field of teaching. As the private sector recovers with added jobs the majority of which have gone to men the public sector continues to have job cuts and teachers and para professionals are being cut across the state. These fields are disproportionately filled with women. I come from an education family. On a personal note Mother - Wife - Father in Law Educators~~

We all entered knowing full well wages below the private sector ~~is~~ but a teaching career is a noble profession and that I would be able to bargain

For what my family's need are
Salary, healthcare and a decent
pension at the end of my career.
Not a pension that I would be
rich on but one that would
help support me after I leave
the classroom.

The collective bargaining process
is a meaningful process to both
sides and the elimination of
collective bargaining does nothing
to improve education - our
classrooms or create jobs.
Rather it would accomplish
the opposite.

JANUARY 1 Date of Notification

New Hampshire Retired State Troopers Association

Opposition to House Bill 580

#7
Major
Kelley

House Bill 580 is unneeded and unnecessary as it duplicates many sections of SB 3

There are approximately 12 of 15 sections in HB 580 that are comparable with SB 3. [A recent research report to the NHRS indicates sections of HB 580 are possibly susceptible to later lawsuits.]

It appears that SB 3 is generally agreed to be the vehicle to accomplish the Pension reform that the Legislature desires. ----- Why muddy the waters.

Removal of the Special Account is going to deny those 41% of retirees living off pensions below the poverty line an opportunity to better meet their increasing financial burdens.

The NH Supreme Ct in a decision handed down last week stated in part "The funds held by the NHRS are to be used solely to pay the retirement allowances of NHRS members" quoting NH Constitution Part I Article 36-A

Current law, RSA 100-A.55 states that " no transfer shall be made from the Special Account established under RSA 100.A 16, II b sub trust for the purpose of funding RSA 100- 52 (b) or for any other purpose

This would seem to affect the legality of transferring the 89 million out of the special account

Section 33 of HB 580 is by far the most devastating to retired Troopers. If allowed to stand, even without the former HB 231, it could reduce the health care fund to levels that would reduce benefits unbearably for retirees.

#8

Representative
Mark Drouilly

HB 580-FN-Local
relative to the New Hampshire retirement system

SUMMARY

Rep. Neal M. Kurk
April 21, 2011

1. **Group I:** increases the retirement age to 65 (up from the current 60) for new group I employees and for current group I employees with less than 10 years of creditable service and gradually for those group I employees with more than 10 years of service: 10 – 15 years, 64; 15 – 20 years, 63; 20 – 25 years, 62; 25 – 30 years, 61; more than 30 years, 60. [Page 3, sec. 5; page 9, sec. 16]

2. **Group II:** increases the retirement age to 50 years (up from the current 45) after 25 years of service (up from the current 20) for new group II members and for current group II employees with less than 10 years of creditable service, with the retiree's pension beginning at age 55. The percentage of one's pension earned each year is changed to 2.0% from 2.5%. [Page 3, sec. 5]

* FIRE AND POLICE STILL DO NOT LIVE AS LONG AS GEN PUBLIC

3. **Earnable compensation:** defines earnable compensation to mean base pay only effective for all employees retiring after June 30, 2016 (a five-year window). [Page 2, sec. 2] MANDATORY OT W/ MARRY PAID INTO SYSTEM

4. **Average final compensation:** computes the average final compensation on five years instead of three for all employees retiring after June 30, 2016 (a five-year window). [Page 2, sec. 2]

5. **Part-time positions:** repeals the Board's recent decision to treat the state as a single employer. The repeal means that two or more part-time positions can no longer be combined to create a position that qualifies for pension benefits. [Page 3, sec. 4]

6. **Employee contribution rates:** increases employee contribution rates to more equitably share the risks associated with a defined benefit plan: group I - 7%; group II firefighters - 11.8%; group II police - 11.55%. [Page 10, sec. 18]

7. **Double-dipping:** bans so-called "double-dipping" by state and local governments, preventing an individual who is receiving NHRS benefits from simultaneously receiving compensation in any form from the same employer member of the system for services rendered after the date benefits were first paid, whether as a full-time or part-time employee for any period of time, or as a consultant for a period longer than three months. [Page 11, secs. 19, 20]

INCOME TAX
TO ABANDON

RAISE CITY RATES AND NOT PAY DOWN LIABILITY THIS IS HOW WE GOT IN THIS MESS

8. **Board membership:** changes the composition of the Board so that there are four employee representatives (teacher, police, fire, state employee), four employer representatives (municipal, school, county and state), four public members appointed by the governor and the state treasurer ex officio, for a total of 13. [Page 12, sec. 22; page 13, sec. 23]

*STUDYS PROVE WHILE EMPLOYERS
CAN MAKE MORE MONEY*

9. **Special account:** eliminates the so-called special account by repealing the current provision authorizing the transfer to the special account of investment earnings greater than 10.5% once the funding ratio reaches 85%. Transfers the balance in each special account component (employees, teachers, police and fire) to the corresponding components of the state annuity accumulation fund. [Page 13, sec. 24, 25; reference changes in secs. 26-28;]

262 mil

10. **Pensions not contractual:** establishes that pension benefits are not a contractual obligation and may be changed; requires employees to acknowledge this provision in writing. [Page 14, sec. 31]

*SO LOW
IT MUST BE*

*THIS WILL OPEN THE
DOOR FOR PEOPLE
TO LEAVE*

11. **"Status quo" doctrine limited:** provides that, at the end of the term of a public employees labor contract, the status quo continues with respect to wages and working conditions but not with respect to benefits, which may be changed by the employer. [Page 14, sec. 32]

*I DISSEMBER THE PLAYING
FIELD IS LEVEL IN MY 30 YRS I HAVE SEEN BENEFITS AND*

12. **Optional refusal of benefits:** allows state employees who were hired on or after July 1, 2004, to opt out of receiving employee benefits, including health insurance and pension benefits, and instead receive a 25% increase in their yearly base pay for as long as they work for the state. [Page 16, sec. 33]

*PAY GO UP
DOWN*

13. **Severability; contingent severability:** inserts a severability clause and provides that if any section is determined to violate the constitution, employee contribution rates shall be 50% of the normal and accrued liability contribution rates. [Page 15, secs 34, 35]

*SO THE HOUSE (KURK)
IS SAY THE
CONSTITUTION
DOESNT
MATTER*

*AND IF THEY DO WRITE AN UNCONSTITUTIONAL BILL WITH A PARALLEL
TO EMPLOYER*

14. **Defined contribution plan study:** establishes a committee to study a voluntary defined contribution plan option to be administered by NHRS. [Page 16, sec. 36]

*THE FIX WAS PUT IN 3 YRS AGO AND
MOST OF THESE PROPOSALS IS JUST SOUND GRABBS*

*DON'T STAND IN THE DOORWAY
OR YOU WILL BE RUN OUT
AND GOOD LUCK REPLACING THEM*

#9

April 21, 2011

Dear Senate Executive Departments And Administration
Committee Members,

Today I am going to focus most of my comments on the part
of the bill that reads:

takes ~~it~~ it out of the preamble subjects
"Employers can unilaterally decide your health, dental, life,
and retirement benefits upon the expiration of a contract".

I ask that you make the recommendation of ITL on HB 580.

Section is what I call
This ~~what I call~~ the "Kurk" amendment would strip hard
working New Hampshire citizens of their collective
bargaining rights that have been the law of ~~the land~~ in New
Hampshire since 1975. The passage of the NH Public
Employee Labor Relations Act brought harmonious
workplace relations between public employees and
employers since that time. We do not want to revert to the
pre-1975 issues.

It is outrageous that the Special Committee on Pension
Reform saw fit to act on this amendment in the late hours of
their deliberations. This move provided no opportunity for
public debate and input.

Public employers and employees work together to reach
agreements that are ultimately approved by the voters or
legislative body in cities and towns across the state. ~~Why is
the NH House trying to become a third party in that process?~~

This significant change in the law is an attack on over 70,000 public employees in NH.

please keep in mind

AFT-NH represents almost 4,000 employees in NH, mostly public employees who work in your cities, towns and school districts. The members of AFT-NH are teachers-like me—and other school workers, like librarians and even cafeteria workers. Some of us are police officers who work to ensure safe and orderly communities. Our members work in higher education preparing new generations of citizens and leaders. Moreover, our members provide vital public services in towns all over New Hampshire.

AFT New Hampshire members ensure the safety and well-being of our fellow citizens and help build stronger communities throughout our state. We are proud of the work we do for the citizens of NH.

AFT-NH has always been willing to have the difficult conversations on any bill brought forward in the light of day. These tactics do not reflect well upon the NH House and its members. Please say no to this unnecessary and spiteful attack on your public employees. Please do not fall for the hollow arguments that this is everyone's best interests—it is not.

The total lack of transparency in the process is an affront to New Hampshire's tradition of doing the public's business in public. By tacking this on to a retirement bill, the Committee chose to ignore the public's voice on an issue that is central to the well-being of all middle class families in our state.

We thought the NH House was going to focus on the budget, improving our economy and creating jobs. This amendment is spiteful towards public employees and does not advance your mission of addressing the serious fiscal issues we face in the state.

Amendment. All voices but its a committee

In closing, I ask that you consider the recommendations of the NHRSC. These recommendations along with past changes to the NHRS I believe over time will lead to a system that beneficiaries can count on, promises will be kept, and member will not have to make hasty retirement decision due to the drastic changes that this bill recommends

The recommendation of the NHRSC ensure the long-term viability of the plan for current and future public employees and will maintain benefits that are essential tools for recruiting and retaining skilled people to proved essential public services in New Hampshire.

On behalf of AFT-NH members and working class families in NH, I urge you to resoundingly defeat this bill and amendment and let us all get back to the business of getting our financial house in order and improving NH's economy. If you would like to discuss this very serious issue, please feel free to call me at 603-661-7293.

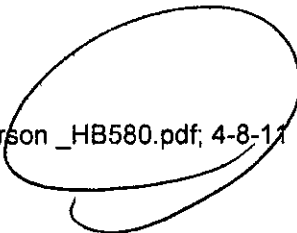
Thank you for your support.

Sincerely,

Chroniak, Deborah

Submission 1

From: France, Kim [kim.france@nhrs.org]
Sent: Wednesday, April 20, 2011 5:37 PM
To: Carson, Sharon
Cc: Hawkins, Ken
Subject: HB 580
Attachments: 2011_04_20_memo_to_Senator_Carson_HB580.pdf; 4-8-11 Groom memo on proposed legislation - confidentiality waived 4-12-11.pdf



Senator Carson,

I will be attending the public hearing on House Bill 580 to deliver both written and oral testimony. I also wish to share with you comments and observations from New Hampshire Retirement System staff and me, including a memo from our fiduciary counsel, attached to this email.

I look forward to seeing you and the Committee.

Kind regards,
Kim

Kim France
Interim Executive Director
NH Retirement System
54 Regional Drive
Concord, NH 03301
Phone: (603) 410-3556
FAX: (603) 410-3557
Email: kim.france@nhrs.org
Website: www.nhrs.org

Please visit www.nhrs.org to subscribe to NHRS email announcements and updates.

New Hampshire Retirement System

Memo

VIA ELECTRONIC MAIL AND HAND DELIVERY

To: Honorable Sharon Carson, Committee Chair, Senate Executive Departments and Administration

From: Kim France, NHRS Interim Executive Director

Date: April 20, 2011

Re: HB 580

C: Rep. Ken Hawkins, Chair, Special Committee on Public Employee Pensions Reform

Senator Carson:

At the monthly meeting of the NHRS Board of Trustees on April 12th, the Board was advised by its fiduciary counsel, the Groom Law Group, that section 33 of HB 580, as passed by the House last month, appears to be a potential violation of the Internal Revenue Code ("IRC", "the Code").

That provision proposes to allow state employees to refuse certain benefits, including NHRS benefits, "in order to instead receive an [25 percent] increase in his or her base salary or wage." If that provision is enacted, it would likely be viewed as an impermissible cash-or-deferral election under IRC section 401(k) and consequently jeopardize the favorable NHRS tax-status as a qualified plan. I am attaching the Groom memo dated April 8, 2011, that speaks to the potential Code violation as part of Groom's review of the three pending NHRS omnibus bills: HB 2, HB 580 and SB 3.

Please note that SB 3 has an effective date of January 1, 2012, for most of its provisions, while HB 580 has a general effective date of July 1, 2011. NHRS requires the January 1, 2012 implementation date due to extensive information technology modifications that will be required in order for NHRS to implement the significant plan design changes. NHRS is unable to implement such plan design changes by July 1, 2011. After receiving inquiries from Bill sponsors relative to the implementation date, NHRS identified that some individual provisions may be implemented prior to January 1, 2012, but reaffirmed the January 1, 2012 implementation date is required for comprehensive benefit changes.

Also, in comparing HB 580 with HB 2 and SB 3, NHRS staff would like to bring to your attention other provisions of HB 580 included under this memo that may warrant the Committee's review as an opportunity for clarification.

Please contact me if you have any questions or if I may be of assistance to you and the Committee.

Sincerely,

Kim France, NHRS Interim Executive Director

NHRS STAFF OBSERVATIONS AND REQUESTS FOR CLARIFICATION ON HB 580

1. Section 3:

- a. Paragraphs (a) and (b), may both be interpreted to apply to members who are in active service prior to and after July 1, 2011. In that case, it will not be known which definition of earnable compensation to apply under (a) or (b) until May 31, 2016, which is the last date a member in active service on June 30, 2011, has to file for a July 1, 2016 service retirement, provided other eligibility requirements are met.
- b. Neither paragraph (a) nor (b) provides for a retirement on July 1, 2016.
- c. Neither paragraph (a) nor (b) defines earnable compensation for a member who commences service on/after July 1, 2011, and who retires before July 1, 2016. For example, a Group I member who is hired on July 1, 2011, who attains or has attained age 65 prior to July 1, 2016, would be fully vested and could retire at any time after attaining age 65. In paragraph (b), the Bill does not define what constitutes “. . . full base rate of compensation paid” or alternatively, what entity shall determine such a rate. In comparison, the similar provision in SB 3 states, “. . . full base rate of compensation paid, as determined by the employer”.

2. Section 4:

- a. At the present time, part-time judges may elect to participate in NHRS in the employee classification. It appears that the provisions contained in this section would preclude part-time judges from further NHRS membership. Was this an intended consequence?

3. Section 5:

- a. In Section 5, RSA 100-A:5, II(a)(2) provides that a group II member may retire at age 50 with 25 years of service but may not commence receiving benefits until age 55. However, in section 10 of the Bill, a member who has attained age 50, completed at least 25 years of service, and retires on a vested deferred retirement may begin receiving benefits as early as age 50. Many times, the only difference between a service retirement and a vested deferred retirement is when an application to retire is filed by the member. For example, a member eligible for service retirement must file an application for service retirement while the member is in service. If that same member were to terminate employment (no longer be in service) and subsequently file an application for retirement, that member's retirement would be a vested deferred retirement, not a service retirement.
- b. In paragraph (a), the insertion of the comma and the word “who” following the word “member” in the first sentence changed what used to be a sentence to a sentence fragment.

4. Section 12:

- a. Does not address non-vested members who have 20-25 years of service.

5. Section 16:

- a. This section does not specify whether it is an amendment of an existing section of RSA 100-A or if it is a new section.
- b. It appears that the phrase “persons who are in vested status in the retirement system...” should instead read “persons who are not in vested status because a person

who is in vested status on the effective date of section 16 would be eligible to retire with an unreduced benefit at age 60.

- c. The reason for the reference to a person who is in vested status as a state employee under RSA 21-I, 30 on the effective date of this section is unclear. Eligibility for state-subsidized post-retirement medical insurance is not a criteria for retirement eligibility under RSA 100-A.

6. Section 17:

- a. It appears that the Bill should limit the number of years recognized for benefit calculation purposes to 25 years.
- b. It is unclear as to which sections of RSA 100-A the transitional rules apply.

7. Section 20:

- a. It is unclear in this return-to-work provision whether the three month limitation applies only to consultants or to all part-time and full-time employment as well. If the three month limit is intended to apply to full-time employment, it is presumed that a rehired member would have benefits suspended immediately upon re-hire and begin accruing additional creditable service per RSA 100-A:7, Restoration to Service.

8. Section 23:

- a. In changing the Board composition as proposed in section 22, is it the Legislature's intent that the four member Trustees whose terms expire on July 1, 2011, shall remain in holdover status until such time as the employer Trustees are appointed?
- b. Is this provision intended to amend RSA 100-A:14, I or is it intended to be a new section?

9. Various sections throughout HB 580:

- a. Added the phrase "...age 65 if the member is not in vested status on July 1, 2011", which could be interpreted as only applying to members who are not vested on that date but become vested thereafter. Perhaps the intent could be clarified with the phrase "... age 65 if the member is not in vested status as of June 30, 2011".

GROOM LAW GROUP

MEMORANDUM

Attorney Work Product Confidentiality Waived at the 4/12/11 NHRS Board meeting

April 8, 2011

TO: Tim Crutchfield
FROM: David N. Levine
Kimberly M. Dahm
RE: Review of Proposed NHRS Legislation

This memorandum responds to your March 29, 2011, memorandum in which you ask that we review pending legislation that would modify benefits under the New Hampshire Retirement System ("NHRS") with potential implications under the Internal Revenue Code.¹

Analysis

A. Legal Framework

As a tax-qualified retirement governmental plan, NHRS must comply with applicable requirements as set forth in section 401(a) of the Internal Revenue Code (the "Code") and related guidance. In the context of determining whether the proposed changes to NHRS raise issues under the Code there are several key concepts that should be considered:²

¹ This memorandum does not address any potential New Hampshire law remedies, such as contractual claims or rights, some of which are currently at issue in pending litigation.

² In all events, the Code's general "tax qualification" requirements should also be considered. However, for purposes of this analysis we have focused on Code provisions potentially affected by the proposed legislation.

- *Vesting Rules.* Pursuant to Code section 411(e), governmental plans are not subject to the current Code section 411 vesting and anti-cutback rules.³ Rather, governmental plans must comply with the pre-ERISA Code section 401(a)(4) and pre-ERISA Code section 401(a)(7) vesting rules. Under these rules, a member must generally be vested on attainment of "normal retirement age." *See also* Revenue Ruling 66-11 and Revenue Ruling 68-302. Although this issue is currently under study by the Internal Revenue Service, a conservative reading of the NHRS statutory provisions could lead to the conclusion that each of the following establishes a "normal retirement age" that triggers immediate vesting:
 - RSA 100-A:5 (Service Retirement Benefits): Each of the alternative conditions for service retirement benefits.
 - RSA 100-A:10 (Vested Deferred Retirement Benefit): Each of the alternative conditions for vested deferred retirement benefit (*e.g.*, with respect to a Group II member, 10 years of creditable service or attainment of age 60).
- *Exclusive Benefit Rules.* Code section 401(a)(2) generally requires that NHRS' assets be held for the exclusive benefit of NHRS members and their beneficiaries. In recent communications, the Internal Revenue Service has been asking that governmental plans be amended to adopt a relatively narrow interpretation of this requirement.
- *Definitely Determinable Benefits.* Treasury Regulation section 1.401-1(b)(1)(i) requires that a pension plan provide a "definitely determinable" benefit. This

³ We note that a memorandum provided to NHRS by prior counsel refers to the application of the Code section 411(d)(6) anti-cutback rule and its effect on the NHRS' tax-qualification. As we have discussed, other than state law claims as referenced in footnote 1, this Code section 411(d)(6) rule does not apply to NHRS because it is a governmental plan.

requirement generally means that benefits under NHRS may not be subject to arbitrary change.

- *IRS Prohibited Transaction Rules.* Code section 503(b) generally provides that the substantial diversion of a plan's corpus to the creator of the organization or a substantial contributor (as defined in Code section 507(d)(2)) will trigger the loss of the plan's tax-exempt status.

In the following two sections of this memorandum we first generally discuss each group of potentially affected employees and theories under which it might not be permissible to modify their existing rights and second we comment on specific provisions of the proposed legislation in relation to the legal requirements listed above.

B. Groups of Potentially Affected Members

Below is a brief summary of Code-based theories under which the various groups of potentially affected members could assert that the changes should not be made applicable to them:

- *Current Retirees and Vested Members.* Current retirees and current vested members (as described in Section A above in the discussion of "vesting rules" which includes "vested deferred members") are already "vested" in their benefits. There is very limited authority as to which benefits are "vested" under the Code. As such, we anticipate that "vesting" related claims are more likely to be litigated pursuant to claims under state law than pursuant to Code-based claims.
- *Current Non-Vested Members.* A non-vested member could assert that a court should look to the Code section 411 concept of an "accrued benefit", which is different than "vesting", and should apply the otherwise inapplicable Code section 411(d)(6) rules

prohibiting cutbacks in "accrued benefits" to determine whether any proposed legislative changes are impermissible "cutbacks."

- *Prospective New Hires.* There is generally no Code-based restriction on changing benefits for new hires.

C. Review of Legislative Provisions

Below we review provisions of HB 2, HB 580,⁴ and SB 3 that raise issues that might be considered further:⁵

<u>Description</u>	<u>Legislation</u>	<u>Groups Affected</u>	<u>Potential Legal Issues</u>
Refund of contributions to reflect adjusted contribution rates pursuant to RSA 100-A:16.	HB 2, § 166	N/A – Employer Focused Provision	Exclusive Benefit Rules: Potential violation of exclusive benefit rules under Code section 401(a)(2) due to reversion. Prohibited Transaction: Potential prohibited transaction in transferring assets to settlor / substantial contributors under Code section 503(b).
Change in average final compensation definition from high-3 to high-5 years effective for retirements on or after July 1, 2016.	HB 2, § 167 HB 580, § 2 SB 3, § 2 ⁶	Vested Members, Non-Vested Members	Vesting: If a vested member (including existing members who become vested) is affected by this change, which may be unlikely considering the July 1, 2016 effective date, he or she might assert a "vesting" claim under the limited IRS guidance.
Change in earnable compensation definition.	HB 2, § 168 HB 580, § 3 SB 3, § 1 ⁷	Vested Members, Non-Vested Members	Vesting: If a vested member (including existing members who become vested) is affected by this change which may

⁴ For purposes of our comments, we have reviewed the March 30, 2011 version of HB 580 and not the earlier version that was previously provided.

⁵ We generally note, as a non-Code related drafting issue, that a number of the effective date provisions in HB 2 and HB 580 refer to "pre-July 1, 2011 vested members" and "members who are not vested on or after July 1, 2011" as the two groups covered by a provision. We believe that a number of these various clauses should refer to "members who vest on or after July 1, 2011." Similar questions apply about certain SB 3 provisions that refer to "pre-January 1, 2012 vested members" and "members commencing service after December 31, 2011". These provisions appear to leave January 1, 2012, non-vested members who commenced service prior to January 1, 2012 unaddressed.

⁶ SB 3, § 1 has slightly different and earlier effective date rules than HB 2 and HB 580 and applies only to non-vested members (determined as of January 1, 2012), which is a narrower class than the other pending legislation. However, SB 3, § 1 also has additional limits on the calculation of average final compensation that apply to all members (*i.e.*, new limits on extra and special duty pay), and thus may be challenged.

<u>Description</u>	<u>Legislation</u>	<u>Groups Affected</u>	<u>Potential Legal Issues</u>
			reduce the compensation taken into account for him or her for benefit calculation purposes, he or she might assert a "vesting" claim under the limited IRS guidance. ⁸
Change in service and disability retirement thresholds.	HB 2, §§ 170, 171, 172, 175 HB 580, §§ 5, 6, 7, 10 SB 3, §§ 5, 6, 8, 9	Vested Members, Non-Vested Members	Vesting: Depending on future IRS guidance on "normal retirement age", there is a risk that the a member could, applying ERISA-style concepts on normal retirement age and general vesting concepts, assert that changing these ages is a normal retirement age modification and/or a "grow-in" right (as imported from ERISA) that must be protected because it is vested. ⁹ Depending on the resolution of this matter, a similar claim could be made based on the proposed legislation's early commencement rights for split benefits under HB 2, §§ 177-178, and HB 580, § 12-13, and SB 3, § 9-10.
Change in ordinary and accidental disability formulas.	HB 2, § 174 HB 580, § 9 SB 3, § 7 ¹⁰	Vested Members	Vesting: Vested members might assert a vesting claim in connection with proposed RSA 100-A:6, II(d)(3)'s 100% of average final compensation limitation on disability benefits. ¹¹
Age 60-65 unreduced allowance benefit.	HB 2, § 181 HB 580, §§ 16, 17 SB 3, § 5	Vested Members	This provision is unclear but appears to parallel the rules in SB 3, § 5 amending RSA 100-A:5, II(d) for individuals who are members as of January 1, 2012, but not vested as of that date.
Contribution rate modifications.	HB 2, § 182, 183, and 205 HB 580, § 18, 35 SB 3, § 11	All Members	Definitely Determinable (Treasury Regulation section 1.401-1): Of concern, HB 2, § 183 provides employer flexibility in setting a contribution rate. This flexibility may raise a concern as to whether the plan terms are "definitely determinable" if existing guidance, as set forth in Revenue Ruling 69-427 is read broadly. As Gabriel Roeder notes, establishing a fixed period of stability on

⁷ SB 3, § 1 has slightly different and earlier effective date rules than HB 2 and HB 580 and applies only to non-vested members (determined as of January 1, 2012), which is a narrower class than the other pending legislation.

⁸ We assume that the language in 100-A:1, XVII(a) is intended to mean "active service" instead of "service". A non-vested member who becomes vested later may attempt to assert a broad reading of the Code's "vesting" concept in this and other provisions of the proposed legislation (*i.e.*, the full base rate of compensation limitation set forth in SB 3, § 3).

⁹ A non-vested member might also attempt to apply this "grow-in" right that is, in part, based on the ERISA plan concept of an "accrued benefit." A similar argument might also be asserted with respect to the retiree medical benefits, although we assume a claim is more likely to be asserted under New Hampshire state law.

¹⁰ SB 3, § 7 does not impose the same limitation for vested members as under HB 2 and HB 580.

¹¹ We have not reviewed NHRS' operations and existing language in detail to determine whether this 100% contingency could occur.

<u>Description</u>	<u>Legislation</u>	<u>Groups Affected</u>	<u>Potential Legal Issues</u>
			rate changes could potentially address this issue. Also, these proposals appear to potentially conflict with each other. We recommend clarifying which provision controls and/or whether there are cascading effective dates pending other actions (<i>i.e.</i> , judicial review).
Voluntary contribution defined contribution plan.	HB 2, § 203 HB 580, § 36 SB 3, § 22 ¹²	All Members	Tax-Qualification Requirements (Code section 401(a)): This new defined contribution plan would need to be reviewed for Code compliance and additional provisions, such as additional Code section 415(c) annual limitation required language, would need to be added.
Waiver of benefits program.	HB 580, § 33	All members	Tax-Qualification Requirements (Code section 401(a)): This provision allowing a permanent full-time state employee to "opt out" of retirement benefits, potentially except as to new state hires, would likely be viewed as an impermissible cash-or-deferral election under Code section 401(k) and the Treasury Regulations thereunder that could result in the loss of NHRS' tax-qualification.

¹² HB 580, § 36 and SB 2, § 22 only provide for a study on the establishment of a voluntary defined contribution plan, not implementation of the new plan.

Chroniak, Deborah

Submission 2

From: fagelbagel@aol.com
Sent: Wednesday, April 20, 2011 4:40 PM
To: Carson, Sharon
Subject: HB 580

Dear Senator Carson:

I am writing to you today about **HB 580**, the "Omnibus" pension bill filed by Rep. Neal Kurk that is before your committee.

Although HB 580 hasn't been getting as much attention as SB 3, Jeb Bradley's omnibus bill to overhaul of the pension system, this bill has some components in it that are terrible.

1. If an employee doesn't retire by 7/1/16, all the provisions in this bill take effect, **EVEN IF THE EMPLOYEE IS VESTED!!!** All of the things that SB contains that try to protect vested employees are lost with this bill. Vested employees won't be able to count their payouts toward their final year of compensation, and their last 5, not 3 years will be used to determine their average final compensation. An employee could have 25 years with the state, but if they don't retire by 7/1/16, they're in trouble. Of course if they retire earlier than age 60, they'll have all those penalties.

2. In addition to Group II retirement age going up to age 50 with 25 years of service, normal retirement age for Group I goes up to age 65, rather than age 60, for those who aren't vested by 7/1/11. There's no provision in this bill to "ease the pain."

At least SB 3 has something in there to help non-vested Group II employees (which I believe is totally unfair to Group I employees).

3. The house added a last minute amendment that would virtually remove collective bargaining... I realize the senate stripped this provision from HB 2, and I hope you will do the same with this bill. If you want to remove collective bargaining, at least do it in a separate bill that is properly vetted.

4. This bill does away with the fund for COLAs for retirees, as does SB 3. I am strongly against this provision. Have you seen gas prices? Never mind food and heating oil! How are retirees expected to pay for these increases with no COLAs?

5. This bill also does some weird things, like allows cities & towns to chose their contribution rates. What if they decide their contribution rate will be 0?

6. And what is the amendment about that would allow employees to refuse medical, dental & retirement benefits, and in exchange, receive an increase of 25% to their base pay? Where did that come from?

I hope you will kill this bill and work on SB 3 to make it a better bill. This one has so many flaws that I hope you will recommend it as ITL.

Thank you.
 Wendy Kessler

4/29/2011

Chroniak, Deborah

submission

From: kgk [kouletsi@gmail.com]
Sent: Wednesday, April 20, 2011 5:54 PM
To: Carson, Sharon
Cc: Groen, Fenton; Larsen, Sylvia; Luther, Jim; ray.white@leg.state.nh.us
Subject: HB580
Attachments: Microsoft Word - HB 580_2011.pdf

Dear Senator Carson and Honorable Members of the Executive Departments and Administration Committee,

Please accept the attached testimony relative to HB 580.

Sincerely,

Kimon Koulet
Laconia, NH

April 20, 2011

Honorable Sharon Carson, Chair
Executive Departments and Administration
Statehouse Room 106
107 N. Main Street
Concord NH

Senator Carson and Honorable Committee Members,

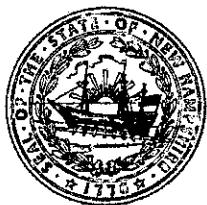
HB 580 is the worst of three over reaching omnibus pension bills under consideration by the NH legislature. Governor Lynch has it right: some reform needs to occur and the right way is to modify the system for new hires. With your help, those of us in retirement, or a year or two away, need not be held hostage by the scare tactics and unjustifiable assumptions inherent in HB 580, SB 3, and the proposed changes in HB 2. For example, the unfounded liability calculations assume public employees will receive a 4% increase each year in pay, which is fantasy. Many of us have not received raises for several years, and none seem likely on the horizon. False assumptions like these are being used to fabricate misleading results and to conjure visions of insolvency. These inaccuracies are a great reason to IITL HB 580, SB 3 and to drop pension reform from HB 2. Take the necessary time to develop reasonable and realistic assumptions. Much is at stake.

My chief concern is found on page 17, section 23 of HB580, calling for the repeal of the funding for the special account. That section is the heart of the funding method to pay for post retirement increases. Is it the intent of the Senate and House to create the bleakest of futures for those who chose careers to protect, save and teach the state's citizens? It is numbing to think that a great state like New Hampshire would propose this reversal in its commitment without inserting an alternative to replace the funding. Even at a 2% rate of inflation per year, a \$30,000/yr pension would dwindle to \$20,000 over twenty years. Prices will still rise. That \$30,000 pension would need to be \$45,000 to pay for what it can buy today. Providing for modest cost of living increases for retired and elderly teachers, police and fire fighters, and other public employees is the core of the implied agreement we accepted when we chose to remain in public service. It must be maintained, for how realistic is it for people to reverse decades of financial expectations when many of us are in our late 50s and 60s? There is no time left for us to adapt; change of this magnitude must be done for new hires.

New Hampshire's economy is growing again. The state is neither in bankruptcy nor insolvent. If you want to dismantle the commitment for post retirement increases, then kindly consider this suggestion. Amend the bill to give employees an option to withdraw all the funds in their member accounts and offer us an equal match from the employer accounts and let us fend for our futures. Giving employees an opportunity to opt out in this manner will surely relieve the NHRS from many long-term pension obligations, which seems to be this legislature's ultimate goal. Otherwise, take the honorable path and keep funding for post retirement funding increases in the NHRS.

Respectfully,

Kimon Koulet
Laconia, NH



State of New Hampshire

GENERAL COURT

CONCORD

NOV 29 REC'D
2011

MEMORANDUM

DATE: November 29, 2011

TO: Hon. John H. Lynch, Governor
Hon. William L. O'Brien, Speaker of the House
Hon. Peter Bragdon, President of the Senate
Hon. Karen O. Wadsworth, House Clerk
Tammy L. Wright, Senate Clerk
Michael York, State Librarian

FROM: Hon. Gary Daniels, Chairman
Committee to Study Collective Bargaining by Public Employees

SUBJECT: Final Report on HB 580, Chapter 101, Laws of 2011

Pursuant to HB 580, Chapter 101, Laws of 2011, I am pleased to present the Final Report of the Committee to Study Collective Bargaining by Public Employees.

If you have any questions or comments regarding this report or the work of the Committee, please do not hesitate to contact me.

Please note that the Final Report can be found on the NH General Court Website:
<http://www.gencourt.state.nh.us/statstudcomm/reports/2057.pdf>

Enclosures

cc: Committee Members

To: Representative William O'Brien, Speaker of the House
Senator Peter Bragon, Senate President
Honorable John Lynch, Governor of the State of NH
Karen Wadsworth, House Clerk
Michael York, State Librarian

From: Representative Gary Daniels, Chair
Representative George Lambert
Representative John O'Connor
Representative Steve Winter
Senator Sharon Carson
Senator Lou D'Allesandro
Senator Raymond White

Date: November 28, 2011

Subject: HB580 Study Committee Report – Public Employee Collective Bargaining

The committee to study public employee collective bargaining, established by HB580 held seven meetings to discuss various aspects of public employee collective bargaining:

September 15, 2011
September 29, 2011
October 19, 2011
October 29, 2011

November 09, 2011
November 16, 2011
November 22, 2011

Using a 1998 Summary Report done by the House Labor Committee as a base from which to start its work, the study committee focused on how to improve the current collective bargaining process. During the course of studying this issue, significant input pertaining to public employee collective bargaining was provided by:

- Representative Gary Daniels - presented and reviewed the summary report of the eight 1998 Labor Forums that were held in seven counties by the House Labor Committee in an effort to solicit input on how to bring labor negotiations to a timely win-win conclusion.
- Douglas Ingersoll, Executive Director of the Public Employees Labor Relations Board (PELRB) - distributed a packet of information on the PELRB and verbally explained to the committee the current public employee collective bargaining process and the PELRB's role in that process.
- Teresa Donovan, Esquire, Director of Collective Bargaining and Field Services for AFT-NH - distributed a public employee collective bargaining training packet used by AFT-NH, and verbally explained the benefits and deficiencies of the current process.
- Guy Scaife, Town Administrator for the Town of Milford - verbally presented his negotiating experience within the current public employee collective bargaining process, from the management perspective.
- Arnie Alpert, AFSC
- Richard deSève, SEA
- Laura Hainey, AFT-NH
- Ahrien T. Johnson, SEA
- Diana Lacey, SEA
- Dave Lang, Professional Firefighters of NH
- Mark S. MacKenzie, AFL-CIO
- Dean Michener, NH School Boards Association
- Fred Vogle, Professional Firefighters of NH
- Jay Ward, SEA

Issues

Though the system appears to have worked fairly well for the past 35 years, testimony did reveal deficiencies in the current process and yielded recommendations on how the process could be improved.

- Education/Trust
 - Keep collective bargaining from becoming an adversarial process.
 - Negotiations should be conducted by individuals and parties familiar with the negotiating process. May necessitate attendance at a negotiating skills workshop.
 - Trust comes from knowing and respecting the person you are negotiating with.
 - Loss of trust between negotiators.
- Transparency
 - Transparency may prohibit productivity and extend bargaining because of “grandstanding.”
 - Cameras can change the behavior and tenure of the debate.
 - Video captures reality.
 - Would HIPAA be violated or could a violation be avoided?
 - Voters must be involved at some level.
 - Allow open mediation and fact-finding.
 - Enable public input early in the process to identify positions unacceptable to the legislative bodies, thereby reducing the risk of non-ratification.
 - Suspicion that non-dues paying members were not being fully informed.
- Time Frames
 - Individual parties do not get serious until a deadline looms.
 - Establish earlier start dates and penalties for non-participation?
- End Process
 - Binding Arbitration - First time contract goes to the legislative body. If rejected, the next time it goes to binding arbitration. [This could be perceived to be an intimidation factor in dealing with the legislative body, basically telling them ‘If you don’t vote for this contract, we’ll take away your right to vote by going to binding arbitration the next time.’] Should binding arbitration trump supersede local control?
 - Should the PELRB get involved in stalled negotiation?
- Communication
 - Commonly, the reporting of statistics gives a false interpretation of the status of negotiations.
- Bargaining units that drop below 10 dues paying members.
 - Should they continue to be certified?

Recommendations

The committee chose to focus on ways to improve the current bargaining process and offered the following recommendations:

- The committee saw merit in negotiators and those on the negotiating team being familiar with the process. **The committee recommends that the Public Employees Labor Relations Board (PELRB) provide negotiating skills and process training workshops to those negotiating parties voluntarily seeking knowledge of the negotiating process.** The committee chose not to make this training mandatory to avoid creating a 28-A (unfunded mandate) issue, but felt that educated negotiators and negotiating team members contribute to a more productive process. **The committee also recommends that the PELRB develop on-line training on these issues to eliminate the cost of participants having to travel to a specific location.** This on-line training would not only reduce the cost and resources of the PELRB, but would also eliminate any issues of contention by one negotiating party that they did not receive the same information that the other negotiating party received at a different training workshop.
- **The committee recommends that negotiations not be open to the public through the mediation stage.** While an argument for transparency can be made, the committee also felt that the potential for “grandstanding,” coupled with the misperception of the process and attempted involvement in the process by a public not familiar with the process may be counter-productive, leading to longer negotiations, as opposed the ultimate goal of shortening the negotiating process.
- RSA 273-A: 3 states that “any party desiring to bargain shall serve written notice of its intention on the other party at least 120 days before the budget submission date; provided, however, that bargaining with state employees shall commence not later than 120 days before the deadline for submission of the governor's proposed operating budget. Testimony revealed that there were instances where it would have been beneficial if notification had been given earlier in the process. **The committee recommends that the timeline for parties giving notification of their intent to negotiate be moved from 120 to 180 days.** The committee recognizes that while there may be instances where nothing is done during those extra 60 days, there also may be instances where the extra 60 days provides enough time to spread the negotiations out so that parties are not trying to negotiate numerous issues in a contracted timeframe at the end of the process. The committee withheld recommending a date at which negotiations should start after notification of intent to negotiate is given. In addressing this issue, it should be noted that RSA 273-A:11(b), which sets similar timeframes for the election of bargaining units, also needs to be taken into consideration to avoid any potential timeline conflicts.
- **The committee recommends that a public hearing be held no later than 30 days after the notification of intent to negotiate is given.** While the committee stopped short of making this a mandatory part of the process, it strongly recommends that a public hearing be held to enable the public to provide input before negotiating commences. The input from the public at this hearing may assist in identifying issues and positions that are acceptable or unacceptable to the public, giving negotiating teams the opportunity to avoid issues or positions that may ultimately be rejected by the legislative body when they vote to ratify the contract.
- **The committee recommends the passage of HB582 as amended.** This 2011 retained bill recently came out of the House Labor Committee with a recommendation for passage and will come before the legislature in January 2012. As amended, HB582 would allow a limited opportunity for the chief negotiator for the bargaining unit to make a presentation directly to the board of the public employer and

for the chief negotiator for the board of the public employer to make a presentation directly to the bargaining unit, with the cost of such presentations to be borne by the presenting party. The addition of this proposal to the process gives negotiating parties an additional opportunity to resolve differences and avoid the legal costs associated with mediation and fact-finding.

- **The committee recommends that binding arbitration not be part of the process.** The committee felt the right of the voters should always be paramount. The focus within the collective bargaining process should be on finding ways to reach a compromise that is acceptable to voters, not disenfranchising the voters' by restricting their opportunity and right to determine their acceptance or rejection of the cost items in a contract.
- As explained to the committee, if negotiations reach the fact-finding stage, under the current process each party would present to the Factfinder their position, along with any evidence to support that position. The Factfinder would take that information and return to the negotiating parties a Factfinder's Report. The negotiating parties would then have 10 days to review the report and determine whether or not they wished to agree to the contract based upon the Factfinder's recommendations. If agreement on the contract could be reached by the negotiating parties, the contract would go before the legislative body for ratification. If negotiating parties still could not reach agreement on the contract, the Factfinder's Report would be presented to the legislative body for a non-binding vote. **The study committee recommends that the meetings at which negotiating parties present to the Factfinder their position, along with any evidence to support that position, be open to the public.** The committee felt that giving the public access to the arguments and evidence presented by each party to the Factfinder would assist in educating the public on the positions of both parties, thereby enabling the public to make a more informed decision. **The committee further recommends that a public hearing be held subsequent to the meeting at which negotiating parties present to the Factfinder their positions, but before the negotiating parties vote on the whether or not to agree to the contract.** While there is nothing that prohibits a public hearing from being held within the current process, it appears that this is rarely, if ever, done. The benefit to holding this public hearing would be to give the public one more opportunity to voice their concerns or approval of negotiated items before a contract or Factfinder's Report goes before the legislative body for a vote. The committee saw this public hearing as a final opportunity for negotiating parties to solicit input and address any concerns presented by the public which may cause the contract or Factfinder's Report to be rejected by the legislative body.
- Communication pertaining to the actual status of a contract needs to be further defined. Data appears to be available pertaining to the number of contracts that remain unresolved and the length of time that contract has remained unresolved, but no information is available on how many times a legislative body rejected that contract. This becomes an important factor when we legislatively attempt to find solutions that expedite the negotiating process. There is a difference between an unresolved contract that has never gone before the legislative body, and an unresolved contract that has been continually rejected by the legislative body. **The committee recommends that organizations and individuals whose testimony before the legislature pertains to unresolved contracts, also divulge any rejection history of those contracts by the legislative body.** When statistics are given pertaining to the number of contracts that have not been settled, those statistics should also include whether or not the legislative body has rejected that contract, and how many times the legislative body has rejected that contract. **The committee also recommends that the PELRB start tracking data on how many times an unsolved contract has been rejected by the legislative body.**

On behalf of the study committee, I wish to extend thanks to all those who participated in the process by attending the committee meetings, submitting documentation and giving testimony. The input provided to the committee was very beneficial in assisting the committee in reaching its final recommendations.

Respectfully submitted,

Representative Gary L. Daniels
Chair

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Organizational Meeting Report

TO: Members of the Committee

FROM: Deb Chroniak
Legislative Aide

RE: Organizational Meeting report on HB 580, Chapter 101:1, Laws of 2011 - (2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: September 15, 2011, 10:00 a.m., SH RM 100

Members of the Committee Present: Senator Sharon Carson
Senator Ray White
Senator Lou D'Allesandro
Rep. Gary Daniels
Rep. John T. O'Connor
Rep. Steve Winter

Members of the Committee Absent: Rep. George Lambert

Others Present:

Laura Hainey, AFT-NH
Dave Lang, Professional Firefighters
Mark S. MacKenzie, AFL-CIO
Dean Michener, NH School Boards Association
Richard deSève, SEA
Jay Ward, SEA
Diana Lacey, SEA

Summary of testimony received and discussion held during the meeting:

Senator Carson opened the meeting at 10:05 a.m. and introduced the Committee members present. The Committee then elected Representative

Gary Daniels as Chair and Representative John T. O'Connor was elected Clerk.

The Chair, Representative Daniels discussed with the Committee members what they need to establish and the intent. Also noted was the reporting deadline of December 1, 2011.

Representative Daniels went on to state that a good place to start was to mention that he is on the House Labor Committee and stated that Collective Bargaining has been around for a long time.

In 1998, Representative Daniels chaired the House Labor Committee and received input from Labor Forums which they conducted. He then distributed the "Summary of the 1998 Labor Forums" (dated November 24, 1998) to all Committee members, stating that no recommendations were in this report, but only the input which was received at these forums.

Senator Carson asked if they were discussing "private" industry. Representative Daniels stated the discussion was on "public employees".

Representative Daniels then stated that his experience has been the length of negotiations, which is a concern because that equates in to costs for municipalities and to the state.

Senator Carson stated that they should hear from the industry which is here today and hear what is important to them.

Representative Daniels then opened up the "Organizational Meeting" to the public to discuss their experiences with collective bargaining, faults with the system, and what they believe needs to be addressed and/or modified.

- Laura Hainey asked if this would be the only time they would have to speak and asked if there would be other meetings. Ms. Hainey stated that she would like to have Terry Donovan attend one of the meetings because she covers 22 locals and would have more experience in discussing this matter with the Committee.

Representative Daniels stated that it was his hope to have a meeting in late September, one or two meetings in October, and a final meeting in November.

Senator Ray White

- Discussion on how we arrived here.
 - SB 3 and HB 580 were originally pension bills which were changed during the Committee of Conference negotiation process.

- Defined contribution plan; defined benefits plan.
- Decision to select SB 3 as the vehicle.
- Defined contribution was set up.
- HB 580 was to study collective bargaining.

Mr. David Lang, Professional Firefighters

- Discussed where collective bargaining came from.
- The importance of collective bargaining in New Hampshire.
- The importance to public employers and employees.
- Prior to collective bargaining there were no organized rules, which caused strikes, and employers were left without alternatives.
- Mr. Lang represents 42 local unions (2,000 active members).
- He stated that forms of government place dynamic pressures on work force.
- Stated that there needs to be rules to have an efficient process.
- Encourages looking at Town of Hampton who has gone six years without a labor contract, which adds stress to employees and their families; need closure on negotiations.
- Tax payers going through the same debate.
- Local Union 2644 started because of "safety" issues; negotiate to set up safety.
- Interest based bargaining is not successful, and broke down because of political dynamics.
- Binding arbitration is another way to get to the end point.
- Workers need to understand what their pay benefits are.

Representative Winter

Asked if there were any blueprints out there – Federal Act – that governs collective bargaining and/or is there a structure by the federal government for public employee union negotiations?

Mr. Lang

- Will look for a template.

Senator White

- Wanted to speak to the tax payer side.
- Economic issues were a large issue during the last election.
- Try to strike a balance with all frustrations.
- When does the tax payer get to speak?
- We need to respond to these issues.
- Tensions will be there; negotiations are kind of a closed door process.
- Appreciates labor standpoint.

Mr. Lang

- How do we define the process?
- Invite the Labor Board for a review of their process.
- Labor and management have to agree.
- Wants to see effective and efficient public safety services.
- Fact finders report – no agreement – no remediation, advisory opinion; rejected by labor or legislative body, put forward and voted down.

Rep. Daniels

- In binding arbitration, the other side, local control, need to make sure people have a say.
- Stating the question of if the public are not knowing or understanding the issues.
- Stated that one thing which came out in the 1998 report was that of videotaping negotiations where citizens could view and curtail. Question of, would this shorten the process (negotiating) where each entity comes in with something reasonable.

Mr. Lang

- If you pull “any” contract you will see a dispute resolution and executed agreement.
- The second part, regarding televising negotiations, he believes would be a bigger deterrent and would produce less agreements.

Rep. Winter

- Agrees with not televising negotiations.
- Severe economic problems; constituents have to tighten belts – union also has to.

Mr. Lang

- Locals have sat down and renegotiated and have taken a different position. What are “paramount” are effective and efficient public safety services. The folks that pay the bills are the customers.

Senator Carson

- What about requiring, a week prior to a vote where a community votes on a contract, to put information on the town web site to view and understand what they are voting on, and did he believe that may be a good idea?

Mr. Lang

Citizens have every right to come in, and then noted that salaries are public information.

Senator Carson

- Do you think there is a trust in people at the local level?

Mr. Lang

- Stated if members did not have trust in him, that this Committee would not see him back.
- Tax payers need to have a say in the costs.

Senator Carson

Could he furnish the Committee with those unions who went back to the table to renegotiate because of economic times?

Mr. Lang

Stated he could provide expert testimony, and that labor and management came together to resolve issues. It is a system to provide good discussions.

Rep. Daniels

Is there a list of districts which have been without contracts for a while within the Public Employee Labor Relations Board (PELRB)?

Senator Carson

Stated, that the Commissioner of Labor, George Copadis could come in to discuss this.

Mark MacKenzie, President, AFL-CIO

- Going through the process – RSA 273 is a public employee meet and confer law. This is different than the other acts where the contract has an expiration.
- Stated that the law is weak in the way it is currently structured.
- That it is a two-way street (meet and confer law).
- That there is a long history of collective bargaining.
- Mr. MacKenzie noted that collective bargaining agreements did not drive up the cost of health care. No one is forced into any of these situations.
- Believes that collective bargaining improves services, improves quality of jobs and services, provides and attracts a good group of people.
- Hopes that this study committee is not talking about eliminating collective bargaining, but improving it.

- Public Employee Labor Relations Board - look at the structure. Large role to be more pro-active to look at stalled negotiations. (This would be an area to explore.)
- In regard to videotaping negotiations, he stated that if you are going to watch negotiations, you need to follow the process to see how issues have evolved.

Representative Daniels

In regard to videotaping negotiations, Representative Daniels is not advocating the process, like that of a public hearing; he stated that it would be more like an executive session where you watch, but do not participate. If someone comes in late, that cannot be helped. The idea would be that people could observe.

Mark MacKenzie

- Disagrees with that process and does NOT agree with videotaping negotiations.

Representative Winter

Asked if the Public Employee Labor Relations Board have a structure of how negotiations proceed?

Mark MacKenzie

- Stated that, yes, there is a process in place, but the problem is when a contract expires.
- He is not aware of a national template for collective bargaining.

Representative Winter

Stated that the PELRB was a creation of the state.

Mark MacKenzie

- Yes.

Senator White

- Favors transparency and would prefer to have a camera in the room while negotiations are in process.
- Stated that there are two sides.
- Indicated that when the contract expires and the ball is not being moved down the field that there should be a consequence.
- Wants to listen to all sides of that.

Mark MacKenzie

When a contract expires, what remedy do employees have? There should be a balance. He stated to look at the first couple of lines of the Public Law.

Representative Daniels

- We need to be on the same page and present things.
- What is going to be set going forward and acceptable to both.

Dean Michener, NH School Boards Association

- Procedures for negotiations is in RSA 273-A and are spelt out. They have 175 teacher contracts and also negotiations with support staff, etc.
- Stated that in the House Labor Committee there is a bill, which he thought was HB 582, which is presently being addressed and was in regards to videotaping negotiations.
- During a two-year study it showed that 93% of teachers started with contracts.
- Stated to not confuse negotiation for dispute resolution with other negotiation processes.

Representative Winter

Evergreen is not outlawed; it is not mandated.

Richard deSève, SEA

- Trying to start negotiation process early. Develop proposals in September. The next team elected in August will meet in September. Will then meet with the State with the contracts in October.
- Negotiations are slowed down when Legislature is in session and agency people are busy with bills in the Legislature.
- They are trying to start negotiations earlier, but will need more time to settle on.

Representative Daniels

Is there anything legislatively that prevents us from doing this?

Mr. deSève

Need to be further along in the process with the Commissioners, etc.

Jay Ward, SEA

- The SEA has polled public workers and the number one issue is "Respect". Money is forth or fifth on the list.

- The report summary distributed by Representative Daniels is 13 years later and some items are still valid and need to be addressed.
- The legislative process is, one year you come in with a bill and then the next cycle will come in with a new law and that this is not beneficial.
- The idea is to try to fix and not eliminate the contentious parts.
- Collective bargaining is both sides coming to the table and deciding what is best.
- Collective bargaining gave back \$50 million this year – it does work.
- His hopes are to come out of this stronger, and not diminish respect for public employees.

Representative Daniels

Representative Daniels asked if Mr. Ward thought there was a trust problem.

Jay Ward

- Mr. Ward indicated that he thought so at times.

Representative Daniels

Asked Mr. Ward if this trust issue was due to communications not getting through.

Jay Ward

- Does not have a clear path to eliminate that.
- Stated that sometimes there are gag orders on negotiations.

Diana Lacey, President, SEA

- Stated that labor unions can meet ahead of time and negotiate.
- Work with own side.
- Gag order process is usually an agreement with both sides.
- Public employer side, she believes that the legislative bodies are not being kept informed and that both sides have their responsibility of being managed.
- There are state employee contracts, but also there are smaller contracts.
- Stated, first there is the legislative authority, then you need funding, and you have to live within budget. There are contract administrative, which happen privately, then the draft contract and that will go to the Governor and Council for approval, which covers a large part of the approval process.
- Stated that collective bargaining still works and is much more transparent than most contracts.

- Stated that if we make changes in the health plan that everyone would benefit.

Meeting closed at 11:55 a.m.

NEXT MEETING:

Next meeting of the Study Committee will be held on **Thursday, September 29, 2011, 9:00 a.m. to 10:00 a.m.** in State House Room 100.

REPORT DUE: December 1, 2011 (or before)

dac
9-19-11

NOTE: The assigned clerk is Representative John T. O'Connor.

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 2nd Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: September 29, 2011, 9:00 a.m., SH RM 100

Members of the Committee Present: Rep. Gary Daniels (Chair)
Rep. John T. O'Connor
Rep. Steve Winter
Senator Sharon Carson

Members of the Committee Absent: Senator Ray White
Senator Lou D'Alessandro
Rep. George Lambert

Others Present:
Douglas L. Ingersoll, Esq. Exec.Dir. PRLRB
Teresa D. Donovan, Esq. Dir.AFT-NH

Summary of testimony received and discussion held during the meeting:

The Chair, Representative Daniels, opened the meeting at 9:00 am and introduced the committee members present.

Rep. Daniels introduced Douglas L. Ingersoll, Esq., Executive Director of the State of New Hampshire Public Employee Labor Relation Board (PELRB). Director Ingersoll at the request of the committee is appearing at today's meeting to provide an overview of the public sector collective bargaining under current law, including the general process and related responsibilities of the PELRB. Director Ingersoll provided the committee with a booklet with general background information about the PELRB and an outline of the bargaining process and related PELRD functions. Also included in the document are current Collective Bargaining Agreements on file and a copy of RSA 273-A, Public Employee Labor Relations.

Director Ingersoll then discussed his presentation.

- Process of Collective Bargaining
- Mediation & Bargaining
- Fact Finding & Mediation
- Administrative collection of Municipalities' contracts and posting on Web Site
- PELRB a source of information for Municipalities, although cannot be involved in actual negotiations
- Discuss Supreme Court decision initiating the Three part test: Mandatory, Permissive, and Prohibited. Detailed information in tab 2 of handout

Representative Daniels. Asked how many members form a bargaining unit.
Response: 10

Representative O'Connor. Asked if a bargaining unit of 10 lost a member (i.e. retirement or quit) will the unit dissolve? Response: NO.

Senator Carson. Who sets the Agency fee for members? Response: UNION

Representative Winter.

- If Right to Work (RTW HB 474) passes will Unions still be required to bargain for those who opt out? A brief discussion regarding HB 474 with the Director stating that the outcome could be contested.
- Question asked on no strike provision. Brief discussion on work to rule with reference to RSA – A 273:13, Strikes Prohibited.
- Question asked regarding informational Picketing. Is it a job action? No comments received on this question.

Representative Daniels thanked Director Ingersoll for his presentation and requested the committee review the document presented and present any questions /concerns at the next committee meeting.

Representative Daniels introduced the next presenter, Teresa D. Donovan Esq. Director of Collective Bargaining and Field Services for the AFT-NH. Director Donovan passed out an informational training binder that the AFT-NH uses for their members who negotiate contracts. The binder contained 4 major sections.

- 1) Union Negotiations Process
- 2) Negotiations with the employer
- 3) Contract Approval Process
- 4) RSA 273-A

Director Donovan then proceeded to discuss her presentation along with concerns and recommendations to the committee.

- In explaining the training manual she stated that these types of workshops should be available for the Department of Labor and also, recommended that all Employers' should participate. A concern with towns (employers) is the lack of skill negotiators, especially in towns with newer elected Selectman-Alderman Etc.
- Stated that contract negotiations "should not be Adversarial but Collective."
- Position of the AFT-NH is to guide local charters.
- Reviewed the section on Tentative Agreements for ratification.
- A major concern expressed is the time frame which is set by statue. Currently towns back out the due date of the contract which typically conflicts with the towns budgeting process.
- Brief discussion of SB 2 towns on how voters act on contracts. Due to time constraints the presentation ended at this time.

Representative Daniels explained that the committee time allowed for this room had expired and the next session was waiting to come in. He apologized to Director Donovan and stated at the next meeting she would be the first to speak so she can complete her presentation.

The meeting was recessed at the call of the chair.

NEXT MEETING:

Next meeting of the Study Committee will be held on Wednesday, October 19th, 2011, 1:00-4:00 p.m. in L.O.B. RM. 305-307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 3rd Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: October 19, 2011, 1:00 p.m., L.O.B. RM 305-307

Members of the Committee Present:

Rep. Gary Daniels (Chair)
Rep. John T. O'Connor
Rep. Steve Winter
Senator Sharon Carson
Senator Lou D'Alessandro
Senator Ray White

Members of the Committee Absent:

Rep. George Lambert

Others Presenting:

Teresa D. Donovan, Esq. Dir.AFT-NH
Guy Scaife, Milford Town Administrator

Summary of testimony received and discussion held during the meeting:

The Chair, Representative Daniels, opened the meeting at 1:00 pm and introduced the committee members present.

The first presenter was Terri Donovan, Esq. from AFT-NH who at the previous committee meeting, but whose presentation was cut short due to time constraints. She started by clarifying some concerns of the committee members regarding job actions by union members in that they by law cannot partake in strike actions.

On the topic of give-backs she gave a few examples of town unions that agreed to no increases such as C.O.L.A., wage freeze, etc. giving the state of the economy.

She further discussed the training manual that was presented to the committee. Key areas of further concern to her members were, No Child left Behind, lack of problem solving in dealing with health issue cost, negotiations lack of skills by town employers, how to deal with Impasse issue. She also reiterated the process of mediation, fact finding and binding arbitration process.

Of note, many of the union representatives made it a point to specify the need of "Trust and Respect" during negotiations. No further explanation was offered.

In her wrap-up she reemphasized training of employers on how the negotiation process works, and stated that time tables for contract negotiations should be changed to allow for employers to have more time to negotiate without the budgetary process being a higher priority.

An additional handout of Pelham's town schedule showing the time table constraints was passed out to the committee.

Rep. Winter. Stated that a bill could be submitted to change the time table, which appears a concern of the unions.

Rep Winter. Discussed if an Impasse were to occur why wouldn't we want to inform the public?

Terrie Donovan. Certain issues should not be made public, especially of a private nature.

Rep. Daniels. Thanked Director Terri Donovan for her presentation, and introduced Guy Scaife, Town Administrator for the Town of Milford.

Mr. Scaife went through the process that they have to go through when negotiating a contract. He also expressed concern about the length of time to negotiate a contract, but that concern focused on the current process not allow for the availability of the public to be educated as to what has taken place during the negotiations.

Senator D'Alessandro brought up a concern that if a TV process for negotiations was available that it would grossly impact the outcome of the negotiations.

Further discussions were held on the difference between SB 2 towns vs. town meetings.

Rep. Daniels. Asked Mr. Scaife to talk about the time line. Should it be moved to an earlier time.

Mr. Scaife. Felt time was sufficient; the problems arise out of impasse.

David Lang. Professional Firefighters of NH. He also felt that the time table should be moved. Went back over the process and felt it was hindered by the political environment. No further detail was given. Advocated binding arbitration in the subsequent round of negotiations if voters reject the contract.

Rep Daniels. Discussed what would happen if the legislative body rejected a contract and the process was moved to arbitration, He felt that the voters would be disenfranchised. Felt there was a need for the public to be able to view the negotiation process so they can be made aware of the issues.

Rep. Daniels. Opened the floor to comments that Rep. Winter had regarding open negotiations.

Director Ingersoll. Talked as a litigator and had personal concerns that it would not be objective and personalities and behavior of the negotiators would have an impact on meaningful negotiations.

Rep. Daniels. Felt that it would be beneficial for the public to know how a contract is ratified, and understand how negotiations are conducted.

Director Donovan. Expressed concern that if the union brought certain consequences forward, such as, a principal not performing their duty in performing annual review, of teachers. Should this be made public?

Rep. Daniels. Felt that there should be transparency in the process. If the principal is failing in his duties then the taxpayers should be made aware of that.

Rep. Daniels adjourned the workshop till next session

NEXT MEETING:

Next meeting of the Study Committee will be held on **Thursday October 27th, 2011, 1:00-4:00 p.m. in L.O.B. RM. 305-307.**

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 4th Meeting report on HB 580, Chapter 101:1, Laws of 2011 (2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: October 27, 2011, 9:00 p.m., L.O.B. RM 305-307

Members of the Committee Present:

- Rep. Gary Daniels (Chair)
- Rep. George Lambert
- Rep. John T. O'Connor
- Rep. Steve Winter
- Senator Sharon Carson
- Senator Lou D'Alessandro
- Senator Ray White

Others Presenting:

Laura Hainey.AFT-NH
Fred Vogle—Professional Firefighters of NH

The Chair, Representative Daniels, opened the meeting at 9:00 am and introduced the committee members present.

Summary of testimony received and discussion held during the meeting:

Fred Vogle. Had lengthy discussion on Unions mostly from his experience as a past private sector union negotiator for airline pilots. He also stressed strongly that trust should be emphasized during negotiations. He was concerned that videotaping would lead to "grandstanding."

As part of the negotiating processes he had been involved with, Mr. Vogle stated that a weekly news bulletin has been distributed to their members to educate them on what had taken place. He suggested that the employers could also publish information.

Rep. Daniels. He believe that if negotiations were videotaped, the public would be astute enough to see thru any "grandstanding," if it did occur.

Fred Vogle. His concern was that the opposing side was not aware of the rules going into negotiation. Towns generally have a turnover in alderman, selectman and councilors. Again, this has been brought up by previous union speakers.

Senator D'Alessandro. Agreed with the statement that video conferencing would create "grandstanding."

Rep. Lambert. Explained that he has been personally involved with town contracts and finds them complicated and counter-intuitive. He went on to state that union's initial demands tend to be excessive and that bogs down the process.

A concern that he has is that the public does not have the ability to see the issues and aren't able to express their opinions to the town. Citizens should have the ability to openly discuss the contract during negotiations and not wait for the last minute at a Town Hall meeting to fully understand what they will be voting on.

Fred Vogle. The town Selectman could call a meeting at any time to bring citizens up to date.

Rep. Daniels. Based on town protocols, with public notification on meetings and agenda items, setting up such a meeting on short notice may be counter-productive, and may only bog down the process.

Senator White. Stated that in the private sector negotiations all parties are at the table, wherein public sector bargaining the taxpayers are not involved until the final vote.

Mr. Lang. He was more concerned about elected officials not preparing for public sector negotiations and finding out what the citizens are looking for. He stated that the union spends a lot of time in polling their members regarding their wants and needs. Felt that the process is OK, but that elected officials are the issue and trust is lacking.

Rep. Lambert. Referenced the initiating of the unions from the 1970's going forward.

Rep. Daniels. Discussed the need for transparency, and that all parties should come to the table with realistic goals.

Mr. Lang. Strongly recommended that a time table should be enforced.

Laura Hainey. AFT-NH. She restated their union goals. There should be trust and transparency. Stated employers should be polling citizens prior to contact negotiations. Felt that most employers lack training /education in skills to negotiate a contract, thus bogging down the process.

Rep. Lambert. Expressed at length his concern on issues where managers, members and taxpayers need to come to an agreement that workers are treated fairly, have good wages and contracts should stick to only Rules, wages, benefits. Many other areas have been entering into contracts that complicate them.

Laura Hainey. Recommend that those issues that Rep. Lambert brought up can always be negotiated out of a contract by agreement of both parties.

Rep. Lambert. How do we remove the sins of the past (onerous issues made part of a contract through previous negotiations)?

Laura Hainey. Expressed concern in her reply that "How can she trust Rep. Lambert in knowing he has a bill to eliminate collective bargaining?"

Rep. Lambert. In response to her, he stated that our current system is not working, but we do need to put in place a solution that will work, that we owe it to our employees and taxpayers.

Rep. Daniels will review the past comments of the previous meetings and select a few topics to bring forward to the committee.

Rep. Daniels adjourned the workshop till next session

NEXT MEETING:

Next meeting of the Study Committee will be held on Wednesday, November, 9th, 2011, 2:30 p.m. in L.O.B. RM. 305-307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 5th Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: November 09, 2011, 2:30 p.m., L.O.B. RM 305-307

Members of the Committee Present:

Rep. Gary Daniels (Chair)
Rep George Lambert
Rep John T. O'Connor
Rep. Steve Winter
Senator Ray White

Members of the Committee Absent:

Senator Sharon Carson
Senator Lou D'Alessandro

Others Participating:

Laura Hailey, AFT-NH
Arnie Alpert, AFSC
Doug Ingersoll, NH PELRB
Ahrien T. Johnson, SEA

The Chair, Representative Daniels, opened the meeting at 2:30 pm and introduced the committee members present. Rep. Daniels passed out a summary of Issues and Discussion points that had been brought up at previous meetings.

Approval of Minutes.

- 09/29/11 minutes Passed 3-0-2 (Sen. White & Rep. Lambert abstain)
- 10/19/11 minutes Passed 4-0-1 (Rep. Lambert abstain)
- 10/27/11 minutes Passed 5-0-0

Summary discussion held during the workshop.

Rep. Winter. Asked if we were going to file a bill or submit a report, Rep. Daniels responded that we would be submitting a report.

Rep. Lambert. Had discovered a case in Hudson asking, "what happens to an employee that does not wish to be part of a union system?" Currently our system, is not capable of dealing with this issue.

Discussion's then centered on different types of employees, open vs. closed shops, petitioning process and how PELRP gets involved.

Rep. Winter. Requested an example of how agency fees are assigned vs. paying dues.

Laura Hainey. Members under current law can choose to pay for either Agency fees or full membership. The union still has to represent those who choose Agency fees. Also, explained different types of contracts that may have different levels of experience.

Rep. Daniels. In moving through the agenda, he brought up, trust, adversarial process, training for negotiators. Discussed possibility of PELRB conducting training session for towns (Employers).

Rep. Lambert. Expressed concern about the process being adversarial. All parties should be coming to the table with clear definable objectives.

Further discussions on the process of negotiating, first meeting, establishing ground rules. Director Ingersoll interjected that the intent of both parties should be to negotiate in good faith. He also stated that the PELRB is available to both parties if they have concerns or questions.

Rep. Daniels. The next discussion point was timelines.

Laura Hainey. Using a SB 2 town, went into great detail on whether a warrant article allows for a special meeting if the voters fail to approve a contract. Then the process has to wait for a year to resubmit to the public.

Director Ingersoll. Explained the statutory time of a 120-day period, a possibility that moving to 180 days may give the towns more time to negotiate. He did indicate that if petitioned by one of the parties because they are not meeting the time table, his department would notify the party that they are required to begin negotiations in good faith.

Rep. Daniels . Opened the floor to discuss end process, transparency, and binding arbitration.

A representative from the Municipality Association stated that his members would be against binding arbitration.

Rep. Winter. Stated view that he was opposed to any videotaping of the negotiations.

Rep. Lambert. Suggested that session could be closed but each party could make public statements/comments. Comments from both the Union and Municipality representatives believed that this would be counterproductive.

Dir. Ingersoll. Stated that at the ground rule session, items of this nature could be discussed and acted on. Under current laws both parties can go public if they wish to.

Rep. Daniels. Expressed a concern that 88 out of 600 contracts aren't resolved.

The final discussion was what is the minimum number for a bargaining unit? (10) and what happens if membership drops below 10? Under current law the unit remains unless the membership petitions the PELRP to have it dissolved.

Workshop was recessed at 5:45pm.

Rep. Daniels adjourned the workshop till next session

NEXT MEETING:

Next meeting of the Study Committee will be held on Wednesday, November, 16th, 2011, 10:00 a.m. in L.O.B. RM. 305-307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 6th Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: November 16, 2011, 10:00 a.m., L.O.B. RM 303

Members of the Committee Present:

Rep. Gary Daniels (Chair)
Rep George Lambert
Rep John T. O'Connor
Rep. Steve Winter
Senator Sharon Carson
Senator Ray White

Members of the Committee Absent:

Senator Lou D'Alessandro

Others Participating:

Laura Hainey, AFT-NH
Doug Ingersoll, NH PELRB

The Chair, Representative Daniels, opened the meeting at 10:00a.m and introduced the committee members present.

Approval of Minutes.

-11-09-2011 Passed 4-0-1 (Sen. Carson abstained)

Summary of discussion held during the workshop.

Rep. Daniels. Requested that committee members bring forth any issues they have for discussion.

Rep. Winter. Expressed strong opposition to open negotiations. Rep. Winter recommended having a time specific public hearing prior to the beginning of negotiations.

Sen. White. Expressed strong opposition to binding arbitration.

Sen. Carson. Discussed issues about SB2 in relation to time lines and problems associated with them. Not in favor of videotaping sessions, but a solution could be to have a transcript and make it available to the public.

Rep. Lambert. Clarified his position on open session, in that it should be able to be live-streamed. His comment was to have citizens be able to have input into the negotiations and have discussions on any objectionable items in the contract.

Rep. O'Connor. Strongly supported the idea of offering training to contract negotiators, whether the NH PELRB offers it or a joint presentation with the Union and LGC. Supported changing the time line from 120 days to 180 days for parties indicating their intent to negotiate. Opposed to any videotaping of session. This would be cumbersome, costly and require constant posting of meetings.

Rep. Daniels. Agreed that time be extended or changed from 120 to 180 days, and would make that recommendation.

Brought up HB582, that provides an opportunity for the negotiator of one party to speak directly with the entity to which, if an impasse were to occur then the negotiators would be allowed to address the employees.

Training by PELRB –Workshop for negotiators.

Would like to see mediation and fact-finding made public. This would allow for citizen feedback.

Encouraged communication in the form of statistical analysis regarding outstanding contracts and how long they been rejected.
Decertification - would recommend that once a unit falls below ten (10) they would automatically have a change of status.

Rep. Daniels. Opened the meeting to those in attendance to have a dialog regarding contracts, fact-finding, mediation, etc.

Director Ingersoll. Went into detail on how fact finding works and answered questions asked by committee members.

Rep. Daniels. Explained that the next process would be to make motions on what will be submitted in the final report.

1. Training

- Not mandatory - Would eliminate 28A issue
- Available to all negotiators
- PELRB – Concern about resources, possible online training.

Rep. Daniels moved that training be made available, but not mandatory.
Second by **Rep. Lambert.** Motioned passed.

2. Time Line

Rep. Daniels moved that the timeline for parties giving notification of their intent to negotiate be changed from 120 to 180 days before submission day.
Second by **Rep. Lambert.** Motioned passed.

(Note) **Dir. Ingersoll** made a recommendation that legislative services review the timeline and Election Day requirements to verify that no conflicts exist.

3. Public Input

Rep. Daniels moved that a public hearing may be held no later 30 days after the notice of intent.
Second by **Sen. Carson.** Motioned passed.

4. HB582

Rep. Daniels moved that the study committee support the intent of HB582. If a loss of trust develops between negotiators, HB582 as amended would allow a limited opportunity for the chief negotiator for the bargaining unit to make a presentation directly to the board of the public employer and for the chief negotiator for the board of the public employer to make a presentation directly to the bargaining unit, with the cost of such presentations to be borne by the presenting party.

Seconded by **Rep. Lambert.** Motioned passed with **Sen. Carson** abstaining.

5. Fact Finding Report

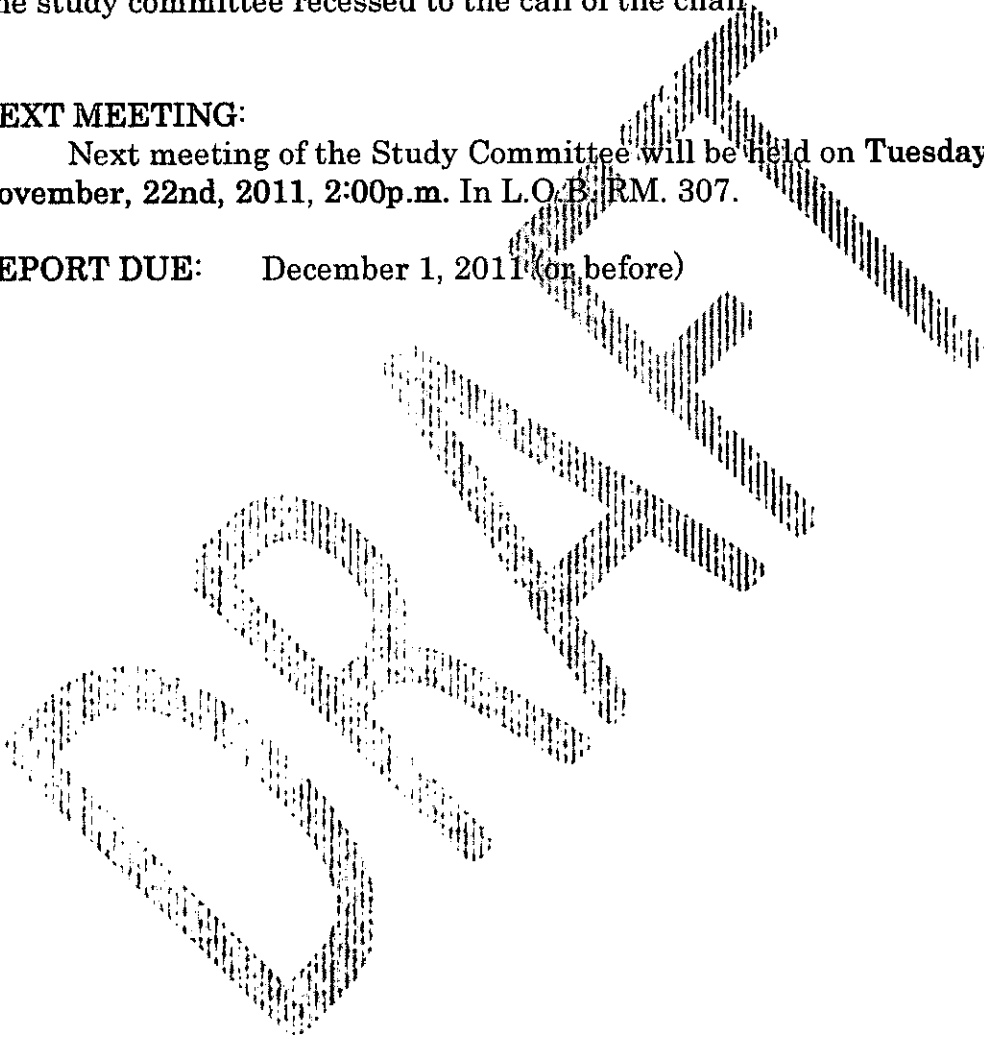
Due to time constraint there was no motion on the floor. To be brought up at next meeting.

The study committee recessed to the call of the chair

NEXT MEETING:

Next meeting of the Study Committee will be held on Tuesday, November, 22nd, 2011, 2:00p.m. In L.O.B. RM. 307.

REPORT DUE: December 1, 2011 (or before)



2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 7th Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: November 22, 2011, 2:00 p.m., L.O.B. RM 307

Members of the Committee Present: Rep. Gary Daniels (Chair)
Senator Ray White
Rep. Steve Winter
Rep John T. O'Connor
Senator Lou D'Alessandro

Members of the Committee Absent: Senator Sharon Carson
Rep. George Lambert

Others Participating:
Laura Hainey, AFT-NH
Doug Ingersoll, NH PELRB

The Chair, Representative Daniels, opened the meeting at 2:00p.m and introduced the committee members present.

Approval of Minutes.

-11-16-2011 Motion by Rep. Winters, 2nd by Rep. O'Connor -Passed 4-0-0

Summary of discussion held during the workshop.

Rep. Daniels.

Recapped four (4) previously approved motions made.

1. Training
2. Timelines
3. Public input
4. Support HB 582

Next topic for discussion is Fact Finding.

Rep. Winter. Stated the current requirement is that there is a 10-day waiting period to allow for either side to come back to the table and make changes prior to releasing the document.

Discussion amongst the committee and those in attendance as to the process and time table related to the release of the fact-finding document. Due to time constraints the public would have minimum time to have any input prior to the document going to ballot.

Sen. White. Would like to see the fact-finding report get into the hands of the public as soon as possible without impeding the process.

Rep Daniels. Also looking to push off the 10-day period of the fact-finding report so the public could speak to it prior to negotiators making a final decision.

Dir. Ingersoll. Discussed procedural issues as to the timeframe and when the report is due and that they must stay within this limit. If not, then if the ballot date is missed the public would have to wait a year for the next opportunity to vote on the contract.

Rep. Daniels. Motion, that fact-finding minutes should be follow by a public hearing and that the public have input before the negotiators make a final decision before presenting the document to the voters.

Rep. Winter. Seconded.

Sen. D'Alessandro. Commented that releasing the document shouldn't be mandatory. The motion reflected that concern.

Motion carried 5-0-0

The next topic for discussion centered around a bargaining unit and the minimum employees needed for certification (10).

Rep. Daniels. Asked if the membership, for whatever reason falls below the 10 required, employees, would that automatically decertify the unit?

Dir. Ingersoll. Discussed various scenarios on how units could be decertified. He also stated that his department does not get many requests to have a unit decertified or surrender of a unit.

Rep. Daniels. Suggested that because of the scope of research that would need to be done on this issue, and because of the December 1st deadline for filing a report from the study committee, we not move forward with the issue of decertifying a unit, but keep the focus of the committee on ways of enhancing the current negotiating process, as the committee has done since its inception. Rep. Daniels stated that he will draft a final report based on comments and motions made by this committee. As requested by Sen. White the final draft will be submitted electronically to all committee members for their comments and/or approval.

The final report has to be signed by all members. Rep. Daniels will designate a location in the LOB.

Rep. Daniels. Thanked all members of the committee for their time and input.

Motion to adjourn by Rep. Winter. Sen. White, seconded

REPORT DUE: December 1, 2011 (or before)



State of New Hampshire

DEC 9 RECD

GENERAL COURT

CONCORD

REVISED MEMORANDUM

DATE: December 8, 2011

TO: Hon. John H. Lynch, Governor
Hon. William L. O'Brien, Speaker of the House
Hon. Peter Bragdon, President of the Senate
Hon. Karen O. Wadsworth, House Clerk
Tammy L. Wright, Senate Clerk
Michael York, State Librarian

FROM: Hon. Gary Daniels, Chairman
Committee to Study Collective Bargaining by Public Employees

SUBJECT: Revised Final Report on HB 580, Chapter 101, Laws of 2011

Pursuant to HB 580, Chapter 101, Laws of 2011, I am pleased to present the Final Report of the Committee to Study Collective Bargaining by Public Employees. **Please note that a revised report containing an additional page is enclosed and that an earlier version of this report dated November 29, 2011 should be discarded.**

If you have any questions or comments regarding this report or the work of the Committee, please do not hesitate to contact me.

Please note that the Final Report can be found on the NH General Court Website:
<http://www.gencourt.state.nh.us/statstudcomm/reports/2057.pdf>

Enclosures

cc: Committee Members

To: Representative William O'Brien, Speaker of the House
Senator Peter Bragon, Senate President
Honorable John Lynch, Governor of the State of NH
Karen Wadsworth, House Clerk
Michael York, State Librarian

From: Representative Gary Daniels, Chair
Representative George Lambert
Representative John O'Connor
Representative Steve Winter
Senator Sharon Carson
Senator Lou D'Allesandro
Senator Raymond White

Date: November 28, 2011

Subject: HB580 Study Committee Report – Public Employee Collective Bargaining

The committee to study public employee collective bargaining, established by HB580 held seven meetings to discuss various aspects of public employee collective bargaining:

September 15, 2011
September 29, 2011
October 19, 2011
October 29, 2011

November 09, 2011
November 16, 2011
November 22, 2011

Using a 1998 Summary Report done by the House Labor Committee as a base from which to start its work, the study committee focused on how to improve the current collective bargaining process. During the course of studying this issue, significant input pertaining to public employee collective bargaining was provided by:

- Representative Gary Daniels - presented and reviewed the summary report of the eight 1998 Labor Forums that were held in seven counties by the House Labor Committee in an effort to solicit input on how to bring labor negotiations to a timely win-win conclusion.
- Douglas Ingersoll, Executive Director of the Public Employees Labor Relations Board (PELRB) - distributed a packet of information on the PELRB and verbally explained to the committee the current public employee collective bargaining process and the PELRB's role in that process.
- Teresa Donovan, Esquire, Director of Collective Bargaining and Field Services for AFT-NH - distributed a public employee collective bargaining training packet used by AFT-NH, and verbally explained the benefits and deficiencies of the current process.
- Guy Scaife, Town Administrator for the Town of Milford - verbally presented his negotiating experience within the current public employee collective bargaining process, from the management perspective.
- Arnie Alpert, AFSC
- Richard deSève, SEA
- Laura Hainey, AFT-NH
- Ahrien T. Johnson, SEA
- Diana Lacey, SEA
- Dave Lang, Professional Firefighters of NH
- Mark S. MacKenzie, AFL-CIO
- Dean Michener, NH School Boards Association
- Fred Vogle, Professional Firefighters of NH
- Jay Ward, SEA

Issues

Though the system appears to have worked fairly well for the past 35 years, testimony did reveal deficiencies in the current process and yielded recommendations on how the process could be improved.

- Education/Trust
 - Keep collective bargaining from becoming an adversarial process.
 - Negotiations should be conducted by individuals and parties familiar with the negotiating process. May necessitate attendance at a negotiating skills workshop.
 - Trust comes from knowing and respecting the person you are negotiating with.
 - Loss of trust between negotiators.
- Transparency
 - Transparency may prohibit productivity and extend bargaining because of “grandstanding.”
 - Cameras can change the behavior and tenure of the debate.
 - Video captures reality.
 - Would HIPAA be violated or could a violation be avoided?
 - Voters must be involved at some level.
 - Allow open mediation and fact-finding.
 - Enable public input early in the process to identify positions unacceptable to the legislative bodies, thereby reducing the risk of non-ratification.
 - Suspicion that non-dues paying members were not being fully informed.
- Time Frames
 - Individual parties do not get serious until a deadline looms.
 - Establish earlier start dates and penalties for non-participation?
- End Process
 - Binding Arbitration - First time contract goes to the legislative body. If rejected, the next time it goes to binding arbitration. [This could be perceived to be an intimidation factor in dealing with the legislative body, basically telling them ‘If you don’t vote for this contract, we’ll take away your right to vote by going to binding arbitration the next time.’] Should binding arbitration trump supersede local control?
 - Should the PELRB get involved in stalled negotiation?
- Communication
 - Commonly, the reporting of statistics gives a false interpretation of the status of negotiations.
- Bargaining units that drop below 10 dues paying members.
 - Should they continue to be certified?

Recommendations

The committee chose to focus on ways to improve the current bargaining process and offered the following recommendations:

- The committee saw merit in negotiators and those on the negotiating team being familiar with the process. **The committee recommends that the Public Employees Labor Relations Board (PELRB) provide negotiating skills and process training workshops to those negotiating parties voluntarily seeking knowledge of the negotiating process.** The committee chose not to make this training mandatory to avoid creating a 28-A (unfunded mandate) issue, but felt that educated negotiators and negotiating team members contribute to a more productive process. **The committee also recommends that the PELRB develop on-line training on these issues to eliminate the cost of participants having to travel to a specific location.** This on-line training would not only reduce the cost and resources of the PELRB, but would also eliminate any issues of contention by one negotiating party that they did not receive the same information that the other negotiating party received at a different training workshop.
- **The committee recommends that negotiations not be open to the public through the mediation stage.** While an argument for transparency can be made, the committee also felt that the potential for “grandstanding,” coupled with the misperception of the process and attempted involvement in the process by a public not familiar with the process may be counter-productive, leading to longer negotiations, as opposed the ultimate goal of shortening the negotiating process.
- RSA 273-A: 3 states that “any party desiring to bargain shall serve written notice of its intention on the other party at least 120 days before the budget submission date; provided, however, that bargaining with state employees shall commence not later than 120 days before the deadline for submission of the governor's proposed operating budget. Testimony revealed that there were instances where it would have been beneficial if notification had been given earlier in the process. **The committee recommends that the timeline for parties giving notification of their intent to negotiate be moved from 120 to 180 days.** The committee recognizes that while there may be instances where nothing is done during those extra 60 days, there also may be instances where the extra 60 days provides enough time to spread the negotiations out so that parties are not trying to negotiate numerous issues in a contracted timeframe at the end of the process. The committee withheld recommending a date at which negotiations should start after notification of intent to negotiate is given. In addressing this issue, it should be noted that RSA 273-A:11(b), which sets similar timeframes for the election of bargaining units, also needs to be taken into consideration to avoid any potential timeline conflicts.
- **The committee recommends that a public hearing be held no later than 30 days after the notification of intent to negotiate is given.** While the committee stopped short of making this a mandatory part of the process, it strongly recommends that a public hearing be held to enable the public to provide input before negotiating commences. The input from the public at this hearing may assist in identifying issues and positions that are acceptable or unacceptable to the public, giving negotiating teams the opportunity to avoid issues or positions that may ultimately be rejected by the legislative body when they vote to ratify the contract.
- **The committee recommends the passage of HB582 as amended.** This 2011 retained bill recently came out of the House Labor Committee with a recommendation for passage and will come before the legislature in January 2012. As amended, HB582 would allow a limited opportunity for the chief negotiator for the bargaining unit to make a presentation directly to the board of the public employer and

for the chief negotiator for the board of the public employer to make a presentation directly to the bargaining unit, with the cost of such presentations to be borne by the presenting party. The addition of this proposal to the process gives negotiating parties an additional opportunity to resolve differences and avoid the legal costs associated with mediation and fact-finding.

- **The committee recommends that binding arbitration not be part of the process.** The committee felt the right of the voters should always be paramount. The focus within the collective bargaining process should be on finding ways to reach a compromise that is acceptable to voters, not disenfranchising the voters' by restricting their opportunity and right to determine their acceptance or rejection of the cost items in a contract.
- As explained to the committee, if negotiations reach the fact-finding stage, under the current process each party would present to the Factfinder their position, along with any evidence to support that position. The Factfinder would take that information and return to the negotiating parties a Factfinder's Report. The negotiating parties would then have 10 days to review the report and determine whether or not they wished to agree to the contract based upon the Factfinder's recommendations. If agreement on the contract could be reached by the negotiating parties, the contract would go before the legislative body for ratification. If negotiating parties still could not reach agreement on the contract, the Factfinder's Report would be presented to the legislative body for a non-binding vote. **The study committee recommends that the meetings at which negotiating parties present to the Factfinder their position, along with any evidence to support that position, be open to the public.** The committee felt that giving the public access to the arguments and evidence presented by each party to the Factfinder would assist in educating the public on the positions of both parties, thereby enabling the public to make a more informed decision. **The committee further recommends that a public hearing be held subsequent to the meeting at which negotiating parties present to the Factfinder their positions, but before the negotiating parties vote on the whether or not to agree to the contract.** While there is nothing that prohibits a public hearing from being held within the current process, it appears that this is rarely, if ever, done. The benefit to holding this public hearing would be to give the public one more opportunity to voice their concerns or approval of negotiated items before a contract or Factfinder's Report goes before the legislative body for a vote. The committee saw this public hearing as a final opportunity for negotiating parties to solicit input and address any concerns presented by the public which may cause the contract or Factfinder's Report to be rejected by the legislative body.
- Communication pertaining to the actual status of a contract needs to be further defined. Data appears to be available pertaining to the number of contracts that remain unresolved and the length of time that contract has remained unresolved, but no information is available on how many times a legislative body rejected that contract. This becomes an important factor when we legislatively attempt to find solutions that expedite the negotiating process. There is a difference between an unresolved contract that has never gone before the legislative body, and an unresolved contract that has been continually rejected by the legislative body. **The committee recommends that organizations and individuals whose testimony before the legislature pertains to unresolved contracts, also divulge any rejection history of those contracts by the legislative body.** When statistics are given pertaining to the number of contracts that have not been settled, those statistics should also include whether or not the legislative body has rejected that contract, and how many times the legislative body has rejected that contract. **The committee also recommends that the PELRB start tracking data on how many times an unsolved contract has been rejected by the legislative body.**

On behalf of the study committee, I wish to extend thanks to all those who participated in the process by attending the committee meetings, submitting documentation and giving testimony. The input provided to the committee was very beneficial in assisting the committee in reaching its final recommendations.

Respectfully submitted,

Representative Gary L. Daniels
Chair

I submit this as a minority report on the work done by this committee to study collective bargaining:

As a member of this committee, it is my position that there was no consensus or vote of the committee to recommend a significant portion of the recommendations in Representative Daniels' report.

In paragraph 4 of the report the statement is made that the committee stopped short of making a public meeting a mandatory part of the process. There seems to be ambivalence as to what this paragraph intends to bring forward and as stated in testimony, this process can already be used if there is consent between the parties. As a result, there's no reason to include this as part of the report.

Additionally, I do not concur with the following recommendations:

Those in paragraphs 5 (passage of HB582 as amended), paragraph 6 (no binding arbitration) paragraph 7 (public fact finding sessions and further defining contract status), and paragraph 8 (data collection). These paragraphs are found on pages 3 and 4 of the report.

The initial 3 paragraphs are acceptable to me as part of the report.

Senator Lou D'Allesandro

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Organizational Meeting Report

TO: Members of the Committee

FROM: Deb Chroniak
Legislative Aide

RE: Organizational Meeting report on HB 580, Chapter 101:1, Laws of 2011 - (2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: September 15, 2011, 10:00 a.m., SH RM 100

Members of the Committee Present: Senator Sharon Carson
Senator Ray White
Senator Lou D'Allesandro
Rep. Gary Daniels
Rep. John T. O'Connor
Rep. Steve Winter

Members of the Committee Absent: Rep. George Lambert

Others Present:

Laura Hainey, AFT-NH
Dave Lang, Professional Firefighters
Mark S. MacKenzie, AFL-CIO
Dean Michener, NH School Boards Association
Richard deSève, SEA
Jay Ward, SEA
Diana Lacey, SEA

Summary of testimony received and discussion held during the meeting:

Senator Carson opened the meeting at 10:05 a.m. and introduced the Committee members present. The Committee then elected Representative

Gary Daniels as Chair and Representative John T. O'Connor was elected Clerk.

The Chair, Representative Daniels discussed with the Committee members what they need to establish and the intent. Also noted was the reporting deadline of December 1, 2011.

Representative Daniels went on to state that a good place to start was to mention that he is on the House Labor Committee and stated that Collective Bargaining has been around for a long time.

In 1998, Representative Daniels chaired the House Labor Committee and received input from Labor Forums which they conducted. He then distributed the "Summary of the 1998 Labor Forums" (dated November 24, 1998) to all Committee members, stating that no recommendations were in this report, but only the input which was received at these forums.

Senator Carson asked if they were discussing "private" industry. Representative Daniels stated the discussion was on "public employees".

Representative Daniels then stated that his experience has been the length of negotiations, which is a concern because that equates in to costs for municipalities and to the state.

Senator Carson stated that they should hear from the industry which is here today and hear what is important to them.

Representative Daniels then opened up the "Organizational Meeting" to the public to discuss their experiences with collective bargaining, faults with the system, and what they believe needs to be addressed and/or modified.

- Laura Hainey asked if this would be the only time they would have to speak and asked if there would be other meetings. Ms. Hainey stated that she would like to have Terry Donovan attend one of the meetings because she covers 22 locals and would have more experience in discussing this matter with the Committee.

Representative Daniels stated that it was his hope to have a meeting in late September, one or two meetings in October, and a final meeting in November.

Senator Ray White

- Discussion on how we arrived here.
 - SB 3 and HB 580 were originally pension bills which were changed during the Committee of Conference negotiation process.

- Defined contribution plan; defined benefits plan.
- Decision to select SB 3 as the vehicle.
- Defined contribution was set up.
- HB 580 was to study collective bargaining.

Mr. David Lang, Professional Firefighters

- Discussed where collective bargaining came from.
- The importance of collective bargaining in New Hampshire.
- The importance to public employers and employees.
- Prior to collective bargaining there were no organized rules, which caused strikes, and employers were left without alternatives.
- Mr. Lang represents 42 local unions (2,000 active members).
- He stated that forms of government place dynamic pressures on work force.
- Stated that there needs to be rules to have an efficient process.
- Encourages looking at Town of Hampton who has gone six years without a labor contract, which adds stress to employees and their families; need closure on negotiations.
- Tax payers going through the same debate.
- Local Union 2644 started because of "safety" issues; negotiate to set up safety.
- Interest based bargaining is not successful, and broke down because of political dynamics.
- Binding arbitration is another way to get to the end point.
- Workers need to understand what their pay benefits are.

Representative Winter

Asked if there were any blueprints out there – Federal Act – that governs collective bargaining and/or is there a structure by the federal government for public employee union negotiations?

Mr. Lang

- Will look for a template.

Senator White

- Wanted to speak to the tax payer side.
- Economic issues were a large issue during the last election.
- Try to strike a balance with all frustrations.
- When does the tax payer get to speak?
- We need to respond to these issues.
- Tensions will be there; negotiations are kind of a closed door process.
- Appreciates labor standpoint.

Mr. Lang

- How do we define the process?
- Invite the Labor Board for a review of their process.
- Labor and management have to agree.
- Wants to see effective and efficient public safety services.
- Fact finders report – no agreement – no remediation, advisory opinion; rejected by labor or legislative body, put forward and voted down.

Rep. Daniels

- In binding arbitration, the other side, local control, need to make sure people have a say.
- Stating the question of if the public are not knowing or understanding the issues.
- Stated that one thing which came out in the 1998 report was that of videotaping negotiations where citizens could view and curtail. Question of, would this shorten the process (negotiating) where each entity comes in with something reasonable.

Mr. Lang

- If you pull “any” contract you will see a dispute resolution and executed agreement.
- The second part, regarding televising negotiations, he believes would be a bigger deterrent and would produce less agreements.

Rep. Winter

- Agrees with not televising negotiations.
- Severe economic problems; constituents have to tighten belts – union also has to.

Mr. Lang

- Locals have sat down and renegotiated and have taken a different position. What are “paramount” are effective and efficient public safety services. The folks that pay the bills are the customers.

Senator Carson

- What about requiring, a week prior to a vote where a community votes on a contract, to put information on the town web site to view and understand what they are voting on, and did he believe that may be a good idea?

Mr. Lang

- Citizens have every right to come in, and then noted that salaries are public information.

Senator Carson

- Do you think there is a trust in people at the local level?

Mr. Lang

- Stated if members did not have trust in him, that this Committee would not see him back.
- Tax payers need to have a say in the costs.

Senator Carson

Could he furnish the Committee with those unions who went back to the table to renegotiate because of economic times?

Mr. Lang

Stated he could provide expert testimony, and that labor and management came together to resolve issues. It is a system to provide good discussions.

Rep. Daniels

Is there a list of districts which have been without contracts for a while within the Public Employee Labor Relations Board (PELRB)?

Senator Carson

Stated, that the Commissioner of Labor, George Copadis could come in to discuss this.

Mark MacKenzie, President, AFL-CIO

- Going through the process – RSA 273 is a public employee meet and confer law. This is different than the other acts where the contract has an expiration.
- Stated that the law is weak in the way it is currently structured.
- That it is a two-way street (meet and confer law).
- That there is a long history of collective bargaining.
- Mr. MacKenzie noted that collective bargaining agreements did not drive up the cost of health care. No one is forced into any of these situations.
- Believes that collective bargaining improves services, improves quality of jobs and services, provides and attracts a good group of people.
- Hopes that this study committee is not talking about eliminating collective bargaining, but improving it.

- Public Employee Labor Relations Board - look at the structure. Large role to be more pro-active to look at stalled negotiations. (This would be an area to explore.)
- In regard to videotaping negotiations, he stated that if you are going to watch negotiations, you need to follow the process to see how issues have evolved.

Representative Daniels

In regard to videotaping negotiations, Representative Daniels is not advocating the process, like that of a public hearing; he stated that it would be more like an executive session where you watch, but do not participate. If someone comes in late, that cannot be helped. The idea would be that people could observe.

Mark MacKenzie

- Disagrees with that process and does NOT agree with videotaping negotiations.

Representative Winter

Asked if the Public Employee Labor Relations Board have a structure of how negotiations proceed?

Mark MacKenzie

- Stated that, yes, there is a process in place, but the problem is when a contract expires.
- He is not aware of a national template for collective bargaining.

Representative Winter

Stated that the PELRB was a creation of the state.

Mark MacKenzie

- Yes.

Senator White

- Favors transparency and would prefer to have a camera in the room while negotiations are in process.
- Stated that there are two sides.
- Indicated that when the contract expires and the ball is not being moved down the field that there should be a consequence.
- Wants to listen to all sides of that.

Mark MacKenzie

When a contract expires, what remedy do employees have? There should be a balance. He stated to look at the first couple of lines of the Public Law.

Representative Daniels

- We need to be on the same page and present things.
- What is going to be set going forward and acceptable to both.

Dean Michener, NH School Boards Association

- Procedures for negotiations is in RSA 273-A and are spelt out. They have 175 teacher contracts and also negotiations with support staff, etc.
- Stated that in the House Labor Committee there is a bill, which he thought was HB 582, which is presently being addressed and was in regards to videotaping negotiations.
- During a two-year study it showed that 93% of teachers started with contracts.
- Stated to not confuse negotiation for dispute resolution with other negotiation processes.

Representative Winter

Evergreen is not outlawed; it is not mandated.

Richard deSève, SEA

- Trying to start negotiation process early. Develop proposals in September. The next team elected in August will meet in September. Will then meet with the State with the contracts in October.
- Negotiations are slowed down when Legislature is in session and agency people are busy with bills in the Legislature.
- They are trying to start negotiations earlier, but will need more time to settle on.

Representative Daniels

Is there anything legislatively that prevents us from doing this?

Mr. deSève

Need to be further along in the process with the Commissioners, etc.

Jay Ward, SEA

- The SEA has polled public workers and the number one issue is "Respect". Money is forth or fifth on the list.

- The report summary distributed by Representative Daniels is 13 years later and some items are still valid and need to be addressed.
- The legislative process is, one year you come in with a bill and then the next cycle will come in with a new law and that this is not beneficial.
- The idea is to try to fix and not eliminate the contentious parts.
- Collective bargaining is both sides coming to the table and deciding what is best.
- Collective bargaining gave back \$50 million this year – it does work.
- His hopes are to come out of this stronger, and not diminish respect for public employees.

Representative Daniels

Representative Daniels asked if Mr. Ward thought there was a trust problem.

Jay Ward

- Mr. Ward indicated that he thought so at times.

Representative Daniels

Asked Mr. Ward if this trust issue was due to communications not getting through.

Jay Ward

- Does not have a clear path to eliminate that.
- Stated that sometimes there are gag orders on negotiations.

Diana Lacey, President, SEA

- Stated that labor unions can meet ahead of time and negotiate.
- Work with own side.
- Gag order process is usually an agreement with both sides.
- Public employer side, she believes that the legislative bodies are not being kept informed and that both sides have their responsibility of being managed.
- There are state employee contracts, but also there are smaller contracts.
- Stated, first there is the legislative authority, then you need funding, and you have to live within budget. There are contract administrative, which happen privately, then the draft contract and that will go to the Governor and Council for approval, which covers a large part of the approval process.
- Stated that collective bargaining still works and is much more transparent than most contracts.

Stated that if we make changes in the health plan that everyone would benefit.

Meeting closed at 11:55 a.m.

NEXT MEETING:

Next meeting of the Study Committee will be held on **Thursday, September 29, 2011, 9:00 a.m. to 10:00 a.m.** in State House Room 100.

REPORT DUE: December 1, 2011 (or before)

dac

9-19-11

NOTE: The assigned clerk is Representative John T. O'Connor.

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 2nd Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: September 29, 2011, 9:00 a.m., SH RM 100

Members of the Committee Present: Rep. Gary Daniels (Chair)
Rep. John T. O'Connor
Rep. Steve Winter
Senator Sharon Carson

Members of the Committee Absent: Senator Ray White
Senator Lou D'Alessandro
Rep. George Lambert

Others Present:
Douglas L. Ingersoll, Esq. Exec.Dir. PRLRB
Teresa D. Donovan, Esq. Dir.AFT-NH

Summary of testimony received and discussion held during the meeting:

The Chair, Representative Daniels, opened the meeting at 9:00 am and introduced the committee members present.

Rep. Daniels introduced Douglas L. Ingersoll, Esq., Executive Director of the State of New Hampshire Public Employee Labor Relation Board (PELRB). Director Ingersoll at the request of the committee is appearing at today's meeting to provide an overview of the public sector collective bargaining under current law, including the general process and related responsibilities of the PELRB. Director Ingersoll provided the committee with a booklet with general background information about the PELRB and an outline of the bargaining process and related PELRD functions. Also included in the document are current Collective Bargaining Agreements on file and a copy of RSA 273-A, Public Employee Labor Relations.

Director Ingersoll then discussed his presentation.

- Process of Collective Bargaining
- Mediation & Bargaining
- Fact Finding & Mediation
- Administrative collection of Municipalities' contracts and posting on Web Site
- PELRB a source of information for Municipalities, although cannot be involved in actual negotiations
- Discuss Supreme Court decision initiating the Three part test: Mandatory, Permissive, and Prohibited. Detailed information in tab 2 of handout

Representative Daniels. Asked how many members form a bargaining unit.
Response: 10

Representative O'Connor. Asked if a bargaining unit of 10 lost a member (i.e. retirement or quit) will the unit dissolve? Response: NO.

Senator Carson. Who sets the Agency fee for members? Response: UNION

Representative Winter.

- If Right to Work (RTW HB 474) passes will Unions still be required to bargain for those who opt out? A brief discussion regarding HB 474 with the Director stating that the outcome could be contested.
- Question asked on no strike provision. Brief discussion on work to rule with reference to RSA – A 273:13, Strikes Prohibited.
- Question asked regarding informational Picketing. Is it a job action? No comments received on this question.

Representative Daniels thanked Director Ingersoll for his presentation and requested the committee review the document presented and present any questions /concerns at the next committee meeting.

Representative Daniels introduced the next presenter, Teresa D. Donovan Esq. Director of Collective Bargaining and Field Services for the AFT-NH. Director Donovan passed out an informational training binder that the AFT-NH uses for their members who negotiate contracts. The binder contained 4 major sections.

- 1) Union Negotiations Process
- 2) Negotiations with the employer
- 3) Contract Approval Process
- 4) RSA 273-A

Director Donovan then proceeded to discuss her presentation along with concerns and recommendations to the committee.

- In explaining the training manual she stated that these types of workshops should be available for the Department of Labor and also, recommended that all Employers' should participate. A concern with towns (employers) is the lack of skill negotiators, especially in towns with newer elected Selectman-Alderman Etc.
- Stated that contract negotiations "should not be Adversarial but Collective."
- Position of the AFT-NH is to guide local charters.
- Reviewed the section on Tentative Agreements for ratification.
- A major concern expressed is the time frame which is set by statue. Currently towns back out the due date of the contract which typically conflicts with the towns budgeting process.
- Brief discussion of SB 2 towns on how voters act on contracts. Due to time constraints the presentation ended at this time.

Representative Daniels explained that the committee time allowed for this room had expired and the next session was waiting to come in. He apologized to Director Donovan and stated at the next meeting she would be the first to speak so she can complete her presentation.

The meeting was recessed at the call of the chair.

NEXT MEETING:

Next meeting of the Study Committee will be held on Wednesday, October 19th, 2011, 1:00-4:00 p.m. in L.O.B. RM. 305-307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 3rd Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: October 19, 2011, 1:00 p.m., L.O.B. RM 305-307

Members of the Committee Present:

Rep. Gary Daniels (Chair)
Rep. John T. O'Connor
Rep. Steve Winter
Senator Sharon Carson
Senator Lou D'Alessandro
Senator Ray White

Members of the Committee Absent:

Rep. George Lambert

Others Presenting:

Teresa D. Donovan, Esq. Dir.AFT-NH
Guy Scaife, Milford Town Administrator

Summary of testimony received and discussion held during the meeting:

The Chair, Representative Daniels, opened the meeting at 1:00 pm and introduced the committee members present.

The first presenter was Terri Donovan, Esq. from AFT-NH who at the previous committee meeting, but whose presentation was cut short due to time constraints. She started by clarifying some concerns of the committee members regarding job actions by union members in that they by law cannot partake in strike actions.

On the topic of give-backs she gave a few examples of town unions that agreed to no increases such as C.O.L.A., wage freeze, etc. giving the state of the economy.

She further discussed the training manual that was presented to the committee. Key areas of further concern to her members were, No Child left Behind, lack of problem solving in dealing with health issue cost, negotiations lack of skills by town employers, how to deal with Impasse issue. She also reiterated the process of mediation, fact finding and binding arbitration process.

Of note, many of the union representatives made it a point to specify the need of "Trust and Respect" during negotiations. No further explanation was offered.

In her wrap-up she reemphasized training of employers on how the negotiation process works, and stated that time tables for contract negotiations should be changed to allow for employers to have more time to negotiate without the budgetary process being a higher priority.

An additional handout of Pelham's town schedule showing the time table constraints was passed out to the committee.

Rep. Winter. Stated that a bill could be submitted to change the time table, which appears a concern of the unions.

Rep Winter. Discussed if an Impasse were to occur why wouldn't we want to inform the public?

Terrie Donovan. Certain issues should not be made public, especially of a private nature.

Rep. Daniels. Thanked Director Terri Donovan for her presentation, and introduced Guy Scaife, Town Administrator for the Town of Milford.

Mr. Scaife went through the process that they have to go through when negotiating a contract. He also expressed concern about the length of time to negotiate a contract, but that concern focused on the current process not allow for the availability of the public to be educated as to what has taken place during the negotiations.

Senator D'Alessandro brought up a concern that if a TV process for negotiations was available that it would grossly impact the outcome of the negotiations.

Further discussions were held on the difference between SB 2 towns vs. town meetings.

Rep. Daniels. Asked Mr. Scaife to talk about the time line. Should it be moved to an earlier time.

Mr. Scaife. Felt time was sufficient; the problems arise out of impasse.

David Lang. Professional Firefighters of NH. He also felt that the time table should be moved. Went back over the process and felt it was hindered by the political environment. No further detail was given. Advocated binding arbitration in the subsequent round of negotiations if voters reject the contract.

Rep Daniels. Discussed what would happen if the legislative body rejected a contract and the process was moved to arbitration, He felt that the voters would be disenfranchised. Felt there was a need for the public to be able to view the negotiation process so they can be made aware of the issues.

Rep. Daniels. Opened the floor to comments that Rep. Winter had regarding open negotiations.

Director Ingersoll. Talked as a litigator and had personal concerns that it would not be objective and personalities and behavior of the negotiators would have an impact on meaningful negotiations.

Rep. Daniels. Felt that it would be beneficial for the public to know how a contract is ratified, and understand how negotiations are conducted.

Director Donovan. Expressed concern that if the union brought certain consequences forward, such as, a principal not performing their duty in performing annual review, of teachers. Should this be made public?

Rep. Daniels. Felt that there should be transparency in the process. If the principal is failing in his duties then the taxpayers should be made aware of that.

Rep. Daniels adjourned the workshop till next session

NEXT MEETING:

Next meeting of the Study Committee will be held on **Thursday October 27th, 2011, 1:00-4:00 p.m.** in L.O.B. RM. 305-307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee
HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 4th Meeting report on HB 580, Chapter 101:1, Laws of 2011
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: October 27, 2011, 9:00 p.m., L.O.B. RM 305-307

Members of the Committee Present:

Rep. Gary Daniels (Chair)
Rep. George Lambert
Rep. John T. O'Connor
Rep. Steve Winter
Senator Sharon Carson
Senator Lou D'Alessandro
Senator Ray White

Others Presenting:

Laura Hainey.AFT-NH
Fred Vogle—Professional Firefighters of NH

The Chair, Representative Daniels, opened the meeting at 9:00 am and introduced the committee members present.

Summary of testimony received and discussion held during the meeting:

Fred Vogle. Had lengthy discussion on Unions mostly from his experience as a past private sector union negotiator for airline pilots. He also stressed strongly that trust should be emphasized during negotiations. He was concerned that videotaping would lead to "grandstanding."

As part of the negotiating processes he had been involved with, Mr. Vogle stated that a weekly news bulletin has been distributed to their members to educate them on what had taken place. He suggested that the employers could also publish information.

Rep. Daniels. He believe that if negotiations were videotaped, the public would be astute enough to see thru any "grandstanding," if it did occur.

Fred Vogle. His concern was that the opposing side was not aware of the rules going into negotiation. Towns generally have a turnover in alderman, selectman and councilors. Again, this has been brought up by previous union speakers.

Senator D'Alessandro. Agreed with the statement that video conferencing would create "grandstanding."

Rep. Lambert. Explained that he has been personally involved with town contracts and finds them complicated and counter-intuitive. He went on to state that union's initial demands tend to be excessive and that bogs downs the process.

A concern that he has is that the public does not have the ability to see the issues and aren't able to express their opinions to the town. Citizens should have the ability to openly discuss the contract during negotiations and not wait for the last minute at a Town Hall meeting to fully understand what they will be voting on.

Fred Vogle. The town Selectman could call a meeting at any time to bring citizens up to date.

Rep. Daniels. Based on town protocols, with public notification on meetings and agenda items, setting up such a meeting on short notice may be counter-productive, and may only bog down the process.

Senator White. Stated that in the private sector negotiations all parties are at the table, wherein public sector bargaining the taxpayers are not involved until the final vote.

Mr. Lang. He was more concerned about elected officials not preparing for public sector negotiations and finding out what the citizens are looking for. He stated that the union spends a lot of time in polling their members regarding their wants and needs. Felt that the process is OK, but that elected officials are the issue and trust is lacking.

Rep. Lambert. Referenced the initiating of the unions from the 1970's going forward.

Rep. Daniels. Discussed the need for transparency, and that all parties should come to the table with realistic goals.

Mr. Lang. Strongly recommended that a time table should be enforced.

Laura Hainey. AFT-NH. She restated their union goals. There should be trust and transparency. Stated employers should be polling citizens prior to contact negotiations. Felt that most employers lack training /education in skills to negotiate a contract, thus bogging down the process.

Rep. Lambert. Expressed at length his concern on issues where managers, members and taxpayers need to come to an agreement that workers are treated fairly, have good wages and contracts should stick to only Rules, wages, benefits. Many other areas have been entering into contracts that complicate them.

Laura Hainey. Recommend that those issues that Rep. Lambert brought up can always be negotiated out of a contract by agreement of both parties.

Rep. Lambert. How do we remove the sins of the past (onerous issues made part of a contract through previous negotiations)?

Laura Hainey. Expressed concern in her reply that "How can she trust Rep. Lambert in knowing he has a bill to eliminate collective bargaining?"

Rep. Lambert. In response to her, he stated that our current system is not working, but we do need to put in place a solution that will work, that we owe it to our employees and taxpayers.

Rep. Daniels will review the past comments of the previous meetings and select a few topics to bring forward to the committee.

Rep. Daniels adjourned the workshop till next session

NEXT MEETING:

Next meeting of the Study Committee will be held on Wednesday, November, 9th, 2011, 2:30 p.m. in L.O.B. RM. 305-307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 5th Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: November 09, 2011, 2:30 p.m., L.O.B. RM 305-307

Members of the Committee Present:

Rep. Gary Daniels (Chair)
Rep George Lambert
Rep John T. O'Connor
Rep. Steve Winter
Senator Ray White

Members of the Committee Absent:

Senator Sharon Carson
Senator Lou D'Alessandro

Others Participating:

Laura Hainey, AFT-NH
Arnie Alpert, AFSC
Doug Ingersoll, NH PELRB
Ahrien T. Johnson, SEA

The Chair, Representative Daniels, opened the meeting at 2:30 pm and introduced the committee members present. Rep. Daniels passed out a summary of Issues and Discussion points that had been brought up at previous meetings.

Approval of Minutes.

- 09/29/11 minutes Passed 3-0-2 (Sen. White & Rep. Lambert abstain)
- 10/19/11 minutes Passed 4-0-1 (Rep. Lambert abstain)
- 10/27/11 minutes Passed 5-0-0

Summary discussion held during the workshop.

Rep. Winter. Asked if we were going to file a bill or submit a report, Rep. Daniels responded that we would be submitting a report.

Rep. Lambert. Had discovered a case in Hudson asking "what happens to an employee that does not wish to be part of a union system" Currently our system, is not capable of dealing with this issue.

Discussion's then centered on different types of employees, open vs. closed shops, petitioning process and how PELRP gets involved.

Rep. Winter. Requested an example of how agency fees are assigned vs. paying dues.

Laura Hainey. Members under current law can choose to pay for either Agency fees or full membership. The union still has to represent those who choose Agency fees. Also, explained different types of contracts that may have different levels of experience.

Rep. Daniels. In moving through the agenda, he brought up, trust, adversarial process, training for negotiators. Discussed possibility of PELRB conducting training session for towns (Employers).

Rep. Lambert. Expressed concern about the process being adversarial. All parties should be coming to the table with clear definable objectives.

Further discussions on the process of negotiating, first meeting, establishing ground rules. Director Ingersoll interjected that the intent of both parties should be to negotiate in good faith. He also stated that the PELRB is available to both parties if they have concerns or questions.

Rep. Daniels. The next discussion point was timelines.

Laura Hainey. Using a SB 2 town, went into great detail on whether a warrant article allows for a special meeting if the voters fail to approve a contract. Then the process has to wait for a year to resubmit to the public.

Director Ingorsoll. Explained the statutory time of a 120-day period, a possibility that moving to 180 days may give the towns more time to negotiate. He did indicate that if petitioned by one of the parties because they are not meeting the time table, his department would notify the party that they are required to begin negotiations in good faith.

Rep. Daniels . Opened the floor to discuss end process, transparency, and binding arbitration.

A representative from the Municipality Association stated that his members would be against binding arbitration.

Rep. Winter. Stated view that he was opposed to any videotaping of the negotiations.

Rep. Lambert. Suggested that session could be closed but each party could make public statements/comments. Comments from both the Union and Municipality representatives believed that this would be counterproductive.

Dir. Ingorsoll. Stated that at the ground rule session, items of this nature could be discussed and acted on. Under current laws both parties can go public if they wish to.

Rep. Daniels. Expressed a concern that 88 out of 600 contracts aren't resolved.

The final discussion was what is the minimum number for a bargaining unit? (10) and what happens if membership drops below 10? Under current law the unit remains unless the membership petitions the PELRP to have it dissolved.

Workshop was recessed at 5:45pm.

Rep. Daniels adjourned the workshop till next session

NEXT MEETING:

Next meeting of the Study Committee will be held on **Wednesday, November, 16th, 2011, 10:00 a.m.** in L.O.B. RM. 305-307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 6th Meeting report on HB 580, Chapter 101:1, Laws of 2011 (2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: November 16, 2011, 10:00 a.m., L.O.B. RM 303

Members of the Committee Present: Rep. Gary Daniels (Chair)
Rep George Lambert
Rep John T. O'Connor
Rep. Steve Winter
Senator Sharon Carson
Senator Ray White

Members of the Committee Absent: Senator Lou D'Alessandro

Others Participating:
Laura Hainey, AFT-NH
Doug Ingersoll, NH PELRB

The Chair, Representative Daniels, opened the meeting at 10:00a.m and introduced the committee members present.

Approval of Minutes.

-11-09-2011 Passed 4-0-1 (Sen. Carson abstained)

Summary of discussion held during the workshop.

Rep. Daniels. Requested that committee members bring forth any issues they have for discussion.

Rep. Winter. Expressed strong opposition to open negotiations. Rep. Winter recommended having a time specific public hearing prior to the beginning of negotiations.

Sen. White. Expressed strong opposition to binding arbitration.

Sen. Carson. Discussed issues about SB2 in relation to time lines and problems associated with them. Not in favor of videotaping sessions, but a solution could be to have a transcript and make it available to the public.

Rep. Lambert. Clarified his position on open session in that it should be able to be live-streamed. His comment was to have citizens be able to have input into the negotiations and have discussions on any objectionable items in the contract.

Rep. O'Connor. Strongly supported the idea of offering training to contract negotiators, whether the NH PELRB offers it or a joint presentation with the Union and LGC. Supported changing the time line from 120 days to 180 days for parties indicating their intent to negotiate. Opposed to any videotaping of sessions. This would be cumbersome, costly and require constant posting of meetings.

Rep. Daniels. Agreed that time be extended or changed from 120 to 180 days, and would make that recommendation.

Brought up HB582, that provides an opportunity for the negotiator of one party to speak directly with the entity to which, if an impasse were to occur then the negotiators would be allowed to address the employees.

Training by PELRB –Workshop for negotiators.

Would like to see mediation and fact-finding made public. This would allow for citizen feedback.

Encouraged communication in the form of statistical analysis regarding outstanding contracts and how long they been rejected.
Decertification - would recommend that once a unit falls below ten (10) they would automatically have a change of status.

Rep. Daniels. Opened the meeting to those in attendance to have a dialog regarding contracts, fact-finding, mediation, etc.

Director Ingersoll. Went into detail on how fact finding works and answered questions asked by committee members.

Rep. Daniels. Explained that the next process would be to make motions on what will be submitted in the final report.

1. Training

- Not mandatory - Would eliminate 28A issue
- Available to all negotiators
- PELRB – Concern about resources, possible online training.

Rep. Daniels moved that training be made available, but not mandatory.
Second by **Rep. Lambert.** Motioned passed.

2. Time Line

Rep. Daniels moved that the timeline for parties giving notification of their intent to negotiate be changed from 120 to 180 days before submission day.
Second by **Rep. Lambert.** Motioned passed.

(Note) **Dir. Ingersoll** made a recommendation that legislative services review the timeline and Election Day requirements to verify that no conflicts exist.

3. Public Input

Rep. Daniels moved that a public hearing may be held no later 30 days after the notice of intent.
Second by **Sen. Carson.** Motioned passed.

4. HB582

Rep. Daniels moved that the study committee support the intent of HB582. If a loss of trust develops between negotiators, HB582 as amended would allow a limited opportunity for the chief negotiator for the bargaining unit to make a presentation directly to the board of the public employer and for the chief negotiator for the board of the public employer to make a presentation directly to the bargaining unit, with the cost of such presentations to be borne by the presenting party.

Seconded by **Rep. Lambert.** Motioned passed with **Sen. Carson** abstaining.

5. Fact Finding Report

Due to time constraint there was no motion on the floor. To be brought up at next meeting.

The study committee recessed to the call of the chair.

NEXT MEETING:

Next meeting of the Study Committee will be held on Tuesday, November, 22nd, 2011, 2:00p.m. In L.O.B. RM. 307.

REPORT DUE: December 1, 2011 (or before)

2011 Study Committee

HB 580, Chapter 101:1, Laws of 2011

Meeting Report

TO: Members of the Committee

FROM: Representative John T. O'Connor
Committee Clerk

RE: 7th Meeting report on HB 580, Chapter 101:1, Laws of 2011 -
(2nd New Title) establishing a committee to study collective bargaining by public employees.

MEETING DATE: November 22, 2011, 2:00 p.m., L.O.B. RM 307

Members of the Committee Present:

Rep. Gary Daniels (Chair)
Senator Ray White
Rep. Steve Winter
Rep John T. O'Connor
Senator Lou D'Alessandro

Members of the Committee Absent:

Senator Sharon Carson
Rep. George Lambert

Others Participating:

Laura Hainey, AFT-NH
Doug Ingersoll, NH PELRB

The Chair, Representative Daniels, opened the meeting at 2:00p.m and introduced the committee members present.

Approval of Minutes.

-11-16-2011 Motion by Rep. Winters, 2nd by Rep. O'Connor -Passed 4-0-0

Summary of discussion held during the workshop.**Rep. Daniels.**

Recapped four (4) previously approved motions made.

1. Training
2. Timelines
3. Public input
4. Support HB 582

Next topic for discussion is Fact Finding.

Rep. Winter. Stated the current requirement is that there is a 10-day waiting period to allow for either side to come back to the table and make changes prior to releasing the document.

Discussion amongst the committee and those in attendance as to the process and time table related to the release of the fact-finding document. Due to time constraints the public would have minimum time to have any input prior to the document going to ballot.

Sen. White. Would like to see the fact-finding report get into the hands of the public as soon as possible without impeding the process.

Rep Daniels. Also looking to push off the 10-day period of the fact-finding report so the public could speak to it prior to negotiators making a final decision.

Dir. Ingersoll. Discussed procedural issues as to the timeframe and when the report is due and that they must stay within this limit. If not, then if the ballot date is missed the public would have to wait a year for the next opportunity to vote on the contract.

Rep. Daniels. Motion, that fact-finding minutes should be follow by a public hearing and that the public have input before the negotiators make a final decision before presenting the document to the voters.

Rep. Winter. Seconded.

Sen. D'Alessandro. Commented that releasing the document shouldn't be mandatory. The motion reflected that concern.

Motion carried 5-0-0

The next topic for discussion centered around a bargaining unit and the minimum employees needed for certification (10).

Rep. Daniels. Asked if the membership, for whatever reason falls below the 10 required, employees, would that automatically decertify the unit?

Dir. Ingersoll. Discussed various scenarios on how units could be decertified. He also stated that his department does not get many requests to have a unit decertified or surrender of a unit.

Rep. Daniels. Suggested that because of the scope of research that would need to be done on this issue, and because of the December 1st deadline for filing a report from the study committee, we not move forward with the issue of decertifying a unit, but keep the focus of the committee on ways of enhancing the current negotiating process, as the committee has done since its inception. Rep. Daniels stated that he will draft a final report based on comments and motions made by this committee. As requested by Sen. White the final draft will be submitted electronically to all committee members for their comments and/or approval.

The final report has to be signed by all members. Rep. Daniels will designate a location in the LOB.

Rep. Daniels. Thanked all members of the committee for their time and input.

Motion to adjourn by Rep. Winter. Sen. White, seconded

REPORT DUE: December 1, 2011 (or before)

2057

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 21, 2011

THE COMMITTEE ON Executive Departments and Administration

to which was referred House Bill 580-FN-L

AN ACT

(New Title) relative to the New Hampshire retirement system, and relative to continuation of provisions of a collective bargaining agreement following the end of the term of the agreement.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1527s

Senator Sharon M. Carson
For the Committee

Deb Chroniak 271-1403

New Hampshire General Court - Bill Status System

Docket of HB580

Docket Abbreviations

Bill Title: (2nd New Title) establishing a committee to study collective bargaining by public employees.*Official Docket of HB580:*

Date	Body	Description
1/24/2011	H	Introduced 1/6/2011 and Referred to Special Committee on Public Employee Pensions Reform
3/2/2011	H	==RESCHEDULED== Public Hearing: 3/4/2011 1:00 PM Representative's Hall (Orig LOB 201-203)
3/2/2011	H	==RESCHEDULED== Full Committee Work Session: 3/4/2011 2:00 PM LOB 305-307 (Orig LOB 201-203)
3/2/2011	H	Executive Session: 3/4/2011 3:00 PM LOB 201-203
3/9/2011	H	Full Committee Work Session: 3/11/2011 10:00 AM LOB 306-308
3/14/2011	H	Full Committee Work Session: 3/18/2011 10:00 AM LOB 306-308
3/15/2011	H	Suspend House Rules to Allow Reporting Deadline to Be Extended No Later Than Mar 24 and House Action No Later Than Mar 31 (Reps Bettencourt & Wallner): MA VV by Required Two-Thirds; HJ 26 , PG.693
3/17/2011	H	Full Committee Work Session: 3/22/2011 2:00 PM LOB 306-308
3/17/2011	H	Executive Session: 3/22/2011 2:10 PM LOB 306-308
3/17/2011	H	Continued Executive Session: 3/23/2011 10:00 AM LOB 306-308 If Needed
3/17/2011	H	Continued Executive Session: 3/24/2011 9:00 AM LOB 306-308 If Needed
3/24/2011	H	Majority Committee Report: Ought to Pass with Amendment #1174h(NT) for Mar 30 (Vote 10-4; RC); HC 27 , PG.821
3/24/2011	H	Proposed Majority Committee Amendment # 2011-1174h (New Title); HC 27 , PG.844-853
3/24/2011	H	Minority Committee Report: Inexpedient to Legislate; HC 27 , PG.821
3/30/2011	H	Amendment #1174h (New Title) Adopted, VV; HJ 34 , PG.1136-1145
3/30/2011	H	Floor Amendment # 2011-1229h (Rep Shurtleff) Failed, RC 136-224; HJ 34 , PG.1145-1152
3/30/2011	H	Floor Amendment # 2011-1275h (New Title) (Rep Baroody) Failed, RC 137-229; HJ 34 , PG.1152-1155
3/30/2011	H	Ought to Pass with Amendment #1174h(NT); HJ 34 , PG.1136-1155
3/30/2011	H	Lay on the Table (Rep G.Richardson): MF RC 132-235; HJ 34 , PG.1155-1157
3/30/2011	H	Ought to Pass with Amendment #1174h(NT): MA RC 228-139; HJ 34 , PG.1136-1159
3/30/2011	S	Introduced and Referred to Executive Departments and Administration; SJ 12 , Pg.244
4/14/2011	S	Hearing: 4/21/11, Room 100, State House, 10:00 a.m.; SC20
4/21/2011	S	Committee Report: Ought to Pass with Amendment # 2011-1527s , NT, 4/27/11; SC21
4/27/2011	S	Committee Amendment 1527s, NT, AA, VV; SJ 14 , Pg.278
4/27/2011	S	Ought to Pass with Amendment 1527s, NT, MA, VV; OT3rdg; SJ 14 , Pg.278
4/27/2011	S	Passed by Third Reading Resolution; SJ 14

5/4/2011	H	House Concurs with Senate Amendment #1527s(NT) (Rep Hawkins): MA RC 352-10; HJ 42 , PG.1448-1450
5/18/2011	S	Enrolled
5/18/2011	H	Enrolled; HJ 44 , PG.1564
6/1/2011	H	Signed By Governor 05/27/2011; Effective 05/27/2011; Chapter 0101

NH House	NH Senate
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Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 580-FN-2 ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING
TESTIMONY # 1-#9; SUBMISSION # 1-#3
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 14625
- AMENDMENT # 1510b
- AMENDMENT # 1527-3
- AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

- AS INTRODUCED
- AS AMENDED BY THE HOUSE
- FINAL VERSION
- AS AMENDED BY THE SENATE

- OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

AMENDED FN 5/10/11

DATE DELIVERED TO SENATE CLERK

7-29-11

By:



COMMITTEE AIDE