



NHRS

New Hampshire Retirement System

January 20, 2010

Ms. Anne-Marie Irwin, Chair
New Hampshire House of Representatives
Executive Departments and Administration Committee
Legislative Office Building, Room 306
Concord, NH 03301

Re: HB 1530 - An Act redefining earnable compensation of
members of the New Hampshire Retirement System

Dear Representative Irwin:

While the New Hampshire Retirement System (NHRS) and its Board of Trustees is not taking a position on this bill we did wish to share the following observations with the committee.

First, as we point out in the Fiscal Note Worksheet that we prepared for the Office of Legislative Budget Assistant, the proposal refers to a member's "full base rate of compensation paid". Since there is no existing definition of that term, it would be necessary to develop one that capture's the legislative intent of this proposal. This may seem to be a straightforward issue. However, in practice, the details of the various contracts covering our members amongst the 475 separate employers who participate in the System are many and varied. There may also be several elements of compensation that, added together, constitute what is considered base pay. Absent a clear definition of what is intended to be captured by this term, the NHRS would be in the position of constantly contesting the interpretation of the statute with our members.

Second, as further noted in our Fiscal Note Worksheet, the Internal Revenue Code requires that certain military differential pay be recognized as earnable compensation. The NHRS would be required to follow that mandate in order to maintain the tax status of the plan.

Finally, we would also note that both the State and the NHRS are named in litigation that addresses certain changes to the definition of earnable compensation that were made as part of HB1645 in the 2008 session.

We are available for additional information and analysis as you see fit.

Sincerely,

Richard W. Ingram
Executive Director