

## Administration of the NHRS and benefits for members

### Summary of HB 1645 as passed by the House

Prepared by David Frydman, House Legal Counsel  
Pam Smarling, House Committee Research

Current law	HB 1645 As Amended by House
<b>§1 - Definition of 'Earnable Compensation'</b>	
<p>A retiree's pension is determined through a calculation based on his or her 'earnable compensation'. Under current law this term is defined as:</p> <p>The full base rate of compensation plus</p> <ul style="list-style-type: none"> <li>Overtime pay</li> <li>Holiday and vacation pay</li> <li>Sick pay</li> <li>Longevity or severance pay</li> <li>Cost of living bonus</li> <li>Additional pay for extracurricular and instructional activities</li> <li>Other extra or special duty pay</li> <li><u>Other compensation paid to the member by the employer</u></li> </ul> <p>Plus fair market value of non-cash compensation (meals or lodging) if subject to federal income tax</p>	<p><b>Removes the phrase "and other compensation paid to the member by the employer," from definition of earnable compensation to address concerns about maximum benefits.</b></p> <ul style="list-style-type: none"> <li>• Removing this phrase will eliminate from the calculation of an individual's retirement annuity, retirement incentive payouts by the employer in the last years of employment.</li> </ul>
<b>§§2-4 - Withdrawal of Funds by Inactive Members</b>	
<p>Under existing law, non-vested employees who leave employment (for reasons other than death or retirement) may leave their money in the system for up to 2 years, and continue to earn the assumed rate of return on their funds during that time period. After 2 years, they must withdraw their funds.</p> <p>Applies to Group I and Group II employees.</p>	<p><b>Removes the time restriction for non-vested members to leave their money in the retirement system. Changes the interest rate credited to the funds to 2% below either the assumed rate of return or the actual rate of return whichever is lower for the period they are out of the system. Provides that the rate of return will not be less than zero.</b></p> <p>These accumulated contributions shall be returned within three months of a former member filing a written request for such payment with the system. In the event a former member returns to membership status after a break in service, his or her previous service shall count toward that member's creditable service to the extent that his or her accumulated contributions have remained in the system</p> <p>Change applies to Group I and Group II employees.</p>

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<b>§§5-7 - Medical Subsidy; automatic 8% annual increase no longer in effect starting July 1, 2009</b>	
<p>Under current law, the medical subsidy (paid on behalf of eligible retirees) increases at a rate of 8% each July 1.</p> <p>Current subsidy levels (effective July 1, 2007– June 30, 2008)</p> <p>1 Person = \$375.56  2 Person = \$751.12  1 Person Medicare Supplement = \$236.84  2 Person Medicare Supplement = \$473.68</p>	<p><b>Eliminates the 8% annual increase to the existing medical subsidy starting in FY 2010. Applies to Group I and Group II.</b></p> <ul style="list-style-type: none"> <li>• This change was proposed by the Commission to reduce the growth in the cost of the medical subsidy, and thereby strengthen the long term availability of that subsidy.</li> <li>• Under current state law the 401(h) sub-trust which pays the medical subsidy is funded with 25% of the employer contributions to retirement system.</li> <li>• Prior to July 2007, the 25% of employer contributions diverted from the pension fund, and deposited in the 401(h) sub-trust to pay the medical subsidy, was made up by an equal transfer from the “special medical account” into the pension fund. That practice has been stopped because the retirement systems tax counsel has determined that the annual transfer from the special medical account into the pension fund to make up for the lost funds going into the 401(h) sub-trust violates federal tax law.</li> <li>• When the employer rates are recalculated, effective July 1, 2009, they will be increased significantly, as a result of this tax ruling. Employers claim that this increase may constitute a 28-a violation.</li> <li>• By eliminating the 8% annual escalator in the medical subsidy, the size of the increase in employer rates as a result of the new tax ruling will be lessened and the available funds to pay the medical subsidy will last longer.</li> </ul>

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<b>§8 - Medical Subsidy; review and legislation required for future increases</b>	
Under current law, the medical subsidy amount increases automatically every July 1 by 8%.	<p><b>Requires the NHRS Board of Trustees to biennially review whether it would be prudent to recommend to the legislature whether the amount of the medical subsidy should be increased.</b></p> <ul style="list-style-type: none"> <li>• Since the medical subsidy amount will not automatically increase, this provision provides a biennial review of the amount of funds available for the medical subsidy for each of the 4 subgroups. First report to be submitted by Dec. 1, 2010.</li> </ul>
<b>§9 - Transfer of Funds to the Core Pension Fund</b>	
New provision, nothing comparable in current law	<p><b>Transfers \$250 million from the special account into the pension fund, in order to prolong employer contributions for the medical subsidy payments.</b></p> <ul style="list-style-type: none"> <li>• As discussed above, the NHRS' tax attorney ruling will result in significant increases in the employer rates in order to cover the cost of the medical subsidy program without the benefit of the annual reimbursement to the pension fund from the "Special Medical Account."</li> <li>• While the annual reimbursement from the Special Medical Account is not permitted, a lump sum write-up of the pension fund from the Special account appears to be allowed.</li> <li>• This \$250 million dollar transfer will lower the actuarially determined employer rates needed to fund the pension fund, and thus leave room for the employers to also fund the Medical subsidy program with only a slight increase as compared to what the employers would have paid without the transfer and the tax ruling. (This comparison assumes that the 8% escalator on the medical subsidy is eliminated).</li> <li>• If there is a final court order ruling that the employers are not obligated to fund the medical subsidy program, the transfer is</li> </ul>

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	returned with interest into the special account because the purpose of this transfer is to lower employer rates to make it possible that they absorb the funding of the medical subsidy program.
<b>§§10-13 - Employer Contributions to Medical Subtrust</b>	
<p>Under current state law, 25% of the employers' contributions to the pension fund are redirected to fund the 401(h) sub-trust to pay for the medical subsidy program.</p> <ul style="list-style-type: none"> <li>The 25% was set in state law because that is the maximum permitted under federal tax law.</li> </ul>	<p><b>Amends the employer's duty to fund the 401(h) medical sub-trust to be the lesser of 25% of the employer's contribution or the actuarial required contribution rate that keeps the medical subsidy program solvent.</b></p> <ul style="list-style-type: none"> <li>These sections of the bill reduce the employer rate to fund the medical subsidy program to the lesser of what is needed to keep the account solvent or 25%. This will reduce the size of the increases in employer rates to only that amount necessary to keep the medical subsidy program able to pay its obligations.</li> <li>25% is more than is needed to actually pay for the medical subsidy. While the pension was being reimbursed from the special medical account for this 25%, the higher rate than necessary did not have any negative impact.</li> <li>Now, as a result of the tax counsel opinion, the employers must absorb this 25% in addition to its other obligations to the pension fund, without the annual reimbursement from the special medical account. This provision lowers those contributions to the amount necessary to pay the medical subsidy obligation.</li> <li>Applies to all Group I and Group II employees.</li> </ul>
<b>§14 - Commission on Retiree Health Care Benefits Funding Model.</b>	
<p>New provision, nothing comparable in current law.</p> <ul style="list-style-type: none"> <li>Under current law not all employees are eligible for the medical subsidy program. In</li> </ul>	<p><b>Establishes a commission to design a new retiree health subsidy plan whose charge would be to study and recommend to the General Court by December 1, 2008, the detailed design for a preferential tax vehicle for employees</b></p>

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<p>fact, only 12% of active employees are eligible for the subsidy. To be eligible, a member must have the required number of years of creditable services and:</p> <ul style="list-style-type: none"> <li>- A state employee had to have retired by July 1, 2004,</li> <li>- A teacher or local gov't employee has to retire by July 1, 2008, and</li> <li>- A group II member had to be hired by June 30, 2000.</li> </ul>	<p><b>who do not qualify for the existing medical subsidy, to make contributions that would provide funds for post-employment medical expenses.</b></p> <ul style="list-style-type: none"> <li>• A new approach to providing a medical subsidy in retirement is needed to assist those not eligible for the current program with their retiree health care costs. This provision creates a commission to design a new model and charges it to come back to the legislature with a proposal.</li> <li>• Ideally the plan should: <ol style="list-style-type: none"> <li>1) Allow for employee and employer contributions,</li> <li>2) Utilize tax advantaged contributions, earnings and benefit distributions,</li> <li>3) Would permit employer contributions through negotiated matches for currently active employees,</li> <li>4) Permit additional voluntary employee contributions,</li> <li>5) Be administratively efficient,</li> <li>6) Allow unused sick/vacation leave to be contributed toward medical subsidy, and</li> <li>7) Is viable long term.</li> </ol> </li> <li>• Authorizes the commission to accept and expend gifts, grants or donations</li> </ul>
<p><b>§15 – Maximum Retirement Benefit; affects new members only</b></p>	
<p>Under existing law, a retirement annuity is capped at 100% of the member's highest year of earnable compensation.</p>	<p><b>Caps the amount of the initial retirement annuity at 100% of a retiree's highest year full base rate of pay.</b></p> <ul style="list-style-type: none"> <li>• By limiting the annuity to 100% of the member's highest year full base rate of compensation, a member can not receive an annuity in retirement that exceeds the member's final base pay because of overtime hours worked or because of severance packages.</li> </ul>

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<b>§16 – NHRS Board of Trustees; Membership</b>	
<p>Under current law, there are <b>14</b> trustees on the Board of Trustees at the NHRS.</p> <p>They are:</p> <ul style="list-style-type: none"> <li>• 2 non-member trustees, appointed by the Governor (qualified persons with business experience, not members of the retirement system)</li> <li>• 2 employee members</li> <li>• 2 teacher members</li> <li>• 2 police members</li> <li>• 2 firefighter members</li>   <li>• 1 state senator</li> <li>• 1 state representative</li> <li>• 1 representative of management in local government</li> <li>• State treasurer</li> </ul>	<p><b>Modifies the make-up of the NHRS Board of Trustees to a reduced size with the majority of members not being participants in the NHRS, as follows:</b></p> <p>The Board of Trustees would be composed of a total of 12 trustees rather than 14, of which:</p> <ul style="list-style-type: none"> <li>• <b>4</b> non-member trustees, appointed by the Governor (qualified persons with business experience, not members of the retirement system)</li> <li>• <b>1</b> employee members</li> <li>• <b>1</b> teacher members</li> <li>• <b>1</b> police members</li> <li>• <b>1</b> firefighter members</li>   <li>• 1 state senator</li> <li>• 1 state representative</li> <li>• 1 representative of management in local government</li> <li>• State treasurer</li> </ul> <p>Member trustees will be appointed by the same process as now provided in statute.</p>
<b>§17 – Transition to Reduced Board Membership</b>	
<p>4 of the current member-trustees will complete their terms on July 1, 2008; the other 4 member-trustees will complete their terms on July 1, 2009.</p>	<p><b>Provides the process to transition from the current board structure to the new board structure.</b></p> <ul style="list-style-type: none"> <li>• To transition to this new board, the 4 member-trustees whose terms will expire on July 1, 2009 will not be reappointed and those board positions will be eliminated at that time.</li> </ul>
<b>§18 – Voting by the Chairperson of the Board of Trustees</b>	
<p>Under current law, the Chairperson of the Board of Trustees does not have a vote unless there is a tie vote among the other trustees.</p>	<p><b>Provides that the Chairperson is entitled to vote in all instances.</b></p>

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<b>§19 – Committees established by the Board of Trustees</b>	
<p>Under current law, the Board of Trustees has the authority to empower an investment committee of its members to make investments and deposits between meetings of the board (RSA 100-A:15, II(a)). No other references appear in statute to committee established by the board, however, the board does have legislative, personnel and audit committees.</p>	<p><b>Establishes a committee structure to be composed of members of the board. Provides for investment and audit advisory committees enabling greater involvement of non-board individuals with specialized expertise and experience.</b></p> <ul style="list-style-type: none"> <li>• Requires the NHRS Board of Trustees to establish a committee structure which would include but not be limited to the following five standing committees: <ul style="list-style-type: none"> <li>➤ Investment,</li> <li>➤ Audit,</li> <li>➤ Benefits,</li> <li>➤ Legislative, and</li> <li>➤ Personnel</li> </ul> </li> <li>• Provides that each committee would consist of members of the Board of Trustees. Committee members are appointed by a majority vote of the board. Committees make recommendations to the full board for final approval.</li> <li>• The <i>investment committee</i> shall consist of a majority of members who are experienced in the field of institutional investment. The investment committee recommends investment policy and consultants and reviews investment performance, determines asset allocation, and chooses fund managers.</li> <li>• The <i>investment committee</i> is required to establish an <i>advisory committee</i> of non-board members to provide advice on investment decisions. Advisory committee members must have experience in investment, finance or pension funds.</li> <li>• The <i>audit committee</i> shall have at least one member experienced in the field of public accounting. The committee shall assist the board in fulfilling statutory auditing and reporting requirements.</li> <li>• The <i>audit committee</i> may establish an <i>advisory committee</i> of non-board members with accounting experience.</li> </ul>

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<b>§20 – Fiduciary Responsibility</b>	
<p>Under current law, the Board of Trustees has the power to invest and reinvest funds. Trustees are required to adhere to the “prudent man” standard for the management of funds.</p>	<p><b>Makes explicit and delineates the duties of the Board of Trustees and the investment committee. Clarifies fiduciary responsibilities.</b></p> <p>Grants the Board of Trustees the authority to set investment policies, hire investment consultants and actuarial services, and oversee the investment committee.</p> <p>Requires the investment committee report at least quarterly and the audit committee to cause a performance audit at least once every 3 years.</p> <p>Adopts the “prudent expert” standard for the management of New Hampshire Retirement System (NHRS) funds.</p> <p>Clarifies and affirms the fiduciary obligations of all NHRS Trustees are not subordinate to any other role or position, or basis of selection to the NHRS Board.</p>
<b>§§21- Establishes a new method and formula for providing COLAs out of the Special Account</b>	
<p>Under current law, COLAs are funded through the Special Account. The amount of a COLA is generally established by the Joint Legislative Fiscal Committee for each of the 4 member groups each year. The COLA is added to the retirement annuity base and can only be provided if there is sufficient funds in the special account to terminally fund the COLA.</p>	<p><b>Changes how supplemental allowances will be provided out of the remaining funds in the special account.</b></p> <ul style="list-style-type: none"> <li>• After accounting for the \$250 million transfer from the special account contained in section 9 of this bill, the special account will still have a balance of over \$300 million available to fund future supplemental allowances.</li> <li>• While this bill institutes a new method for providing COLAs (see section 22) the new COLA will not be available for existing retirees or effective for those near retirement.</li> <li>• This section replaces the current system for granting supplemental allowances and creates a new method for providing supplemental allowances from the special account. Subject to sufficient funding in the special account and</li> </ul>

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	<p>beginning on July 1, 2008, annual supplemental allowances will be provided through:</p> <p>An automatic, statutory <i>13<sup>th</sup> check</i> that is not permanently added to the retirement annuity. This additional check would be set at a rate of 2.5 % percent of the retirees base pension benefit. Notwithstanding this formula, a retiree's 13<sup>th</sup> check shall never be less than \$500, increasing at CPI-urban each year, and the 13<sup>th</sup> check shall not exceed 2.5% of the median pension benefit for retirees in their respective sub-group.</p> <ul style="list-style-type: none"> <li>• This new approach guarantees an annual supplemental allowance, does not add that allowance into the base of the retirement annuity, provides a larger allowance for those with the lowest retirement annuities, and caps the amount of the allowance for those receiving the highest retirement to that received by the median retirees in their subgroup.</li> <li>• This approach stretches out the available funds in the special account over a longer period. It also ensures that those receiving the lowest annuity amounts are getting more so that they can adjust for the loss of the 8% increase in the medical subsidy.</li> </ul>
<b>§§22-26 Commission to Study Future COLAs</b>	
	<p><b>Establishes a commission to study the feasibility of authorizing, and depletion schedules for future COLAs to be issued at different rates within employee subgroups. The Commission shall also design and recommend a new pre-funded COLA method.</b></p> <ul style="list-style-type: none"> <li>• The commission's initial report is due 12/1/08; final report due 12/1/09.</li> </ul>

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<p><b>§27 – Ratification of Contribution Amounts;  <u>Requested Changes by the NHRS to implement the IRS corrective actions as identified by NHRS’ tax counsel.</u></b></p>	
<p>Under current law, 25% of employer contributions must be deposited into the 401(h) subtrust.</p>	<p><b>Corrective action for deposits into the 401(h) sub-trust.</b></p> <ul style="list-style-type: none"> <li>• NHRS’s tax counsel discovered that for a number of years prior to 2007, the retirement system had been depositing 33% of employer contributions into the 401(h) sub-trust while our state law limited these deposits to 25%. Thus, technically, the retirement plan has been operating out of compliance with its statutory requirement. In order to ensure that the retirement system is in compliance with its plan documents and avoid a problem with the IRS, the tax counsel recommends ratification of these previous deposits.</li> <li>• Tax counsel further informed the system, that since the IRS regulation limiting contributions to this account to 25% is an aggregate test, not an annual one, the plan is in compliance with federal law.</li> </ul>
<p><b>§28-32– Medical Benefits Financing;  <u>Requested Changes by the NHRS to implement the IRS corrective actions as identified by NHRS’ tax counsel.</u></b></p>	
	<p><b>Corrective action to eliminate the annual reimbursement from the special account to the pension fund for the employer contributions into the 401(h) subtrust.</b></p> <ul style="list-style-type: none"> <li>• Prior to July 2007, the 25% of employer contributions diverted from the pension fund, and deposited in the 401(h) sub-trust to pay the medical subsidy, was made up by an equal transfer from the “special medical account” into the pension fund. That practice has been stopped because the retirement systems tax counsel has determined that the annual transfer from the special medical account into the</li> </ul>

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	<p>pension fund to make up for the lost funds going into the 401(h) sub-trust violates federal tax law.</p> <ul style="list-style-type: none"> <li>• These changes were requested by tax counsel to eliminate the reimbursement from the special account.</li> </ul> <p>Applies to Group I and Group II.</p>
<p><b>§33 - Eligibility for Group II pension benefits changed ; applies to new hires only</b>  increases required years of service from 20 to 25 years  increases required age from 45 to age 50</p>	
<p>Under current law, Group II employees annually accrue 2.5% of their salary per year of employment. Thus in 20 years they are entitled to 50% of their “average final compensation” as a retirement annuity.</p> <p>Also, under current law, a Group II member with <b>20</b> years of creditable service is eligible to retire and receive their retirement allowance at age <b>45</b>.</p>	<p><b>Increases the number of years of service and the age requirements for newly hired Group II employees Applies only to employees hired on or after July 1, 2009.</b></p> <ul style="list-style-type: none"> <li>• Under this provision, newly hired group II members would annually accrue 2% of their salary per year, so that it would take 25 years to be entitled to 50% of you “average final compensation” as a retirement annuity.</li> <li>• This bill would require for Group II members hired after July 1, 2009, they would need <b>25</b> years of creditable service to be eligible to retire and receive their retirement allowance at age <b>50</b>.</li> </ul>
<p><b>§34 – 38 Eligibility change for Group II applied to all types of Group II retirement benefits; new hires only</b></p>	
	<p>Applies change in required number of years of service and age to Group II employees eligibility for:</p> <ul style="list-style-type: none"> <li>• ordinary disability retirement;</li> <li>• accidental disability retirement;</li> <li>• vested deferred retirement;</li> <li>• split benefits.</li> </ul> <p>Applies only to employees hired on or after July 1, 2009.</p>

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<b>§39- Group II Payroll Deduction</b>	
Under current law Group II members with over 40 years of creditable service no longer incur a payroll deduction for the purpose of an employee contribution.	<b>Increases the number of years of service that must be attained before ceasing the payroll deduction to 50 years for Group II members. Applies only to employees hired on or after July 1, 2009.</b>
<b>§40 Decennial Retirement Commission; Long-term Viability of the System</b>	
	<b>In order to provide oversight as to the continued long term viability of the NHRS a commission similar to that established by Chapter 355:1, Laws of 2007 shall be convened once every 10 years, starting in 2017.</b>
<b>§41 Employer Liability for Under Funding of Retiree</b>	
Under current law, employers are not individually responsible for the increased cost to the retirement system of providing large retirement incentives to employees. Instead the additional cost to the retirement system of last year payouts is spread across all existing employers in the NHRS.	<b>This section provides that the retirement system must calculate upon the retirement of each active member, if there is any under funding of for that employees expected payments and to charge the employer for any under funding to the system caused by that employee's retirement.</b>

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<b>§42 Effective Dates</b>	
<p><i>On passage</i></p> <ul style="list-style-type: none"> <li>• Deleting “other compensation” from definition of earnable compensation (§1)</li> <li>• Permitting inactive members to keep contributions in the system, interest calculation (§§2-4)</li> <li>• Stopping the automatic 8% increase in the medical subsidy amount (8% increase included through July 1, 2008) (§§5-7)</li> <li>• Transfer of \$250 million to the pension fund from the Special Account (§9)</li> <li>• Establishing the Commission on Retiree Health Care Benefits Funding Model (§14)</li> <li>• Voting by the Board of Trustees chairperson (§18)</li> <li>• 13<sup>th</sup> check for supplemental allowances (§21)</li> <li>• Commission to Study Future COLAs (§§22-26)</li> <li>• Ratification of past transfer of 33.3% of employer contributions to the 401(h) subtrust (§27)</li> <li>• Corrective action to eliminate the annual reimbursement from the special account to the pension fund for the employer contributions into the 401(h) subtrust (§§28-32)</li> </ul> <p><i>60 days after passage</i></p> <ul style="list-style-type: none"> <li>• Provision relative to committees formed by the Board of Trustees (§19)</li> <li>• Adoption of the ‘prudent expert’ standard and other provisions clarifying fiduciary responsibilities (§20)</li> <li>• Decennial Commission (§40)</li> </ul> <p><i>6/30/09</i></p> <ul style="list-style-type: none"> <li>• Change in composition of the Board of Trustees (§16 and 17)</li> </ul> <p><i>7/1/09</i></p> <ul style="list-style-type: none"> <li>• Biennial review relative to potential increase in medical subsidy by the Board of Trustees, report to legislature by Dec. 1 (§8)</li> <li>• Change to employer contribution to the 401(h) subtrust (§§10-13)</li> <li>• Retirement benefit not to exceed 100% of highest year full base rate of compensation (§15)</li> <li>• Change in Group II eligibility requirements for new hires (§§33-39)</li> <li>• Employer liability for underfunding of retirees’ retirement allowance (§41)</li> </ul>	