



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
Celebrating Seventy-Five Years  
of Service to Your Hometown



# MUNICIPAL EMPLOYER EDUCATION SESSION

## **Pensionable Wages: *What's In, What's Out?***

**February 17, 2016**

**Mark Cavanaugh, NHRS Associate Counsel & Compliance Officer  
and Tamre McCrea, NHRS Audit Team Leader**



- Open and close your Panel
- Submit text questions
- Q&A addressed during and at the end of session
- Two “pop quizzes” today for your entertainment

The screenshot displays a GoToWebinar interface with two main panels. The top panel is titled 'Audio' and includes options for 'Audio Mode' (Use Telephone or Use Mic & Speakers), a 'MUTED' status indicator, and a volume control slider. The bottom panel is titled 'Questions' and features a text input field with the placeholder '[Enter a question for staff]' and a 'Send' button. Red arrows point to the 'Open' and 'Close' buttons in the left sidebar of the Audio panel. A red box highlights the entire Questions panel. At the bottom of the interface, there is a promotional banner for 'Start Holding your Own Web Events with GoToWebinar' and the Webinar ID: 977-124-241.



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## RESOURCES

- RSA 100-A:1, XVII
- Interpretive Memoranda -  
<https://www.nhrs.org/employers/statutory-interpretive-guidance>



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## STATUTORY HISTORY

### Prior to August 29, 2008

Almost all compensation was Earnable Compensation because the statute included the term “other compensation paid to the member by the employer”



# NHRS

New Hampshire Retirement System



## **HB1645 (2008)**

Effective August 29, 2008

Removed “other compensation” from the statute. Earnable compensation includes “full base rate of compensation” plus the types of compensation listed in statute. If not part of Base Compensation and not listed in statute, then not Earnable Compensation



# NHRS

New Hampshire Retirement System



## HB2 (2011)

- Major changes to RSA 100-A:1, XVII
- Two different definitions based on whether the Member was vested prior to January 1, 2012
- Vested Members – RSA 100-A:1, XVII(a)
- Nonvested Members – RSA 100-A:1, XVII(b)



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **BASE COMPENSATION**

RSA 100-A:1, XVII(a) & RSA 100-A:1, XVII(b)(1)

“ ‘Earnable Compensation’ shall mean . . . The full base rate of compensation paid, as determined by the employer . . . ”

Interpretive Memoranda 2015-1



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **AS DETERMINED BY THE EMPLOYER**

- Added to statute by HB2 (2011)
- Employer now has discretion to determine what is Base Compensation subject to limitations as described below
- Prior to HB2 (2011), NHRS determined what was Base Compensation
- Prospective Changes Allowed





# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **BASE COMPENSATION**

## **GENERAL RULES**

### **INTERPRETIVE MEMORANDUM 2015-1**

- Although Employers have general discretion to determine what is Base Compensation, NHRS has the right to make the final administrative determination
- Normal Workweek or Work Shifts - Vacation Days, Sick Days and Floating Holidays



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown





# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

Under RSA 32, the at-large members of a budget committee are either elected or appointed. If they are appointed, who appoints them?

- A. The Selectboard
- B. The Moderator
- C. Secretary of State's Office
- D. Donald Trump



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## COMPENSATION OVER BASE

### PURPOSE

RSA 100-A:1, XVIII(b) – Average Final Compensation

- For Members who commenced service on or after July 1, 2011 or Members who did not attain vested status prior to January 1, 2012, the Compensation Over Base (COB) in calculating the high five years is limited to career average COB not counting high five years
- Term not relevant for Members vested prior to January 1, 2012



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## COMPENSATION OVER BASE REPORTING

- Employers must report COB in the COB field for Members not vested prior to January 1, 2012
- For Members vested prior to January 1, 2012, Employers have the option to report in Base or COB field. If reported in COB field, NHRS will automatically transfer to Base Field However Extra and Special Duty Pay must always be reported in the ESDP field for all members



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
Celebrating Seventy-Five Years  
of Service to Your Hometown

## **COMPENSATION OVER BASE**

### **DEFINITION**

RSA 100-A:1, XVII(b)(1) includes the following types of compensation as COB: Overtime; COLAs; Annual Longevity Pay; Additional Pay for Extracurricular and Instructional Activities; Extra and Special Duty Pay; Military Differential Pay; In-Kind Meals and Living Quarters; Worker's Compensation Supplemental Pay and Teacher Development Pay



## **BASE COMPENSATION**

## **ADDITIONAL RULES**

### **RSA 100-A:1, XVII(b)(4)**

- Stipends - Employer has discretion to determine. If not part of Base Compensation then not Earnable Compensation except for extracurricular and instructional activities for teachers, paraprofessionals and school support staff. See Interpretive Memorandum 2015-2
  - Is amount to be paid generally known at beginning of year?
  - Is amount discretionary?
- Bonuses/Merit Pay - Discretionary bonuses and merit pay are not Base Compensation and, therefore, not Earnable Compensation



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **SPECIFIC EXCLUSIONS FROM EARNABLE COMPENSATION FOR NONVESTED MEMBERS**

### **RSA 100-A:1, XVII(b)(4)**

For Members not vested prior to January 1, 2012, the following types of compensation are not Earnable Compensation:

- Incentives to Encourage Members to Retire
- Severance Pay
- End-of-Career Longevity Pay
- Pay for Unused Sick and Vacation Time





# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **HOLIDAY PAY**

### **INTERPRETIVE MEMORANDUM 2015-3**

- Holiday Pay is extra pay for actually working on a holiday and should be reported as COB
- Base Compensation versus true Holiday Pay
- If additional time off is granted for working on a holiday, when the additional day is later taken off, it is reportable as Base Compensation as part of normal workweek or work shift
- If Member does not use the additional time off and is later paid for it, the additional compensation is reportable as compensation for unused vacation for Members vested prior to 01/01/2012 - Not reportable for Nonvested Members



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## WORKERS' COMPENSATION

- Contributions are not reportable on Workers' Compensation wages paid to Members
- Contributions are reportable on supplemental wages paid (i.e., if the Member uses sick or vacation time to make up the difference between worker's compensation payments and regular wage)
- Service Credit



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown





# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

By statute, New Hampshire municipalities must pay county taxes by what date?

- A. December 1
- B. January 15
- C. December 17
- D. February 1



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **EXTRA AND SPECIAL DUTY PAY (ESDP)** **INTERPRETIVE MEMORANDUM 2013-3**

- RSA 100-A:1, XXXII – “ ‘Extra or special duty’ means member work activities or details for which the employer bills or charges another entity, in whole or in part, for the work activities or details provided”
- Group II Only
- Compensation for services performed during a Member’s regular work shift is not ESDP merely because the Employer is compensated by a third party – Must be extra duty outside of normal work shift
- ESDP is not Earnable Compensation for Members hired on or after July 1, 2011



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

# ADDITIONAL COMPENSATION FOR NON-ABUSE OF SICK TIME, PERFECT ATTENDANCE AND SIMILAR BONUS LEAVE PROGRAMS

## INTERPRETIVE MEMORANDUM 2015-4

Covers many situations where the Member is paid extra compensation or granted additional time off. Does not include compensatory time for overtime. (See slide #19)



# NHRS

New Hampshire Retirement System



## **Proper characterization depends on whether the additional time is taken or whether additional compensation is paid**

- Additional compensation paid and no grant of additional time off: not reportable whether Vested or Nonvested
- Additional time off granted and Member uses the time: reportable as Base Compensation the same as vacation pay
- Additional time off granted, Member does not use the time off and later gets paid out instead: Reportable as pay for unused vacation reportable for Members vested prior to 1/1/12 and not Earnable Compensation for Nonvested Members



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **COMPENSATORY TIME FOR OVERTIME**

- If compensatory time is taken, reportable as Base Compensation as part of normal workweek or work shift
- If compensatory time is not taken but instead the Member is paid for it, the additional pay is reportable as COB the same as overtime pay





# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## SALARY CONTINUANCE

### RSA 100-A:4, III-a

- Compensation paid under a salary continuance plan is Earnable Compensation to the extent attributable to Employer funding until Member is no longer working for the Employer
- Reportable amount is pro rata amount based on ratio of Employer contributions to Member contributions to the salary continuance plan
- Employer must submit a Salary Continuance Form



**NHRS**

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

# **COMPENSATION FOR PART-TIME DUTIES IN EXCESS OF REGULAR FULL- TIME DUTIES**

## **INTERPRETIVE MEMORANDUM 2013-4**

- If part-time duties are not part of one job description, compensation is not reportable as Earnable Compensation
- Exception: Additional Pay for Extracurricular and Instructional Activities



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
Celebrating Seventy-Five Years  
of Service to Your Hometown

## ADDITIONAL PAY FOR EXTRACURRICULAR AND INSTRUCTIONAL ACTIVITIES INTERPRETIVE MEMORANDUM 2015-2

- Earnable Compensation only for Teachers, Paraprofessionals and Support Staff reportable as COB
- The compensation must be paid in exchange for some service or activity relating to the education mission. Payments unrelated to the educational mission are not Earnable Compensation (i.e., stipends for being on bargaining committee or to conduct weight loss class for teachers and staff)



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## TEACHER DEVELOPMENT PAY INTERPRETIVE MEMORANDUM 2015-2

- Earnable Compensation only for Teachers
- Reportable as COB
- Additional compensation paid to a Teacher for additional education and training
- Not reimbursements for expense relating to additional education and training



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

## **SEVERANCE PAY**

- Severance Pay is Earnable Compensation only for Members vested prior to January 1, 2012. Severance Pay is not Earnable Compensation for Nonvested Members
- Severance Pay means additional compensation paid at termination of employment for prior services rendered
- Additional compensation paid pursuant to settlement agreements resolving employment disputes is not Earnable Compensation unless it is clearly identified as “back pay” attributable to a particular period of employment event. However, Employers should report compensation and provide a copy of the settlement agreement. NHRS will issue refunds if it is determined that compensation is not Earnable Compensation.



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
Celebrating Seventy-Five Years  
of Service to Your Hometown

## Important contacts:

- **E.S. Reporting Exceptions - 410-3636**
- **E.S. ER Reconciliation - 410-3673**
- **E.S. Insurance - 410-3675**
  
- **Member Accounting - 410-3683**
- **Employer Audits - 410-3681**



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

The New Hampshire Retirement System (NHRS) is governed by New Hampshire RSA 100-A, rules, regulations, and Federal laws including the Internal Revenue Code. NHRS also implements policies adopted by the Board of Trustees. These laws, rules, regulations, and policies are subject to change. Even though the goal of NHRS is to provide information that is current, correct, and complete, NHRS does not make any representation or warranty as to the current applicability, accuracy, or completeness of any information provided. The information herein is intended to provide general information only, and should not be construed as a legal opinion or as legal advice. Members are encouraged to address specific questions regarding NHRS with an NHRS representative. In the event of any conflict between the information herein and the laws, rules, and regulations which govern NHRS, the laws, rules, and regulations shall prevail.



# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
Celebrating Seventy-Five Years  
of Service to Your Hometown







# NHRS

New Hampshire Retirement System



NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
Celebrating Seventy-Five Years  
of Service to Your Hometown

## Save the Date!

### 75th New Hampshire Municipal Association Annual Conference

Wednesday and Thursday, November 16-17, 2016  
The Radisson Hotel - Manchester, NH



NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
Celebrating Seventy-Five Years  
of Service to Your Hometown





## 2016 Local Officials Workshops

*Workshops for seasoned, newly-elected and appointed municipal officials and other members of the New Hampshire Municipal Association.*

### Dates and Locations

**Saturday, April 9**

To be Announced (Southwest)

**Wednesday, April 13**

Grantham Town Hall  
300 Route 10 South, Grantham

**Wednesday, April 27**

Hudson Community Center  
12 Lions Ave., Hudson

**Wednesday, May 18**

To be Announced (North Country)

**Wednesday, May 25**

Carroll County Complex-  
Delegation/Commissioner  
Conference Room  
95 Water Village Rd., Ossipee

**Saturday, June 4**

25 Triangle Park Drive, Concord

### Agenda

**9:00 a.m.— 4:00 p.m.**

Continental breakfast and lunch will be provided.

### Overview

Presented by NHMA's Legal Services attorneys, the workshops provide newly elected and appointed municipal officials with tools and information to effectively serve their communities. Topics will include the Right-to-Know Law, ethics and conflicts, town governance, public employment, liability and more. Interactive discussions will offer an opportunity to test scenarios, discuss concerns, ask questions and share ideas.

Attendees will receive a complimentary copy of NHMA's 2016 edition of publication, *Knowing the Territory*.

### No Fee, But On-line Registration is Required!

For more information or to register online, please visit [www.nhmunicipal.org](http://www.nhmunicipal.org) and click on the Calendar of Events. Space is limited!

Cancellation must be received 48 hours in advance. If cancellation is not received 48 hours in advance, NHMA will invoice you for \$20 to cover workshop costs, including meals.

Questions? Please call 800.852.3358, ext. 3350 or email [NHMAregistrations@nhmunicipal.org](mailto:NHMAregistrations@nhmunicipal.org).



THANK  
YOU

---

*for attending our webinar presentation today!*

## Mission Statement

The New Hampshire Municipal Association is a non-profit, non-partisan association working to strengthen New Hampshire cities and towns and their ability to serve the public as a member-funded, member-governed and member-driven association since 1941. We serve as a resource for information, education and legal services. NHMA is a strong, clear voice advocating for New Hampshire municipal interests.



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Celebrating Seventy-Five Years  
of Service to Your Hometown

25 Triangle Park Drive  
Concord, NH 03301  
[www.nhmunicipal.org](http://www.nhmunicipal.org) or  
[legalinquiries@nhmunicipal.org](mailto:legalinquiries@nhmunicipal.org)  
603.224.7447  
NH Toll Free: 800.852.3358

