

NEW HAMPSHIRE ADULT PAROLE BOARD

SUPPLEMENTAL MATERIAL PACKET

Prepared for the Senate Finance Committee
by New Hampshire Adult Parole Board Chairman Jennifer Sargent

STATUTORY LANGUAGE FOR THE ADULT PAROLE BOARD

This is what the Governor proposed in the original HB2. It is how Paragraph III of amended RSA 651-A:3 should read.

III. The governor shall designate one member as chairman [~~and the chairman shall designate one other member to serve as chairman in his absence~~]. **The salary of the chairman shall be that established in RSA 94:1-a as grade GG, with appropriate step to be determined in accordance the provisions of RSA 21-I:42. The chairman shall designate one other member to serve as temporary designee chairman in his or her absence, however, the designated chairman shall not receive the chairman's salary or employee status while serving in the chairman's absence.** In the case of a revocation hearing an attorney of the board shall be present at the hearing. Board members shall be paid [~~\$100 a day plus mileage at the state employee rate while engaged in parole hearings or administrative meetings.~~] **an annual stipend of \$30,000 for each member, to be paid in equal installments on each state employee pay period date, with no reimbursement for mileage or other expenses for any reason.**

The next page contains the HB2 version as passed by the House. Please do not use that version of Paragraph III. Instead, use Paragraph III as it appears on this page, above.

PROBLEMS WITH HB2 VERSION OF PAROLE BOARD STATUTE 651-A:3 AS PASSED BY THE HOUSE

Parole Board portion of HB2
As passed by House 4/7/21:

651-A:3 Adult Parole Board; Establishment; Procedures.

I. There shall be an adult parole board with [9] **5 members, 2 of which shall be attorneys with active licenses**. The members of the board shall be appointed by the governor with the consent of the council for staggered terms of 5 years or until their successors are appointed. No member shall serve more than 2 consecutive terms. A vacancy on the board shall be filled for the unexpired term.

II. The composition of the board shall be as follows:

(a) One member as chairman.

(b) Four additional members, to include:

(1) One member with law enforcement or corrections experience, either current or former.

(2) One member with criminal justice experience, which may be direct employment experience, current or former, in some capacity within the criminal justice system, or post-secondary school teaching, scholarship, and research pertaining to the criminal justice system.

(3) One at-large member who is either an attorney with an active New Hampshire license or a mental health professional with an active New Hampshire license;

(4) One at-large member without any categorical designation.

III. The governor shall designate one member as chairman [and the chairman or other member to serve as chairman in his absence]. **Beginning on January 1, 2022, the salary of the chairman shall be established in RSA 94:1-a and shall not be higher than grade GG, until the appropriate grade and step are determined in accordance the provisions of RSA 21-**

The chairman shall report directly to the commissioner of the department of corrections. The chairman shall designate one other member to serve as temporary designee chairman in his absence, however, the designated chairman shall not receive the employee status while serving in the chairman's absence. In the case of a revocation hearing an attorney of the board shall be present at the hearing. Board members shall be paid [~~\$100 a day plus mileage at the state employee rate~~ **an annual stipend of \$20,000 for each member, to be paid in equal installments on each state employee pay period date, with no reimbursement for mileage or other expenses for any reason.**]

IV. The board shall hold at least [24] **36 days of parole hearings and 36 days of parole revocation hearings each year and may hold more hearings as necessary. Each parole **and parole revocation** hearing shall be held by a hearing panel consisting of exactly 3 members of the board. The board shall establish operating procedures which provide for rotation of board members among hearing panels.**

V. In the event of a pandemic or other extraordinary occurrence declared an emergency by the governor that results in restricted movement or quarantining of inmates at any New Hampshire state prison facility, the parole board may conduct all hearings via teleconference or other video conference technology.

123 Applicability. On the effective date of section 122 of this act, the current chairman of the adult parole board shall remain chairman and designate 4 current members who fit the criteria outlined in RSA 651-A:3, II(b)(1)-(4) as inserted by section 122 of this act, to remain members of the parole board according to their current terms. In the event that there are not 4 members on the existing board who meet the criteria outlined in RSA 651-A:3, II(b)(1)-(4), the chairman may designate an existing member to temporarily occupy any open member vacancy until a new appointment for the vacancy is nominated by the governor and confirmed by the executive council. Any current members who remain on the board, including the current chairman, shall serve until the expiration of their current terms or until a successor is appointed and qualified.

- **Chairman's salary cannot be delayed and must begin on July 1, 2021:**
 - **The Chairman is currently a TEMPORARY Full-Time employee whose temporary position ceases to exist on July 1, 2021. The Chairman cannot work for free for 6 months and cannot perform all of her duties under the current statutory rate of \$100 on hearing days. That is why the temporary full-time position was created in the first place. GG salary rate was arrived at by Governor by comparing salaries of other comparable heads of agencies and departments.**
- **Board members perform approx. 30 hrs/week of work and must be remunerated accordingly. Recruiting qualified and willing Board members will be virtually impossible at the House's \$20,000 stipend.**

Cannot be delayed and should just be GG

Conflict of interest

Not enough funding for that amount of work

State of New Hampshire
Office of the Governor
Budget Adjustments Worksheets for Budget Fiscal Years 2022 and 2023

CATEGORY 02 ADMIN OF JUSTICE AND PUBLIC PRTN
DEPT 00046 CORRECTIONS DEPT
AGENCY 046 CORRECTIONS DEPT
ACTIVITY COM460010 OFFICE OF THE COMMISSIONER
ACCT.UINIT 71700000 PAROLE BOARD

2022E03

FUND 010

Class	Description	FY 2020		FY 2021		FY 2022					FY 2023				
		Actual	Adj Auth	Adjustment	Revised	Maint	Change	Request	Adjustment	Revised	Maint	Change	Request	Adjustment	Revised
010	Personal Services-Perm. Classi	147,688	193,358	0	193,358	177,252	45,468	222,720		222,720	188,750	49,058	237,808		237,808
011	Personal Services-Unclassified	74,676	78,630	0	78,630	84,843	0	84,843	82,700	167,543	88,072	0	88,072	90,774	178,846
020	Current Expenses	3,713	3,605	0	3,605	2,942	160	3,102	200	3,302	3,001	0	3,001	200	3,201
022	Rents-Leases Other Than State	2,020	2,078	0	2,078	2,078	0	2,078	1,428	3,506	2,078	0	2,078	1,428	3,506
026	Organizational Dues	375	450	0	450	0	0	450	450	450	0	0	0	450	450
030	Equipment New/Replacement	1,091	400	0	400	0	1,150	1,150	0	1,150	0	0	0	0	0
037	Technology - Hardware	0	0	0	0	0	6,398	6,398	5,035	11,433	0	0	0	0	0
038	Technology - Software	779	0	0	0	0	3,938	3,938	-462	3,476	0	0	0	3,341	3,341
039	Telecommunications	5,357	5,357	0	5,357	6,186	387	6,573	1,623	8,196	6,186	387	6,573	648	7,221
050	Personal Service-Temp/Appointe	58,899	92,941	0	92,941	78,429	0	78,429	62,462	140,891	79,737	0	79,737	61,958	141,695
060	Benefits	143,951	192,864	0	192,864	191,749	35,584	227,333	-12,434	214,899	202,293	37,889	240,182	-13,025	227,157
068	Remuneration	0	800	0	800	0	0	0	0	0	0	0	0	0	0
070	In-State Travel Reimbursement	10,743	15,628	0	15,628	11,881	0	11,881	-11,000	881	11,881	0	11,881	-11,000	881
80	Out-of-State Travel							3,000					3,000		3,000
103	Contracts for Op Services	627	450	0	450	316	0	316		316	316	0	316		316
230	Interpreter Services	275	275	0	275	0	0	0	0	0	0	0	0	0	0
	Total Expenditures	450,194	586,836	0	586,836	555,676	93,085	651,761	130,002	778,763	582,314	87,334	672,648	134,774	807,422
GF	General Fund	450,194	586,836	0	586,836	555,676	93,085	648,761	130,002	778,763	582,314	87,334	669,648	134,774	804,422
	Total Revenue	450,194	586,836	0	586,836	555,676	93,085	648,761	130,002	778,763	582,314	87,334	669,648	134,774	804,422

THIS IS THE PAROLE BOARD'S FINAL WORKSHEET. THE PAROLE BOARD REQUESTS FUNDING IN THE AMOUNTS LISTED IN THE "REVISED" COLUMNS FOR 2022 AND 2023. THESE 'REVISED' COLUMNS CONTAIN ALL OF THE NUMBERS NECESSARY TO COME INTO COMPLIANCE WITH THE APRIL 2019 PERFORMANCE AUDIT.

SOME NOTABLE POINTS REGARDING THE AUDIT AND THE PRIORITIES OF THE BUDGET REQUESTS:

1. PRIORITY #1 -STAFFING THE PAROLE OFFICE AND BOARD APPROPRIATELY:

A. The audit observed a desperately understaffed office. A completely staffed parole office requires a full-time Chairman (head of the agency), a full-time Executive Assistant (head of day-to-day operations - delegates and oversees all office functions including hearings, releases, prisoner transports, ICOTS applications, etc.), as well as supervises Supervisor IV), a full-time Supervisor VI (primarily coordinates parole revocation processes, supervises all other office employees, takes over for Executive Assistant in their absence), two full-time Case Counselors/Case Managers (primarily handle parole hearing coordination and preparation, and all releases), and Secretaries (Executive, Secretary II and one p/t Secretary/Typist).

B. Based on extensive research, the Board should have a F/T Chairman at GG salary grade and 4 additional members with specific backgrounds and a \$30,000 annual stipend in order to operate at maximum efficiency for the lowest cost.

2. PRIORITY #2 - ELECTRONIC AND TECHNICAL DIGITIZATION OF BOARD OPERATIONS:

The audit (and the media) have observed that the Board's and Office's operations are costly and inefficient because they rely heavily on non-technology based operations. A detailed Class line 027 (newly developed by DoIT for the Parole Board) containing equipment, software licenses and telecom expenses creates an immediate investment that allows the Board and Office to operate in a manner that saves thousands of taxpayers' dollars each year.

DOC ADULT PAROLE BOARD SPREADSHEET (Class 027)						
	Quantity	COST EACH	FY 22 TOTAL	Quantity	COST EACH	FY 23 TOTAL
CLASS 020						
Supplies			\$ 250.00		Yearly	\$ 275.00
Total CLASS 020			\$ 250.00			\$ 275.00
CLASS 022						
MFP Lease (through Graphic Services): Konica Minolta BizHub Model 365e		Yearly	\$ 1,428.00		Yearly	\$ 1,428.00
Total CLASS 022			\$ 1,428.00			\$ 1,428.00
CLASS 037						
Laptop (Standard U01)	5	\$ 1,644.00	\$ 8,220.00	0	\$ -	\$ -
Desktop PC (Standard)	1	\$ 848.00	\$ 848.00	0	\$ -	\$ -
Dell Pens / Pencils	5	\$ 74.50	\$ 372.50	0	\$ -	\$ -
Dell 24" Monitor	6	\$ 182.00	\$ 1,092.00	0	\$ -	\$ -
WAP - wireless access-Hearing Room	1	\$ 900.00	\$ 900.00	0	\$ -	\$ -
Total CLASS 037			\$ 11,432.50			\$ -
CLASS 038						
MS Client Access license (CAL)	1	Yearly	\$ 36.20		Yearly	\$ 36.20
MS Windows OS license	1	\$ 135.50	\$ 135.50	0	\$ -	\$ -
M365 license Yearly	6	\$ 219.00	\$ 1,314.00	6	\$ 219.00	\$ 1,314.00
Adobe Pro License Yearly	5	\$ 398.00	\$ 1,990.00	5	\$ 398.00	\$ 1,990.00
Total CLASS 038			\$ 3,475.70			\$ 3,340.20
Class 039						
Conferennce Telephone	1	\$1,012.00	\$ 1,012.00	0	\$ -	\$ -
Telephone Monthly Service (no voice mail)		Yearly	\$202.20		Yearly	\$202.20
VoIP Phone (standard)	1	\$165	\$165.00	0	\$ -	\$ -
VoIP Telephone Service and Voicemail	1	Yearly	\$ 243.00		Yearly	\$ 243.00
Total CLASS 039			\$ 1,622.20			\$ 445.20
TOTALS			\$ 18,208.40			\$ 5,488.40

For line 010, the funds for the new, additional position of Case Counselor/Case Manager were inadvertently omitted by the Governor's Office before the budget went to print. Please see the email on the next page for confirmation that the Governor has always supported the new, additional CC/CM position.

For lines 037, 038 and 039, the numbers have been completely redone, as a line 027 for parole now exists, and equipment and operational costs have been finally determined.

	FY 2020 ACTUAL EXPENSE	FY 2021 ADJUSTED AUTH	FY 2022 GOVERNOR'S RECOMMENDED	FY 2023 GOVERNOR'S RECOMMENDE
02 ADMIN OF JUSTICE AND PUBLIC PRTN				
46 CORRECTIONS DEPT				
46 CORRECTIONS DEPT				
460010 OFFICE OF THE COMMISSIONER				
7170 PAROLE BOARD				
			These numbers are incorrect - the CC/CM position is left out	
010 Personal Services-Perm. Classified	147,688	193,358	177,253	188,750
011 Personal Services-Unclassified	74,676	78,630	167,543	178,846
020 Current Expenses	3,713	3,605	3,102	3,001
022 Rents-Leases Other Than State	2,020	2,078	2,500	2,500
026 Organizational Dues	375	450	450	450
030 Equipment New/Replacement	1,091	400	1,150	0
037 Technology - Hardware	0	0	7,550	0
038 Technology - Software	779	0	2,185	3,085
039 Telecommunications	5,357	5,357	6,573	6,573
050 Personal Service-Temp/Appointed	58,899	92,941	140,891	141,695
060 Benefits	143,951	192,864	214,899	227,157
068 Remuneration	0	800	0	0
070 In-State Travel Reimbursement	10,743	15,628	881	881
080 Out-Of-State Travel	0	0	3,000	3,000
103 Contracts for Op Services	627	450	316	316
230 Interpreter Services	275	275	0	0
TOTAL	450,194	586,836	728,293	756,254
ESTIMATED SOURCE OF FUNDS FOR PAROLE BOARD				
GENERAL FUND	450,194	586,836	728,293	756,254
TOTAL SOURCE OF FUNDS	450,194	586,836	728,293	756,254
NUMBER OF POSITIONS				
PERMANENT CLASSIFIED	4	4	4	4
UNCLASSIFIED POSITIONS	1	1	2	2
TOTAL NUMBER OF POSITIONS	5	5	6	6
			Should be 5 because of CC/CM position	
			Should be 7 because of CC/CM position	

Here is an email from Matthew Mailloux to Representative Ober explaining that the CC/CM position was inadvertently left out of the Governor's Budget and that the Governor continues to support the funding for the new position (in bold, below):

From: Mailloux, Matthew-GOV
Sent: Friday, February 26, 2021 3:06 PM
To: 'lynne.ober@comcast.net' <lynne.ober@comcast.net>
Subject: Parole Board Budget

Hi Representative Ober,

Thank you for our conversation earlier on the budget and specifically the parole board's line items. I have connected with Jennifer Sargent and it sounds as though she will be providing additional documentation on the personnel class lines. **I have attached her correspondence on the CC/CM position that was inadvertently excluded from the Governor's budget as introduced. We continue to support this funding for the new position.**

Please let me know if you have any questions or if you need any additional information. I look forward to next week's series of agency work sessions. I know the house has a tall task ahead, but please let me know where and how I can be helpful.

Thanks,

Matt

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Matthew Mailloux
Budget Director
Office of Governor Christopher T. Sununu
State of New Hampshire
Matthew.Mailloux2@nh.gov | (603) 732-7416

Salary of GG appropriate for full-time Chairman, NH Adult Parole Board

The Chairman of the NH Adult Parole Board is the legal and policy director of a state agency. Parole Boards are quasi-judicial boards that make legally binding decisions regarding the release and recommittal of prison inmates.

As stated by the New Hampshire Supreme Court in *Asmussen v. Commissioner, Department of Safety*, 145 NH 578 (2000):

“Part I, Article 35 of the New Hampshire Constitution provides in part that “[i]t is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit.” This requirement applies to quasi-judicial officers. See, e.g., *Appeal of City of Keene*, 141 N.H. 797, 801, 693 A.2d 412, 415 (1997). “Part I, Article 35 mandates . an independent judiciary so that the adjudication of individual controversies is fair and remains uninfluenced by outside forces.” *Petition of Mone*, 143 N.H. 128, 137, 719 A.2d 626, 633 (1998)” (emphasis in bold, added).

In the Parole Board’s case, the Chairman is akin to a judge in criminal court during parole revocation hearings, as these types of hearings are conducted in an adversarial way with a prosecutor, a parolee who has the Sixth Amendment right to counsel, and the Constitutional requirements of substantive and procedural due process of law. Moreover, the administrative obligations of the Chairman are akin to a Chief Justice of a court system. The job requires the Chairman to interpret laws and legal policy, as well as construct legal procedure, draft administrative rules and legislation, direct the operational processes of the office so that they are both legal and efficient, and manage and train the members of the parole board. During this year’s extraordinary pandemic, the Chairman had to devise protocols and procedures to keep parole hearings and parole revocation hearings operating according to law and administrative rules inside an institution (the DOC) that curtailed movement and access to inmates (for safety purposes) outside of the Chairman’s control.

In light of the observations in the Parole Board Performance Audit of April 2019, and in light of what chairing the parole board and directing the parole office entails, it is clear that not only must the Chairman have a full-time position, but also the Chairman must be compensated at a rate commensurate with the requirements of the job and the competencies, education and experience required to do the rigorous work.

Since January 2021, I have been working with the Governor’s staff (primarily the Governor’s Counsel and the Director of Appointments) to assess the totality of the Chairman’s obligations and find comparable positions within the state system. Through this process, the Governor recommends that the Chairman of the NH Adult Parole Board be compensated at the unclassified rate GG.

As for me personally, given my job experience as a NH public defender, NH (state) district court judge, NH Disciplinary Counsel, Vermont Law School Associate Professor (criminal law, criminal procedure, evidence, professional ethics) and Visiting Associate Professor and Senior Lecturer at Dartmouth College (dually appointed in the Institute of Writing and Rhetoric and the

Women's, Gender & Sexuality Studies Department), the Governor recommended my starting salary within GG be at Step 2.

Here are the state positions funded at GG salary rate (positions particularly comparable are highlighted in yellow):

Section 94:1-a

GG Board of medicine executive director
GG Liquor commission chief operating officer
GG Liquor commission commissioner
GG Liquor commission director of enforcement and licensing
GG Liquor commission director of marketing, merchandising, and warehousing
GG Adjutant general deputy adjutant general
GG Department of education director, workforce innovation
GG Department of education director, standards and certification
GG Department of education director of instruction
GG Department of health and human services quality assurance and improvement substance abuse manager
GG Department of health and human services director of developmental services
GG Department of health and human services New Hampshire hospital chief financial officer
GG Department of justice director
GG Department of natural and cultural resources director, division of parks
GG Department of health and human services director of legislative affairs
GG Department of corrections director, division of administration
GG Department of corrections director of community corrections
GG Department of corrections director of security and training
GG Department of corrections psychiatrist
GG Department of corrections senior physician
GG Department of environmental services chief operations officer
GG Department of health and human services director of child support services
GG Department of employment security general counsel
GG Department of natural and cultural resources state librarian
GG Department of business and economic affairs director of economic development
GG State treasurer deputy treasurer
GG Banking department deputy bank commissioner
GG Department of corrections director, division of field services
GG Department of safety deputy director of motor vehicles
GG Department of safety director of information technology
GG Department of safety chief of policy and planning
GG Police standards and training council director
GG Department of business and economic affairs director of travel and tourism
GG Department of natural and cultural resources director, forests and lands
GG Department of health and human services director of quality assurance
GG Department of health and human services director of program planning and integrity
GG Department of state deputy secretary of state
GG State treasurer chief deputy treasurer
GG Department of transportation director of policy and administration
GG Department of information technology director
GG Department of information technology director
GG Insurance department chief financial examiner

GG Department of corrections warden, New Hampshire correctional facility for women

GG Public utilities commission administrator, site evaluation committee

GG Department of health and human services deputy Medicaid director

GG Department of safety assistant director, division of homeland security and emergency management

GG Department of administrative services manager of employee relations

GG Department of information technology assistant director, agency software division

GG Department of health and human services deputy director, division of public health services

GG Department of health and human services director, project management

GG Department of health and human services bureau chief of elderly and adult services

Home Plans

A typical parole packet set for one day of parole hearings

~750-1000 pages

25-28 hearings every Tuesday and Thursday

25-30 hours of prep time for one hearings day

Hearings go straight from 9 a.m. - 4:30 p.m.

A 500 page ream of paper

8 1/2" x 11" • 20 LB. • 92 Brightness • 500 Sheets
Copy Paper
RECYCLED
FLAGSHIP

W.B. MASON
WHO BUT