

GOVERNOR AND EXECUTIVE COUNCIL MINUTES
State House, Concord, New Hampshire
June 1, 2016 10:00 a.m.

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The Governor and Executive Council convened at 10:00 a.m. with all members present.

Today's pre-meeting ceremonial items included:

- Prayer and Pledge of Allegiance led by Councilor Kenney; and
- Music from Guitarist Chris Peters of the Chris Peters Band

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The Governor and Executive Council on motion of Councilor Kenney, seconded by Councilor Pappas, accepted the minutes of May 18, 2016.

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The Governor and Executive Council, on motion of Councilor Kenney, seconded by Councilor Pappas, approved the appointment of several persons nominated for Civil Commissions from the May 18, 2016 meeting.

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The Governor placed into nomination the several persons who applied for Civil Commissions.

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RESIGNATIONS

The Governor and Council accepted the following resignations:

Advanced Manufacturing Education Advisory Council

(Superintendent)

Mark C. Conrad, Nashua

Effective: June 1, 2016

State Commission for Human Rights

Jacqueline H. Davis, Auburn

Effective: June 1, 2016

Director of the Division of Administration at the New Hampshire Liquor Commission

Craig W. Bulkley, Derry

Effective: June 30, 2016

CONFIRMATIONS

The Governor and Council confirmed the following:

Community College System of New Hampshire - RSA 188-F – Councilor Van Ostern recused himself.

(General Public)

Katharine Bogle Shields, Canterbury

Effective: June 1, 2016

Reappointment

Term: June 30, 2020

Community College System of New Hampshire - RSA 188-F – Councilor Van Ostern recused himself.

(Community Service Sector)

Tricia H. Lucas, Manchester

Effective: June 30, 2016

Reappointment

Term: June 30, 2020

Executive Branch Ethics Committee – RSA 21-G:29 – Councilors Kenney and Wheeler voted NO.

(The Governor noted that this confirmation is a result of the nomination made by the Secretary of State.)

Justin A. Cutting, d, Hampton

Effective: June 1, 2016

Succeeding: James A. Normand, Manchester

Term: June 30, 2017

Please refer to the end of the minutes for comments and back up information regarding this confirmation submitted by Councilor Wheeler.

Lakes Management Advisory Committee - RSA 483-A
(Business & Industry Association)
Frank Lemay, Chichester
Reappointment

Effective: July 8, 2016
Term: July 8, 2019

Residential Ratepayers Advisory Board - RSA 363:28-a
(Represents interests of small business owners)
Dana C. Nute, Sanbornton
Succeeding: Deborah de Moulpied, Bow

Effective: June 1, 2016
Term: January 5, 2018

Rivers Management Advisory Committee - RSA 483:8
(Rep. of the Granite State Hydropower Association)
Mark A. Lombardi, Hancock
Succeeding: Alan Larter, Franklin (resigned)

Effective: June 1, 2016
Term: January 5, 2018

Speech-Language Pathology Governing Board - RSA 328-F
(Licensed SPL)
Cassandra Chapman, Manchester
Succeeding: Laura A. Darling, Loudon (term limited)

Effective: June 1, 2016
Term: March 4, 2019

Wetlands Council - RSA 21-O:5-a
(Elected Municipal Official)
(Nominated by the NH Municipal Association)
Sheridan Brown, Grantham
Vacancy

Effective: June 1, 2016
Term: January 3, 2018

NOMINATIONS

The Governor placed into nomination the following:

State Committee on Aging - RSA 161-F
(Coos County)
Mark M.E. Frank, Lancaster
Reappointment

Effective: June 24, 2016
Term: June 24, 2019

State Committee on Aging - RSA 161-F
(Strafford County)
John Kennedy, Rochester
Succeeding: Susan Turner, Portsmouth

Effective: June 24, 2016
Term: June 24, 2019

Athletic Trainers Governing Board - RSA 328-F
Scott J. Roy, Grantham
Reappointment

Effective: Upon Confirmation
Term: January 8, 2019

Athletic Trainers Governing Board - RSA 328-F
Nicole Spaulding, Newmarket
Succeeding: Renee C. Kleszczynski, Durham (resigned)

Effective: Upon Confirmation
Term: January 8, 2017

Community College System of New Hampshire - RSA 188-F
(Public Member)
Richard M. Heath, Bow
Reappointment

Effective: June 30, 2016
Term: June 30, 2020

Board of Dental Examiners - RSA 317-A
(Public Member)
Linda Tatarczuch, Durham
Reappointment

Effective: August 12, 2016
Term: August 12, 2021

Executive Branch Ethics Committee - RSA 21-G:29
(Nominated by the State Treasurer)
Gregory L. Silverman (d), Concord
Reappointment

Effective: June 30, 2016
Term: June 30, 2019

Board of Medicine - RSA 329
Daniel P. Potenza, Warner
Succeeding: Amy Feitelson, Rye (term limited)

Effective: Upon Confirmation
Term: April 21, 2021

Occupational Therapy Governing Board - RSA 328-F
(Public Member)
Patricia H. Gruttemeyer, Contoocook
Succeeding: Barbara D. Richardson, Concord (resigned)

Effective: Upon Confirmation
Term: August 18, 2016

Executive Director for the Office of Professional Licensure and Certification - RSA 310-A:1-b
Peter D. Danles, Jericho, VT
Vacancy
Salary: Grade II; Step 3 - \$96,201.04

Effective: Upon Confirmation
Term: 4 years from confirmation

Public Employee Labor Relations Board - RSA 273-A:2
(Labor)
Richard J. Laughton, Durham
Reappointment

Effective: Upon Confirmation
Term: October 2, 2021

Real Estate Appraisers Board - RSA 310-B
(Representative of NH lending institution)
Donald A. St. Germain, Manchester
Vacancy

Effective: August 12, 2016
Term: August 12, 2019

Board of Managers of the New Hampshire Veterans' Home - RSA 119:2
(Female member in good standing of the Dept. of American Legion Auxiliary)
Jerilyn O. Maynard, Hudson
Succeeding: Madeline R. Dreusicke, Pelham (term limited)

Effective: Upon Confirmation
Term: March 1, 2019

Board of Managers of the New Hampshire Veterans' Home - RSA 119:2
(Member of a Recognized and Chartered Veterans Service Organization)
Richard L. Murphy, Merrimack
Reappointment

Effective: Upon Confirmation
Term: June 10, 2019

CONSENT CALENDAR AGENDA

#1 MOP 150, I, B (1): Expenditure Approvals

STATE TREASURY

#A. Authorized with Councilor Wheeler voting **no**, to enter Sylvia Yeaton into an education tuition agreement with Franklin Pierce University, Rindge, NH, to participate in the course titled International Business, during the period of July 5, 2016 through August 20, 2016, and to pay said costs in the amount of \$1,140. **100% General Funds.**

STATE TREASURY

#B. Authorized the Comptroller to issue a warrant from funds not otherwise appropriated in the amount of \$87,368 and the State Treasurer to issue checks in the amount of \$87,368.44 to the rightful owners of abandoned or unclaimed funds.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
Division for Children, Youth & Families**

#C. Authorized to pay an annual membership fee to the Interstate Commission for Juveniles, Lexington, KY, to access the Center for State Foster Care and Adoption Data services, in an amount of \$12,000. Effective July 1, 2016 through June 30, 2017. **25% Federal, 75% General Funds.**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
Division for Children, Youth & Families**

#D. Authorized to pay a membership fee to the Council of Juvenile Correctional Administrators, Braintree, MA, in the amount of \$3,492 for annual membership in the Council of Juvenile Correctional Administrators. Effective July 1, 2016 through June 30, 2011. **100% Federal Funds.**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
Division for Children, Youth & Families**

#E. Authorized to pay an annual membership fee to the Judge Baker Children's Center, Boston, MA, for the New England Association of Child Welfare Commissioners and Directors, in the amount of \$19,000. Effective July 1, 2016 through June 30, 2011. **43% Federal, 57% General Funds.**

DEPARTMENT OF CORRECTIONS

#F. Authorized to pay an invoice in the amount of \$20,629.30 to the Interstate Commission for Adult Offender Supervision, Lexington, KY, for annual membership dues. Effective July 1, 2016 through June 30, 2017. **100% Other Funds.**

DEPARTMENT OF ENVIRONMENTAL SERVICES

#G. Authorized to pay membership dues to the Coastal States Organization, Washington, DC, in the amount of \$8,544. Effective July 1, 2016 through June 30, 2017. **100% Federal Funds.**

LOTTERY COMMISSION

#H. Authorized to pay Fiscal Year 2017 membership dues in the amount of \$16,000 to the North American Association of State and Provincial Lotteries, Concord, OH. Effective July 1, 2016 through June 30, 2017. **100% Lottery Funds.**

#2 **MOP 150, I, B (2): Approval of Acceptances**

NEW HAMPSHIRE EMPLOYMENT SECURITY

#A. Authorized to accept a donation from the Abdul Latif Jameel Poverty Action Lab (J-PAL) in the form of payment for training and travel-related expenses for an employee to attend an Executive Education Course in Cambridge, MA. This estimated value of the donation is \$6,520.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
New Hampshire Hospital**

#B. Authorized to accept donations from January 1, 2016 through March 31, 2016 from contributors, in the amount of \$4,163.93, and deposit into the Resident Benefit Fund.

#3 **MOP 150, I, B (3): Reports and Findings**

DEPARTMENT OF CORRECTIONS

#A. Authorized to accept and place on file the annual report for State Fiscal Year ending June 30, 2015.

DEPARTMENT OF ADMINISTRATIVE SERVICES

#B. Authorized to accept and place on file the Report and Findings of Councilor Colin Van Ostern with regard to a certain project in participation with Dublin School Inc., Dublin, NH.

DEPARTMENT OF ADMINISTRATIVE SERVICES

#C. Authorized to accept and place on file the Report and Findings of Councilor David K. Wheeler with regard to a certain project in participation with Southern New Hampshire Medical Center, Nashua, NH.

#4 **MOP 150, I, B (4): Nominations, Confirmations and Appointments**

THE ADJUTANT GENERAL'S DEPARTMENT

#A. Authorized the confirmation of Captain Karl W. Smith, Durham, NH, for promotion to the rank of Major, NH Air National Guard.

THE ADJUTANT GENERAL'S DEPARTMENT

#B. Authorized the confirmation of LTC Andrew C. Anderson, Nottingham, NH, to the rank of Colonel, NH Army National Guard.

DEPARTMENT OF JUSTICE

#C. Authorized to appoint Kevin J. O'Brien as a Criminal Investigator at a salary level of \$61,998.56 (LG BB, Step 3). Effective upon G&C approval, or June 17, 2016, whichever is the latter, through June 30, 2017.

DEPARTMENT OF JUSTICE

#D. Authorized to appoint Mark J. Myrdek to a position where he will remain as a Criminal Investigator at a salary of \$72,729.80 (LG BB, Step 6). Effective upon G&C approval, or June 10, 2016, whichever is the latter, through May 27, 2021.

DEPARTMENT OF JUSTICE

#E. Authorized to reappoint Elizabeth A. Lahey as an Assistant Attorney General at a salary level of \$65,000. Effective June 14, 2016 through June 14, 2021.

#5 **MOP 150, I, B (5): Other Items**

INSURANCE DEPARTMENT

#A. Councilor Kenney requested that this item be removed from the consent calendar for discussion. Following discussion, the Governor and Council on motion of Councilor Kenney, seconded by Councilor Pappas, authorized to amend a contract with Louis Karno and Company, Concord, NH (originally approved by G&C on 7-16-14, item #47), for the provision of consulting services in connection with the initiative to improve and expand the information available on the Department's HealthCost website, www.nhhealthcost.org for consumers and employers related to health insurance premiums and medical care costs in NH, by extending the end date from June 30, 2016 to September 30, 2016. No Additional Funding. **100% Federal Funds.**

REGULAR AGENDA

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The Governor and Council acted as follows:

Office of the Commissioner

#6 Authorized to transfer and allocate general and federal funds in the amount of \$122,397. Effective upon G&C approval through June 30, 2016. **Fiscal Committee approved.**

Bureau of Human Resource Management

#7 **WITHDRAWN** – The Agency withdrew the request to make a **retroactive** one-time payment from SFY 2016 funds to Susan Brisson, Supervisor VII, Division of Children, Youth and Families in the amount of \$955.29, to compensate for wages that were not paid for SFY 2015. **100% General Funds.**

#8 Authorized to make a **retroactive** one-time payment from SFY 2016 funds to Amanda Quindley, Family Services Associate, Division of Family Assistance, in the amount of \$1,636.67, to compensate for wages that were not paid for SFY 2015. **100% General Funds.**

Bureau of Facilities and Assets Management

#9 Authorized to enter into a **retroactive sole source** amendment to the existing lease with 75 New Hampshire LLC, c/o James J. Horne, CPManagement Inc., Exeter, NH (originally approved by G&C on 12-9-9, item #79), for continued occupation by the Seacoast District Office, by increasing the price in the amount of \$539,136 to \$3,498,195.12 from \$2,959,059.12, and by extending the end date from March 31, 2016 to March 31, 2017. **60% General, 40% Federal Funds.**

Division for Children, Youth & Families

#10 Authorized to enter into an agreement with Thomas P. Suranyi, DDS, MS, Salem, NH, to provide dental services to youth at the John H. Sununu Youth Services Center, in an amount not to exceed \$60,000. Effective upon G&C approval through June 30, 2018. **100% General Funds.**

Bureau of Homeless and Housing Services

#11 Authorized to amend an existing agreement with The Front Door (originally approved by G&C on 8-26-15, item #12), for the provision of transitional shelter and intervention services through the State Grant-in-Aid program, by amending the scope of services, and increasing the price by \$10,000 from \$165,000 to \$175,000. Effective upon G&C approval through the original end date of June 30, 2017. **100% General Funds.**

Division of Behavioral Health

#12 Authorized the Bureau of Drug and Alcohol Services, to enter into an agreement with Goodwin Community Health, Somersworth, NH, to provide substance use disorder treatment and recovery support services statewide, in an amount not to exceed \$489,500. Effective upon G&C approval through June 30, 2017. **56.1% Federal, 29.4% General, 14.5% Other Funds.**

#13 Authorized to enter into an agreement with Harbor Homes Inc., Nashua, NH, to facilitate the development and networking of Peer Recovery Support Services available through Recovery Community Organizations in a minimum of five Regional Public Health Regions in order to significantly reduce alcohol and drug misuse and its social, behavioral and health consequences statewide, in an amount not to exceed \$1,500,000. Effective upon G&C approval through June 30, 2017. **13% General, 40% Federal, 47% Other Funds.**

New Hampshire Hospital

#14 Authorized to establish and expand the list of Temporary Registered Nurse Staffing Service Agencies contracted to provide the Hospital with NH licensed registered nurses. No maximum client or service volume is guaranteed. Accordingly, the cumulative price limitation for all agreements is \$4,500,000, allocated as \$500,000 for State Fiscal Year 2016 and \$4,000,000 for State Fiscal Year 2017. Effective upon G&C approval through June 30, 2017.

#15 Authorized to enter into a **retroactive sole source** agreement to secure temporary physician services from Dartmouth-Hitchcock Clinic, allocated as \$16,000 for the State Fiscal Year 2016 and \$48,000 for State Fiscal Year 2017, in an amount not to exceed \$64,000. Effective upon G&C approval through December 31, 2016. **28% Federal Funds from the US DHHS, Centers for Medicare and Medicaid Services, Medical Assistance Program, Catalog of Federal Domestic Assistance, 32% General, 40% Other (Provider Fees) Funds.**

Office of Medicaid Business and Policy

#16 Authorized to exercise a renewal option and amend an existing agreement with the Health Services Advisory Group Inc., Phoenix, AZ (originally approved by G&C on 8-14-13, item #31), to provide external quality review for NH's Medicaid Care Management program, by increasing the price by \$1,061,286 from \$1,924,001 to \$2,985,287, and by extending the completion date from June 30, 2016 to June 30, 2018. **75% Federal, 25% General Funds.**

#17 Authorized to enter into an agreement with Myers and Stauffer LC, Kansas City, MO, to provide Independent Assessor services to assist in the implementation activities required for the NH Building Capacity for Transformation Section, Medicaid Research and Demonstration waiver, in an amount not to exceed \$308,157.03. Effective June 1, 2016 or upon G&C approval, whichever is later, through December 31, 2016. **50% Federal, 50% General. Funding under the Building Capacity for Transformation Waiver will later reimburse the General Funds used for the contract.**

#18 Authorized to enter into an amendment to a **sole source** agreement with the University of NH, Institute for Health Policy and Practice, Durham, NH (originally approved by G&C on 6-5-13, item #86), by decreasing the price by \$29,556 from \$7,072,367 to \$7,042,811 as the result of two actions: 1) revising the scope of services for Money Follows the Person, which reduces funding for the work; and 2) developing additional quality and calculation measures for the Long Term Services and Supports populations and making enhancements to the Medicaid Quality Information System and Medicaid Quality website, which increases funding for the work. Effective upon G&C approval through the original end date of June 30, 2017. **100% Federal Funds.**

Division of Public Health Services

#19 Authorized to enter into a **sole source** amendment to an existing agreement with Trustees of Dartmouth College, Hanover, NH (originally approved by G&C on 6-6-12, item #72), to operate an incidence-based statewide cancer registry system, by increasing the price by \$233,436 from \$2,557,572 to \$2,791,008. Effective July 1, 2016 or upon G&C approval, whichever is later, through October 30, 2016. **78.6% Federal, 21.4% General Funds.**

#20 Authorized to enter into an agreement with STAT Courier Services Inc., St. Louis, MO, for the provision of courier services for the Public Health Laboratories in an amount not to exceed \$82,750. Effective upon G&C approval through June 30, 2019. **90.27% Federal, 9.73% General Funds.**

#21 Authorized to enter into a **sole source** agreement with OxBow Data Management Systems LLC, Bellevue, NE, to provide a Medical Information Tracking System, which integrates health screening data management with eligibility computing and billing in an amount not to exceed \$176,926. Effective upon G&C approval through June 30, 2020. **100% Federal Funds.**

#22 Authorized to exercise a renewal option and amend an existing agreement with JSI Research & Training Institute Inc., d/b/a Community Health Institute, Bow, NH, to continue developing a multi-year Technical Assistance Network for NH Rural Health Clinics, by increasing the price by \$190,000 from \$217,000 to an amount not to exceed \$407,000. Effective July 1, 2016 or upon G&C approval, whichever is later, through June 30, 2018. **100% Federal Funds.**

#23 Authorized the Bureau of Infectious Disease Control to exercise a renewal option to an agreement with Magellan Medicaid Administration Inc., Glen Allen, VA (originally approved by G&C on 6-19-13, item #90), for the provision of Pharmacy Benefit Management services, by increasing the price by \$1,130,280 from \$1,623,162 to \$2,753,442, and by extending the completion date from June 30, 2016 to June 30, 2019. **100% Other Funds.**

#24 Authorized to exercise a renewal option and amend a contract with Healthy at Home Inc., Nashua, NH (originally approved by G&C on 10-29-14, item #18), to provide skilled nursing visits and homemaking services to clients enrolled in NH Ryan White CARE Program, by increasing the price by \$40,000 from \$40,000 to \$80,000, and by extending the completion date from June 30, 2016 to June 30, 2018. No maximum client or service volume is guaranteed. Accordingly, the price limitation among all Vendor Agreements combined is \$20,000 per each State Fiscal Year. **100% Other Funds from the Pharmaceutical Rebates.**

#25 Authorized to exercise a renewal option and amend an existing agreement with the Community Health Access Network Inc., Newmarket, NH (originally approved by G&C on 1-28-15, item #13), to coordinate and implement diabetes, hypertension, asthma, and cancer health systems interventions to improve prevention, early detection, and management of these chronic diseases, by increasing the price by \$566,038 from \$628,843 to an amount not to exceed \$1,194,881, and by extending the completion date from June 30, 2016 to June 30, 2018. **100% Federal Funds.**

#26 Authorized to exercise renewal options and amend contracts with the four vendors as detailed in letter dated April 25, 2016 (originally approved by G&C on 11-4-15, item #15; 11-18-15, item #12; 5-6-15, item #17; and 5-27-15, item #32), to provide necessary outpatient visits, labs, diagnostic tests, and outpatient procedures for clients enrolled in the NH Ryan White CARE Program, by increasing the price by \$200,000 from \$100,000 to \$300,000 for Appledore Medical Group Inc., and Frisbie Memorial Hospital, and by \$200,000 from \$200,000 to \$400,000 for the other two vendors, and by extending the completion date from June 30, 2016 to June 30, 2018. No maximum client or service volume is guaranteed. Accordingly, the price limitation among all Vendor Agreements combined is \$100,000 per each State Fiscal Year. **100% Other Funds from the Pharmaceutical Rebates.**

#27 Authorized to exercise renewal options and amend contracts with the nine vendors as detailed in letter dated May 9, 2016 (originally approved by G&C on 5-27-15, items #29-31; 6-24-15, item #55; 8-5-15, item #24 & #26; and 9-16-15, item #11), to provide outpatient mental health and/or substance abuse counseling services to clients enrolled in the NH Ryan White CARE Program, by increasing the price by \$60,000 from \$30,000 to \$90,000 for Greater Nashua Council on Alcoholism d/b/a Keystone Hall; Harbor Homes Inc., Joan Scanlon, PhD; Community Council of Nashua, NH, d/b/a Greater Nashua Mental Health Center at Community Council and Pastoral Counseling Services UCC Inc., and by \$60,000 from \$60,000 to \$120,000 for the remaining four vendors, and by extending the completion date from June 30, 2016 to June 30, 2018. No maximum client or service volume is guaranteed. Accordingly, the price limitation among all Vendor Agreements combined is \$30,000 per each State Fiscal Year. **100% Other Funds from the Pharmaceutical Rebates.**

#28 Authorized to exercise renewal options and amend contracts with seven vendors as detailed in letter dated April 20, 2016 (originally approved by G&C on 12-3-14, item #20; 3-25-15, item #11; 4-8-15, item #20; 5-27-15, item #33; 6-10-15, item #15; and 7-22-15, item #25), to provide dental treatment and oral health services to clients enrolled in the NH Ryan White CARE Program, by increasing the price by \$200,000 from \$100,000 to \$300,000 for Families First of the Greater Seacoast, and by \$200,000 from \$200,000 to \$400,000 for the other six vendors, and by extending the completion date from June 30, 2016 to June 30, 2018. No maximum client or service volume is guaranteed. Accordingly, the price limitation among all Vendor Agreements combined is \$100,000 per each State Fiscal Year. **100% Other Funds from the Pharmaceutical Rebates.**

DEPARTMENT OF TRANSPORTATION

The Governor and Council acted as follows:

#29 Authorized the Bureau of Right of Way to pay property owners \$262,763 as documented in the Contemplated Awards List for amounts greater than \$5,000 for the period extending from April 13, 2016 through April 27, 2016. Effective upon G&C approval.

#30 Authorized the Bureau of Right of Way to sell a portion of the Interstate 95 Limited Access Right of Way consisting of 2.6+/- acres located between the easterly side of Timber Swamp Road and the westerly side of Interstate 95 in the Town of Hampton directly to the NH Department of Administrative Services for \$321,100 which includes a \$1,100 administrative fee. (2)Further authorized to adjust the limits of the Interstate 95 Limited Access Right of Way for the disposal of the above-mentioned parcel. Effective upon G&C approval. Originally purchased with 100% Turnpike Funds.

#31 Authorized to accept and place on file the Bureau of Construction's quarterly basis summary of active projects that may require contingency use, for the period through March 30, 2016.

#32 Authorized the Bureau of Environment to enter into three individual, pre-qualified, low bid, cost-based contracts for a combined total of \$300,000 with the following firms: (1) Stoney Ridge Environmental LLC, Alton, NH, for \$125,000; (2) FB Environmental Associates, Portsmouth, NH, for \$100,000; and (3) Gove Environmental Services Inc., Exeter, NH, for \$75,000 to undertake wetland and environmental investigations. Effective upon G&C approval through June 30, 2019.

#33 Authorized the Bureau of Mechanical Services to enter into a contract amendment with Consolidated Utility Equipment Services Incorporated, Amherst, NH (originally approved by G&C on 6-24-15, item #91), to perform safety inspections, repairs and unscheduled services to the department's truck cranes, by increasing the FY16 value of the contract by \$11,900 from the amount of \$146,620 to \$158,520. Effective upon G&C approval through June 30, 2017. **95% Highway, 5% Other Funds.**

#34 Authorized the Bureau of Highway Design to amend an agreement with WEDU Inc., Manchester (originally approved by G&C on 8-24-11, item #74), for on-call consultant services for providing marketing and information management of the State's Strategic Highway Safety Program, by increasing the amount by \$8,889.66 from \$400,000 to \$408,889.66, to briefly re-open the agreement to **retroactively** reimburse the consultant for services provided under the original agreement which were not paid due to contractual oversight, by extending the completion date from August 31, 2014 to July 31, 2016. Effective upon G&C approval. **100% Highway Funds.**

#35 Authorized to enter into a **sole source** contract amendment with Cooperative Alliance for Seacoast Transportation, Dover, NH (originally approved by G&C on 5-27-15, item #68), for coordinated transportation services for seniors and individuals with disabilities, by increasing the amount by \$207,206 from \$1,243,000 to \$1,450,206. Effective upon G&C approval, or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

#36 Authorized the Bureau of Rail & Transit to enter into a **sole source** contract amendment with Southern NH Planning Commission, Manchester, NH (originally approved by G&C on 5-27-15, item #60), for coordinated transportation services for seniors and individuals with disabilities, by increasing the amount by \$124,970 from \$298,800 to \$423,770. Effective upon G&C approval, or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

#37 Authorized the Bureau of Rail & Transit to enter into a contract amendment with Nashua Regional Planning Commission, Merrimack, NH (originally approved by G&C on 5-27-15, item #58), for coordinated transportation services for seniors and individuals with disabilities, by increasing the amount by \$15,443 from \$254,795 to \$270,238. Effective upon G&C approval, or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

#38 Authorized the Bureau of Rail & Transit to enter into a **sole source** contract amendment with North Country Council Inc., Littleton NH (originally approved by G&C on 5-27-15, item #56), for coordinated transportation services for seniors and individuals with disabilities, by increasing the amount by \$101,121 from \$296,609 to \$397,730. Effective upon G&C approval, or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

#39 Authorized the Bureau of Rail & Transit to enter into a contract amendment with Community Action Programs Belknap-Merrimack Counties Inc., Concord, NH (originally approved by G&C on 5-27-15, item #66), for public transportation services in the Concord and Laconia areas, by increasing the amount by \$56,400 from \$1,373,120 to \$1,429,520. Effective upon G&C approval, or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

#40 Authorized the Bureau of Rail & Transit to enter into a **sole source** contract amendment with Greater Derry-Salem Cooperative Alliance for Regional Transportation, Londonderry, NH (originally approved by G&C on 5-27-15, item #63), for coordinated transportation services for seniors and individuals with disabilities, by increasing the amount by \$30,112 from \$192,864 to \$222,976. Effective upon G&C approval, or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

#41 Authorized the Bureau of Rail & Transit to enter into a contract amendment with RLS & Associates Inc., Dayton, OH (originally approved by G&C on 6-5-13, item #229), for the development, management and implementation of the NH Rural Transit Assistance Program, by increasing the amount by \$164,994 from \$475,557 to \$640,551, and by extending the completion date from June 30, 2016 to June 30, 2017. **100% Federal Funds.**

#42 Authorized the Bureau of Rail & Transit to enter into a contract amendment with Community Alliance of Human Services Inc., Claremont, NH (originally approved by G&C on 5-6-15, item #29), for public transportation services and capital improvements in the Claremont, Newport and Charlestown area, by increasing the amount by \$38,816 from \$460,464 to \$499,280. Effective upon G&C approval, or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

#43 Authorized the Bureau of Rail & Transit to enter into a contract amendment with VNA @ HCS Inc., Keene, NH (originally approved by G&C on 5-27-15, item #64), for the purchase of approved capital equipment, by increasing the amount by \$10,645 from \$551,136 to \$561,781. Effective upon G&C approval through June 30, 2017. **100% Federal Funds.**

#44 Authorized the Bureau of Rail & Transit to enter into a **sole source** contract amendment with Contoocook Valley Transportation Company, Peterborough, NH (originally approved by G&C on 5-27-15, item #59), for coordinated transportation services for seniors and individuals with disabilities, by increasing the amount by \$52,395 from \$52,395 to \$104,790. Effective upon G&C approval or July 1, 2016, whichever is later, through June 30, 2017. **100% Federal Funds.**

NEW HAMPSHIRE GOVERNOR'S COMMISSION ON DISABILITY

#45 The Governor and Council on motion of Councilor Pappas, seconded by Councilor Kenney, authorized to accept and expend federal funds in the amount of \$20,400 from the US Department of Education, Bureau of Vocational Rehabilitation for the Client Assistance Program, to further fund the Client Assistance Program. Effective upon G&C approval through June 30, 2016. **100% Federal Funds.**

OFFICE OF CONSUMER ADVOCATE

#46 The Governor and Council on motion of Councilor Van Ostern, seconded by Councilor Pappas, authorized to enter into a contract with PCMG and Associates LLC, Gaithersburg, MD, to provide expert services to support Office of the Consumer Advocate proceedings before the Public Utilities, in an amount not to exceed \$34,060. Effective upon G&C approval through March 31, 2017. **100% Other Funds (Public Utilities Assessment).**

OFFICE OF ENERGY AND PLANNING

#47 The Governor and Council on motion of Councilor Kenney, seconded by Councilor Pappas, authorized to enter into a memorandum of agreement with the Department of Administrative Services, Concord, NH, to support energy efficiency in state buildings, in the amount of \$37,000. Effective upon G&C approval through June 30, 2017. **100% Federal Funds (State Energy Program).**

DEPARTMENT OF INFORMATION TECHNOLOGY

The Governor and Council acted as follows:

#48 Authorized to transfer funds in the amount of \$835,000 in SFY 2016 in Other (Class 027) funds. Effective upon G&C approval through June 30, 2016. **100% Other (Agency Class 027) Funds; the agency class 027 used by the Department of Safety to reimburse DoIT is 100% Highway Funds. Fiscal Committee approved.**

#49 Authorized to enter into a **sole source** contract with the Center for Internet Security, East Greenbush, NY, for two years of cyber security monitoring services, in the amount of \$28,174. Effective upon G&C approval through June 30, 2018. **100% Other (Agency Class 27) Funds; the agency class 27 used by the agencies to reimburse DoIT for this contract is estimated to be 39.2% General and 60.8% Other Funds.**

#50 Authorized, for the benefit of the Department of Revenue Administration, to enter into a **sole source** amendment of the existing agreement between the Department of Information Technology and First Data Government Solutions, formerly GovConnect, Cincinnati, OH (originally approved by G&C on 9-4-02, item #34), by increasing the amount by \$361,440 from \$1,690,800 to \$2,052,240, and by extending the expiration date from June 30, 2016 to June 30, 2019. **100% General Funds.**

DEPARTMENT OF CULTURAL RESOURCES

The Governor and Council acted as follows:

#51 Authorized the Division of Historical Resources to award a Storm Recovery and Disaster Planning Grant to the Town of Hebron, in the amount of \$67,236. Effective upon G&C approval through September 30, 2017. **100% Federal Funds.**

#52 Authorized the Division of Historical Resources to award a Certified Local Government Grant to the Town of Exeter, in the amount of \$8,309, for Historic District Commission training. Effective upon G&C approval through September 30, 2016. **100% Federal Funds.**

#53 Authorized the Division of Historical Resources to award a Storm Recovery and Disaster Planning Grant to the City of Portsmouth, in the amount of \$45,725. Effective upon G&C approval through September 30, 2017. **100% Federal Funds.**

STATE TREASURY

#53A The Governor and Council on motion of Councilor Pappas, seconded by Councilor Sununu, authorized to accept and place on file the quarterly report for the period ended March 31, 2016.

THE ADJUTANT GENERAL'S DEPARTMENT

The Governor and Council acted as follows:

#54 **TABLED** – The Governor and Council on motion of Councilor Wheeler, seconded by Councilor Van Ostern, voted to **table** the request to enter into a Cooperative Project Agreement with the University of NH, for the purpose of performing a moth survey in the amount of \$14,476. Effective upon G&C approval through December 30, 2016. **100% Federal Funds.**

#55 Authorized to execute a **sole source** amendment to a contract with Harriman Associates Inc., Auburn, ME (originally approved by G&C on 6-10-15, item #42), for professional mechanical, electrical and plumbing engineering services for planning and design of various projects as necessary and required by the department, by increasing the amount by \$250,000 from \$250,000 to an amount not to exceed \$500,000. Effective upon G&C approval through June 30, 2017.

#56 Authorized to execute a **sole source** amendment to a contract with Dubois and King, South Burlington, VT (originally approved by G&C on 6-10-15, item #43), for professional mechanical, electrical and plumbing engineering services for planning and design of various projects as necessary and required by the department, by increasing the amount by \$250,000 from \$250,000 to an amount not to exceed \$500,000. Effective upon G&C approval through June 30, 2017.

NEW HAMPSHIRE EMPLOYMENT SECURITY

#57 The Governor and Council on motion of Councilor Pappas, seconded by Councilor Sununu, authorized to enter into a contract with RWN Property Services Inc., Conway, NH, for lawn care and landscape services at NHES Conway Local Office, in the amount not to exceed \$10,647. Effective upon G&C approval through October 31, 2018. **100% Federal Funds.**

NEW HAMPSHIRE LIQUOR COMMISSION

The Governor and Council acted as follows:

#58 Authorized to transfer \$2,006,000 among accounting units to reallocate appropriations and cover projected shortfalls. Effective upon G&C approval through June 30, 2016. **99% Liquor, 1% Agency Income Funds. Fiscal Committee approved.**

#59 Authorized to extend four temporary full-time positions for one year, to continue providing assistance to the Liquor Commission retail customers, citizens of the State of NH, and commission employees. Effective July 1, 2016 through June 30, 2017. **100% Liquor Funds.**

#60 Authorized to enter into a **sole source** contract with Berry Dunn, McNeil & Parker, Portland, ME, for professional consulting services, for a total price not to exceed \$1,000,000. Effective upon G&C approval through June 30, 2018. **100% Liquor Funds.**

DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT

The Governor and Council acted as follows:

#61 Authorized the Office of International Commerce to **retroactively** amend item #50, originally approved by G&C on September 16, 2015, by extending the end date from May 31, 2016 to September 30, 2016 to align with a Federal grant extension; and to reallocate a portion of the grant funds in the amount of \$4,609 between classes for the best use of available funds. (2)Further authorized to **retroactively** amend item #50, originally approved by G&C on September 16, 2015, for a consultant class (046), for the purpose of contracting with a Consortium Manager, by extending the end date from May 31, 2016 to September 30, 2016. Effective upon G&C approval. No Additional Funding. **100% Federal Funds. Fiscal Committee approved.**

#62 Authorized the Division of Economic Development, Office of International Commerce to enter into a **retroactive** contract amendment with Wedu Inc., Manchester, NH (originally approved by G&C on 3-9-16, item #72), to provide a marketing strategy and streamlined website for the NH Aerospace and Defense Export Consortium, in compliance with a grant awarded by the US Department of Defense through the Office of Economic Adjustment, by extending the completion date from May 31, 2016 to September 30, 2016. No Additional Funding. **100% Federal Funds.**

#63 Authorized the Division of Parks and Recreation to budget and expend \$215,000 from the Parks Fund for the purchase of four remote camps and associated buildings at Umbagog Lake State Park in Errol, NH. Effective upon G&C approval through June 30, 2016. **100% Revolving Funds. Fiscal Committee approved.**

#64 Authorized to accept and place on file the Department's report of the transfers of funds for the quarter ending March 31, 2016.

#65 Authorized with Councilor Sununu recusing himself, to implement the Cannon Mountain Aerial Tramway & Ski Area capital improvement projects to be funded in the amount of \$350,000 by the Cannon Mountain Capital Improvement Fund. Effective upon G&C approval.

#66 Authorized the Division of Parks and Recreation to purchase four remote camps and associated improvements at the market value of \$215,000 and all existing furnishings at the market value of \$3,000 for a total purchase price of \$218,000 at Umbagog Lake State Park in Errol, NH, from Harwood Ellis and Benjamin Ellis. Effective upon G&C approval through June 30, 2016. **100% Agency Income.**

#67 Authorized the Office of Workforce Opportunity to enter into a **sole source** memorandum of understanding with the NH Department of Employment Security, for the delivery of performance-related items that must be submitted to the US Department of Labor Employment and Training Administration, consistent with Workforce Innovation and Opportunity Act regulations, in the amount not to exceed \$1,725,311.24. Effective July 1, 2016 through June 30, 2021. **100% Federal Funds.**

#68 Authorized the Division of Parks and Recreation to enter into a contract with Senco Precision Parts LLC, Hackensack, NJ, to perform guardrail and handrail installation services at Hampton Beach State Park, in the amount of \$109,000. Effective upon G&C approval through November 18, 2016. **100% Agency Income.**

#69 Authorized the Division of Economic Development's Office of International Commerce to enter into a **retroactive** contract amendment with Firebrand International LLC, Portsmouth, NH (originally approved by G&C on 9-16-15, item #51), to act as Consortium Manager for the NH Aerospace and Defense Export Consortium, in compliance with a grant awarded by the US Department of Defense through the Office of Economic Adjustment, by increasing the amount by \$4,609 from \$48,000 to \$52,609, and by extending the completion date from May 31, 2016 to September 30, 2016. **100% Federal Funds.**

#70 Authorized the Division of Forests and Lands to exercise a contract renewal option with Deirdre Brickner-Wood, Durham, NH (originally approved by G&C on 6-4-14, item #63), for the coordination of land protection activities under the Federal Forest Legacy Program, in the amount of \$40,000. Effective July 1, 2016 through June 30, 2018. **100% Federal Funds.**

NEW HAMPSHIRE FISH AND GAME DEPARTMENT

The Governor and Council acted as follows:

#71 Authorized to accept and expend \$23,530 from the Atlantic States Marine Fisheries Commission, for the purpose of conducting the Marine Recreational Information Programs Access Point Angler Intercept Survey in NH. Effective upon G&C approval through June 30, 2017. **100% Agency Income.**

#72 Authorized to budget and expend \$73,281 for the purpose of the completion of work on the Winnicut River Dam Removal and Fish Passage Project in Greenland, NH. Effective upon G&C approval through June 30, 2017.

#73 Authorized to enter into a contract with Fitzgerald Environmental Associates LLC, to conduct stream crossing surveys in the Lamprey River Watershed, in the amount of \$16,988. Effective upon G&C approval through June 1, 2017. **100% Agency Income (Broodstock Salmon Funds).**

DEPARTMENT OF ENVIRONMENTAL SERVICES

The Governor and Council acted as follows:

#74 Authorized to accept and expend \$285,000 in Pass-Thru Federal Department of Energy funds from the Office of Energy and Planning to complete a project to help municipalities reduce the energy related costs of operating their wastewater treatment facilities. Effective upon G&C approval through June 30, 2017. **Fiscal Committee approved.**

#75 Authorized, with the Department of Health and Human Services, to enter into a **sole source** agreement with the University of NH, Office of Sponsored Research, Durham, NH, to perform laboratory analysis of shellfish samples for *Vibrio parahaemolyticus* presence and genetic characteristics, in the amount of \$12,299. Effective upon G&C approval through December 31, 2016. **61% General (DES), 39% Federal (DHHS) Funds.**

#76 Authorized to enter into a **sole source** contract with the Northeast Waste Management Officials' Association for the purpose of providing a workshop on Bulky Waste Management for solid waste facility operators, in the amount of \$2,500. Effective June 1, 2016 through June 30, 2016. **100% General Funds.**

#77 Authorized to enter into a **sole source** contract amendment with Nelson Analytical LLC, Manchester, NH (originally approved by G&C on 2-25-15, item #46), to provide laboratory analytical services of drinking water samples, by increasing the amount by \$100,000 from \$200,000 to \$300,000, and by extending the end date to December 31, 2016 from June 30, 2016. **100% Hazardous Waste Cleanup Fund.**

#78 Authorized to enter into a **sole source** agreement with the University of NH, Sponsored Programs Administration, Durham, NH, to establish a volunteer beach profile monitoring program for NH's ocean beaches, in the amount of \$56,511. Effective upon G&C approval through June 30, 2017. **100% Federal Funds.**

#79 Authorized to amend a loan agreement with the City of Dover, NH (originally approved by G&C on 5-27-15, item #110), to finance water system improvements, by increasing the amount by \$2,000,000 from \$6,500,000 to \$8,500,000. Effective upon G&C approval. **100% Drinking Water State Revolving Loan Fund Repayment Funds.**

#80 Authorized to amend a loan agreement with the Pittsfield Aqueduct Company Inc., Merrimack, NH (originally approved by G&C on 5-6-15, item #54), to finance water system improvements, by increasing the amount by \$440,000 from \$165,000 to \$605,000. Effective upon G&C approval. **100% Drinking Water State Revolving Loan Fund Repayment Funds.**

#81 Authorized a loan agreement with Pennichuck Water Works Inc., Merrimack, NH, to finance water system improvements, in the amount of \$1,400,000. (2) Further authorized a loan agreement with Pennichuck East Utility Inc., Merrimack, NH, to finance water system improvements, in the amount of \$1,650,000. Effective upon G&C approval. **100% Drinking Water State Revolving Loan Fund Repayment Funds.**

#82 Authorized to award an Asset Management grant to the Town of Newmarket, NH in the amount of \$15,000 to improve public water system management. Effective upon G&C approval through May 31, 2017. **100% Federal Funds.**

#83 Authorized to award an Asset Management grant to the Town of Salem, NH in the amount of \$15,000 to improve public water system management. Effective upon G&C approval through May 31, 2017. **100% Federal Funds.**

#84 Authorized to enter into a Grant agreement with S&J Transportation Services Inc., Lee, NH, in an amount not to exceed \$71,063, to partially fund the replacement of two diesel trucks. Effective upon G&C approval through March 1, 2021. **100% Federal Funds.**

#85 Authorized Forest Brook Realty Trust's request to perform work on Lake Winnepesaukee in Alton.

#86 Authorized Bennett J. Walker's request to perform work on Lake Winnepesaukee in Alton.

#87 Authorized the Naswa Motor Inn Inc's request to perform work on Lake Winnepesaukee in Laconia.

#88 Authorized DeVost Yacht Club Condominium's request to perform work on Newfound Lake in Bristol.

NEW HAMPSHIRE VETERANS HOME

#89 The Governor and Council on motion of Councilor Pappas, seconded by Councilor Kenney, authorized to pay \$1,230,000 in overtime/holiday/temporary for permanent personnel services salaries out of class 10 appropriations for critical care vacant positions due to pending recruitment for the period of July 1, 2015 through June 30, 2016.

DEPARTMENT OF SAFETY

The Governor and Council acted as follows:

#90 Authorized the Division of State Police to transfer among accounts within State Police Traffic Bureau, in the amount of \$190,000 for anticipated shortages in current expense, overtime, and part-time salaries for the Fiscal Year 2016. Effective upon G&C approval through June 30, 2016. **52.15% General, 25% Highway, 22.85% Turnpike Funds. Fiscal Committee approved.**

#91 Authorized the Division of Motor Vehicles to enter into a new lease agreement with Sugar River Bank, Newport, NH, for 3,000 square feet of space, in an amount not to exceed \$344,425, which includes two one-time payments of \$50,000 each for necessary interior fit up. Effective upon G&C approval through August 31, 2021. **100% Agency Income (Cost of Collections).**

#92 Authorized the Division of Homeland Security and Emergency Management to enter into a grant agreement with School Administrative Unit (SAU) #54/Rochester School District, for the purpose of purchasing and installing equipment that will enhance the physical security and safety at one school in the district, for a total of \$23,506. Effective upon G&C approval through September 30, 2016. **100% Federal Funds.**

#93 Authorized the Division of Homeland Security and Emergency Management to enter into a grant agreement with the Cheshire County Sheriff's Office, for the purchase and installation of ergonomic furniture, five LCD monitors, communications equipment and associated costs for relocating the existing communications equipment, for a total amount of \$99,776. Effective upon G&C approval through September 30, 2017. **100% Federal Funds.**

#94 Authorized the Division of Homeland Security and Emergency Management to enter into a grant agreement with the City of Franklin, to purchase digital emergency notification signs, for a total amount of \$30,600. Effective upon G&C approval through September 30, 2016. **100% Federal Funds.**

DEPARTMENT OF JUSTICE

The Governor and Council acted as follows:

#95 Authorized to grant an annual salary increment to Lynda W. Ruel, Director of the Office of Victim/Witness Assistance, from salary group FF, Step 4 \$81,867.24 to salary group FF, Step 5 \$86,351.20. Effective upon G&C approval or June 10, 2016, whichever is the latter.

#96 Authorized to grant Paul Mansur, a Financial Analyst, currently at \$76,215.88 (LG DD, Step 5) an increase to \$80,163.20 (LG DD, Step 6). Effective June 10, 2016.

#97 Authorized to amend item #125, originally approved by G&C on September 3, 2014, by extending the subgrant end date to the NH Department of Safety from July 31, 2016 to a new end date of July 31, 2017, and by increasing the subgrant by \$56,992 from \$62,744 to \$119,736. **100% Federal Funds.**

#98 Authorized to enter into subgrants with the agencies as detailed in letter dated May 17, 2016, in the amount of \$990,000 from the Federal Fiscal Year 2015 Victim of Crime Act Grant for the purpose of supporting programs providing direct services to victims of crime and for training to direct services providers. Effective upon G&C approval through June 30, 2017. **100% Federal Funds.**

DEPARTMENT OF ADMINISTRATIVE SERVICES

The Governor and Council acted as follows:

#99 Authorized to transfer funds in and among accounting units in the amount of \$140,000. Effective upon G&C approval through June 30, 2016. **100% General Funds. Fiscal Committee approved.**

#100 Authorized to enter into a contract with James R. St. Jean Auctioneers, Epping, NH, for the administration of online auction services for the sales and financial processing of surplus property. Effective July 1, 2016 through June 30, 2019, with the option for two additional one-year terms.

#101 Authorized the Division of Personnel's request for waiver of classification decisions.

#102 Authorized a Working Capital Warrant in the amount of \$475,000,000 to cover the payment of expenditures for the month of July 2016.

*

The Next regular Governor and Executive Council meeting is scheduled for Wednesday June 15, 2016, at the State House, Concord, New Hampshire.

Honorable Board then Adjourned at 12:15 p.m.

Councilor Wheeler submitted the following:

Pursuant to Part Two, Article 64 of the New Hampshire Constitution, I am entering my opinion contrary to the resolution of the majority with documentation outlining the reasons for such opinion. On June 1, 2016 the governor and council confirmed the nomination of Justin Cutting to serve on the Executive Branch Ethics Committee despite the formal withdrawal of the nomination by the secretary of state. The record is clear that the secretary of state withdrew his nomination in writing and to the governor in person weeks before the confirmation on June 1, 2016.

The plain language of RSA 21-G:29 clearly defines this nomination as belonging to the secretary of state and not the governor.

It's my belief that this confirmation occurred contrary to the rightful authority of the secretary of state to withdraw the nomination and the intent of the legislature. I believe that the governor usurped a constitutional officer's authority to nominate a member to the Executive Branch Ethics Committee and to subsequently withdraw the same.

I hereby submit this letter and documents to be spread upon the record in support of my opinion contrary to the resolution.

by the secretary laid before the senate and house of representatives on the first Wednesday following the first Tuesday of January.

June 2, 1784

Amended 1792 twice changing the council from members of the house and senate elected by the house and senate to individuals elected by voters one in each county; and changing president to governor.

Amended 1877 twice substituting biennially for annually and November for March.

Amended 1889 substituting January for June.

Amended 1984 changing the first Wednesday to the first Wednesday following the first Tuesday.

[Art.] 61. [Vacancies, How Filled, if No Choice.] And the person having a plurality of votes in any county, shall be considered as duly elected a councilor: But if no person shall have a plurality of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of those two shall elect by joint ballot, the councilor wanted for such county, and the qualifications for councilors shall be the same as for senator.

September 5, 1792

Amended 1912 substituting plurality for majority.

[Art.] 62. [Subsequent Vacancies; Governor to Convene; Duties.] If any person thus chosen a councilor, shall be elected governor or member of either branch of the legislature, and shall accept the trust; or if any person elected a councilor, shall refuse to accept the office, or in case of the death, resignation, or removal of any councilor out of the state, the Governor may issue a precept for the election of a new councilor in that county where such vacancy shall happen and the choice shall be in the same manner as before directed. And the Governor shall have full power and authority to convene the council, from time to time, at his discretion; and, with them, or the majority of them, may and shall, from time to time hold a council, for ordering and directing the affairs of the state, according to the laws of the land.

September 5, 1792

[Art.] 63. [Impeachment of Councilors.] The members of the council may be impeached by the house, and tried by the senate for bribery, corruption, malpractice, or maladministration.

June 2, 1784

Amended 1792 changing wording generally and changing mal conduct to bribery, corruption, malpractice, or maladministration.

[Art.] 64. [Secretary to Record Proceedings of Council.] The resolutions and advice of the council shall be recorded by the secretary, in a register, and signed by all members present agreeing thereto; and this record may be called for at any time, by either house of the legislature; and any member of the council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

June 2, 1784

Amended 1792 adding phrases: "by the secretary," "agreeing thereto," and "with the reasons for such opinion."

[Art.] 65. [Councilor Districts Provided for.] The legislature may, if the public good shall hereafter require it, divide the state into five districts, as nearly equal as may be, governing themselves by the number of population, each district to elect a councilor: And, in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

September 5, 1792

Amended 1912 substituting population for rateable polls.

NEW HAMPSHIRE
DEPARTMENT OF STATE



William M. Gardner
Secretary of State

Robert P. Ambrose
Senior Deputy Secretary of State

David M. Scanlan
Deputy Secretary of State

June 14, 2016

Dear Councilor Wheeler and Councilor Kenney:

At your request, I provide the following:

Under RSA 21-G:29, the Executive Branch Ethics Committee consists of seven members, two of which shall be nominated by the Secretary of State. All seven members must be confirmed by the Governor and Council. (Attachment A). On March 16, 2016, I notified the governor by letter of my intention to nominate Mr. Cutting to the Executive Branch Ethics Committee. (Attachment B). My expectation was that my nomination of Justin A. Cutting would be presented as a nomination by the Secretary of State to appear separately from those nominations made by the governor.

On April 19, 2016, at approximately 8:50 A.M., a staff member of the Governor's office e-mailed Mr. Cutting informing him that "I am happy to let you know the Governor would like to nominate you for appointment at the Governor and Council meeting tomorrow, April 20th." (Attachment C). Later that same morning, without having knowledge of the earlier communication between the Governor's office and Mr. Cutting, I outlined, in person and via e-mail, my expectation that the nomination would be separately presented. (Attachment D). In response, the Governor's staff informed me that the nomination would not appear separately but rather together with the Governor's nominations. (Attachment D). As this was inconsistent with my expectation and despite the fact that the nomination had yet been made, I informed the Director of Appointments with the Governor's office that I was withdrawing my nomination. (Attachment D).

Despite the withdrawal of my nomination and a subsequent conversation with the Governor's staff attempting to resolve any lingering confusion about how I wished the nomination to be presented separately, during the Governor and Council meeting on April 20, 2016, the Governor announced, at the council table, that she was nominating Justin A. Cutting to the Executive Branch Ethics Committee. I only subsequently discovered that the Governor presented Mr. Cutting's nomination as her own and that the nomination would be up for confirmation at the next Governor and Council meeting on May 4, 2016.

The following week, I contacted the Governor's office requesting a meeting to discuss the issue. I was told that there would be a meeting before the Governor and Council convened on May 4, 2016 in an attempt to resolve the issue. No such meeting was ever scheduled so, the morning of the Governor and Council meeting on May 4, 2016, I spoke with the Governor and

expressed my concerns once again. The Governor told me that, despite my concern, she intended to bring forward the nomination. I responded by reiterating that I had already withdrawn the nomination.

To ensure that there remained no lingering confusion, immediately prior to the commencement of the May 4, 2016 Governor and Council meeting, I personally presented a letter to each of the Executive Councilors, in council chambers, formally stating, once again, the withdrawal of my nomination of Justin Cutting. (Attachment E). A copy of the letter was also provided to the Governor by way of her staff. The confirmation was ultimately not taken up at the meeting but was instead postponed. (Attachment F).

On May 16, 2016, I met with the Governor and the Attorney General to discuss the nomination and my withdrawal. The Governor remained steadfast that she planned to pursue the confirmation of Justin Cutting despite my withdrawal. I concluded the meeting by once again reiterating that I had already withdrawn the nomination. The next day, I received a letter from the Governor confirming that she intended to bring forward Justin Cutting's nomination. (Attachment G). However, Mr. Cutting's nomination was not raised during the May 18, 2016 Governor and Council meeting.

During the June 1, 2016 Governor and Council meeting, the Governor brought forward the nomination of Justin A. Cutting for confirmation to the Executive Branch Ethics Committee. Councilor Wheeler questioned the status of the nomination citing the letter I had provided the Governor and Councilors on May 4, 2016 formally withdrawing the nomination. (Attachment H). The Governor stated she had not received such a letter and deferred the question to Ann Rice from the Attorney General's Office. (Attachment H). Attorney Rice stated that,

"...once an item gets placed on the agenda by the governor, that is the governor's agenda, and an item can't be withdrawn unless the governor agrees with it. So, unless the governor has had discussions about whether this item will be withdrawn or whether you've made a decision then it's still on the agenda as an item." (Attachment H).

Despite the fact that the nomination never appeared as an item on any agenda and the fact that the Governor and I had numerous discussions about my withdrawal of the nomination, the nomination of Justin Cutting was confirmed on a 3-2 vote.

This is not simply a minor procedural issue. The issue here is one of inequity. N.H. RSA 21-G:29 provides a certain distribution of appointments to the Executive Branch Ethics Committee. This distribution prevents the deck from being stacked in any one executive branch official's favor. By usurping the Secretary of State's nomination and refusing to permit its withdrawal, the Governor has deprived the Secretary of State of one of his appointments and taken it as her own thereby frustrating this fundamental balance.

Sincerely,



William M. Gardner
Secretary of State

Attachment A

visions, see RSA 21-G:34.

secretary of state. Such written decisions or opinions may be redacted prior to submission in order to protect confidential or nonpublic information.

HISTORY

Source. 2009, 203:7, eff. Sept. 13, 2009.

disclosure statement by agency certain public officials.

21-G:29 Executive Branch Ethics Committee Established; Jurisdiction; Membership.

Duties and Responsibility.

individual to serve as the the administration of this

I. There is hereby established an executive branch ethics committee to issue guidelines, interpretive rulings, and advisory opinions relative to standards for ethical conduct in the executive branch and to resolve, through procedures established under RSA 21-G:32, issues, questions, or complaints involving executive branch officials who are not classified employees.

its of this subdivision and A 15-A and RSA 15-B. lates for public office and ative requirements of this rsuant to RSA 15-A and

II. The jurisdiction of the committee shall consist of matters arising under the executive branch code of ethics, RSA 21-G:21-27, RSA 15-A, RSA 15-B, and rules or guidelines adopted thereunder, as applied to executive branch officials who are not classified employees.

SA 15-A filing deadline, not filed a RSA 15-A form ative ethics committee, or the attorney general, as

III. The committee shall consist of 7 members, nominated in the following manner:

se.

15-A:3 shall provide the and appointment date of ard, commission, commit- e of this section.

(a) Three members, nominated by the governor, one of whom shall be a member of the democratic party, one of whom shall be a member of the republican party, and one of whom shall have no political party affiliation.

(b) Two members, nominated by the secretary of state, one of whom shall be a member of the democratic party and one of whom shall be a member of the republican party.

(c) Two members, nominated by the treasurer, one of whom shall be a member of the democratic party and one of whom shall be a member of the republican party.

as practicable, of public o RSA 15-A; and tandings with other state itate requirements of this

IV. All nominations under paragraph III shall be confirmed by the governor and executive council.

ittee authorized by statute w shall submit a copy of filing officer and to the

V. Persons appointed to the committee shall be qualified by excellent personal reputation and by education or experience in public service, in resolving ethical issues facing persons in public service, or in the law. No executive branch official shall serve as a committee member, and no person who has registered as a lobbyist under RSA 15:1 shall serve as a committee member, or for 6 months following the expiration of such registration.

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the governor shall nominate one member for a one-year term, one member for a 2-year term and one member for a 3-year term; the secretary of state shall nominate one member for a 2-year term, and one member for a 3-year term; the treasurer shall nominate one member for a one-year term and one member for a 2-year term. Initial nominations to the committee shall be made no later than 90 days after the effective date of this section. The initial appointments shall begin on July 1, 2006 and end on June 30 of the appropriate year. Vacancies shall be filled for the remainder of any unexpired term. During their term of appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any candidate or proposition, participate in any way in any election campaign, make a contribution as defined in RSA 664:2 to any candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

VII. The governor shall designate one of the governor's appointees as chair, who shall convene the first meeting, which shall take place no later than 30 days after a majority of the membership has been appointed. The members shall elect by majority vote a vice-chair and secretary from the remaining members.

VIII. Committee members shall receive no compensation, except that committee members shall receive mileage at the state employee rate.

HISTORY

Source. 2004, 214:1. 2006, 21:3, eff. **Amendments—2006.** Amended section June 2, 2006. generally.

21-G:30 Duties.

I. The committee shall be authorized to:

(a) Issue guidelines consistent with the executive branch code of ethics, RSA 21-G:21-27, RSA 15-A, and RSA 15-B, relative to proper and appropriate conduct for individuals relating to the performance of their duties as executive branch officials. Such guidelines shall be consistent with statute.

(b) Issue interpretative rulings explaining and clarifying any law, guideline, rule, or regulation within the jurisdiction of the committee.

(c) Render an advisory opinion, in writing within a reasonable time, in response to a written request by a person subject to any law,

Attachment B

NEW HAMPSHIRE
DEPARTMENT OF STATE



William M. Gardner
Secretary of State

Robert P. Ambrose
Senior Deputy Secretary of State

David M. Scanlan
Deputy Secretary of State

March 16, 2016

Honorable Margaret Hassan
Governor
State House
Concord, NH 03301

Dear Governor Hassan:

In accordance with RSA 21-G:29, III (b) [*two members, nominated by the secretary of state, one of whom shall be a member of the democratic party and one of whom shall be a member of the republican party*], I bring forward the following name for appointment to the Executive Branch Ethics Committee to replace Atty. James A. Normand.

- Justin A. Cutting, d (30 Moulton Road) Hampton, NH 03842.

Atty. Normand is currently in holdover status in a term which will end on June 30, 2017. He has served on the committee faithfully and diligently for the past seven years. He agreed to remain in holdover status until a new member is confirmed.

Sincerely,

A handwritten signature in cursive script that reads "William M. Gardner".

William M. Gardner

Attachment C

8:50 A.M.

From: **George, Catherine** <Catherine.George@nh.gov>
Date: Tuesday, April 19, 2016
Subject: Executive Branch Ethics Committee
To: "jcutting74@gmail.com" <jcutting74@gmail.com>

Good morning Justin,

I am happy to let you know the Governor would like to nominate you for appointment at the Governor and Council meeting tomorrow, April 20th. You do not need to attend the meeting.

Attached is the contact information for the Executive Council. We ask that you reach out to each of the five of them to introduce yourself, see if they have any questions, and to ask for their support. Please contact them after tomorrow and before May 4th, when we expect they would take up the confirmation vote. You do not need to attend that meeting, either.

We ask that you keep this confidential until tomorrow afternoon - it is okay to let your employer, family, or others who must know in advance know of the nomination beforehand, but we want to make sure the Executive Councilors are hearing about nominees from our office.

Please let me know if you have any questions. Thank you for your willingness to serve!

Catherine

Catherine E. George

Director of Appointments

Liaison to the Executive Council

Office of Governor Maggie Hassan

State House

107 North Main Street

Concord, NH 03301

(603) 271-2121

(603) 271-7680 (fax)

<http://www.governor.nh.gov>

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Attachment D

Karen Ladd

From: Karen Ladd
Sent: Tuesday, April 19, 2016 3:44 PM
To: 'George, Catherine'
Subject: RE: Justin Cutting

Catherine:

This is to inform you that Secretary Gardner is withdrawing this nomination. If you care to speak to him about this you can reach him at x2403.

Karen

From: George, Catherine [<mailto:Catherine.George@nh.gov>]
Sent: Tuesday, April 19, 2016 12:04 PM
To: Karen Ladd
Subject: RE: Justin Cutting

No, it will be listed with the others- just like when a commissioner nominates a deputy commissioner, it is listed together with the other nominations. The cover sheet for his individual nomination packet will have the language I sent below.

Catherine E. George
Director of Appointments
Liaison to the Executive Council
Office of Governor Maggie Hassan

From: Karen Ladd [<mailto:Karen.Ladd@SOS.NH.GOV>]
Sent: Tuesday, April 19, 2016 11:57 AM
To: George, Catherine
Subject: RE: Justin Cutting

Hi Catherine:

So, this nomination will be on a separate page Not listed with the governor's nominations?

Thanks, K

From: George, Catherine [<mailto:Catherine.George@nh.gov>]
Sent: Tuesday, April 19, 2016 10:25 AM
To: Karen Ladd
Subject: Justin Cutting

Hi Karen,

As a follow up to Secretary Gardner's conversation with Mary Ann Dempsey, I want to make clear that Justin Cutting is the Secretary's nomination, which will be shown on his nomination sheet:

NOMINATION

April 20, 2016

Executive Branch Ethics Committee
RSA 21-G:29

Justin A. Cutting (d), Hampton
Nominated by: Secretary of State
Succeeding: James A. Normand, Manchester
Effective: Upon Confirmation
Term: June 30, 2017

Address: 30 Moulton Road
Hampton, NH 03842
926-4577 (h)

Please let me know if you have any questions.

Thank you,
Catherine

Catherine E. George
Director of Appointments
Liaison to the Executive Council
Office of Governor Maggie Hassan
State House
107 North Main Street
Concord, NH 03301
(603) 271-2121
(603) 271-7680 (fax)
<http://www.governor.nh.gov/>

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Attachment E

NEW HAMPSHIRE
DEPARTMENT OF STATE



William M. Gardner
Secretary of State

Robert P. Ambrose
Senior Deputy Secretary of State

David M. Scanlan
Deputy Secretary of State

May 4, 2016

Her Excellency Margaret Wood Hassan
And the Honorable Council
State House
Concord, NH 03301

Your Excellency and Members of the Council:

I hereby withdraw the nomination of Justin Cutting to the Executive Branch
Ethics Committee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wm Gardner".

William M. Gardner
Secretary of State

Attachment F

CONFIRMATION

May 4, 2016

Executive Branch Ethics Committee

RSA 21-G:29

**Justin A. Cutting (d), Hampton
Succeeding: James A. Normand, Manchester
Effective: Upon Confirmation
Term: June 30, 2017**

Address:

**30 Moulton Road
Hampton, NH 03842
926-4577 (h)**

*Not more forward
re. concerns
procedural*

Attachment G



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

RECEIVED

MAY 18 2016

NEW HAMPSHIRE
DEPARTMENT OF STATE

MARGARET WOOD HASSAN
Governor

May 17, 2016

Mr. William Gardner
Secretary of State
State House
107 N. Main Street
Concord, NH 03301

Dear Secretary Gardner,

Thank you for taking the time to meet with my Legal Counsel, then with me, my Chief of Staff and the Attorney General about your concerns regarding the nomination and confirmation process for nominations you make to the Executive Branch Ethics Committee ("EBEC").

As you know, the statute establishing the EBEC provides that the nomination is to be made by you and confirmed by the Governor and Executive Council. The process for Governor and Council confirmation is a standard one, initiated by the Governor, who places the nomination before the Council. This placement of the nominee before the Council represents the Governor's affirmative vote for the nominee. You nominated Justin Cutting, whose name I placed before the Council on April 20, 2016.

The process I followed in placing Mr. Cutting's nomination before the Council is what is required by the statute establishing the EBEC. But there are substantive reasons for following this process as well, reasons that I assume the drafters of the statute also had in mind when they established the EBEC. Simply put, the Governor and Council confirmation process provides for the nomination to rest on the Council table for two weeks before a vote of the Council is taken. While I believe you made an excellent choice in Mr. Cutting, as you also made in your previous nominations to the EBEC, it is critically important that we give the public the opportunity to weigh in on any nomination for a position as critical for our democracy as this one.

I understand that you want to ensure that the Council record makes clear that Mr. Cutting was nominated by you. While that is reflected in the written documentation in the Council record, I will make that clear publicly on the record when I call for a vote, so that it will be reflected in the minutes of the Governor and Council meeting that Mr. Cutting was nominated by you.

This seems to be an appropriate course of action given that you and I both agree that Mr. Cutting is a qualified candidate who merits confirmation. Thank you for taking the time to bring your concerns to my attention.

With every good wish,

Margaret Wood Hassan
Governor

Attachment H

Gov: Next we have a confirmation to the Executive Branch Ethics Committee. I will note for the record that this confirmation to consider is the result of a nomination made to the governor and council by the secretary of state. At his request, I am noting that he made the nomination, which by statute requires confirmation by governor and council. So, I placed this name in nomination as required by the governor and council process. Could I please have a motion to confirm Justin A. Cutting of Hampton to the Executive Branch Ethics Committee.

Sununu: Governor I'll move the confirmation of Justin Cutting.

Kenney: Second

Governor: Any discussion. Ah first, Councilor Wheeler.

Wheeler: Governor, if we could maybe hear from the AG here because the councilors have been given a letter that the secretary of state has withdrawn this nomination, and I want to kinda know what the legal status is of this nomination. By tradition, we have items on the agenda, like item 7 today that was withdrawn by the agency. It would seem logical that the person who nominated an item here could withdraw it as well. And since we have that letter, is this nomination withdrawn?

Governor: And I will just note for the record, I did not receive such a letter. So, could we hear from the attorney general.

Ann Rice: Good Morning. For the record, Ann Rice, Deputy Attorney General, and we have opined that once an item gets placed on the agenda by the governor, that it is the governor's agenda, and an item can't be withdrawn unless the governor agrees with it. So, unless the governor has had discussions about whether this item will be withdrawn or whether you've made a decision then it's still on the agenda as an item.

Wheeler: So, like item 7 today, when it was said that the agency withdrew the item, it was implied that the governor had to consent to that withdrawal.

Rice: That is correct.

Governor: Correct. And I note that I have discussed with the secretary of state whether he has any concerns about the qualifications of this nominee and he has expressed to me that he does not. He would like the statute that established the Executive Branch Ethics Committee to have a different process for approving or confirming the members, but that is not... I don't control what the statute says and that is not something I can change.

Wheeler: Did you look at the legislative intent and the senate transcripts both in the committee and on the floor, to find out what the legislative intent was on this particular nomination?

Rice: When we look at statutes, and interpretation of statutes, what we look at first is the language of the statute itself and the use of the language. In this case, we didn't need to go to the legislative intent because the statute language is clear and that this nomination - some statutes use the word appointments that are approved by the governor and council. This is a nomination which is then approved by governor and council, so we used that language to make a determination on how this is done.

Governor: Councilor Sununu

Sununu: Thank you governor. Again, I would first just reiterate your comments that Mr. Cutting is without a doubt qualified. You know, I've talked with Mr. Cutting. I think he would serve very very well on the board, and as long as the attorney general believes that what we are doing is consistent with the constitution in terms of our constitutional duty in terms of moving forward, then I'm definitely fine in moving forward with making sure that we not just move forward with Mr. Cutting, but also additional constitutional nominees that come before us, which is one of the issues at hand here. We can't keep holding things up indefinitely, so..

Rice: So, we have discussed it with the governor and we are perfectly comfortable with the process that is being used now.

Sununu: Thank you

Governor: Any other discussion or comment? Seeing none all in favor please say aye.

Any opposed: Wheeler and Kenney

Governor: The ayes have it 3 and 2 and Mr. Cutting is confirmed.