

Bill as Introduced

HB 137 - AS INTRODUCED

2021 SESSION

21-0221
05/10

HOUSE BILL **137**

AN ACT relative to the rulemaking authority of the department of information technology.

SPONSORS: Rep. L. Ober, Hills. 37; Rep. McGuire, Merr. 29; Rep. Weyler, Rock. 13; Rep. Emerick, Rock. 21; Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill exempts certain statewide standards and protocols relative to information technology, networks, telephony, and cyber security developed by the department of information technology from rulemaking under RSA 541-A.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the rulemaking authority of the department of information technology.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Department of Information Technology; Duties of the Commissioner. Amend RSA 21-R:4,
2 XVIII to read as follows:

3 XVIII. Establishing as necessary, after consultation with the information technology council,
4 established under RSA 21-R:6, statewide standards and protocols for information technology,
5 networks, *telephony*, and cyber security, which ***shall not be subject to the rulemaking***
6 ***requirements under RSA 541-A and*** shall be adhered to by all executive branch agencies unless
7 granted a waiver by the commissioner.

8 2 Administrative Procedure Act; Exemptions; Standards and Protocols of the Department of
9 Information Technology. RSA 541-A:21, I(gg) is repealed and reenacted to read as follows:

10 (gg) Statewide standards and protocols developed by the department of information
11 technology in consultation with the information technology council, including those adopted
12 pursuant to RSA 21-R:4, XVIII, relative to information technology, networks, telephony, and cyber
13 security within executive branch agencies.

14 3 Repeal. RSA 21-R:4, XX, relative to development of a telephony services manual by the
15 department of information technology, is repealed.

16 4 Effective Date. This act shall take effect upon its passage.

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

Sen Sharon Carson, Chair
Sen John Reagan, Vice Chair
Sen Denise Ricciardi, Member
Sen Kevin Cavanaugh, Member
Sen Suzanne Prentiss, Member

Date: March 10, 2021

HEARINGS

Wednesday

03/17/2021

(Day)

(Date)

Executive Departments and Administration

REMOTE 000

9:00 a.m.

(Name of Committee)

(Place)

(Time)

9:00 a.m.	HB 94-FN	relative to licensure renewal dates for certain governing boards under the office of professional licensure and certification.
9:15 a.m.	HB 70	authorizing certification for the microblading of eyebrows.
9:30 a.m.	HB 425-FN	establishing technical committees and a cybersecurity advisory committee in the department of information technology
9:45 a.m.	HB 302	relative to the creation and use of electronic records by government agencies.
10:00 a.m.	HB 137	relative to the rulemaking authority of the department of information technology.
10:15 a.m.	HB 173-FN	requiring the independent investment committee of the New Hampshire retirement system to report investment fees.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/91554056560>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +19292056099,,91554056560# or +13017158592,,91554056560#
4. Webinar ID: 915 5405 6560
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtriRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 94-FN

Rep. McGuire

Rep. T. Lekas

HB 70

Rep. McGuire

Rep. T. Lekas

Rep. Pitre

HB 425-FN

Rep. L. Ober

HB 302

Rep. L. Ober

HB 137

Rep. L. Ober

Rep. McGuire

Rep. Weyler

Rep. Emerick

Sen. Carson

HB 173-FN

Rep. Schuett

Rep. Schultz

Rep. Ellison

Rep. M. Pearson

Rep. Merchant

Cameron Lapine 271-2104

Sharon M Carson
Chairman

SENATE CALENDAR NOTICE

Executive Departments and Administration

Sen Sharon Carson, Chair
Sen John Reagan, Vice Chair
Sen Denise Ricciardi, Member
Sen Kevin Cavanaugh, Member
Sen Suzanne Prentiss, Member

Date: March 17, 2021

HEARINGS

Wednesday	03/31/2021	
(Day)	(Date)	
Executive Departments and Administration	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	HB 137	relative to the rulemaking authority of the department of information technology.
9:10 a.m.	HB 302	relative to the creation and use of electronic records by government agencies.
9:20 a.m.	HB 425-FN	establishing technical committees and a cybersecurity advisory committee in the department of information technology

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1. Link to Zoom Webinar: <https://www.zoom.us/j/98659292409>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +13017158592,,98659292409# or +13126266799,,98659292409#
4. Webinar ID: **986 5929 2409**
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 137

Rep. L. Ober

Sen. Carson

HB 302

Rep. L. Ober

HB 425-FN

Rep. L. Ober

Rep. McGuire

Rep. Weyler

Rep. Emerick

Cameron Lapine 271-2104

Sharon M Carson
Chairman

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

HB 137, relative to the rulemaking authority of the department of information technology.

Hearing Date: March 31, 2021

Time Opened: 9:06 a.m.

Time Closed: 9:13 a.m.

Members of the Committee Present: Senators Carson, Reagan, Ricciardi, Cavanaugh and Prentiss

Members of the Committee Absent : None

Bill Analysis: This bill exempts certain statewide standards and protocols relative to information technology, networks, telephony, and cyber security developed by the department of information technology from rulemaking under RSA 541-A.

Sponsors:

Rep. L. Ober
Rep. Emerick

Rep. McGuire
Sen. Carson

Rep. Weyler

Who supports the bill: Representative Carol McGuire (Merrimack – District 29), Kathryn Smith, Senator Sharon Carson (Senate District 14), Lucinda Hope, Representative Deb Stevens (Hillsborough – District 34), and Elaine Thomas.

Who opposes the bill: Ronald Garnett and Robin Vogt.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Representative Carol McGuire

Merrimack – District 29

- Representative McGuire introduced HB 137 on behalf of Representative Lynne Ober, who was not present.
- Rep. McGuire said that HB 137 passed House Executive Departments and Administration unanimously without amendment.

- Senator Reagan said he was struggling to see the reasoning behind HB 137.
 - Rep. McGuire said that there were two needs for HB 137. She said that the first was so that technical documents about the State telephone system and cybersecurity protocols are exempted from rulemaking, and being put into rulemaking language, so that the engineers and technicians who use the protocols can understand them. She said that the second need was that, in many cases, it is not desirable for cybersecurity documents to be public.
- Senator Reagan asked what rulemaking the Department of Information Technology (DOIT) had to comply with.
 - Rep. McGuire said that the regular rulemaking is minimal. She said she is not as familiar with DOIT as Rep. L. Ober is.

Denis Goulet

Commissioner, DOIT

- Commissioner Goulet said that the language of HB 137 was introduced in the 2020 session and likely would have passed if it was not for the COVID-19 pandemic. He said it was written to address an audit finding in the most recent Legislative Budget Assistant (LBA) audit. The audit found that DOIT has never done rulemaking and has no rulemaking authority. He said that RSA 21-R established the Information Technology Council (IT Council) as the governing body over DOIT.
- Commissioner Goulet said that language was found, during the LBA audit, in RSA 541-A that referred to DOIT rulemaking when DOIT does not have rulemaking authority. He said it is a technical correction to accomplish another audit finding.
- Commissioner Goulet said that there is little controversy in HB 137 and asked the Committee to move the bill forward.
- Senator Reagan said he was struggling with the idea that DOIT was exempt from rulemaking.
 - Commissioner Goulet said that DOIT has never done any rulemaking and does not have rulemaking authority. He said that the LBA audit found the discrepancy and, to address it, there were two options: either establish rulemaking authority for DOIT or clarify that the publicly transparent body for DOIT is the IT Council. Commissioner Goulet said that DOIT has never been authorized to do rulemaking and its policies and procedures are governed by the IT Council.

Summary of testimony presented in opposition: None.

Neutral Information Presented: None.

Date Hearing Report completed: April 5, 2021

Speakers

Senate Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB137 01

Support: 6 Oppose: 2 Neutral: 0 Total to Testify: 1

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testify</u>
McGuire, Carol	McGuire4house@gmail.com	Not Given	An Elected Official	Merrimack 29	Support	Yes
Smith, Kathryn	Not Given	Not Given	A Member of the Public	Myself	Support	No
Carson, Sharon	deborah.chroniak@leg.state.nh.us	603-271-1403	An Elected Official	SD 14	Support	No
garnett, ronald	soup31314@yahoo.com	603.236.1637	A Member of the Public	Myself	Oppose	No
Hope, Lucinda	lmhope46@gmail.com	Not Given	A Member of the Public	Myself	Support	No
Vogt, Robin	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Stevens, Representative Deb	debstevens4ward7@gmail.com	603.820.0866	An Elected Official	My 10K constituents	Support	No
Thomas, Elaine	Not Given	Not Given	An Elected Official	Myself	Support	No

Voting Sheets

**Senate Executive Departments and
Administration Committee
EXECUTIVE SESSION RECORD
2021 Session**

Bill # **HB 137**

Hearing date: 3-31-21

Executive Session date: 4-28-21

Motion of: ITL Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Reagan

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, April 29, 2021

THE COMMITTEE ON Executive Departments and Administration

to which was referred **HB 137**

AN ACT

relative to the rulemaking authority of the
department of information technology.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 5-0

Senator John Reagan
For the Committee

HB 137 exempts certain statewide standards and protocols relative to information technology, networks, telephony, and cyber security developed by the Department of Information Technology from rulemaking under RSA 541-A. The Committee was concerned over exempting large portions of a State Agency, especially one that operates so closely with all other aspects of government, from administrative rulemaking. In order to ensure and preserve legislative oversight, the Committee felt it was best to recommend ITL for HB 137.

Cameron Lapine 271-2104

FOR THE CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 137, relative to the rulemaking authority of the department of information technology.

Inexpedient to Legislate, Vote 5-0.

Senator John Reagan for the committee.

HB 137 exempts certain statewide standards and protocols relative to information technology, networks, telephony, and cyber security developed by the Department of Information Technology from rulemaking under RSA 541-A. The Committee was concerned over exempting large portions of a State Agency, especially one that operates so closely with all other aspects of government, from administrative rulemaking. In order to ensure and preserve legislative oversight, the Committee felt it was best to recommend ITL for HB 137.

General Court of New Hampshire - Bill Status System

Docket of HB137

Docket Abbreviations

Bill Title: relative to the rulemaking authority of the department of information technology.*Official Docket of HB137.:*

Date	Body	Description
1/4/2021	H	Introduced (in recess of) 01/06/2021 and referred to Executive Departments and Administration HJ 2 P. 36
1/28/2021	H	Public Hearing: 02/08/2021 01:45 pm Members of the public may attend using the following link: To join the webinar: https://zoom.us/j/99308877767 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/9/2021	H	Committee Report: Ought to Pass (Vote 19-0; CC) HC 12 P. 5
2/24/2021	H	Ought to Pass: MA VV 02/24/2021 HJ 3 P. 8
3/4/2021	S	Introduced 03/04/2021 and Referred to Executive Departments and Administration; SJ 7
3/17/2021	S	Remote Hearing: 03/31/2021, 09:00 am; Links to join the hearing can be found in the Senate Calendar; SC 16
4/29/2021	S	Committee Report: Inexpedient to Legislate; Vote 5-0; CC; 05/06/2021; SC 22
5/6/2021	S	Inexpedient to Legislate, RC 23Y-0N , MA === BILL KILLED ===; 05/06/2021; SJ 14

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 137

Senate Committee: EDIA

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # _____ ___ - amendment # _____
___ - amendment # _____ ___ - amendment # _____

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____
___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s)
- Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house
___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Cameron M. Japine
Committee Aide

7/20/21
Date

Senate Clerk's Office AK