

LEGISLATIVE COMMITTEE MINUTES

HB358

Bill as Introduced

HB 358 - AS AMENDED BY THE HOUSE

16Mar2023... 0648h

2023 SESSION

23-0226
05/10

HOUSE BILL **358**

AN ACT relative to the filing and adoption of proposed administrative rules.

SPONSORS: Rep. C. McGuire, Merr. 27; Rep. Layon, Rock. 13; Sen. Lang, Dist 2; Sen. Ward,
Dist 8

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules. The bill is a request of the joint legislative committee on administrative rules.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 358 - AS AMENDED BY THE HOUSE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the filing and adoption of proposed administrative rules.

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

1 1 Administrative Procedure Act; Definition of Form. Amend RSA 541-A:1, VII-a to read as
2 follows:

3 VII-a. "Form" means a document, ~~[that establishes a requirement for]~~ ***whether hardcopy***
4 ***or electronic, with blank spaces for insertion of required or optional information, which***
5 ***must be submitted to the agency by persons outside the agency, [to provide information to an***
6 ***agency and the format in which such information must be submitted. The term does not include any***
7 ***document, regardless of what the document is called, that (a) is provided by an agency to facilitate***
8 ***the submission of information that is required to be submitted to the agency by federal or state***
9 ***statute, regulation, or rule and does not add to or modify such requirement or (b) that is used only by***
10 ***the agency to provide information to persons outside the agency]*** ***such as, but not limited to,***
11 ***licensing applications, petitions, or requests. The term does not include a document that is***
12 ***called a form by the agency but which does not have blank spaces for insertion of***
13 ***information by persons outside the agency.***

14 2 Fiscal Impact Statements. Amend RSA 541-A:5, VI to read as follows:

15 VI. Agencies shall also obtain an amended fiscal impact statement from the legislative
16 budget assistant ~~[only]~~ if as a result of notice and hearing a change has been made which affects the
17 original fiscal impact statement ***or to correct an error in the original fiscal impact statement.***
18 Agencies shall file the amended fiscal impact statement as part of the final proposal pursuant to
19 RSA 541-A:12, II.

20 3 New Paragraph; Rulemaking Register. Amend RSA 541-A:9 by inserting after paragraph II
21 the following new paragraph:

22 III. The rulemaking register shall be sent by email to all members of the general court.

23 4 New Paragraph; Filing of Final Proposal. Amend RSA 541-A:12 by inserting after paragraph
24 II the following new paragraph:

25 II-a. The agency shall file with the final proposal a copy of any draft, new, or amended form,
26 or screenshot, mock-up, or prototype of an electronic-only form, which has been incorporated by
27 reference in the final proposed rule or whose requirements are set forth in the final proposed rule
28 pursuant to RSA 541-A:19-b.

29 5 Review by the Joint Legislative Committee on Administrative Rules; Basis for Objection.
30 Amend RSA 541-A:13, IV(c) to read as follows:

1 (c) Determined not to be in the public interest; *including the existence of substantive*
 2 *inconsistencies between a form and the rule where the form is incorporated by reference or*
 3 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

4 6 Final Adoption. Amend RSA 541-A:14, III to read as follows:

5 III. The agency shall file ~~[all adopted rules]~~ with the director of legislative services *all*
 6 *adopted rules and any related new or amended form, or screenshot, mock-up, or prototype*
 7 *of an electronic-only form, which the rules incorporate by reference or whose requirements*
 8 *are set forth in the rules pursuant to RSA 541-A:19-b.*

9 7 Publication of Rules. Amend RSA 541-A:15, I and I-a to read as follows:

10 I. The director of legislative services shall compile, index, and publish~~[, or require agencies~~
 11 ~~to publish,]~~ all effective rules adopted by each agency. The text of an adopted rule as filed with the
 12 director and which is effective shall *then* be the official version of the rule~~[,]~~. *The director shall*
 13 *publish the adopted rule text online in a format as determined by the director. The agency*
 14 *shall be notified when the text is published. The agency shall then have 120 days to*
 15 *confirm that the published rule is accurate. If* ~~[unless or until a version prepared for~~
 16 ~~publication, which may have]~~ editorial changes not affecting the substance of the rule~~[, is certified by~~
 17 ~~the agency as the same in substance as originally filed.]~~ *are needed, or an error in the*
 18 *publishing process is identified, then the agency shall notify the director, and such*
 19 *changes shall be made by the director and certified by the agency that it is the same in*
 20 *substance as originally filed. If the agency does not notify the director within the 120-day*
 21 *deadline, then it will be presumed that the agency has reviewed the published language*
 22 *and agreed that it is the certified version.* The certified version shall *then* be the official
 23 version. Both the adopted rule as-filed and as-certified may be an electronic document and still be
 24 the official version if in compliance with RSA 541-A:1, V-a and VI and the drafting and procedure
 25 manual for administrative rules under RSA 541-A:8. The official version of the rule shall be
 26 available to the public by the agency and the director pursuant to RSA 541-A:14, IV *as described in*
 27 *the drafting and procedure manual under RSA 541-A:8.*

28 I-a. ~~[The director shall send the text of a rule to be certified to the agency adopting the rule.~~
 29 ~~The agency shall certify the rule under paragraph I within 120 days of receiving the first edited~~
 30 ~~text.]~~ The 120-day deadline *in paragraph I* shall not apply to interim rules or emergency rules. A
 31 copy of each rule as filed and each as certified shall be sent by the director to the state library and
 32 the New Hampshire law library at the supreme court.

33 8 Rules; Filing Required. Amend RSA 541-A:16, III to read as follows:

34 III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted
 35 rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-
 36 A:14-a, III, or RSA 541-A:19, X, or such other *later* date ~~[and time]~~ as specified, provided that filing
 37 occurs before such effective date and time. Except as provided in RSA 541-A:14-a, a rule adopted

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1 under RSA 541-A:14, IV shall expire after the last day of the tenth year following its becoming
2 effective, unless sooner amended, readopted, or repealed.

3 9 New Paragraph; Interim Rules. Amend RSA 541-A:19 by inserting after paragraph IV the
4 following new paragraph:

5 IV-a. The agency shall file with the proposed interim rule a copy of any related new or
6 amended form, or screen shots, mock-up, or prototype of an electronic-only form, which has been
7 incorporated by reference in the proposed interim rule or whose requirements are set forth in the
8 proposed interim rule pursuant to RSA 541-A:19-b.

9 10 Interim Rules; Basis for Objection. Amend RSA 541-A:19, VII(c) to read as follows:

10 (c) Determined not to be in the public interest, *including the existence of substantive*
11 *inconsistencies between a form and the rule where the form is incorporated by reference or*
12 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

13 11 Interim Rules; Response to Conditional Approval. Amend RSA 541-A:19, VIII(b) to read as
14 follows:

15 (b) If the committee objects to the proposed interim rule as filed, it shall so inform the
16 agency. In lieu of an objection, and with or without a written request under subparagraph (a), the
17 committee may vote to conditionally approve the rule with an amendment, provided that the
18 committee specified in its conditional approval the language of the amendment to address the basis
19 for a preliminary objection. The committee shall notify the agency in writing of its conditional
20 approval. Within 14 days of the meeting, *or in the case of a board or commission, 7 days*
21 *following its regularly scheduled meeting*, the agency shall submit a written explanation to the
22 committee in the form of a letter and an annotated text of the final proposed rule detailing how the
23 rule has been amended in accordance with the conditional approval. The written explanation shall
24 be signed by the individual holding rulemaking authority, or, if a body of individuals holds
25 rulemaking authority, by a voting member of that body, provided that a quorum of the body has
26 approved. Failure to submit a written explanation in accordance with the conditional approval and
27 this paragraph shall cause the conditional approval to be deemed a committee vote to make a
28 preliminary objection on the date of the conditional approval. If the committee legal counsel
29 determines that the agency has amended the rule in accordance with the conditional approval and
30 this paragraph, the committee legal counsel shall promptly send written confirmation of compliance
31 to the agency. The agency may then adopt the rule as amended.

32 12 Interim Rules. Amend RSA 541-A:19, X to read as follows:

33 X. No proposed interim rule shall be adopted unless the committee has voted to approve the
34 proposed interim rule or conditionally approve the proposed interim rule, provided that the
35 committee legal counsel has sent written confirmation to the agency pursuant to RSA 541-A:19,
36 VIII(b). An adopted interim rule *and any new or amended form, or screenshot, mock-up, or*
37 *prototype of an electronic-only form, which the rule incorporates by reference or the*

1 *requirements for which are set forth in the rule pursuant to RSA 541-A:19*, shall be filed with
 2 the director of legislative services no later than 30 days following committee approval or conditional
 3 approval *or in the case of a board or commission, 7 days following its next regularly*
 4 *scheduled meeting after committee approval or conditional approval*. An interim rule shall
 5 be effective under RSA 541-A:16, III on the day after filing with the director of legislative services, or
 6 at a later date, provided the agency so specifies in a letter to the director of legislative services and
 7 the effective date is within 30 days following committee approval or conditional approval. Interim
 8 rules shall be effective for a period not to exceed 180 days. During the time an interim rule shall be
 9 in effect, the agency may propose a permanent rule to replace the interim rule once it expires, but it
 10 shall not adopt another interim rule to replace the expiring interim rule.

11 13 Adoption of Forms. Amend RSA 541-A:19-b to read as follows:

12 541-A:19-b Adoption of Forms. An agency may adopt a form as defined in RSA 541-A:1, VII-a,
 13 *either* by incorporating the actual form by reference *in a rule*, or by setting forth the requirements
 14 of the form in rules, adopted according to the procedures in this chapter *and in compliance with*
 15 *the drafting and procedure manual pursuant to RSA 541-A:8*. *No new or amended form*
 16 *shall be effective and enforceable pursuant to RSA 541-A:22, I unless the form has been*
 17 *adopted in accordance with this chapter*.

18 14 Revisions to Forms; Expedited Procedure. Amend RSA 541-A:19-c to read as follows:

19 541-A:19-c Revisions to Forms; Expedited Procedure.

20 I. An agency may make editorial changes to a previously adopted form without following the
 21 procedures required in RSA 541-A:19-b, in this section, or in RSA 541-A:3, *but shall notify the*
 22 *office of legislative services of any proposed editorial changes in accordance with the*
 23 *drafting and procedure manual pursuant to RSA 541-A:8*.

24 II. An agency may revise [~~a form as defined in RSA 541-A:1, VII-a without meeting the~~
 25 ~~requirements of RSA 541-A:5-7~~] *substantively the requirements on a previously adopted form*
 26 *as defined in RSA 541-A:1, VII-a, and amend the relevant provisions in the rule which set*
 27 *forth the requirements of the form or incorporate the form by reference pursuant to RSA*
 28 *541-A:19-b, without meeting the requirements of RSA 541-A:5, RSA 541-A:6 and RSA 541-A:9-*
 29 *14* [~~either in accordance with RSA 541-A:19-b or~~] by providing notice and adopting the *amended*
 30 form in accordance with paragraphs III through VII.

31 III. Notice of an agency's intent to [~~adopt a form or amendment to a form~~] *amend a form*
 32 *and amend the relevant, affected rule* shall include:

33 (a) The name and address of the agency.

34 (b) The statutory authority for the form.

35 (c) *The rule number and title of the affected rule to be amended, and whether the*
 36 *action is an amendment or readoption with amendment of the rule as described in the*
 37 *drafting and procedure manual pursuant to RSA 541-A:8*.

1 (d) An explanation of the reason for the proposed [~~adoption or~~] amendment of a
2 form *and a summary of the existing, affected rule and the proposed amendment to the form*
3 *and the rule.*

4 [~~(d)~~] (e) The name, address, electronic address, and telephone number of an individual
5 in the agency able to answer questions about the proposed form.

6 [~~(e)~~] (f) The deadline for receipt by the agency of written or electronic public comment,
7 which shall be no sooner than the 7th calendar day after the date of publication of the notice in the
8 rulemaking register.

9 **III-a. The amended rule to be filed shall include only those relevant provisions of**
10 **the rule, as described in the drafting and procedure manual, pursuant to paragraph II,**
11 **and neither the amended form nor the amended rule shall have a fiscal impact which**
12 **would otherwise require a fiscal impact statement pursuant to RSA 541-A:5.**

13 IV. The *agency shall file a copy of the amended form, the amended rule including*
14 *an appendix pursuant to RSA 541-A:3-a, and the notice required by paragraph III* [~~shall be filed~~]
15 *with the director of legislative services, [~~for publication~~] who shall publish the notice* in the
16 rulemaking register. [~~A copy of the form to be adopted shall be filed with the notice.~~]

17 V. If on the basis of public comment the official or the group of individuals with rulemaking
18 authority determines that the form should not be [~~adopted~~] **amended**, the agency shall so notify the
19 director of legislative services and the form shall not be [~~adopted~~] **amended**.

20 VI. The proposed form **as amended and amended rule** shall be placed on the agenda of
21 the committee for review at the first regularly scheduled or special meeting at least 5 calendar days
22 after the close of the period for written or electronic comment described in subparagraph III(e). The
23 committee may approve or object to the form. The committee may object to the adoption of the form
24 **as amended and the affected rule** if the form is:

25 (a) Beyond the authority of the agency;

26 (b) Contrary to the intent of the legislature; [~~or~~]

27 (c) **Deemed not to be in the public interest, including the existence of substantive**
28 **inconsistencies between the form and the rule where the form is incorporated by reference**
29 **or which set forth the requirements of the form pursuant to RSA 541-A:19-b; or**

30 (d) Deemed by the committee not to meet the requirements of this section, **including**
31 **existence of a fiscal impact contrary to paragraph III-a.**

32 VII. Subsequent review and adoption of the form **as amended and the affected rule** shall
33 be as provided in RSA 541-A:13 for final proposed rules.

34 15 Validity of Rules. Amend RSA 541-A:22, I to read as follows:

35 I. No agency rule, **including a form**, is valid or effective against any person or party, nor
36 may it be enforced by the state for any purpose, until it has been filed as required in this chapter and
37 has not expired.

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1 16 New Subparagraph; Filing Final Proposal. Amend RSA 541-A:12, II by inserting after
2 subparagraph (d) the following new subparagraph:

3 (e) A report of public comments received on the rule and an explanation of how they
4 were addressed in the final rule.

5 17 Final Adoption. Amend RSA 541-A:14, I(a) to read as follows:

6 (a) The passage of [45] **60** days from filing of a final proposal under RSA 541-A:12, I, or
7 60 days from filing under RSA 541-A:12, I-a, without receiving notice of objection from the
8 committee;

9 18 Effective Date. This act shall take effect 60 days after its passage.

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16Mar2023... 0648h
06/08/2023 2072s
06/08/2023 2172s
06/08/2023 2081s
06/08/2023 2156s

2023 SESSION

23-0226
05/10

HOUSE BILL **358**

AN ACT relative to the filing and adoption of proposed administrative rules and relative to overpayment of unemployment compensation and relative to policies relating to nursing mothers.

SPONSORS: Rep. C. McGuire, Merr. 27; Rep. Layon, Rock. 13; Sen. Lang, Dist 2; Sen. Ward, Dist 8

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules, and establishes minimum work place supports for nursing mothers. The bill also makes a technical correction to SB 44-FN if it becomes law.

The bill also provides that the state shall not charge interest on the collection of an overpayment of unemployment compensation unless the person knowingly or willfully made a false statement in their application for benefits.

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

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the filing and adoption of proposed administrative rules and relative to overpayment of unemployment compensation and relative to policies relating to nursing mothers.

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

1 1 Administrative Procedure Act; Definition of Form. Amend RSA 541-A:1, VII-a to read as
2 follows:

3 VII-a. "Form" means a document, ~~[that establishes a requirement for]~~ *whether hardcopy*
4 *or electronic, with blank spaces for insertion of required or optional information, which*
5 *must be submitted to the agency by* persons outside the agency, ~~[to provide information to an~~
6 ~~agency and the format in which such information must be submitted. The term does not include any~~
7 ~~document, regardless of what the document is called, that (a) is provided by an agency to facilitate~~
8 ~~the submission of information that is required to be submitted to the agency by federal or state~~
9 ~~statute, regulation, or rule and does not add to or modify such requirement or (b) that is used only by~~
10 ~~the agency to provide information to persons outside the agency]~~ *such as, but not limited to,*
11 *licensing applications, petitions, or requests. The term does not include a document that is*
12 *called a form by the agency but which does not have blank spaces for insertion of*
13 *information by persons outside the agency.*

14 2 Fiscal Impact Statements. Amend RSA 541-A:5, VI to read as follows:

15 VI. Agencies shall also obtain an amended fiscal impact statement from the legislative
16 budget assistant ~~[only]~~ if as a result of notice and hearing a change has been made which affects the
17 original fiscal impact statement *or to correct an error in the original fiscal impact statement.*
18 Agencies shall file the amended fiscal impact statement as part of the final proposal pursuant to
19 RSA 541-A:12, II.

20 3 New Paragraph; Rulemaking Register. Amend RSA 541-A:9 by inserting after paragraph II
21 the following new paragraph:

22 III. The rulemaking register shall be sent by email to all members of the general court.

23 4 New Paragraph; Filing of Final Proposal. Amend RSA 541-A:12 by inserting after paragraph
24 II the following new paragraph:

25 II-a. The agency shall file with the final proposal a copy of any draft, new, or amended form,
26 or screenshot, mock-up, or prototype of an electronic-only form, which has been incorporated by

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1 reference in the final proposed rule or whose requirements are set forth in the final proposed rule
2 pursuant to RSA 541-A:19-b.

3 5 Review by the Joint Legislative Committee on Administrative Rules; Basis for Objection.
4 Amend RSA 541-A:13, IV(c) to read as follows:

5 (c) Determined not to be in the public interest; *including the existence of substantive*
6 *inconsistencies between a form and the rule where the form is incorporated by reference or*
7 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

8 6 Final Adoption. Amend RSA 541-A:14, III to read as follows:

9 III. The agency shall file [~~all adopted rules~~] with the director of legislative services *all*
10 *adopted rules and any related new or amended form, or screenshot, mock-up, or prototype*
11 *of an electronic-only form, which the rules incorporate by reference or whose requirements*
12 *are set forth in the rules pursuant to RSA 541-A:19-b.*

13 7 Publication of Rules. Amend RSA 541-A:15, I and I-a to read as follows:

14 I. The director of legislative services shall compile, index, and publish~~[-or require agencies~~
15 ~~to publish,]~~ all effective rules adopted by each agency. The text of an adopted rule as filed with the
16 director and which is effective shall *then* be the official version of the rule~~[-].~~ *The director shall*
17 *publish the adopted rule text online in a format as determined by the director. The agency*
18 *shall be notified when the text is published. The agency shall then have 120 days to certify*
19 *that the published rule is accurate. If* [~~unless or until a version prepared for publication, which~~
20 ~~may have]~~ editorial changes not affecting the substance of the rule~~[-is certified by the agency as the~~
21 ~~same in substance as originally filed.]~~ *are needed, or an error in the publishing process is*
22 *identified, then the agency shall notify the director, and such changes shall be made by the*
23 *director and certified by the agency that it is the same in substance as originally filed. If*
24 *the agency does not notify the director within the 120-day deadline, then it will be*
25 *presumed that the agency has reviewed the published language and agreed that it is the*
26 *certified version and shall be published online by the director in a format as determined by*
27 *the director.* The certified version shall *then* be the official version. Both the adopted rule as-filed
28 and as-certified may be an electronic document and still be the official version if in compliance with
29 RSA 541-A:1, V-a and VI and the drafting and procedure manual for administrative rules under RSA
30 541-A:8. The official version of the rule shall be available to the public by the agency and the
31 director pursuant to RSA 541-A:14, IV *as described in the drafting and procedure manual*
32 *under RSA 541-A:8.*

33 I-a. [~~The director shall send the text of a rule to be certified to the agency adopting the rule.~~
34 ~~The agency shall certify the rule under paragraph I within 120 days of receiving the first edited~~
35 ~~text.] The 120-day deadline *in paragraph I* shall not apply to interim rules or emergency rules. A
36 copy of each rule as filed and each as certified shall be sent by the director to the state library and
37 the New Hampshire law library at the supreme court.~~

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1 8 Rules; Filing Required. Amend RSA 541-A:16, III to read as follows:

2 III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted
3 rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-
4 A:14-a, III, or RSA 541-A:19, X, or such other *later* date [~~and time~~] as specified, provided that filing
5 occurs before such effective date [~~and time~~]. Except as provided in RSA 541-A:14-a, a rule adopted
6 under RSA 541-A:14, IV shall expire after the last day of the tenth year following its becoming
7 effective, unless sooner amended, readopted, or repealed.

8 9 New Paragraph; Interim Rules. Amend RSA 541-A:19 by inserting after paragraph IV the
9 following new paragraph:

10 IV-a. The agency shall file with the proposed interim rule a copy of any related new or
11 amended form, or screen shots, mock-up, or prototype of an electronic-only form, which has been
12 incorporated by reference in the proposed interim rule or whose requirements are set forth in the
13 proposed interim rule pursuant to RSA 541-A:19-b.

14 10 Interim Rules; Basis for Objection. Amend RSA 541-A:19, VII(c) to read as follows:

15 (c) Determined not to be in the public interest, *including the existence of substantive*
16 *inconsistencies between a form and the rule where the form is incorporated by reference or*
17 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

18 11 Interim Rules; Response to Conditional Approval. Amend RSA 541-A:19, VIII(b) to read as
19 follows:

20 (b) If the committee objects to the proposed interim rule as filed, it shall so inform the
21 agency. In lieu of an objection, and with or without a written request under subparagraph (a), the
22 committee may vote to conditionally approve the rule with an amendment, provided that the
23 committee specified in its conditional approval the language of the amendment to address the basis
24 for a preliminary objection. The committee shall notify the agency in writing of its conditional
25 approval. Within 14 days of the meeting, *or in the case of a board or commission, 7 days*
26 *following its regularly scheduled meeting*, the agency shall submit a written explanation to the
27 committee in the form of a letter and an annotated text of the final proposed rule detailing how the
28 rule has been amended in accordance with the conditional approval. The written explanation shall
29 be signed by the individual holding rulemaking authority, or, if a body of individuals holds
30 rulemaking authority, by a voting member of that body, provided that a quorum of the body has
31 approved. Failure to submit a written explanation in accordance with the conditional approval and
32 this paragraph shall cause the conditional approval to be deemed a committee vote to make a
33 preliminary objection on the date of the conditional approval. If the committee legal counsel
34 determines that the agency has amended the rule in accordance with the conditional approval and
35 this paragraph, the committee legal counsel shall promptly send written confirmation of compliance
36 to the agency. The agency may then adopt the rule as amended.

37 12 Interim Rules. Amend RSA 541-A:19, X to read as follows:

1 X. No proposed interim rule shall be adopted unless the committee has voted to approve the
 2 proposed interim rule or conditionally approve the proposed interim rule, provided that the
 3 committee legal counsel has sent written confirmation to the agency pursuant to RSA 541-A:19,
 4 VIII(b). An adopted interim rule *and any new or amended form, or screenshot, mock-up, or*
 5 *prototype of an electronic-only form, which the rule incorporates by reference or the*
 6 *requirements for which are set forth in the rule pursuant to RSA 541-A:19*, shall be filed with
 7 the director of legislative services no later than 30 days following committee approval or conditional
 8 approval *or in the case of a board or commission, 7 days following its next regularly*
 9 *scheduled meeting after committee approval or conditional approval*. An interim rule shall
 10 be effective under RSA 541-A:16, III on the day after filing with the director of legislative services, or
 11 at a later date, provided the agency so specifies in a letter to the director of legislative services and
 12 the effective date is within 30 days following committee approval or conditional approval. Interim
 13 rules shall be effective for a period not to exceed 180 days. During the time an interim rule shall be
 14 in effect, the agency may propose a permanent rule to replace the interim rule once it expires, but it
 15 shall not adopt another interim rule to replace the expiring interim rule.

16 13 Adoption of Forms. Amend RSA 541-A:19-b to read as follows:

17 541-A:19-b Adoption of Forms. An agency may adopt a form as defined in RSA 541-A:1, VII-a,
 18 *either* by incorporating the actual form by reference *in a rule*, or by setting forth the requirements
 19 of the form in rules, adopted according to the procedures in this chapter *and in compliance with*
 20 *the drafting and procedure manual pursuant to RSA 541-A:8*. *No new or amended form*
 21 *shall be effective and enforceable pursuant to RSA 541-A:22, I unless the form has been*
 22 *adopted in accordance with this chapter*.

23 14 Revisions to Forms; Expedited Procedure. Amend RSA 541-A:19-c to read as follows:

24 541-A:19-c Revisions to Forms; Expedited Procedure.

25 I. An agency may make editorial changes to a previously adopted form without following the
 26 procedures required in RSA 541-A:19-b, in this section, or in RSA 541-A:3, *but shall notify the*
 27 *office of legislative services of any proposed editorial changes in accordance with the*
 28 *drafting and procedure manual pursuant to RSA 541-A:8*.

29 II. An agency may revise [~~a form as defined in RSA 541-A:1, VII-a without meeting the~~
 30 ~~requirements of RSA 541-A:5-7]~~ *substantively the requirements on a previously adopted form*
 31 *as defined in RSA 541-A:1, VII-a, and amend the relevant provisions in the rule which set*
 32 *forth the requirements of the form or incorporate the form by reference pursuant to RSA*
 33 *541-A:19-b, without meeting the requirements of RSA 541-A:5, RSA 541-A:6 and RSA 541-A:9-*
 34 *14* [~~either in accordance with RSA 541-A:19-b or~~] by providing notice and adopting the *amended*
 35 form in accordance with paragraphs III through VII.

36 III. Notice of an agency's intent to [~~adopt a form or amendment to a form]~~ *amend a form*
 37 *and amend the relevant, affected rule* shall include:

1 (a) The name and address of the agency.

2 (b) The statutory authority for the form.

3 (c) *The rule number and title of the affected rule to be amended, and whether the*
4 *action is an amendment or readoption with amendment of the rule as described in the*
5 *drafting and procedure manual pursuant to RSA 541-A:8.*

6 (d) An explanation of the reason for the proposed [~~adoption or~~] amendment of a
7 form *and a summary of the existing, affected rule and the proposed amendment to the form*
8 *and the rule.*

9 [~~(d)~~] (e) The name, address, electronic address, and telephone number of an individual
10 in the agency able to answer questions about the proposed form.

11 [~~(e)~~] (f) The deadline for receipt by the agency of written or electronic public comment,
12 which shall be no sooner than the 7th calendar day after the date of publication of the notice in the
13 rulemaking register.

14 *III-a. The amended rule to be filed shall include only those relevant provisions of*
15 *the rule, as described in the drafting and procedure manual, pursuant to paragraph II,*
16 *and neither the amended form nor the amended rule shall have a fiscal impact which*
17 *would otherwise require a fiscal impact statement pursuant to RSA 541-A:5.*

18 IV. The *agency shall file a copy of the amended form, the amended rule including*
19 *an appendix pursuant to RSA 541-A:3-a, and the notice required by paragraph III [~~shall be filed~~]*
20 *with the director of legislative services, [~~for publication~~] who shall publish the notice in the*
21 *rulemaking register. [~~A copy of the form to be adopted shall be filed with the notice.~~]*

22 V. If on the basis of public comment the official or the group of individuals with rulemaking
23 authority determines that the form should not be [~~adopted~~] *amended*, the agency shall so notify the
24 director of legislative services and the form shall not be [~~adopted~~] *amended*.

25 VI. The proposed form *as amended and amended rule* shall be placed on the agenda of
26 the committee for review at the first regularly scheduled or special meeting at least 5 calendar days
27 after the close of the period for written or electronic comment described in subparagraph III(e). The
28 committee may approve or object to the form. The committee may object to the adoption of the form
29 *as amended and the affected rule* if the form is:

30 (a) Beyond the authority of the agency;

31 (b) Contrary to the intent of the legislature; [~~or~~]

32 (c) *Deemed not to be in the public interest, including the existence of substantive*
33 *inconsistencies between the form and the rule whose provisions incorporate the form by*
34 *reference or set forth the requirements of the form pursuant to RSA 541-A:19-b; or*

35 (d) Deemed by the committee not to meet the requirements of this section, *including*
36 *existence of a fiscal impact contrary to paragraph III-a.*

1 VII. Subsequent review and adoption of the form *as amended and the affected rule* shall
2 be as provided in RSA 541-A:13 for final proposed rules.

3 15 Validity of Rules. Amend RSA 541-A:22, I to read as follows:

4 I. No agency rule, *including a form*, is valid or effective against any person or party, nor
5 may it be enforced by the state for any purpose, until it has been filed as required in this chapter and
6 has not expired.

7 16 New Subparagraph; Filing Final Proposal. Amend RSA 541-A:12, II by inserting after
8 subparagraph (d) the following new subparagraph:

9 (e) A report of public comments received on the rule and an explanation of how they
10 were addressed in the final rule.

11 17 Final Adoption. Amend RSA 541-A:14, I(a) to read as follows:

12 (a) The passage of [45] 60 days from filing of a final proposal under RSA 541-A:12, I, or
13 60 days from filing under RSA 541-A:12, I-a, without receiving notice of objection from the
14 committee;

15 18 Transition; Application. The provisions of this act shall govern the following on or after the
16 effective date of this act:

17 I. All rulemaking initiated by filing a notice of rulemaking under RSA 541-A:6.

18 II. All interim rules initiated by filing a proposed interim rule under RSA 541-A:19, II.

19 III. All expedited revisions to forms initiated by filing a notice of rulemaking under RSA
20 541-A:19-c, III.

21 IV. All notices submitted to the director of legislative services for publication in the
22 rulemaking register.

23 19 Contingent Nullification. If SB 44-FN of the 2023 legislative session becomes law then
24 section 9 of that act, amending RSA 330-C:17, I(b), shall not take effect.

25 20 Unemployment Compensation; Overpayment Penalties. Amend RSA 282-A:165, IV to read
26 as follows:

27 IV. The commissioner shall collect any overpayment created under this chapter by civil
28 action in any manner provided for the collection of contributions in RSA 282-A:141-156, *except as*
29 *provided in paragraph V*, and shall withhold, in whole or in part as determined by the
30 commissioner, any future benefits payable to the individual and shall credit such amount withheld
31 against the overpayment until it is repaid in full.

32 21 New Paragraph; Unemployment Compensation; Overpayment. Amend RSA 282-A:165 by
33 inserting after paragraph IV the following new paragraph:

34 V. The commissioner shall not charge interest on overpayments unless the person willfully
35 made a false statement or representation or knowingly failed to disclose a material fact to obtain or
36 increase any benefit or other payment under this chapter, either for oneself or any other person
37 pursuant to RSA 282-A:161 or RSA 282-A:164.

HB 358 - AS AMENDED BY THE SENATE

- Page 8 -

1 I. Every employer shall provide reasonable break periods to employees who need to express
2 milk for a child for a period of one year from the date of birth of the child. Nothing in this section
3 shall preclude an employer from negotiating with an employee reasonable break periods to express
4 milk that are different from the requirements in this subdivision.

5 II. Nothing under this subdivision shall preclude an employee from taking a reasonable
6 break period contemporaneously with break or meal periods already provided to the employee by the
7 employer.

8 III. An employer shall not require an employee to make up time related to use of unpaid
9 reasonable break periods.

10 275:82 Penalties. Any employer who violates any provision of this subdivision shall be subject
11 to a one-time civil penalty pursuant to RSA 273:11-a.

12 275:83 Hardship Exemption. An employer may be exempted from this subdivision if providing
13 reasonable break time and sufficient space for expressing milk would impose an undue hardship to
14 the employer's operations.

15 23 Effective Date.

16 I. Section 22 of this act, except for RSA 275:82, shall take effect July 1, 2025.

17 II. RSA 275:82, as inserted by section 22 of this act shall take effect July 1, 2026.

18 III. The remainder of this act shall take effect 60 days after its passage.

HB 358 - VERSION ADOPTED BY BOTH BODIES

16Mar2023... 0648h
06/08/2023 2072s
06/08/2023 2172s
06/08/2023 2081s
06/08/2023 2156s
29Jun2023... 2204CofC

2023 SESSION

23-0226
05/10

HOUSE BILL **358**

AN ACT relative to the filing and adoption of proposed administrative rules and relative to overpayment of unemployment compensation and relative to policies relating to nursing mothers.

SPONSORS: Rep. C. McGuire, Merr. 27; Rep. Layon, Rock. 13; Sen. Lang, Dist 2; Sen. Ward, Dist 8

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill:

I. Makes various changes to the procedures for the filing and adoption of proposed administrative rules.

II. Makes a technical correction to SB 44-FN if it becomes law.

III. Establishes minimum work place supports for nursing mothers.

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

HB 358 - VERSION ADOPTED BY BOTH BODIES

16Mar2023... 0648h
06/08/2023 2072s
06/08/2023 2172s
06/08/2023 2081s
06/08/2023 2156s
29Jun2023... 2204CofC

23-0226
05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the filing and adoption of proposed administrative rules and relative to overpayment of unemployment compensation and relative to policies relating to nursing mothers.

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

1 1 Administrative Procedure Act; Definition of Form. Amend RSA 541-A:1, VII-a to read as
2 follows:

3 VII-a. "Form" means a document, [~~that establishes a requirement for~~] *whether hardcopy*
4 *or electronic, with blank spaces for insertion of required or optional information, which*
5 *must be submitted to the agency by* persons outside the agency, [~~to provide information to an~~
6 ~~agency and the format in which such information must be submitted. The term does not include any~~
7 ~~document, regardless of what the document is called, that (a) is provided by an agency to facilitate~~
8 ~~the submission of information that is required to be submitted to the agency by federal or state~~
9 ~~statute, regulation, or rule and does not add to or modify such requirement or (b) that is used only by~~
10 ~~the agency to provide information to persons outside the agency]~~ *such as, but not limited to,*
11 *licensing applications, petitions, or requests. The term does not include a document that is*
12 *called a form by the agency but which does not have blank spaces for insertion of*
13 *information by persons outside the agency.*

14 2 Fiscal Impact Statements. Amend RSA 541-A:5, VI to read as follows:

15 VI. Agencies shall also obtain an amended fiscal impact statement from the legislative
16 budget assistant [~~only~~] if as a result of notice and hearing a change has been made which affects the
17 original fiscal impact statement *or to correct an error in the original fiscal impact statement.*
18 Agencies shall file the amended fiscal impact statement as part of the final proposal pursuant to
19 RSA 541-A:12, II.

20 3 New Paragraph; Rulemaking Register. Amend RSA 541-A:9 by inserting after paragraph II
21 the following new paragraph:

22 III. The rulemaking register shall be sent by email to all members of the general court.

23 4 New Paragraph; Filing of Final Proposal. Amend RSA 541-A:12 by inserting after paragraph
24 II the following new paragraph:

25 II-a. The agency shall file with the final proposal a copy of any draft, new, or amended form,
26 or screenshot, mock-up, or prototype of an electronic-only form, which has been incorporated by

HB 358 - VERSION ADOPTED BY BOTH BODIES

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1 reference in the final proposed rule or whose requirements are set forth in the final proposed rule
2 pursuant to RSA 541-A:19-b.

3 5 Review by the Joint Legislative Committee on Administrative Rules; Basis for Objection.
4 Amend RSA 541-A:13, IV(c) to read as follows:

5 (c) Determined not to be in the public interest; *including the existence of substantive*
6 *inconsistencies between a form and the rule where the form is incorporated by reference or*
7 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

8 6 Final Adoption. Amend RSA 541-A:14, III to read as follows:

9 III. The agency shall file ~~[all adopted rules]~~ with the director of legislative services *all*
10 *adopted rules and any related new or amended form, or screenshot, mock-up, or prototype*
11 *of an electronic-only form, which the rules incorporate by reference or whose requirements*
12 *are set forth in the rules pursuant to RSA 541-A:19-b.*

13 7 Publication of Rules. Amend RSA 541-A:15, I and I-a to read as follows:

14 I. The director of legislative services shall compile, index, and publish~~[-or require agencies~~
15 ~~to publish,]~~ all effective rules adopted by each agency. The text of an adopted rule as filed with the
16 director and which is effective shall *then* be the official version of the rule~~[.]~~. *The director shall*
17 *publish the adopted rule text online in a format as determined by the director. The agency*
18 *shall be notified when the text is published. The agency shall then have 120 days to certify*
19 *that the published rule is accurate. If* ~~[unless or until a version prepared for publication, which~~
20 ~~may have]~~ *editorial changes not affecting the substance of the rule*~~[, is certified by the agency as the~~
21 ~~same in substance as originally filed.]~~ *are needed, or an error in the publishing process is*
22 *identified, then the agency shall notify the director, and such changes shall be made by the*
23 *director and certified by the agency that it is the same in substance as originally filed. If*
24 *the agency does not notify the director within the 120-day deadline, then it will be*
25 *presumed that the agency has reviewed the published language and agreed that it is the*
26 *certified version and shall be published online by the director in a format as determined by*
27 *the director.* The certified version shall *then* be the official version. Both the adopted rule as-filed
28 and as-certified may be an electronic document and still be the official version if in compliance with
29 RSA 541-A:1, V-a and VI and the drafting and procedure manual for administrative rules under RSA
30 541-A:8. The official version of the rule shall be available to the public by the agency and the
31 director pursuant to RSA 541-A:14, IV *as described in the drafting and procedure manual*
32 *under RSA 541-A:8.*

33 I-a. ~~[The director shall send the text of a rule to be certified to the agency adopting the rule.~~
34 ~~The agency shall certify the rule under paragraph I within 120 days of receiving the first edited~~
35 ~~text.]~~ The 120-day deadline *in paragraph I* shall not apply to interim rules or emergency rules. A
36 copy of each rule as filed and each as certified shall be sent by the director to the state library and
37 the New Hampshire law library at the supreme court.

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1 8 Rules; Filing Required. Amend RSA 541-A:16, III to read as follows:

2 III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted
3 rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-
4 A:14-a, III, or RSA 541-A:19, X, or such other *later* date [~~and time~~] as specified, provided that filing
5 occurs before such effective date [~~and time~~]. Except as provided in RSA 541-A:14-a, a rule adopted
6 under RSA 541-A:14, IV shall expire after the last day of the tenth year following its becoming
7 effective, unless sooner amended, readopted, or repealed.

8 9 New Paragraph; Interim Rules. Amend RSA 541-A:19 by inserting after paragraph IV the
9 following new paragraph:

10 IV-a. The agency shall file with the proposed interim rule a copy of any related new or
11 amended form, or screen shots, mock-up, or prototype of an electronic-only form, which has been
12 incorporated by reference in the proposed interim rule or whose requirements are set forth in the
13 proposed interim rule pursuant to RSA 541-A:19-b.

14 10 Interim Rules; Basis for Objection. Amend RSA 541-A:19, VII(c) to read as follows:

15 (c) Determined not to be in the public interest, *including the existence of substantive*
16 *inconsistencies between a form and the rule where the form is incorporated by reference or*
17 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

18 11 Interim Rules; Response to Conditional Approval. Amend RSA 541-A:19, VIII(b) to read as
19 follows:

20 (b) If the committee objects to the proposed interim rule as filed, it shall so inform the
21 agency. In lieu of an objection, and with or without a written request under subparagraph (a), the
22 committee may vote to conditionally approve the rule with an amendment, provided that the
23 committee specified in its conditional approval the language of the amendment to address the basis
24 for a preliminary objection. The committee shall notify the agency in writing of its conditional
25 approval. Within 14 days of the meeting, *or in the case of a board or commission, 7 days*
26 *following its regularly scheduled meeting*, the agency shall submit a written explanation to the
27 committee in the form of a letter and an annotated text of the final proposed rule detailing how the
28 rule has been amended in accordance with the conditional approval. The written explanation shall
29 be signed by the individual holding rulemaking authority, or, if a body of individuals holds
30 rulemaking authority, by a voting member of that body, provided that a quorum of the body has
31 approved. Failure to submit a written explanation in accordance with the conditional approval and
32 this paragraph shall cause the conditional approval to be deemed a committee vote to make a
33 preliminary objection on the date of the conditional approval. If the committee legal counsel
34 determines that the agency has amended the rule in accordance with the conditional approval and
35 this paragraph, the committee legal counsel shall promptly send written confirmation of compliance
36 to the agency. The agency may then adopt the rule as amended.

37 12 Interim Rules. Amend RSA 541-A:19, X to read as follows:

1 X. No proposed interim rule shall be adopted unless the committee has voted to approve the
 2 proposed interim rule or conditionally approve the proposed interim rule, provided that the
 3 committee legal counsel has sent written confirmation to the agency pursuant to RSA 541-A:19,
 4 VIII(b). An adopted interim rule *and any new or amended form, or screenshot, mock-up, or*
 5 *prototype of an electronic-only form, which the rule incorporates by reference or the*
 6 *requirements for which are set forth in the rule pursuant to RSA 541-A:19*, shall be filed with
 7 the director of legislative services no later than 30 days following committee approval or conditional
 8 approval *or in the case of a board or commission, 7 days following its next regularly*
 9 *scheduled meeting after committee approval or conditional approval*. An interim rule shall
 10 be effective under RSA 541-A:16, III on the day after filing with the director of legislative services, or
 11 at a later date, provided the agency so specifies in a letter to the director of legislative services and
 12 the effective date is within 30 days following committee approval or conditional approval. Interim
 13 rules shall be effective for a period not to exceed 180 days. During the time an interim rule shall be
 14 in effect, the agency may propose a permanent rule to replace the interim rule once it expires, but it
 15 shall not adopt another interim rule to replace the expiring interim rule.

16 13 Adoption of Forms. Amend RSA 541-A:19-b to read as follows:

17 541-A:19-b Adoption of Forms. An agency may adopt a form as defined in RSA 541-A:1, VII-a,
 18 *either* by incorporating the actual form by reference *in a rule*, or by setting forth the requirements
 19 of the form in rules, adopted according to the procedures in this chapter *and in compliance with*
 20 *the drafting and procedure manual pursuant to RSA 541-A:8*. *No new or amended form*
 21 *shall be effective and enforceable pursuant to RSA 541-A:22, I unless the form has been*
 22 *adopted in accordance with this chapter*.

23 14 Revisions to Forms; Expedited Procedure. Amend RSA 541-A:19-c to read as follows:

24 541-A:19-c Revisions to Forms; Expedited Procedure.

25 I. An agency may make editorial changes to a previously adopted form without following the
 26 procedures required in RSA 541-A:19-b, in this section, or in RSA 541-A:3, *but shall notify the*
 27 *office of legislative services of any proposed editorial changes in accordance with the*
 28 *drafting and procedure manual pursuant to RSA 541-A:8*.

29 II. An agency may revise [~~a form as defined in RSA 541-A:1, VII-a without meeting the~~
 30 ~~requirements of RSA 541-A:5-7~~] *substantively the requirements on a previously adopted form*
 31 *as defined in RSA 541-A:1, VII-a, and amend the relevant provisions in the rule which set*
 32 *forth the requirements of the form or incorporate the form by reference pursuant to RSA*
 33 *541-A:19-b, without meeting the requirements of RSA 541-A:5, RSA 541-A:6 and RSA 541-A:9-*
 34 *14* [~~either in accordance with RSA 541-A:19-b or~~] by providing notice and adopting the *amended*
 35 form in accordance with paragraphs III through VII.

36 III. Notice of an agency's intent to [~~adopt a form or amendment to a form~~] *amend a form*
 37 *and amend the relevant, affected rule* shall include:

1 (a) The name and address of the agency.

2 (b) The statutory authority for the form.

3 (c) *The rule number and title of the affected rule to be amended, and whether the*
4 *action is an amendment or readoption with amendment of the rule as described in the*
5 *drafting and procedure manual pursuant to RSA 541-A:8.*

6 (d) An explanation of the reason for the proposed [~~adoption or~~] amendment of a
7 form *and a summary of the existing, affected rule and the proposed amendment to the form*
8 *and the rule.*

9 [(d)] (e) The name, address, electronic address, and telephone number of an individual
10 in the agency able to answer questions about the proposed form.

11 [(e)] (f) The deadline for receipt by the agency of written or electronic public comment,
12 which shall be no sooner than the 7th calendar day after the date of publication of the notice in the
13 rulemaking register.

14 *III-a. The amended rule to be filed shall include only those relevant provisions of*
15 *the rule, as described in the drafting and procedure manual, pursuant to paragraph II,*
16 *and neither the amended form nor the amended rule shall have a fiscal impact which*
17 *would otherwise require a fiscal impact statement pursuant to RSA 541-A:5.*

18 IV. The *agency shall file a copy of the amended form, the amended rule including*
19 *an appendix pursuant to RSA 541-A:3-a, and the notice required by paragraph III [shall be filed]*
20 *with the director of legislative services, [for publication] who shall publish the notice in the*
21 *rulemaking register. [A copy of the form to be adopted shall be filed with the notice.]*

22 V. If on the basis of public comment the official or the group of individuals with rulemaking
23 authority determines that the form should not be [~~adopted~~] *amended*, the agency shall so notify the
24 director of legislative services and the form shall not be [~~adopted~~] *amended*.

25 VI. The proposed form *as amended and amended rule* shall be placed on the agenda of
26 the committee for review at the first regularly scheduled or special meeting at least 5 calendar days
27 after the close of the period for written or electronic comment described in subparagraph III(e). The
28 committee may approve or object to the form. The committee may object to the adoption of the form
29 *as amended and the affected rule* if the form is:

30 (a) Beyond the authority of the agency;

31 (b) Contrary to the intent of the legislature; [~~or~~]

32 (c) *Deemed not to be in the public interest, including the existence of substantive*
33 *inconsistencies between the form and the rule whose provisions incorporate the form by*
34 *reference or set forth the requirements of the form pursuant to RSA 541-A:19-b; or*

35 (d) Deemed by the committee not to meet the requirements of this section, *including*
36 *existence of a fiscal impact contrary to paragraph III-a.*

1 VII. Subsequent review and adoption of the form *as amended and the affected rule* shall
2 be as provided in RSA 541-A:13 for final proposed rules.

3 15 Validity of Rules. Amend RSA 541-A:22, I to read as follows:

4 I. No agency rule, *including a form*, is valid or effective against any person or party, nor
5 may it be enforced by the state for any purpose, until it has been filed as required in this chapter and
6 has not expired.

7 16 New Subparagraph; Filing Final Proposal. Amend RSA 541-A:12, II by inserting after
8 subparagraph (d) the following new subparagraph:

9 (e) A report of public comments received on the rule and an explanation of how they
10 were addressed in the final rule.

11 17 Final Adoption. Amend RSA 541-A:14, I(a) to read as follows:

12 (a) The passage of [45] 60 days from filing of a final proposal under RSA 541-A:12, I, or
13 60 days from filing under RSA 541-A:12, I-a, without receiving notice of objection from the
14 committee;

15 18 Transition; Application. The provisions of this act shall govern the following on or after the
16 effective date of this act:

17 I. All rulemaking initiated by filing a notice of rulemaking under RSA 541-A:6.

18 II. All interim rules initiated by filing a proposed interim rule under RSA 541-A:19, II.

19 III. All expedited revisions to forms initiated by filing a notice of rulemaking under RSA
20 541-A:19-c, III.

21 IV. All notices submitted to the director of legislative services for publication in the
22 rulemaking register.

23 19 Contingent Nullification. If SB 44-FN of the 2023 legislative session becomes law then
24 section 9 of that act, amending RSA 330-C:17, I(b), shall not take effect.

25 20 New Subdivision; Labor; Protective Legislation; Policies Relating to Nursing Mothers.
26 Amend RSA 275 by inserting after section 77 the following new subdivision:

27 Policies Relating to Nursing Mothers

28 275:78 Definitions. In this subdivision:

29 I. "Employee" shall mean a person who may be permitted, required, or directed by an
30 employer in consideration of direct or indirect gain or profit, but shall not include any individual who
31 volunteers services for a public, charitable, or religious facility without expectation or promise of
32 pay.

33 II. "Employer" shall mean a person, partnership, association, corporation, or legal
34 representative of a person, partnership, association, or corporation, or the state or any of its political
35 subdivisions, which has 6 or more employees working in the state.

36 III. "Expression of milk" means the initiation of lactation by manual or mechanical means,
37 but shall not include breastfeeding.

1 IV. "Reasonable break period" shall mean an unpaid break of approximately 30 minutes for
2 every 3 hours of work performed by a nursing employee for the purpose of expressing milk.

3 V. "Undue hardship" shall mean any action that requires significant difficulty or expense
4 when considered in relation to factors such as the size of the business, its financial resources and the
5 nature and structure of its operation.

6 275:79 Notification of Policies.

7 I. Every employer shall adopt a policy to address the provision of sufficient space and
8 reasonable break periods for nursing employees that need to express milk during working hours.

9 II. Every employer shall, at the time of hire, make available to its employees the employer's
10 policy related to expression of milk during working hours.

11 III. A nursing employee shall notify its employer at least 2 weeks prior to needing
12 reasonable break periods and sufficient space for expression of milk during work hours; provided
13 that such notice shall comply with the employer's policies.

14 275:80 Sufficient Space.

15 I. Every employer shall provide access to reasonable, sufficient space, either temporary or
16 permanent in nature, for the use of an employee to express milk for a nursing child for a period of
17 one year from the date of birth of the child.

18 II. The location of the space provided shall be within a reasonable walk of the employee's
19 worksite, unless otherwise mutually agreed to by the employer and employee.

20 III. Sufficient space provided in accordance with this section shall not be a bathroom, and
21 shall be a clean space shielded from view and free from intrusion from coworkers and the public.

22 (a) If the space is not solely for the use of employees expressing milk it shall be made
23 available when requested to comply with the requirements set forth in this subdivision.

24 (b) If feasible, the room shall have, at a minimum, an electrical outlet and a chair.

25 275:81 Reasonable Break Period.

26 I. Every employer shall provide reasonable break periods to employees who need to express
27 milk for a child for a period of one year from the date of birth of the child. Nothing in this section
28 shall preclude an employer from negotiating with an employee reasonable break periods to express
29 milk that are different from the requirements in this subdivision.

30 II. Nothing under this subdivision shall preclude an employee from taking a reasonable
31 break period contemporaneously with break or meal periods already provided to the employee by the
32 employer.

33 III. An employer shall not require an employee to make up time related to use of unpaid
34 reasonable break periods.

35 275:82 Penalties. Any employer who violates any provision of this subdivision shall be subject
36 to a one-time civil penalty pursuant to RSA 273:11-a.

HB 358 - VERSION ADOPTED BY BOTH BODIES

- Page 8 -

1 275:83 Hardship Exemption. An employer may be exempted from this subdivision if providing
2 reasonable break time and sufficient space for expressing milk would impose an undue hardship to
3 the employer's operations.

4 21 Effective Date.

5 I. Section 20 of this act, except for RSA 275:82, shall take effect July 1, 2025.

6 II. RSA 275:82, as inserted by section 20 of this act shall take effect July 1, 2026.

7 III. The remainder of this act shall take effect 60 days after its passage.

CHAPTER 191
HB 358 - FINAL VERSION

16Mar2023... 0648h
06/08/2023 2072s
06/08/2023 2172s
06/08/2023 2081s
06/08/2023 2156s
29Jun2023... 2204CofC

2023 SESSION

23-0226
05/10

HOUSE BILL **358**

AN ACT relative to the filing and adoption of proposed administrative rules and relative to overpayment of unemployment compensation and relative to policies relating to nursing mothers.

SPONSORS: Rep. C. McGuire, Merr. 27; Rep. Layon, Rock. 13; Sen. Lang, Dist 2; Sen. Ward, Dist 8

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill:

I. Makes various changes to the procedures for the filing and adoption of proposed administrative rules.

II. Makes a technical correction to SB 44-FN if it becomes law.

III. Establishes minimum work place supports for nursing mothers.

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23-0226
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

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

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2 follows:

3 VII-a. "Form" means a document, ~~[that establishes a requirement for]~~ *whether hardcopy*
4 *or electronic, with blank spaces for insertion of required or optional information, which*
5 *must be submitted to the agency by persons outside the agency, [to provide information to an*
6 *agency and the format in which such information must be submitted. The term does not include any*
7 *document, regardless of what the document is called, that (a) is provided by an agency to facilitate*
8 *the submission of information that is required to be submitted to the agency by federal or state*
9 *statute, regulation, or rule and does not add to or modify such requirement or (b) that is used only by*
10 *the agency to provide information to persons outside the agency] such as, but not limited to,*
11 *licensing applications, petitions, or requests. The term does not include a document that is*
12 *called a form by the agency but which does not have blank spaces for insertion of*
13 *information by persons outside the agency.*

14 191:2 Fiscal Impact Statements. Amend RSA 541-A:5, VI to read as follows:

15 VI. Agencies shall also obtain an amended fiscal impact statement from the legislative
16 budget assistant ~~[only]~~ if as a result of notice and hearing a change has been made which affects the
17 original fiscal impact statement *or to correct an error in the original fiscal impact statement.*
18 Agencies shall file the amended fiscal impact statement as part of the final proposal pursuant to
19 RSA 541-A:12, II.

20 191:3 New Paragraph; Rulemaking Register. Amend RSA 541-A:9 by inserting after paragraph
21 II the following new paragraph:

22 III. The rulemaking register shall be sent by email to all members of the general court.

23 191:4 New Paragraph; Filing of Final Proposal. Amend RSA 541-A:12 by inserting after
24 paragraph II the following new paragraph:

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1 II-a. The agency shall file with the final proposal a copy of any draft, new, or amended form,
2 or screenshot, mock-up, or prototype of an electronic-only form, which has been incorporated by
3 reference in the final proposed rule or whose requirements are set forth in the final proposed rule
4 pursuant to RSA 541-A:19-b.

5 191:5 Review by the Joint Legislative Committee on Administrative Rules; Basis for Objection.
6 Amend RSA 541-A:13, IV(c) to read as follows:

7 (c) Determined not to be in the public interest; *including the existence of substantive*
8 *inconsistencies between a form and the rule where the form is incorporated by reference or*
9 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

10 191:6 Final Adoption. Amend RSA 541-A:14, III to read as follows:

11 III. The agency shall file [~~all adopted rules~~] with the director of legislative services *all*
12 *adopted rules and any related new or amended form, or screenshot, mock-up, or prototype*
13 *of an electronic-only form, which the rules incorporate by reference or whose requirements*
14 *are set forth in the rules pursuant to RSA 541-A:19-b.*

15 191:7 Publication of Rules. Amend RSA 541-A:15, I and I-a to read as follows:

16 I. The director of legislative services shall compile, index, and publish[~~or require agencies~~
17 ~~to publish,~~] all effective rules adopted by each agency. The text of an adopted rule as filed with the
18 director and which is effective shall *then* be the official version of the rule[~~].~~ *The director shall*
19 *publish the adopted rule text online in a format as determined by the director. The agency*
20 *shall be notified when the text is published. The agency shall then have 120 days to certify*
21 *that the published rule is accurate. If* [~~unless or until a version prepared for publication, which~~
22 ~~may have~~] *editorial changes not affecting the substance of the rule[~~], is certified by the agency as the~~*
23 *same in substance as originally filed.]* *are needed, or an error in the publishing process is*
24 *identified, then the agency shall notify the director, and such changes shall be made by the*
25 *director and certified by the agency that it is the same in substance as originally filed. If*
26 *the agency does not notify the director within the 120-day deadline, then it will be*
27 *presumed that the agency has reviewed the published language and agreed that it is the*
28 *certified version and shall be published online by the director in a format as determined by*
29 *the director.* The certified version shall *then* be the official version. Both the adopted rule as-filed
30 and as-certified may be an electronic document and still be the official version if in compliance with
31 RSA 541-A:1, V-a and VI and the drafting and procedure manual for administrative rules under RSA
32 541-A:8. The official version of the rule shall be available to the public by the agency and the
33 director pursuant to RSA 541-A:14, IV *as described in the drafting and procedure manual*
34 *under RSA 541-A:8.*

35 I-a. [~~The director shall send the text of a rule to be certified to the agency adopting the rule.~~
36 ~~The agency shall certify the rule under paragraph I within 120 days of receiving the first edited~~
37 ~~text.] The 120-day deadline *in paragraph I* shall not apply to interim rules or emergency rules. A~~

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1 copy of each rule as filed and each as certified shall be sent by the director to the state library and
2 the New Hampshire law library at the supreme court.

3 191:8 Rules; Filing Required. Amend RSA 541-A:16, III to read as follows:

4 III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted
5 rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-
6 A:14-a, III, or RSA 541-A:19, X, or such other *later* date [~~and time~~] as specified, provided that filing
7 occurs before such effective date [~~and time~~]. Except as provided in RSA 541-A:14-a, a rule adopted
8 under RSA 541-A:14, IV shall expire after the last day of the tenth year following its becoming
9 effective, unless sooner amended, readopted, or repealed.

10 191:9 New Paragraph; Interim Rules. Amend RSA 541-A:19 by inserting after paragraph IV the
11 following new paragraph:

12 IV-a. The agency shall file with the proposed interim rule a copy of any related new or
13 amended form, or screen shots, mock-up, or prototype of an electronic-only form, which has been
14 incorporated by reference in the proposed interim rule or whose requirements are set forth in the
15 proposed interim rule pursuant to RSA 541-A:19-b.

16 191:10 Interim Rules; Basis for Objection. Amend RSA 541-A:19, VII(c) to read as follows:

17 (c) Determined not to be in the public interest, *including the existence of substantive*
18 *inconsistencies between a form and the rule where the form is incorporated by reference or*
19 *which sets forth the requirements of the form, pursuant to RSA 541-A:19-b; or*

20 191:11 Interim Rules; Response to Conditional Approval. Amend RSA 541-A:19, VIII(b) to read
21 as follows:

22 (b) If the committee objects to the proposed interim rule as filed, it shall so inform the
23 agency. In lieu of an objection, and with or without a written request under subparagraph (a), the
24 committee may vote to conditionally approve the rule with an amendment, provided that the
25 committee specified in its conditional approval the language of the amendment to address the basis
26 for a preliminary objection. The committee shall notify the agency in writing of its conditional
27 approval. Within 14 days of the meeting, *or in the case of a board or commission, 7 days*
28 *following its regularly scheduled meeting*, the agency shall submit a written explanation to the
29 committee in the form of a letter and an annotated text of the final proposed rule detailing how the
30 rule has been amended in accordance with the conditional approval. The written explanation shall
31 be signed by the individual holding rulemaking authority, or, if a body of individuals holds
32 rulemaking authority, by a voting member of that body, provided that a quorum of the body has
33 approved. Failure to submit a written explanation in accordance with the conditional approval and
34 this paragraph shall cause the conditional approval to be deemed a committee vote to make a
35 preliminary objection on the date of the conditional approval. If the committee legal counsel
36 determines that the agency has amended the rule in accordance with the conditional approval and

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1 this paragraph, the committee legal counsel shall promptly send written confirmation of compliance
2 to the agency. The agency may then adopt the rule as amended.

3 191:12 Interim Rules. Amend RSA 541-A:19, X to read as follows:

4 X. No proposed interim rule shall be adopted unless the committee has voted to approve the
5 proposed interim rule or conditionally approve the proposed interim rule, provided that the
6 committee legal counsel has sent written confirmation to the agency pursuant to RSA 541-A:19,
7 VIII(b). An adopted interim rule *and any new or amended form, or screenshot, mock-up, or*
8 *prototype of an electronic-only form, which the rule incorporates by reference or the*
9 *requirements for which are set forth in the rule pursuant to RSA 541-A:19*, shall be filed with
10 the director of legislative services no later than 30 days following committee approval or conditional
11 approval *or in the case of a board or commission, 7 days following its next regularly*
12 *scheduled meeting after committee approval or conditional approval*. An interim rule shall
13 be effective under RSA 541-A:16, III on the day after filing with the director of legislative services, or
14 at a later date, provided the agency so specifies in a letter to the director of legislative services and
15 the effective date is within 30 days following committee approval or conditional approval. Interim
16 rules shall be effective for a period not to exceed 180 days. During the time an interim rule shall be
17 in effect, the agency may propose a permanent rule to replace the interim rule once it expires, but it
18 shall not adopt another interim rule to replace the expiring interim rule.

19 191:13 Adoption of Forms. Amend RSA 541-A:19-b to read as follows:

20 541-A:19-b Adoption of Forms. An agency may adopt a form as defined in RSA 541-A:1, VII-a,
21 *either* by incorporating the actual form by reference *in a rule*, or by setting forth the requirements
22 of the form in rules, adopted according to the procedures in this chapter *and in compliance with*
23 *the drafting and procedure manual pursuant to RSA 541-A:8*. *No new or amended form*
24 *shall be effective and enforceable pursuant to RSA 541-A:22, I unless the form has been*
25 *adopted in accordance with this chapter*.

26 191:14 Revisions to Forms; Expedited Procedure. Amend RSA 541-A:19-c to read as follows:

27 541-A:19-c Revisions to Forms; Expedited Procedure.

28 I. An agency may make editorial changes to a previously adopted form without following the
29 procedures required in RSA 541-A:19-b, in this section, or in RSA 541-A:3, *but shall notify the*
30 *office of legislative services of any proposed editorial changes in accordance with the*
31 *drafting and procedure manual pursuant to RSA 541-A:8*.

32 II. An agency may revise [~~a form as defined in RSA 541-A:1, VII-a without meeting the~~
33 ~~requirements of RSA 541-A:5-7]~~ *substantively the requirements on a previously adopted form*
34 *as defined in RSA 541-A:1, VII-a, and amend the relevant provisions in the rule which set*
35 *forth the requirements of the form or incorporate the form by reference pursuant to RSA*
36 *541-A:19-b, without meeting the requirements of RSA 541-A:5, RSA 541-A:6 and RSA 541-A:9-*

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1 14 [~~either in accordance with RSA 541-A:19-b or~~] by providing notice and adopting the *amended*
2 form in accordance with paragraphs III through VII.

3 III. Notice of an agency's intent to [~~adopt a form or amendment to a form~~] *amend a form*
4 *and amend the relevant, affected rule* shall include:

5 (a) The name and address of the agency.

6 (b) The statutory authority for the form.

7 (c) *The rule number and title of the affected rule to be amended, and whether*
8 *the action is an amendment or readoption with amendment of the rule as described in the*
9 *drafting and procedure manual pursuant to RSA 541-A:8.*

10 (d) An explanation of the reason for the proposed [~~adoption or~~] amendment of a
11 form *and a summary of the existing, affected rule and the proposed amendment to the form*
12 *and the rule.*

13 [~~(d)~~] (e) The name, address, electronic address, and telephone number of an individual
14 in the agency able to answer questions about the proposed form.

15 [~~(e)~~] (f) The deadline for receipt by the agency of written or electronic public comment,
16 which shall be no sooner than the 7th calendar day after the date of publication of the notice in the
17 rulemaking register.

18 *III-a. The amended rule to be filed shall include only those relevant provisions of*
19 *the rule, as described in the drafting and procedure manual, pursuant to paragraph II,*
20 *and neither the amended form nor the amended rule shall have a fiscal impact which*
21 *would otherwise require a fiscal impact statement pursuant to RSA 541-A:5.*

22 IV. The *agency shall file a copy of the amended form, the amended rule including*
23 *an appendix pursuant to RSA 541-A:3-a, and the notice required by paragraph III* [~~shall be filed~~]
24 *with the director of legislative services, [for publication] who shall publish the notice* in the
25 rulemaking register. [~~A copy of the form to be adopted shall be filed with the notice.~~]

26 V. If on the basis of public comment the official or the group of individuals with rulemaking
27 authority determines that the form should not be [~~adopted~~] *amended*, the agency shall so notify the
28 director of legislative services and the form shall not be [~~adopted~~] *amended*.

29 VI. The proposed form *as amended and amended rule* shall be placed on the agenda of
30 the committee for review at the first regularly scheduled or special meeting at least 5 calendar days
31 after the close of the period for written or electronic comment described in subparagraph III(e). The
32 committee may approve or object to the form. The committee may object to the adoption of the form
33 *as amended and the affected rule* if the form is:

34 (a) Beyond the authority of the agency;

35 (b) Contrary to the intent of the legislature; [~~or~~]

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1 (c) *Deemed not to be in the public interest, including the existence of substantive*
2 *inconsistencies between the form and the rule whose provisions incorporate the form by*
3 *reference or set forth the requirements of the form pursuant to RSA 541-A:19-b; or*

4 (d) *Deemed by the committee not to meet the requirements of this section, including*
5 *existence of a fiscal impact contrary to paragraph III-a.*

6 VII. Subsequent review and adoption of the form *as amended and the affected rule* shall
7 be as provided in RSA 541-A:13 for final proposed rules.

8 191:15 Validity of Rules. Amend RSA 541-A:22, I to read as follows:

9 I. No agency rule, *including a form*, is valid or effective against any person or party, nor
10 may it be enforced by the state for any purpose, until it has been filed as required in this chapter and
11 has not expired.

12 191:16 New Subparagraph; Filing Final Proposal. Amend RSA 541-A:12, II by inserting after
13 subparagraph (d) the following new subparagraph:

14 (e) A report of public comments received on the rule and an explanation of how they
15 were addressed in the final rule.

16 191:17 Final Adoption. Amend RSA 541-A:14, I(a) to read as follows:

17 (a) The passage of [45] *60* days from filing of a final proposal under RSA 541-A:12, I, or
18 60 days from filing under RSA 541-A:12, I-a, without receiving notice of objection from the
19 committee;

20 191:18 Transition; Application. The provisions of this act shall govern the following on or after
21 the effective date of this act:

22 I. All rulemaking initiated by filing a notice of rulemaking under RSA 541-A:6.

23 II. All interim rules initiated by filing a proposed interim rule under RSA 541-A:19, II.

24 III. All expedited revisions to forms initiated by filing a notice of rulemaking under RSA
25 541-A:19-c, III.

26 IV. All notices submitted to the director of legislative services for publication in the
27 rulemaking register.

28 191:19 Contingent Nullification. If SB 44-FN of the 2023 legislative session becomes law then
29 section 9 of that act, amending RSA 330-C:17, I(b), shall not take effect.

30 191:20 New Subdivision; Labor; Protective Legislation; Policies Relating to Nursing Mothers.
31 Amend RSA 275 by inserting after section 77 the following new subdivision:

Policies Relating to Nursing Mothers

32 275:78 Definitions. In this subdivision:

33 I. "Employee" shall mean a person who may be permitted, required, or directed by an
34 employer in consideration of direct or indirect gain or profit, but shall not include any individual who
35 volunteers services for a public, charitable, or religious facility without expectation or promise of
36 pay.
37

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1 II. "Employer" shall mean a person, partnership, association, corporation, or legal
2 representative of a person, partnership, association, or corporation, or the state or any of its political
3 subdivisions, which has 6 or more employees working in the state.

4 III. "Expression of milk" means the initiation of lactation by manual or mechanical means,
5 but shall not include breastfeeding.

6 IV. "Reasonable break period" shall mean an unpaid break of approximately 30 minutes for
7 every 3 hours of work performed by a nursing employee for the purpose of expressing milk.

8 V. "Undue hardship" shall mean any action that requires significant difficulty or expense
9 when considered in relation to factors such as the size of the business, its financial resources and the
10 nature and structure of its operation.

11 275:79 Notification of Policies.

12 I. Every employer shall adopt a policy to address the provision of sufficient space and
13 reasonable break periods for nursing employees that need to express milk during working hours.

14 II. Every employer shall, at the time of hire, make available to its employees the employer's
15 policy related to expression of milk during working hours.

16 III. A nursing employee shall notify its employer at least 2 weeks prior to needing
17 reasonable break periods and sufficient space for expression of milk during work hours; provided
18 that such notice shall comply with the employer's policies.

19 275:80 Sufficient Space.

20 I. Every employer shall provide access to reasonable, sufficient space, either temporary or
21 permanent in nature, for the use of an employee to express milk for a nursing child for a period of
22 one year from the date of birth of the child.

23 II. The location of the space provided shall be within a reasonable walk of the employee's
24 worksite, unless otherwise mutually agreed to by the employer and employee.

25 III. Sufficient space provided in accordance with this section shall not be a bathroom, and
26 shall be a clean space shielded from view and free from intrusion from coworkers and the public.

27 (a) If the space is not solely for the use of employees expressing milk it shall be made
28 available when requested to comply with the requirements set forth in this subdivision.

29 (b) If feasible, the room shall have, at a minimum, an electrical outlet and a chair.

30 275:81 Reasonable Break Period.

31 I. Every employer shall provide reasonable break periods to employees who need to express
32 milk for a child for a period of one year from the date of birth of the child. Nothing in this section
33 shall preclude an employer from negotiating with an employee reasonable break periods to express
34 milk that are different from the requirements in this subdivision.

35 II. Nothing under this subdivision shall preclude an employee from taking a reasonable
36 break period contemporaneously with break or meal periods already provided to the employee by the
37 employer.

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1 III. An employer shall not require an employee to make up time related to use of unpaid
2 reasonable break periods.

3 275:82 Penalties. Any employer who violates any provision of this subdivision shall be subject
4 to a one-time civil penalty pursuant to RSA 273:11-a.

5 275:83 Hardship Exemption. An employer may be exempted from this subdivision if providing
6 reasonable break time and sufficient space for expressing milk would impose an undue hardship to
7 the employer's operations.

8 191:21 Effective Date.

9 I. Section 20 of this act, except for RSA 275:82, shall take effect July 1, 2025.

10 II. RSA 275:82, as inserted by section 20 of this act shall take effect July 1, 2026.

 III. The remainder of this act shall take effect 60 days after its passage.

Approved: August 04, 2023

Effective Date:

I. Sec 20, except RSA 275:82 eff July 1, 2025

II. RSA 275:82 inserted by Sec 20 eff July 1, 2026

III. Remainder effective October 3, 2023

Amendments

Amendment to HB 358

1 Amend the bill by replacing RSA 541-A:15, I as inserted by section 7 of the bill with the following:

2

3 I. The director of legislative services shall compile, index, and publish~~, or require agencies~~
4 ~~to publish,~~ all effective rules adopted by each agency. The text of an adopted rule as filed with the
5 director and which is effective shall *then* be the official version of the rule~~s~~. *The director shall*
6 *publish the adopted rule text online in a format as determined by the director. The agency*
7 *shall be notified when the text is published. The agency shall then have 120 days to certify*
8 *that the published rule is accurate. If* ~~[unless or until a version prepared for publication, which~~
9 ~~may have]~~ editorial changes not affecting the substance of the rule~~, is certified by the agency as the~~
10 ~~same in substance as originally filed.]~~ *are needed, or an error in the publishing process is*
11 *identified, then the agency shall notify the director, and such changes shall be made by the*
12 *director and certified by the agency that it is the same in substance as originally filed. If*
13 *the agency does not notify the director within the 120-day deadline, then it will be*
14 *presumed that the agency has reviewed the published language and agreed that it is the*
15 *certified version and shall be published online by the director in a format as determined by*
16 *the director.* The certified version shall *then* be the official version. Both the adopted rule as-filed
17 and as-certified may be an electronic document and still be the official version if in compliance with
18 RSA 541-A:1, V-a and VI and the drafting and procedure manual for administrative rules under RSA
19 541-A:8. The official version of the rule shall be available to the public by the agency and the
20 director pursuant to RSA 541-A:14, IV *as described in the drafting and procedure manual*
21 *under RSA 541-A:8.*

22

23 Amend the bill by replacing section 8 with the following:

24

25 8 Rules; Filing Required. Amend RSA 541-A:16, III to read as follows:

26

27 III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted
28 rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-
29 A:14-a, III, or RSA 541-A:19, X, or such other *later* date ~~[and time]~~ as specified, provided that filing
30 occurs before such effective date ~~[and time]~~. Except as provided in RSA 541-A:14-a, a rule adopted
31 under RSA 541-A:14, IV shall expire after the last day of the tenth year following its becoming
32 effective, unless sooner amended, readopted, or repealed.

32

Amendment to HB 358

- Page 2 -

1 Amend RSA 541-A:19-c,VI(c) as inserted by section 14 of the bill by replacing it with the following:

2

3 (c) *Deemed not to be in the public interest, including the existence of substantive*
4 *inconsistencies between the form and the rule whose provisions incorporate the form by*
5 *reference or set forth the requirements of the form pursuant to RSA 541-A:19-b; or*

6

7 Amend the bill by inserting after section 17 the following and renumbering the original section 18 to
8 read as 19:

9

10 18 Transition; Application. The provisions of this act shall govern the following on or after the
11 effective date of this act:

12 I. All rulemaking initiated by filing a notice of rulemaking under RSA 541-A:6.

13 II. All interim rules initiated by filing a proposed interim rule under RSA 541-A:19, II.

14 III. All expedited revisions to forms initiated by filing a notice of rulemaking under RSA
15 541-A:19-c, III.

16 IV. All notices submitted to the director of legislative services for publication in the
17 rulemaking register.

UNAPPROVED

Amendment to HB 358

1 Amend the bill by replacing RSA 541-A:15, I as inserted by section 7 of the bill with the following:

2

3 I. The director of legislative services shall compile, index, and publish~~[, or require agencies~~
4 ~~to publish,]~~ all effective rules adopted by each agency. The text of an adopted rule as filed with the
5 director and which is effective shall *then* be the official version of the rule~~[,]~~. ***The director shall***
6 ***publish the adopted rule text online in a format as determined by the director. The agency***
7 ***shall be notified when the text is published. The agency shall then have 120 days to certify***
8 ***that the published rule is accurate. If*** ~~[unless or until a version prepared for publication, which~~
9 ~~may have]~~ editorial changes not affecting the substance of the rule~~[, is certified by the agency as the~~
10 ~~same in substance as originally filed.]~~ ***are needed, or an error in the publishing process is***
11 ***identified, then the agency shall notify the director, and such changes shall be made by the***
12 ***director and certified by the agency that it is the same in substance as originally filed. If***
13 ***the agency does not notify the director within the 120-day deadline, then it will be***
14 ***presumed that the agency has reviewed the published language and agreed that it is the***
15 ***certified version and shall be published online by the director in a format as determined by***
16 ***the director.*** The certified version shall *then* be the official version. Both the adopted rule as-filed
17 and as-certified may be an electronic document and still be the official version if in compliance with
18 RSA 541-A:1, V-a and VI and the drafting and procedure manual for administrative rules under RSA
19 541-A:8. The official version of the rule shall be available to the public by the agency and the
20 director pursuant to RSA 541-A:14, IV ***as described in the drafting and procedure manual***
21 ***under RSA 541-A:8.***

22

23 Amend the bill by replacing section 8 with the following:

24

25 8 Rules; Filing Required. Amend RSA 541-A:16, III to read as follows:

26 III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted
27 rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-
28 A:14-a, III, or RSA 541-A:19, X, or such other *later* date ~~[and time]~~ as specified, provided that filing
29 occurs before such effective date ~~[and time]~~. Except as provided in RSA 541-A:14-a, a rule adopted
30 under RSA 541-A:14, IV shall expire after the last day of the tenth year following its becoming
31 effective, unless sooner amended, readopted, or repealed.

32

Amendment to HB 358

- Page 2 -

1 Amend RSA 541-A:19-c,VI(c) as inserted by section 14 of the bill by replacing it with the following:

2

3 (c) *Deemed not to be in the public interest, including the existence of substantive*
4 *inconsistencies between the form and the rule whose provisions incorporate the form by*
5 *reference or set forth the requirements of the form pursuant to RSA 541-A:19-b; or*

6

7 Amend the bill by inserting after section 17 the following and renumbering the original section 18 to
8 read as 19:

9

10 18 Transition; Application. The provisions of this act shall govern the following on or after the
11 effective date of this act:

12 I. All rulemaking initiated by filing a notice of rulemaking under RSA 541-A:6.

13 II. All interim rules initiated by filing a proposed interim rule under RSA 541-A:19, II.

14 III. All expedited revisions to forms initiated by filing a notice of rulemaking under RSA
15 541-A:19-c, III.

16 IV. All notices submitted to the director of legislative services for publication in the
17 rulemaking register.

Sen. Whitley, Dist 15
Sen. Carson, Dist 14
May 31, 2023
2023-2081s
05/08

Floor Amendment to HB 358

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the filing and adoption of proposed administrative rules and relative to
4 overpayment of unemployment compensation.

5

6 Amend the bill by replacing all after section 18 with the following:

7

8 19 Unemployment Compensation; Overpayment Penalties. Amend RSA 282-A:165, IV to read
9 as follows:

10 IV. The commissioner shall collect any overpayment created under this chapter by civil
11 action in any manner provided for the collection of contributions in RSA 282-A:141-156, **except as**
12 **provided in paragraph V**, and shall withhold, in whole or in part as determined by the
13 commissioner, any future benefits payable to the individual and shall credit such amount withheld
14 against the overpayment until it is repaid in full.

15 20 New Paragraph; Unemployment Compensation; Overpayment. Amend RSA 282-A:165 by
16 inserting after paragraph IV the following new paragraph:

17 V. The commissioner shall not charge interest on overpayments unless the person willfully
18 made a false statement or representation or knowingly failed to disclose a material fact to obtain or
19 increase any benefit or other payment under this chapter, either for oneself or any other person
20 pursuant to RSA 282-A:161 or RSA 282-A:164.

21 21 Effective Date. This act shall take effect 60 days after its passage.

Amendment to HB 358

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2023-2081s

AMENDED ANALYSIS

This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules.

The bill also provides that the state shall not charge interest on the collection of an overpayment of unemployment compensation unless the person knowingly or willfully made a false statement in their application for benefits.

Sen. Perkins Kwoka, Dist 21
Sen. Whitley, Dist 15
June 6, 2023
2023-2156s
06/10

Floor Amendment to HB 358

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the filing and adoption of proposed administrative rules, and relative to
4 policies relating to nursing mothers.

5

6 Amend the bill by replacing all after section 18 the following:

7

8 19 New Subdivision; Labor; Protective Legislation; Policies Relating to Nursing Mothers.

9 Amend RSA 275 by inserting after section 77 the following new subdivision:

10

Policies Relating to Nursing Mothers

11

275:78 Definitions. In this subdivision:

12

I. "Employee" shall mean a person who may be permitted, required, or directed by an
13 employer in consideration of direct or indirect gain or profit, but shall not include any individual who
14 volunteers services for a public, charitable, or religious facility without expectation or promise of
15 pay.

16

II. "Employer" shall mean a person, partnership, association, corporation, or legal
17 representative of a person, partnership, association, or corporation, or the state or any of its political
18 subdivisions, which has 6 or more employees working in the state.

19

III. "Expression of milk" means the initiation of lactation by manual or mechanical means,
20 but shall not include breastfeeding.

21

IV. "Reasonable break period" shall mean an unpaid break of approximately 30 minutes for
22 every 3 hours of work performed by a nursing employee for the purpose of expressing milk.

23

V. "Undue hardship" shall mean any action that requires significant difficulty or expense
24 when considered in relation to factors such as the size of the business, its financial resources and the
25 nature and structure of its operation.

26

275:79 Notification of Policies.

27

I. Every employer shall adopt a policy to address the provision of sufficient space and
28 reasonable break periods for nursing employees that need to express milk during working hours.

29

II. Every employer shall, at the time of hire, make available to its employees the employer's
30 policy related to expression of milk during working hours.

31

III. A nursing employee shall notify its employer at least 2 weeks prior to needing
32 reasonable break periods and sufficient space for expression of milk during work hours.

Amendment to HB 358

- Page 2 -

1 275:80 Sufficient Space.

2 I. Every employer shall provide access to reasonable, sufficient space, either temporary or
3 permanent in nature, for the use of an employee to express milk for a nursing child for a period of
4 one year from the date of birth of the child.

5 II. The location of the space provided shall be within a reasonable walk of the employee's
6 worksite, unless otherwise mutually agreed to by the employer and employee.

7 III. Sufficient space provided in accordance with this section shall not be a bathroom, and
8 shall be a clean space shielded from view and free from intrusion from coworkers and the public.

9 (a) If the space is not solely for the use of employees expressing milk it shall be made
10 available when requested to comply with the requirements set forth in this subdivision.

11 (b) If feasible, the room shall have, at a minimum, an electrical outlet and a chair.

12 275:81 Reasonable Break Period.

13 I. Every employer shall provide reasonable break periods to employees who need to express
14 milk for a child for a period of one year from the date of birth of the child. Nothing in this section
15 shall preclude an employer from negotiating with an employee reasonable break periods to express
16 milk that are different from the requirements in this subdivision.

17 II. Nothing under this subdivision shall preclude an employee from taking a reasonable
18 break period contemporaneously with break or meal periods already provided to the employee by the
19 employer.

20 III. An employer shall not require an employee to make up time related to use of unpaid
21 reasonable break periods.

22 275:82 Penalties. Any employer who violates any provision of this subdivision shall be subject
23 to a one-time civil penalty pursuant to RSA 273:11-a.

24 275:83 Hardship Exemption. An employer may be exempted from this subdivision if providing
25 reasonable break time and sufficient space for expressing milk would impose an undue hardship to
26 the employer's operations.

27 20 Effective Date.

28 I. Section 19 of this act, except for RSA 275:82, shall take effect July 1, 2025.

29 II. RSA 275:82, as inserted by section 19 of this act shall take effect July 1, 2026.

30 III. The remainder of this act shall take effect 60 days after its passage.

Amendment to HB 358

- Page 3 -

2023-2156s

AMENDED ANALYSIS

This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules, and establishes minimum workplace supports for nursing mothers.

Sen. Pearl, Dist 17
June 7, 2023
2023-2172s
10/07

Floor Amendment to HB 358

1 Amend the bill by inserting after section 18 the following new section

2

3 19 Contingent Nullification. If SB 44-FN of the 2023 legislative session becomes law then

4 section 9 of that act, amending RSA 330-C:17, I(b), shall not take effect.

Amendment to HB 358
- Page 2 -

2023-2172s

AMENDED ANALYSIS

This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules. The bill also makes a technical correction to SB 44-FN if it becomes law.

Sen. Chandley, Dist 11
June 8, 2023
2023-2175s
05/10

Floor Amendment to HB 358

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the filing and adoption of proposed administrative rules and relative to
4 the certification of a collective bargaining unit.

5

6 Amend the bill by replacing all after section 18 with the following:

7

8 19 Public Employee Labor Relations; Certification of Collective Bargaining Unit. Amend RSA
9 273-A:8, I to read as follows:

10 I. The board or its designee shall determine the appropriate bargaining unit and shall
11 certify the exclusive representative thereof when petitioned to do so under RSA 273-A:10. In making
12 its determination the board should take into consideration the principle of community of interest.
13 The community of interest may be exhibited by one or more of the following criteria, although it is
14 not limited to such:

- 15 (a) Employees with the same conditions of employment;
- 16 (b) Employees with a history of workable and acceptable collective negotiations;
- 17 (c) Employees in the same historic craft or profession;
- 18 (d) Employees functioning within the same organizational unit.

19 In no case shall the board certify a bargaining unit of fewer than ~~[10]~~ 5 employees with the same
20 community of interest. For purposes of this section, probationary employees shall be counted to
21 satisfy the employee minimum number requirement. In no case shall such probationary employees
22 vote in any election conducted under the provisions of this chapter to certify an employee
23 organization as the exclusive representative of a bargaining unit.

24 20 Effective Date. This act shall take effect 60 after its passage.

Floor Amendment to HB 358

- Page 2 -

2023-2175s

AMENDED ANALYSIS

This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules. The bill also reduces the minimum number of employees required to certify a collective bargaining unit from 10 to 5.

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

Sen Howard Pearl, Chair
Sen Sharon Carson, Vice Chair
Sen Carrie Gendreau, Member
Sen Rebecca Perkins Kwoka, Member
Sen Debra Altschiller, Member

Date: March 30, 2023

HEARINGS

Thursday	04/06/2023	
(Day)	(Date)	
Executive Departments and Administration	State House 103	10:00 a.m.
(Name of Committee)	(Place)	(Time)
10:00 a.m.	HB 358	relative to the filing and adoption of proposed administrative rules.
10:10 a.m.	HB 564	relative to ratification of amendments to the state building code and state fire code, and the membership of the state advisory board of fire control.
10:20 a.m.	HB 127	relative to the declaration of a state of emergency.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 358

Rep. C. McGuire

Rep. Layon

Sen. Lang

Sen. Ward

HB 564

Rep. C. McGuire

Rep. Erf

HB 127

Rep. T. Lekas

Rep. Bailey

Rep. Cushman

Rep. Prout

Rep. Hynes

Rep. Jonathan Smith

Rep. T. Mannion

Phil Jasak 271-1403

Howard Pearl
Chairman

Senate Executive Departments and Administration Committee

Phil Jasak 271-1403

HB 358, relative to the filing and adoption of proposed administrative rules.

Hearing Date: April 6, 2023

Members of the Committee Present: Senators Pearl, Carson, Gendreau and Perkins Kwoka

Members of the Committee Absent : Senator Altschiller

Bill Analysis: This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules. The bill is a request of the joint legislative committee on administrative rules.

Sponsors:

Rep. C. McGuire
Sen. Ward

Rep. Layon

Sen. Lang

Who supports the bill: Sen. Lang, Rep. Carol McGuire, Emily Johnson, Carolyn Virtue, Julie Smith

Who opposes the bill: None

Who is neutral on the bill: None

Summary of testimony presented:

Sen. Gendreau introduced on behalf of Rep. Carol McGuire

- This bill was filed at the request of the Joint Legislative Committee on Administrative Rules.
- This bill makes various changes to the procedures for the filing and adoption of proposed administrative rules. The bill is a request of the joint legislative committee on administrative rules.

Carolyn Virtue

- This bill addresses issues with the administrative rules process.
- There is currently no authority in law for making new forms.
- The bill in its current form allows a waiver to have the authority for creating the form rather than through the typical rules process.

- Sen. Carson asked if she wants to include language that says rules cannot be given authority through the waivers.
 - Ms. Virtue answered yes.
 - Sen Carson asked if this issue has come before JLCAR.
 - Ms. Virtue said that this was given to them last year.
 - Sen. Carson asked if this is happening with all waivers or just for one issue.
 - Ms. Virtue said it is happening with all 19:15c waivers.
- Sen. Pearl asked what the forms are for
 - Ms. Virtue answered that the burden of the creation of those forms on private entities.
 - Sen. Pearl asked if she has suggested language to help clarify.
 - Ms. Virtue answered that she did not but likes the way Sen. Carson explained it and would be happy to assist.
- Sen. Carson asked do you think that this bill is in violation of 5:41a.
 - Ms. Virtue answered yes.
 - Sen. Carson then asked if they want to adopt a rule through a waiver that that must come through the legislature first.
 - She answered that if the department understands that the waiver does not enable authority for rulemaking then yes.

Speakers

Senate Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB358 on 2
Support: 2 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Lang, Senator Tim	An Elected Official	Senate District 2	Support
Smith, Julie	A Member of the Public	Myself	Support

Testimony

Phillip Jasak

From: Carolyn Virtue <carolyn@granitecm.us>
Sent: Sunday, April 16, 2023 2:30 PM
To: Howard Pearl; Sharon Carson; Carrie Gendreau; Rebecca Perkins Kwoka; Debra Altschiller; Phillip Jasak
Cc: Kevin Avard; Carol McGuire; Bob Clegg; Emily Johnson; Henry Lipman
Subject: HB 358 Title: relative to the filing and adoption of proposed administrative rules.
Attachments: BEAS 3760 Telehealth Checklist.pdf; e-E 805 Work Group Extension_2023-04-03.pdf; He-E 805 IP.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Caution! This message was sent from outside your organization.

Good Afternoon Honorable Chairman and Members of the Senate Executive Departments and Administration Committee:

Thank for allowing me to appear before you in support of the above referenced bill.

I support the mandates which require enabling statutory language requirements for the promulgation of rules and forms.

New Hampshire Department of Health and Human Services (DHHS) has begun citing other sources, such as 1915(c) Medicaid Waiver language and DHHS memorandums as their rule making reference and authority. This happened with several rules last session including the He-E 801 and this continues this year.

From an He-E 805 Initial Proposal Meeting Transcript (attached);

0:58:36.930 --> 0:58:49.820 Ickes, Kristina Just want to make sure we're capturing kind of everything that sort of changed in the waiver we had the document, Brian, that we were using during the changes like the high level overview of what had changed. I want to take a look at that.

0:58:59.450 --> 0:59:3.140 Ickes, Kristina Just before we wrap. All righty.

0:59:5.140 --> 0:59:10.730 Ickes, Kristina That it was like, as I think you called it Brian, it was a summary of 801 changes. I think it was the summary of the waiver changes.

0:59:12.660 --> 0:59:13.980 Ickes, Kristina Do you have that handy?

0:59:14.980 --> 0:59:17.350 Clark, Brian No, I don't think so.

0:59:21.150 --> 0:59:21.790 Ickes, Kristina Looks pretty.

0:59:23.170 --> 0:59:29.930 Ickes, Kristina So Brian, do you think we can pull that up and maybe get it out to the case management agencies before our next 8:05 meeting?

0:59:31.720 --> 0:59:32.270 Clark, Brian OK.

0:59:32.770 --> 0:59:41.200 Ickes, Kristina Summary of waiver changes just so that we can make sure that we've kind of hit everything that we want to in 805 at this iteration.

As an example, the He-E 805 which is in the pre-initial proposal stage, contains requirements of private entities which are enabled nowhere in statute and the department cites the 1915 (c) as their authority. Please see the transcripts attached. In addition, a form is being created to mandate private entities to assess OTHER providers ability to deliver services through the telehealth modality, again referencing the 1915 (c) Waiver document.

The 1915 (c) Waiver application DOES NOT include any review by this body. There is no federal requirement which mandates the inclusion of that which is not outlined under state law.

A rules presentation at MCAC on Monday, April 10, 2023, **Bureau of Developmental Services Administrative, Rules He-M 505 & He-M 522** by Jessica Gorton, Bureau of Developmental Services in regard to service coordination (billed and matched under a case management code, CMS has advised regardless of what states name it, if billed as case management the federal regulations apply) cited the 1915(c) waiver as the authority and is involution of statute passed in last biennium in regard to case management. When new statues are enacted, NH DHHS fails to update rules to comply

I sincerely appreciate your consideration of this matter. I urge passage of HB 358.

Thank you,
Carolyn A Virtue
Granite Case Management
Cell: (603) 848-7345

NOTICE: The information contained in this e-mail (including any attachments) may be confidential and covered by the Electronic Communications Privacy Act and the Health Insurance Portability and Accountability Act. This information is intended only for disclosure to and for use by the person(s) named as the intended recipient(s) above. Any distribution, publication, reproduction or use of this e-mail, in whole or in part, by any person other than the intended recipient(s) is strictly prohibited. If you have received this e-mail erroneously, please delete the original e-mail and any attachments from your computer. Thank you.

Voting Sheets

Senate Executive Departments & Administration Committee

EXECUTIVE SESSION RECORD

2023-2024 Session

Hearing date: 4/6/23 H Bill # 358

Executive Session date: 5/31/23

Motion of: OTP Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Amend 1723 Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTP-A Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<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. Pearl, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Pearl, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carson, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gendreau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Pearl

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE

REPORT OF THE COMMITTEE

Wednesday, May 31, 2023

THE COMMITTEE ON Executive Departments and Administration

to which was referred **HB 358**

AN ACT relative to the filing and adoption of proposed
administrative rules.

Having considered the same, the committee recommends that the Bill

ought to pass with amendment

by a vote of: 5-0

Amendment # 2072s

Senator Howard Pearl
For the Committee

Phil Jasak 271-1403

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 358, relative to the filing and adoption of proposed administrative rules.

Ought to Pass with Amendment, Vote 5-0.

Senator Howard Pearl for the committee.

General Court of New Hampshire - Bill Status System

Docket of HB358

Docket Abbreviations

Bill Title: (Second New Title) relative to the filing and adoption of proposed administrative rules and relative to overpayment of unemployment compensation and relative to policies relating to nursing mothers.

Official Docket of HB358.:

Date	Body	Description
1/9/2023	H	Introduced (in recess of) 01/05/2023 and referred to Executive Departments and Administration HJ 3 P. 12
1/25/2023	H	Public Hearing: 02/01/2023 11:15 am LOB 306-308
2/15/2023	H	Rules Subcommittee Work Session: 02/21/2023 10:00 am LOB 104
2/21/2023	H	Executive Session: 03/08/2023 01:30 pm LOB 306-308
3/13/2023	H	Committee Report: Ought to Pass with Amendment #2023-0648h 03/08/2023 (Vote 20-0; CC) HC 15 P. 5
3/16/2023	H	Amendment #2023-0648h : AA VV 03/16/2023 HJ 9 P. 8
3/16/2023	H	Ought to Pass with Amendment 2023-0648h: MA VV 03/16/2023 HJ 9 P. 8
3/21/2023	S	Introduced 03/16/2023 and Referred to Executive Departments and Administration; SJ 11
3/30/2023	S	Hearing: 04/06/2023, Room 103, SH, 10:00 am; SC 16
5/31/2023	S	Committee Report: Ought to Pass with Amendment #2023-2072s , 06/01/2023; SC 24A
6/1/2023	S	Special Order to 06/08/2023, Without Objection, MA; 06/01/2023 SJ 16
6/1/2023	S	Committee Report: Ought to Pass with Amendment #2023-2072s , 06/08/2023; SC 25
6/8/2023	S	Committee Amendment #2023-2072s , AA, VV; 06/08/2023; SJ 18
6/8/2023	S	Sen. Pearl Floor Amendment #2023-2172s , AA, VV; 06/08/2023; SJ 18
6/8/2023	S	Sen. Chandley Floor Amendment #2023-2175s ; 06/08/2023; SJ 18
6/8/2023	S	Special Order to Floor Amendment #2023-2175s to end of the discussion on the Bill, Without Objection, MA SJ 18
6/8/2023	S	Sen. Whitley Floor Amendment #2023-2081s , AA, VV; 06/08/2023; SJ 18
6/8/2023	S	Sen. Perkins Kwoka Floor Amendment #2023-2156s , AA, VV; 06/08/2023; SJ 18
6/8/2023	S	Sen. Chandley Floor Amendment #2023-2175s , RC 11Y-13N, AF; 06/08/2023; SJ 18
6/8/2023	S	Ought to Pass with Amendments 2023-2072s, 2023-2172s, 2023-2081s, and 2023-2156s, MA, VV; OT3rdg; 06/08/2023; SJ 18
6/8/2023	S	Without Objection, the Clerk is authorized to make technical and administrative corrections which are necessary to reflect the intent of the Senate, MA; 06/08/2023; SJ 18
6/12/2023	H	House Non-Concurs with Senate Amendment 2023-2072s 2023-2172s 2023-2081s and 2023-2156s and Requests CofC (Reps. C. McGuire, Grote, Abare, Layon): MA VV 06/08/2023 HJ 15 P. 74
6/15/2023	S	Sen. Pearl Accedes to House Request for Committee of Conference, MA, VV; 06/15/2023; SJ 19
6/15/2023	S	President Appoints: Senators Carson, Pearl, Whitley; 06/15/2023; SJ 19

6/19/2023	H	Conference Committee Meeting: 06/19/2023 02:00 pm LOB 306-308
6/22/2023	S	Conference Committee Report Filed, #2023-2204c; 06/29/2023
6/29/2023	S	Conference Committee Report #2023-2204c, Adopted, VV; 06/29/2023; SJ 20
6/29/2023	H	Conference Committee Report 2023-2204c: Adopted, VV 06/29/2023 HJ 17 P. 6
7/18/2023	S	Enrolled Adopted, VV, (In recess 06/29/2023); SJ 20
7/19/2023	H	Enrolled (in recess of) 06/29/2023 HJ 17 P. 18
8/9/2023	H	Signed by Governor Sununu 08/04/2023; Chapter 191; eff: I. Sec 20 except RSA 275:82 eff 7/1/25 II. RSA 275:82 inserted by Sec 20 eff 7/1/26 III. Remainder eff 10/3/23 HJ 17

 NH House

 NH Senate

Other Referrals

1 Committee of Conference Report on HB 358, relative to the filing and adoption of proposed
2 administrative rules.

3

4 Recommendation:

5 That the House recede from its position of nonconcurrence with the Senate amendment, and
6 concur with the Senate amendment, and

7 That the Senate and House adopt the following new amendment to the bill as amended by the
8 Senate, and pass the bill as so amended:

9

10 Amend the bill by deleting sections 20 and 21 and renumbering the original sections 22-23 to read as
11 20-21, respectively.

12

13 Amend RSA 275:79, III as inserted by section 20 of the bill by replacing it with the following:

14

15 III. A nursing employee shall notify its employer at least 2 weeks prior to needing
16 reasonable break periods and sufficient space for expression of milk during work hours; provided
17 that such notice shall comply with the employer's policies.

18

19 Amend the bill by replacing section 21 with the following:

20

21 21 Effective Date.

22 I. Section 20 of this act, except for RSA 275:82, shall take effect July 1, 2025.

23 II. RSA 275:82, as inserted by section 20 of this act shall take effect July 1, 2026.

24 III. The remainder of this act shall take effect 60 days after its passage.

Committee of Conference Report on HB 358

- Page 2 -

The signatures below attest to the authenticity of this Report on HB 358, relative to the filing and adoption of proposed administrative rules.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Carson, Dist. 14

Rep. C. McGuire, Merr. 27

Sen. Pearl, Dist. 17

Rep. Grote, Rock. 24

Sen. Whitley, Dist. 15

Rep. Abare, Hills. 1

Rep. Layon, Rock. 13

Committee of Conference Report on HB 358
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2023-2204-CofC

AMENDED ANALYSIS

This bill:

- I. Makes various changes to the procedures for the filing and adoption of proposed administrative rules.
- II. Makes a technical correction to SB 44-FN if it becomes law.
- III. Establishes minimum work place supports for nursing mothers.

Senate Inventory Checklist for Archives

Bill Number: HB 358

Senate Committee: EPA

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 # 1735 - amendment # 2072

- 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 # 2172 - amendment # 2081

- amendment # 2175 - amendment # 2156

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): 2204 cotc

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:

PHILIP JASK
Committee Aide

7/7/23
Date

Senate Clerk's Office AK