

HB 1261 - AS INTRODUCED

2026 SESSION

26-2433

09/08

HOUSE BILL **1261**

AN ACT relative to the administrative procedure act.

SPONSORS: Rep. Layon, Rock. 13; Rep. Grote, Rock. 24; Sen. Lang, Dist 2; Sen. Pearl, Dist 17;
Sen. Reardon, Dist 15

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill revises the procedures of the administrative procedure act.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to the administrative procedure act.

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

1 1 Administrative Procedure Act; Definitions. Amend RSA 541-A:1, V to read as follows:

2 V. "Declaratory ruling" means an agency ruling as to the specific applicability of any
3 statutory provision, ~~or of any~~ rule, or order of the agency.

4 2 Administrative Procedure Act; Definitions. Amend RSA 541-A:1, VI - VII-a to read as follows:

5 VI. "File" means the actual receipt, by the director **of the division of administrative rules**
6 **for the office** of legislative services, of a document required to be submitted during a rulemaking
7 process established by this chapter, under the terms and in the format prescribed by the director.
8 The term "file" shall also apply to any other response, submission, or written explanation required
9 during a rulemaking process established by this chapter.

10 VI-a. "Final legislative action" means the defeat of a joint resolution sponsored by the
11 ~~[legislative]~~ committee ~~[on administrative rules]~~ pursuant to RSA 541-A:13, VII(b) in either the
12 house or the senate, or the failure of the general court to override the governor's veto of the joint
13 resolution.

14 VII. "Fiscal impact statement" means a statement prepared by the legislative budget
15 assistant~~]~~ using data supplied by the rulemaking agency, ~~[and giving consideration to]~~
16 **considering** both short- and long-term fiscal consequences **of a proposed rule**, and ~~[includes]~~
17 **including** the elements required by RSA 541-A:5, IV.

18 VII-a. "Form" means a document, whether hardcopy or electronic, with blank spaces for
19 insertion of required or optional information, which must be submitted to ~~the~~ **an** agency by persons
20 outside the agency, **including** ~~[such as]~~, but not limited to, licensing applications, petitions, or
21 requests. The term does not include a document that is called a form by the agency but ~~[which]~~ does
22 not have blank spaces for insertion of information by persons outside the agency. **A form is**
23 **considered a rule and may be incorporated by reference or have the requirements listed in**
24 **the text of the rule.**

25 3 Administrative Procedure Act; Definitions. Amend RSA 541-A:1, IX - XIV to read as follows:

26 IX. "Licensing" means ~~the~~ **an** agency process relative to the issuance, denial, renewal,
27 revocation, suspension, annulment, withdrawal or amendment of a license, or the imposition of
28 terms for the exercise of a license.

29 X. "Nonadjudicative processes" means all agency procedures and actions other than an
30 adjudicative proceeding.

1 XI. "Order" means the whole or part of an agency's final disposition of a matter **subject to**
2 **an adjudicative proceeding**, ~~[other than a rule,]~~ but does not include an agency's decision to
3 initiate, postpone, investigate or process any matter, ~~[or to issue]~~ **file** a complaint, or **issue a**
4 citation.

5 XII. "Party" means each person or agency named or admitted as a party **to an adjudicative**
6 **proceeding**, ~~[, or properly seeking and entitled as a right to be admitted as a party].~~

7 XIII. "Person" means any individual, partnership, corporation, association, governmental
8 subdivision, or public or private organization of any character other than an agency.

9 XIV. "Presiding officer" means ~~[that]~~ **an** individual to whom ~~[the]~~ **an** agency has delegated
10 the authority to preside over ~~[a]~~ **an adjudicative** proceeding, if any; otherwise it shall mean the
11 head of the agency.

12 4 Administrative Procedure Act; Definitions. Amend RSA 541-A:1, XV-a to read as follows:

13 XV-a. "Signature" means a person's written name used as a form of identification, whether
14 in original, photocopied, ~~[or]~~ scanned, **or electronic** form.

15 5 Administrative Procedure Act; Joint Legislative Committee on Administrative Rules. Amend
16 RSA 541-A:2, II-IV to read as follows:

17 II. The ~~[joint legislative]~~ committee ~~[on administrative rules]~~ shall meet at least once each
18 month and more often as necessary for the prompt discharge of its duties. The director **of the**
19 **division of administrative rules for the office** of legislative services shall provide services to the
20 committee. The ~~[joint legislative]~~ committee ~~[on administrative rules]~~ shall adopt rules to govern its
21 operation and organization. A quorum of the committee shall consist of 6 members. Members of the
22 committee shall be entitled to legislative mileage as provided to members for attendance at sessions
23 of the general court.

24 III. The committee may hold public hearings on a proposed or previously adopted rule on its
25 own initiative. The committee shall give public notice of any hearing at least 7 days in advance in
26 the rulemaking register. Any public hearing shall be scheduled at a time and place chosen to afford
27 opportunity for affected persons to present their views. The committee may consult with the
28 standing legislative committee having jurisdiction in the area of the rule under review.

29 IV. In addition to its ongoing review of proposed and adopted rules, the committee shall:

30 (a) Petition an agency under RSA 541-A:4 to adopt rules if the agency has clear
31 rulemaking authority which it has not used.

32 (b) Review statutory passages granting rulemaking authority. On the basis of this
33 review, the committee shall, before each regular legislative session, make written recommendations
34 to the president of the senate and the speaker of the house as to how such passages should be
35 amended to eliminate confusing, inefficient, or unnecessary statutory language.

1 (c) Make written recommendations, when appropriate, to the president of the senate and
2 the speaker of the house as to how the legislative oversight of rulemaking might be improved. These
3 recommendations may include proposed amendments to RSA 541-A.

4 (d) Have the authority to amend and provide the final approval of the drafting and
5 procedure manual developed by the director *of the division of administrative rules for the office*
6 of legislative services [~~and the commissioner of administrative services under RSA 541-A:8~~].

7 (e) Notify the chairpersons of appropriate standing committees of the general court in
8 writing when committee recommendations are made to agencies relative to legislation as a result of
9 reviewing proposed and adopted rules.

10 (f) Make written recommendations, when appropriate, to the president of the senate, the
11 speaker of the house of representatives, and the chairs of standing committees of the general court
12 having jurisdiction over the subject matter of an agency concerning the amendment or repeal of the
13 statutory authority of an agency that has enforced rules which are not effective or not otherwise
14 valid, or that has not commenced rulemaking or adopted rules as required by statute.

15 [~~(g) [Repealed.]~~]

16 6 Administrative Procedure Act; Rulemaking Procedure. Amend the section heading of RSA
17 541-A:3 to read as follows:

18 541-A:3 **Rulemaking** Procedure [~~for Adoption of Rules~~].

19 7 Administrative Procedure Act; Specificity of Rules; Identification of State or Federal Law.
20 Amend RSA 541-A:3-a to read as follows:

21 541-A:3-a Specificity of Rules; Identification of State or Federal Law.

22 I. If an agency proposes a rule pursuant to RSA 541-A:3, **541-A:18**, [~~or~~] 541-A:19, **541-A:19-**
23 **a, 541-A:19-c, or 541-A:19-d**, the agency shall identify the specific section or sections of state
24 **statute** or federal statutes or regulations which the rule is intended to implement in the notice
25 required pursuant to RSA 541-A:6 and 541-A:19, II, [~~and either in the rule, or~~] in a separate cross-
26 reference table pursuant to paragraph II. The notice **and identification of statutes and**
27 **regulations in rule** shall be in such form as the director *of the division of administrative rules*
28 *for the office* of legislative services shall prescribe until otherwise provided by the drafting and
29 procedure manual [~~adopted pursuant to RSA 541-A:8. The identification in the rule shall be made in~~
30 ~~the manner specified in the drafting and procedure manual~~].

31 II. [~~If the specific section or sections of state statute or federal statute or regulation required~~
32 ~~by paragraph I are not identified in the rule itself, the~~] **An** agency shall file the [~~information in a~~
33 ~~separate~~] cross-reference table with each filing of the proposed or adopted rule [~~other than an~~
34 ~~emergency rule~~]. The agency shall make the table available to the public with a proposed or adopted
35 rule whenever the rule is made available to or requested by the public. Unless otherwise specified
36 by the drafting and procedure manual, the table shall be filed as an appendix to the rule and, when

HB 1261 - AS INTRODUCED

- Page 4 -

1 the rule is published pursuant to RSA 541-A:15, shall be published as an appendix to the rule
2 chapter containing the rule. The table shall not be required to be filed on a separate page.

3 III. General references to the name or title of [a] state or federal [statute] **statutes** or
4 regulation shall not suffice for the purposes of this section. ~~[To the extent that specific provisions of~~
5 ~~the proposed rule are designed to implement different sections or provisions of state or federal~~
6 ~~statutes or regulations, the agency shall reference the state or federal statute or regulation as~~
7 ~~provided in paragraph I, with the provision of the proposed rule that is intended to implement that~~
8 ~~statute or regulation.]~~

9 8 Administrative Procedure Act; Petition for the Adoption of Rules. Amend RSA 541-A:4 to read
10 as follows:

11 541-A:4 Petition for **Rulemaking** ~~[Adoption of Rules]~~.

12 ~~[E.]~~ Any interested person may petition an agency to adopt, amend, or repeal a rule. Within
13 30 days of receiving the petition, or 30 days after the next scheduled meeting of a board, commission,
14 or group ~~[receiving]~~ **reviewing** the petition, the agency shall determine whether to grant or deny the
15 petition ~~[and notify the petitioner]~~. If the agency decides to deny the petition, the agency shall notify
16 the petitioner of ~~[its]~~ **the** decision in writing and shall state ~~[its]~~ **the** reasons for denial. If the
17 agency grants the petition, it shall notify the petitioner **of the decision in writing** and ~~[commence~~
18 ~~the rulemaking proceeding by requesting]~~ **request** a fiscal impact statement pursuant to RSA 541-
19 A:5 within 120 days of receipt, **or review in the case of a board, commission, or group**, of the
20 petition and continuing the proceeding as specified in RSA 541-A:3.

21 ~~[H. Notwithstanding paragraph I, if the committee petitions an agency to adopt, amend, or~~
22 ~~repeal a rule, and the agency does not notify the committee that rulemaking has commenced within~~
23 ~~one year of receiving the petition, or does not file a final proposal under RSA 541-A:12 within 2 years~~
24 ~~of receiving the petition, the committee may file legislation to repeal the agency's rulemaking~~
25 ~~authority or otherwise amend the agency authority.]~~

26 9 Administrative Procedure Act; Fiscal Impact Statements. Amend RSA 541-A:5, I to read as
27 follows:

28 I. ~~[The]~~ **Prior to the filing of a notice pursuant to RSA 541-A:3, an** agency shall
29 **request a fiscal impact statement from** ~~[provide]~~ the legislative budget assistant ~~[with]~~ **and**
30 **provide** adequate details of the intended action and supporting data to enable the legislative budget
31 assistant to prepare ~~[a]~~ **the** fiscal impact statement.

32 10 Administrative Procedure Act; Fiscal Impact Statements. Amend RSA 541-A:5, VI - VII to
33 read as follows:

34 VI. ~~[Agencies]~~ **An agency** shall ~~[also]~~ obtain an amended fiscal impact statement from the
35 legislative budget assistant if ~~[as a result of notice and hearing]~~ a change ~~[has been]~~ **is** made **to the**
36 **text of a proposed rule** which ~~[affects]~~ **could affect** the **information contained in the** original
37 fiscal impact statement or to correct an error in the original fiscal impact statement. ~~[Agencies]~~ **The**

1 **agency** shall file the amended fiscal impact statement as part of the final proposal pursuant to RSA
2 541-A:12, II.

3 VII. In this section, "intended action" means the proposed adoption, [~~amendment,~~]
4 readoption, readoption with amendment, or repeal of a rule pursuant to RSA 541-A, as described in
5 the drafting and procedure manual for administrative rules pursuant to RSA 541-A:8.

6 11 Administrative Procedure Act; Notice of Rulemaking Proceedings. Amend RSA 541-A:6 to
7 read as follows:

8 541-A:6 Notice of Rulemaking Proceedings.

9 I. [~~The~~] **An** agency shall **provide notice of its intent to undertake rulemaking** [~~give~~] at
10 least 20 [~~days' notice of its intent to hold a~~] **days prior to holding the first** public hearing, [~~and~~
11 ~~shall also give notice of the cut-off date for the submission of written testimony~~] pursuant to RSA
12 541-A:11, I, on any proposed adoption, readoption, readoption with amendment, or repeal of a rule.
13 The notice periods shall begin on the day after the date of publication in the rulemaking register.
14 The notice shall be in such form as the director **of the division of administrative rules for the**
15 **office** of legislative services shall prescribe and shall include:

16 (a) The name and address of the agency;[-]

17 (b) The statutory authority for the rule;[-]

18 (c) Whether the intended action is an adoption, repeal, readoption, or readoption with
19 amendment;[-]

20 (d) The rule number and title;[-]

21 (e) The date, time, and physical location **or electronic access, as** [~~if~~] applicable, of the
22 first agency public hearing, the cut-off date for the submission of written materials to the agency
23 and, if practicable for the agency, the format for submitting materials electronically;[-]

24 (f) **A concise summary of any proposed rules, or if the rules are being readopted**
25 **with amendment, a concise summary of the existing rules and any amendments to the**
26 **rules;** [~~If existing rules are being readopted, or readopted with amendment, a concise summary of~~
27 ~~the existing rules and any proposed amendments, and if the proposed rules are being adopted, a~~
28 ~~concise summary of the proposed rules.~~]

29 (g) A listing of people, enterprises, and government agencies affected by the rule;[-]

30 (h) The name, mailing address, telephone number, and e-mail address of an individual
31 in the agency able to answer questions on the proposed rule;[-]

32 (i) The fiscal impact statement completed by the legislative budget assistant;[-]

33 (j) A statement, with adequate details and supporting data, that the proposed rule does
34 not violate the New Hampshire constitution, part I, article 28-a; **and**[-]

35 (k) If the agency provides for a virtual or hybrid hearing consistent with RSA 91-A and
36 RSA 541-A:11, I(d), the necessary information for accessing the [~~meeting~~] **hearing** electronically,

1 and a mechanism for the public to alert the agency during the hearing if there are problems with
2 access.

3 II. The director *of the division of administrative rules for the office* of legislative
4 services may refuse to publish a notice if the director determines that the notice does not conform to
5 the requirements of the drafting and procedure manual under RSA 541-A:8.

6 III. ~~[The]~~ *An* agency shall send notice to the director *of the division of administrative*
7 *rules for the office* of legislative services, to all persons regulated by the proposed rules who hold
8 occupational licenses issued by the agency, *to the chairpersons of the legislative committees*
9 *having jurisdiction over the subject matter*, and to all persons who have made timely request for
10 advance notice of rulemaking proceedings. Upon request the agency shall send notice to the
11 president of the senate~~[,]~~ *and* to the speaker of the house of representatives~~[, and to the~~
12 ~~chairpersons of the legislative committees having jurisdiction over the subject matter. Notice shall~~
13 ~~be made not less than 20 days before the first agency public hearing required by RSA 541-A:11, I].~~
14 Notice to occupational licensees shall be by U.S. Mail, electronically, agency bulletin or newsletter,
15 public notice advertisement in a publication of daily statewide circulation, or in such other manner
16 that is reasonably calculated to inform such licensees of the proposed rulemaking. ~~[The committee~~
17 ~~may identify additional methods of notifying occupational licensees that are deemed sufficient.]~~

18 12 Administrative Procedure Act; Drafting and Procedure Manual. Amend RSA 541-A:8 to read
19 as follows:

20 541-A:8 Drafting and Procedure Manual. Each agency shall conform to *the* ~~[a]~~ drafting and
21 procedure manual for rules, including agency forms, developed by the director *of the division of*
22 *administrative rules for the office* of legislative services ~~[and the commissioner of administrative~~
23 ~~services]~~, subject to amendment and final approval by the committee. The director may require any
24 agency to rewrite any rule, including any agency form, submitted for filing to conform to *the* ~~[this]~~
25 manual until that rule is adopted and filed under RSA 541-A:14 or RSA 541-A:19 or the form is
26 adopted pursuant to RSA 541-A:19-b.

27 13 Administrative Procedure Act; Rulemaking Register. Amend RSA 541-A:9, I - I-c to read as
28 follows:

29 I. The director of *the division of administrative rules for the office of* legislative
30 services shall publish directly online a weekly rulemaking register which shall contain:

- 31 (a) ~~[Notice]~~ *Notices* of intended rulemaking actions;~~[-]~~
32 (b) ~~[Notice]~~ *Notices, once a month, of adopted* rules; ~~[adopted under RSA 541-A:14,~~
33 ~~RSA 541-A:18, and RSA 541-A:19.]~~
34 (c) Nonconfidential opinions of the attorney general under RSA 541-A:28;~~[-]~~
35 (d) Final objections under RSA 541-A:13, V;~~[-]~~
36 (e) Notices of continued or postponed public comment hearings under RSA 541-A:11;~~[-]~~

HB 1261 - AS INTRODUCED
- Page 7 -

1 (f) Notices of declaratory rulings issued pursuant to rules adopted under RSA 541-A:16,
2 I(d);[-]

3 (g) [~~Notice~~] **Notices** for the submission of comments on possible rulemaking under RSA
4 541-A:11, VIII;[-]

5 (h) [~~Publication of~~] Notice of the list of regulated toxic air pollutants and classifications
6 by the department of environmental services under RSA 125-I:4;[-]

7 (i) At the request of any agency, any other notices or documents related to rulemaking,
8 at the discretion of the director; **and**[-]

9 (j) A list of proposals filed under RSA 541-A:12, I and proposed interim rules filed under
10 RSA 541-A:19, II, and placed on the agenda for committee review at a regularly scheduled or special
11 committee meeting.

12 I-a. Prior to publication, the director [~~of legislative services~~] may correct clarity, formatting,
13 typographical, spelling, and punctuation errors, as well as unintentional errors in references and
14 citations in a submission. Consistent with RSA 541-A:6, II, the director shall notify the agency prior
15 to publication of the notice of any amendments made to the notice and may set a deadline for agency
16 comment on the amendments.

17 I-b. The date of publication of the rulemaking register shall be the date on which the
18 register is available to the public on the general court information services [~~web site~~] **website**.

19 I-c. The director [~~of legislative services~~] may prescribe the specific electronic file format for
20 all documents provided by state agencies for inclusion in the register.

21 14 Administrative Procedure Act; Filing of Proposed Rule Text; Establishing and Revising Text.
22 Amend RSA 541-A:10 to read as follows:

23 541-A:10 Filing of Proposed Rule Text; Establishing and Revising Text.

24 I. [~~At the same time the notice required by RSA 541-A:6, I is filed, the~~] **An** agency shall file
25 the text of [~~the~~] **a** proposed rule **and accompanying forms** with the director **of the division of**
26 **administrative rules for the office** of legislative services **along with the notice filed pursuant**
27 **to RSA 541-A:6**. The text of each proposed rule filed shall encompass at least a full [~~rules~~] section
28 **of the rules**. [~~The text of the proposed rules as filed by the agency pursuant to RSA 541-A:3, III~~
29 ~~shall not be changed prior to the hearing held pursuant to RSA 541-A:11, I(a).~~] **The agency shall**
30 **not change the text of the proposed rule filed pursuant to RSA 541-A:3, III, prior to the first**
31 **hearing held pursuant to RSA 541-A:11.**

32 II. [~~The~~] **An** agency shall not establish the text of the final proposal until after [~~the~~
33 ~~conclusion of~~] the public comment period established pursuant to RSA 541-A:11, I(b). If the agency
34 elects to solicit comment pursuant to RSA 541-A:11, I(c), the agency shall prepare [~~a~~] **an annotated**
35 draft final proposal [~~that is annotated to show how~~] **demonstrating changes to** the rules as
36 initially proposed [~~are proposed to be changed~~]. [~~In response to comment received,~~] The agency may

1 revise the draft prior to filing the final proposal in accordance with RSA 541-A:12 *in response to*
2 *comments received.*

3 15 Administrative Procedure Act; Public Hearing and Comment. Amend RSA 541-A:11 to read
4 as follows:

5 541-A:11 Public Hearing and Comment.

6 I.(a) ~~An~~ ~~[Each]~~ agency shall hold at least one public *comment* hearing on all proposed rules
7 filed pursuant to RSA 541-A:3 and shall afford all interested persons reasonable opportunity to
8 testify and to submit data, views, or arguments in writing or, if practicable for the agency, in
9 electronic format, in accordance with the terms of the notice filed pursuant to RSA 541-A:3, I, and
10 the provisions of this section. The *division of administrative rules for the* office of legislative
11 services shall provide oral or written comments on potential ~~[bases]~~ *basis* for committee objection
12 ~~[under]~~ *pursuant to* RSA 541-A:13, IV, in a form and manner determined by the director of *the*
13 *division of administrative rules* ~~[the office of legislative services]~~. ~~[Each]~~ *The* agency shall
14 require all materials submitted in writing to be signed by the person who submits them, and the
15 agency shall transfer to hard copy, if practicable ~~[for the agency]~~, all materials submitted as diskette,
16 electronic mail, or *in another* ~~[other]~~ electronic format. ~~[Copies of the proposed rule and of any~~
17 ~~draft, new, or amended form, or screenshot, mock-up, or prototype of an electronic only form, which~~
18 ~~the rule incorporates by reference or whose requirements are set forth in the rule pursuant to RSA~~
19 ~~541-A:19 b, shall be available to the public under RSA 91-A and at least 5 days prior to the date of~~
20 ~~the hearing.]~~ *An agency shall make copies of the proposed rule and all accompanying forms*
21 *available to the public under RSA 91-A and at least 5 days prior to the date of the hearing.*

22 (b) ~~[For rules proposed by a board or commission, a period of at least 5 business days~~
23 ~~after the hearing shall be provided for the submission of materials in writing or in electronic format,~~
24 ~~unless a shorter period is specified in the notice. If a shorter period is specified in the notice, the~~
25 ~~deadline for the submission of such materials shall not be earlier than the scheduled conclusion of~~
26 ~~the public hearing. For rules proposed by an agency official, a period of at least 5 business days after~~
27 ~~the hearing shall be provided in all instances. If a hearing is continued or postponed as provided in~~
28 ~~paragraph III or IV of this section, the period for the submission of materials in writing or in~~
29 ~~electronic format shall be extended unless the previously established deadline meets the applicable~~
30 ~~requirement specified above.]~~ *For a rule proposed by a board or commission, the deadline for*
31 *submission of written or electronic comment shall not be earlier than the scheduled*
32 *conclusion of the public comment hearing. For a rule proposed by an agency that is not a*
33 *board or commission, the deadline for submission of comments shall not be earlier than 5*
34 *business days from the scheduled conclusion of the hearing. An agency, regardless of type,*
35 *shall extend the deadline for the submission of comments if a hearing is continued or*
36 *postponed unless the previously established deadline meets the applicable requirements*
37 *specified above.*

1 (c) ~~[An agency may hold a public hearing or otherwise solicit public comment on a draft~~
 2 ~~final proposed rule prior to filing the final proposed rule pursuant to RSA 541-A:3, V. Notice of such~~
 3 ~~hearing or comment period shall be provided by such means as are deemed appropriate to reach~~
 4 ~~interested persons, which may include publishing a notice in the rulemaking register.]~~ **An agency**
 5 **that elects to hold a public comment hearing or otherwise solicit public comment on a**
 6 **draft final proposed rule prior to filing the final proposed rule pursuant to RSA 541-A:3, V,**
 7 **shall provide notice of the hearing or comment period in such a manner deemed**
 8 **appropriate by the agency to reach interested persons, which may include publishing a**
 9 **notice in the rulemaking register.**

10 (d) If consistent with RSA 91-A and the provisions of this section, ~~the~~ **an** agency ~~under~~
 11 ~~subparagraph I(a)]~~ may hold a virtual or hybrid **public comment** hearing, provided that the public
 12 may participate by telephone, with additional access possibilities by video or other electronic means
 13 in accordance with the terms of the notice filed pursuant to RSA 541-A:3, I, including a mechanism
 14 for the public to alert the agency during the hearing if there are problems with access. Each
 15 participant in a virtual ~~hearing]~~ or hybrid hearing shall be able to simultaneously hear and speak to
 16 the other agency and public participants and be audible or otherwise discernable to the public in
 17 attendance, whether attendance is in-person or by electronic means.

18 II. For rules proposed by a board or commission, each **public comment** hearing shall be
 19 attended by a quorum of its members. For rules proposed by an agency **other than a board or**
 20 **commission** ~~[official]~~, each hearing shall be held by the official, **or designee, with** ~~[having the]~~
 21 ~~rulemaking authority, [or designee, who shall be]~~ knowledgeable in the particular subject area of the
 22 proposed rules.

23 III. ~~[To provide reasonable opportunity for public comment, the]~~ **An** agency may continue a
 24 public **comment** hearing past the scheduled time or to another date~~[-]~~ or may extend the deadline
 25 for submission of written **or electronic** comment **to provide reasonable opportunity for public**
 26 **comment**. If the agency continues the hearing or extends the deadline, it shall notify the public by
 27 any means it deems appropriate, ~~[including]~~ **which may include publishing a** notice in the
 28 rulemaking register ~~[whenever practicable or by posting on the agency's website].~~

29 IV. ~~[A public comment hearing shall be postponed]~~ **An agency shall postpone a public**
 30 **comment hearing** in the event of any of the following:

31 (a) Inclement weather that would not allow for a reasonable opportunity for the public to
 32 participate;~~[-]~~

33 (b) Lack of a quorum ~~[due to illness or unavoidable absence]~~ for rules proposed by a
 34 board or commission;~~[-]~~

35 (c) Inability by the public during a virtual or hybrid hearing to access the hearing
 36 electronically consistent with RSA 541-A:11, I(b), in which case the agency shall adjourn and
 37 ~~[reschedule]~~ **postpone** the hearing pursuant to this section; ~~or~~~~[-]~~

1 (d) *The agency determines* [~~Determination by the agency~~] that postponement of the
2 [~~public comment~~] hearing [shall] *will* facilitate greater *public* participation [~~by the public~~]. [~~If a~~
3 ~~public comment hearing is postponed, the agency shall provide notice in the rulemaking register at~~
4 ~~least 5 days before such postponed public comment hearing, and may also provide notice by any~~
5 ~~other means it deems appropriate.~~] *An agency shall file notice of a postponed hearing in the*
6 *rulemaking register, and there shall be at least 5 business days between the appearance of*
7 *the notice in the register and the rescheduled hearing date.*

8 IV-a. A public comment hearing may be postponed in the event of illness or unavoidable
9 absence of the official with rulemaking authority for rules proposed by an agency official.

10 V. [~~A public comment hearing may be moved~~] *An agency may move a public comment*
11 *hearing* to another location if the agency determines [~~for any reason~~] that the original location is
12 not able to *adequately* accommodate the public. If changing the location does not also necessitate a
13 change in the date *or time* of the [~~public comment~~] hearing, the agency shall post notice of the new
14 location at the originally scheduled facility. If changing the location necessitates a change in the
15 date of the public comment hearing, the agency shall provide notice as required by paragraph IV.

16 V-a. If the public comment hearing is a virtual or hybrid hearing, [~~the~~] *an* agency may
17 change the electronic access possibilities provided in the notice to better afford all interested persons
18 reasonable opportunity to testify and submit [~~material~~] *comments by written or* [~~by~~] electronic
19 means. [~~It~~] *The agency* shall notify the public of the changes by any means it deems appropriate,
20 including notice in the rulemaking register [~~whenever practicable or by posting the changes on the~~
21 ~~agency's website~~].

22 VI. On request, [~~the~~] *an* agency shall promptly provide a copy of any rule as filed with the
23 director at any stage in the rulemaking process. If the copy is mailed, it shall be sent not later than
24 the end of the third [~~working~~] *business* day after the request is received. The agency may, pursuant
25 to RSA 91-A:4, IV, charge the actual cost of providing such copy.

26 VII. [~~If requested by an interested person at any time before 30 days after final adoption of a~~
27 ~~rule, the adopting authority shall issue an explanation of the rule. The explanation shall include:~~]
28 *Any person may request an explanation of an adopted rule within 30 days from the date of*
29 *adoption by an agency. The agency shall provide an explanation which includes:*

30 (a) A concise statement of the principal reasons for and against the adoption of the rule
31 in its final form; *and*[-]

32 (b) An explanation of why the adopting authority overruled the arguments and
33 considerations against the rule *text as adopted*.

34 VIII. [~~In addition to seeking information by other methods,~~] An agency[-, before publication
35 of a notice of proposed rulemaking under RSA 541-A:6,] may solicit comments from the public on a
36 subject matter of possible rulemaking under active consideration within the agency *before*
37 *publication of a notice of proposed rulemaking under RSA 541-A:6* by [~~causing notice to be~~

1 ~~published~~ ***publishing a notice*** in the rulemaking register of the subject matter and indicating
2 where, when, and how persons may provide comment on the rules under consideration.

3 IX.(a) Every public comment on a proposed rule that ~~the~~ ***an*** agency receives electronically
4 shall be promptly uploaded to a web page maintained by the agency. Each proposed rule shall have
5 a separate location for all public comments received for that rule. Duplicative comments may be
6 consolidated at the agency's discretion. ~~[Vulgar or inappropriate testimony may not be published.]~~
7 ***An agency may elect not to publish vulgar or inappropriate testimony.***

8 (b) Public comments received via regular mail shall, to the extent agency resources
9 permit, be scanned and added to the ~~web page~~ ***webpage*** as electronic documents.

10 (c) All comments received as video or audio files shall be available to the public in ~~that~~
11 ***the*** format ***received***.

12 16 Administrative Procedure Act; Filing Final Proposal. Amend RSA 541-A:12 to read as
13 follows:

14 541-A:12 Filing Final Proposal.

15 I. ***An agency or agency official having rulemaking authority shall establish the***
16 ***final text of the proposed rule*** after fully considering ~~[public comment and any committee~~
17 ~~comments or]~~ ***comments from the public, the committee, and [by] the division of***
18 ***administrative rules for the*** office of ~~the~~ legislative services received pursuant to RSA 541-A:11,
19 and any other relevant information. ~~[a quorum of the members of the agency or the agency official~~
20 ~~having rulemaking authority shall establish the text of the final proposed rule. After the text of the~~
21 ~~final proposed rule has been established,]~~ The agency shall file the final proposal no earlier than 21
22 days and no later than 180 days after the date of publication of the notice in the rulemaking register.
23 The agency shall file the final proposal with the director ***of the division of administrative rules***
24 ***for the office*** of legislative services. Final proposals filed ~~[no later than]~~ ***at least*** 21 days before a
25 ~~[regularly scheduled]~~ committee meeting shall be placed on the agenda for that meeting. Final
26 proposals filed fewer than 21 days before a regularly scheduled committee meeting shall be placed on
27 the agenda of the following ~~[regularly scheduled]~~ committee meeting.

28 II. The final proposal shall include:

29 (a) A cover sheet listing:

30 (1) The ***notice*** number ~~[of the notice]~~ and ~~the~~ date the notice appeared in the
31 rulemaking register;

32 (2) The name and address of the agency;

33 (3) The title and number of the rule; and

34 (4) A citation to the statutory authority for the rule.

35 (b) One copy of the established text of the final proposed rule.

36 (c) If required pursuant to RSA 541-A:5, VI, an amended fiscal impact statement from
37 the legislative budget assistant ~~[stating that as a result of notice and hearing the rule did change~~

1 ~~and~~] explaining how [~~this change affects~~] **changes to the rule text affect** the original fiscal impact
2 statement.

3 (d) ~~If [A copy of]~~ the [~~fixed~~] **established** text of the final proposed rule **is different**
4 **than the text of the initial proposal, an annotated copy of the established text to** clearly [~~to~~
5 ~~show how~~] **demonstrate differences between** the final proposed rule [~~differs from~~] **and** the rule as
6 initially proposed[~~, if the text has changed~~].

7 (e) A report of public comments received on the rule [~~shall be created. The report shall~~
8 ~~indicate~~] **indicating** how the [~~comment was~~] **comments were** incorporated into the final rule. If
9 [~~the~~] **a** comment was not incorporated into the final rule, the agency shall provide a detailed
10 explanation that includes the facts, data, interpretations, and policy choices that justify why the
11 adopting agency did not amend the **text of the proposed** rules.

12 (f) If the proposed rule is **replacing an expired rule**, a report that outlines any agency
13 action or implementation of [~~the~~] **a** statute without [~~any~~] necessary administrative rules, including
14 whether [~~any~~] fines or fees were levied or assessed by the agency and whether the fines or fees **were**
15 [~~have been~~] refunded.

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

20 III. An agency may establish requirements in its rules by citing to a document or to Internet
21 content prepared by [~~an unrelated~~] **a** third party. If [~~state-enforceable~~] requirements are [~~so~~]
22 established **in such a manner**, the agency shall file an incorporation by reference statement as
23 specified in paragraph IV [~~with the final proposal~~]. No agency shall incorporate by reference any
24 document or Internet content prepared by or on behalf of the agency, provided that documents
25 prepared by a group or association of which the agency is a member may be incorporated by
26 reference.

27 IV. Any incorporation by reference statement required by paragraph III shall include a
28 statement signed by the adopting authority:

29 (a) Certifying that the text of the incorporated document or Internet content has been
30 reviewed by the agency, with the name of the reviewing official;

31 (b) Explaining how the text of the incorporated document or Internet content can be
32 obtained by the public, and at what cost;

33 (c) Explaining any modifications to the incorporated document or Internet content;

34 (d) **Explaining the rationale for incorporating the** [~~Discussing the comparative~~
35 ~~desirability of reproducing the incorporated~~] document or Internet content **by reference instead of**
36 [~~in full~~] in the text of the rule; and

1 (e) Certifying that the agency has the capability and the intent to enforce the
2 requirements being incorporated.

3 V. If an agency establishes requirements by incorporating undated Internet content by
4 reference, the agency shall make **available a dated**, read-only copy of the incorporated Internet
5 content no later than the date of filing the incorporation by reference statement~~[, and make the~~
6 ~~dated copy available to the public]~~.

7 VI. ~~[Each agency shall,]~~ Upon request for a copy of any document or Internet content
8 incorporated by reference in the agency's rules, **an agency shall** make available for inspection any
9 such document or downloaded Internet content, **and provide copies of the document in**
10 **accordance with RSA 91-A.**

11 VII. ~~[Each]~~ **An** agency shall include the information required in subparagraph IV(b) as an
12 appendix with ~~[each]~~ **the** filing of the proposed ~~[or adopted]~~ rule. ~~[The agency shall make the~~
13 ~~information available to the public with a proposed or adopted rule whenever the rule is made~~
14 ~~available to or requested by the public.]~~ When the rule is published pursuant to RSA 541-A:15, the
15 information shall be published as an appendix to the rule chapter containing the rule with a
16 reference in the rule to the appendix. The information shall not be required to be filed on a separate
17 page.

18 17 Administrative Procedure Act; Review by the Joint Legislative Committee on Administrative
19 Rules. RSA 541-A:13 is repealed and reenacted to read as follows:

20 541-A:13 Review by the Joint Legislative Committee on Administrative Rules.

21 I. Within 60 days of the filing of a final proposal pursuant to RSA 541-A:12, the committee
22 shall either approve, conditionally approve, or object to the proposed rule.

23 II.(a) The director of the division of administrative rules for the office of legislative services
24 shall notify an agency of any potential basis for objection prior to committee review in the form of a
25 copy of the final proposal with staff comments.

26 (b) An agency may amend the language of a final proposal in response to staff comments
27 and file a request for conditional approval with the director, to be reviewed by the committee. The
28 request and the amended final proposal language shall be submitted in writing at least 7 days prior
29 to the meeting for which the final proposal is scheduled to be reviewed by the committee. In lieu of a
30 written request, the committee may, for compelling reasons, accept a request from an agency for
31 conditional approval at the meeting.

32 (c) The committee may:

33 (1) Approve the final proposal as filed pursuant to RSA 541-A:12; or

34 (2) Conditionally approve or object to the proposed rule under paragraph V.

35 (d) If the committee approves the proposal as filed pursuant to RSA 541-A:12, the
36 director shall notify the agency of the approval in writing.

1 (e) Failure of the committee to act on a proposed rule within the 60-day period under
2 paragraph I shall be deemed approval.

3 III. If a proposal is approved under subparagraph II(c) or (e), an agency may adopt the
4 proposed rule.

5 IV. The committee may object to a proposed rule if the rule is:

6 (a) Beyond the authority of the agency;

7 (b) Contrary to any state or federal statute or regulation, the overall purpose of a
8 statute, this chapter, the drafting and procedural manual, the state or federal constitution, or other
9 applicable controlling authority;

10 (c) Determined not to be in the public interest; including the existence of substantive
11 inconsistencies between a form and the rule; or

12 (d) Deemed by the committee to have a substantial economic impact not recognized in
13 the fiscal impact statement.

14 V. The following procedures shall govern committee objections and conditional approvals:

15 (a) The committee may vote to conditionally approve a proposed rule that has been
16 amended after the final proposal is filed by an agency. In such cases:

17 (1) The director shall notify the agency of the committee's decision in writing and
18 provide specific details as to the change in the language of the proposed rule required to address any
19 basis for objection.

20 (2) The agency shall file with the director a letter detailing how the text of the
21 proposed rule was changed to meet the conditions of the approval as well as the annotated text of the
22 rule within 30 days of the committee's decision, or in the case of a board or commission, within 7
23 days following its next regularly scheduled meeting.

24 (3) The letter shall be signed by an individual with rulemaking authority, or a voting
25 member of a body with rulemaking authority, provided that a quorum of the body approved the
26 letter and rule.

27 (4) If the division of administrative rules determines the agency has amended the
28 proposal in accordance with the terms of the conditional approval, it shall notify the agency in
29 writing, and the agency may adopt the rule.

30 (5) If the division of administrative rules determines the agency has not amended
31 the rule in accordance with the terms of the conditional approval, the conditional approval shall be
32 deemed a preliminary objection as of the date of the conditional approval.

33 (6) Failure to submit the letter and rule text shall result in the conditional approval
34 to be deemed a preliminary objection as of the date of the conditional approval.

35 (b) The committee may vote to preliminarily object to a final proposal as filed or as
36 amended pursuant to a request for conditional approval. In such cases:

37 (1) The director shall notify the agency in writing of the basis for the objection.

1 (2) Upon request of the committee, the director shall send a copy of the objection to
2 the appropriate house and senate standing policy committees and provide notice to the agency.

3 (3) If an objection is sent to standing policy committees, the policy committees shall
4 have 30 days from the date of the objection to convene an executive session to review the proposed
5 rules and objection, adopt recommendations or comments relative to the basis for the objection, and
6 communicate said recommendations or comments to the committee.

7 (4) The committee may make an objection to a proposal on the same grounds only
8 once, and may not add or amend grounds for an objection unless an agency response to the objection
9 creates new grounds for objection or the agency requests a revised objection.

10 (c) An agency shall respond to a preliminary objection by filing a written response with
11 the director within 45 days of the committee's vote. The agency may withdraw the rule, amend the
12 rule to remove the basis for objection, or make no change. Failure to respond to the committee shall
13 terminate the rulemaking procedure and render the proposed rule invalid. An agency shall not be
14 precluded from filing an initial proposal for a similar rule. If the committee revises its objections
15 based on the agency response, the agency shall have 45 days to file a written response to the revised
16 objections following the procedure outlined above.

17 (d) The director shall notify an agency in writing if, after reviewing a filed preliminary
18 objection response, the basis for a preliminary objection remains or the agency response creates new
19 basis for objection. In such instances, the agency may request the committee approve the rule with
20 further amendment. The request and the amended preliminary objection response language shall be
21 submitted in writing at least 7 days prior to the meeting for which the preliminary objection
22 response is scheduled to be reviewed by the committee. A request made in this manner shall not
23 preclude the agency from requesting a revised objection if the committee does not approve the rule
24 as requested.

25 (e) An agency may request a revised objection from the committee, which the committee
26 may provide one time. The agency shall have 45 days to file a written response and the committee
27 shall review the response in the same manner as a preliminary objection. No further amendment
28 may be made by the agency after it responds to the committee except as provided in RSA 541-A:14,
29 II.

30 (f) If after the agency responds, the basis for the committee's preliminary or revised
31 objection has not been removed or the response creates a new basis for objection, the committee may,
32 by majority vote of the committee, with at least 6 votes in the affirmative, vote to issue a final
33 objection. The director shall notify the agency of the final objection in writing, which shall be
34 published in the next issue of the rulemaking register.

35 VI. A committee final objection to any provision of a rule published in the rulemaking
36 register shall shift the burden of proof in any action for judicial review or for enforcement of the
37 provision to the adopting agency to establish that the provision of the rule is within the scope of

1 authority delegated to the agency; is consistent with state and federal statutes or regulations, the
2 overall purpose of a statute implemented by the rule, this chapter, the drafting and procedural
3 manual, the state or federal constitution, or other applicable controlling authority; is in the public
4 interest; or does not have a substantial economic impact not recognized in the fiscal impact
5 statement. If the agency fails to meet its burden of proof, the court shall declare the whole or a
6 portion of the rule invalid. Failure of the committee to object to a rule shall not be an implied
7 legislative authorization of its substantive or procedural lawfulness.

8 VII.(a) The provisions of this paragraph may be used by the committee as an alternative or
9 in addition to the final objection procedure employed by the committee in paragraph V.

10 (b) If an agency responds to a preliminary or revised objection but the basis for objection
11 has not been removed or the response creates a new basis for objection, the committee may, within
12 50 days from the date on which the objection response was due and by majority vote of the
13 committee, with at least 6 votes in the affirmative, recommend legislative action through
14 sponsorship of a joint resolution. A vote to issue a joint resolution shall prevent an agency from
15 adopting the rule for the period specified in subparagraph VII(c).

16 (c) A joint resolution shall be introduced in the house of representatives or senate within
17 20 business days of such vote when the general court is in session and 20 business days of the start
18 of the following legislative session if such vote occurs when the general court is not in session. If a
19 joint resolution is not introduced within this time frame, the agency may adopt the rule. If a joint
20 resolution is introduced within this time frame, the agency shall be prevented from adopting and
21 filing such rule until final legislative action is taken on the resolution or the passage of 90
22 consecutive calendar days during which the general court shall have been in session, whichever
23 occurs first. The 90 calendar day period shall commence on the date such joint resolution is
24 introduced. If the session of the general court adjourns prior to the sixtieth calendar day after the
25 joint resolution has been introduced, then the agency shall be prevented from adopting and filing
26 such rule until 90 calendar days, beginning with the next session of the general court, have passed.

27 (d) The provisions of this paragraph shall apply to only the specific portion of an
28 agency's rule identified in the joint resolution and shall not prevent an agency from adopting and
29 filing the remainder of the rules in the final proposal while the committee pursues legislative action
30 under this paragraph.

31 (e) Nothing in this section shall prevent the general court from introducing legislation
32 which addresses any matter included in a joint resolution introduced under the provisions of this
33 section.

34 (f) Notwithstanding any house or senate rules to the contrary, a joint resolution which
35 the committee votes to sponsor under subparagraph VII(b) may be introduced at any time during the
36 legislative session. It shall be subject to the same rules as any other bill introduced at the beginning
37 of the legislative session.

HB 1261 - AS INTRODUCED
- Page 17 -

1 18 Administrative Procedure Act; Final Adoption. Amend RSA 541-A:14 to read as follows:
2 541-A:14 Final Adoption.

3 I. An agency may adopt a properly filed final proposed rule after:

4 (a) The passage of 60 days from filing of a final proposal under RSA 541-A:12, I without
5 receiving notice of [~~objection from~~] **action taken by** the committee;

6 (b) Receiving approval from the committee;

7 (c) Written confirmation is sent to the agency by [~~committee legal counsel~~] **the division**
8 **of administrative rules for the office of legislative services** relative to agency compliance with
9 the committee's conditional approval pursuant to RSA 541-A:13, V(a);

10 (d) Passage of the 50-day period for committee review of the preliminary objection
11 response, or revised objection response, if applicable, provided that the committee has not voted to
12 sponsor a joint resolution pursuant to RSA 541-A:13, VII; or

13 (e) Final legislative action, as defined in RSA 541-A:1, VI-a, is taken on the joint
14 resolution sponsored pursuant to RSA 541-A:13, VII(b) or the passage of the 90 consecutive calendar
15 days specified by RSA 541-A:13, VII(c), whichever occurs first.

16 II. The text of the adopted rule shall be the same as the text of the final proposed rule
17 submitted under RSA 541-A:12, unless revised by [~~the~~] **an** agency in direct response to the
18 committee's written objection, **conditional approval, editorial comments**, or as otherwise
19 provided in RSA 541-A:13. The director **of the division of administrative rules for the office of**
20 legislative services may refuse to accept for filing any final rule which contains changes, other than
21 minor editorial changes, [~~that are~~] not specifically made in accordance with the procedures provided
22 in RSA 541-A:13, II(b) or RSA 541-A:13, V. The agency shall **notify the director of** [~~identify~~] each
23 minor editorial change in writing [~~to the director of legislative services~~].

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

28 IV. Adopted rules shall become effective [~~under RSA 541-A:16, III~~] **as of 12:01 a.m.** on the
29 day after filing by [~~the~~] **an** agency, or at a later date[~~, provided that the agency so specifies~~] **as**
30 **specified** in a letter to the director. [~~of legislative services, and further provided that the agency~~
31 ~~does~~] **An agency shall** not establish different effective dates for different provisions within the
32 same **adopted document** [~~rule~~]. If the agency has specified a later effective date, the agency may
33 modify the date by providing a statement to the director [~~of legislative services which shall indicate~~]
34 **identifying** the new effective date and all reasons for modifying the date. **The adopted rule shall**
35 **become effective as of 12:01 a.m. on the date specified in the statement to the director.** The
36 statement shall be published [~~by the director of legislative services~~] in the rulemaking register. No
37 modified effective date shall occur earlier than the date of publication in the rulemaking register.

1 The director shall maintain a file of all currently effective rules, and each agency shall maintain a
2 file of its own currently effective rules, both of which shall be open to the public.

3 19 Administrative Procedure Act; Extension of Currently Effective Rules Pending Readoption.
4 Amend RSA 541-A:14-a, I to read as follows:

5 I. If an agency files a notice pursuant to RSA 541-A:6 **or RSA 541-A:19** to readopt existing
6 rules, with or without amendments, the currently effective rules in the filing which would otherwise
7 expire prior to the completion of the readoption of the rules by the agency shall continue in effect
8 until the proposed rules are adopted and effective.

9 20 Administrative Procedure Act; Publication of Rules. Amend RSA 541-A:15 to read as follows:
10 541-A:15 Publication of Rules.

11 I. The director **of the division of administrative rules for the office** of legislative
12 services shall compile, index, and publish all effective rules adopted by each agency. The text of an
13 **effective** adopted rule as filed with the director [~~and which is effective~~] shall [~~then~~] be the official
14 version of the rule which the director shall publish online. The agency shall be notified when the
15 text is published. The director shall [~~within 180 days~~] send [~~to~~] the agency a draft certified rule in
16 an edited format as determined by the director **within 180 days of filing the adoption of the**
17 **rule**. The agency shall [~~then~~] have 60 days **from receipt of the draft certified rule** to certify that
18 the [~~edited~~] rule is the same in substance as [~~originally~~] **the adoption** filed. If editorial changes not
19 affecting the substance of the rule are needed, or an error in the publishing or editing process is
20 identified, then the agency shall notify the director[.] who shall make [~~such changes~~] **the necessary**
21 **edits** and the rule shall be certified by the agency that it is the same in substance as [~~originally~~] **the**
22 **adoption** filed. If the agency does not notify the director within the 60-day **time frame** [~~deadline~~],
23 then it will be presumed [~~that~~] the agency has reviewed the edited language and agreed [~~that it is~~]
24 the **draft** certified [~~version which~~] **rule** be published online **as the certified rule** [~~by the director in~~
25 ~~a format as determined by the director~~]. The certified version **of the rule** shall then be the official
26 version. [~~Both the adopted rule as filed and as certified may be an electronic document and still be~~
27 ~~the official version if in compliance with RSA 541-A:1, V-a and VI and the drafting and procedure~~
28 ~~manual for administrative rules under RSA 541-A:8. The official version of the rule shall be~~
29 ~~available to the public by the agency and the director pursuant to RSA 541-A:14, IV as described in~~
30 ~~the drafting and procedure manual under RSA 541-A:8.~~]

31 I-a. The [~~120-day deadline~~] **180 and 60-day deadlines** in paragraph I shall not apply to
32 interim rules or emergency rules. **The director shall send** a copy of each **adopted** rule as filed and
33 [~~each~~] as certified [~~shall be sent by the director~~] to the state library and the New Hampshire law
34 library at the supreme court.

35 I-b. Compilations **of certified rules** shall be supplemented, revised, or published as often as
36 necessary. The compilation, indexing, or publishing of fiscal impact statements shall not be
37 required. The director **of the division of administrative rules for the office** of legislative

1 services, in consultation with state agencies, may enter into a contract for the preparation and
2 publishing of the compilation of agency rules or any portion of it, or may certify a commercially
3 prepared version of the compilation. Any version or portion of the code published under this section
4 shall conform to all requirements of this chapter.

5 II. The director *of the division of administrative rules for the office* of legislative
6 services shall [~~assist the agencies in developing~~] **develop** a publicly accessible electronic rules
7 database.

8 III. The director *of the office of administrative rules for the office* of legislative services
9 may omit from the compilation any rule the publication of which would be unduly cumbersome,
10 expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on
11 application to the adopting agency, and if the compilation contains a notice stating the general
12 subject matter of the omitted rule and stating how a copy thereof may be obtained.

13 21 Administrative Procedure Act; Rules; Filing Required. Amend RSA 541-A:16, II - III to read
14 as follows:

15 II. Each agency shall also:

16 (a) Make available to the public all written statements of policy or interpretations, other
17 than rules, formulated or used by the agency in the discharge of its functions.

18 (b) File with the director *of the division of administrative rules for the office* of
19 legislative services all declaratory rulings issued.

20 III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted
21 rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-
22 A:14-a, III, or RSA 541-A:19, X, [~~or such other later date as specified,~~] provided that filing occurs
23 before such effective date. Except as provided in RSA 541-A:14-a, a rule adopted under RSA 541-
24 A:14, IV shall expire **10 years from the effective date of the rule** [~~after the last day of the tenth~~
25 ~~year following its becoming effective~~], unless sooner amended, readopted, [~~or~~] repealed, **or the**
26 **agency no longer has statutory authority for the rule.**

27 22 Administrative Procedure Act; Time Limit. Amend RSA 541-A:17, II to read as follows:

28 II. Notwithstanding the provisions of paragraph I, any organizational and procedural rules
29 proposed and adopted pursuant to RSA 541-A:16, I and as identified in the drafting and procedure
30 manual shall not expire, provided [~~that they~~] **the rules** have been approved by the committee. No
31 changes to [~~such~~] organizational and procedural rules may be made by the agency, other than
32 editorial changes not affecting the substance of the [~~procedural~~] rules, without following the
33 rulemaking procedures in this chapter. [~~However,~~] If the adoption or amendment of a statute
34 governing the agency renders the agency's organizational and procedural rules **inaccurate** [~~no~~
35 ~~longer accurate~~], such rules shall expire one year [~~after~~] **from** the effective date of the statute that
36 makes such change, unless [~~such organizational and procedural~~] **the** rules are amended, superseded,
37 or repealed [~~before such~~] **prior to** expiration. The agency shall commence rulemaking to amend its

1 rules no later than 90 days after the effective date of ~~such~~ **the** statute. If the agency reorganizes its
2 organization and ~~responsibilities~~ **procedures** in such a way ~~that~~ **as to render** the agency's
3 **organizational and procedural** rules ~~under RSA 541-A:16, I(a) describing its organization are no~~
4 ~~longer accurate~~ **inaccurate**, the agency shall amend its rules as soon as is practicable, but shall
5 commence rulemaking ~~not~~ **no** later than 90 days after ~~such~~ **the** changes occur.

6 23 Administrative Procedure Act; Emergency Rules. Amend RSA 541-A:18, I - IV to read as
7 follows:

8 I. An agency may proceed to adopt an emergency rule if it finds either that an imminent
9 peril to the public health or safety requires adoption of a rule with less notice than is required under
10 RSA 541-A:6 or that substantial fiscal harm to the state or its citizens could occur if rules are not
11 adopted with less notice than is required under RSA 541-A:6. **The text of an emergency rule filed**
12 **under this section shall encompass at least a full rules section, as described in the drafting**
13 **and procedure manual.** The rule may be adopted without having been filed in proposed or final
14 proposed form and may be adopted after whatever notice and hearing the agency finds to be
15 practicable under the circumstances. The agency shall make reasonable efforts to ensure that
16 emergency rules are made known to persons who may be affected by them.

17 II. Notwithstanding RSA 541-A:16, III, emergency rules adopted under this section **shall be**
18 **effective upon filing and** shall not remain in effect for more than 180 days from the date and time
19 of filing with the director **of the division of administrative rules for the office** of legislative
20 services. An agency may propose a permanent rule on the same subject at the same time that it
21 adopts an emergency rule, but it shall not adopt the same emergency rule when the emergency rule
22 expires.

23 III. Emergency rules adopted under this section shall include:

24 (a) The name and address of the agency;[-]

25 (b) The statutory authority for the rule;[-]

26 (c) Whether the intended action is an adoption **of a new rule, or an** amendment **to**[-] or
27 repeal **of an existing rule**;[-]

28 (d) The rule number and title;[-]

29 (e) A signed and dated statement by the adopting authority explaining the nature of the
30 basis for the emergency rule, including an explanation of the effect upon the state **or its citizens** if
31 the emergency rule were not adopted;[-]

32 (f) A listing of people, enterprises, and government agencies affected by the rule; **and**[-]

33 (g) The name, address, and telephone number of an individual in the agency able to
34 answer questions on the emergency rule.

35 IV. Emergency rules adopted under this section shall not be adopted solely to avoid the time
36 requirements of this chapter. The committee may petition the adopting agency to repeal the rule if
37 it determines that the statement of emergency required by RSA 541-A:18, III(e) is inadequate and

1 does not demonstrate ~~that~~ the rule is necessary to prevent an imminent peril to the public health
2 or safety **or that substantial fiscal harm to the state or its citizens could occur.**

3 24 Administrative Procedure Act; Interim Rules. Amend RSA 541-A:19, II - X to read as follows:

4 II. An agency may adopt an interim rule under subparagraphs I(a), (b), or (c) without
5 meeting the requirements of RSA 541-A:6 and RSA 541-A:9 through RSA 541-A:14 and an agency
6 may adopt an interim rule under subparagraph I(d) or (e) without meeting the requirements of RSA
7 541-A:5 through RSA 541-A:14 provided the agency:

8 (a) Publishes notice of a proposed interim rule in a newspaper of daily statewide
9 circulation and files the proposed interim rule, with the cover sheet as provided in paragraph IV,
10 with the director **of the division of administrative rules for the office** of legislative services no
11 later than the date of publication of the notice; or

12 (b) Files the proposed interim rule with the cover sheet **and rulemaking notice** [as
13 ~~provided in paragraph IV, and the notice of the proposed interim rule~~] with the director [of
14 ~~legislative services, and has published notice~~] **for publication** in the rulemaking register.

15 III. Notice of an agency's intent to propose an interim rule shall include:

16 (a) The name and address of the agency;[-]

17 (b) Citation to the statutory or other rulemaking authority for the proposed interim
18 rule;[-]

19 (c) Whether the proposed interim rule is an adoption, readoption, ~~amendment,~~
20 readoption with amendment, or repeal;[-]

21 (d) The rule number and title;[-]

22 (e) A concise summary explaining the effect of the proposed interim rule;[-]

23 (f) A listing of people, enterprises, and government agencies affected by the proposed
24 interim rule;[-]

25 (g) A summary of the effect upon the state if the proposed interim rule were not
26 adopted;[-]

27 (h) The name, address, and telephone number of an individual in the agency able to
28 answer questions on the proposed interim rule;[-]

29 (i) The date the proposed interim rule will be filed with the director; **and** ~~[of legislative~~
30 ~~services.]~~

31 (j) The expected date of review by the committee.

32 IV. Proposed interim rules filed under paragraph II shall include a cover sheet stating:

33 (a) The name and address of the agency;[-]

34 (b) Citation to the statutory rulemaking authority for the proposed interim rule;[-]

35 (c) Whether the intended action is an adoption, readoption, ~~amendment,~~
36 with amendment, or repeal;[-]

37 (d) The rule number and title;[-]

HB 1261 - AS INTRODUCED
- Page 22 -

1 (e) A signed and dated statement by the adopting authority explaining why an interim
2 rule is necessary, including documentary evidence to prove the agency is acting in accordance with
3 the terms of this section and is not adopting an interim rule solely to avoid the time periods imposed
4 by RSA 541-A, except as provided in paragraph I of this section;[-]

5 (f) A listing of people, enterprises, and government agencies affected by the proposed
6 interim rule; **and**[-]

7 (g) The name, address, and telephone number of an individual in the agency able to
8 answer questions on the proposed interim rule.

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

13 V. A proposed interim rule filed under paragraph II ~~[no less than]~~ **at least** 21 days before a
14 ~~[regularly scheduled]~~ committee meeting shall be placed on the committee's agenda for review for
15 that meeting. Publication of notice shall occur ~~[no less than]~~ **at least** 14 days before ~~[a regularly~~
16 ~~scheduled]~~ **the** meeting. If ~~[the]~~ **an** agency has published notice in a newspaper, pursuant to
17 subparagraph II(a), the agency shall file a copy of the notice as it was published no later than 3 days
18 after the date of publication. Proposed interim rules filed less than 21 days before a ~~[regularly~~
19 ~~scheduled]~~ committee meeting shall be placed on the agenda for review at the following ~~[regularly~~
20 ~~scheduled]~~ committee meeting or at a special meeting, as determined by the committee.

21 VI. The committee shall vote to approve, ~~[or]~~ conditionally approve, ~~[the rule]~~ or object **to**
22 **the rule** under paragraph VII. Objections to a proposed interim rule may be made only once.

23 VII. The committee may object to a proposed interim rule if the rule is:

24 (a) Beyond the authority of the agency;

25 (b) Contrary to **any state or federal statute or regulation, the overall purpose of a**
26 **statute, this chapter, the drafting and procedural manual, the state or federal**
27 **constitution, or other applicable controlling authority** ~~[the intent of the legislature];~~

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

31 (d) Deemed by the committee not to meet the requirements of paragraph I.

32 VIII. The following procedures shall govern committee review of interim rules:

33 (a) The director ~~[of legislative services]~~ shall notify ~~[the]~~ **an** agency of any potential
34 ~~[bases]~~ **basis** for Executive Departments and Administration objection ~~[by forwarding a copy of the~~
35 ~~proposed interim rule with comments noted thereon to the agency]~~ at least 7 days prior to the
36 committee **review by sending a copy of the proposed interim rule with staff comments**
37 ~~[meeting at which the rule will be considered].~~ ~~[Following receipt of the comments]~~ An agency may

1 *amend the language of a proposed interim rule in response to staff comments and* file a
2 request for conditional approval *with the director, to be reviewed by the committee* [of its
3 interim rule with an amendment to address the noted potential bases for objection, or for other
4 reasons in lieu of requesting an objection]. Both the request for conditional approval and the
5 [amendment shall be in writing and] *amended language* shall be filed at least 3 days prior to the
6 meeting for which the proposed interim rule *is* [has been placed] on the agenda. [An agency may
7 request a waiver pursuant to RSA 541-A:40, IV of the 3-day deadline for good cause as established in
8 the drafting and procedure manual under RSA 541-A:8, but the] *In lieu of a written request, the*
9 committee may for compelling reasons, [under the committee's rules pursuant RSA 541-A:2, II]
10 accept a request for [a] conditional approval in the meeting. [The committee may approve the rule as
11 originally proposed or conditionally approve the rule under subparagraph (b).]

12 (b) [If the committee objects to the proposed interim rule as filed, it shall so inform the
13 agency. In lieu of an objection, and with or without a written request under subparagraph (a),] The
14 committee may vote to conditionally approve [the] *a proposed interim rule that has been*
15 *amended* [with an amendment], provided [that] the committee [specified] *specifies* in [its] *the*
16 conditional approval the language of the amendment [to address] *addressing* the basis for [a
17 preliminary] objection. *In such cases:*

18 (1) The Executive Departments and Administration *director* shall notify the agency
19 *of the committee's decision* in writing [of its conditional approval].

20 (2) [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 *file with the director* [submit a
22 written explanation to the committee in the form of] a letter [and an annotated text of the final
23 proposed rule] detailing how the *text of the proposed rule was changed to meet the conditions*
24 *of the approval as well as the annotated text of the rule within 14 days of the committee's*
25 *decision, or in the case of a board or commission, within 7 days following its next regularly*
26 *scheduled meeting* [has been amended in accordance with the conditional approval].

27 (3) The [written explanation] *letter* shall be signed by the individual [holding] *with*
28 rulemaking authority, or [if a body of individuals holds rulemaking authority, by] a voting member
29 of a [that] body *with rulemaking authority*, provided that a quorum of the body [has] approved
30 *the letter and rule*.

31 (4) *If the division of administrative rules determines the agency amended*
32 *the rule in accordance with the terms of the conditional approval, it shall notify the agency*
33 *in writing, and the agency may adopt the rule*.

34 (5) Failure to submit *the letter and rule text* [a written explanation] in accordance
35 with the conditional approval [and this paragraph] shall [cause] *result in* the conditional approval
36 to be deemed [a committee vote to make] a preliminary objection [on] *as of* the date of the
37 conditional approval. [If the committee legal counsel determines that the agency has amended the

1 rule in accordance with the conditional approval and this paragraph, the committee legal counsel
2 shall promptly send written confirmation of compliance to the agency. The agency may then adopt
3 the rule as amended.]

4 (c) [If] The committee **may vote to preliminarily object** [objects] to the proposed
5 interim rule as filed **or as amended** pursuant to **a request for conditional approval**.
6 [subparagraph VIII(a);] The Executive Departments and Administration **director** shall [send]
7 **notify** the agency **in writing of** [a written objection stating] the basis for the objection. [An
8 objection or a conditional approval shall require the assent of a majority of the votes cast, a quorum
9 being present.]

10 (d) [If the committee makes an objection to the proposed interim rule pursuant to
11 subparagraph VIII(c), the agency may cure the defect or withdraw the interim rule. The agency shall
12 respond to a committee objection only once, and shall report its response in writing to the committee
13 prior to its next regularly scheduled meeting. Failure to respond to the committee in accordance with
14 this subparagraph shall mean the rulemaking procedure for that proposed interim rule is invalid;
15 however, the agency is not precluded from initiating the process over again for a similar rule,
16 provided the conditions in paragraph I are met.] **An agency shall respond to a preliminary
17 objection by filing a written response with the director prior to the committee's next
18 scheduled regular meeting. The agency shall have only one opportunity to respond to the
19 objection, and may withdraw the rule, amend the rule to remove the basis for objection, or
20 make no change. Failure to respond to the committee shall terminate the rulemaking
21 procedure and render the proposed rule invalid. The agency shall not be precluded from
22 filing a proposal for a similar rule.**

23 (e) The committee shall review the response and vote to approve the [response]
24 **proposed rule** or [continue the] **issue a final** objection.

25 (f) The committee's objection shall not preclude the agency from [adopting the substance
26 of an interim rule by meeting the requirements of] **proposing to adopt the same or similar rule
27 pursuant to RSA 541-A:3.**

28 IX. [No proposed interim rule shall be adopted unless within 90 days of publication of the
29 notice the committee votes to approve or conditionally approve the proposed interim rule.] **An
30 agency may adopt a proposed interim rule if the committee votes to approve or
31 conditionally approve the rule within 90 days of publication of the notice of rulemaking in
32 the rulemaking register.**

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 **for which** the

1 requirements ~~[for which]~~ are set forth in the rule pursuant to RSA 541-A:19, shall be filed with the
2 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 scheduled
4 meeting after committee approval or after receipt of the written confirmation **of compliance with a**
5 ~~[pursuant to RSA 541-A:19, VIII(b) for a committee]~~ conditional approval. An interim rule shall be
6 effective ~~[under RSA 541-A:16, III]~~ **at 12:01 a.m.** on the day after filing with the director ~~[of~~
7 ~~legislative services]~~, or at a later date, provided ~~[the]~~ **an** agency ~~[se]~~ specifies **the date** in a letter to
8 the director ~~[of legislative services]~~ and the effective date is within 30 days ~~[following]~~ **of** committee
9 approval or conditional approval or, in the case of a board or commission, within 7 days following its
10 next regularly scheduled meeting after **committee approval or conditional approval** ~~[receipt of~~
11 ~~the written confirmation pursuant to RSA 541-A:19, VIII(b)]~~. Interim rules shall be effective for a
12 period ~~[not to exceed]~~ **no longer than** 180 days **except as extended pursuant to RSA 541-A:14-a.**
13 During the time an interim rule ~~[shall be]~~ **is** in effect, the agency may propose a permanent rule to
14 replace the interim rule ~~[once it expires]~~, but it shall not adopt another interim rule to replace ~~[the]~~
15 **an** expiring interim rule.

16 25 Administrative Procedure Act; Expedited Repeal of Rules. Amend RSA 541-A:19-a to read as
17 follows:

18 541-A:19-a Expedited Repeal of Rules.

19 I. An agency may repeal any rules using the expedited procedures of this section and
20 without meeting the requirements of RSA 541-A:5-7 and RSA 541-A:9-14 if:

21 (a) The ~~[proposed]~~ repeal ~~[has been approved]~~ **is proposed** by the official or the group of
22 individuals with rulemaking authority;[-]

23 (b) The rule proposed for repeal encompasses at least a full ~~[rules]~~ **rule** section, as
24 described in the drafting and procedure manual for administrative rules; ~~[pursuant to RSA 541-A:8.]~~

25 (c) The repeal is not being proposed for purposes of being superseded later by adoption of
26 a new rule with a text amended from the repealed rule; **and**[-]

27 (d) The repeal of the rule ~~[pursuant to this section]~~ does not deprive a person of any
28 right, duty, or privilege ~~[of that person which is]~~ protected by the due process provisions of the state
29 or federal constitutions.

30 II. Notice of an agency's intent to repeal a rule shall include:

31 (a) The name and address of the agency;[-]

32 (b) The statutory rulemaking authority for the rule;[-]

33 (c) The rule number and title;[-]

34 (d) An explanation of the reason for the proposed repeal;[-]

35 (e) The name, address, electronic address, and telephone number of an individual in the
36 agency able to answer questions about the proposed repeal and to arrange for reasonable
37 accommodation for persons with disabilities wishing to attend the public comment hearing;[-]

1 (f) The date, time, and physical location, if applicable, of the public comment hearing;
2 *and*[-]

3 (g) If the agency provides for a virtual or hybrid *public comment* hearing consistent
4 with RSA 91-A, the necessary information for accessing the hearing electronically, and a mechanism
5 for the public to alert the agency during the hearing if there are problems with access.

6 III. The notice required by paragraph II shall be filed with the director of *the division of*
7 *administrative rules for the office of* legislative services for publication in the rulemaking
8 register.

9 IV. The agency shall file the text of the rule to be repealed with the notice filed pursuant to
10 paragraph III.

11 V. There shall be a public comment hearing on the proposed repeal no sooner than 7
12 calendar days after the date of publication of the notice in the rulemaking register. There shall be a
13 period for the submission to the agency of written or electronic public comment ending no sooner
14 than the 3rd calendar day after the date of the public comment hearing. Copies of the text of the
15 rules subject to repeal shall be available at the public comment hearing.

16 V-a. If consistent with RSA 91-A, the agency may hold a virtual or hybrid *public comment*
17 hearing, provided that the public may participate by telephone, with additional access possibilities
18 by video or other electronic means in accordance with the terms of the notice, including a mechanism
19 for the public to alert the agency during the hearing if there are problems with access. Each
20 participant in a virtual or hybrid *public comment* hearing shall be able to simultaneously hear and
21 speak to the other agency and public participants and be audible or otherwise discernable to the
22 public in attendance, whether attendance is in-person or by electronic means.

23 VI. If on the basis of public comment the official or the group of individuals with rulemaking
24 authority determines that the rule should not be repealed, the agency shall [~~se~~] notify the director [~~of~~
25 ~~legislative services~~] and the rule shall not be repealed.

26 VII. The proposed repeal shall be placed on the agenda [~~of the~~] *for* committee [~~for~~] review at
27 the first [~~regularly scheduled or special~~] *committee* meeting at least 5 calendar days after the close
28 of the period for written or electronic comment described in paragraph V. The committee may
29 approve or object to the repeal. The committee may object to the repeal if the repeal is:

30 (a) Beyond the authority of the agency;

31 (b) Contrary to [~~the intent of the legislature~~] *any state or federal statute or*
32 *regulation, the overall purpose of a statute, this chapter, the drafting and procedural*
33 *manual, the state or federal constitution, or other applicable controlling authority;* or

34 (c) Deemed by the committee not to meet the requirements of paragraph I.

35 VIII. If the committee objects to the repeal, the repeal shall not be adopted. The committee's
36 objection shall not preclude the agency from *proposing to repeal* [~~repealing~~] the rule [~~by meeting~~
37 ~~the requirements of~~] *pursuant to* RSA 541-A:3.

1 IX. If the committee approves the repeal, the agency may adopt the repeal and file a
2 statement of ~~[the repeal]~~ **adoption** with the director ~~[of legislative services]~~. The repeal shall be
3 effective as of 12:01 a.m. on the day after filing of the statement or as of 12:01 a.m. on the date
4 specified by the agency, ~~[or such other date and time as specified,]~~ provided that the filing occurs
5 before ~~[such]~~ **the specified** effective date and time.

6 26 Administrative Procedure Act; Adoption of Forms. Amend RSA 541-A:19-b to read as follows:

7 541-A:19-b Adoption of Forms. An agency may adopt a form as defined in RSA 541-A:1, VII-a,
8 either by incorporating the actual form by reference in a rule, or by setting forth the requirements of
9 the form in rules, adopted according to the procedures in this chapter and in compliance with the
10 drafting and procedure manual ~~[pursuant to RSA 541-A:8]~~. No ~~[new or amended]~~ form shall be
11 effective and enforceable pursuant to RSA 541-A:22, I unless the form has been adopted in
12 accordance with this chapter.

13 27 Administrative Procedure Act; Revisions to Forms; Expedited Procedure. Amend RSA 541-
14 A:19-c to read as follows:

15 541-A:19-c Revisions to Forms; Expedited Procedure.

16 I. An agency may make editorial changes to a previously adopted form without following the
17 procedures required in RSA 541-A:19-b, in this section, or in RSA 541-A:3, but shall notify the ~~[office~~
18 ~~of legislative services]~~ **division of administrative rules** of any proposed editorial changes in
19 accordance with the drafting and procedure manual ~~[pursuant to RSA 541-A:8]~~.

20 II. An agency may revise ~~[substantively]~~ the **substantive** requirements on a previously
21 adopted form ~~[as defined in RSA 541-A:1, VII-a,]~~ and amend the relevant provisions in the rule
22 which set forth the requirements of the form or incorporate the form by reference pursuant to RSA
23 541-A:19-b, without meeting the requirements of RSA 541-A:5, RSA 541-A:6 and RSA 541-A:9-14 by
24 providing notice and adopting the amended form in accordance with paragraphs III through VII.

25 III. Notice of an agency's intent to amend a form and ~~[amend the]~~ relevant~~[,]~~ **section of the**
26 ~~[affected]~~ rule shall include:

27 (a) The name and address of the agency;~~[-]~~

28 (b) The statutory authority for the form;~~[-]~~

29 (c) The rule number and title of the ~~[affected]~~ rule **section** to be amended;~~[- and whether~~
30 ~~the action is an amendment or readoption with amendment of the rule as described in the drafting~~
31 ~~and procedure manual pursuant to RSA 541-A:8.]~~

32 (d) An explanation of the reason for the proposed amendment ~~[of a]~~ **to the** form, ~~[and]~~ a
33 summary of the **relevant** ~~[existing, affected]~~ rule, and the proposed amendment to the form and
34 ~~[the]~~ rule;~~[-]~~

35 (e) The name, address, electronic address, and telephone number of an individual in the
36 agency able to answer questions about the proposed form; **and**~~[-]~~

1 (f) The deadline for receipt by the agency of written or electronic public comment, which
2 shall be no sooner than the 7th calendar day after the date of publication of the notice in the
3 rulemaking register.

4 III-a. ~~[The amended rule to be filed shall include only those relevant provisions of the rule,~~
5 ~~as described in the drafting and procedure manual, pursuant to paragraph II, and neither the~~
6 ~~amended form nor the amended rule shall have a fiscal impact which would otherwise require a~~
7 ~~fiscal impact statement pursuant to RSA 541-A:5.] **Filings under this section shall only include**~~
8 ~~**the relevant section of the rule necessary to amend the form. Neither the amended form nor**~~
9 ~~**rule shall have a fiscal impact which would necessitate a fiscal impact statement pursuant**~~
10 ~~**to RSA 541-A:5, unless the following conditions are met:**~~

11 (a) *The change to the form reflects a specific change to a fee or fine established*
12 *in statute;*

13 (b) *The only change to the form related to the fee or fine conforms with the*
14 *specific statutory requirement; and*

15 (c) *In addition to meeting the notice requirements of paragraph III, an agency*
16 *includes in the notice a fiscal impact statement completed by the legislative budget*
17 *assistant in accordance with RSA 541-A:5.*

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

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

25 VI. The proposed **amended** form **and** ~~[as amended and amended]~~ rule shall be placed on
26 the agenda ~~[of the]~~ **for** committee ~~[for]~~ review at the first ~~[regularly scheduled or special]~~ **committee**
27 meeting at least 5 calendar days after the close of the period for written or electronic comment
28 described in subparagraph III(e). The committee may approve, **conditionally approve**, or object to
29 the form **and rule**. *The process to request conditional approval shall be the same as in RSA*
30 *541-A:19*. The committee may object to the adoption of the **amended** form ~~[as amended]~~ and ~~[the~~
31 ~~affected]~~ rule if ~~[the form is]~~ **they are**:

32 (a) Beyond the authority of the agency;

33 (b) Contrary to **any state or federal statute or regulation, the overall purpose of a**
34 **statute, this chapter, the drafting and procedural manual, the state or federal**
35 **constitution, or other applicable controlling authority** ~~[the intent of the legislature];~~

HB 1261 - AS INTRODUCED
- Page 29 -

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 reference or
3 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 **as**
7 **amended** shall be as provided in RSA 541-A:13 **and RSA 541-A:14** for final proposed rules.

8 28 Administrative Procedure Act; Expedited Amendment to Incorporation by Reference. Amend
9 RSA 541-A:19-d to read as follows:

10 541-A:19-d Expedited Amendment to Incorporation by Reference.

11 I. An agency may amend any existing rules which incorporate by reference documents or
12 Internet content pursuant to RSA 541-A:12, III-VII by using the expedited procedures of this section,
13 and without meeting the requirements of RSA 541-A:5 and RSA 541-A:6 and RSA 541-A:9 through
14 RSA 541-A:14 except as provided below, if:

15 (a) The ~~[proposed]~~ amendment ~~[has been approved]~~ **is proposed** by the official or the
16 group of individuals with rulemaking authority;[-]

17 (b) The proposed amendment only updates or changes the document or Internet content
18 incorporated by reference, or amends related text, in the existing rule;[-]

19 (c) The ~~[amended rule does not encompass more than]~~ **proposed amendment**
20 **encompasses** a full rules section, as described in the drafting and procedure manual for
21 administrative rules; ~~[pursuant to RSA 541-A:8.]~~

22 (d) The proposed amendment has no fiscal impact which would otherwise require a fiscal
23 impact statement pursuant to RSA 541-A:5; **and**[-]

24 (e) The **agency fulfills the** requirements of RSA 541-A:12, III-VII ~~[are met]~~ as they
25 would be for final proposals, **including filing an incorporation by reference statement for each**
26 **document or Internet content incorporated by reference** ~~[as described in paragraph IV].~~

27 II. Notice of ~~[an agency's intent to amend]~~ **a proposed amendment to** a rule which
28 incorporates by reference documents or Internet content shall include:

29 (a) The name and address of the agency;[-]

30 (b) The statutory rulemaking authority for the rule;[-]

31 (c) ~~[Whether the action is an amendment or re-adoption with amendment as described in~~
32 ~~the drafting and procedure manual for administrative rules pursuant to RSA 541-A:8.~~

33 ~~(d)~~ The rule number and title;[-]

34 ~~(e)~~ **(d)** A concise summary of the existing rule and the proposed amendment, and an
35 explanation of the differences between the existing document or Internet content incorporated by
36 reference and the document or Internet content in the amended rule;[-]

1 ~~[(f)]~~ (e) Identification of the state or federal statute or regulations which the rule is
2 intended to implement pursuant to RSA 541-A:3-a, **including an appendix as described in the**
3 **drafting and procedure manual**;~~[-]~~

4 ~~[(g)]~~ (f) The deadline for receipt by the agency of written or electronic public comment,
5 which shall be no sooner than the fourteenth calendar day after the date of publication of the notice
6 in the rulemaking register; **and**~~[-]~~

7 ~~[(h)]~~ (g) The name, address, electronic address, and telephone number of an individual
8 in the agency able to answer questions about the amended rule.

9 III. The notice required by paragraph II shall be filed with the director **of the division of**
10 **administrative rules for the office** of legislative services for publication in the rulemaking
11 register.

12 IV. The agency shall file the amended rule with the notice filed pursuant to paragraph III~~[-~~
13 ~~including an appendix pursuant to RSA 541-A:3-a, as described in the drafting and procedure~~
14 ~~manual for administrative rules pursuant to RSA 541-A:8. The agency shall also comply with RSA~~
15 ~~541-A:12, III-VII as for filing final proposals, including filing of an incorporation by reference~~
16 ~~statement for each document or Internet content incorporated by reference].~~

17 V. Copies of the text of the amended rule shall be available to the public at the time the
18 notice is filed, and a copy of the document or Internet content incorporated by reference shall ~~also~~
19 be available for inspection pursuant to RSA 541-A:12, VI.

20 VI. If on the basis of public comment the official or the group of individuals with rulemaking
21 authority determines that the rule should not be amended by the expedited procedure, the agency
22 shall ~~so~~ notify the director ~~[of legislative services]~~ and the rule shall not be amended under this
23 section.

24 VII. The amended rule shall be placed on the agenda ~~[of the]~~ **for** committee ~~[for]~~ review at
25 the first ~~[regularly scheduled or special]~~ **committee** meeting at least 5 calendar days after the close
26 of the period for written or electronic comment described in subparagraph II(g). The committee may
27 approve, conditionally approve, or object to the amended rule pursuant to RSA 541-A:13, V-VII. **The**
28 **process to request conditional approval shall be the same as in RSA 541-A:19.** The committee
29 may object to the amended rule if the rule is:

30 (a) Beyond the authority of the agency;

31 (b) Contrary to **any state or federal statute or regulation, the overall purpose of a**
32 **statute, this chapter, the drafting and procedural manual, the state or federal**
33 **constitution, or other applicable controlling authority** ~~[the intent of the legislature];~~

34 (c) Deemed not to be in the public interest; or

35 (d) Deemed by the committee not to meet the requirements of paragraph I.

36 VIII. Subsequent review and adoption of the amended rule shall be as provided in RSA 541-
37 A:13, V-VII and RSA 541-A:14 as for final proposed rules.

1 29 Administrative Procedure Act; Initiating Rulemaking Prior to Expiration Date of Existing
2 Rule; Expired Rule. Amend RSA 541-A:20-a, II to read as follows:

3 II. If an agency consistently fails to readopt its rules prior to their expiration as provided in
4 paragraph I, the committee may direct the agency to contact the director ***of the division of***
5 ***administrative rules for the office of legislative services*** to develop a timetable of readoption or
6 readoption with amendments.

7 30 Administrative Procedure Act; Remedies for Procedural Failures. Amend RSA 541-A:23, I(a)
8 to read as follows:

9 (a) Failure to file with the director ***of the division of administrative rules for the***
10 ***office*** of legislative services;

11 31 Administrative Procedure Act; Suspension of Provisions. Amend RSA 541-A:40, IV(a) to read
12 as follows:

13 IV.(a) Notwithstanding any other provision of this chapter, the director ***of the division of***
14 ***administrative rules for the office*** of legislative services may, after consultation with the chair
15 and vice-chair of the joint legislative committee on administrative rules, and for good cause shown,
16 waive any deadline or otherwise extend any time period contained in any provision of this chapter
17 which relates to the rulemaking process.

18 32 Effective Date. This act shall take effect January 1, 2027.