

LEGISLATIVE COMMITTEE MINUTES

SB56

Bill as Introduced

SB 56 - AS INTRODUCED

2021 SESSION

21-0897
11/08

SENATE BILL

56

AN ACT relative to reports by trustees of charitable trusts.

SPONSORS: Sen. Kahn, Dist 10

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires that any charitable organization with revenue, gains, and other support of \$3,000,000 or more that is required to file an Internal Revenue Service Form 990 with the attorney general shall also submit the organization's latest audited financial statement prepared in accordance with generally accepted accounting principles.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to reports by trustees of charitable trusts.

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

1 1 Reports by Trustees of Charitable Trusts; Threshold for Submitting Audited Financial
2 Statements. Amend RSA 7:28, III-b to read as follows:

3 III-b. Any charitable organization with revenue, gains, and other support of [~~\$1,000,000~~
4 **\$3,000,000** or more that is required to file an Internal Revenue Service Form 990 with the attorney
5 general shall also submit the organization's latest audited financial statement prepared in
6 accordance with generally accepted accounting principles.

7 2 Effective Date. This act shall take effect 60 days after its passage.

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

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

Date: January 20, 2021

HEARINGS

Wednesday	01/27/2021	
(Day)	(Date)	
Executive Departments and Administration	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m. SB 55	relative to project labor agreements in government contracts.	
9:20 a.m. SB 56	relative to reports by trustees of charitable trusts.	
9:40 a.m. SB 57	relative to allowing pharmacy technicians and interns to remotely perform non-dispensing tasks.	
10:00 a.m. SB 58	relative to the administration of occupational regulation by the office of professional licensure and certification.	

EXECUTIVE SESSION MAY FOLLOW

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/93288810031>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +19292056099,,93288810031# or +13017158592,,93288810031#
4. Webinar ID: [932 8881 0031](https://www.zoom.us/j/93288810031)
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWRA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

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

Cameron Lapine 271-2104

Sharon M Carson
Chairman

Sponsors:

SB 55

Sen. Avard
Rep. Ammon

Sen. Daniels
Rep. Lang

Sen. Bradley

Rep. Burt

SB 56

Sen. Kahn

SB 57

Sen. Carson
Rep. Goley

Sen. D'Allesandro
Rep. Long

Sen. Soucy
Rep. L. Ober

Sen. Bradley
Rep. McGuire

SB 58

Sen. Carson

Sen. Giuda

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

SB 56, relative to reports by trustees of charitable trusts.

Hearing Date: January 27, 2021

Time Opened: 10:12 a.m.

Time Closed: 10:34 a.m.

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

Members of the Committee Absent : None

Bill Analysis: This bill requires that any charitable organization with revenue, gains, and other support of \$3,000,000 or more that is required to file an Internal Revenue Service Form 990 with the attorney general shall also submit the organization's latest audited financial statement prepared in accordance with generally accepted accounting principles.

Sponsors:
Sen. Kahn

Who supports the bill: Senator Jay Kahn (Senate District 10), Kelli D'Amore, Jeffrey Wheeler, Jeremy Veilleux, Janis King (Monadnock Worksource), Terry Knowles, Russel Grazier, Jr. (Portsmouth Music and Arts Center [PMAC]), John Colony, and Kathleen Reardon (NH Center for Nonprofits).

Who opposes the bill: Tom Donovan (Attorney General, Charitable Trusts).

Who is neutral on the bill: None.

Summary of testimony presented in support:

Senator Jay Kahn

Senate District 10

- Senator Kahn said that the current statute requires any not-for-profit organization with revenues, gains, or supports of \$500,000 or more to file an IRS Form 990 with the Attorney General's Office. Organizations with revenues, gains, or supports of \$1,000,000 or more are required to file a Form 990 as well as an audited financial statement in compliance with generally accepted practices.

- Senator Kahn said that the statute sets the floor at \$1,000,000 and is silent on any other levels. He said that the preceding statute says that periodic reports should not be unreasonably burdensome. He said that according to New Hampshire non-profit auditors, the cost to not-for-profits is \$15,000 per year for audited financial statements. He said that the audits add to administrative overhead at a time when the demand for not-for-profits is at an all-time high.
- Senator Kahn said that the \$1,000,000 audit requirement was adopted in HB 1408-FN (2004) and had not been revised in 17 years. He said that \$15,000 has a larger impact on a \$1,000,000 organization than on a \$5,000,000 organization.
- Senator Kahn questioned if \$1,000,000 was the correct floor to set. SB 56 sets the floor at \$3,000,000 for an audited statement.
- Senator Kahn said that nothing in SB 56 prohibits an organization from doing an audit if it wanted to. He said there was also nothing to inhibit the Attorney General's Office from requesting an audit. He said that organizations that accept grants with audit stipulations would still need to comply with those requests.
- Senator Kahn said that not-for-profits are supportive of raising the floor for audits. Senator Kahn said that auditors and members of the New Hampshire Certified Public Accountants Society are in favor of lifting the floor. He said that audits are a burden that should be optional for the \$1,000,000 to \$3,000,000 range.
- Senator Kahn said that Terry Knowles, the former Director of the Division of Charitable Trusts and a national expert on the issue, has advised him that the floor needs to be raised. Senator Kahn said that 437 organizations in New Hampshire have income over \$1,000,000. 100 have income over \$3,000,000. He said raising the floor will allow not-for-profits to expend more of their resources towards their goals.
- Senator Cavanaugh asked what the position of the Division of Charitable Trust is on SB 56.
 - Senator Kahn said that he believed the Division was available to speak for themselves.

Kathleen Reardon

CEO, NH Center for Nonprofits

- Ms. Reardon said that her organization has more than 700 members across the state. She said that compliance with regulations is important for them, as is transparency.
- Ms. Reardon said that the most compelling reason to raise the floor is because the cost of an audit – \$10,000 or \$15,000 – is a significant cost for smaller \$1,000,000 organizations. She said that there is not a one size fits all approach.
- Ms. Reardon said that while the Division of Charitable Trusts has a waiver ability, most organizations are wired for compliance and don't know that there is an exception to the rule. They will do the audit even though it may adversely impact their ability to provide services or advance their goals.
- Ms. Reardon said that it is hard to raise fund for overhead.
- Ms. Reardon said that SB 56 is a chance to modernize the State's approach to not-for-profits. She said that it is a challenging time for communities and any relief would be appreciated.

Summary of testimony presented in opposition:

Tom Donovan

Director, Division of Charitable Trusts, Attorney General's Office

- Mr. Donovan said that the Attorney General's Office rarely takes positions on bills. SB 56 affects the Division's specific regulatory function.
- Mr. Donovan said that the Division of Charitable Trusts has a mission to protect the assets of organizations devoted to charitable purposes. New Hampshire was the first charities bureau, founded in 1943. He said that they take pride in their efforts.
- Mr. Donovan said that there are 11,300 organizations that require annual reports to the Division of Charitable Trusts. 5,600 of them are primarily based in New Hampshire.
- Mr. Donovan said that 22 states require audits for the finances of not-for-profits. He said that the average floor is \$500,000. Massachusetts and Connecticut both have \$500,000 floors. Georgia and New Hampshire both have \$1,000,000 floors. California has the highest floor in the nation at \$2,000,000. No state Mr. Donovan could find had a floor of \$3,000,000.
- According to the Bureau of Labor Statistics, Mr. Donovan said, the value of \$1,000,000 from 2004 in 2021 is \$1,375,000. He said that inflation has not been as bad over the last decade than it had been in decades past.
- Mr. Donovan said that audits are important for Boards of Directors. He said that they ensure an outside review of financials separate from management. He said that audits also allow extensive notes on endowments, which Mr. Donovan said must be protected.
- Mr. Donovan said that statute gives the Division limited discretion in their audit requirements and they use it regularly. He said that some organizations may get a large gift or bequest that puts them over the \$1,000,000 threshold; the Division can give a waiver in that situation.
- Mr. Donovan said that the \$1,000,000 level is the appropriate level and is in-line with other states.

Neutral Information Presented: None.

cml

Date Hearing Report completed: January 29, 2021

Speakers

Name	Title	Representing	Position	Testifying
D'Amore Kelli	A Member of the Public	Myself	Support	No
Wheeler Jeffrey	A Member of the Public	Myself	Support	No
Veilleux Jeremy	A Member of the Public	Myself	Support	No
King Janis	A Member of the Public	Monadnock Worksource	Support	No
Knowles Terry	A Member of the Public	Myself	Support	No
Grazier Jr. Russell	A Member of the Public	Portsmouth Music and Arts Center (PMAC)	Support	No
Colony John	A Member of the Public	Myself	Support	No
Donovan Tom	State Agency Staff	Attorney General Charitable Trusts	Oppose	Yes
Kahn Jay	An Elected Official	District 10	Support	Yes
Reardon Kathleen	A Member of the Public	NH Center for Nonprofits	Support	Yes

Testimony

SB 56 FACT SHEET
ATTORNEY GENERAL'S OFFICE, CHARITABLE TRUSTS UNIT

SB 56 proposes to raise the minimum annual revenue amount from \$1 Million to \$3 Million to trigger the requirement that charitable organizations file audited financial statements with the Charitable Trusts Unit (CTU) of the Attorney General's Office – RSA 7:28, III-b

Charitable organizations registered with CTU:

- All registered charitable organizations: 11,313
- Registered organizations based in New Hampshire: 5,598

Registered organizations based in New Hampshire with annual revenues of:

- \$1 million or more: 428
- \$2 million or more: 262
- \$3 million or more: 207

Nationally, about 22 states have audit requirements for charitable organizations. The average minimum annual revenue to trigger that requirement is about \$500,000. Audit floor for some states:

- Massachusetts \$500,000
- Connecticut \$500,000
- Georgia \$1 million
- California \$2 million

No state with an audit requirement has a floor higher than \$2 million.

New Hampshire's audit requirement was enacted into law in 2004. The value of \$1 million in 2004 is equal to \$1,375,000 in 2020. (BLS consumer price index calculator)

Value of audits for charitable organization oversight:

- Assists boards of directors in their governance responsibilities
- Auditor's management letter reveals material weaknesses in financial controls
- Auditor's meeting with board of directors offers independent advice
- Provides cash flow statement
- Extensive notes on donor restricted (endowment) and board designated funds
- Explanation of terms applicable to long term debt
- Disclosure of material litigation and other risks to financial health



NH Center for NONPROFITS

194 Pleasant Street, Suite 14 ♦ Concord, NH 03301 ♦ Tel: 603.225.1947

Testimony of Kathleen Reardon
CEO, NH Center for Nonprofits
in support
of SB 56
before Executive Departments and Administration
January 27, 2021

Madame Chair and Members of the Committee. My name is Kathleen Reardon and I am the CEO of the NH Center for Nonprofits. The Center is a nonprofit organization with over 700 members dedicated to strengthening and giving voice to the state's nonprofit sector through leadership, collaboration, and learning opportunities. Thank you for the opportunity today to share our support for SB 56.

The NH Center for Nonprofits offers comprehensive programming to our nonprofit stakeholders on good stewardship of resources, financial management, compliance and accountability. We are pleased to connect our members with state and national experts, including our Office of Charitable Trusts at the New Hampshire Department of Justice. It is with this comprehensive programming experience and a wide lens on New Hampshire's nonprofit sector that we endorse the proposal before you to raise the financial audit threshold to a \$3 million annual budget.

Annual Reporting. It's important to keep in mind that all New Hampshire nonprofits are required to register with and report to the DOJ's Office of Charitable Trusts. In addition, all nonprofits with revenues over just \$50,000 are required to file an annual form 990 with detailed accounting of finances. This is in addition to required reporting required from philanthropy, state or federal contracts and oversight from a Board of Directors.

Adjusting for Inflation. Since the state set the \$1 million threshold over 25 years ago, it makes sense to adjust the threshold that would trigger audit requirements. Again, those New Hampshire nonprofits under \$3 million are still subject to reporting, oversight and accountability.

Impact to Services. Many nonprofits end up having to fundraise the costs associated with their annual financial audit. For smaller budgets, this can impact a nonprofit's services to the community. As audit costs grow, they inevitably eat into resources that should be dedicated to mission-oriented work. The cost of an independent audit varies depending on the size and complexity of the organization's budget as well as geographic region where the nonprofit is located. It is not unusual for an independent audit to cost in excess of \$10,000, even for a small nonprofit. It's important to keep in mind that charitable organizations receive very little operational support for overhead and administration.

Tripping an Audit. The current low threshold for a financial audit also impacts smaller nonprofits that generate a temporary influx of funding from a special contract or a capital campaign. Although there is an exemption process in place, nonprofits are "wired" to comply and will likely choose the expense of an audit.

Thank you again for the opportunity to express our support for SB 56. As you know, the pandemic has been an incredibly challenging time. Our nonprofit sector has been at the front lines helping us get through so many challenges. I sincerely appreciate you taking time to considering modernizing the current requirements and relieving some nonprofits of this additional expense.

Cameron Lapine

From: Teresa Rhodes Rosenberger <trosenberger@bernsteinshur.com>
Sent: Wednesday, January 27, 2021 11:11 AM
To: Cameron Lapine
Subject: Clarification on SB 56

Cameron,

Sen Kahn testified that the NH CPA Society supports SB 56 and they had signed in support. I represent The NHCPA Society and they are not nor did not take a position on SB 56.

Thank you for being sure the record is corrected.

My best ,

Teresa

Teresa Rhodes Rosenberger

Senior Advisor

603 665-8834 direct

603 623-8700 main

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Voting Sheets

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

Bill # SB56

Hearing date: 1-27-21

Executive Session date: 3-3-21

Motion of: ITL Vote: 2-3

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

Motion of: OTP Vote: N/A

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

Motion of: Rerefer Vote: 3-2

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

Reported out by: Sen. Prentiss

Notes: _____

Committee Report

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 56, relative to reports by trustees of charitable trusts.

Re-refer to Committee, Vote 3-2.

Senator Suzanne Prentiss for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB56

Docket Abbreviations

Bill Title: relative to reports by trustees of charitable trusts.*Official Docket of SB56.:*

Date	Body	Description
1/19/2021	S	Introduced 01/06/2021 and Referred to Executive Departments and Administration; SJ 3
1/20/2021	S	Remote Hearing: 01/27/2021, 09:20 am; Links to join the hearing can be found in the Senate Calendar; SC 8
3/3/2021	S	Committee Report: Rereferred to Committee, 03/11/2021; SC 14
3/11/2021	S	Sen. Carson Moved Laid on Table, RC 14Y-10N, MA ; 03/11/2021; SJ 7
3/11/2021	S	Pending Motion Rerefer to Committee; 03/11/2021; SJ 7

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 56

Senate Committee: ED-1A

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

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

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

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

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

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

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

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

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

___ as amended by the senate ___ as amended by the house

___ final version

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

Cameron M. Laffine
Committee Aide

7/16/21
Date

Senate Clerk's Office _____