

**CONSENT CALENDAR**

**April 14, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Judiciary to which was referred SB  
375-FN,**

**AN ACT relative to requirements for charitable  
organizations. Having considered the same, report the  
same with the recommendation that the bill OUGHT TO  
PASS.**

**Rep. Joe Alexander**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

|                   |   |
|-------------------|---|
| Committee:        | <b>Judiciary</b>  |
| Bill Number:      | <b>SB 375-FN</b>  |
| Title:            | <b>relative to requirements for charitable organizations.</b> |
| Date:             | <b>April 14, 2022</b>   |
| Consent Calendar: | <b>CONSENT</b>  |
| Recommendation:   | <b>OUGHT TO PASS</b>  |

### STATEMENT OF INTENT

This bill will ensure that charities are protected from burdensome or onerous filing requirements that are not authorized in state or federal law. The Charity Protection Act is designed to create a predictable regulatory environment that is transparent and brings consistency to the filing process for New Hampshire charitable organizations. The information collected by the Attorney General in the registration and annual report process is critical to securing the public's trust in the charitable sector and helping the state root out bad actors. However, growing calls for charitable organizations to disclose an increasing number of details about operations, governance, and grantmaking without legislative approval are becoming more frequent across the country. Charitable organizations are being required to file multiple, duplicative, and sensitive reports with local officials, often exceeding current federal and state requirements. The Charitable Trust Unit does a good job of protecting the integrity of nonprofits in New Hampshire, but safeguards should be put in place that will provide an appropriate balance between accountability and reliability for all charitable organizations. With the Charity Protection Act in law, nonprofits will be able to focus their attention on activities that carry out their missions without unnecessary and burdensome mandates.

Vote 21-0.

Rep. Joe Alexander  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### Judiciary

**SB 375-FN**, relative to requirements for charitable organizations. **OUGHT TO PASS.**

Rep. Joe Alexander for Judiciary. This bill will ensure that charities are protected from burdensome or onerous filing requirements that are not authorized in state or federal law. The Charity Protection Act is designed to create a predictable regulatory environment that is transparent and brings consistency to the filing process for New Hampshire charitable organizations. The information collected by the Attorney General in the registration and annual report process is critical to securing the public's trust in the charitable sector and helping the state root out bad actors. However, growing calls for charitable organizations to disclose an increasing number of details about operations, governance, and grantmaking without legislative approval are becoming more frequent across the country. Charitable organizations are being required to file multiple, duplicative, and sensitive reports with local officials, often exceeding current federal and state requirements. The Charitable Trust Unit does a good job of protecting the integrity of nonprofits in New Hampshire, but safeguards should be put in place that will provide an appropriate balance between accountability and reliability for all charitable organizations. With the Charity Protection Act in law, nonprofits will be able to focus their attention on activities that carry out their missions without unnecessary and burdensome mandates. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

**HOUSE COMMITTEE ON JUDICIARY**

**EXECUTIVE SESSION on SB 375-FN**

**BILL TITLE:** relative to requirements for charitable organizations.

**DATE:** April 14, 2022

**LOB ROOM:** 206-208

**MOTIONS: OUGHT TO PASS**

Moved by Rep. Alexander Jr.

Seconded by Rep. Gordon

Vote: 21-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Kurt Wuelper, Clerk

OFFICE OF THE HOUSE CLERK



9/28/2021 10:41:09 AM  
Roll Call Committee Registers  
Report

2021 SESSION

Judiciary

Bill #: SB375 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 4-14-2022

| <u>Members</u>                        | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|---------------------------------------|-------------|-------------|-----------|
| Gordon, Edward M. Chairman            | ✓           |             |           |
| McLean, Mark Vice Chairman            | ✓           |             |           |
| Sylvia, Michael J.                    | ✓           |             |           |
| Wuelper, Kurt F. Clerk                | ✓           |             |           |
| Alexander, Joe H.                     | ✓           |             |           |
| Greene, Bob J. <i>Lascelles, Rich</i> | ✓           |             |           |
| Notter, Jeanine M.                    | ✓           |             |           |
| Merner, Troy E.                       | ✓           |             |           |
| Kelley, Diane E.                      | ✓           |             |           |
| Trottier, Douglas R.                  | ✓           |             |           |
| Andrus, Louise                        | ✓           |             |           |
| Smith, Marjorie K.                    | ✓           |             |           |
| Berch, Paul S. <i>Woods, Gary</i>     | ✓           |             |           |
| Horrigan, Timothy O.                  | ✓           |             |           |
| DiLorenzo, Charlotte I.               | ✓           |             |           |
| Chase, Wendy                          | ✓           |             |           |
| Kenney, Cam E. <i>Meuse, David</i>    | ✓           |             |           |
| Langley, Diane M.                     | ✓           |             |           |
| McBeath, Rebecca Susan                | ✓           |             |           |
| Paige, Mark                           | ✓           |             |           |
| Simpson, Alexis                       | ✓           |             |           |

21 0

## HOUSE COMMITTEE ON JUDICIARY

### PUBLIC HEARING ON SB 375

**BILL TITLE:** relative to requirements for charitable organizations.

**DATE:** 4/07/2022

**LOB ROOM:** 206-208

**Time Public Hearing Called to Order:** 9:00 AM

**Time Adjourned:** 9:50 AM

**Committee Members:** Reps. Gordon, McLean, Wuelper, Sylvia, Alexander Jr., Notter, Merner, ~~Greene, D. Kelley, Andrus, Trottier, M. Smith, Bereh~~, Horrigan, DiLorenzo, Chase, ~~Kenney, Langley, McBeath, Paige and Simpson~~

**Bill Sponsors:** Sen. Gannon, Dist 23; Sen. Hennessey, Dist 1; Sen. Perkins Kwoka, Dist 21; Sen. French, Dist 7; Sen. Daniels, Dist 11; Sen. Giuda, Dist 2; Rep. Espitia, Hills. 31; Rep. Alexander Jr., Hills. 6; Rep. Potucek, Rock. 6

### TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

#### **Sen Gannon. Sponsor Support**

The Charity protection act reduces regulation on charitable organizations who are overburdened in other states. Certain charities seem to be targeted in other states. We want more of their income going to their missions as opposed to doing more paperwork.

**Q Smith:** You talked about other states, but his bill is only for NH. Please clarify.

**Ans:** In NH, things are relatively fine, but this intends to head off further regulation.

**Q McLean:** What concerns are driving this across the country and are we seeing these things in NH?

**Ans:** We just want to ensure we keep a level playing field and keep things as they are.

**Q Horrigan:** Are you trying to encourage politically oriented non-profits to be more political?

**Ans:** No.

#### **Sen Kahn: Support**

I introduced a bill a year ago regarding the floor at which a financial audit would be required for a charitable organization. We were looking at a \$1 million threshold and should it be raised to maybe \$5 million. There are about 120 organizations with expenses between \$1 and \$2 million. This would remove the audit requirement from them. They still have to file form 990s. They spend about \$15 thousand each on these audits. Both the financial auditing folks and the non-profits were in favor of this.

**Q Smith:** What about the other parts of the bill?

**Ans:** I voted in favor, but no.

**Q Sylvia:** For those organizations below the threshold: do you know their standard practice?

**Ans:** No. There are a wide variety of them. They do comply with the form 990 requirements. The auditors don't think they are adding much value and this requirement could be relaxed.

**Q Langley:** How would this impact becoming a 501-C3?

**Ans:** Not to start. When they are operating only to the extent of required audits.

**Q DiLorenzo:** Who would be doing the auditing?

**Ans:** CPA recognized organizations outside the charities.

**Q Andrus:** Would it be possible to change the bill to require random audits of those excluded?

**Ans:** I asked the auditors about that, and they say it is a lot of work to establish the relationship with the organization to perform a real audit and the lack of that would significantly increase the cost of each.

**Q Gordon:** Do you know of organizations requesting this change?

**Ans:** Yes. Some have come to me and complained and it's just time to increase the floor.

**Q Smith:** Do we need to clarify "Audit" vice "review"?

**Ans:** The charities will still get reviews by the division of Charitable Trusts; they just won't have to get an external audit.

**Tom Donovan Dir Div. of Charitable Trusts No position**

We had concerns about the original language, but the Senate amendments answered those.

**Q Gordon:** Is the change up to \$2 million appropriate?

**Ans:** Yes. It may be a little on the high side, but this will save the Charities money.

**Q** Will there be organizations who will decide to not be audited?

**Ans:** Some are required to be audited by their organizational documents, but others will choose to not be.

**Q** Do we need this with no immediate purpose for it?

**Ans:** That is up to you.

**Q Smith:** Have you in your professional office, noticed any problems with how we manage reporting requirements?

**Ans:** Our forms and procedure have been updated. New forms and online filing have reduced the burden on small charities.

**Q** Are you confident you are doing the best job possible to monitor these charities?

**Ans:** Yes, but the world has changed in terms of fundraising. Some of our laws were designed for the world prior to online donations. The big thing would be disclosure to the public. Sometimes it takes months or longer for the money to actually get to the charity.

**Q Do** you see the first part of the bill saying, essentially, 'We can't make any changes' to get in your way?

**Ans:** If we want changes, we will come to you.

**Q DiLorenzo:** RE charitable gaming?

**Ans:** Lottery takes care of that, and they have good oversight. They do a form of audit with respect to that.

**Q Chase:** Do you actually have to look at these online collection sites?

**Ans:** The bulk of giving on Go Fund Me is between people and is not regulated by us. Some charities use that vehicle and others as well. Our concern would be that the money is getting to the charities.

**Q** What about 'Giving Tuesday' and its ilk?

**Ans:** Those should be registered with us We encourage that sort of thing.

**Q Simpson:** How many questions do you have from donors asking about the below \$1 million charities now?

**Ans:** We get a lot of inquiries, but we basically tell people the charity is either in good standing or not and they can look at the 990 forms.

**\*Elizabeth McGuigan Philanthropy Roundtable Support** She reads her written testimony. The bill allows non-profits to focus on their mission. We need this bill to prevent the overreach we see in other states, where regulation has become onerous and sometimes asks for invasive information diverting funds to compliance and away from their missions. Philanthropy is and should be a big part of our culture and this bill will send the message NH is welcoming to this activity.

**Q Gordon:** Who might be part of your membership?

**Ans:** Generally individual givers and organizations.

**Q Smith:** Will you provide some information about your organization?

**Ans:** I would be happy to.

**Q Horrigan:**

**Ans:** Left session at 9:50



**Rep Kurt Wuelper, Clerk**





# House Remote Testify

## Judiciary Committee Testify List for Bill SB375 on 2022-04-07

Support: 5 Oppose: 0 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

| <b><u>Name</u></b>        | <b><u>City, State</u><br/><u>Email Address</u></b>      | <b><u>Title</u></b> | <b><u>Representing</u></b> | <b><u>Position</u></b> | <b><u>Testifying</u></b> | <b><u>Non-Germane</u></b> | <b><u>Signed Up</u></b> |
|---------------------------|---|---------------------|----------------------------|------------------------|--------------------------|---------------------------|-------------------------|
| French, Senator<br>Harold | Canterbury, NH<br>kathryn.cummings@leg.state.nh.us      | An Elected Official | Senate District 7          | Support                | No                       | No                        | 4/1/2022 1:41 PM        |
| Daniels, Senator Gary     | Senate District 11, NH<br>debra.martone@leg.state.nh.us | An Elected Official | Myself                     | Support                | No                       | No                        | 4/1/2022 3:16 PM        |
| Hennessey, Erin           | Senate District 1, NH<br>peter.oneill@leg.state.nh.us   | An Elected Official | Myself                     | Support                | No                       | No                        | 4/5/2022 9:04 AM        |
| Giuda, Bob                | Warren, NH<br>daley.frenette@leg.state.nh.us            | An Elected Official | Senate District 2          | Support                | No                       | No                        | 4/7/2022 8:49 AM        |
| Osborne, Jason            | Auburn, NH<br>houserepoffice@leg.state.nh.us            | An Elected Official | House Majority Office      | Support                | No                       | No                        | 4/7/2022 2:12 PM        |

SB375

To: Members of the New Hampshire House Judiciary Committee

From: Elizabeth McGuigan, Director of Policy, The Philanthropy Roundtable

**Re: The Philanthropy Roundtable Supports S 375**

Date: February 7, 2022

Chairman Gordon and members of the committee:

Thank you for the opportunity to speak to you today about Senate Bill 375. My name is Elizabeth McGuigan. I am the Director of Policy for The Philanthropy Roundtable. The Roundtable is America's leading network of charitable donors working to foster excellence in philanthropy and protect philanthropic freedom. Our more than 600 members include individual givers, family foundations, and community foundations located in New Hampshire and around the country.

New Hampshire is home to nearly 700 foundations that millions to charitable causes each year.<sup>1</sup> New Hampshire's future will be brighter if we continue to foster a friendly environment for private charitable organizations to meet the needs of its citizens, enrich its culture, and solve pressing societal challenges.

S 375, the Charity Protection Act, allows New Hampshire's philanthropic organizations to fulfill their missions without government overreach. The bill calls for any new requirements on 501(c)(3) corporations to first be deliberated and approved by the legislature, excluding charitable trusts. Under New Hampshire statute, this protects private foundations and charitable organizations and ensures the state's Attorney General still maintains full authority over regulations for charitable trusts, charitable sales promotions and solicitations. This is a common-sense reform that honors the transparency of the legislative process, as well as your roles as duly elected representatives.

S 375 allows New Hampshire's charities to focus on advancing their missions rather than on complying with increased government mandates. By requiring that the New Hampshire legislature approve any new regulations or reporting requirements on charitable organizations, this measure introduces transparency and accountability into the legislative regulatory process.

The Dept of Justice has expressed concerns that this bill would hinder the office's ability to properly regulate the charitable sector. We are open to an amendment to address their concerns. However, we feel this has been narrowly tailored to ensure that the Department has full authority to continue the good work they do to appropriately oversee the state's charities. The bill explicitly states it does not apply to what is already authorized by New Hampshire law. If there are regulations that could be imposed under existing law, they would still be allowed under S 375. The change would be if a future regulator were to

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<sup>1</sup> Source: CauseIQ

<sup>2</sup> See for example: "Form 199," Franchise Tax Board, State of California, and "Form CHAR500," New York Charities Bureau. For further illustrations of how states are overregulating the charitable sector, see: The Philanthropy Roundtable, "Government overreach hurts charities and those they serve." <https://www.philanthropyroundtable.org/resource/government-overreach-hurts-charities-and-those-they-serve/>

seek new filing or reporting requirements that are not based on current law, without going through the legislative process.

This is a proactive, protective bill that sends a signal to charities that New Hampshire will not overreach in the future and values the strength of its charitable sector.

So why pass this bill if there is not currently a problem with regulatory overreach in New Hampshire? The short answer is, if overreach becomes a problem in New Hampshire under future officials, it will be too late to address through simple, proactive legislation.

Nationwide, charitable organizations increasingly face calls to disclose more details about operations, governance, and grantmaking that do not improve organizational effectiveness, but increase operational and compliance costs. Some states require nonprofit corporations to complete forms with multiple agencies, that often ask repetitive, sometimes invasive information.<sup>2</sup> While there are no social benefits to these new requirements, they divert funding away from charitable giving.

This bill aligns New Hampshire's governance of charitable corporations with existing state and federal law, unless the New Hampshire legislature determines it is necessary to enact changes. This reduces the potential for unelected officials to impose more stringent operating requirements, thereby increasing operational and compliance costs on tax-exempt organizations.

Two years into the COVID-19 pandemic, these nonprofits are more important than ever. Over the past years, when we have faced a health and economic crisis not seen in generations, New Hampshire's nonprofit organizations, like others across the country, experienced unprecedented demand for basic needs and services. The philanthropic community has been generous in its response to this crisis and has acted swiftly and effectively to meet the needs of Americans and has done so while maintaining its other on-going commitments.

Philanthropy can and should be a vital part of our communities. We've all seen the good work charitable organizations have done during this pandemic and S 375 will help to protect New Hampshire's charitable sector and send a proactive message to charities that New Hampshire is a pro-philanthropy state that values their contributions to local communities. Thank you for your consideration and time today.

SB 375-FN - AS AMENDED BY THE SENATE

02/24/2022 0672s

2022 SESSION

22-2977

07/11

SENATE BILL **375-FN**

AN ACT relative to requirements for charitable organizations.

SPONSORS: Sen. Gannon, Dist 23; Sen. Hennessey, Dist 1; Sen. Perkins Kwoka, Dist 21; Sen. French, Dist 7; Sen. Daniels, Dist 11; Sen. Giuda, Dist 2; Rep. Espitia, Hills. 31; Rep. Alexander Jr., Hills. 6; Rep. Potucek, Rock. 6

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Prohibits New Hampshire state agencies and officials from imposing filing or reporting requirements that are more stringent than those established in RSA 7:19 through RSA 7:32-1 or other areas of statutory or common law.

II. Increases the amount of revenue, gains, and other support required of charitable organizations for the filing of additional audited statements to the attorney general to \$2,000,000.

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 Two*

AN ACT relative to requirements for charitable organizations.

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

1 1 Purpose. The purpose of this act is to minimize the burdens on the charitable sector and  
2 create a grant-making environment centered on effectiveness and impact.

3 2 New Section; Charity Protection Act. Amend RSA 7 by inserting after section 29 the following  
4 new section:

5 7:29-a Charity Protection Act.

6 I. Except where specifically required or authorized by federal law, no state agency or state  
7 official shall impose any annual filing or reporting requirements on an organization regulated or  
8 specifically exempted from regulation in RSA 7:19 through RSA 7:32-l that are more stringent,  
9 restrictive, or expansive than the requirements authorized by New Hampshire law.

10 II. This section shall not apply to state grants, state contracts, or fraud investigations and  
11 shall not restrict enforcement actions against specific nonprofit organizations.

12 III. Nothing in this section shall prohibit the attorney general from adopting rules related to  
13 charitable trusts, charitable solicitations, and charitable sales promotions under RSA 7:22.

14 IV. Nothing in this section shall be construed to limit or restrict the powers, duties,  
15 remedies, or penalties available to the attorney general, the state of New Hampshire, or any private  
16 person under any other provision of statutory or common law.

17 3 Reports by Trustees of Charitable Trusts; Threshold for Submitting Audited Financial  
18 Statements. Amend RSA 7:28, III-b to read as follows:

19 III-b. Any charitable organization with revenue, gains, and other support of [~~\$1,000,000~~  
20 **\$2,000,000** or more that is required to file an Internal Revenue Service Form 990 with the attorney  
21 general shall also submit the organization's latest audited financial statement prepared in  
22 accordance with generally accepted accounting principles.

23 4 Effective Date. This act shall take effect 60 days after its passage.

**SB 375-FN- FISCAL NOTE  
 AS INTRODUCED**

AN ACT relative to requirements for charitable organizations.

**FISCAL IMPACT:**     State             County             Local             None

| STATE:                 | Estimated Increase / (Decrease)             |                                    |                                  |                                |
|------------------------|---|------------------------------------|----------------------------------|--------------------------------|
|                        | FY 2022                                     | FY 2023                            | FY 2024                          | FY 2025                        |
| <b>Appropriation</b>   | \$0   | \$0                                | \$0                              | \$0                            |
| <b>Revenue</b>         | \$0   | \$0                                | \$0                              | \$0                            |
| <b>Expenditures</b>    | \$0   | Indeterminable<br>Increase         | Indeterminable<br>Increase       | Indeterminable<br>Increase     |
| <b>Funding Source:</b> | <input checked="" type="checkbox"/> General | <input type="checkbox"/> Education | <input type="checkbox"/> Highway | <input type="checkbox"/> Other |

**METHODOLOGY:**

This bill prohibits New Hampshire state agencies and officials from imposing filing or reporting requirements that are more stringent than those established in RSA 7:19 through RSA 7:32-l.

The Department of Justice states this bill would restrict the information that a state agency, including the Department of Justice as part of its oversight authority, could require charitable organizations and trusts, fundraising counsel, and paid solicitors produce to demonstrate their compliance with New Hampshire laws pertaining to charitable trusts. The bill potentially would require that the Charitable Trusts Unit of the Department of Justice revise its existing procedures and forms and develop and provide resources and education regarding the new procedures and forms. The overall fiscal impact is indeterminable.

It is assumed that any fiscal impact would occur after FY 2022.

**AGENCIES CONTACTED:**

Department of Justice