

LEGISLATIVE COMMITTEE MINUTES

SB302

Bill as Introduced

SB 302-FN - AS INTRODUCED

2022 SESSION

22-3010

07/10

SENATE BILL **302-FN**

AN ACT establishing the personal privacy protection act.

SPONSORS: Sen. Birdsell, Dist 19; Sen. Gannon, Dist 23; Sen. Daniels, Dist 11; Sen. Ward, Dist 8; Sen. French, Dist 7; Sen. Giuda, Dist 2; Rep. Lynn, Rock. 7; Rep. DiLorenzo, Rock. 17; Rep. McLean, Hills. 44

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT establishing the personal privacy protection act.

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

1 1 New Section; Personal Privacy Protection Act. Amend RSA 91-A by inserting after section 15
2 the following new section:

3 91-A:16 Personal Privacy Protection Act.

4 I. Public agencies and public bodies are prohibited from disclosing or releasing any list,
5 record, register, registry, roll, roster or other compilation of data of any kind that directly or
6 indirectly identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial
7 support, to any entity exempt from federal income tax under section 501(c) of the Internal Revenue
8 Code.

9 II. Notwithstanding any law and subject to paragraph III, a public agency or public body
10 shall not:

11 (a) Require any individual or entity exempt from federal income tax under section 501(c)
12 of the Internal revenue code to provide the public agency with, or otherwise compel the release of,
13 any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or
14 indirectly identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial
15 support, to any entity exempt from federal income tax under section 501(c) of the Internal Revenue
16 Code;

17 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
18 roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a
19 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
20 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
21 the public agency or public body; or

22 (c) Request or require a current or prospective contractor or grantee to provide the
23 public agency or public body with a list of entities exempt from federal income tax under section
24 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

25 (d) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
26 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
27 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt
28 from federal income tax under section 501(c) of the Internal Revenue Code for the purposes of
29 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

30 III. This section shall not preclude:

1 (a) Any report or disclosure required by the following laws or successor provisions
2 thereto:

3 (1) RSA 14-C relative to gifts for legislators and legislative employees;

4 (2) RSA 15 relative to lobbyists;

5 (3) RSA 15-A relative to financial disclosures; and

6 (4) RSA 664 relative to political expenditures and contributions.

7 (b) A public body or agency from releasing a person's status as a member, volunteer, or
8 donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue
9 Code that was voluntarily released by the person during meetings open to the public.

10 (c) Any lawful warrant for any list, record, register, registry, roll, roster or other
11 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
12 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
13 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction;

14 (d) A lawful request for discovery of any list, record, register, registry, roll, roster or
15 other compilation of data of any kind that directly or indirectly identifies a person as a member,
16 supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal
17 income tax under section 501(c) of the Internal Revenue Code in litigation if both of the following
18 conditions are met:

19 (1) The requestor demonstrates a compelling need for any list, record, register,
20 registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a
21 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
22 exempt from federal income tax under section 501(c) of the Internal Revenue Code by clear and
23 convincing evidence; and

24 (2) The requestor obtains a protective order barring disclosure of any list, record,
25 register, registry, roll, roster or other compilation of data of any kind that directly or indirectly
26 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support,
27 to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to
28 any person not named in the litigation.

29 (e) Admission of any list, record, register, registry, roll, roster or other compilation of
30 data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or
31 donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue
32 Code as relevant evidence before a court of competent jurisdiction. However, no court shall publicly
33 reveal such information absent a specific finding of good cause

34 IV. Nothing in this section shall apply to a national securities association, as defined in
35 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
36 regulations adopted thereunder, and any information such national securities association provides to

1 the relevant public agency or body of this state pursuant to the rules and regulations provided by
2 such agency or body.

3 V. A person alleging a violation of this act may bring a civil action for appropriate injunctive
4 relief, damages, or both. Damages awarded under this section may include one of the following, as
5 appropriate:

6 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
7 violation of this act; or

8 (b) For an intentional violation of this section, a sum of money not to exceed \$7,500.

9 VI. A court, in rendering a judgment in the action brought under paragraph V, may award
10 all or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
11 complainant in the action if the court determines that the award is appropriate.

12 VII. A person who knowingly violates this section shall be guilty of a misdemeanor
13 punishable by imprisonment for not more than 90 days, a fine of not more than \$1,000, or both.

14 2 Effective Date. This act shall take effect January 1, 2023.

**SB 302-FN- FISCAL NOTE
 AS INTRODUCED**

AN ACT establishing the personal privacy protection act.

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information. The Judicial Branch assumes any proceedings that require discussion of records covered by this bill would have to be held as confidential hearings, which requires coordination of scheduling to ensure the courtrooms are not full with attorneys, parties or witnesses for other hearings and can be closed to the public. Filings with the court that contain records covered by the bill would have to be filed separately as confidential records and maintained by the Court separately from the public record. The Branch assumes there would be an increase in motions specific to the confidentiality of such records. There could also be new civil or criminal cases filed as provided by the bill. The Branch's case management system would also have to be updated to add the new civil and criminal causes of action created by this bill. All of these elements could have a fiscal impact on the Judicial Branch, but the Branch is unable to quantify the fiscal impact resulting from this bill.

AGENCIES CONTACTED:

Judicial Branch

SB 302-FN - AS AMENDED BY THE SENATE

02/24/2022 0792s

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SENATE BILL **302-FN**

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COMMITTEE: Judiciary

ANALYSIS

This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT establishing the personal privacy protection act.

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

1 1 New Chapter; Personal Privacy Protection Act. Amend RSA by inserting after chapter 91-B
2 the following new chapter:

CHAPTER 91-C

PERSONAL PRIVACY PROTECTION ACT

91-C:1 Public Bodies Prohibited Disclosures.

6 I. Public agencies and public bodies shall not disclose or release any list, record, register,
7 registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a
8 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
9 exempt from federal income tax under section 501(c) of the Internal Revenue Code.

10 II. Notwithstanding any law and subject to paragraph III, a public agency or public body
11 shall not:

12 (a) Require any individual or entity exempt from federal income tax under section 501(c)
13 of the Internal Revenue Code to provide the public agency with, or otherwise compel the release of,
14 any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly
15 or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or
16 nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the
17 Internal Revenue Code;

18 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
19 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
20 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
21 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
22 the public agency or public body; or

23 (c) Request or require a current or prospective contractor or grantee to provide the
24 public agency or public body with a list of entities exempt from federal income tax under section
25 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

26 (d) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
27 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
28 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt
29 from federal income tax under section 501(c) of the Internal Revenue Code for the purposes of
30 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

31 91-C:2 Exemptions. This section shall not preclude:

1 I. Any report or disclosure required by the following laws or successor provisions thereto:

2 (a) RSA 14-C relative to gifts for legislators and legislative employees;

3 (b) RSA 15 relative to lobbyists;

4 (c) RSA 15-A relative to financial disclosures; and

5 (d) RSA 664 relative to political expenditures and contributions.

6 II. A public body or agency from releasing a person's status as a member, volunteer, or donor
7 of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that
8 was voluntarily released by the person during meetings open to the public.

9 III. Any lawful warrant for any list, record, register, registry, roll, roster or other
10 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
11 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
12 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction;

13 IV. A lawful request for discovery of any list, record, register, registry, roll, roster or other
14 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
15 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
16 under section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are
17 met:

18 (a) The requestor demonstrates a compelling need for any list, record, register, registry,
19 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
20 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
21 from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing
22 evidence; and

23 (b) The requestor obtains a protective order barring disclosure of any list, record,
24 register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly
25 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support,
26 to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to
27 any person not named in the litigation.

28 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of
29 any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of
30 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as
31 relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this
32 section shall be filed under seal by the offering party. Any party who intends to display or produce
33 any record that is subject to this section in a courtroom during a hearing or trial shall notify the
34 court to allow for the courtroom to be cleared prior to discussion or display of the record. No court
35 shall publicly reveal such information that has been filed in accordance with this paragraph absent a
36 specific finding of good cause.

37 91-C:3 Limited Applicability.

1 I. Nothing in this chapter shall apply to a national securities association, as defined in
2 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
3 regulations adopted thereunder, and any information such national securities association provides to
4 the relevant public agency or body of this state pursuant to the rules and regulations provided by
5 such agency or body.

6 II. The following activities by the attorney general pursuant to RSA 7:19 through RSA 7:32-
7 a shall be specifically allowed:

8 (a) A request by the attorney general of a list of the members of the governing board of a
9 charitable trust in reports required under RSA 7:28, II;

10 (b) A request by the attorney general for information required for an audit, examination,
11 or investigation pursuant to RSA 7:24, provided that such information shall only be used in
12 connection with the specific audit, examination, or investigation to which the request relates and for
13 any related proceedings, provided further that any information so collected shall otherwise remain
14 subject to the provisions of this chapter; and

15 (c) The voluntary release of information related to volunteers or donors by a charitable
16 trust to the attorney general or to the public.

17 91-C:4 Penalties.

18 I. A person alleging a violation of this chapter may bring a civil action for appropriate
19 injunctive relief, damages, or both. Damages awarded under this section may include one of the
20 following, as appropriate:

21 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
22 violation of this chapter; or

23 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

24 II. A court, in rendering a judgment in the action brought under this chapter, may award all
25 or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
26 complainant in the action if the court determines that the award is appropriate.

27 III. A person who knowingly violates this chapter shall be guilty of a misdemeanor
28 punishable by imprisonment for not more than 90 days, a fine of not more than \$1,000, or both.

29 2 Effective Date. This act shall take effect January 1, 2023.

SB 302-FN- FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2022-0792s)

AN ACT establishing the personal privacy protection act.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
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Revenue	\$0	\$0	\$0	\$0
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METHODOLOGY:

This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information. The Judicial Branch assumes any proceedings that require discussion of records covered by this bill would have to be held as confidential hearings, which requires coordination of scheduling to ensure the courtrooms are not full with attorneys, parties or witnesses for other hearings and can be closed to the public. Filings with the court that contain records covered by the bill would have to be filed separately as confidential records and maintained by the Court separately from the public record. The Branch assumes there would be an increase in motions specific to the confidentiality of such records. There could also be new civil or criminal cases filed as provided by the bill. The Branch's case management system would also have to be updated to add the new civil and criminal causes of action created by this bill. All of these elements could have a fiscal impact on the Judicial Branch, but the Branch is unable to quantify the fiscal impact resulting from this bill.

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SB 302-FN - AS AMENDED BY THE HOUSE

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COMMITTEE: Judiciary

ANALYSIS

This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information.

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3 CHAPTER 91-C

4 PERSONAL PRIVACY PROTECTION ACT

5 91-C:1 Public Bodies Prohibited Disclosures.

6 I. Public agencies and public bodies shall not disclose or release any list, record, register,
7 registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a
8 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
9 exempt from federal income tax under section 501(c) of the Internal Revenue Code.

10 II. Notwithstanding any law and subject to RSA 91-C:2, a public agency or public body shall
11 not:

12 (a) Require any individual or entity exempt from federal income tax under section 501(c)
13 of the Internal Revenue Code to provide the public agency with, or otherwise compel the release of,
14 any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly
15 or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or
16 nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the
17 Internal Revenue Code;

18 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
19 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
20 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
21 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
22 the public agency or public body; or

23 (c) Request or require a current or prospective contractor or grantee to provide the
24 public agency or public body with a list of entities exempt from federal income tax under section
25 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

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28 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt
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30 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

1 91-C:2 Exemptions. This section shall not preclude:

2 I. Any report or disclosure required by the following laws or successor provisions thereto:

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7 II. A public body or agency from releasing a person's status as a member, volunteer, or donor
8 of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that
9 was voluntarily released by the person during meetings open to the public.

10 III. Any lawful warrant for any list, record, register, registry, roll, roster or other
11 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
12 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
13 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction;

14 IV. A lawful request for discovery of any list, record, register, registry, roll, roster or other
15 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
16 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
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21 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
22 from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing
23 evidence; and

24 (b) The requestor obtains a protective order barring disclosure of any list, record,
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29 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of
30 any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of
31 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as
32 relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this
33 section shall be filed under seal by the offering party. Any party who intends to display or produce
34 any record that is subject to this section in a courtroom during a hearing or trial shall notify the
35 court to allow for the courtroom to be cleared prior to discussion or display of the record. No court
36 shall publicly reveal such information that has been filed in accordance with this paragraph absent a
37 specific finding of good cause.

1 VI. A public body or state agency with oversight function over public funds or a government
2 grant program from requesting documentation sufficient to ensure public funds are expended in
3 accordance with state or federal contract monitoring and audit requirements, given that the
4 information accessed is limited to information related to public funds or government grant program
5 funds.

6 91-C:3 Limited Applicability.

7 I. Nothing in this chapter shall apply to a national securities association, as defined in
8 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
9 regulations adopted thereunder, and any information such national securities association provides to
10 the relevant public agency or body of this state pursuant to the rules and regulations provided by
11 such agency or body.

12 II. The following activities by the attorney general pursuant to RSA 7:19 through RSA 7:32-
13 a shall be specifically allowed:

14 (a) A request by the attorney general of a list of the members of the governing board of a
15 charitable trust in reports required under RSA 7:28, II;

16 (b) A request by the attorney general for information required for an audit, examination,
17 or investigation pursuant to RSA 7:24, provided that such information shall only be used in
18 connection with the specific audit, examination, or investigation to which the request relates and for
19 any related proceedings, provided further that any information so collected shall otherwise remain
20 subject to the provisions of this chapter; and

21 (c) The voluntary release of information related to volunteers or donors by a charitable
22 trust to the attorney general or to the public.

23 (d) A request by the attorney general for the identity of any director, officer,
24 incorporator, or registered agent of a nonprofit organization, provided that information that directly
25 identifies an individual as a donor of financial support to a nonprofit organization shall not be
26 disclosed.

27 III. Nothing in this chapter shall apply to a request from the lottery commission pursuant to
28 their authority under RSA 287-D or RSA 287-E for the purposes of licensing or regulation of
29 charitable gaming activities.

30 91-C:4 Penalties.

31 I. A person alleging a violation of this chapter may bring a civil action for appropriate
32 injunctive relief, damages, or both. Damages awarded under this section may include one of the
33 following, as appropriate:

34 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
35 violation of this chapter; or

36 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

SB 302-FN - AS AMENDED BY THE HOUSE

- Page 4 -

1 II. A court, in rendering a judgment in the action brought under this chapter, may award all
2 or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
3 complainant in the action if the court determines that the award is appropriate.

4 2 Effective Date. This act shall take effect January 1, 2023.

SB 302-FN- FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2022-1443h)

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FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
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Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

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Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information. The Judicial Branch assumes any proceedings that require discussion of records covered by this bill would have to be held as confidential hearings, which requires coordination of scheduling to ensure the courtrooms are not full with attorneys, parties or witnesses for other hearings and can be closed to the public. Filings with the court that contain records covered by the bill would have to be filed separately as confidential records and maintained by the Court separately from the public record. The Branch assumes there would be an increase in motions specific to the confidentiality of such records. There could also be new civil or criminal cases filed as provided by the bill. The Branch's case management system would also have to be updated to add the new civil and criminal causes of action created by this bill. All of these elements could have a fiscal impact on the Judicial Branch, but the Branch is unable to quantify the fiscal impact resulting from this bill.

AGENCIES CONTACTED:

Judicial Branch

CHAPTER 336
SB 302-FN - FINAL VERSION

02/24/2022 0792s
5May2022... 1443h
05/26/2022 2036CofC
05/26/2022 2124EBA

2022 SESSION

22-3010
07/10

SENATE BILL **302-FN**

AN ACT establishing the personal privacy protection act.

SPONSORS: Sen. Birdsell, Dist 19; Sen. Gannon, Dist 23; Sen. Daniels, Dist 11; Sen. Ward, Dist 8; Sen. French, Dist 7; Sen. Giuda, Dist 2; Rep. Lynn, Rock. 7; Rep. DiLorenzo, Rock. 17; Rep. McLean, Hills. 44

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information.

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.

CHAPTER 336
SB 302-FN - FINAL VERSION

02/24/2022 0792s
5May2022... 1443h
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05/26/2022 2124EBA

22-3010
07/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT establishing the personal privacy protection act.

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

1 336:1 New Chapter; Personal Privacy Protection Act. Amend RSA by inserting after chapter 91-
2 B the following new chapter:

3 CHAPTER 91-C

4 PERSONAL PRIVACY PROTECTION ACT

5 91-C:1 Public Bodies Prohibited Disclosures.

6 I. Public agencies and public bodies shall not disclose or release any list, record, register,
7 registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a
8 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
9 exempt from federal income tax under section 501(c) of the Internal Revenue Code.

10 II. Notwithstanding any law and subject to RSA 91-C:2, a public agency or public body shall
11 not:

12 (a) Require any individual or entity exempt from federal income tax under section 501(c)
13 of the Internal Revenue Code to provide the public agency with, or otherwise compel the release of,
14 any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly
15 or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or
16 nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the
17 Internal Revenue Code;

18 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
19 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
20 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
21 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
22 the public agency or public body;

23 (c) Request or require a current or prospective contractor or grantee to provide the
24 public agency or public body with a list of entities exempt from federal income tax under section
25 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support; or

26 (d) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
27 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
28 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt

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- Page 2 -

1 from federal income tax under section 501(c) of the Internal Revenue Code for the purposes of
2 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

3 91-C:2 Exemptions. This section shall not preclude:

4 I. Any report or disclosure required by the following laws or successor provisions thereto:

5 (a) RSA 14-C relative to gifts for legislators and legislative employees;

6 (b) RSA 15 relative to lobbyists;

7 (c) RSA 15-A relative to financial disclosures; and

8 (d) RSA 664 relative to political expenditures and contributions.

9 II. A public body or agency from releasing a person's status as a member, volunteer, or donor
10 of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that
11 was voluntarily released by the person or voluntarily released by the entity to the attorney general
12 or to the public.

13 III. Any lawful warrant for any list, record, register, registry, roll, roster, or other
14 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
15 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
16 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction.

17 IV. A lawful request for discovery of any list, record, register, registry, roll, roster, or other
18 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
19 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
20 under section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are
21 met:

22 (a) The requestor demonstrates a compelling need for any list, record, register, registry,
23 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
24 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
25 from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing
26 evidence; and

27 (b) The requestor obtains a protective order barring disclosure of any list, record,
28 register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly
29 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support,
30 to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to
31 any person not named in the litigation.

32 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of
33 any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of
34 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as
35 relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this
36 section shall be filed under seal by the offering party. Any party who intends to display or produce
37 any record that is subject to this section in a courtroom during a hearing or trial shall notify the

CHAPTER 336
SB 302-FN - FINAL VERSION
- Page 3 -

1 court to allow for the courtroom to be cleared prior to discussion or display of the record. No court
2 shall publicly reveal such information that has been filed in accordance with this paragraph absent a
3 specific finding of good cause.

4 VI. A public body or state agency with oversight function over public funds or a government
5 grant program from requesting documentation sufficient to ensure public funds are expended in
6 accordance with state or federal contract monitoring and audit requirements, given that the
7 information accessed is limited to information related to public funds or government grant program
8 funds.

9 91-C:3 Limited Applicability.

10 I. Nothing in this chapter shall apply to a national securities association, as defined in
11 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
12 regulations adopted thereunder, and any information such national securities association provides to
13 the relevant public agency or body of this state pursuant to the rules and regulations provided by
14 such agency or body.

15 II. Nothing in this chapter shall prohibit a request by the attorney general for information
16 required for an audit, examination, review, or investigation pursuant to RSA 7:24, provided that
17 such information shall only be used in connection with the specific audit, examination, review, or
18 investigation to which the request relates and for any related proceedings, provided further that any
19 information so collected shall otherwise remain subject to the provisions of this chapter.

20 III. Nothing in this chapter shall apply to a request from the lottery commission pursuant to
21 their authority under RSA 287-D or RSA 287-E for the purposes of licensing or regulation of
22 charitable gaming activities.

23 IV. For the purposes of this chapter, the terms "volunteer" and "supporter" shall not include
24 the members of the governing board, officers, directors, registered agents, or incorporators of entities
25 exempt from federal income tax under section 501(c) of the Internal Revenue Code and the term
26 "member" shall not include members of charitable corporations with specific corporate authority as
27 set forth in the articles of agreement or bylaws, and pursuant to RSA 292.

28 V. Nothing in this chapter shall prohibit a government agency from disclosing any list,
29 record, register, registry, roll, roster, or other data that directly or indirectly identifies a person as a
30 member, supporter, volunteer, or donor of any entity exempt from federal income tax under section
31 501(c) of the Internal Revenue Code in court pleadings, submissions of evidence, or public
32 communications related to a criminal or civil enforcement action filed in court, including, but not
33 limited to, an assurance of discontinuance pursuant to RSA 7:28-f.

34 91-C:4 Penalties.

35 I. A person alleging a violation of this chapter may bring a civil action for appropriate
36 injunctive relief, damages, or both. Damages awarded under this section may include one of the
37 following, as appropriate:

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SB 302-FN - FINAL VERSION
- Page 4 -

1 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
2 violation of this chapter; or

3 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

4 II. A court, in rendering a judgment in the action brought under this chapter, may award all
5 or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
6 complainant in the action if the court determines that the award is appropriate.

7 336:2 Effective Date. This act shall take effect January 1, 2023.

Approved: July 25, 2022
Effective Date: January 01, 2023

Amendments

Amendment to SB 302-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Personal Privacy Protection Act. Amend RSA by inserting after chapter 91-B
4 the following new chapter:

5

CHAPTER 91-C

6

PERSONAL PRIVACY PROTECTION ACT

7

91-C:1 Public Bodies Prohibited Disclosures.

8

I. Public agencies and public bodies shall not disclose or release any list, record, register,
9 registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a
10 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
11 exempt from federal income tax under section 501(c) of the Internal Revenue Code.

12

II. Notwithstanding any law and subject to paragraph III, a public agency or public body
13 shall not:

14

(a) Require any individual or entity exempt from federal income tax under section 501(c)
15 of the Internal Revenue Code to provide the public agency with, or otherwise compel the release of,
16 any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly
17 or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or
18 nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the
19 Internal Revenue Code;

20

(b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
21 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
22 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
23 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
24 the public agency or public body; or

25

(c) Request or require a current or prospective contractor or grantee to provide the
26 public agency or public body with a list of entities exempt from federal income tax under section
27 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

28

(d) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
29 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
30 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt
31 from federal income tax under section 501(c) of the Internal Revenue Code for the purposes of
32 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

1 91-C:2 Exemptions. This section shall not preclude:

2 I. Any report or disclosure required by the following laws or successor provisions thereto:

3 (a) RSA 14-C relative to gifts for legislators and legislative employees;

4 (b) RSA 15 relative to lobbyists;

5 (c) RSA 15-A relative to financial disclosures; and

6 (d) RSA 664 relative to political expenditures and contributions.

7 II. A public body or agency from releasing a person's status as a member, volunteer, or donor
8 of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that
9 was voluntarily released by the person during meetings open to the public.

10 III. Any lawful warrant for any list, record, register, registry, roll, roster or other
11 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
12 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
13 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction;

14 IV. A lawful request for discovery of any list, record, register, registry, roll, roster or other
15 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
16 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
17 under section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are
18 met:

19 (a) The requestor demonstrates a compelling need for any list, record, register, registry,
20 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
21 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
22 from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing
23 evidence; and

24 (b) The requestor obtains a protective order barring disclosure of any list, record,
25 register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly
26 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support,
27 to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to
28 any person not named in the litigation.

29 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of
30 any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of
31 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as
32 relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this
33 section shall be filed under seal by the offering party. Any party who intends to display or produce
34 any record that is subject to this section in a courtroom during a hearing or trial shall notify the
35 court to allow for the courtroom to be cleared prior to discussion or display of the record. No court
36 shall publicly reveal such information that has been filed in accordance with this paragraph absent a
37 specific finding of good cause.

Amendment to SB 302-FN

- Page 3 -

1 91-C:3 Limited Applicability.

2 I. Nothing in this chapter shall apply to a national securities association, as defined in
3 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
4 regulations adopted thereunder, and any information such national securities association provides to
5 the relevant public agency or body of this state pursuant to the rules and regulations provided by
6 such agency or body.

7 II. Nothing in this chapter shall be construed to limit or restrict the powers, duties,
8 remedies, or penalties available to the attorney general, the state of New Hampshire, or any private
9 person under any other provision of statutory or common law.

10 III. The following activities by the attorney general pursuant to RSA 7:19 through RSA 7:32-
11 a shall be specifically allowed:

12 (a) A request by the attorney general of a list of the members of the governing board of a
13 charitable trust in reports required under RSA 7:28, II;

14 (b) A request by the attorney general for information required for an audit, examination,
15 or investigation pursuant to RSA 7:24, provided that such information shall only be used in
16 connection with the specific audit, examination, or investigation to which the request relates and for
17 any related proceedings, provided further that any information so collected shall otherwise remain
18 subject to the provisions of this chapter; and

19 (c) The voluntary release of information related to volunteers or donors by a charitable
20 trust to the attorney general or to the public.

21 91-C:4 Penalties.

22 I. A person alleging a violation of this chapter may bring a civil action for appropriate
23 injunctive relief, damages, or both. Damages awarded under this section may include one of the
24 following, as appropriate:

25 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
26 violation of this chapter; or

27 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

28 II. A court, in rendering a judgment in the action brought under paragraph V, may award
29 all or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
30 complainant in the action if the court determines that the award is appropriate.

31 III. A person who knowingly violates this chapter shall be guilty of a misdemeanor
32 punishable by imprisonment for not more than 90 days, a fine of not more than \$1,000, or both.

33 2 Effective Date. This act shall take effect January 1, 2023.

Amendment to SB 302-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Personal Privacy Protection Act. Amend RSA by inserting after chapter 91-B
4 the following new chapter:

5

CHAPTER 91-C

6

PERSONAL PRIVACY PROTECTION ACT

7

91-C:1 Public Bodies Prohibited Disclosures.

8 I. Public agencies and public bodies shall not disclose or release any list, record, register,
9 registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a
10 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
11 exempt from federal income tax under section 501(c) of the Internal Revenue Code.

12 II. Notwithstanding any law and subject to paragraph III, a public agency or public body
13 shall not:

14 (a) Require any individual or entity exempt from federal income tax under section 501(c)
15 of the Internal Revenue Code to provide the public agency with, or otherwise compel the release of,
16 any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly
17 or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or
18 nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the
19 Internal Revenue Code;

20 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
21 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
22 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
23 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
24 the public agency or public body; or

25 (c) Request or require a current or prospective contractor or grantee to provide the
26 public agency or public body with a list of entities exempt from federal income tax under section
27 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

28 (d) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
29 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
30 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt
31 from federal income tax under section 501(c) of the Internal Revenue Code for the purposes of
32 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

Amendment to

- Page 2 -

1 91-C:2 Exemptions. This section shall not preclude:

2 I. Any report or disclosure required by the following laws or successor provisions thereto:

3 (a) RSA 14-C relative to gifts for legislators and legislative employees;

4 (b) RSA 15 relative to lobbyists;

5 (c) RSA 15-A relative to financial disclosures; and

6 (d) RSA 664 relative to political expenditures and contributions.

7 II. A public body or agency from releasing a person's status as a member, volunteer, or donor
8 of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that
9 was voluntarily released by the person during meetings open to the public.

10 III. Any lawful warrant for any list, record, register, registry, roll, roster or other
11 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
12 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
13 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction;

14 IV. A lawful request for discovery of any list, record, register, registry, roll, roster or other
15 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
16 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
17 under section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are
18 met:

19 (a) The requestor demonstrates a compelling need for any list, record, register, registry,
20 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
21 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
22 from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing
23 evidence; and

24 (b) The requestor obtains a protective order barring disclosure of any list, record,
25 register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly
26 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support,
27 to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to
28 any person not named in the litigation.

29 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of
30 any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of
31 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as
32 relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this
33 section shall be filed under seal by the offering party. Any party who intends to display or produce
34 any record that is subject to this section in a courtroom during a hearing or trial shall notify the
35 court to allow for the courtroom to be cleared prior to discussion or display of the record. No court
36 shall publicly reveal such information that has been filed in accordance with this paragraph absent a
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Amendment to
- Page 3 -

1 91-C:3 Limited Applicability.

2 I. Nothing in this chapter shall apply to a national securities association, as defined in
3 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
4 regulations adopted thereunder, and any information such national securities association provides to
5 the relevant public agency or body of this state pursuant to the rules and regulations provided by
6 such agency or body.

7 II. The following activities by the attorney general pursuant to RSA 7:19 through RSA 7:32-
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9 (a) A request by the attorney general of a list of the members of the governing board of a
10 charitable trust in reports required under RSA 7:28, II;

11 (b) A request by the attorney general for information required for an audit, examination,
12 or investigation pursuant to RSA 7:24, provided that such information shall only be used in
13 connection with the specific audit, examination, or investigation to which the request relates and for
14 any related proceedings, provided further that any information so collected shall otherwise remain
15 subject to the provisions of this chapter; and

16 (c) The voluntary release of information related to volunteers or donors by a charitable
17 trust to the attorney general or to the public.

18 91-C:4 Penalties.

19 I. A person alleging a violation of this chapter may bring a civil action for appropriate
20 injunctive relief, damages, or both. Damages awarded under this section may include one of the
21 following, as appropriate:

22 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
23 violation of this chapter; or

24 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

25 II. A court, in rendering a judgment in the action brought under this chapter, may award all
26 or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
27 complainant in the action if the court determines that the award is appropriate.

28 III. A person who knowingly violates this chapter shall be guilty of a misdemeanor
29 punishable by imprisonment for not more than 90 days, a fine of not more than \$1,000, or both.

30 2 Effective Date. This act shall take effect January 1, 2023.

Amendment to SB 302-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Personal Privacy Protection Act. Amend RSA by inserting after chapter 91-B
4 the following new chapter:

5

CHAPTER 91-C

6

PERSONAL PRIVACY PROTECTION ACT

7

91-C:1 Public Bodies Prohibited Disclosures.

8 I. Public agencies and public bodies shall not disclose or release any list, record, register,
9 registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a
10 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
11 exempt from federal income tax under section 501(c) of the Internal Revenue Code.

12 II. Notwithstanding any law and subject to paragraph III, a public agency or public body
13 shall not:

14 (a) Require any individual or entity exempt from federal income tax under section 501(c)
15 of the Internal Revenue Code to provide the public agency with, or otherwise compel the release of,
16 any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly
17 or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or
18 nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the
19 Internal Revenue Code;

20 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
21 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
22 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
23 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
24 the public agency or public body; or

25 (c) Request or require a current or prospective contractor or grantee to provide the
26 public agency or public body with a list of entities exempt from federal income tax under section
27 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

28 (d) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
29 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
30 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt
31 from federal income tax under section 501(c) of the Internal Revenue Code for the purposes of
32 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

Amendment to SB 302-FN

- Page 2 -

1 91-C:2 Exemptions. This section shall not preclude:

2 I. Any report or disclosure required by the following laws or successor provisions thereto:

3 (a) RSA 14-C relative to gifts for legislators and legislative employees;

4 (b) RSA 15 relative to lobbyists;

5 (c) RSA 15-A relative to financial disclosures; and

6 (d) RSA 664 relative to political expenditures and contributions.

7 II. A public body or agency from releasing a person's status as a member, volunteer, or donor
8 of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that
9 was voluntarily released by the person during meetings open to the public.

10 III. Any lawful warrant for any list, record, register, registry, roll, roster or other
11 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
12 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
13 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction;

14 IV. A lawful request for discovery of any list, record, register, registry, roll, roster or other
15 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
16 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
17 under section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are
18 met:

19 (a) The requestor demonstrates a compelling need for any list, record, register, registry,
20 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
21 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
22 from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing
23 evidence; and

24 (b) The requestor obtains a protective order barring disclosure of any list, record,
25 register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly
26 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support,
27 to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to
28 any person not named in the litigation.

29 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of
30 any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of
31 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as
32 relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this
33 section shall be filed under seal by the offering party. Any party who intends to display or produce
34 any record that is subject to this section in a courtroom during a hearing or trial shall notify the
35 court to allow for the courtroom to be cleared prior to discussion or display of the record. No court
36 shall publicly reveal such information that has been filed in accordance with this paragraph absent a
37 specific finding of good cause.

Amendment to SB 302-FN

- Page 3 -

1 91-C:3 Limited Applicability.

2 I. Nothing in this chapter shall apply to a national securities association, as defined in
3 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
4 regulations adopted thereunder, and any information such national securities association provides to
5 the relevant public agency or body of this state pursuant to the rules and regulations provided by
6 such agency or body.

7 II. The following activities by the attorney general pursuant to RSA 7:19 through RSA 7:32-
8 a shall be specifically allowed:

9 (a) A request by the attorney general of a list of the members of the governing board of a
10 charitable trust in reports required under RSA 7:28, II;

11 (b) A request by the attorney general for information required for an audit, examination,
12 or investigation pursuant to RSA 7:24, provided that such information shall only be used in
13 connection with the specific audit, examination, or investigation to which the request relates and for
14 any related proceedings, provided further that any information so collected shall otherwise remain
15 subject to the provisions of this chapter; and

16 (c) The voluntary release of information related to volunteers or donors by a charitable
17 trust to the attorney general or to the public.

18 91-C:4 Penalties.

19 I. A person alleging a violation of this chapter may bring a civil action for appropriate
20 injunctive relief, damages, or both. Damages awarded under this section may include one of the
21 following, as appropriate:

22 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
23 violation of this chapter; or

24 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

25 II. A court, in rendering a judgment in the action brought under this chapter, may award all
26 or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
27 complainant in the action if the court determines that the award is appropriate.

28 III. A person who knowingly violates this chapter shall be guilty of a misdemeanor
29 punishable by imprisonment for not more than 90 days, a fine of not more than \$1,000, or both.

30 2 Effective Date. This act shall take effect January 1, 2023.

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Sharon Carson, Chair
 Sen Bill Gannon, Vice Chair
 Sen Harold French, Member
 Sen Rebecca Whitley, Member
 Sen Jay Kahn, Member

Date: December 20, 2021

HEARINGS

	Tuesday	01/11/2022
	(Day)	(Date)
Judiciary		1:00 p.m.
(Name of Committee)		(Time)
	State House 100	
	(Place)	
1:00 p.m. SB 293-FN	relative to penalties for violation of privacy.	
1:15 p.m. SB 295-FN	relative to penalties for violations of privacy.	
1:30 p.m. SB 302-FN	establishing the personal privacy protection act.	
1:45 p.m. SB 291	establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.	
2:00 p.m. SB 377-FN	relative to the diagnosis of post-traumatic stress disorder in state troopers.	

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 293-FN

Sen. Gray	Sen. Carson	Sen. Watters
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SB 295-FN

Sen. D'Allesandro	Sen. Cavanaugh	Sen. Giuda
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SB 302-FN

Sen. Birdsell	Sen. Gannon	Sen. Daniels	Sen. Ward
Sen. French	Sen. Giuda	Rep. Lynn	Rep. DiLorenzo
Rep. McLean			

SB 291

Sen. Sherman	Sen. Watters	Sen. Rosenwald	Rep. Maggiore
Rep. K. Murray			

SB 377-FN

Sen. Carson	Sen. Bradley	Sen. Birdsell	Sen. Cavanaugh
Sen. Prentiss	Rep. MacKay		

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee
Jennifer Horgan 271-7875

SB 302-FN, establishing the personal privacy protection act.

Hearing Date: January 11, 2022

Time Opened: 1:30 p.m.

Time Closed: 2:15 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill prohibits public agencies and public bodies from releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information.

Sponsors:

Sen. Birdsell

Sen. Gannon

Sen. Daniels

Sen. Ward

Sen. French

Sen. Giuda

Rep. Lynn

Rep. DiLorenzo

Rep. McLean

Who supports the bill: Senator Birdsell; Senator Giuda; Senator Daniels; Senator French; Senator Gannon; Senator Ward; Greg Moore; Elizabeth McGuigan; Amanda Grady Sexton, NH Coalition Against Domestic and Sexual Violence; Frank Knaack, ACLU; Simon Thomson, National Federation of Independent Businesses

Who opposes the bill: Tom Donovan, NH Department of Justice; Diane Quinlan, NH Department of Justice; Kathleen Reardon, NH Center for Nonprofits

Who is neutral on the bill: Mary Ann Dempsey, NH Judicial Branch; Margaret Byrnes, NH Municipal Association; Henry Veilleux; Meg Helming

Summary of testimony presented in support:

Senator Gannon

- There will be a chilling effect on charitable giving if we do not allow people to donate anonymously.
- This bill will ensure that individual donors to non-private organizations have the right to do so anonymously.

- Donors may wish to remain anonymous due to religious beliefs, a desire to avoid unwanted solicitation, an inclination to keep the spotlight off themselves, or fear of reprisals for giving to certain groups.
- In 1956 there was a Supreme Court case regarding this. At that time in Alabama, the Attorney General wanted organizations to hand over the names of supporters to state officials for nefarious reasons. The NAACP refused to comply out of fear it would chill charitable donations and it would open their donors up to harassment. The Supreme Court unanimously decided that the constitutional rights of the donors superseded the State's interest.
- For 66 years this type of law has been tested and the Supreme Court has always ruled on the side of the donors.
- Most recently there was a case in California, Americans for Prosperity v. Bonta (2014). The Court again ruled in favor of the donors.
- Donor privacy is important, and people have a fear of the government.
- Wants to ensure NH will not find itself in the same situation as CA dealing with an expensive 7year lawsuit.
- Asks the Committee to hold the bill so an amendment can be brought forward to address concerns raised by the Charitable Trusts.
- Senator Kahn asked if there is any prohibition on private entities sharing donor information.
 - They could if they wanted to.
- Senator Kahn asked if organizations share this information with each other.
 - That is separate than the government demanding information. That is not being addressed in this bill.

Greg Moore (Americans for Prosperity Foundation/Americans for Prosperity)
(provided written testimony)

- Was not involved in the development of this legislation.
- Is concerned about these smaller organizations that do not have the resources to ensure their rights are preserved.
- The Americans for Prosperity Foundation v. Bonta case involved over 300 amicus briefs filed from across the political spectrum.
- Thinks there is importance in supporting the Americans for Prosperity Foundation v. Bonta decision with further legislation that protects donor information.
- Codifying this into statute makes it clearer to future attorney generals and state agencies that donor information is going to be protected.
- By giving a cause of action this makes it clear to any public entities how seriously the legislature takes this.
- This also starts to build a foundation around the 2018 constitutional amendment regarding the right to privacy.
- There is a not a lot of case law around that constitutional amendment, and bills like this will give statutory support for that.
- There may be a need for some amending of the bill but supports the concept.

- Senator Kahn asked if Mr. Moore recognizes the point made by the Division relative to the need for directors' information.
 - As a member of boards understands that that is part of the deal. Does not think board members need to be shielded from public disclosure. The focus here should be on the donors. Would caution against the size of the exemption to ensure it is narrowly tailored.

Elizabeth McGuigan (Philanthropy Roundtable)

- Thinks this bill will help to strengthen the vitality and breadth of civil society in NH.
- Would be open to working on a narrow amendment to address the concerns of the Division.
- Shares the goal of ensuring regulatory oversight is maintained to ensure the public's trust.
- Throughout US history the norm has been to allow people to choose for themselves whether to be public or private in their charitable giving, and only in very narrow circumstances may that be set aside.
- With the rise of cancel culture, the choice to remain anonymous in charitable giving is crucial.
- Donors may be concerned that giving to causes that are controversial now or may become controversial in the future may trigger retaliation.
- Anonymous giving has important religious, cultural, and moral roots.
- A NH business anonymously matched donations up to \$100,000 to the NH Food Bank.
- In 2017 the NH Food Bank received an anonymous \$1million donation.
- In 2019, New England College was a recipient of a \$5million anonymous donation.
- The bill does allow for the continued regulation of campaign finance, political contributions, and lobbying donations, and they would remain transparent under this bill.
- Without this measure, nonprofits would be at the risk of forced disclosure of information, resulting in many who prefer to remain out of the public eye choosing not to give in the state.
- The issue of public disclosure vs disclosure solely to a government body did come up in the Americans for Prosperity Foundation v. Bonta case. It was brought up by the defendants and the Supreme Court found that it was an insufficient claim and that it would still have a chilling effect on charitable giving and freedom of association.

Summary of testimony presented in opposition:

Tom Donovan and Diane Quinlan (Division of Charitable Trusts-Department of Justice) (provided written testimony)

- The responsibility of the Division is to exercise the Attorney General's common law and statutory oversight responsibilities over the 11,000 charitable organization in the state.
- Thinks this bill is a reaction to the Americans for Prosperity Foundation v. Bonta decision.
- That involved a California requirement that large donor information be provided routinely to the Charities Bureau in CA.
- This is sometimes referred to as schedule B information and it is already provided to the IRS confidentially.
- NH has never asked for donor information as part of annual reporting.
- Concerned that this bill will prohibit the Charitable Trusts Unit from obtaining the names of members, volunteers, and donors without first filing a lawsuit.
- This would be very expensive for the charity and the board members, particularly when such expense can be avoided.
- Most members of boards of directors of charitable organizations are volunteers.
- Believes it is in the public's interest that the charities disclose the names of the directors to the Division and that they include that as part of their registration process.
- Need this information because the Division often contacts members of boards of directors directly rather than through the executive director
- Sometimes those call discuss matters involving the executive director.
- In some instances, the Division discovers that members of the boards are not actually board members when talking to them.
- State law requires charitable nonprofits corporations have at least five members of the board be unrelated by the blood or marriage. The Division can often determine that just by looking at the information they provide. If they have not met the requirements, the Division often contacts them to let them know how they can come into compliance.
- The Division also needs to know the names to determine if a conflict of interest exists for directors.
- It is in the public's interest for the public to know who the governing board members are.
- Does not think it is appropriate to disclose the private information of these individuals.
- The Secretary of State's Office also collects the names of board members for charitable nonprofit corporations every five years, and it is then published on the website.
- The Division rarely requests member or donor information.
- Healthcare organization often have sole corporate members who have reserved powers and a role in healthcare transactions, so it is important for the Division to understand who those members are.
- There are occasions where donor information is helpful, such as when the Division discovers that a charity has been set up to support a for-profit for one the directors. Donor information was in helpful in determining whether the donations were funneled through.

- Donors could be victims of deceptive acts, so it is helpful to get donor information to provide restitution.
- Charities can overinflate gifts in kind on public reports to make it look more favorable, and donor information allows the Division to check those donations against the donors' 990s.
- Sometimes donations are made to get a more significant economic transactions, such as when a real estate developer donates to charity in exchange favorable treatment with respect to a real estate transaction.
- This bill does allow for the Division to obtain this information with a lawsuit when certain conditions are met, but it would be expensive for charities to go through that.
- Currently, the Division can obtain this information when it needs it.
- Often after getting this information the Division is able to resolve the matter either through a settlement or an assurance of discontinuance; sometimes it is as simple as letting a charity know what they need to do in order to be in compliance.
- The role of the Division is to regulate the charities but also to educate them.
- Senator Gannon asked why the Division isn't following the precedence set by the Supreme Court cases.
 - Director Donovan answered that in both of those cases they were looking for wholesale lists of donors. The Division does not look for that, as it is inappropriate. When the Division looks for donors, it is because of there is a specific issue and it is not in most cases all donors but just the donors impacted by a series of transactions.
- Senator Gannon asked how often this occurs.
 - Director Donovan answered that it happens a few times a year. Asst Director Quinlan just won a case involving a sham breast cancer charity and in that case part of the remedy was restitution for the donors. The Division needed donor information to be able to contact them.
- Senator Kahn asked if the Division is suggesting an amendment or just opposition to the bill.
 - Director Donovan answered that he does not think the bill is needed, but they are always willing to talk. Thinks protecting director addresses and telephone numbers is appropriate, but believes that is already an exemption to 91-A. Would be willing to work on something that would allow the Division receive information but not disclose private information.
- Senator Carson asked how this currently works with 91-A.
 - Director Donovan thinks 91-A already covers it. If the Division collects donor information that is protected from disclosure. That may be able to be strengthened further.
- Senator Carson asked how nonprofits hired by state agencies would be affected by this.
 - Director Donovan responded that he thinks it would impacted. Does not see a need for DHHS to see a donor list when hiring a mental health

center. Believes that DHHS may require the names of the directors like the Division.

- Senator Kahn asked if donor names are ever disclosed in audit statements
 - Asst. Director Quinlan responded that she does not recall seeing them on the audit reports.

Kathleen Reardon (NH Center for Nonprofits) (provided written testimony)

- It is essential to preserve the public's trust in NH nonprofits.
- NH relies extensively on the nonprofit sector to provide essential services while trusting them to effectively manage finances, remain politically nonpartisan, avoiding self-dealing, etc.
- This layer of secrecy of public agencies regarding any kinds of records could erode the public's trust in nonprofits.
- Recognizes a reasonable amount of regulation and transparency is in the best interest of the sector.
- Nonprofits are nonpartisan and bring people together regardless of partisan lines.
- Concerned that this bill might be a tipping point that might lead to the politicization of 501(c)(3) organizations.
- The Division does not require submission of schedule B information, that donor privacy has already been settled in case law, making this legislation unnecessary and potentially harmful to the nonprofit sector.

Neutral Information Presented:

Mary Ann Dempsey (NH Judicial Branch) (provided written testimony)

- III (e) deals with how information is handled in a court case; it provides the court cannot release information absent a specific finding of good cause.
- Proposed some language to make clear how confidential information would be provided to the court.
- It is the party that is submitting the information that files it under a motion to seal and advises the court there is confidential information.
- There can also be a hearing where confidential information would be discussed, and the party would let the court know and the court would take appropriate steps to hear the testimony in a confidential manner.
- Suggesting language to make it clear that if a party is going to be providing this information to the court it be done under a motion to seal or other proper measures.

Margret Burns (NH Municipal Association)

- Not opposing the bill but is concerned about some of the language.
- The bill seems to deal with an issue at the state level, but it would also apply to municipalities.
- Not sure if municipalities have this kind of information, but assuming that they do, even an inadvertent disclosure would lead to a claim and potential liability for municipalities.
- Also concerned that this is a prohibition on the release of certain information, and the language would be inserted into 91-A.

- RSA91-A deals with public information and information that is exempt from disclosure.
- RSA91-A does not deal with bans or prohibitions.
- Should language like this go into law, it may be more appropriate to place it in a different section of law or in a new section.
- Would oppose the creation of new liability, civil action, and cause of action against municipalities.

jch

Date Hearing Report completed: January 13, 2022

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill SB302 on 2022-01-11

Support: 6 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Veilleux, Henry	A Lobbyist	Myself	Neutral
Helming, Meg	A Member of the Public	Myself	Neutral
Giuda, Bob	An Elected Official	Senate District 2	Support
Daniels, Senator Gary	An Elected Official	Myself	Support
French, Senator Harold	An Elected Official	Myself	Support
Gannon, Senator Bill	An Elected Official	SD 23	Support
Ward, Senator Ruth	An Elected Official	Senate District 8	Support
Thomson, Simon	A Lobbyist	National Federation of Independent Businesses	Support

Testimony

Jennifer Horgan

From: Daniel Richardson <daniel6_22@comcast.net>
Sent: Saturday, January 22, 2022 4:11 PM
To: Sharon Carson; William Gannon; Harold French; Becky Whitley; Jay Kahn; Jennifer Horgan
Cc: Tom Lanzara; Kevin Avard; Regina Birdsèll; Gary Daniels; Ruth Ward; Bob Giuda; Bob Lynn; Mark McLéan; Charlotte DiLorenzo
Subject: In Support of SB 302 establishing the personal privacy protection act.

Senate Judiciary Committee -

I write in support of SB 302. I can demonstrate a case in point of the need for even broader protection of donor's anonymity from state political subdivision to compel the release of, any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifying a person as a member, supporter, volunteer, or donor of financial or nonfinancial support.

This case does not regard a 501(c). This case arises from political opponents of the present Nashua city administration filing suit in Superior Court, and subsequently in Supreme Court, to reinstate enforcement of the Spending Cap in Nashua's Charter. The administration had decided to exclude certain spending from the Combined Annual Municipal Budget calculation so as to allow margin under the cap for yet additional spending.

The administration's reaction was to abusively float an Ordinance O-17-046 REQUIRING DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES IN LEGAL ACTIONS AFFECTING THE CITY. It died quietly after volleys of RTK requests closed-in on the same identity information of suits that the City Attorney brought against the city as a private practice attorney.

<https://www.nashuanh.gov/ArchiveCenter/ViewFile/Item/5605>

Any person that receives as contribution any item of value for the purpose of bringing and prosecuting a lawsuit challenging any action of the Board of Aldermen or the validity of any Nashua ordinance or charter provision shall file statements with the Office of the City Clerk detailing each receipt and expenditure, covering both the source and the amount thereof, including dates, names, and addresses of contributors. Intervenors supporting or opposing the city's position shall be subject to the same requirements.

As you can see, the mayor's (and City Attorney's) paranoid response was intended to be punitive to lawsuit donors and a to search for political enemies. The clear objective was publication of donors names, to deride them in public and to ostracize them in the business community (Chamber of Commerce).

I hope this clearly demonstrates by example the abusive power of political subdivisions which needs to be reigned-in.

Please do find a way of favorably passing SB 302 with OTP.

Daniel Richardson, Nashua



Testimony of Kathleen Reardon
CEO, NH Center for Nonprofits
in OPPOSITION to
SB 302
before the Senate Judiciary Committee
January 11, 2022, 1:30 pm

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 to testify on Senate Bill 302.

We certainly appreciate the bill sponsor's and supporting sponsors' interest in the nonprofit sector. The NH Center for Nonprofits, however, opposes this legislation due to some of the likely unintended consequences from these proposals.

Preserving the Public Trust

Over this last year and a half of pandemic related challenges, it is clear that nonprofits in our state play a critical role throughout our community eco-system. The New Hampshire public relies on nonprofits to not only provide many essential services, but also to effectively manage finances, engage in governance, avoid self-dealing, and remain politically nonpartisan.

The new layer of proposed secrecy for public agencies and "right to know" public bodies regarding any records of nonprofits would erode the public trust. Although we do value our rights as private organizations, we also recognize that reasonable regulation and appropriate transparency ultimately help nonprofits to be more successful at executing on our missions.

Nonprofit Nonpartisanship

Another likely adverse consequence to additional confidentiality is the politicization of the nonprofit sector. In these highly divisive times, there are very few societal spaces that are nonpartisan. While the Center encourages advocacy, we honor that 501C3 organizations may not endorse candidates nor donate to candidates for political office.

Our heightened political divide has also put more pressure on nonprofits to engage in partisan politics and engage in political fundraising. The current balance of transparency helps the nonprofit sector navigate these pressures and stay on mission. We are concerned that hampering our public agencies as proposed in SB 302 would be the tipping point that leads to the politicization of our valued 501C3 organizations.

Effective Community Fundraising

The Charitable Trusts Unit at the NH DOJ does not require submission of Schedule B of the Federal 990 form, so New Hampshire nonprofits already benefit from donor list privacy. In addition, the issue around donor privacy has already been settled in the recent US Supreme Court decision, *Americans for Prosperity vs. Bonta* (State of California).

SB 302 Unnecessary

In closing, the NH Center for Nonprofits views the proposals in SB 302 as unnecessary and potentially harmful to our nonprofit sector. As one of our workgroup members said when we were reviewing this legislation said, "This is New Hampshire. We need to be accountable to one another."

Thank you again for the opportunity to testify. We urge the Committee to recommend SB 302 *inexpedient to legislate*.

1 New Section; Personal Privacy Protection Act. Amend RSA 91-A by inserting after section 11 the following new section:

91-A:12 Personal Privacy Protection Act.

I. Public agencies and public bodies are prohibited from disclosing or releasing any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code.

II. Notwithstanding any law and subject to paragraph III, a public agency or public body shall not:

(a) Require any individual or entity to provide the public agency with, or otherwise compel the release of, any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code;

(b) Release, publicize, or otherwise publicly disclose any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section

501(c) of the Internal Revenue Code already in possession of the public agency or public body; or (c) Request or require a current or prospective contractor or grantee to provide the public agency or public body with a list of entities exempt from federal income tax under section

501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

III. This section shall not preclude:

(a) Any report or disclosure required by the following laws or successor provisions thereto:

(1) RSA 14-C relative to gifts for legislators and legislative employees;

(2) RSA 15 relative to lobbyists; and

(3) RSA 15-A relative to financial disclosures.

(b) A public body or agency from releasing a person's status as a member, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that was voluntarily released by the person during meetings open to the public.

(c) Any lawful warrant for any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction; (d) A lawful request for discovery of any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are met:

(1) The requestor demonstrates a compelling need for any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing evidence; and

(2) The requestor obtains a protective order barring disclosure of any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to any person not named in the litigation.

(e) Admission of any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this statute shall be filed under seal by the offering party. Any party who intends to display or produce any record that is subject to this statute in a courtroom during a hearing or trial shall notify the court to allow for the courtroom to be cleared prior to discussion or display of the record. However, no court shall publicly reveal such information that has been filed in accordance with this paragraph, absent a specific finding of good cause

IV. Nothing in this section shall apply to a national securities association, as defined in section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or regulations adopted thereunder, and any information such national securities association provides to the relevant public agency or body of this state pursuant to the rules and regulations provided by such agency or body.

V. A person alleging a violation of this act may bring a civil action for appropriate injunctive relief, damages, or both. Damages awarded under this section may include one of the following, as appropriate:
(a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each violation of this act; or

(b) For an intentional violation of this section, a sum of money not to exceed \$7,500.

VI. A court, in rendering a judgment in the action brought under paragraph V, may award all or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the complainant in the action if the court determines that the award is appropriate.

VII. A person who knowingly violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than \$1,000, or both.

2 Effective Date. This act shall take effect January 1, 2023.

Free speech case attracts support from nearly 300 diverse groups

More than 40 amici briefs make the case for continued protection of First Amendment privacy rights for all Americans

Organizations

AHC Inc.

Alaska Policy Forum

America's Promise Alliance

American Civil Liberties Union Foundation, Inc.

American Leadership Forum – Great Valley Chapter

American Target Advertising, Inc.

Americans United for Life

Amyloidosis Foundation

Animal Legal Defense Fund

Animal Welfare League of Arlington

Association of Fundraising Professionals

Association of Fundraising Professionals – Hampton, VA

Association of Fundraising Professionals – Northwest Ohio

Association of Fundraising Professionals – NYC

Association of Fundraising Professionals – Westchester, NY

Association of the Miraculous Medal

Aura Home Women Vets

Avenidas

Bashor Children's Home

Best Friends Animal Society

Bethesda Lutheran Communities Inc.

Brothers of the Christian Schools – District of Eastern

North America

Busted Halo

California Constitutional Rights Foundation

Catholic Charities of La Crosse

Catholic Medical Mission Board

Central Florida Council, BSA

Central West Ballet

Charity Navigator

Chesapeake Bay Foundation

Children to Love International

Children's Museum of Evansville

China Aid Association

Christian Appalachian Project

Chronic Disease Fund

Citizen Action Defense Fund

Citizen Power Initiatives for China

Citizens United

Citizens United Foundation

Clare Boothe Luce Center for Conservative Women

Community Foundation of South Lake County Inc.

Concerned Women for America

Concordia University – Nebraska

Concordia University – St. Paul

Congregation of the Mission – Western Province

Congregation of the Sacred Hearts – US Province

Congressman John Sarbanes

Connecticut Humane Society

Conservative Legal Defense & Education Fund

Council for Advancement and Support of Education

Defenders of Wildlife

Defending Rights & Dissent

Democracy 21

Disabled American Veterans

Divine Word College

Doctors Without Borders/Medecins Sans Frontieres

Downsize DC Foundation

DownsizeDC.org

Early Learning Focus

Edmundite Missions

Empower Hope

Farm Sanctuary

Feeding America – Eastern Wisconsin

Food for the Poor

Foundation for Government Accountability

Franciscan Sisters OLPH

Free Speech Coalition

Free Speech Defense & Education Fund

Freedom Foundation of Minnesota

Fuller Center for Housing of Greater New York City

Global Outreach International

Global Wildlife Conservation

Good Days

Gun Owners Foundation

Gun Owners of America

Heritage University

Historic Districts Council

Humane Society of Charlotte

Humane Society of Utah

Immaculate Heart Retreat Center

Independence Institute

Inprint

Institute for Community Living

Institute of the Blessed Virgin Mary – US Province

International Rescue Committee

International Society for Animal Rights

James Madison Center for Free Speech

Judicial Watch, Inc.

Kansas Justice Institute

Kappa Alpha Educational Foundation

KUAC Friends Group – NPR

Landmark Legal Foundation

Leadership Institute
Legionaries of Christ
Libertas Institute
Loaves & Fishes, Inc.
Lowville Food Pantry, Inc.
Marketing EDGE
Mercy For Animals
Messianic Vision, Inc.
Miracle Flights
Missionary Sisters of the Most Sacred Heart of Jesus
Montgomery County Family YMCA
NARAL Pro-Choice North Carolina
National Association for Gun Rights
National Cancer Assistance Foundation
National Foundation for Gun Rights
National Right to Work Committee
National Right to Work Legal Defense Foundation
National Tuberous Sclerosis Association, Inc.
National Wildlife Federation
Nonprofit Connect
Nonprofit Financial Sustainability Foundation
Nonprofit Leadership Alliance
One Nation Under God Foundation
Operation Food Search
Oregon Business & Industry
Ourganda
Pacific Crest Trail Association
Pacific Legal Foundation
Pacific Research Institute
Palmetto Promise Institute
Paralyzed Veterans of America
Pathfinder International
PBS Reno
PEN American Center, Inc.
People for the Ethical Treatment of Animals
PETA Foundation
Philanthropy Roundtable
Pi Kappa Alpha Foundation
Pioneers – USA
Potomac Conservancy
Proposition 8 Legal Defense Fund
Protect the 1st
Public Advocate
Restoring Liberty Action Committee
Rising Ground, Inc.
Salesian Missions
Sigma Nu Educational Foundation
Society of the Divine Word – Chicago Province
Society of the Little Flower
Southeastern Legal Foundation
Southern Poverty Law Center
Southfield School
Southwest Chicago Christian School Association
St. Benedict's Prep
St. Labre Indian School
Students for Life of America
Support Our Aging Religious
Switch 4 Good

Syria Shriners
The Allied Educational Foundation
The American Center for Law and Justice
The American Civil Liberties Union, Inc.
The American Legislative Exchange Council
The ANA Nonprofit Federation
The Animal Defense Partnership
The Association of National Advertisers
The Atlantic Legal Foundation
The Becket Fund for Religious Liberty
The Buckeye Institute
The Cato Institute
The Center for Constitutional Jurisprudence, Claremont Institute
The Center for Equal Opportunity
The Chamber of Commerce of the United States of America
The Commonwealth Foundation
The Congressional Prayer Caucus Foundation
The Council on American-Islamic Relations
The DKT Liberty Project
The Electronic Frontier Foundation
The Empire Center for Public Policy, Inc.
The Family Foundation
The Firearms Policy Coalition
The First Amendment Lawyers Association
The Forging Industry Association
The Foundation for Individual Rights in Education
The Foundation for Michigan Freedom
The Freedom Foundation
The Freedom to Read Foundation
The Georgia Center for Opportunity
The Goldwater Institute
The Good Food Institute, Inc.
The Hamilton Lincoln Law Institute
The Haven of Transylvania County
The Hispanic Leadership Fund
The Human Rights Campaign
The Illinois Family Institute
The Illinois Policy Institute
The Independent Women's Law Center
The Individual Rights Foundation
The Institute for Free Speech
The Institute for Justice
The International Conference of Evangelical Chaplain Endorsers
The James Madison Institute
The John K. MacIver Institute for Public Policy
The John Locke Foundation
The Josiah Bartlett Center for Public Policy
The Kansas Chamber of Commerce
The Kirkwood Institute, Inc.
The Knight First Amendment Institute at Columbia University
The Legacy Foundation
The Liberty Justice Center
The Mackinac Center for Public Policy
The Maine Policy Institute
The Marist Brothers

The Maryland Public Policy Institute
The Mountain States Legal Foundation
The NAACP Legal Defense and Educational Fund, Inc.
The National Association of Homebuilders
The National Association of Manufacturers
The National Children's Cancer Society
The National Coalition Against Censorship
The National Federation of Independent Business
The National Legal Foundation
The National Taxpayers Union Foundation
The Nature Conservancy
The Nevada Policy Research Institute
The New Civil Liberties Alliance
The Nonprofit Alliance
The Nonprofit Alliance Foundation
The Pacific Justice Institute
The Pelican Institute for Public Policy
The Pennsylvania Manufacturers' Association
The People United for Privacy Foundation
The Plastics Industry Association
The Public Interest Legal Foundation
The Public Policy Legal Institute
The Public Trust Institute
The Reason Foundation
The Rhode Island Center for Freedom and Prosperity
The Rio Grande Foundation
The Roughrider Policy Center
The Senior Citizens League
The Show-Me Institute
The Texas Public Policy Foundation
The Thomas Jefferson Institute for Public Policy
The Treated Wood Council
The U.S. Chamber of Commerce Foundation
The Virginia Institute for Public Policy
The Woodhull Freedom Foundation
The Workers Circle
Thomas More Society
Tri Delta Foundation
Trinity Missions
U.S. Constitutional Rights Legal Defense Fund
United States Catholic Mission Association
University of Illinois
Upper Midwest Law Center
UrbanPromise Wilmington
Virginia Museum of Natural History Foundation
Washington Policy Center
Western Journalism Center
Western Tidewater Free Clinic, Inc.
Winona Community Foundation
Wisconsin Institute for Law & Liberty
Wisconsin Manufacturers & Commerce
Wisconsin Right to Life
Women's Sports Foundation
YMCA of Rock River Valley
Young America's Foundation
Young Americans for Liberty
Zeta Psi Educational Foundation
Zionist Organization of America

Governments & Elected Officials

Alabama
Alaska
Arizona
Arkansas
Florida
Georgia
Idaho
Indiana
Kansas
Kentucky
Louisiana
Mississippi
Missouri
Montana
Nebraska
Oklahoma
South Carolina
South Dakota
Tennessee
Texas
Utah
West Virginia
Senator Mitch McConnell

FACT SHEET ON SB 302 ATTORNEY GENERAL'S CHARITABLE TRUSTS UNIT

Background

Charitable organizations serve the public good and not private interests. For that reason, they receive certain benefits (e.g., IRS tax exempt status, local property tax exemption, etc.). But because they serve the public interest, charities must offer some financial transparency and be accountable to the public.

The Attorney General is charged with protecting the public's interest in charitable organizations and assets devoted to charitable purposes in our state. In 1943, the New Hampshire Legislature determined that the role of the Attorney General involving charitable trusts and organizations was so important that New Hampshire became the first state in the nation to enact a law establishing an office within the Department of Justice that is wholly dedicated to the oversight of charitable trusts and organizations. *See RSA 7:19-32-I.*

As part of our responsibility, the Charitable Trusts Unit oversees the 11,000 charitable trusts and organizations registered with our office, including 6,400 that are based in New Hampshire. We view education as important as enforcement. Frequently, we meet with and offer training to boards of directors to help them comply with New Hampshire law and share with boards best practices. We work on programs with the New Hampshire Center for Nonprofits, the New Hampshire Municipal Association, and the New Hampshire Charitable Foundation. We post educational materials on our website, including the often-cited *Guidebook for New Hampshire Charitable Organizations*.

Proposed RSA 91-A:16

91-A:16, II would prohibit requirements by public agencies that any Internal Revenue Code Section 501(c) organization provide to the agency the names of persons as a member, supporter, **volunteer** or **donor**

- Most directors of nonprofits organizations are volunteers. *See RSA 508:16 and 17; RSA 292:6-a.* We believe it is in the public interest that the names of directors of charitable organizations be included as part of the registration process and the annual report to the Charitable Trusts Unit for several reasons:
 - (1) We often need to contact directors (who are responsible for governance) to address an issue with the organization. If the issue involves the conduct of

staff, we do not want to be dependent upon that staff to get the contact information of directors.

(2) We need to have the names of the directors in order to determine whether there has been a conflict of interest transaction that we must regulate under RSA 7:19-a.

(3) RSA 292:6-a requires that New Hampshire charitable corporations have a board of directors with at least 5 members who are unrelated by blood or marriage. We often find that small charities lose sight of this requirement, and it is essential that we have the names of directors so that we can remind the corporations of this requirement and ensure compliance with law.

- The Secretary of State likewise requires the names of directors of nonprofit corporations as part of the five-year report requirement. *See* RSA 292:25.

91-A:16, I and II would prohibit disclosure by public agencies of the names of persons as a member, support, **volunteer**, or donor

- As discussed, most directors of nonprofits organizations are volunteers. *See* RSA 508:16 and 17; RSA 292:6-a. We believe it is in the public interest that the names of directors of charitable organizations be included in the registration application and annual report submitted to the Charitable Trusts Unit, and that the names be available for public disclosure. However, we do not believe that it is necessary that the home addresses and personal contact information of directors be disclosed to the public, and we do not disclose that information.
- Note that the Secretary of State publishes on its website the five-year reports of nonprofit corporations, which includes names of directors.

91-A:16, II(d) would prohibit a public agency from obtaining the names of persons as a member, supporter, **volunteer**, or **donor** except if the agency brought a lawsuit and got a court order “by clear and convincing evidence” to require that disclosure

- As discussed, the Charitable Trusts Unit now obtains director (i.e. **volunteer**) information routinely as part of the charitable organization’s registration and annual report
- The Charitable Trusts Unit occasionally, and on a case-by-case basis, requests **donor** information from a charitable organization as part of our review in determining whether the charity has engaged in conflicts of interest or unfair or deceptive acts by the charity against donors. For instance:

- A charity may have been set up to support a for-profit enterprise of one of the directors. Donor information is helpful in determining whether the “donations” were actually made for services rendered by the for-profit and conveyed from the charity to the for-profit.
 - Donors may have been victims of unfair or deceptive acts by a charity to raise funds. The information is helpful in obtaining restitution to the donors.
 - Charities may overinflate the true value of donations of gifts-in-kind (i.e. non-monetary gifts) on its public reports. This is important because the value of the assets of the organization is important to some donors and grant makers (especially as compared to the organization’s administrative expenses).
 - Sometimes, donations are made to a charity in order to benefit from another significant economic transaction. For example, a real estate developer could make a donation to a charity in exchange for unreasonably favorable treatment with respect to a real estate transaction with the organization.
- Currently, the Charitable Trusts Unit can obtain information pertaining to directors and donors without the time and expense of first filing a lawsuit and obtaining a court order—which can be very expensive for the charity and its board members. Often, we reach a resolution with the charity and its board members through a settlement or an Assurance of Discontinuance, which does not require that we first file a lawsuit.
 - As we discussed, we prefer to educate—rather than regulate. We do not wish to have to file a lawsuit in order to obtain information helpful to put charities back on the right track. However, we will file lawsuits and bring administrative actions when it is necessary and appropriate.

91-A:16, III and IV contains exemptions from the proposed legislation for lobbyist and campaign disclosures, and for securities regulation. There is no exemption for the Charitable Trusts Unit.

The proposed legislation appears to be a reaction to *Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021), where the United States Supreme Court held that California’s requirement that charities routinely require disclosure in annual reports of the names of large *donors* to nonprofit organizations (as contained on confidential IRS Form 990 Schedule B) violated their First Amendment rights to free association. The Charitable Trusts *Unit has not and does not require charitable organizations to file a copy of Form 990 Schedule B* with

their annual reports, and does not require the routine disclosure of donor information.

We often receive compliments from organizations that file reports on behalf of charities in multiple states that our annual report forms are easy to file. While this legislation may be helpful in some other states, it appears to address a problem that does not exist in New Hampshire.

Complete Document

Can Be Viewed

In Bill Folder

141 S.Ct. 2373
Supreme Court of the United States.

AMERICANS FOR PROSPERITY
FOUNDATION, Petitioner

v.

Rob BONTA, Attorney General of California;
Thomas More Law Center, Petitioner

v.

Rob Bonta, Attorney General of California

No. 19-251, No. 19-255

|

Argued April 26, 2021

|

Decided July 1, 2021

Synopsis

Background: Tax-exempt charities that solicited contributions in California brought actions against California Attorney General, alleging California regulation requiring them to disclose to the Attorney General's Office IRS forms containing the names and addresses of their major donors violated their First Amendment association rights. The United States District Court for the Central District of California, Manuel L. Real, J., [2015 WL 769778](#), granted charities' motions for preliminary injunction, and the Attorney General appealed. The United States Court of Appeals for the Ninth Circuit, [809 F.3d 536](#), vacated with instructions. On remand, and following bench trials, the District Court, Real, J., [2016 WL 6781090](#), entered judgment for the charities and permanently enjoined the Attorney General from collecting their IRS forms. The parties cross-appealed. The Court of Appeals, Fisher, Senior Circuit Judge, [903 F.3d 1000](#), vacated the injunctions, reversed the judgments, and remanded, and, subsequently, the Court of Appeals, [919 F.3d 1177](#), denied rehearing en banc. Certiorari was granted.

The Supreme Court, Chief Justice Roberts, held that regulation failed exacting scrutiny in substantial number of its applications judged in relation to its plainly legitimate sweep, and thus facially violated First Amendment right to free

association, abrogating [Center for Competitive Politics v. Harris](#), [784 F.3d 1307](#).

Reversed and remanded.

Justice Thomas filed an opinion concurring in part and concurring in the judgment.

Justice Alito filed an opinion concurring in part and concurring in the judgment, in which Justice Gorsuch joined.

Justice Sotomayor filed a dissenting opinion, in which Justice Breyer and Justice Kagan joined.

Procedural Posture(s): Petition for Writ of Certiorari; On Appeal; Judgment; Motion for Permanent Injunction; Petition for Rehearing En Banc.

West Codenotes

Held Unconstitutional

[Cal. Code Regs. tit. 11, § 301](#)

2376 Syllabus

Charitable organizations soliciting funds in California must disclose the identities of their major donors to the state Attorney General's Office. Charities generally must register with the Attorney General and renew their registrations annually. The Attorney General requires charities renewing their registrations to file copies of their Internal Revenue Service Form 990, a form on which tax-exempt organizations provide information about their mission, leadership, and finances. Schedule B to Form 990—the document that gives rise to the present dispute—requires organizations to disclose the names and addresses of their major donors. The State contends that having this information readily available furthers its interest in policing misconduct by charities.

The petitioners are two tax-exempt charities that solicit contributions in California. Since 2001, each petitioner has renewed its registration and has filed a copy of its Form 990 with the Attorney General, as required by [Cal. Code Regs., tit. 11, § 301](#). To preserve their donors' anonymity, however, the petitioners have declined to file unredacted Schedule Bs, and they had until recently faced no consequences for noncompliance. In 2010, the State increased its enforcement

- 9 Of course, an interest in efficiency cannot justify constitutional violations, but it is an important governmental interest when deciding whether a constitutional violation has taken place at all. See Bayley v. United States, 568 U.S. 186, 199–200, 133 S.Ct. 1031, 185 L.Ed.2d 19 (2013).
- 10 The Court asserts that “the actions of investigators” do not “suggest a risk of tipping off charities” because the Section’s standard practice is to send an audit letter early in an investigation. *Ante*, at 2387. Where the Section suspects serious fraud, however, it obtains a temporary restraining order to freeze assets before ever contacting the charity. See 16–55727 ER, at 591. The Section’s actions thus demonstrate exactly the fear of tipping off charities that this Court so hastily dismisses.
- 11 The Court highlights the “filings of hundreds of organizations as *amici curiae* in support of ” petitioners in this suit. *Ante*, at 2388. Those briefs, of course, are not record evidence. Moreover, even if those organizations had each provided evidence that California’s reporting requirement would subject their top donors to harassment and reprisals (they did not), this still would not demonstrate that a substantial proportion of the reporting requirement’s applications are unconstitutional when “ ‘judged in relation to [its] plainly legitimate sweep.’ ” United States v. Stevens, 559 U.S. 460, 473, 130 S.Ct. 1577, 176 L.Ed.2d 435 (2010). Some 60,000 charities renew their registrations with California each year, and nearly all must file a Schedule B. See *ante*, at 2386. The *amici* are just a small fraction of the disclosure requirement’s reach.
- 12 See California Dept. of Justice, Office of Atty. Gen., Charity Registration Reports (June 15, 2021), <https://oag.ca.gov/charities/reports#cr>; Santa Barbara County Horticultural Society (June 15, 2021), <https://www.sbchs.org>.

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # SB302

Hearing date: _____

Executive Session date: _____

Motion of: OTP Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: OLSOs Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 3-2

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Reported out by: Carson

Notes: amendment - concerns raised by MA, charitable trusts, JB, moved section out of 91-A to MA, Jude added lang page 2, 32-37, CTU effort by inserting pg 3 directors info for purposes of managing org when dealing w/ non profits
moves us closer

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Tuesday, February 22, 2022

THE COMMITTEE ON Judiciary

to which was referred **SB 302-FN**

AN ACT establishing the personal privacy protection act.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 3-2

AMENDMENT # 2022-0792s

Senator Sharon Carson
For the Committee

Jennifer Horgan 271-7875

JUDICIARY

SB 302-FN, establishing the personal privacy protection act.

Ought to Pass with Amendment, Vote 3-2.

Senator Sharon Carson for the committee.

SB302-FN

Bill Details

Title: establishing the personal privacy protection act.

Sponsors: *(Prime)* Birdsell (R), Gannon (R), Daniels (R), Ruth Ward (R), French (R), Giuda (R), Lynn (R), DiLorenzo (D), McLean (R)

LSR Number: **22-3010**

General Status: **SIGNED BY GOVERNOR**

Chapter Number: **336**

House:

Committee: Judiciary

Due Out: 4/28/2022

Status: CONFERENCE REPORT ADOPTED

Senate:

Committee: Judiciary

Floor Date: 5/26/2022

Status: CONFERENCE REPORT ADOPTED

Bill Docket

Body	Description
S	To Be Introduced 01/05/2022 and Referred to Judiciary: SJ1
S	Hearing: 01/11/2022, Room 100, SH, 01:30 pm: SC 50
S	Committee Report: Ought to Pass with Amendment # 2022-0792s, 02/24/2022; SC 8A
S	Committee Amendment # 2022-0792s, AA, VV; 02/24/2022; SJ4
S	Ought to Pass with Amendment 2022-0792s, RC 14Y-gN, MA; OT3rdg; 02/24/2022; SJ4
H	Introduced 03/17/2022 and referred to Judiciary
H	Public Hearing: 04/07/2022 01:00 pm LOB 206-208
H	Executive Session: 04/14/2022 09:00 am LOB 206-208
H	Majority Committee Report: Ought to Pass with Amendment # 2022-1443h (Vote 11-10: RC)
H	Minority Committee Report: Refer for Interim Study
H	Amendment # 1443h: AA VV 05/05/2022 HJ12
H	Ought to Pass with Amendment 1443h: MA VV 05/05/2022 HJ12
S	Sen. Carson Moved Nonconcur with the House Amendment; Requests C of C. MA, VV; 05/12/2022; SJ12
S	President Appoints: Senators Carson, French, Whitley; 05/12/2022; SJ12
H	House Accedes to Senate Request for CofC (Rep. Gordon); MA VV 05/12/2022 HJ13
S	Committee of Conference Meeting: 05/17/2022, 11:30 am, Room 100, SH
H	Speaker Appoints: Reps. McLean, Wuelper, Silber 05/12/2022 HJ13
S	Conferee Change; Senator Gannon Replaces Senator Whitley; SJ13
H	Conference Committee Report # 2022-2036c Filed 05/17/2022; House Amendment + New Amendment
H	Conference Committee Report 2022-2036c: Adopted, VV 05/26/2022 HJ14
S	Conference Committee Report # 2022-2036c, Adopted, VV; 05/26/2022; SJ13
H	Enrolled Bill Amendment # 2022-2124e: AA VV (in recess of) 05/26/2022 HJ14
S	Enrolled Bill Amendment # 2022-2124e Adopted, VV, (In recess of 05/26/2022); SJ13
H	Enrolled (in recess of) 05/26/2022 HJ14
S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ13
S	Signed by the Governor on 07/25/2022; Chapter 0336; Effective 01/01/2023

Other Referrals

1 Committee of Conference Report on SB 302-FN, establishing the personal privacy protection act.

2
3 Recommendation:

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

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

8
9 Amend the bill by replacing all after the enacting clause with the following:

10
11 1 New Chapter; Personal Privacy Protection Act. Amend RSA by inserting after chapter 91-B
12 the following new chapter:

13 CHAPTER 91-C

14 PERSONAL PRIVACY PROTECTION ACT

15 91-C:1 Public Bodies Prohibited Disclosures.

16 I. Public agencies and public bodies shall not disclose or release any list, record, register,
17 registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a
18 person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity
19 exempt from federal income tax under section 501(c) of the Internal Revenue Code.

20 II. Notwithstanding any law and subject to RSA 91-C:2, a public agency or public body shall
21 not:

22 (a) Require any individual or entity exempt from federal income tax under section 501(c)
23 of the Internal Revenue Code to provide the public agency with, or otherwise compel the release of,
24 any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly
25 or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or
26 nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the
27 Internal Revenue Code;

28 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
29 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
30 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
31 from federal income tax under section 501(c) of the Internal Revenue Code already in possession of
32 the public agency or public body; or

Committee of Conference Report on SB 302-FN
- Page 2 -

1 (c) Request or require a current or prospective contractor or grantee to provide the
2 public agency or public body with a list of entities exempt from federal income tax under section
3 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

4 (d) Release, publicize, or otherwise publicly disclose any list, record, register, registry,
5 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
6 member, supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt
7 from federal income tax under section 501(c) of the Internal Revenue Code for the purposes of
8 responding to a request under New Hampshire's freedom of information act as outlined in RSA 91-A.

9 91-C:2 Exemptions. This section shall not preclude:

10 I. Any report or disclosure required by the following laws or successor provisions thereto:

11 (a) RSA 14-C relative to gifts for legislators and legislative employees;

12 (b) RSA 15 relative to lobbyists;

13 (c) RSA 15-A relative to financial disclosures; and

14 (d) RSA 664 relative to political expenditures and contributions.

15 II. A public body or agency from releasing a person's status as a member, volunteer, or donor
16 of any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that
17 was voluntarily released by the person or voluntarily released by the entity to the attorney general
18 or to the public.

19 III. Any lawful warrant for any list, record, register, registry, roll, roster or other
20 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
21 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
22 under section 501(c) of the Internal Revenue Code issued by a court of competent jurisdiction;

23 IV. A lawful request for discovery of any list, record, register, registry, roll, roster or other
24 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
25 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax
26 under section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are
27 met:

28 (a) The requestor demonstrates a compelling need for any list, record, register, registry,
29 roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a
30 member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt
31 from federal income tax under section 501(c) of the Internal Revenue Code by clear and convincing
32 evidence; and

33 (b) The requestor obtains a protective order barring disclosure of any list, record,
34 register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly
35 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support,
36 to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code to
37 any person not named in the litigation.

Committee of Conference Report on SB 302-FN
- Page 3 -

1 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of
2 any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of
3 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code as
4 relevant evidence before a court of competent jurisdiction. Any filing in court that is subject to this
5 section shall be filed under seal by the offering party. Any party who intends to display or produce
6 any record that is subject to this section in a courtroom during a hearing or trial shall notify the
7 court to allow for the courtroom to be cleared prior to discussion or display of the record. No court
8 shall publicly reveal such information that has been filed in accordance with this paragraph absent a
9 specific finding of good cause.

10 VI. A public body or state agency with oversight function over public funds or a government
11 grant program from requesting documentation sufficient to ensure public funds are expended in
12 accordance with state or federal contract monitoring and audit requirements, given that the
13 information accessed is limited to information related to public funds or government grant program
14 funds.

15 91-C:3 Limited Applicability.

16 I. Nothing in this chapter shall apply to a national securities association, as defined in
17 section 15A of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or
18 regulations adopted thereunder, and any information such national securities association provides to
19 the relevant public agency or body of this state pursuant to the rules and regulations provided by
20 such agency or body.

21 II. Nothing in this chapter shall prohibit a request by the attorney general for information
22 required for an audit, examination, review, or investigation pursuant to RSA 7:24, provided that
23 such information shall only be used in connection with the specific audit, examination, review, or
24 investigation to which the request relates and for any related proceedings, provided further that any
25 information so collected shall otherwise remain subject to the provisions of this chapter.

26 III. Nothing in this chapter shall apply to a request from the lottery commission pursuant to
27 their authority under RSA 287-D or RSA 287-E for the purposes of licensing or regulation of
28 charitable gaming activities.

29 IV. For the purposes of this chapter, the terms "volunteer" and "supporter" shall not include
30 the members of the governing board, officers, directors, registered agents, or incorporators of entities
31 exempt from federal income tax under section 501(c) of the Internal Revenue Code and the term
32 "member" shall not include members of charitable corporations with specific corporate authority as
33 set forth in the articles of agreement or bylaws, and pursuant to RSA 292.

34 V. Nothing in this chapter shall prohibit a government agency from disclosing any list,
35 record, register, registry, roll, roster, or other data that directly or indirectly identifies a person as a
36 member, supporter, volunteer, or donor of any entity exempt from federal income tax under section
37 501(c) of the Internal Revenue Code in court pleadings, submissions of evidence, or public

Committee of Conference Report on SB 302-FN
- Page 4 -

1 communications related to a criminal or civil enforcement action filed in court, including, but not
2 limited to, an assurance of discontinuance pursuant to RSA 7:28-f.

3 91-C:4 Penalties.

4 I. A person alleging a violation of this chapter may bring a civil action for appropriate
5 injunctive relief, damages, or both. Damages awarded under this section may include one of the
6 following, as appropriate:

7 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
8 violation of this chapter; or

9 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

10 II. A court, in rendering a judgment in the action brought under this chapter, may award all
11 or a portion of the costs of litigation, including reasonable attorneys and witness fees, to the
12 complainant in the action if the court determines that the award is appropriate.

13 2 Effective Date. This act shall take effect January 1, 2023.

The signatures below attest to the authenticity of this Report on SB 302-FN, establishing the
personal privacy protection act.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Carson, Dist. 14

Rep. Gordon, Graf. 9

Sen. French, Dist. 7

Rep. McLean, Hills. 44

Sen. Gannon, Dist. 23

Rep. Wuelper, Straf. 3

Rep. Sylvia, Belk. 6

June 15, 2022
2022-2124-EBA
08/05

Enrolled Bill Amendment to SB 302-FN

The Committee on Enrolled Bills to which was referred SB 302-FN

AN ACT establishing the personal privacy protection act.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 302-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 302-FN

Amend RSA 91-C:1, II(b) as inserted by section 1 of the bill by replacing line 5 with the following:

the public agency or public body;

Amend RSA 91-C:1, II(c) as inserted by section 1 of the bill by replacing line 3 with the following:

501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support; or

Senate Inventory Checklist for Archives

Bill Number: SB302

Senate Committee: Judiciary

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 # 0650s - amendment # 0621s

- amendment # 0792s _____ - 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): 2036 c

Enrolled Bill Amendment(s) 2124 E

_____ 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:

Jennifer Hong
Committee Aide

8/12/22
Date

Senate Clerk's Office *AK*