

LEGISLATIVE COMMITTEE MINUTES

SB375

Bill as
Introduced

SB 375-FN - AS INTRODUCED

2022 SESSION

22-2977

07/11

SENATE BILL **375-FN**

AN ACT relative to requirements for charitable organizations.

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

COMMITTEE: Judiciary

ANALYSIS

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

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to requirements for charitable organizations.

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

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

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

5 7:29-a Charity Protection Act.

6 I. Except where specifically required or authorized by federal law, no state agency or state
7 official shall impose any annual filing or reporting requirements on an organization regulated or
8 specifically exempted from regulation in RSA 7:19 through RSA 7:32-1 that are more stringent,
9 restrictive, or expansive than the requirements authorized by New Hampshire law.

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

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

14 3 Effective Date. This act shall take effect 60 days after its passage.

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

AN ACT relative to requirements for charitable organizations.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
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 New Hampshire state agencies and officials from imposing filing or reporting requirements that are more stringent than those established in RSA 7:19 through RSA 7:32-1.

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

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

AGENCIES CONTACTED:

Department of Justice

SB 375-FN - AS AMENDED BY THE SENATE

02/24/2022 0672s

2022 SESSION

22-2977

07/11

SENATE BILL **375-FN**

AN ACT relative to requirements for charitable organizations.

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

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

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

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

.....

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to requirements for charitable organizations.

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

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

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

5 7:29-a Charity Protection Act.

6 I. Except where specifically required or authorized by federal law, no state agency or state
7 official shall impose any annual filing or reporting requirements on an organization regulated or
8 specifically exempted from regulation in RSA 7:19 through RSA 7:32-1 that are more stringent,
9 restrictive, or expansive than the requirements authorized by New Hampshire law.

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

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

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

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

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

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

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

AN ACT relative to requirements for charitable organizations.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
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 New Hampshire state agencies and officials from imposing filing or reporting requirements that are more stringent than those established in RSA 7:19 through RSA 7:32-1.

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

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

AGENCIES CONTACTED:

Department of Justice

CHAPTER 173
SB 375-FN - FINAL VERSION

02/24/2022 0672s

2022 SESSION

22-2977
07/11

SENATE BILL **375-FN**

AN ACT relative to requirements for charitable organizations.

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

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

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

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

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

CHAPTER 173
SB 375-FN - FINAL VERSION

02/24/2022 0672s

22-2977
07/11

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to requirements for charitable organizations.

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

1 173:1 Purpose. The purpose of this act is to minimize the burdens on the charitable sector and
2 create a grant-making environment centered on effectiveness and impact.

3 173:2 New Section; Charity Protection Act. Amend RSA 7 by inserting after section 29 the
4 following new section:

5 7:29-a Charity Protection Act.

6 I. Except where specifically required or authorized by federal law, no state agency or state
7 official shall impose any annual filing or reporting requirements on an organization regulated or
8 specifically exempted from regulation in RSA 7:19 through RSA 7:32-1 that are more stringent,
9 restrictive, or expansive than the requirements authorized by New Hampshire law.

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

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

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

17 173:3 Reports by Trustees of Charitable Trusts; Threshold for Submitting Audited Financial
18 Statements. Amend RSA 7:28, III-b to read as follows:

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

23 173:4 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 07, 2022
Effective Date: August 06, 2022

Amendments

Sen. Kahn, Dist 10
Sen. Gannon, Dist 23
January 18, 2022
2022-0138s
07/10

Amendment to SB 375-FN

1 Amend the bill by replacing all after section 2 with the following:

2

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

5 III-b. Any charitable organization with revenue, gains, and other support of [~~\$1,000,000~~
6 **\$2,000,000** or more that is required to file an Internal Revenue Service Form 990 with the attorney
7 general shall also submit the organization's latest audited financial statement prepared in
8 accordance with generally accepted accounting principles.

9 4 Effective Date. This act shall take effect 60 days after its passage.

UNAPPROVED

2022-0138s

AMENDED ANALYSIS

This bill:

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

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

UNAPPROVED

Sen. Carson, Dist 14
February 10, 2022
2022-0644s
07/08

Amendment to SB 375-FN

1 Amend RSA 7:29-a as inserted by section 2 of the bill by inserting after paragraph III the following
2 new paragraph:

3

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

UNAPPROVED

Amendment to SB 375-FN

1 Amend RSA 7:29-a as inserted by section 2 of the bill by inserting after paragraph III the following
2 new paragraph:

3

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

7

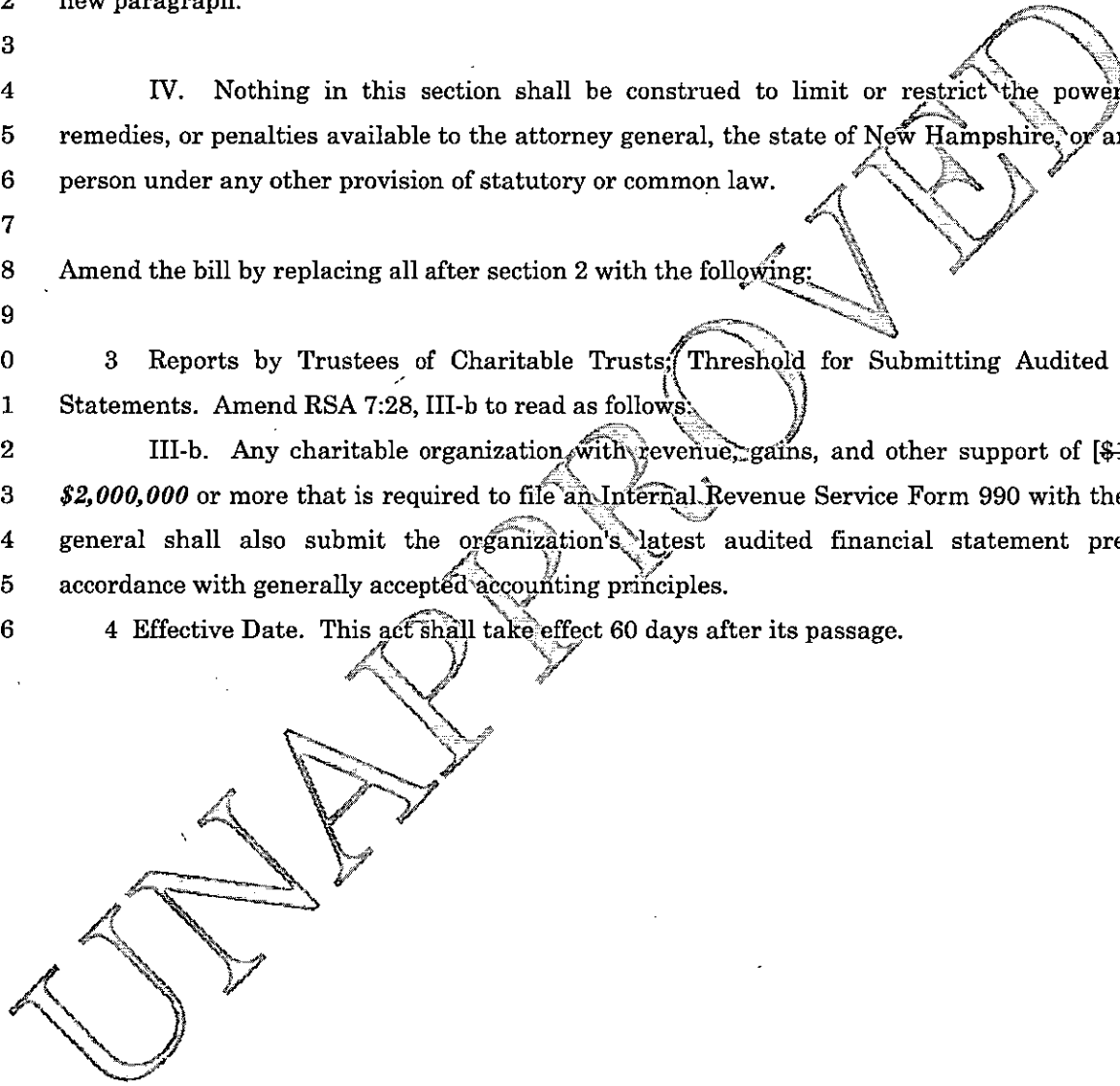
8 Amend the bill by replacing all after section 2 with the following:

9

10 3 Reports by Trustees of Charitable Trusts; Threshold for Submitting Audited Financial
11 Statements. Amend RSA 7:28, III-b to read as follows:

12 III-b. Any charitable organization with revenue, gains, and other support of [~~\$1,000,000~~
13 **\$2,000,000** or more that is required to file an Internal Revenue Service Form 990 with the attorney
14 general shall also submit the organization's latest audited financial statement prepared in
15 accordance with generally accepted accounting principles.

16 4 Effective Date. This act shall take effect 60 days after its passage.



2022-0672s

AMENDED ANALYSIS

This bill:

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

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

UNAPPROVED

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

	Wednesday	01/12/2022
	(Day)	(Date)
Judiciary		State House 100
(Name of Committee)		(Place)
		1:00 p.m.
1:00 p.m. SB 303-FN	relative to reimbursement of sheriffs offices for prisoner custody and control.	
1:15 p.m. SB 375-FN	relative to requirements for charitable organizations.	
1:30 p.m. SB 301-FN-LOCAL	relative to the procedure for violations under the right to know law.	
1:45 p.m. SB 304	relative to discrimination in public workplaces and education.	
2:00 p.m. SB 299-FN	relative to the penalty for escape.	

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 303-FN

Sen. Hennessey
 Sen. D'Allesandro

Sen. Whitley
 Rep. Trottier

Sen. Bradley

Sen. French

SB 375-FN

Sen. Gannon
 Sen. Daniels
 Rep. Potucek

Sen. Hennessey
 Sen. Giuda

Sen. Perkins Kwoka
 Rep. Espitia

Sen. French
 Rep. Alexander Jr.

SB 301-FN-LOCAL

Sen. French

Sen. Avard

Sen. Gannon

SB 304

Sen. Kahn
 Sen. Prentiss
 Sen. Cavanaugh

Sen. Whitley
 Sen. Rosenwald
 Sen. Soucy

Sen. Sherman
 Sen. Perkins Kwoka

Sen. Watters
 Sen. D'Allesandro

SB 299-FN

Sen. Carson

Sen. D'Allesandro

Sen. Prentiss

Jennifer Horgan 271-7875

Sharon M Carson
 Chairman

Senate Judiciary Committee
Jennifer Horgan 271-7875

SB 375-FN, relative to requirements for charitable organizations.

Hearing Date: January 12, 2022

Time Opened: 1:15 p.m.

Time Closed: 1:46 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 New Hampshire state agencies and officials from imposing filing or reporting requirements that are more stringent than those established in RSA 7:19 through RSA 7:32-l.

Sponsors:

Sen. Gannon

Sen. Hennessey

Sen. Perkins Kwoka

Sen. French

Sen. Daniels

Sen. Giuda

Rep. Espitia

Rep. Alexander Jr.

Rep. Potucek

Who supports the bill: Senator Gannon; Senator Perkins Kwoka; Senator Giuda; Senator Daniels; Senator French; Senator Hennessey; Elizabeth McGuigan, Philanthropy Roundtable

Who opposes the bill: Tom Donovan, NH AG; Diane Quinlan, DOJ; Kathleen Reardon, NH Center for Nonprofits; Patrick Carr

Summary of testimony presented in support:

Senator Gannon

- This is the Charity Protection Act, and it is prohibiting a state agency or government officer from imposing onerous filing fees or ones that are more stringent than state or federal law.
- Does not want charities to be overburdened when they are already providing the required information.
- Across the country there have been examples of charities being overly burdened.
- This is necessary because you don't want to need it, but if you need it and don't have it, it is already too late.
- Willing to work with the Charitable Trusts Unit to ensure they can do their job.
- There are already avenues for investigation for fraud and he does not want to prohibit that.

- Senator Kahn asked if he has any specifics about the additional burdens some of the charitable organizations face.
 - Will defer that to the Philanthropy Roundtable.
- Senator Kahn asked if Senator Gannon would believe that some of his constituents feel that some of the financial audits required of smaller charities are a burdensome requirement for them.
 - He said he can see that. The burden on smaller charities is obviously going to have a much higher affect than on larger charities.

Elizabeth McGuigan (Philanthropy Roundtable)

- This bill allows philanthropic organizations to fulfill their missions without the fear of future government overreach.
- This bill requires any new requirements on 501(c)(3)s to be deliberated and approved by the legislature.
- This protects private foundations and charitable organizations and ensures the Department of Justice still maintains full authority over regulations for charities.
- This is a commonsense reform that honors the transparency of the legislative process.
- This bill allows charities to focus on their missions rather than on increased government mandates.
- They are open to an amendment to address the concerns of the DOJ; wants to ensure the DOJ has the full authority to do the work that they do with a narrow tailoring of language.
- This bill does not apply to what is already authorized under NH statute and does not limit communications or investigations.
- The bill explicitly limits annual filing and reporting requirements and exempts investigations of fraud and enforcement.
- This change is for if a future regulator were to overstep current authorizations without going through the legislative process.
- This is a proactive, protective bill that sends a message to charities that NH will not overreach.
- If overreach becomes a problem in NH, it will be too late to address through proactive legislation.
- Nationwide charitable organizations are faced with calls to disclose more information that does not improve organizational effectiveness.

Summary of testimony presented in opposition:

Tom Donovan and Diane Quinlan (Charitable Trusts Unit) (provided written testimony)

- This bill is focused on the Charitable Trusts Unit, and it talks about no reporting requirements unless they are set forth in statute.

- The Unit's fees are set in statute, and they have not been raised since the 1990s.
- The unit is self-funded.
- This bill does not prevent them from doing fraud investigations or enforcement actions.
- There are things the Unit does that fall short of that, which involve regulation of charities.
- NH was the first state to start this kind of unit in 1943.
- The Attorney General has always had oversight authority over charities.
- Just because something isn't specifically stated in RSA7 does not mean it is something the Attorney General should not have oversight over in respect to a charity.
- For example, towns hold charitable funds and file not with the Unit but with the DRA.
- Sometimes the Unit hears about improper spending or investing of those trust funds by the town and the Unit may require the towns to report about that.
- They do not want to cause expense by opening a formal investigation.
- This falls under the Unit's common law authority.
- Churches are exempt from reporting, but if Mr. Smith left money for flowers and the church wants to use it for a new furnace, the Unit is the one that enforces that, and they will require some reporting.
- Their fear is that under this bill, the Unit is going to be so pigeonholed that donors that left money for specific purposes are not going to have those purposes fulfilled.
- If we want to encourage charitable giving, part of that is ensuring the confidence that 50-100 years from now the Attorney General will be there to ensure the proper use of that purpose.
- The statute already ensures that the charities are not burdened by the required reporting.
- RSA 7:28, III already provides that annual reports shall not unreasonably add to the expense of the administration of charitable trusts.
- State law already allows the Attorney General to suspend the reporting requirement for particular charitable trusts when it becomes a financial burden. This has been done several times.
- The filing requirements do not impose burdens on charities.
- The most significant portion of the reporting is the financial report, and all the Unit asks for is a copy of the 990 form already being submitted federally.
- For smaller charities that do not file 990s, the Unit has developed a very simple financial form that is significantly easier than anything they would file with the IRS.
- Last year they revised filing forms with input from the charitable sector to simplify the forms and clarify the process.
- The Unit has received many compliments in the last year from multi-state filers regarding how easy it is to file in NH.

- The bill does say this will not prohibit the Attorney General from adopting rules regarding charitable trusts, but rules and regulations cannot possibly address all the circumstances the Unit requires information from charitable organizations to do the Unit's work.
- Senator Whitley explained how in Hopkinton a building was given to the town long ago for a certain purpose, the purpose of the building has changed, but when the town tried to sell the building there was an outcry from citizens. She believes the Unit did provide guidance in that situation. She asked if this bill passed would the Unit not have been able to do that.
 - Director Donovan answered that was correct; the Unit could only bring an enforcement action after the fact.
- Senator Whitley asked if the Unit had not been able to intervene would the situation have likely resulted in costly litigation.
 - They know that problems involving donor properties with restrictions on them exist in many towns. Unless issues are dealt with early, the property would get sold, people would get sued, and it would get very expensive.
- Senator Gannon asked if the flower example would be a fraud investigation.
 - Asst. Director Quinlan answered that the Unit would not want to get to the point of an investigation. Currently, the Unit would contact the church in that situation and talk to them about their responsibilities to comply with the donor's wishes to the extent that they can. They would work with them to petition the court for cy-près. They would not want to get to the point of enforcement action because it is very expensive for the charitable organization.
- Senator Kahn asked if they would consider working on this bill to make it more customized.
 - Director Donovan answered that the Unit is always willing to have a conversation.

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

- They have concerns about hampering reasonable regulation and transparency of nonprofits.
- They do not think this bill is needed.
- The Unit has a long history of reasonable restraint in appropriate filing requirements.
- The Unit has never required donor lists or schedule b information.
- The annual reports are easily available online and it is reasonable.
- This reporting does not create an unreasonable burden on nonprofits.
- The charitable sector does want its privacy but understands the need for public trust and accountability that these annual reports provide.
- NH relies on the charitable sector to manage their finances well, have transparency, and to avoid self-dealing, and the annual report is a part of that.

- Senator Kahn asked if she would support a more targeted approach with this bill.
 - She would look at it but would have to know what that looked like.
- Senator Kahn asked about limiting the audits for charitable organizations to revenues less than \$2million.
 - She thinks the organization is interested in maintaining that balance right now. While there may be changes over time to some organizations in terms of size, the issues with this bill are much more expansive. There is a balance to that transparency and accountability.

Neutral Information Presented:

None

jch

Date Hearing Report completed: January 14, 2022

Speakers

Senate Judiciary Committee

SIGN-IN SHEET

Date: 01/12/2022 Time: 1:15 p.m.

SB 375-FN AN ACT relative to requirements for charitable organizations.

Name/Representing (please print neatly)

	Support	Oppose	Speaking?	Yes	No
Tom Donoran ^{Director of Charitable Trusts} NHAO	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Diane Quinlan, Assistant Director of Charitable Trusts, DOJ	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kathleen Reardon	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Elizabeth McGuigan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen Gannon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>

Senate Remote Testify

Judiciary Committee Testify List for Bill SB375 on 2022-01-12

Support: 5 Oppose: 1

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Carr, Patrick	A Member of the Public	Myself	Oppose
Perkins Kwoka, Senator Rebecca	An Elected Official	Myself	Support
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
Hennessey, Sen. Erin	An Elected Official	Myself	Support

Testimony

FACT SHEET ON SB 375 ATTORNEY GENERAL'S CHARITABLE TRUSTS UNIT

Background

The Attorney General is charged with protecting the public's interest in charitable organizations and assets devoted to charitable purposes in our state. The Attorney General's authority related to the oversight of charitable trusts is derived from English common law—when Queen Elizabeth I adopted the Statute of Charitable Uses in 1601. In 1943, the New Hampshire Legislature codified the Attorney General's authority in statutes, and 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-l.*

The Attorney General's authority under state law was intended to be broad. RSA 7:19 provides, in pertinent part:

...the attorney general shall have and exercise, in addition to all the common law and statutory rights, duties and powers of the attorney general in connection with the supervision, administration and enforcement of charitable trusts, charitable solicitations, and charitable sales promotions, the rights, duties and powers set forth in RSA 7:19 through 32-a inclusive.

As part of our responsibility, the Charitable Trusts Unit oversees the 11,000 charitable trusts and organizations registered with our office, including 6,400 charitable trusts and organizations that are based in New Hampshire. We view education as important as enforcement. We frequently 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*.

In accordance with statutory law, RSA 7:28, III, our office has developed annual reports designed to allow the attorney general to “ascertain whether [the charities] are being properly administered.” In the annual reports, we ask that charities submit to the Charitable Trusts Unit under oath a financial

report, a list of board members with their contact information, and a governance report listing conflict of interest transactions and the number of board meetings per year.

Occasionally, the annual report submitted to the Charitable Trusts Unit will lead to additional inquiries to determine the charity's compliance with New Hampshire law. For example, we might request copies of minutes of board meetings to substantiate that certain conflict of interest disclosures were made or documents to substantiate that any cash payments from the charity supported the charity's purpose.

Our goal is to bring well-meaning charities into compliance with New Hampshire law. We often say that we would prefer to educate than regulate.

SB 375

SB 375 states in part: "no state agency or state official shall impose any annual filing or reporting requirements on an organization regulated or specifically exempted from regulation in RSA 7:19 through RSA 7:32-1 that are more stringent, restrictive, or expansive than the requirements authorized by New Hampshire law."

This could limit the Charitable Trusts Unit's ability to conduct oversight that does not rise to the level of a "fraud investigation" or an "enforcement action." Some impacted areas include:

- Inquiry into whether there are sufficient unrelated board members;
- Participation in a *cy pres* court case to change the purpose of a donor restriction on a fund, where the restriction may be impossible or obsolete or illegal;
- Inquiry as to a church's use of donor restricted funds or a town's use or investment of donor restricted trust funds (neither is subject to RSA 7:19, *et seq.*);
- Oversight of the administration of an estate with substantial bequests to charities; and
- Review of amendments to donated conservation easements.

Our responsibilities to provide oversight and supervision of charitable trusts are broader than just conducting "fraud investigations." *See* RSA 7:19; 7:20 (providing that the Director of Charitable Trusts "shall have and exercise all

the common law and statutory rights, duties, and powers of the attorney general in connection with the supervision, administration, and enforcement of charitable trusts...”). In fact, RSA 7:24 allows the attorney general to investigate charities *at any time* “for the purpose of determining and ascertaining whether they are administered in accordance with law and with the terms and purposes thereof.”

Moreover, it is unclear how this bill would affect the Attorney General’s authority to regulate charitable organizations under common law.

The purpose of SB 375 purportedly is to minimize burdens on the charitable sector. However, our current statute states that the annual reports “shall not unreasonably add to the expense of the administration of charitable trusts” and allows the attorney general to suspend the filing of reports as to particular charitable trusts. RSA 7:28, III. Moreover, our online filing option has made it much easier for charities to comply with the annual reporting requirements. In fact, we frequently receive compliments from multi-state filers about how easy it is to file annual reports with our office.

Moreover, the bill is inconsistent with Attorney General’s broad oversight authority under common and statutory law. *See* RSA 7:19. We therefore urge the committee to report SB 375 as inexpedient to legislate.



Testimony of Kathleen Reardon
CEO, NH Center for Nonprofits
in OPPOSITION to
SB 375
before the Senate Judiciary Committee
January 12, 2022, 1:15 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 375.

As I noted when I testified before your Committee yesterday, we do have concerns about hampering reasonable transparency and accountability of the nonprofit sector. That is why the NH Center for Nonprofits is opposed to SB 375.

Proposal Not Needed

As this Committee heard yesterday, the Charitable Trusts Unit at the NH Department of Justice already demonstrates reasonable restraint. New Hampshire has never required the donor lists in Schedule B of the 990. Their annual reporting requirement is reasonable, available online, and does not create any burden on nonprofit leaders. SB 302 seems like a proposal in search of a problem that does not exist in the Granite State.

Balance Needed to Ensure Public Trust

The charitable sector values reasonable privacy, but it also values transparency and accountability. The New Hampshire public relies on nonprofits to not only provide many essential services, but the public also expects nonprofits to manage finances, engage in governance, avoid self-dealing, and remain politically nonpartisan. The current privacy-transparency balance in our State is reasonable and we do not see a need to change these requirements at this time.

Undermine Partnership and Collaboration

Not only has the pandemic era demonstrated the critical importance of the nonprofit sector, it has also underscored the value of partnership and collaborations between nonprofits, government and the private sector. We thank our state agencies for moving unprecedented federal resources to aid communities. We have collectively demonstrated flexibility, efficiency and effectiveness. We should not restrain our government agencies at this time as they do their part in making sure we are using these resources appropriately and protect the interests on the New Hampshire public.

Thank you again for the opportunity to testify. The NH Center for Nonprofits appreciate the Committee's work and we're available to provide insight and data from the nonprofit sector and work with you towards effective policy. We urge the Committee to recommend SB 375 *inexpedient to legislate* and I am happy to answer any questions.

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # 375

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: 0644s 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 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: 138 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 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"/>

OTPA French Gannon 4-1 Whitley

Reported out by: Gannon

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Thursday, February 10, 2022

THE COMMITTEE ON Judiciary

to which was referred SB 375-FN

AN ACT

relative to requirements for charitable
organizations.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-1

AMENDMENT # 2022-0672s

Senator Bill Gannon
For the Committee

Jennifer Horgan 271-7875

JUDICIARY

SB 375-FN, relative to requirements for charitable organizations.

Ought to Pass with Amendment, Vote 4-1.

Senator Bill Gannon for the committee.

SB375-FN

Bill Details

Title: relative to requirements for charitable organizations.

Sponsors: (Prime) Gannon (R), Erin Hennessey (R), Perkins Kwoka (D), French (R), Daniels (R), Giuda (R), Espitia (D), Alexander (R), Potucek (R)

LSR Number: **22-2977**

General Status: **SIGNED BY GOVERNOR**

Chapter Number: **173**

House:

Committee: Judiciary

Due Out: 4/28/2022

Status: PASSED/ADOPTED

Senate:

Committee: Judiciary

Floor Date: 2/24/2022

Status: PASSED/ADOPTED WITH AMENDMENT

Bill Docket

Body	Description
S	To Be Introduced 01/05/2022 and Referred to Judiciary: <u>SJ 1</u>
S	Hearing: 01/12/2022, Room 100, SH, 01:15 pm: <u>SC 50</u>
S	Committee Report: Ought to Pass with Amendment # 2022-0672s, 02/16/2022; <u>SC 7</u>
S	Special Order to the Next Session, Without Objection, MA; 02/16/2022; <u>SJ 3</u>
S	Committee Report: Ought to Pass with Amendment # 2022-0672s, 02/24/2022; <u>SC 8</u>
S	Committee Amendment # 2022-0672s, AA, VV; 02/24/2022; <u>SJ 4</u>
S	Ought to Pass with Amendment 2022-0672s, MA, VV; OT3rdg; 02/24/2022; <u>SJ 4</u>
H	Introduced 03/17/2022 and referred to Judiciary
H	Public Hearing: 04/07/2022 09:00 am LOB 206-208
H	Executive Session: 04/14/2022 09:00 am LOB 206-208
H	Committee Report: Ought to Pass <u>(Vote 21-0: CC)</u>
H	Ought to Pass: MA VV 05/04/2022 <u>HJ 11</u>
H	Enrolled (in recess of) 05/26/2022 <u>HJ 14</u>
S	Enrolled Adopted. VV, (In recess 05/26/2022); <u>SJ 13</u>
S	Signed by the Governor on 06/07/2022; Chapter 0173; Effective 08/06/2022

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB375

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 # 01385 - amendment # 06445

- amendment # 06725 - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

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

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

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

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

Enrolled Bill Amendment(s)

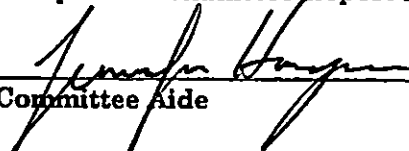
Governor's Veto Message

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

as amended by the senate as amended by the house

final version

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



Committee Aide

8/12/22

Date

Senate Clerk's Office AK