

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

Recommendation:

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

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

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

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

CHAPTER 91-C

PERSONAL PRIVACY PROTECTION ACT

91-C:1 Public Bodies Prohibited Disclosures.

I. Public agencies and public bodies shall not disclose or release 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 financial or nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code.

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

(a) Require any individual or entity exempt from federal income tax under section 501(c) of the Internal Revenue Code 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 financial or nonfinancial support, to 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 financial or nonfinancial support, to 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

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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.

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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

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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