FB4K
FREE BIKES 4 KIDZ
MARYLAND

5178 Downwest Ride
Columbia, MD 21044

2 February 2023

House Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

Greetings,

Attached please find our testimony in favor of HB0072 as amended.

Thank you for your time and attention,

Best regards,

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Candid.

Free Bike 4 Kidz Maryland is testifying in favor of HB0072, as amended with language provided by the Secretary of State's office, and is requesting one small additional amendment described below.

Free Bike 4 Kidz Maryland is an all-volunteer 501(c)(3) non-profit organization geared toward helping all children ride into a happier, healthier childhood by providing bicycles to those most in need. The public donates gently used bikes, we organize hundreds of volunteers to clean and refurbish them, and then in December we give them away with new helmets to children that are referred to us by schools, churches, nonprofit organizations, and government agencies. Since our establishment in 2019, we have given away more than 6100 bicycles—nearly 2800 of them last year alone.

We are writing to describe why recent changes to Generally Accepted Accounting Principles (GAAP), combined with existing Maryland regulations, put an undue burden on nonprofits like ours that collect, refurbish, and redistribute physical property such as food, furniture, sporting equipment, books, and computers to underserved communities. HB0072 as amended would reduce this burden.

Effective in 2021, Generally Accepted Accounting Practices were revised[1] to require that noncash contributions of physical property be more fully reported as revenue on financial statements. Further, the value of the property is now required to be determined by current prices for similar property on the open market. As a result, we do a market study every year to determine the average cost of used bikes for every size we collect, from tricycles to adult bikes needed by high school students. As bikes of different sizes are donated to us, we inventory them and count their value as revenue. When we give them away, we count the same value as an expense. This is driving our reported revenue and expenses up, as GAAP requires, to better reflect our financial impact on the community.

While the IRS does not require nonprofits to follow GAAP[2], we can all agree that these practices give everyone the most accurate information about the activities and efficiency of nonprofits, and it eases the enforcement burden on regulators to have nonprofits all following the same rules.

However, the changes to GAAP have now driven our gross revenue above the thresholds for required annual financial audits or reviews as defined by current Maryland statute, even though our cash receipts remain very much lower, and our noncash property contributions are passed on to our clients, not sold. We'd like to see the requirements for reviews and audits of nonprofits like ours be more focused on our cash budgets and less strongly driven by noncash donations that do not generate cash revenue.

For example, in calendar year 2022[3], we collected 3079 bikes valued at $291,000, and had other noncash contributions by helmet, tool, parts, and supplies vendors of over $50,000. We refurbished and gave away 95% of the bicycles we received, along with new helmets, for an average gift to a Maryland child in need of over $117. This was a significant impact, adding up to a benefit to the community of about $327,000 derived from cash revenue of just $53,000—of which $18,200 was spent on helmets.

Our problem is that Maryland requires an independent financial review when gross revenue exceeds $300,000, and an independent financial audit when gross revenue exceeds $750,000. Thus, given the revisions to accounting standards, our GAAP-compliant treatment of noncash property contributions will require us to conduct an independent financial review at the end of our fiscal year that will cost as much as $10,000 even though our FY 2023 cash receipts will be less than about $50,000. As we grow, the problem will continue, and in two years we may have gross revenue of over $750,000, requiring an independent financial audit costing as much as $20,000, even though our cash revenues then will likely still be less than $100,000.

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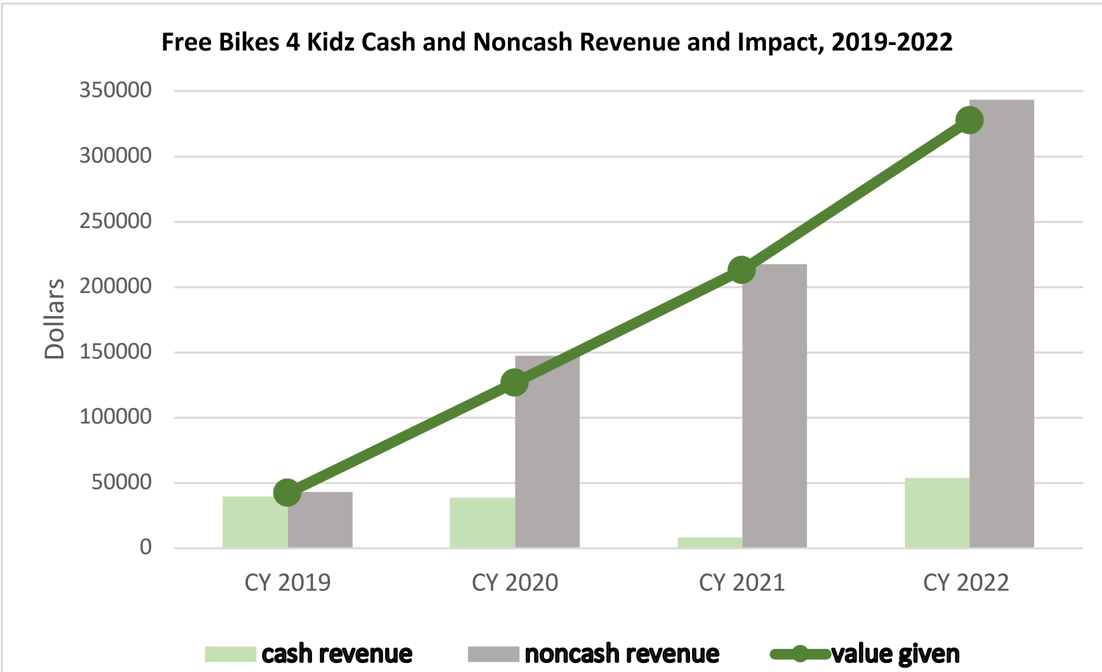
[1] FASB Accounting Standards Update (ASU) No. 2020-07, *Presentation and Disclosures by Not-for-Profit Entities for Contributed Nonfinancial Assets*.

[2] *From IRS 990 instructions: "The Financial Accounting Standards Board (FASB) Accounting Standards Codification 958* ***(ASC 958)*** *provides standards for external financial statements certified by an independent accountant for certain types of nonprofit organizations…. While some states may require reporting according to ASC 958, the IRS doesn't. However, a Form 990 return prepared according to ASC 958 will be acceptable to the IRS."*

[3] Our nonprofit uses a July-June fiscal year, so the calendar year numbers above are interpolated.

For comparison, we could use the $10,000 we might need to spend on a financial review to buy and give away 1100 new Bell bicycle helmets, or to pay the incremental expenses to refurbish and give away an additional 1500 bicycles.



Maryland's current thresholds for financial review of $300,000, and for an audit of $750,000, appropriately balance the cost of these assessments with the benefits to the public of ensuring that a nonprofit is properly managing its funds. But they were established in an accounting environment in which noncash contributions were often ignored unless sold. We think that there is minimal benefit to the public of an audit requirement that consumes 20% of the cash budget of a nonprofit that has cash revenues that are in turn only 20% of the revenue threshold for the audit requirement, especially when the remaining 80% of the revenue consists of property that will be given away in underserved communities.

We'd have no problem complying with review and audit requirements if our *cash* budget was close to those thresholds—for example if we sold contributed property to raise funds for our work—but given that our actual cash budget is less than 15% of our total revenue according to GAAP, we think the current regulations need to be changed.

This issue currently only affects a small number of Maryland charities—those that already adhere to the revised GAAP standards, that efficiently redistribute physical property without charge, and that are small enough that they do not have cash budgets that already meet audit requirements. If we wish to encourage nonprofits to adopt the revised GAAP standards, we need to ensure that they are not encumbered by disproportionate regulatory costs. This bill is well-targeted toward protecting smaller nonprofits that have large impacts through the redistribution of property.

The Secretary of State's office has provided language for the amendment to HB0027 that indicates general agreement that the issue described above should be addressed. They provided language that requires nonprofits that exclude noncash property contributions from audit thresholds to meet rigorous requirements, including that the nonprofits are in good standing, do not employ fund raising professionals, practice Generally Accepted Accounting Principles, have independent and well-trained governing bodies, and distribute the excluded contributions without charge to Maryland residents.

We can support these limitations. The cash and noncash revenue and distribution numbers are easily verified by state regulators—they are in Part VIII and Part IX of the IRS 990 form that we are required to submit with our annual renewal, with details provided in Schedules I and M. We anticipate that the effort to review submissions by nonprofits using the provisions in this legislation would be less than that required to review the financial reviews or audits that would otherwise have to be submitted.

However, we respectfully request that the legislation be further amended to change the amendment language in 6-402 (e)(4) that limits this exclusion to nonprofits that have more than 90% of their gross revenue in noncash property contributions. Nonprofits that collect and redistribute property need cash contributions to cover the costs of transportation, cleaning, storage, sorting, repair, and refurbishing of donated property. These cash requirements typically exceed 10% of the value of the property collected, and additional expenses unique to the donation of property may also be required. For example, Free Bikes 4 Kidz buys a new helmet for every bike we give away; that cash cost alone amounts to about 10% of the value of the contributed bicycle.

The amendment language is especially limiting to smaller nonprofits: For example, an organization with $250,000 of donated property and cash expenses of just $28,000 would nevertheless be required to conduct a financial review costing $5,000 or more.

We request that the 10% limitation on the use of cash revenue be raised to 25%, which is still stringent—it would require the nonprofit in our example above to limit their cash budget to $69,500 or be required the need for a financial review.

The second issue addressed by both HB0072 in the amendment language provided by the Secretary of State's office is that Maryland statutes currently include the donation of the use of services, materials, equipment, and facilities in the definition of charitable contributions, while the IRS does not[4]. Nevertheless, Maryland's longstanding practice with respect to financial reviews and audits has been to follow the IRS rules, and HB0072 as amended finally changes the Maryland's legal definition of revenue to be consistent with this practice. We support this change for the sake of consistency and ease of reporting.

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[4] GAAP, unlike longstanding IRS practice, also now requires reporting the donated use of space and services as noncash income, but, like noncash contributions of property, accountants and auditors can easily exclude this income from IRS and Maryland reporting.

In conclusion, we'd like the statutes to officially recognize the current practice of excluding the same types of noncash contributions from revenue that are already excluded by the IRS. We'd like to continue to adhere to GAAP and reflect the true value of the noncash contributions we receive and give away. We'd like to give away every refurbishable bike we receive, rather than sell some to help pay for financial reviews and audits. We'd like to spend more time fixing bikes for children in need and less time fundraising. For all of these reasons, we support HB0072 as amended, especially if the legislation is amended as we request to incorporate more reasonable proportions of cash to noncash donations.