



**Statement by Gilles Bissonnette, Legal Director of the ACLU-NH
Senate Judiciary Committee
Support for OTP Recommendation on House Bill 1002
April 9, 2024**

We submit this statement on behalf of the American Civil Liberties Union of New Hampshire (ACLU-NH)—a non-profit organization working to protect civil liberties throughout New Hampshire for over fifty years—as well as the N.H. Press Association, New England First Amendment Coalition, Union Leader Corporation, and N.H. Bulletin. On behalf of these organizations, we wish to convey our support for an “ought to pass” recommendation on HB1002, relative to fees for records under the Right-to-Know Law.

After a productive March 13, 2024 meeting and extensive conversations and legal research, three stakeholders (the ACLU-NH, Right-to-Know New Hampshire, and the NH Press Association) and the bill’s legislative supporters reached a consensus on carefully-worded language with respect to certain costs under the Right-to-Know Law. That agreement is reflected in the version of HB1002 that passed the House on March 21, 2024.

The ACLU-NH, NH Press Association, New England First Amendment Coalition, Union Leader Corporation, and N.H. Bulletin encourage members of this Committee to support HB1002. We believe that the compromise reflected in HB1002 effectively addresses the concerns raised by proponents concerning overbroad email requests while not undermining transparency and accountability. We are especially thankful that the bill’s proponents were willing to (i) limit the bill’s impact to “electronic communications in excess of 250 communications,” (ii) create an indigency exemption that some states with labor fees have adopted¹, and (iii) include a public interest exemption like the federal FOIA that explicitly includes media requesters (though others are not barred from obtaining a public interest exemption if they meet the relevant criteria that is similar to the federal FOIA).²

For these reasons, we support this Committee voting HB1002 “ought to pass.”

¹ See also, e.g., Conn. Gen. Stat. 1-212(d)(1) (Connecticut law stating, in part, that “[t]he public agency shall waive any fee provided for in this section when: . . . (1) The person requesting the records is an indigent individual”).

² For example, under the analogous federal Freedom of Information Act, fee waivers can be granted when “a requester can show that the disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester.” See <https://www.foia.gov/faq.html#:~:text=Under%20the%20FOIA%2C%20fee%20waivers.is%20not%20primarily%20in%20the>; 5 U.S.C. § 552(a)(4)(A)(iii); see also Conn. Gen. Stat. 1-212(d)(3) (Connecticut law stating, in part, that “[t]he public agency shall waive any fee provided for in this section when: . . . (3) In its judgment, compliance with the applicant’s request benefits the general welfare.”).