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Honorable David Cote  
Chairman House Judiciary Committee  
96 West Hollis Street  
Nashua, NH 03060-3146

RE HB 53 relative to the definition of "public body" under the right to know law.

Dear Chairman Cote and Members of the Committee:

I represent the Professional Firefighters of New Hampshire (PFFNH) and, along with the State Employees Association and many others, we appeared at the hearing yesterday in opposition to HB53. As you know, our right to know law implements a Constitutional guarantee of open government. The preamble to RSA 91-A captures the importance of this freedom : "Openness in the conduct of public business is essential to a democratic society".

We believe HB 53 would move RSA 91-A in the wrong direction by limiting its scope and applicability to quasi-governmental agencies.

The purpose of this letter is to follow up on a question raised at the hearing regarding whether the removal of the words "agency" and "authority" from the definition of "public body" would exempt certain entities now covered under 91-A.

I represent the PFFNH in litigation with the Local Government Center(LGC) over whether 91-A covers their various operations. As noted at the hearing, just this week we received a favorable ruling from Merrimack County Superior Court stating the all of the

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entities of the LGC are indeed subject to the right to know law. This litigation began in 2003 when the PFFNH won a case in Rockingham County which established that HealthTrust Inc. (LGC's health insurance entity) was subject to 91-A. Importantly, in that case, the Court relied significantly on the current definition of Public Body and the phrase "agency or authority" of government. The Court concluded that HealthTrust was covered by 91-A because "it acts as an arm or authority of government". I enclose a copy of the 2003 decision for your review.-

Thus, even though HB53 was introduced as a bill to clean up the statute's "grammar", this bill is far from a mere housekeeping initiative. If passed the bill may have the effect of exempting many quasi governmental agencies from the right to know law and overturning well reasoned court opinions. We also echo Claire Ebel's sentiment that the right to know law is not broken in this regard and this so called fix is unnecessary.

Thank you for your consideration and I would be happy to offer the Committee any further information.

Respectfully,



Glenn R. Milner

Cc: Members, House Judiciary Committee  
David Lang, President, Professional Firefighters of New Hampshire