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New England First Amendment Coalition

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YEARS
2006 – 2026

*The region's leading
defender of First Amendment
freedoms and government
transparency — the foundation
of a healthy democracy.*

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*SUBMITTED VIA EMAIL TO:
SPECIALJOINTCOMMITTEEONINITIATIVEPETITIONS@MALEGISLATURE.GOV*

Special Committee on Initiative Petitions
24 Beacon Street, Room 235
Boston, MA 02133
Attn: Chairs Cindy F. Friedman and Alice Hanlon Peisch

March 7, 2026

RE: H.5004 — An Act to Improve Access to Public Records

Dear Chairs Friedman and Peisch,

I'm writing on behalf of the New England First Amendment Coalition. NEFAC is the region's leading advocate for First Amendment freedoms and the public's right to know about government. The coalition is a non-partisan and non-profit organization that believes in the power of community engagement in a democratic society. Its Board of Directors and Advisors include many of the state's top media attorneys, journalists and fellow open government advocates.¹

Since its founding 20 years ago, NEFAC has helped lead the way for public records reform in the Commonwealth. Despite improvements made to the statute in 2016, the public's ability to learn about its government and hold its leaders accountable is still inhibited by major omissions in the law: the governor's office, the judiciary and the legislature all continue to be exempt or claim exemption from the statute.

No matter how strongly the public records statute may be written, it only covers a small fraction of the documents produced by state government. It's an embarrassment that Massachusetts — whose own constitution explicitly requires government accountability to the people — is the only state in the country where the public lacks a right to these bodies of records. Focusing on just the governor's office and legislature as H.5004 does, Massachusetts is joined by only Michigan.² To put it simply, we are an outlier.

As we explained to the Special Legislative Commission on Public Records in 2018, the benefit of transparency isn't just to root out corruption and expose the misdeeds of public officials. It's also to assure residents that their system of government is working as intended and that their leaders are honest, competent individuals serving the public's interest. Public record laws exist to give us the information we need to confirm these assumptions and dispel any suspicion otherwise. With this transparency — and only with this transparency — can there be the trust needed between the people of Massachusetts and the government that serves them.

Unfortunately, the 2018 commission disbanded without making any recommendations on how to reform our law³ and legislators have since shown little interest in making transparency a priority.⁴ H. 5004 is another opportunity to change course and give public records law reform the attention it deserves. Here are several examples of how secrecy currently prevails in state government and what is at stake.

Legislature

At the time of our testimony eight years ago, allegations of sexual misconduct were forcing a change of state Senate leadership. The Associated Press filed public record requests that year looking for answers to several questions many in the Commonwealth were asking, such as how many sexual harassment complaints were lodged against legislators over the past decade and whether any financial settlements were reached with accusers.⁵

Exempted from the state's public records law, however, the Senate provided few answers. Wrote Bob Salsberg of The Associated Press: "The Legislature's longstanding exemption from the state's public records law and frequent use of non-disclosure agreements make fully assessing the scope of the sexual harassment problem on Beacon Hill virtually impossible."

Without the opportunity to fully understand the scope of the problem, Massachusetts residents were left seeking information and accountability. Similar scenarios would not occur if the Legislature were subject to the state's public records statute and constituents could access information now being kept secret. A common argument against this change is that legislators would not be able to speak candidly with their constituents if their emails were subject to disclosure. H. 5004, however, provides a carveout for those communications and there already exist exemptions in the law to protect privacy interests.

Governor's Office

In 2023, WBUR requested copies of sexual harassment complaints filed with the governor's office during the previous five years.⁶ The newsroom also asked for settlement or severance agreements involving members of the office signed during that same time period. Gov. Maura Healey denied the request claiming exemption from the state's public records law. The Healey Administration the following year kept secret contracts with hotels being used to help with the state's homeless crisis.⁷ In one instance, the state agreed to spend \$16.3 million with a hotel to rent rooms to homeless families. The name of the hotel receiving those millions was not released.

Despite promises to abide by the public records law, Gov. Healey is following a long line of predecessors who cite *Lambert v. Executive Director of the Judicial Nominating Council* to justify such secrecy. The case revolves around one narrow issue unrelated to the documents requested, but former Governors Charlie Baker, Deval Patrick, Mitt Romney and Paul Cellucci all nonetheless have used *Lambert* as an excuse to withhold records.⁸

H. 5004 would end this practice.

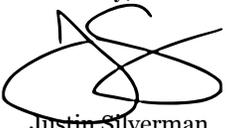
Giving a governor broad power to withhold information from the public is a dangerous proposition, as those in Michigan now realize. Like Massachusetts, Michigan is among the few states where the governor is exempt or claims to be exempt from the public records law. After more than 100,000 residents were first exposed to lead water in Flint, Michigan, the lack of transparency complicated efforts to determine how the crisis occurred and who to hold responsible. Meanwhile, governors who are subject to public record laws must provide a level of transparency that results in more accountability. It was only through a public record statute, for example, that reporters in Virginia uncovered more than \$177,000 in gifts and loans given to their then-governor in exchange for promoting a dietary supplement company.⁹

These examples aren't given to imply that improprieties like those in Virginia or a crisis like that in Michigan currently exist within our own state. But they do highlight what can occur without the transparency a strong public records law provides.

Members of this committee have an opportunity to change the culture of secrecy in the Commonwealth. We encourage you to provide strong leadership on this issue and to remember that government transparency is neither personal nor partisan. It's about showing Massachusetts residents that those in power today and tomorrow are serving the public interest through transparency and trust.

Thank you for your time and consideration.

Sincerely,



Justin Silverman
Executive Director

¹ Please visit nefac.org to learn more about the New England First Amendment Coalition and its leadership.

² "Michigan Still Shields Governor, Lawmakers From FOIA as High Fees Hinder Access," Lee Marentette, MLive, March 5, 2026 (<https://www.mlive.com/politics/2026/03/michigan-still-shields-governor-lawmakers-from-foia-as-high-fees-hinder-access.html>).

³ "State Lawmakers Fail to Reach Consensus on Whether to Expand Public Records Law," Todd Wallack, The Boston Globe, Jan. 10, 2019 (<https://www.bostonglobe.com/metro/2019/01/10/state-lawmakers-fail-reach-consensus-whether-expand-public-record-law/XvwfD04o2TtQ4HWqmxioBO/story.html>).

⁴ "We Aked Every Mass. Lawmaker Whether They Should Be Subject to the Public Records Law. Only a Handful Responded," Matt Stout and Anjali Huynh, The Boston Globe, March 17, 2025 (<https://www.bostonglobe.com/2025/03/17/metro/massachusetts-legislature-public-records-survey-exempt>).

⁵ “Legislature’s Records Exemption Shields Data on Misconduct,” Bob Salsberg, The Associated Press, April 11, 2018 (<https://www.telegram.com/story/news/politics/state/2018/04/11/massachusetts-legislatures-records-exemption-shields-data-on-misconduct/12725650007/>).

⁶ “Healey Won’t Release Sexual Harassment Complaints, Settlement Pacts From Past 5 years,” WBUR, Todd Wallack, March 9, 2023 (<https://www.wbur.org/news/2023/03/09/massachusetts-governor-healey-public-records>).

⁷ “Healey Administration Conceals Key Information About State Shelter System Even as It Triples Spending,” Stephanie Ebbert and Deirdre Fernandes, The Boston Globe, Aug. 13, 2024 (<https://www.bostonglobe.com/2024/08/13/metro/massachusetts-shelter-system-spending-transparency/>).

⁸ “Massachusetts Governor Charlie Baker is a Fast Learner,” Colman Herman, New England First Amendment Coalition, March 12, 2015 (<https://nefac.org/massachusetts-governor-charlie-baker-fast-learner/>).

⁹ “Mansion Spending Records Indicate Improper Billing By Virginia Governor and His Family,” Laura Vozzella, The Washington Post, June 16, 2023 (https://www.washingtonpost.com/local/va-politics/mansion-spending-records-indicate-improper-billing-by-virginia-governor-and-his-family/2013/06/16/6008bfdc-c240-11e2-8c3b-0b5e9247e8ca_story.html) and “Bob McDonnell Owes \$10 Million in Legal Fees,” Andrew Cain, Richmond Times-Dispatch, Sept. 9, 2016 (https://richmond.com/news/state-regional/government-politics/bob-mcdonnell-owes-million-in-legal-fees/article_bcfe6873-dd0f-535f-a2a1-927782b02659.html).