

Attachment A – Constitutional Grounds for Abatement

To: The Selectmen/Assessors, Town/City of _____, New Hampshire

Re: Abatement of Property Tax Pursuant to RSA 76:16

Filed by (Taxpayer): _____

Property Address / Map & Lot #: _____

I. Constitutional Injury

I seek abatement of the education portions of my 2025 property tax bill:

(A) Statewide Education Property Tax (SWEPT) on the grounds that this education portion of the property tax levied against the undersigned is unconstitutional, unlawful, and constitutes a taking without consent in violation of Part I, Articles 1, 2, 4, 8, 10, 12, 14, and 15 of the New Hampshire Constitution. The State of New Hampshire has usurped powers never granted by the people by assuming authority to define, fund, and administer “education” as a state function, contrary to the plain text, historical construction, and original intent of the New Hampshire Constitution.

and

(B) Local Education Tax, as unconstitutional takings without consent in violation of Part I, Articles 1, 2, 4, 8, 10, 12, 14, and 15 of the New Hampshire Constitution. The State has assumed authority to define, fund, and administer “education” and to compel local assessment and collection of education taxes without constitutional delegation by the people, resulting in duplicative and non-uniform burdens.

II. Separation of Levies (for Abatement and Record)

Pursuant to RSA 76:11-a, my tax bill itemizes rates for municipal, county, local education, and state education (SWEPT). I request the assessing officials (and, if appealed, the Court) treat the two education components as distinct levies for determination of abatement:

(A) SWEPT: \$ _____ (B) Local Education: \$ _____

III. Legal Grounds

A. Part I, Article 12 – Consent Required for Taxation.

“No part of a man’s property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people.” The “representative body” embodies sovereignty through qualified voters via

constitutional amendments, and taxing power is legitimate only through explicit grants therein. No such grant authorizes state-imposed education property taxes or state control over local education finance, violating consent and constituting unconsented takings (*Polonsky v. Town of Bedford*, 171 N.H. 89 (2018); *Opinion of the Justices*, 143 N.H. 429 (1999)).

B. 1968 Amendment (C.A. No. 2) – Removal of “Towns” Authorization from Part II, Article 6.

This amendment extinguished towns’ constitutional power to authorize or allocate taxes for local education without transferring it to the state or legislature, creating a deliberate vacuum where no body politic holds authority to levy such taxes (*Opinion of the Justices*, 123 N.H. 296 (1983)). Absent subsequent amendment, both SWEPT and local education taxes lack delegated authority and are void.

C. Judicial Usurpation (Claremont Line) and Ripe for Overturn.

Claremont School District v. Governor (138 N.H. 183 (1993); 142 N.H. 462 (1997)) fabricated a state taxing duty from Part II, Article 83’s “cherish” language, exceeding textual grants and constituting ultra vires acts void ab initio (*Ford v.*

Manchester Housing Authority, 105 N.H. 283 (1964)). Recent rulings in *Rand v. State* (rev'd in part, No. 2024-0121, N.H. Sup. Ct. June 10, 2025) and *Contoocook Valley School District v. State* (aff'd in part, No. 2024-0122, N.H. Sup. Ct. July 1, 2025) perpetuate this by upholding SWEPT despite trial findings of disproportionality and inadequacy, deferring remedies amid dissents exposing inequities.

Ongoing crises, including Claremont School District's 2025 deficit prompting legislative loans rather than fixes, and failed GOP challenges to court authority (Nov. 15, 2025), highlight unworkability.

Under *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), precedents departing from original meaning must be overturned; Claremont qualifies, as urged in 2024-2025 amicus briefs analogizing it to *Roe v. Wade*. NH precedents like *Petition of Kilton*, 175 N.H. 363 (2025), support reversal for erroneous, harmful decisions.

D. Standing.

Compelled payment of unconstitutional taxes inflicts concrete injury, conferring taxpayer standing where constitutional structure is impaired (*Baker v. Carr*, 369 U.S. 186 (1962)).

E. Federal Violations (Incorporated via 14th Amendment).

- 5th Amendment Takings Clause: Per se taking without compensation or public use, as ultra vires (*Lingle v. Chevron*, 544 U.S. 528 (2005); *Eastern Enterprises v. Apfel*, 524 U.S. 498 (1998)).
- 14th Amendment Due Process: Arbitrary deprivation shocking the conscience (*Rochin v. California*, 342 U.S. 165 (1952); *Armendariz v. Penman*, 75 F.3d 1311 (9th Cir. 1996)).
- 14th Amendment Equal Protection: Irrational cross-district subsidies (cf. *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973)).
- 1st Amendment (Free Exercise/Conscience): Compelled funding infringing objections (*West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943)).

F. Proportionality and Uniformity Violations Under Part II, Articles 5 and 6.

Absent amendment, taxes must be proportional and uniform (*Thompson v. Kidder*, 74 N.H. 89 (1906); *Sirrell v. State*, 146 N.H. 364 (2001)). SWEPT's geographic disparities and duplication for the same purpose (education) violate this, as affirmed in historical cases like *Morrison v. Manchester*, 58 N.H. 538 (1879). IV.

Statutory Basis Supporting Abatement (RSA 76)

- RSA 76:3 delegates unamended taxing power to the DRA Commissioner.
- RSA 76:8 compels collection without consent under Part I, Article 12.
- RSA 76:5 limits assessments to authorized or voted taxes; SWEPT lacks both.
- RSA 76:11-a enables targeted abatement of distinct levies.
- RSA 76:16/:17 provides relief for unlawful taxes.

V. Relief Requested

1. Abate in full the education portions in § II, (A) SWEPT and (B) Local Education, as unconstitutional under cited provisions.
2. If denied, certify questions for Superior Court petition under RSA 76:17 (and RSA 491:22 as needed), with appeals to NH Supreme Court and, if necessary, U.S. Supreme Court on federal grounds.

VI. Authorities

- Ford v. Manchester Housing Authority, 105 N.H. 283 (1964).
- Claremont School District v. Governor, 138 N.H. 183 (1993); 142 N.H. 462 (1997).

- Londonderry v. State, 154 N.H. 153 (2006).
- City of Dover v. State, No. 217-2016-CV-00409 (Tucker, J.).
- Contoocook Valley School District v. State, No. 217-2019-CV-00140 (Ruoff, J.); aff'd in part, No. 2024-0122 (N.H. Sup. Ct. July 1, 2025).
- Rand v. State, No. 218-2023-CV-00250 (Ruoff, J.); rev'd in part, No. 2024-0121 (N.H. Sup. Ct. June 10, 2025).
- Thompson v. Kidder, 74 N.H. 89 (1906).
- Sirrell v. State, 146 N.H. 364 (2001).
- Baker v. Carr, 369 U.S. 186 (1962).
- Dobbs v. Jackson Women's Health Organization, 597 U.S. 215 (2022).
- RSA 76:3, :5, :8, :11-a, :16–:17.
- Federal cases as listed in III.E.

VII. Declaration

I am a New Hampshire citizen. I do not consent to unconstitutional education taxation. I submit this request in good faith to vindicate constitutional rights.

Signature: _____ Date: _____

Print Name: _____ Phone/Email: _____

Mailing Address:
