

PRESS RELEASE: Taxpayer Plaintiffs Make Strong Case for Closing Unconstitutional SWEPT Loopholes

November 13: Today, the taxpayer plaintiffs in the *Rand* lawsuit made a strong case at the NH Supreme Court to close the two Statewide Education Property Tax (SWEPT) loopholes that give a handful of property owners in the State special treatment.

“Fair taxation to fund schools is one of the pillars of the *Claremont* decisions, and the plaintiffs stood firm on that principle during their arguments today,” said Zack Sheehan, NH School Funding Fairness Project Executive Director. “We cannot continue to allow these loopholes to provide a break to a small group of property owners and siphon funds away from the State when those funds could be sent to the districts that need them the most.”

The *Rand* lawsuit was filed in June 2022 by property tax payers from communities with low property values that are being negatively impacted by our current funding system. In regards to SWEPT, the taxpayer plaintiffs argue that municipalities around the state are unconstitutionally avoiding paying SWEPT by both retaining excess SWEPT revenues (amounts raised in excess of the State’s defined cost of an adequate education) to offset local tax rates, paying a lower effective rate on SWEPT as a result, or by setting negative local education property tax rates to offset the payment of SWEPT all together.

The Superior Court ruled in November 2023 that both practices are unconstitutional and must end. The State and the “Coalition Communities 2.0”, a group of 26 property wealthy municipalities that intervened in the case specifically regarding the SWEPT issue, appealed that ruling, and both argued today for these unconstitutional practices to continue.

Last year, based on NH Department of Education data, \$26.3 million of excess SWEPT revenue was retained by municipalities around the state, including some not represented by the Coalition Communities 2.0. There was also \$171.3 million of taxable property located in places with negative local education property tax rates. Property owners in these communities were able to offset any payment of SWEPT they would have otherwise made because of the negative local rate.

In its November 2023 decision, the Superior Court held that, “As the Supreme Court has repeatedly emphasized, the public education system benefits the entire State, not merely those communities in which publicly-educated children reside.”

“By arguing to prevent changes that would bring SWEPT in line with the New Hampshire Constitution, the State and the Coalition Communities are actively working against fair taxes and an adequate education for every child,” Sheehan said. “Meanwhile, the *Rand* plaintiffs stood in court today for all of the Granite Staters that are not benefiting from these unconstitutional practices. The law is clearly on the side of fairness, and I expect the Court will uphold the Superior Court’s decision to close these SWEPT loopholes.”