

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2024-121

Contoocook Valley School District, et. al.

v.

State of New Hampshire, et. al.

APPEAL PURSUANT TO SUPREME COURT RULE 7 FROM A
JUDGMENT OF THE ROCKINGHAM COUNTY SUPERIOR COURT

No. 213-2019-CV-00069

BRIEF OF AMICUS CURIAE
NEW HAMPSHIRE CHARITABLE FOUNDATION
IN SUPPORT OF APPELLEES

**Filed Pursuant to Sup. Ct. R. 30 with the Written Consent of All
Parties to the Case**

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STATEMENT OF INTEREST OF AMICUS CURIAE

The New Hampshire Charitable Foundation (“NHCF”) has a concrete interest in and has long sought to advance the quality of educational opportunities provided to all of New Hampshire’s children and youth. NHCF is New Hampshire’s statewide community foundation, a 501(c)(3) public charity, and a major source of philanthropic capital for our state. NHCF is dedicated to making New Hampshire a more just, sustainable, and vibrant community where everyone can thrive. From its inception, NHCF has supported public education as indispensable to developing healthy communities. NHCF believes that New Hampshire’s meaningful investments in public education will develop an educated citizenry, sustain our democracy, stimulate civic engagement, and grow our economy. When all students receive a quality public education, they can develop not just academically, but socially and civically, and they can grow the contemporary skills required to succeed in higher education and to enter the modern workforce.

NHCF is New Hampshire’s largest private source of scholarship assistance, dispensing in 2023 \$7.67 million in scholarship aid to 1,834 New Hampshire students. NHCF also distributes tens of millions annually in grants, awarding 5,991 grants totaling \$57.8 million in 2023. Hundreds of these grantees provide myriad educational opportunities, youth development, afterschool programs, enrichment activities, childcare, career pathways, and many other supports and services to help children, youth, and families thrive.

NHCF recognizes that quality educational opportunities are inextricably tied to the funding that undergirds them, and that New Hampshire’s approach to funding public schools has left many districts with insufficient resources. NHCF’s priorities for its own work thus include support for school funding fairness in K-12 public schools through grantmaking, partnerships, and public policy. Its strategic plan explains: “Our state’s economic inequity is keenly felt by children in struggling communities with underfunded school districts, where student outcomes are strongly correlated with poverty.” In recent decades, a number of NHCF grants have supported major community and state government-sponsored initiatives to study and strengthen the State’s public education system.

Through over six decades of grantmaking, scholarship work, civic leadership, and community engagement, NHCF understands from both statewide and local perspectives the critical role of public schools in helping our children thrive and in strengthening New Hampshire’s communities and economy. NHCF believes that we are all better off when every New Hampshire child is afforded access to an excellent public education that positions them to realize their full potential.

SUMMARY OF THE ARGUMENT

New Hampshire’s commitment to public education rests on the fundamental right held by every resident to receive an adequate education from the State. This Court should not revisit that fundamental right or the constitutional standards that have been established to give the fundamental right its very meaning. Viewed by the framers of New Hampshire’s Constitution as the “cornerstone of democracy” and “essential to the

preservation of a free government,” the right to an adequate education has been enshrined in the State Constitution as a right to be cherished and protected.

This fundamental right must ensure that New Hampshire schoolchildren receive public educational opportunities that allow them to develop academically, socially, and civically, as well as opportunities for success in higher education and our workforce. However, New Hampshire has fallen far short of providing all its public schools with the resources they need as they prepare students to become productive citizens. These shortcomings exist at a time when student needs could not be greater.

After considering evidence during a three-week trial, the trial court made a series of commonsense factual findings about the current inadequacies in costing and funding public education in New Hampshire. Those findings are well supported by the evidence and are entitled to deference on review. This Court should affirm the trial court’s determination that the current allocation of base aid of \$4,100 per pupil, pursuant to a per-pupil funding formula adopted by the Legislature, fails to meet the State’s constitutional duty to cherish education for all New Hampshire students.

ARGUMENT

I. THIS COURT SHOULD NOT REVISIT A WELL-ESTABLISHED, FUNDAMENTAL RIGHT VIEWED BY THE CONSTITUTION’S FRAMERS AS CRITICAL TO THE FUNCTIONING OF DEMOCRACY

The foundation of New Hampshire’s commitment to public education rests on the fundamental right held by every resident to receive

an adequate education from the State. This Court has time and again recognized the constitutional right to an adequate public education enshrined in part II, art. 83. *Claremont Sch. Dist. v. Governor*, 138 N.H. 183, 184 (1993) (“*Claremont P*”) (“We hold that part II, article 83 imposes a duty on the State to provide a constitutionally adequate education to every educable child in the public schools in New Hampshire and to guarantee adequate funding.”); see *Claremont Sch. Dist. v. Governor*, 142 N.H. 462, 476 (1997) (“*Claremont IP*”) (“[I]n order to deliver a constitutionally adequate public education to all children, comparable funding must be assured in order that every school district will have the funds necessary to provide such education.”); *Londonderry Sch.. Dist. SAU No. 12 v. State*, 154 N.H. 153, 160 (2006) (one of the four mandates that comprised State’s constitutional duty to provide an adequate education was to define “constitutionally adequate education”). The constitutional right derives from the so-called “Encouragement of Literature” provision in our State Constitution, which codified the political philosophy of the framers that an educated people is “‘essential to the preservation of a free government,’ and that ‘spreading the opportunities and advantages of education’ is a means to the end of preserving a free, democratic state.” *Claremont I*, 138 N.H. at 187 (quoting N.H. Const. part II, art. 83); see also *id.* (citing *McDuffy v. Secretary of the Executive Office of Educ.*, 415 Mass. 545, 561 (1993) (“Put otherwise, an educated people is viewed as essential to the preservation of the entire constitutional plan: a free, sovereign, constitutional democratic State.”)).

Our State Constitution provides:

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country

N.H. Const. Part II, art. 83 (emphasis added). The constitutional mandate that the legislature shall have the duty to “cherish” education is “not . . . merely a statement of aspiration,” and imposes on our legislature the onerous yet invaluable task of ensuring that the people are educated. *See Claremont I*, 138 N.H. at 187; *see also McDuffy*, 415 Mass. at 560–61 (“The two statements at the beginning . . . state plainly the premises on which the duty is established: First, the protection of rights and liberties requires the diffusion of wisdom, knowledge, and virtue throughout the people. Second, the means of diffusing these qualities and attributes among the people is to spread the opportunities and advantages of education throughout the [State].”).

The principle that education is essential to the functioning and survival of a democracy is not enshrined in the Constitution by accident. The historical underpinnings of the Constitution are anchored in laws and principles that value education as the lynchpin of a flourishing civic society. The framers of the Massachusetts Constitution—which document New Hampshire modeled its own Constitution after and which contains a nearly identical provision to part II, art. 83, *see Claremont I*, 138 N.H. at

186—associated “ignorance” with “oppression,” as juxtaposed with “knowledge and liberty,” and eschewed the criticism of education as a “needless expense,” arguing such a position “was calculated to foster ignorance and, with it, servility.” *McDuffy*, 515 Mass. at 582–83 (discussing John Adams’s belief that “widespread public education was integral to the very existence of a republican government”); *id.* at 584–85 (citing Samuel Adams’s belief in the “Necessity & Importance of encouraging that System of Education, which in my opinion is so well calculated to diffuse among the Individuals of the Community the Principles of Morality, so essentially necessary to the Preservation of publick Liberty”).

Beyond articulations of political philosophy, laws establishing and requiring the presence of schools in New Hampshire pre-date the drafting of the Constitution in 1781. A 1647 statute established public schools in New Hampshire (which formed a single province with Massachusetts from 1641–1679), ensuring that “those which send their Children not be oppressed by paying much more then they can have them taught for in other Towns.” *Claremont I*, 138 N.H. at 188; *McDuffy*, 515 Mass. at 571 & n.28. In 1719, a New Hampshire law required every town with 50 householders or more to provide a schoolmaster to teach reading and writing to children, and every town with 100 householders or more to keep a grammar school. *Claremont I*, 138 N.H. at 189. The law was not without teeth, and imposed a penalty of twenty pounds for every violation. *Id.* In 1771, Governor Wentworth admonished local town officials for failing to meet their duty to “inculcate, spread & Support [the] Effect” of “Religion—Learning, and Obedience to the Laws”:

Among other important Considerations, The promoting of learning very obviously calls for Legislative Care. The Insufficiency of our present Laws for this purpose, must be too evident, seeing nine tenths of your Towns are wholly without Schools, or have such vagrant foreign Masters as are much worse than none: Being for the most part unknown in their principles & deplorably illiterate.

Id. at 190 (quoting *New Hampshire Provincial Papers Vol. VII* at 287 (1764–1776)). The admonished town officials appeared to concede their failures, admitting the importance of remedying same by emphasizing “the necessary [connection] between good Education & the prosperous state of the People—for as they by the constitution have a share in the Government it is certainly of importance they should be able to sustain the part they are to bear with honor to themselves & with prosperity to the State which without such an Education is hardly feasibly[.]” *Id.* (emphasis added) (quoting *New Hampshire Provincial Papers Vol. VII* at 290–91 (1764–1776)).

The historical refrain emphasizing the importance of education to democracy and the prosperity of the State and the duty of lawmakers to provide same culminated in the establishment of a right to an education under New Hampshire’s Constitution, where it is recognized as the “cornerstone of our democratic system.” *See Claremont I*, 138 N.H. at 191–92 (quoting 1795 speech by Governor Gilman and response by the House and Senate, which vowed to “most cordially embrace all proper measures to diffuse Knowledge and Information, to promote Literature and to cherish seminaries of Learning as the most direct and certain means to perpetuate to posterity that Constitution, which forms our Glory, our

Safety, and our Happiness”). Because education forms the cornerstone of our democracy, the State’s constitutional duty “extends beyond mere reading, writing and arithmetic,” and “includes broad educational opportunities needed in today’s society to prepare citizens for their role as participants and as potential competitors in today’s marketplace of ideas.” *Id.* at 192. In addition to ensuring the survival and success of local and national democracy, it is also “doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.” *Brown vs. Board of Educ.*, 347 U.S. 483, 493 (1954). The Constitutional provision guaranteeing an adequate education is thus vital to the success of democracy and the body politic, and “even a minimalist view of educational adequacy recognizes the role of education in preparing citizens to participate in the exercise of voting and first amendment rights. The latter being recognized as fundamental, it is illogical to place the means to exercise those rights on less substantial constitutional footing than the rights themselves.” *Claremont II*, 142 N.H. at 473. So, too, is it also “basic” that, “in order to deliver a constitutionally adequate public education to all children, comparable funding must be assured in order that every school district will have the funds necessary to provide such education.” *Id.* at 476.

Whether the State has met its obligation to provide an adequate education is inextricably intertwined with its obligation to assure sufficient funding, such that whether the State has assured sufficient funding is a constitutional question within this Court’s purview to adjudicate. *Cf. McDuffy*, 515 Mass. at 611 (“[W]e have the duty . . . to adjudicate a claim that a law and the actions undertaken pursuant to that law conflict with [or

fall short of] the requirements of the Constitution.”). As Justice Marshall wrote in the seminal case of *Marbury v. Madison*:

So if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

5 U.S. 137, 178 (1803) (emphasis added). Whether the State has delivered a constitutionally adequate public education to all children by way of sufficient funding is therefore a justiciable question, as recognized by this Court in *Claremont I* and its progeny. When asked to do so, the Court is entitled to—and obligated to—test the constitutionality of what the Legislature has done and assess whether constitutional duties are being met. Although the Court has expressed “confiden[ce] that the legislature and the Governor will fulfill their responsibility with respect to defining the specifics of, and the appropriate means to provide through public education, the knowledge and learning essential to the preservation of a free government,” *id.* at 183, in 2006, this Court has warned that “[d]eference ... has its limits”:

Respectful of the roles of the legislative and executive branches, each time this court has been requested to define the substantive content of a constitutionally adequate public education, we have properly demurred. Deference, however, has its limits. We agree with Justice Galway’s concern that this court or any court not take over the legislature’s role in shaping educational and fiscal policy. For almost thirteen years we have refrained from doing so and continue to refrain today. However, the judiciary has a responsibility to ensure that

constitutional rights not be hollowed out and, in the absence of action by other branches, a judicial remedy is not only appropriate but essential.

Londonderry Sch. Dist. SAU No. 12, 154 N.H. at 163.¹ A decision by the trial court—after assessing all the detailed evidence before it—that the Legislature’s funding scheme did not meet the requirements of part II, art. 83, was a decision well within the purview of the Court, and was necessary for the Court to ensure that the constitutional right that is the cornerstone of our democracy “not be hollowed out.” *Id.* There was no “usurp[ation]” of legislative or executive functions in this case or in any of the *Claremont* cases. *See State’s Br.* at 45.

For these reasons, this Court should affirm the trial court’s decision and uphold the longstanding recognition of education not only as a right but as a lynchpin to democratic success. This fundamental right remains the cornerstone to developing an educated citizenry academically, civically, and socially. The protection of this fundamental right through proper judicial remedy will promote civic engagement, sustain our democracy, and preserve New Hampshire’s economic stability.

¹ *Londonderry* does not stand for the proposition that the Court is prohibited from engaging in this constitutional duty, as the State’s brief attempts to suggest. Instead, the Court in *Londonderry* held that the State at the time failed to define what was a constitutionally adequate education as it was obligated to do under *Claremont II*, which made the Court’s job in assessing constitutionality more difficult. *Londonderry*, 154 N.H. at 160.

II. ABSENT THE STATE PROVIDING REQUISITE RESOURCES, SCHOOLS ARE SIGNIFICANTLY CHALLENGED, INEQUITIES IN OUR PUBLIC EDUCATION SYSTEM PERSIST, AND NOT ALL STUDENTS ARE PREPARED TO SUCCEED IN CIVIC LIFE, WORK, OR HIGHER EDUCATION

NHCF respectfully submits that the fundamental right to education must ensure that New Hampshire schoolchildren receive public educational opportunities that allow them to meaningfully participate in our democracy, succeed in our workforce, and receive adequate preparation to pursue higher education pathways if they so choose. NHCF understands the power of our public education system to ensure that all our children, whether their parents are rich or poor, their communities wealthy or struggling, are afforded the tools they need to flourish. The trial court thus addressed a question of fundamental importance to the progress and vitality of our State and its residents: what is the base cost for the State to provide the opportunity for an adequate public education for every child, 239 years after that fundamental right was ratified in our Constitution? Order on Merits (“Order”), at 1. What amount of base aid is in place—and whether it is enough to provide an adequate education—is a fundamental, foundational first step in addressing inequities in opportunities resulting from our current funding mechanism. The trial court’s Order is a stark reminder of how far short the State remains in meeting its obligation to accurately cost and fully fund an adequate public education, now some 31 years after this Court’s decision in *Claremont I*.

As demonstrated by the State’s own studies and statistics, New Hampshire has fallen far short of providing all its public schools with the

resources they need as they prepare students to become productive citizens. In 2019, the New Hampshire legislature established an independent Commission to Study School Funding and charged it with making recommendations to ensure a uniform and equitable design for financing the cost of an adequate education. *See* RSA 193-E:2-e (2019), *repealed by* 2021 N.H. Chapter Law 64:1. The Commission was tasked with “identify[ing] trends and disparities across the state in student performance in pre-kindergarten through grade 12 based on current school funding options.” RSA 193-E:2-e, IV(c) (2019). The legislature also charged the Commission to “re-establish the baseline for the costs, programs, staffing and facilities needed to provide the opportunity for an adequate education.” RSA 193-E:2-e, IV(d) (2019) (emphasis added).

In its most recent report from 2020, the Commission chronicled many prior studies and assessments addressing flaws in public school funding, and it made detailed findings about the current shortcomings in New Hampshire’s school funding system. *See Our Schools, Our Kids: Achieving Greater Equity for New Hampshire Students and Taxpayers, A Report from the Commission to Study School Funding* (December 1, 2020) (“the Report”) (<https://carsey.unh.edu/school-funding>). The Report represented the first comprehensive analysis of school funding supported by expert consultant advice since the Augenblick Report of 1984. *Id.* at 20. The Reports findings concluded that, without the State providing the requisite resources to provide an adequate education across all school districts, many schools are significantly challenged as they work to ensure students are prepared to meet the demands of the modern workplace or pursue advanced vocational training or higher education. *Id.* at 72–82.

The Commission also identified flaws in the State’s approach to costing an adequate education and funding it. Regarding the costs, “the Commission determined that the current funding method relies on inaccurate estimates of actual costs (e.g., related to staff salaries or student-teacher ratios) and fails to take into account the actual variations in resources needed to educate students with varying needs.” *Id.* at 9. Regarding the funding, the Commission noted that “New Hampshire’s state budget share of total public education spending is the lowest of all states.” *Id.* at 48, 53. The Commission attributed poor student outcomes to these identified shortcomings. *Id.* at 51.

In our schools, the multifaceted barriers to student success and the persistent gaps in student achievement exist at a time when student needs could not be greater. The demands of a knowledge-based economy are high and underscore the critical importance of the State meeting its obligation to fully fund an adequate public education to ensure that every student has the opportunity to graduate with the skills and education needed to compete in today’s modern workplace. The speed of technological development requires a highly educated and flexible labor pool. Professional, scientific, and technical services jobs led all industries in New Hampshire for growth in the economy between 2020 and 2023. *See Economic Analysis Report 2023*, New Hampshire Department of Employment Security and Economic & Labor Market Information Bureau, p. 2 (<https://nhdes.nh.gov/elmi/>). Computer literacy is becoming a prerequisite for nearly every job. By 2020, two out of three jobs in New Hampshire required educational attainment beyond high school; yet, trajectories indicate that far fewer New Hampshire students will be able to

reach that educational bar. See Ross Gittell, Ph.D, Chancellor, Community College System of New Hampshire, *Whitepaper Series: 65 by 25, Achieving Economic Prosperity Through Post-Secondary Education* (March 2015); Report, *The Whole Picture of Public Education in New Hampshire*, Reaching Higher NH, Inc. (2020) (<https://reachinghighernh.org/wholepic/>). The State is obligated to provide the resources necessary to enable all students the opportunity to meet these challenges and compete in our changing economy.

NHCF has seen how the State’s failure to meet its obligation robs too many of our kids of the promise of equal opportunity. NHCF’s philanthropic investments, and those of other grant-makers and private scholarship providers, however significant, cannot ever take the place of the needed commitments of public funding to support this shared public good. In fact, NHCF and its grantees can only be successful in achieving their nonprofit missions when adequate public funding provides a firm baseline. Not only the economic prosperity of our State, but also the civic health of our State and communities is impaired when the State fails to live up to its constitutional obligations, relinquishing thousands of New Hampshire kids to under-resourced schools.

III. THE EVIDENCE AT TRIAL FULLY SUPPORTED THE TRIAL COURT’S FINDING THAT CURRENT BASE FUNDING LEVELS FOR PUBLIC EDUCATION ARE UNCONSTITUTIONAL

In *Contoocook Valley Sch. Dist. v. State*, 174 N.H. 154, 167 (2021) (“*ConVal I*”), this Court remanded the case for a trial to resolve the “fact-driven” dispute about “the components of an adequate education and their

costs.” This Court reasoned that resolving this fact-driven dispute was “a prerequisite for determining whether the amount of funding set forth in RSA 198:40-a, II(a) is sufficient to deliver the opportunity for an adequate education.” *Id.*

And, on remand, the trial court did just that. Under the current education funding formula the Legislature devised, the annual cost of providing the opportunity for an adequate education consists of base aid calculated on a per pupil basis for every student, plus additional differentiated aid provided for impoverished students and students with particularized educational needs. *See* RSA 198:40-a, II(a)–(d). The petitioning school districts challenged the constitutional sufficiency of the costing and funding of base aid as the Legislature devised it, which is the critical building block of the Legislature’s entire education funding formula. Simply, base aid is essential under the Legislature’s current funding formula for every community to have an adequate financial baseline of support. *See* Order, at 5–6. Thus, the trial court was tasked with evaluating whether the base amount of money provided to every child under the Legislature’s per-pupil funding scheme was deficient to a level of constitutional significance. To do so, it held a three-week trial and heard from twenty-seven witnesses, most of whom worked for the petitioning school districts. Order at 9. It considered annual reports and five years of accounting data submitted by the school districts to the Department of Education. *Id.* It heard expert testimony about the essential cost drivers of delivering a basic public education in New Hampshire’s classrooms. Order at 14–42. While the school districts presented ample evidence, “the State

did not offer affirmative evidence justifying the sufficiency of the current funding level.” Order at 42.

After considering the evidence, the trial court made a series of commonsense factual findings about the current inadequacies in funding public education in New Hampshire. The trial court gave deference to, and consistently applied, the Legislature’s definition of an adequate education as including instruction in specific content areas. Order at 10, 52 (“[T]he evidence presented at trial demonstrates that the following cost-drivers, and associated per pupil minimum funding levels, are essential to the provision of the opportunity for an adequate education, as defined by the legislature . . .”) (emphasis added). It was “conclusively proven at trial” that “a school needs teachers to teach.” Order at 12. The witness testimony and evidence proved that school districts devote a “negligible amount” of classroom instruction and resources to pursuits outside of the Legislature’s definition of the specific content areas comprising the definition of an adequate education. Order at 11. The evidence proved that certain professionals, such as principals, guidance counselors, and library/media specialists, “are essential to the provision of the opportunity for a constitutionally adequate education.” Order at 22. Drawing on “common sense and the testimony presented at trial,” the trial court determined that cost drivers such as instructional materials, facilities, technology in the classroom and professional development of teachers, among other things, are “essential to the provision of the opportunity for a constitutionally adequate education.” Order at 24–30. The trial court also rejected other testimony that certain costs, such as superintendent services, fell within the Legislature’s definition of an adequate education under RSA 193-E:2.

Order at 30. The trial court did exactly what this Court asked of it in *ConVal I*.

Put simply, there is a base level of support every child needs to receive an adequate education, and the Court—tasked with reviewing the \$4,100 per pupil the Legislature allocated under the base aid funding scheme it devised—determined after considering all the evidence presented that this allocation failed to pass constitutional muster. Order at 52–54. To achieve an adequate education under the constitution, it is essential that every community have an adequate financial baseline of support from which students can have the opportunity to obtain a quality public education. After considering all the evidence presented, the trial court correctly determined that the current allocation of base aid of \$4,100 per pupil is unconstitutional. Order at 52–54. This finding should be affirmed and is entitled to considerable deference by this Court. *See Gaucher v. Waterhouse*, 175 N.H. 291, 295 (2022) (“When reviewing a trial court’s findings after a bench trial, we will uphold the trial court’s factual findings unless they lack evidentiary support or are legally erroneous.”). By affirming the lower court’s judgment, through the proper exercise of appellate judicial review of the evidence adduced at trial, this Court can hold the Legislature accountable to fulfill its constitutional obligation to adequately invest in public education, and thereby develop an educated citizenry, sustain our democracy, stimulate civic engagement, and grow our economy.

CONCLUSION

For the foregoing reasons, NHCF respectfully requests that this Honorable Court affirm the trial court's order.

Respectfully submitted,

NEW HAMPSHIRE CHARITABLE
FOUNDATION

By their attorneys,

Dated: September 30, 2024 McLANE MIDDLETON,
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**SUPREME COURT RULE 30 CERTIFICATION OF
WRITTEN CONSENT**

Undersigned counsel hereby certifies that they have received the written consent of all parties to the case to file this amicus brief.

Date: September 30, 2024 By: /s/ Michael A. Delaney
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CERTIFICATE OF COMPLIANCE

I, Michael A. Delaney, hereby certify that pursuant to Rule 16(11) of the New Hampshire Supreme Court Rules, this brief contains less than 9,500 words exclusive of pages containing the table of contents, table of citations, and any addendum containing the pertinent text of constitutions, statutes, rules, regulations, and/or other such matters. Counsel relied upon the word count of the computer program used to prepare this brief.

Date: September 30, 2024

/s/ Michael A. Delaney

Michael A. Delaney, NH Bar 10504

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief has been served on all parties via service through the Court's electronic filing system.

Date: September 30, 2024

By: /s/ Michael A. Delaney

Michael A. Delaney, NH Bar 10504