

THE STATE OF NEW HAMPSHIRE

MERRIMACK, ss.

SUPERIOR COURT

DAVID BATES and KELLY WIESER

v.

DAVID M. SCANLAN, in his official capacity as NEW HAMPSHIRE SECRETARY OF
STATE

No. 217-2026-CV-00671

PLAINTIFFS' MOTION FOR EMERGENCY PRELIMINARY INJUNCTION

NOW COME plaintiffs David Bates and Kelly Wieser, who are registered New Hampshire voters and taxpayers, and hereby seek an emergency preliminary injunction requiring Defendant David Scanlan, in his official capacity as the New Hampshire Secretary of State and chief election official, to take all necessary steps to ensure that the ballot question promulgated in RSA 32:5-i does not appear on or alongside the November 2026 state general election ballot. In support of their motion, the plaintiffs state as follows:

1. This Motion is being filed on an emergency basis because it relates to the printing of the ballot for the November 2026 general election ballot. It is expected that the election ballots will be printed shortly after the results of the September 8, 2026 primary election are certified.

2. Barring the issuance of emergency preliminary injunctive relief, on election day, the ballot question will ask voters in every town and ward in the state whether to adopt a pair of fiscal caps for their local school districts (“the school funding caps”).

3. The plaintiffs are likely to succeed on the merits because the ballot question violates their right to vote guaranteed by the State Constitution by presenting a confusing and misleading question that contains fewer choices than the legislature intended.

4. Absent an emergency preliminary injunction, the plaintiffs face imminent risk of irreparable harm, without an adequate remedy at law, because this violation cannot be remedied through damages, and the election is scheduled to take place in approximately nine weeks.

5. The balance of the equities favors injunctive relief because the corresponding burden on the state is minimal; pulling the question off the November ballot will allow the legislature to address its constitutional deficiencies; and voters in every school district can use existing measures to ensure that their school budgets do not go unchecked in the interim.

6. Accordingly, now is the time to prevent this unconstitutional and irreparable harm before the ballot question appears on the November 2026 general election ballot.

7. The arguments in support of the Motion are set forth in the accompanying Plaintiffs' Memorandum of Law in Support of Motion for Emergency Preliminary Injunction.

PRAYER FOR RELIEF

WHEREFORE, the plaintiffs respectfully pray that this Honorable Court:

- A. Order an expedited consideration of this Motion, including an expedited briefing scheduling and hearing;
- B. Order an emergency preliminary injunction requiring the Secretary to take all necessary actions to ensure that the challenged ballot question is not presented to New Hampshire voters at the November 2026 state general election; and
- C. Grant such other relief as may be just and proper.

Date: August 31, 2026

Respectfully Submitted,
DAVID BATES and KELLY WIESER

By their attorneys,
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served via email to the below address simultaneously with filing:

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As soon as the Superior Court issues a summons and docket this motion and the supporting filings, a hard copy of all filings that the plaintiffs have submitted will be hand-delivered to the New Hampshire Attorney General's Office and the Secretary of State's Office.

/s/ Edward J. Sackman

Edward J. Sackman