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

COMPLAINT FOR DECLARATORY AND EMERGENCY INJUNCTIVE RELIEF

Plaintiffs David Bates and Kelly Wieser bring this action against Defendant David Scanlan, in his official capacity as the New Hampshire Secretary of State and chief election official, for a declaratory judgment and emergency preliminary and permanent injunctive relief. This action became necessary after the New Hampshire legislature enacted a law forcing a ballot question onto the voters at the November 2026 (and 2028) state general election. The ballot question intends to ask voters in every town and ward in the state whether to adopt a pair of fiscal caps for their local school districts (together, "the school funding caps"). The ballot question violates the plaintiffs' fundamental right to vote guaranteed under Part 1, Article 11 of the New Hampshire Constitution by presenting a confusing and misleading question that contains fewer choices than the legislature intended.

INTRODUCTION

1. On June 4, 2026, the New Hampshire legislature enacted into law House Bill 1300 ("HB1300"). HB1300 amended New Hampshire's municipal budget laws, RSA chapter 32, to require every town and ward in the state to conduct a vote at the November 2026 and 2028 state general elections on whether to adopt two school funding caps. The first cap would

limit how much money school districts can raise through property taxes by prohibiting any tax increase that would exceed inflation and any tax revenue growth from new construction. The second cap would limit the amount of the local district budget that may be spent on funding the school administrative unit for the district. *See* RSA 32:5-i.

2. The enacted language of the ballot question is unconstitutional on three independent grounds. First, the question is confusing because its labyrinthine structure, convoluted language, and undefined terminology make the scope and effect of the proposed school funding caps difficult for voters to understand. Second, the ballot question is misleading because it affirmatively assures voters that adopting the school funding caps will not impact classroom and other school-based services, even though both caps will inevitably affect both. Third, the ballot question impinges on the plaintiffs' right to vote because it requires them to cast a single vote—for or against the pair of school funding caps—even though the statute makes clear that voters should have the choice to vote for each cap independently.

3. To protect themselves and other New Hampshire voters from the violation of their fundamental right to vote, the plaintiffs seek emergency equitable relief pursuant to the New Hampshire Constitution, including a declaratory judgment that the ballot question is unconstitutional.

PARTIES

4. Plaintiff David Bates is a New Hampshire voter and taxpayer who resides at 32 West Main Street, Warner, New Hampshire 03278. He resides within Kearsarge School District.

5. Plaintiff Kelly Wieser is a New Hampshire voter and taxpayer who resides at 9 Deacon Willey Road, Campton, New Hampshire 03223. She resides within Campton School District and Pemi-Baker Regional School District. Ms. Wieser is Vice Chair of the Campton School Board and an attorney.

6. Defendant David M. Scanlan is the New Hampshire Secretary of State (the "Secretary") and is named as a defendant in his official capacity. He is the chief elections officer in charge of administering New Hampshire's election laws. *See* RSA 652:23. This includes, but is not limited to, preparing and delivering all ballots for use in state elections under RSA 656:1, which includes ballot questions to be submitted to voters. *See* RSA 656:13. The Secretary, personally and through the conduct of his employees and agents, acted under color of state law at all times relevant to this action.

JURISDICTION AND VENUE

7. This Court has jurisdiction as a court of general jurisdiction pursuant to RSA 491:7. It also has jurisdiction to grant declaratory relief pursuant to RSA 491:22 and equitable relief pursuant to RSA 498:1.

8. This Court has personal jurisdiction over the defendant, who is sued in his official capacity as an elected official in New Hampshire and who works and resides in the State of New Hampshire, pursuant to RSA 510:2.

9. Venue is proper in this Court pursuant to RSA 507:09, as plaintiff Bates resides in Merrimack County, and the Secretary of State is located in that county.

FACTUAL BACKGROUND

School Districts in New Hampshire

10. Students in public primary and secondary schools in New Hampshire are educated as part of a system of school districts, which can be configured in a variety of ways.

11. The default kind of district is a single town. The local school board for the town governs the school district.

12. Sometimes, towns decide to merge existing school districts in order to operate a school or schools jointly. This is called a cooperative district. Cooperative districts share school costs among the towns within the district.

13. A third type of school district is a city school district. This type of district is a department of the city, and final vote on the budget is by the city council. Examples are Portsmouth, Manchester, and Dover. A variation of the city form is an independent city district where the school board has final approval of the budget; Concord is an example of this type of city district.

14. Each school district is served by a school administrative unit ("SAU"). There are two types of SAUs: a multi-district SAU (as defined in RSA 194-C:1) and a single-district SAU (as described in RSA 194:1-a and RSA 194-C:3). By law, the term SAU in a single-district SAU is a nominal designation used for reference purposes only, as a single-district SAU is not a distinct corporate entity.

15. A single-district SAU operates just like a school district and integrates superintendent services. A partial listing of such services includes but is not limited to: superintendent services, assistant superintendent services, business administrator services,

human relations, payroll and purchasing, district-level IT and legal services, district-level curriculum services, compliance with special education and civil rights laws, pupil assessment, facilities oversight, and transportation.

16. A multi-district SAU can take a variety of forms. They can consist of two or more school districts or a cooperative school district with multiple school districts, or a combination of both—a cooperative district and individual districts. Unlike a single-district SAU, a multi-district SAU is a legally organized municipal corporation with a board composed of the board members of each district within the SAU. The SAU provides similar if not identical services as a single-district SAU.

Sources of School Funding

17. New Hampshire school districts receive funding from property taxes and several other sources.

18. The vast majority of school funding comes from property taxes, divided into two categories. The first category is based on the local tax rate applied to the value of property in the school district. Most of the property tax funding for schools comes from this category.

19. The second type of property tax funding is the Statewide Education Property Tax ("SWEPT"). While the state sets the amount of SWEPT, it is paid by local property taxpayers.

20. The remaining school funding comes from non-property tax sources, such as state adequate education grants and federal funding under various programs and entitlements, including Title I of the Elementary and Secondary Education Act, the Medicaid Act, the

Individuals with Disabilities Education Act, and the National School Lunch program. These sources of funding vary from district to district and are subject to change.

School Spending

21. School districts have limited flexibility to reduce their overall spending.

22. About three quarters of a school district's spending consists of fixed costs that cannot be cut. A school district's fixed costs typically include utilities, transportation fees, and contracted salaries, benefits, and state retirement fund contributions.

23. Some districts have additional fixed costs tied to existing contractual obligations, such as paying other districts to educate local students as part of tuition agreements or paying for existing out-of-district services.

24. These spending commitments leave school districts with a narrow band of costs eligible for reduction.

25. Cutting such costs could result in reducing administrative, teaching, or staff positions, increasing class size, reducing course offerings, eliminating co-curricular activities, deferring maintenance issues, or limiting purchases of equipment or supplies.

26. Regardless of which of those costs are cut, the reductions will inevitably impact services that schools provide inside or outside classrooms.

School District Budgeting Process

27. New Hampshire school budgets are set annually as part of a multi-step process involving SAU and school officials, the school board, and local voters. In city districts, the city council plays a role as well.

28. A draft budget is presented to the school board for approval in the fall or early winter prior to the following school year.

29. The superintendent, in collaboration with the business administrator, assistant superintendent, and school officials, prepares a recommended budget to the school board, focused on the district goals and previous input from the board.

30. The school board has the ultimate authority to revise and adjust the budget for presentation to town voters or the city council.

31. If school district budget cuts are required, school administrators must provide the school board with options for cutting costs during the budget planning process, and the school board decides which costs to cut.

32. The school board presents the budget to local voters for approval in the first quarter of the calendar year in which that school year begins.

33. In districts that follow the traditional town meeting process, voters discuss the budget and vote to approve, reject, or modify it in an open annual town meeting.

34. In towns that have adopted the so-called SB 2 process, there is a "deliberative session" where voters discuss the proposed budget and can make changes to it prior to a separate voting session.

35. In addition to the town meeting process for budget approval, New Hampshire law provides a specific process for imposing caps on the amount of local taxes that may be raised to fund the schools, and a specific process for imposing local school budget caps. *See, e.g.*, RSA 32:5-b; RSA 40:13; RSA 40:14.

36. In recent years, some school districts have considered and rejected such caps.

HB1300

37. HB1300 was introduced in December 2025 as a bill to redraw New Hampshire's congressional districts.

38. A non-germane amendment later replaced the entire bill with the municipal budget law, RSA 32:5-i, with the initial version of the ballot question tied to the school funding caps.

39. The House passed the bill with a 177-160 vote on March 11, 2026.

40. The Senate passed a different version of the bill, leading to a committee of conference between the chambers.

41. Following the conference report, the House and Senate adopted the final version of HB1300 on June 4, 2026.

42. On July 15, 2026, Governor Kelly Ayotte signed HB1300 into law.

43. HB1300 enacted into law an amendment to New Hampshire's municipal budget laws, RSA chapter 32. *See* RSA 32:5-i.

44. The law requires every town and ward in the state to conduct a vote at the November 2026 and 2028 state general elections on whether to adopt the school funding caps.

45. This ballot measure requires a three-fifths (3/5) majority vote to pass.

46. The caps apply to both taxes and spending.

47. The first cap will limit how much money school districts can raise through property taxes by prohibiting any tax increase that would exceed inflation and any tax revenue growth from new construction. *See* RSA 32:5-i, VIII.

48. Inflation is measured using the Northeast Consumer Price Index. *See id.*

49. Regarding new construction, school district budgets could capture any new construction or expansions to properties in the municipality, but they could not count the standard market appreciation or reassessments of existing properties, and could not consider changes in assessment technology. *See id.*

50. The second cap will limit the amount of the local district budget that may be spent on funding the school administrative unit for the district. The cap will be 6% of the total school district appropriation amount in the school districts comprising the SAU. *See* RSA 32:5-i, IX.

51. Bonded capital costs are excluded from both caps. They are defined in the statute to "include principal or interest on bonds or notes only if the bonded indebtedness is issued solely for the acquisition, construction, or major structural renovation of real property . . . ." *See* RSA 32:5-i, XVI(a).

52. If the measure passes, RSA 32:5-i mandates that the school funding caps be adopted for a two-year period, beginning with the fiscal year 2028.

53. The statute does not require towns or school districts to hold hearings ahead of the vote, although they may do so.

54. All voters will have to vote on the same question again in the November 2028 general election, regardless of whether it was passed or defeated in 2026.

The Ballot Question

55. The mandatory ballot question provides in full:

> Shall the [name of municipality] limit property tax growth for [name(s) of school district(s)] under RSA 32:5-i? If adopted for a two-year period: (1) the local property tax levy may not grow beyond the prior year's amount, adjusted for inflation and new construction; (2) SAU central office spending may not

> exceed 6 percent of total school district appropriations; and (3) bonded capital costs are excluded from both limits. These caps apply only to administrative operations of the SAU central office and do not affect classroom instruction, school-based services, or other municipal expenditures. These limits may be overridden as provided in RSA 32:5-i. Adoption requires a three-fifths (3/5) majority vote.

56. The first sentence asks a single "Yes" or "No" question about the voter's municipality imposing a limit on "property tax growth" for its school districts "under RSA 32:5-i," without defining either of those terms.

57. The second sentence introduces at least three different fiscal rules—a limit on the growth in the local property tax levy, a 6% limit on SAU central office spending, and an exclusion of bonded capital costs from "both limits"—with additional qualifications about their duration and calculation. A number of terms appearing in this sentence, including "SAU," "SAU central office spending," "new construction," "total school district appropriations," and "bonded capital costs," are not defined in the question.

58. The third sentence affirmatively represents that "these caps" will not impact "classroom instruction," "school-based services," and "other municipal expenditures," again without defining those terms.

59. The fourth sentence notes that there is an override mechanism for "[t]hese limits" but, apart from providing a statutory reference, does not explain what that mechanism entails.

60. The final sentence states that adopting the school funding caps requires a three-fifths majority, without explaining the meaning of the phrase.

61. The law provides that the ballot question must appear on or alongside the November 2026 and November 2028 state general election ballots.

62. Specifically, HB1300 instructs the Secretary to print the ballot question on the front of the state general election ballot, following the offices columns. If that space is insufficient, the Secretary is instructed to have the question printed on the reverse side of the election ballot. If that option is also impracticable, the ballot question must be printed on a separate official ballot, to be distributed, collected, and counted alongside the election ballot. RSA 32:5-i, II.

63. In addition, the law specifies voting and recount procedures, procedures for implementing the school funding caps, and mechanisms for overriding them.

Impact of HB1300 Ballot Question

64. The impact of implementing the school funding caps would not be limited to SAU administrative costs, as the ballot question represents.

65. Contrary to the statement in the ballot question, the cuts to school district budgets necessary to implement the school funding caps would inevitably impact services that schools offer inside or outside the classroom because of the limited options for spending cuts available to New Hampshire school districts.

66. Due to how school districts are funded, a school district could prepare a budget that held spending at the prior year's level without any increase and still exceed the cap. That is because a reduction in funding from non-property tax sources could require a school district to raise property taxes in order to maintain its budget at last year's level.

67. A school district could also exceed its revenue cap due to other events beyond its control even if it hired no new teachers or staff, made no improvements to the premises, and held other non-fixed costs at the prior year's level. Examples include higher health

insurance premiums, emergency building repairs, and mandatory new out-of-district placements.

68. Further, the cap in this ballot question is based on the inflation rate, and that rate does not become available until after the time at which the school district needs to project budgets.

69. A school district required to cut spending in order to comply with the tax cap that HB1300 would impose is limited to the smaller part of its budget containing non-fixed costs. The school board in the district would decide which costs to cut. The options available would include cutting staff positions, increasing class size, reducing course offerings, reducing co-curricular activities, reducing administrative staff or ancillary services, deferring maintenance issues and limiting purchases of equipment and supplies.

70. Although it would be up to the school board to decide which cuts to implement, each of them would affect classroom instruction, school-based services, or both.

71. Similarly, there is a serious risk that capping funding to the SAU will impact classroom instruction and school-based services. SAUs provide school districts with fiscal planning and management services, as well as administrative services that the districts themselves do not have to fund. If district finances are not carefully managed, they may end up short of already limited funding, which would require further cuts of instruction or services. If SAU funding for those services is limited, they could result in budgeting shortfalls or be shifted onto the school districts, which would have to decide whether to devote limited funding to support those services, or simply not provide them.

<u>Attempts at Tax Caps Are Not New to Voters</u>

72. School districts and towns have had the ability to adopt tax caps via voter-led petition warrants since 2011.

73. In 2024, New Hampshire passed a law creating a specific tax cap adoption process for districts. *See* RSA 32:5-b; RSA 40:13; RSA 40:14.

74. This process requires that a tax cap originate from a warrant article or petition, receive consideration at a deliberative session, appear on the local (not state general election) ballot, and otherwise comply with specified official ballot procedures.

75. In recent years, some school districts have considered and rejected caps pursuant to those mechanisms, including Kearsarge, Epping, Brookline, and Hollis.

76. Some New Hampshire cities already have tax caps built into their charters, including Dover, Franklin, Laconia, Manchester, Rochester, and Somersworth.

77. Voters in those cities would be required to vote on the ballot question even though their existing caps are in place.

<u>New Hampshire State General Elections</u>

78. New Hampshire's 2026 state general election will be held on November 3, 2026.

79. It is expected that the general election ballots will be printed sometime after the results of the September 8, 2026 primary election are certified.

80. Barring preliminary injunctive relief, the ballot question will be presented to voters statewide on or alongside the general election ballot.

<u>The Right to Vote Under the New Hampshire Constitution</u>

81. The right to vote is a fundamental right guaranteed by the New Hampshire Constitution. The New Hampshire Constitution specifically protects the right to free and equal elections, by providing that "[a]ll elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election." N.H. Const. pt. 1, art. 11.

82. "[V]oting is of the most fundamental significance under our constitutional structure." *N.H. Democratic Party v. Sec'y of State*, 174 N.H. 312, 321 (2021) (quoting *Illinois Elections Bd. v. Socialist Workers Party*, 440 U.S. 173, 184 (1979)); *see also Akins v. Sec'y of State*, 154 N.H. 67, 71 (2006) (the right to vote is fundamental). "Other rights, even the most basic, are illusory if the right to vote is undermined." *N.H. Democratic Party*, 174 N.H. at 321 (quoting *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964)).

83. In determining whether the ballot question violates the State Constitution, the Court must evaluate whether the ballot question burdens the fundamental right to vote and whether the state has advanced "a sufficiently weighty interest to justify" that burden. *N.H. Democratic Party*, 74 N.H. at 321 (citing *Guare v. New Hampshire*, 167 N.H. 658, 661 (2015)).

84. The ballot question will unduly burden the right to vote in New Hampshire.

85. There is no governmental interest, and certainly no "sufficiently weighty" interest, that justifies the ballot question's undue burdens on New Hampshire voters. *See id.*

86. The Secretary, through the inclusion of the ballot question on election day, will deprive the plaintiffs and other voters in New Hampshire of their rights as guaranteed by the New Hampshire Constitution.

Count I
Violation of Part 1, Article 11 of the New Hampshire Constitution
[Based on the Ballot Question's Confusing Language]

87. Plaintiffs incorporate each and every allegation of the paragraphs set forth above by reference as if fully set forth herein.

88. The fundamental right to vote guaranteed under the New Hampshire Constitution protects a voter's ability to meaningfully exercise that right without undue burden. *See N.H. Democratic Party*, 174 N.H. at 328; *Guare*, 167 N.H. at 665.

89. Confusion in voting procedures prescribed by the state burdens the right to vote because it interferes with a voter's ability to exercise that constitutional right. *See N.H. Democratic Party*, 174 N.H. at 328; *Guare*, 167 N.H. at 665.

90. The constitutional standard is that "the question submitted to the electorate" must give "the ordinary person a clear idea of what he [or she] is voting for or against." *Fischer v. Governor*, 145 N.H. 28, 37 (2000) (quoting *Opinion of the Justices*, 101 N.H. 541, 543 (1957)). Otherwise, voters are deprived of the opportunity to "fairly express their will." 29 C.J.S. Elections § 277.

91. Applying these principles, the HB1300 ballot question does not pass constitutional muster because its ambiguities and omissions will deprive voters of the opportunity to fairly express their will about the school funding caps.

92. The ballot question does not directly tell voters the practical consequences of voting yes or no.

93. The ballot question's complicated terminology, confusing set of interrelated limitations, and material omissions will make it difficult for voters to understand what they are being asked to decide.

94. The ballot question's deficiencies are amplified in the voting context because voters must make a decision in a limited amount of time, with other ballot questions competing for their attention and no convenient opportunity to ask for clarification.

95. The resulting burden on the right to vote is unreasonable.

96. The Secretary cannot show that this burden is rationally, let alone substantially, related to the law's purpose of advancing uniformity in municipal public spending.

97. The Secretary, through the inclusion of the ballot question on election day, will deprive the plaintiffs of their rights as guaranteed to them by the New Hampshire Constitution.

98. Therefore, the Court should find that the ballot question is unconstitutional.

Count II
Violation of Part 1, Article 11 of the New Hampshire Constitution
[Based on the Ballot Question's Misleading Language]

99. Plaintiffs incorporate each and every allegation of the paragraphs set forth above by reference as if fully set forth herein.

100. The constitutional principles that preclude state-created confusion in ballot language apply with the same, if not greater, force when the ballot question is misleading to voters. *See, e.g.*, *N.H. Democratic Party*, 174 N.H. at 327-28 (finding unconstitutional voter registration language that trial court supportably found was "confusing or misleading"); 29

C.J.S. Elections § 277 (recognizing the general rule that ballot language "must not be misleading" and noting that assertions or omissions can cause a ballot to be misleading).

101. The HB1300 ballot question is materially misleading in that it represents to voters that the school funding caps will not impact classroom instruction or school-based services, despite the fact that implementing the caps will inevitably impact those very services.

102. The ballot question begins by asking voters whether their municipality should "limit property tax growth" for their school districts under RSA 32:5-i.

103. The second sentence specifies the effect of adopting such a limitation, namely (1) a cap on school district property tax levy, (2) a cap on SAU central office spending, and (3) exclusion of bonded capital costs from "both limits."

104. The third sentence provides: "These caps apply only to administrative operations of the SAU central office and do not affect classroom instruction, school-based services, or other municipal expenditures."

105. Grammatically, the phrase "[t]hese caps" refers to both caps identified in the preceding sentence and therefore tells the voters that (1) both school funding caps will "only" affect SAU administrative operations, and (2) neither cap will affect "classroom instruction" or "school-based services."

106. This is an affirmative statement that many voters, particularly those with school-aged children or grandchildren, would reasonably consider material to their decision.

107. The impact of the caps, if adopted, will not be limited to SAU administrative operations and will inevitably affect classroom instruction or school-based services.

108. Because of the largely fixed nature of school spending and the variable nature of school funding, implementing the school funding caps would require the school board to cut costs from a relatively small part of its budget.

109. The options for budget cuts would be limited, such as cutting staff positions, increasing class size, reducing course offerings, reducing co-curricular activities, limiting purchases of equipment and supplies, and deferring building repairs.

110. Each of those cuts would affect classroom instruction, school-based services, or both.

111. Capping SAU administrative spending could impact classroom instruction or school-based service because it could lead to school districts having to pay for services directly that the SAU would otherwise provide, as well as budget shortfalls due to poor fiscal planning.

112. Accordingly, the ballot question is materially misleading in violation of the plaintiffs' fundamental right to vote guaranteed by the New Hampshire Constitution.

113. There is no governmental interest, and certainly no "sufficiently weighty" interest, that justifies the imposition of the ballot question's undue burdens on the right to vote.

114. The Secretary, through the inclusion of the ballot question on election day, will deprive the plaintiffs of their rights as guaranteed to them by the New Hampshire Constitution.

115. Therefore, the Court should find that the ballot question is unconstitutional.

<u>Count III</u>
<u>Violation of Part 1, Article 11 of the New Hampshire Constitution</u>
<u>[Based on the Ballot Question's Constraints on Voter Choice]</u>

116. Plaintiffs incorporate each and every allegation of the paragraphs set forth above by reference as if fully set forth herein.

117. The ballot question infringes on the plaintiffs' fundamental right to vote because it limits the choices than the legislature intended for the ballot.

118. The question presents two separate caps and gives voters the choice to vote for both or neither. This limited choice is inconsistent with other sections of the same statute, which demonstrate that voters should have the choice to vote for the caps independently of one another.

119. Paragraph XII of RSA 32:5-i states that, "[i]f approved at the November 2026 state general election, the school district local tax cap or the school administrative unit fixed cap, or both, shall apply…" There is an identical provision tied to the November 2028 election in the same paragraph. *See id.*

120. The plain meaning of this language is that voters should have a choice to vote for the school district revenue cap, the SAU spending cap, both caps, or neither.

121. The provisions implementing the caps, if passed by the voters, demonstrate that they operate independently regardless of whether the other is implemented. *Compare* RSA 32:5-i, VIII, *with* RSA 32:5-i, IX.

122. Consistent with paragraphs VIII and IX, the overriding procedures provided in paragraph X can be used "to exceed the school district local tax cap or the school

administrative unit fixed cap." The disjunctive is repeated in both subsections of this paragraph. *See* RSA 32:5-i, X.

123. The fact that the two caps can be abolished independently of one another further demonstrates that this is not a bundle-only choice.

124. Given the ensuing conflict within the statute, the more specific rules in other provisions of the statute control as to the choices that voters are entitled to make.

125. The constraint on voter choice in the ballot question unreasonably burdens the plaintiffs' fundamental right to vote.

126. There is no governmental interest, and certainly no "sufficiently weighty" interest, that justifies the imposition of the ballot question's undue burdens on the right to vote.

127. The Secretary, through the inclusion of the ballot question on election day, will deprive the plaintiffs of rights as guaranteed to them by the New Hampshire Constitution.

128. Therefore, the Court should find that the ballot question is unconstitutional.

PRAYER FOR RELIEF

Wherefore, the plaintiffs pray that this Court enter judgment in their favor and against the Secretary as follows:

A. An order declaring that the ballot question violates the New Hampshire Constitution.

B. An order preliminarily enjoining the Secretary, his respective agents, officers, employees, successors, and all persons acting in concert with each or any of them from printing ballots containing the ballot question.

C. An order preliminarily requiring the Secretary to take all necessary actions to ensure that the ballot question is not presented to voters at the November 2026 general election.

D. An order permanently enjoining the Secretary, his respective agents, officers, employees, successors, and all persons acting in concert with each or any of them from including the ballot question on the November 2026 state general election ballot.

E. An order permanently enjoining the Secretary, his respective agents, officers, employees, successors, and all persons acting in concert with each or any of them from including the ballot question on the November 2028 state general election ballot.

F. An order awarding the plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action pursuant to the Court's inherent equitable power, *Claremont Sch. Dist. v. Governor*, 144 N.H. 590, 595 (1999).

G. Such other or further relief as the Court deems 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:

Samuel R.V. Garland, Esq.
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Concord, NH 03301

As soon as the Superior Court issues a summons and dockets 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

Exhibit A

HB1300-FN

Bill Details

Title: (Third New Title) establishing a school district local tax cap question for the state general elections of 2026 and 2028 and related limitations on central office administrative expenses in school districts.

Sponsors: ***(Prime)*** Ankarberg (I), Innis (R)

LSR Number: **26-2870**
General Status: **SIGNED BY GOVERNOR**
Chapter Number: **324**
House:
Committee: Election Law
Due Out: 3/5/2026
Status: CONFERENCE REPORT ADOPTED
Senate:
Committee: Election Law and Municipal Affairs
Floor Date: 5/14/2026
Status: CONFERENCE REPORT ADOPTED

CHAPTER 324

HB 1300 - FINAL VERSION

11Mar2026... 0980h

11Mar2026... 1117h

05/14/2026 1851s

05/14/2026 1876s

4Jun2026... 2109CofC

4Jun2026... 2173EBA

2026 SESSION

26-2870

05/06

HOUSE BILL ***1300***

AN ACT establishing a school district local tax cap question for the state general elections of 2026 and 2028 and related limitations on central office administrative expenses in school districts.

SPONSORS: Rep. Ankarberg, Straf. 7; Sen. Innis, Dist 7

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill:

I. Establishes a school district local tax cap question for the state general elections of 2026 and 2028.

II. Establishes limitations on central office administrative expenses in school districts.

III. Requires that the commissioner of the department of revenue administration adopt rules relative to the school district local tax cap question and limitations on central office administrative expenses in school districts.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
11Mar2026... 0980h
11Mar2026... 1117h
05/14/2026 1851s
05/14/2026 1876s
4Jun2026... 2109CofC
4Jun2026... 2173EBA 26-2870
05/06

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT establishing a school district local tax cap question for the state general elections of 2026 and 2028 and related limitations on central office administrative expenses in school districts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

324:1 New Section; Municipal Budget Law; Preparation of Budgets; School District Local Tax Cap and School Administrative Fixed Cap on Central Office Administrative Budgets. Amend RSA 32 by inserting after section 5-h the following new section:

32:5-i School District Local Tax Cap and School Administrative Fixed Cap on Central Office Administrative Budgets.

I. During the November 2026 and November 2028 state general elections, every town and ward in a city shall conduct a vote on a local tax cap question for their school district and a fixed cap on the school administrative unit central office administrative budget. The question shall appear on the ballot by operation of law and shall not require a warrant article, citizen petition, or separate local legislative approval.

II. The question required under paragraph I shall be printed on the state general election ballot administered pursuant to RSA 656:13, following the offices columns. If the secretary of state determines that sufficient space on the front of the state general election ballot does not permit inclusion of the question, the secretary of state shall cause the question to be printed on the reverse side of the state general election ballot and shall cause a notice to be printed on the front of the ballot directing voters to turn the ballot over to vote on the question. If the secretary of state determines that printing on the reverse side is also impracticable, the question shall be printed on a separate official ballot to be distributed, cast, collected, and counted at the same polling place and during the same hours as the state general election ballot. The secretary of state shall adopt any procedures necessary to ensure that ballot counting devices used pursuant to RSA 656:40 are programmed to read and count votes cast on both sides of the ballot where the reverse side is used.

III. Nothing in this section shall prohibit a municipality, school board, or school administrative unit board from holding a public hearing on the question for the local tax cap and for the school administrative fixed cap on central office administrative budgets.

IV. Whenever the question required under paragraph I is printed on the state general election ballot or on a separate official ballot pursuant to paragraph II, the secretary of state shall ensure that said question is also included on all applicable absentee ballots consistent with RSA 656:36.

V. The school district local tax cap and school administrative unit fixed cap question on the ballot for towns and wards with an annual school district meeting shall read:

“Shall the [name of municipality] limit property tax growth for [name(s) of school district(s)] under RSA 32:5-i? If adopted for a two-year period: (1) the local property tax levy may not grow beyond the prior year’s amount, adjusted for inflation and new construction; (2) SAU central office spending may not exceed 6 percent of total school district appropriations; and (3) bonded capital costs are excluded from both limits. These caps apply only to administrative operations of the SAU central office and do not affect classroom instruction, school-based services, or other municipal expenditures.

These limits may be overridden as provided in RSA 32:5-i. Adoption requires a three-fifths (3/5) majority vote."

Towns and wards serving more than one school district shall include the names of all such school districts in the question.

VI.(a) The moderator of each municipality or ward in the school district shall report the results on the question to the secretary of the school administrative unit board for the school district. If a 3/5 majority of the voters voting in the municipalities and wards served by the school district approve the question, then the maximum allowable levy per the local tax cap for the district under paragraph VIII shall be binding.

(b) The moderator of each municipality or ward in the school administrative unit shall report the results on the question to the secretary of the school administrative unit board served by the municipality or ward. If a 3/5 majority of the voters voting in the municipalities and wards served by the school administrative unit approve the question, then the SAU fixed cap for the SAU central office administrative budget under paragraph IX shall be binding.

(c) The secretary of the school administrative unit board shall certify the results of the votes to the department of revenue administration. Preservation of ballots shall be pursuant to RSA 33-A:3-a, XXXVII.

VII.(a) Any 10 registered voters from any municipality served by a school district, before the expiration of 7 days from the date of the general election, may apply in writing to the school district clerk for a recount of the ballots for the question on a school district local tax cap under this section. The secretary shall schedule a recount, to be conducted by the school board, not earlier than 5 days nor later than 10 days after the date the secretary receives the petition. The applicants for such a recount shall pay to the school clerk a fee of $10 for conducting the recount.

(b) Any 10 registered voters from any municipality served by a school administrative unit, before the expiration of 7 days from the date of the general election, may apply in writing to the secretary of the school administrative unit for a recount of the ballots for the question on a school administrative unit fixed cap under this section. The secretary shall schedule a recount, to be conducted by the school administrative unit, not earlier than 5 days nor later than 10 days after the date the secretary receives the petition. The applicants for such a recount shall pay to the secretary of the school administrative unit board a fee of $10 for conducting the recount.

VIII.(a) The maximum allowable levy shall equal:

Prior fiscal year property tax levy (excluding bonded capital costs as defined in paragraph XVI) × (1 + inflation + net new taxable property growth).

Bonded capital costs, as defined in paragraph XVI, shall be excluded from both the prior fiscal year property tax levy and the maximum allowable levy calculated under this paragraph. No amount attributable to bonded capital costs shall be included in the prior fiscal year levy for purposes of calculating the maximum allowable levy in any subsequent year.

(b) "Inflation" means the one year (12 month) percentage change in the Consumer Price Index for All Urban Consumers, Northeast Region, as published by the Bureau of Labor Statistics, United States Department of Labor, using the amount published for the month of March in the prior fiscal year.

(c)(1) "Net new taxable property growth" means the percentage increase in assessed valuation from the prior year attributable to:

(A) New construction;

(B) Physical expansion or improvement of structures;

(C) Subdivision or redevelopment of land;

(D) Conversion from exempt to taxable status; or

(E) Any physical change that increases taxable market value.

(2) "Net new taxable property growth" shall not include:

(A) Market appreciation;

(B) Revaluation or reassessment; or

(C) Changes in assessment methodology.

(d) The department of revenue administration shall certify annually the net new taxable property growth for each taxing jurisdiction.

IX. In the municipalities and wards served by a school administrative unit where the school administrative unit fixed cap question under this section is approved by the voters, the fixed cap for school administrative unit central office administrative budgets shall be 6 percent of the sum of the total school district appropriation amounts, except costs of bonded capital projects pursuant to paragraph XVI, in the school districts comprising the SAU. “School administrative unit central office administrative budgets” means expenditures for the general management and administration of a school administrative unit. These expenditures include superintendent services; assistant or deputy superintendent services; business administration; human resources; finance; payroll; purchasing; district-level information technology administration; legal services; public relations; and other non-school-based administrative functions, regardless of physical location or building assignment. The term also includes district-level curriculum directors, directors of instruction, or similarly titled positions who are not employed under a collective bargaining agreement or who do not provide direct classroom instruction for more than 50 percent of their work time, as well as any personnel reported to the department of education as employed by the central office. The term does not include school-based administrative staff; classroom instruction; instructional support services; special education services; transportation; food services; or facilities operations and maintenance.

X. The legislative body may vote to exceed the school district local tax cap or the school administrative unit fixed cap using the override procedures provided in these subparagraphs.

(a) The provisions of this subparagraph shall apply only to districts with an annual meeting. The legislative body may override the school district local tax cap under paragraph VIII, or the school administrative unit fixed cap under paragraph IX, by the usual procedures applicable to annual meetings of the legislative body, provided that: when a proposed appropriation will cause the cap to be exceeded or the cap has already been exceeded, exclusive of bonded costs defined in paragraph XVI, voting on the appropriation question shall be by ballot, but the question shall not be placed on the official ballot used to elect officers, except in the case of a legislative body that uses an official ballot form of meeting under RSA 40:13 or under a charter adopted pursuant to RSA 49-D. If a 3/5 majority or the super majority as determined under a charter pursuant to RSA 49-D of those voting on the question vote "yes," the appropriation is approved. Only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority or the super majority as determined under a charter pursuant to RSA 49-D.

(b) The provisions of this subparagraph shall apply only to districts without an annual meeting. If the school district local tax cap has been adopted, the legislative body shall adopt a school district budget, exclusive of bonded costs defined in paragraph XVI, that does not exceed the local tax cap established under paragraph VIII, unless the legislative body overrides the cap by the supermajority defined in its charter pursuant to RSA 49-C:33, I(d) or RSA 49-D:3, I(e). If the school administrative unit fixed cap has been adopted, the legislative body overrides that cap by the supermajority defined in its charter pursuant to RSA 49-C:33, I(d) or RSA 49-D:3, I(e).

XI. No municipal tax rate shall be set that causes a taxing authority to exceed its certified limits under this section.

(a) For a school district that has adopted the school district local tax cap or a school administrative unit that has adopted the school administrative unit fixed cap under this section, the governing body shall forward, at a time and in a form prescribed by the department of revenue administration, documentation demonstrating compliance with the adopted caps. Such documentation shall include:

(1) The computation of the school district local tax cap or school administrative unit fixed cap for the applicable year;

(2) Proposed appropriations by the governing body and budget committee and estimated revenues going into the annual meeting, showing the estimated amount of property taxes to be raised for the school district budget or school administrative unit central office administrative budgets, or both;

(3) Appropriations voted by the annual or special meeting of the legislative body; and

(4) The count of any ballot votes taken to override the school district local tax cap or school administrative unit fixed cap.

(b) Upon review of documentation submitted under subparagraph (a), if the commissioner of the department of revenue administration determines that the certified school district budget results in estimated taxes exceeding the adopted school administrative unit fixed cap and that no valid override vote was obtained as provided in this section, the governing body shall reduce the appropriation of the certified budget by the amount that the certified budget exceeds the cap.

(c) Upon review of documentation submitted under subparagraph (a), if the commissioner of the department of revenue administration determines that the certified school administrative unit central office administrative budget results in estimated taxes exceeding the adopted school administrative unit fixed cap and that no valid override vote was obtained as provided in this section, the governing body shall reduce the appropriation of the certified budget by the amount that the certified budget exceeds the cap.

(d) The department of revenue administration shall not approve any tax rate that exceeds the certified limit and shall withhold rate approval until the municipality demonstrates compliance either by showing the certified budget is within the certified cap or by showing a valid override vote in accordance with RSA 40:13 or applicable annual meeting procedures.

(e) Nothing in this section shall prohibit the department of revenue administration from requiring additional information, documentation, or schedules reasonably necessary to determine compliance with the adopted local tax cap or fixed cap under this section.

XII. If approved at the November 2026 state general election, the school district local tax cap or the school administrative unit fixed cap, or both, shall apply beginning with the fiscal year 2028 school district total budget or school administrative unit budget, as applicable. If approved at the November 2028 state general election, the school district local tax cap or the school administrative unit fixed cap, or both, shall apply beginning with the fiscal year 2030 school district total budget or school administrative unit budget, as applicable.

XIII. Any taxpayer in a member school district or school district of the school administrative unit, as applicable, shall have standing to enforce this section in superior court.

XIV. Nothing in this section may be construed to repeal, supersede, or diminish any property tax limitation that is more restrictive under existing law, a municipal charter, or a local ordinance. When more than one property tax limitation, tax cap, local tax cap, or budget cap applies, each applicable limitation must be fully satisfied.

XV. This section shall operate solely as a local tax cap limitation on the estimated amount of local taxes to be raised for the fiscal year attributable to the school district or a fixed cap on the school administrative unit central office administrative budget, as applicable.

XVI.(a) Bonded capital costs shall include principal or interest on bonds or notes only if the bonded indebtedness is issued solely for the acquisition, construction, or major structural renovation of real property, reported pursuant to RSA 198:4-a.

(b) The department of revenue administration shall certify annually the portion of debt service that qualifies for exclusion.

(c) No exclusion shall apply unless certified by the department.

XVII. The provisions of this section shall expire on January 1, 2032. Any school district local tax cap or school administrative unit fixed cap adopted pursuant to this section shall cease to have legal effect as of that date. The expiration of this section shall not affect the validity of any appropriation, budget, or tax rate lawfully established prior to January 1, 2032.

324:2 New Paragraph; Department of Revenue Administration; Rulemaking Authority. Amend RSA 21-J:13 by inserting after paragraph XIV the following new paragraph:

XV. The forms, promulgation of forms, and any other information necessary to implement the provisions of RSA 32:5-i.

324:3 Prospective Repeal. RSA 32:5-i, relative to the school district local tax cap and school administrative fixed cap on central office administrative budgets, is repealed.

324:4 Effective Date.

I. Section 3 of this act shall take effect January 1, 2032.

II. The remainder of this act shall take effect September 1, 2026.

Approved: July 15, 2026

Effective Date:

I. Section 3 effective January 1, 2032

II. Remainder effective September 1, 2026