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' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR EMERGENCY PRELIMINARY INJUNCTION

## INTRODUCTION

Plaintiffs David Bates and Kelly Wieser are registered New Hampshire voters and taxpayers who 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. On election day, 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 ("the school funding caps"). The plaintiffs are likely to succeed on the merits because the ballot question violates their right to vote by presenting a confusing and misleading question that contains fewer choices than the legislature intended.

The ballot question is unconstitutional on three independent grounds. First, the question is confusing because its complex structure, language, and terminology make the scope and effect of the proposed school funding caps difficult for voters to understand. Second, the ballot question is misleading. It affirmatively assures voters that adopting the school funding caps will not impact classroom and other school-based services—an issue likely to matter to many voters. The evidence, however, shows that capping school funding pursuant to RSA 32:5-i would inevitably affect services that schools provide inside or outside the classroom. Finally, 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.

Absent a preliminary injunction that bars the state from including the ballot question on the general election ballot, the plaintiffs face imminent irreparable harm, without an adequate remedy at law. A violation of the right to vote cannot be remedied through monetary relief, and the election will take place in approximately nine weeks. Accordingly, now is the time to prevent this unconstitutional and irreparable harm before the ballot question appears on the November 2026 general election ballot.

## BACKGROUND

### A. New Hampshire School Structure and Funding

Students in public primary and secondary schools in New Hampshire are educated as part of a system of school districts that take various forms. *See* **Exhibit A** (Greenberg Aff.) ¶ 6. Some districts serve a single town or city, while others operate jointly across towns or receive students from other districts in exchange for tuition. *Id.* ¶¶ 6-8. Every school district is served by a school administrative unit ("SAU"), which provides superintendent, fiscal management and planning, payroll, regulatory compliance, human resources, IT support, and other vital administrative services. *Id.* ¶¶ 10-11, 32. SAUs may serve one district or multiple districts; in the latter case, those districts and towns share the cost of its services. *Id.* ¶¶ 9-11.

School districts receive funding from property taxes and several other sources. *Id.* ¶ 12. The vast majority of school funding comes from property taxes, divided into two categories. *Id.* ¶ 13. The first category is based on the local tax rate applied to the value of property in the school district. *Id.* Most of the property tax funding for schools comes from this category. *Id.*

The second type of property tax funding is the Statewide Education Property Tax ("SWEPT"). *Id.* While the state sets the amount of SWEPT, it is paid by local property taxpayers. *Id.* The remaining school funding comes from non-property tax sources, such as state adequate education grants and federal funding under various programs and entitlements. *Id.* ¶ 14. Those alternative sources of funding vary from district to district, and their availability is subject to change. *Id.* ¶¶ 12, 17.

School districts have limited flexibility to reduce their overall spending. *See* Ex. A (Greenberg Aff.) ¶ 26; **Exhibit B** (Rossner Aff.) ¶ 24. About three quarters of a school district's spending consists of fixed costs that cannot be cut. Ex. A (Greenberg Aff.) ¶¶ 26, 41. They typically include utilities, transportation fees, and contracted salaries, benefits, and state retirement fund contributions. *Id.* 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. *Id.* ¶ 41. That leaves only about 25 percent of a school district's expenditures that potentially could be reduced. *Id.* ¶¶ 26, 42. Cutting those 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. *Id.* Regardless of which specific cuts are adopted, they inevitably impact services that schools provide inside or outside classrooms. *Id.* ¶¶ 43-49; Ex. B (Rossner Aff.) ¶¶ 24-25.

Each year, school districts must set a budget based on projected revenues and expenses. Ex. A (Greenberg Aff.) ¶¶ 18-24. School budgets are set annually as part of a multi-step process involving SAU and school officials, the school board, and local voters. *See id.* ¶¶ 18-19, 27-29. A draft budget is presented to the school board for approval in the fall or early winter prior to the following school year. *Id.* ¶ 18. 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. *Id.* ¶ 19. The school board has the ultimate authority to revise and adjust the budget for presentation to local voters. *Id.* If 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. *Id.* ¶ 42; Ex. B (Rossner Aff.) ¶ 24.

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. Ex. A (Greenberg Aff.) ¶ 18. 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. *Id.* ¶¶ 27-28. 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. *Id.* ¶ 29.

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. *Id.* ¶ 30; *see* RSA 32:5-b; RSA 40:13; RSA 40:14. In recent years, some school districts have considered and rejected such caps. Ex. A (Greenberg Aff.) ¶ 31.

**B. The Ballot Question**

Effective September 1, 2026, the State of New Hampshire amended its 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 a pair of school funding caps. *See* RSA 32:5-i, I. 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. *See* RSA 32:5-i, VIII. 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, IX.

Adoption of the school funding caps requires a "three-fifths (3/5) majority vote." RSA 32:5-I, V. 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. *See* RSA 32:5-i, XII. The statute does not require towns or school districts to hold hearings ahead of the vote, although they may do so. *See* RSA 32:5-i, III. 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. *See* RSA 32:5-i, I.

This new municipal budget law has its genesis in New Hampshire House Bill 1300 ("HB1300"). HB1300 was introduced in December 2025 as a bill to redraw New Hampshire's congressional districts.[1] A subsequent amendment transformed HB1300 into a municipal budget law, RSA 32:5-i, with the initial version of the ballot question tied to the school funding caps.[2] Following a committee of conference, the House and Senate adopted the final version of the bill on June 4, 2026, which the Governor signed. *See* **Exhibit C** (HB1300 Final Version).

Consistent with HB1300, the newly enacted RSA 32:5-i contains the mandatory ballot language at issue in this lawsuit, as well as various provisions related to printing the ballot question,[3] voting and recount procedures, procedures for implementing the school funding

---

[1] HB1300 – As Introduced. All versions of the bill cited in this brief are available at: https://gc.nh.gov/bill_Status/billinfo.aspx?id=2080 (last visited Aug. 26, 2026).

[2] HB1300 Amendment 2026-0980h (March 2, 2026).

[3] HB1300 instructs the Secretary to print the ballot question on the front of the state general election ballot, following the offices columns. RSA 32:5-i, II. If that space is insufficient, the Secretary is instructed to have the question printed on the reverse side of the election ballot. *Id.* 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. *Id.*

caps, and mechanisms for overriding them. The ballot question that must appear on or alongside the November 2026 general election ballot states 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.

RSA 32:5-i, V. This paragraph contains 109 words spanning five sentences. 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. 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 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. The third sentence represents that "[t]hese caps" will not impact "classroom instruction," "school-based services," and "other municipal expenditures," again without defining those terms. 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. The final sentence states that adopting the school funding caps requires a three-fifths majority, without explaining the meaning of the phrase.

Dr. Deborah Bosley, a plain language expert, analyzed the ballot question against the principles of plain language and understandability and concluded that it "creates an unreasonable risk of misunderstanding for an ordinary voter." **Exhibit D** (Bosley Report) at 11. Dr. Bosley, an award-winning Associate Professor Emerita in English (Technical Writing) at the University of North Carolina at Charlotte, has published extensively on issues related to clear communications, has given more than 100 presentations on plain language to various national and international audiences, and has served as an expert witness in a number of cases. *See id.* at 2-4. Her testimony on plain language was found credible in a prior New Hampshire case, which was affirmed by the New Hampshire Supreme Court. *See N.H. Democratic Party v. Sec'y of State*, 174 N.H. 312, 319, 328 (2021).

According to Dr. Bosley, the ballot question "requires voters to interpret specialized legal and governmental terminology, understand multiple interrelated financial restrictions, resolve potentially ambiguous references such as 'both limits' and 'these caps,' and understand the effect of a statute that is incorporated by reference but not explained." Ex. D at 11. The ballot question, therefore, "imposes a high cognitive load particularly given the context in which voters are reading it." *Id.* at 7. That context is the demanding environment of the voting booth, where 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. *Id.* at 8. Because HB1300 requires the ballot question to appear after the offices columns, voters will not encounter it until the end of the ballot. *See* RSA 32:5-i, II. "Most importantly, the language does not directly tell voters the practical consequences of voting yes or no." Ex. D at 11. "As a result, a voter may be able to read the paragraph fluently without being able to accurately explain what the proposed measure would do." *Id.*

The plaintiffs' two witnesses with decades of experience on New Hampshire school funding and budgeting have analyzed the ballot question in light of the potential impact of the school funding caps. Nathan Greenberg, a retired school superintendent, and Daniel Rossner, a current SAU business administrator, have both opined that the impact of implementing the school funding caps would not be limited to SAU administrative costs, as the ballot question represents. *See* Ex. A (Greenberg Aff.) ¶¶ 2, 33-51; Ex. B (Rossner Aff.) ¶¶ 7, 15-36. Contrary to the statement in the ballot question, both have concluded that the cuts would necessarily impact services that schools offer inside or outside the classroom because of the limited options for spending cuts available to New Hampshire school districts. *See* Ex. A (Greenberg Aff.) ¶¶ 33-51; Ex. B (Rossner Aff.) ¶¶ 15-36.

New Hampshire will hold the general election on November 3, 2026. It is expected that the election ballots will be printed shortly after the results of the September 8, 2026 primary election are certified. Barring preliminary injunctive relief, the ballot question will be presented to voters statewide despite its many shortfalls.

## STANDARD OF REVIEW

A preliminary injunction is a provisional remedy that preserves the status quo pending a final determination of the case on the merits. *N.H. Dept. of Env'tl Servs. v. Mottolo*, 155 N.H. 57, 63 (2007). It is within a court's "sound discretion" to grant a preliminary injunction "upon a consideration of all the circumstances." *Gauthier v. Robinson*, 122 N.H. 365, 368 (1982) (quotation marks omitted). In determining whether an injunction is warranted, the court considers whether (1) the movant is likely to succeed on the merits; (2) the movant is in danger of an immediate, irreparable harm that cannot be adequately remedied by law; and (3) the balance of equities weighs in favor of the movant. *Mottollo*, 155 N.H. at 63; *UniFirst Corp. v. Nashua*, 130 N.H. 11, 14-15 (1987).

New Hampshire Supreme Court precedent shows that the preliminary injunction analysis is a flexible standard that entails a court's exercise of equitable judgment by considering all the circumstances and balancing probabilities and harms. *See, e.g.*, *UniFirst*, 130 N.H. at 14-15 (describing the holistic equitable approach to preliminary injunctions); *Thompson v. N.H. Bd. of Med.*, 143 N.H. 107, 108 (1998) (describing the inquiry into likelihood of success on the merits as "a balance of the probabilities"); *Kukene v. Genualdo*, 145 N.H. 1, 4 (2000) (recognizing that likelihood of success must be evaluated in conjunction with "the circumstances of the case and balance [of] the harm to each party if relief were granted."). This holistic approach permits the strength of one factor to inform the degree of showing required on another, rather than treating each factor as a rigid, independent prerequisite that must be accorded the same weight.

## ARGUMENT

### I. PLAINTIFFS ARE LIKELY TO PREVAIL ON THE MERITS OF THEIR CLAIMS THAT THE BALLOT QUESTION IS UNCONSTITUTIONAL.

The right to vote is a fundamental right guaranteed by the New Hampshire Constitution. The State 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. Consistent with the breadth of Article 11, the New Hampshire Supreme Court has recognized that "voting 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 *Ill. 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) (recognizing that 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)).

The level of scrutiny that New Hampshire courts apply to a voting rights challenge varies depending on the severity of the injury and the corresponding state interest. *See Guare v. State*, 167 N.H. 658, 663 (2015). If the restriction is severe, the law must pass strict scrutiny. *Id.* If the restriction is reasonable and non-discriminatory, rational review applies. *Id.* "Most cases fall in between these two extremes." *Id.* (quotation marks omitted). In *Guare*, the court applied intermediate scrutiny to a voter registration form that confusingly and inaccurately stated the legal consequences of registering to vote as a domiciled voter. *See id.* at 664-65. The court subsequently applied intermediate scrutiny to another challenge to voter registration forms based on confusing or misleading language regarding proof of domicile, declining an invitation to overrule *Guare*. *See N.H. Democratic Party*, 174 N.H. at 327-28. The same level of scrutiny should apply here. As in those cases, the state intends to burden the plaintiffs' exercise of the right to vote through confusing, and indeed misleading, language, neither of which is a reasonable restriction. The significance of the constitutional burden does not depend on whether the confusing language obstructs the voters' path to the ballot or their ability to use the ballot meaningfully.

Intermediate scrutiny requires that the challenged law be "substantially related to the precise governmental interests it set forth as justifications necessitating the burdens the law imposes on the right to vote." *Id.* at 329 (citing *Guare*, 167 N.H. at 667). The purpose of RSA chapter 32 is "to establish uniformity in the manner of appropriating and spending public funds in all municipal subdivisions to which this chapter applies." *Olson v. Town of Grafton*, 168 N.H. 563, 568-69 (2016) (quotation marks omitted). Therefore, once the plaintiffs demonstrate that the ballot question unreasonably burdens their right to vote, the Secretary must show that the ballot question is substantially related to the law's goal of uniformity in how municipalities spend public funds.

As demonstrated below, the ballot question will burden the plaintiffs' right to vote in New Hampshire's November 2026 state general election because it is confusing, misleading, and improperly constrains voter choice. None of those burdens are rationally related, let alone substantially related, to the municipal law's goal of advancing uniformity in public spending. Accordingly, the plaintiffs are likely to succeed on the merits of their constitutional challenges.

### A. The Ballot Question's Confusing Language Unreasonably Burdens the Plaintiffs' Fundamental Right to Vote.

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. Applying that principle, the New Hampshire Supreme Court has held that confusing language on voter registration forms imposed an unreasonable burden on the fundamental right to vote. *See id.* A confusing ballot question presents the same constitutional problem.

The New Hampshire Supreme Court has confronted the constitutional significance of state-created confusion in the voting context in several decisions. In *In re McDonough*, the court considered a challenge to ballot instructions that were allegedly so confusing that they interfered with the right to vote. 149 N.H. 105, 113 (2003). The court assumed, without deciding, "that voters have a constitutional right to understandable ballot instructions." *Id.* The court did not need to resolve that question because the record was insufficient to establish confusion. *See id.*

The court subsequently answered a closely related question in *Guare*. *See* 167 N.H. at 664-65. The plaintiffs in that case challenged language on a voter registration form stating that a declaration of New Hampshire domicile subjected domiciled voters to the same laws and regulations that apply to state residents. *See id.* The court agreed that the language was both "confusing and inaccurate," and that it "could cause an otherwise qualified voter not to register to vote." *Id.* As a result, the court held that the challenged language unreasonably burdened the plaintiffs' fundamental right to vote, and that the restriction was not substantially related to the governmental interests underlying voter registration requirements. *Id.*

The court confronted a similar challenge in *New Hampshire Democratic Party*. *See* 174 N.H. at 327-28. There, the court upheld a trial court's finding that confusing and potentially misleading language on voter registration forms pertaining to proof of domicile imposed an unreasonable burden on the right to vote. *Id.* The court considered evidence that the forms were difficult to understand and complete, that their complexity increased the time and difficulty of registration, and that the resulting confusion could deter voter participation. *Id.* at 320-27. Taken together, *Guare* and *New Hampshire Democratic Party* confirm what *McDonough* assumed, namely that 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.

That principle necessarily extends to the language of the ballot itself. Voter registration forms inform an eligible voter what must be done to exercise the right to vote. In turn, ballot instructions tell a registered voter how to cast a valid vote. Finally, a ballot question tells the voter what choice the state has placed before the voter. At each of those steps of the voting process, the state controls the language through which it communicates the rules or choices governing the exercise of the right to vote. And in each instance, confusing language can unreasonably burden the voter's ability to exercise that right.

This is far from a novel proposition. In the context of a challenge to the validity of a constitutional amendment, the New Hampshire Supreme Court has stated 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)). That principle is not limited to the vote on constitutional amendments. Citing caselaw from other states, the leading treatise on election law recognizes the general rule that "[a] ballot by which a question or proposition is submitted to popular vote by the electorate must be in a form that will allow the voter to decide whether to approve or disapprove the measure." 29 C.J.S. Elections § 277. The test is whether the form of the question allows voters the opportunity to "fairly express their will." *Id.* To satisfy that standard, the ballot "must simply and clearly state a question," "must be free from uncertainty or ambiguity," and "must not be misleading." *Id.*

Simply put, a ballot question does not permit voters to fairly express their will unless it tells them with sufficient clarity what they are being asked to approve or reject. *See Fischer*, 145 N.H. at 37; *Opinion of the Justices*, 101 N.H. at 543; 29 C.J.S. Elections § 277. By extension, a voter who cannot reliably determine what a "yes" or "no" vote means due to confusing language or material omissions cannot express an informed choice. *See Fischer*, 145 N.H. at 37 (invalidating a constitutional amendment where "the voters were never given notice" of a material change that the text of the amendment effected); 9 C.J.S. Elections § 277 (explaining that "omission of information in ballot language is material if its absence affects the fairness or accuracy of the text"). In this context, "the challenged language is confusing" when "it is susceptible to different interpretations." *Guare*, 167 N.H. at 664.

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. Dr. Bosley, the plaintiffs' plain language expert, has analyzed the ballot question against well-recognized plain language standards and has concluded that the language, structure, and material gaps in the ballot question create a significant risk that an ordinary reader will misunderstand it. *See* Ex. D (Bosley Report) at 4-11.

The ballot language creates multiple layers of confusion. Most importantly, the language does not readily inform voters of the consequences of voting for or against the school funding caps. As Dr. Bosley notes, the "opening question does not tell voters what they are actually deciding." *Id.* at 7. Instead, the wording assumes that voters understand several concepts that are neither explained nor readily apparent: What does "property tax growth" mean? What exactly is being limited? Who controls the limit? And what does RSA 32:5-i provide? *Id.* In Dr. Bosley's opinion, the statutory reference is particularly problematic because a "voter should not have to know or research a statute to understand the basic consequence of voting yes or no." *Id.*

The remaining four sentences compound the confusion. In all, there are at least twelve terms in the ballot question that are not readily understood by the average voter. *Id.* at 8. They include an undefined acronym ("SAU"), as well as "terms of art whose legal or financial, governmental, or bureaucratic meaning may differ from what a lay reader assumes," such as "bonded capital costs." *Id.* at 8-9. As a result, there is an increased likelihood that voters who are unfamiliar with those terms will fail to understand the ballot question. *Id.*

Using such jargon, the second sentence of the ballot question requires the voters to simultaneously process three different financial rules, with multiple embedded qualifications. They include (1) a limit on the growth of "local property tax levy," (2) a cap on "SAU central office spending" that cannot exceed 6% of "total school district appropriations," and (3) an exclusion of "bonded capital costs" from "both limits." RSA 32:5-i, V. As Dr. Bosley explains:

> The voter then encounters qualifications to those rules: the caps last two years, inflation, and new construction affect one calculation; some school

> expenditures are unaffected; municipal expenditures are unaffected; the limits can be overridden; and adoption requires a three-fifths majority. That is a substantial amount of information to integrate before answering what appears to be a simple yes/no question.

*Id.* at 7-8. This type of information "imposes a high cognitive load" for the ordinary voter. *Id.*

But those are not the only problems. The language and structure of the ballot question make the relationship between the proposed school funding caps difficult to follow. *Id.* at 9. The provision in the second sentence excluding "bonded capital costs" from "both limits," when the prior text appears to describe multiple restrictions, leaves the voter to determine what "both limits" are. *Id.* The third sentence adds to the difficulty of understanding the question in several different ways. To start, the sentence uses negative framing that can cause greater likelihood of confusion, in particular because it "tells voters what is excluded before clearly establishing what is included." *Id.* Next, the first part of the sentence, stating that "[t]hese caps apply only to administrative operations of the SAU central office," introduces an ambiguity because a voter may reasonably ask whether this statement refers to both the first and second cap. *Id.* If so, Dr. Bosley notes that "the earlier description of the property tax levy may seem inconsistent with the statement that the caps apply 'only' to SAU administrative operations." *Id.* In her expert opinion, such ambiguities "can materially affect a voter's understanding of what government spending in being restricted." *Id.*

The latter part of the third sentence, stating that "[t]hese caps . . . do not affect classroom instruction, school-based services, or other municipal expenditures," further muddies the consequences of voting in favor of the measure. As an initial matter, it requires voters to understand the distinctions between SAU central office administration, school district spending, classroom spending, school-based services, and municipal spending. Although those nuances "may be obvious to government officials familiar with school finance," they "are not necessarily obvious to voters." *Id.* Perhaps more importantly, it also introduces a contradiction: the reference to "[t]hese caps" follows a sentence that described two different kinds of caps, forcing a voter to attempt to "reconcile the first cap, which appears to concern the overall school-district tax levy, with a later sentence suggesting that the caps apply only to SAU central-office administration" and do not to impact other types of spending, such as classroom services. *Id.* at 11.

The final two sentences of the ballot question leave important questions unanswered. Voters are informed that there is an override mechanism if the school funding caps are adopted, but they are not told what that mechanism entails. Instead, the ballot question again merely references RSA 32:5-i, leaving voters to wonder "under what circumstances, by what procedure, or with what vote threshold" can the school funding caps be undone once adopted. *Id.* at 10. As such, the voter "receives information that is legally significant but not sufficiently explained to be useful." *Id.* The concluding sentence informs the voter that adoption of the caps requires "a three-fifth (3/5) majority," without specifying how that requirement applies in a multi-district SAU if some but not all constituent towns vote to adopt the caps.

The context in which the ballot question is being asked makes its deficiencies all the more consequential. As Dr. Bosley notes, "[v]oting booths are not compatible with figuring out a difficult ballot question." *Id.* at 5. Voters need to make a decision in a limited period of time, with other questions competing for their attention and no opportunity to ask for clarification. *Id.* at 8. That is particularly true in this case, where the ballot question will appear on or alongside the November 2026 general election ballot, after voters are asked to choose multiple federal, state, and local officials. The resulting cognitive load can diminish a voter's ability to "parse, retain, integrate, and apply several interrelated propositions before deciding how to vote" on the school funding caps. *Id.*

The combined effect of the ballot question's many deficiencies is that "a voter may be able to read the paragraph fluently without being able to accurately explain what the proposed measure would do." *Id.* at 11. On the one hand, the ballot question "requires voters to interpret specialized legal and governmental terminology, understand multiple interrelated financial restrictions, resolve potentially ambiguous references such as 'both limits' and 'these caps,' and understand the effect of a statute that is incorporated by reference but not explained." *Id.* On the other, "the language does not directly tell voters the practical consequences of voting yes or no." *Id.* In Dr. Bosley's opinion, these issues present "serious problems for the voter" who needs to make a decision in a demanding environment. *Id.* Consistent with Dr. Bosley's report, both plaintiffs have stated in their sworn affidavits that they found the language of the ballot question confusing. *See* **Exhibit E** (Bates Aff.) ¶ 4; **Exhibit F** (Wieser Aff.) ¶ 6.

There is little doubt that voting on the ballot question will deprive New Hampshire voters of the opportunity to fairly express their will with regards to the school funding caps. First and foremost, the text of the question does not give an ordinary voter "a clear idea of what he [or she] is voting for or against." *See Fischer*, 145 N.H. at 37. The question's complicated terminology, confusing set of interrelated limitations, and materials omissions will make it difficult for voters to understand what they are being asked to decide. At the very least, the language of the ballot question is "susceptible to different interpretations." *See Guare*, 167 N.H. at 664. The contradiction it introduces with the reference to "[t]hese caps" requires voters to reconcile an overall school district spending cap with the notion that the caps will apply only to administrative operations. It is not hard to imagine that ordinary voters, who do not have the luxury to carefully parse the language in the voting booth, could come to different conclusions on the impact of the caps. The plaintiffs are therefore likely to succeed on the merits of their claim that the confusing language in the ballot question unreasonably burdens their right to vote.

The Secretary, meanwhile, will be unable to show that this burden is substantially or even rationally related to the law's purpose of advancing uniformity in municipal public spending. Even assuming that asking voters statewide whether to adopt school funding caps is related to that general purpose, it is plain that asking it *in this way* is not. A ballot question that confuses voters undermines that very objective because uniformity is not advanced when voters cannot understand the choice the question presents. Sowing voter confusion on election day with a ballot question that does not effectively inform voters what they are asked to adopt or reject has no rational relationship to any legitimate governmental interest, let alone a "sufficiently weighty" one. *See N.H. Democratic Party*, 174 N.H. at 312. As such, the ballot question is unlikely to pass muster under even rational basis review, much less intermediate scrutiny.

B. The Ballot Question is Unconstitutional Because It Affirmatively Misleads Voters on a Material Issue.

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"); *Gerber v. King*, 107 N.H. 495, 498 (1967) (invalidating a constitutional amendment because the ballot question was "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). 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.

The ballot question specifies that two different caps—(1) a limit on the growth of the local property tax levy for the school district, and (2) a limit on SAU central office spending—will be imposed if the ballot measure is adopted. *See* RSA 32:5-i, V. The next sentence states in full: "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." *Id.*

The phrase "[t]hese caps" naturally refers to both caps identified in the preceding sentence. As a matter of grammar, the demonstrative adjective "these" modifies the plural noun "caps." *See Teeboom v. City of Nashua*, 172 N.H. 301, 316 (2019) (explaining that "ordinary rules of grammar" provide that "a modifying phrase should be placed next to the clause it modifies"). Applying the rule of the last antecedent, the phrase "[t]hese caps" can only be a reference to the preceding sentence's description of the two school funding caps. *See State v. Huckins*, 177 N.H. 237, 240 (2025) (explaining that under this rule, "a modifying clause [in a statute] is confined to the last antecedent unless there is something in the subject matter or dominant purpose which requires a different interpretation") (quotation marks omitted).

The surrounding language confirms this reading. It is well-established that words and phrases must be construed within the context of the entire provision, rather than in isolation. *Olson*, 168 N.H. at 568. Here, the prior sentence refers to the two caps as "both limits" in providing for the exclusion of bonded capital costs. *See* RSA 32:5-i, V. The subsequent sentence then refers to "[t]hese limits" when informing voters that there is an override mechanism. *See id.* Together, these references show that both school funding caps are the joint subject of all three sentences. Accordingly, the plain language and the context of the ballot question as a whole establish that the phrase "[t]hese caps" refers back to both the school district revenue cap and the SAU central office spending cap.

As such, the ballot question represents to 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." These are affirmative statements that voters, particularly those with school-aged children or grandchildren, would reasonably consider material to their decision.[4]

Both of those representations are patently misleading. The plaintiffs' two witnesses on the issue of school funding have analyzed the potential impact of the school funding caps, drawing on their decades of combined experience in New Hampshire school administration. Both have opined that the impact of the caps, if adopted, will not be limited to SAU administrative operations and will inevitably affect classroom instruction, school-based services, or both. *See* Ex. A (Greenberg Aff.) ¶¶ 33-51; Ex. B (Rossner Aff.) ¶¶ 15-36.

To start, Mr. Greenberg, a retired school superintendent, attested to his understanding

[4] To the extent the Secretary argues that this sentence pertains only the SAU spending cap, the legislative history cuts against that interpretation. An earlier version of the ballot question shows that the legislature knew how to say clearly when it wanted this sentence to pertain only to that cap. That version stated: "The fixed cap applies only to administrative operations of the SAU central office and does not affect classroom instruction, school-based services, or other municipal expenditures." HB1300 – As Amended by the House (March 11, 2026). The legislature chose not to use that language in the enacted version. Instead, following the committee of conference, it replaced "[t]he fixed cap" with "[t]hese caps," albeit without explanation. *See* Committee of Conference Report on HB1300 (May 28, 2026). The enacted text, therefore, cannot reasonably be read to pertain only to the SAU spending cap. *Cf. Barry v. Town of Amherst*, 121 N.H. 335, 339 (1981) (the legislature's choice of express language in one statute but not another "demonstrates that the legislature knew how to provide for [that express choice] when that was its intention," and thus the omission of such language in the other statute was "a strong indication that the legislature did not intend the same result").

that the ballot question's reference to "classroom instruction" refers to "the educational experience that students receive in the classroom," whereas "school-based services" refers to "services that the school provides that do not occur in the classroom." Ex. A (Greenberg Aff.) ¶¶ 35-36. That distinction is consistent with the language of the statute, which refers separately to SAU administrative budget costs, classroom instruction, and other types of services. *See* RSA 32:5-i, IX. With those definitions in mind, Mr. Greenberg explained that, due to a number of factors specific to school funding and spending, implementing the school funding caps would invariably impact classroom instruction, school-based services, or both. *See id.* ¶ 40-43. First, due to potential reductions in non-property tax sources of school funding, a school district could prepare a budget that held spending at the prior year's level without any increase and yet still exceeded the cap on the school district property tax levy. *Id.* ¶ 38. Second, circumstances outside the school district's control, such as higher health insurance premiums, emergency building repairs, or mandatory new out-of-district placements, could cause a school district to exceed that cap. *Id.* ¶ 39. Faced with higher costs or lower revenues from other funding sources, a school district would have limited options for cuts, because the vast majority (about 75 percent) of its budget covers fixed costs, such as utilities, transportation, and teacher salaries and benefits, which cannot be cut due to contractual obligations. *Id.* ¶ 41. In fact, those costs are only "fixed" in the sense that they cannot be reduced, but their amount can *increase* year over year due to factors outside the school district's control. *See id.* ¶ 23.

Because of the largely fixed nature of school spending and the variable nature of school funding, Mr. Greenberg has opined that implementing the school funding caps would require the school board to cut costs from the remaining 25 percent of its budget. *Id.* ¶ 42. The options 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. *Id.* In his opinion, "each" of those cuts "would affect classroom instruction, school-based services, or both." *Id.* ¶ 43; *see* ¶¶ 44-49 (discussing the impact of each potential cut).

Similarly, Mr. Greenberg has opined that capping SAU administrative spending could impact classroom instruction or school-based service. *Id.* ¶ 50. First, the cap could force SAUs to cut back on fiscal management and planning services that they provide to school districts, which in turn could lead to budget shortfalls and the ensuing need for budget cuts at the school district level. *Id.* Second, SAUs could be forced to limit existing administrative services to school districts, such as human resources and IT support, which would force school districts to pay for such services themselves. *Id.* ¶ 51. Increased school district spending on those services would require budget cuts that would necessarily impact learning. *See id.* Therefore, although some school districts with high property values might be able to implement the school funding caps with minimal impact, Mr. Greenberg opined that "in many, many districts it would be impossible to prepare a budget without cuts that would affect learning." *Id.* ¶ 40.

Based on his many years of school administration experience and current role as the business administrator for SAU 48, Mr. Rossner has similarly opined that the ballot question's representations regarding the impact of the school funding caps are misleading. *See* Ex. B (Rossner Aff.) ¶ 37. As an initial matter, having reviewed Mr. Greenberg's affidavit, Mr. Rossner has agreed with Mr. Greenberg's opinions on how the caps in HB1300 could impact school budgets. *See* Ex. B (Rossner Aff.) ¶¶ 13-14. Further, Mr. Rossner has provided budget projections showing the potential impact if the school funding caps were implemented in two school districts within his SAU. *See id.* ¶¶ 15-36. His analysis shows that, had the caps been in effect for the 2026-27 school year, Plymouth School District's "unavoidable cost increases" due to increases in teacher salaries and benefits, required special education services, health insurance costs, and transportation costs would have exceeded the projected cap by $330,825. *Id.* ¶¶ 19-20. For Pemi-Baker School District, those same categories of "unavoidable cost increases" for 2026-27 would have caused a $304,710 shortfall. *Id.* ¶¶ 22-23. A similar analysis for the 2027-28 school year shows even higher projected deficits. *Id.* ¶¶ 26-35 (demonstrating a potential shortfall of $442,772 for Plymouth School District and $455,429 for Pemi-Baker School District). Thus, the projected impact of the school funding caps in both school districts would require cuts of hundreds of thousands of dollars. Although it would be up to each school board to decide which cuts to implement, Mr. Rossner has indicated that, due to the fixed nature of much of the school budget, he would have a narrow set of options to present to the school boards, including cuts to teacher and staff contracts, unmandated curriculum subjects, and co-curricular clubs and sports. *Id.* ¶¶ 24, 36. And given the sizes of the shortfalls, "it is inevitable that classroom instruction and school-based services would be affected by such cuts." *Id.* ¶ 36; *accord id.* ¶ 25. As a result, Mr. Rossner views the statements in the ballot question representing that the school funding caps will only impact SAU administrative operations and will not impact classroom instruction or school-based services to be misleading. *Id.* ¶ 37.

Having reviewed the affidavits of Mr. Greenberg and Mr. Rossner, both plaintiffs have attested that they now understand that classroom instruction or school-based services could be affected if the ballot question passes in their respective school districts. Without that information, they would have felt misled by the ballot question. Ex. E (Bates Aff.) ¶ 5; Ex. F (Wieser Aff.) ¶ 7.

In view of this evidence, the plaintiffs are likely to succeed on the merits of their claim that the ballot question is materially misleading, in violation of their fundamental right to vote guaranteed by the New Hampshire Constitution. Misleading voters that the impact of the school funding caps will be limited to SAU administrative operations and will not affect services that schools offer inside or outside the classroom does not advance any legitimate governmental interest, let alone a "sufficiently weighty" one. *See N.H. Democratic Party*, 174 N.H. at 312. Accordingly, the ballot question is unlikely to withstand rational basis review, much less intermediate scrutiny, due to its misleading language.

C. The Ballot Question Violates the Plaintiffs' Right to Vote Because It Presents Them with Fewer Choices than the Legislature Intended.

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

When interpreting a statute, courts must give its language "plain and ordinary meaning" whenever possible. *In re Alexis O.*, 157 N.H. 781, 785 (2008). The words are not construed "in isolation" but rather must be interpreted "within the context of the statute as a whole." *Grand China, Inc. v. United Nat. Ins. Co.*, 156 N.H. 429, 431 (2007). The goal is to "construe all parts of a statute together to effectuate its overall purpose and avoid an absurd or unjust result." *Alexis O.*, 157 N.H. at 785. Where a conflict is unavoidable, specific provisions control over general ones. *See EnergyNorth Nat. Gas, Inc. v. City of Concord*, 164 N.H. 14, 16 (2012).

When read in its entirety, RSA 32:5-i demonstrates that the ballot question cannot be reconciled with specific provisions designed to implement the measure, if passed. The ballot question presents voters with a singular "yes" or "no" choice: in favor or against the pair of school funding caps. *See* RSA 32:5-i, V. This binary choice is inconsistent with multiple more specific provisions that demonstrate voters should be given four different choices.

First, paragraph XII expressly recognizes three possible outcomes if voters vote in favor of the measure: "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 . . . ." RSA 32:5-i, XII (emphasis added). An identical provision tied to the November 2028 general election appears in the same paragraph. *See id.* In other words, contrary to the ballot question's binary choice, paragraph XII expressly contemplates the possibility that voters could adopt the first cap, the second cap, or both. *See id.*[5]

The notion that either cap could be adopted independently is also evident from other implementing provisions. Specifically, paragraph VIII sets out the procedures for calculating the school district revenue cap. *See* RSA 32:5-i, VIII. It defines the maximum allowable levy formula, including exclusions from that calculation. *See id.* In turn, paragraph IX prescribes the procedures for implementing the SAU spending cap. *See* RSA 32:5-i, IX. It defines the cap and the expenditures to which that cap applies. *See id.* Comparing the two paragraphs shows no interdependence such that one cap could not operate without the other. On the contrary, it is plain that each cap operates independently regardless of whether the other is implemented.

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." *See* RSA 32:5-i, X (emphasis added). The disjunctive "or" is repeated in both subparts of this paragraph. *See id.* Specifically, subparagraph X(a) provides

[5] A vote rejecting both caps (the fourth choice) naturally requires no implementation and is thus not expressly addressed in these statutory provisions.

overriding procedures applicable to districts with an annual meeting, specifying that "[t]he legislative body may override the school district local tax cap under paragraph VIII, *or* the school administrative unit fixed cap under paragraph IX" with a three-fifth majority or supermajority vote required under the town charter, when prescribed procedures are followed. *See* RSA 32:5-i, X(a) (emphasis added). Subparagraph X(b), which applies to districts without an annual meeting, provides different overriding procedures depending on which cap applies, with a supermajority vote requirement applicable to both. *See* RSA 32:5-i, X(b). The fact that the two caps can be abolished independently of one another further demonstrates that the ballot's binary choice—for or against both caps—is inconsistent with the rest of the statute.

Construed within the statutory context as a whole, then, the ballot question is the clear outlier that cannot be reconciled with the rest of the statute. The provisions that follow supply the more specific rules governing the substance and effect of the vote. Given the ensuing conflict within the statute, those specific rules control as to the choices that voters are entitled to make. They make plain that voters should be given the choice to vote for the school district revenue cap, the SAU spending cap, both caps, or none. Because the ballot question instead limits voter choice to both caps or none, it deprives voters of choices the legislature itself has prescribed. Thus, the plaintiffs are likely to succeed on their claim that this limitation unreasonably burdens their right to vote, and that it is unconstitutional because it bears no relationship, let alone a substantial one, to any rational governmental interest.

## II. IRREPARABLE HARM AND BALANCE OF THE EQUITIES STRONGLY FAVOR PLAINTIFFS.

To the extent there is any doubt whether the balance of the probabilities tips in favor of the plaintiffs' showing of likelihood of success on the merits, their exceptionally strong showing of irreparable harm and balance of the equities should tilt the scales in favor of granting immediate relief. Asking the ballot question in its current form risks adoption of a confusing and misleading measure in towns and cities across the state. The resulting constitutional violation cannot be remedied with monetary relief. By contrast, pulling the question off the November ballot will allow the legislature to address its constitutional deficiencies, and meanwhile voters in every school district can use existing measures to ensure that their school budgets do not go unchecked.

"Courts routinely deem restrictions on fundamental voting rights irreparable injury." *League of Women Voters of N.H. v. Gardner*, No. 226-2017-CV-00433, 2020 WL 4343486, at *11 (N.H. Super. Apr. 08, 2020) (quoting *League of Women Voters of N. Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014)); *see also Odebrecht Const., Inc. v. Sec'y, Fla. Dep't of Transp.*, 715 F.3d 1268, 1289 (11th Cir. 2013) (collecting cases). The loss of an opportunity to exercise a fundamental constitutional right in an upcoming election is a serious injury, which cannot be compensated with monetary relief. *See, e.g.*, *Aranosian Oil Co. v. State*, 168 N.H. 322, 330 (2015) (discussing the doctrine of sovereign immunity). The risk of that harm is imminent because the election is scheduled to take place in approximately nine weeks.

By contrast, the state faces, at most, the administrative burden and expense of postponing the ballot question and preparing a lawful ballot for a future election. That burden pales in comparison to the plaintiffs' irreparable injury. The public, meanwhile, has no interest in conducting the vote on an unconstitutional ballot question that is likely to confuse and mislead the voters. Nor is this a case where postponing the vote would be harmful to the public interest because local school budgets would grow unchecked in the interim. There are existing mechanisms for voters to adopt caps on their school district funding. *See* RSA 32:5-b; RSA 40:13; RSA 40:14. If the state wants to give voters yet another option for capping their school budgets, there is no prejudice in requiring it to wait for a future election, after the legislature has had the opportunity to pass constitutionally adequate ballot language. The balance of the equities therefore weighs strongly in favor of preliminary injunctive relief.

## CONCLUSION

For the above reasons, the plaintiffs respectfully request that the Court enter a preliminary injunction requiring the Secretary to take all necessary actions to ensure that the challenged ballot question is not presented to voters at the November 2026 general election.

Date: August 31, 2026

Respectfully Submitted,

DAVID BATES and KELLY WIESER

By their attorneys,
HINCKLEY ALLEN

*/s/ Edward J. Sackman*
Edward J. Sackman, NH Bar No. 19586
650 Elm Street
Manchester, New Hampshire 03301
(603) 545-6161
nsackman@hinckleyallen.com

SAMIRA OMEROVIC, ESQ.

*/s/ Samira Omerovic*
Samira Omerovic, N.H. Bar No. 20665
74 Tibbetts Hill Rd.
Goffstown, New Hampshire 03045
(603) 674-2927
samira.omerovic.esq@gmail.com

**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.
samuel.garland@doj.nh.gov
New Hampshire Attorney General's Office
Civil Law Bureau
1 Granite Place South
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.

*<u>/s/ Edward J. Sackman</u>*
Edward J. Sackman

# Exhibit A

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. ____________________

**AFFIDAVIT OF NATHAN GREENBERG**

NOW COMES Nathan Greenberg and submits the following affidavit in the above-referenced matter.

1. I am an adult resident of Londonderry, New Hampshire. I submit this affidavit based on my personal knowledge and belief. The basis for that knowledge is described below.

**Background**

2. I am a retired school superintendent. During my career, I spent decades working in various capacities in education in New Hampshire, Connecticut, New York, and Arizona.

3. In 1968, I received a B.S. in education from the State University of New York at New Paltz. In 1971, I received a Master of Science in Education from the State University of New York at New Paltz. In 1972, I received a Professional Degree (CAGS) in Educational Administration from the University of Bridgeport.

4. Over the course of my career, I have held various positions in school administration and management. Within New Hampshire, those positions included Assistant Superintendent of Schools for SAU 16 (Exeter), 1983 – 1987; Superintendent of Schools for

SAU 56 (Somersworth), 1987 – 1991; Superintendent of Schools for SAU 52 (Portsmouth), 1991 – 1996; and Superintendent of Schools for SAU 12 (Londonderry), 2000 – 2017. I was also a member of the American Association of School Administrators from 1983 – 2017, and a member of the NH School Administrators Association from 1987 – 1996 and 2000 – 2017. I served on the Executive Board of that association from 2004 – 2017, and as President from 2009 – 2010. I received various honors and awards during my career, including NH Superintendent of the Year in 2009, Administrator of the Year – New Hampshire Music Educators Association in 2010, and the New England Association of School Superintendents Dr. Lincoln David Lynch Career Achievement in Education Award in 2019. Additional information on my background is listed on a curriculum vitae attached to this affidavit as **Exhibit A**.

5. Since retiring, I have continued to follow state and local school budgeting, legislation, and school issues. I have attended the Londonderry School District budgeting meetings, and I have a grandchild in the Londonderry School District.

**<u>School Districts in New Hampshire</u>**

6. New Hampshire has a variety of configurations for school districts. The default kind of district is a single town. The local school board for the town governs the school district.

7. 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.

8. 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.

9. There are two types of School Administrative Units: a Multi-District SAU as defined in R.S.A. 194-C:1 and a single district SAU (not a distinct corporate entity) as described in R.S.A. 194:1-a and by 194-C:3. By law, the term SAU in a single district SAU is a nominal designation used for reference purposes only.

10. A single district SAU operates just like a school district and integrates superintendent services. A partial listing includes but is not limited to: superintendent services, assistant superintendent services, business administrator services, human relations, payroll and purchasing, district-level I.T. and legal services, district-level curriculum services, special education and civil rights laws, pupil assessment, facilities oversight, and transportation.

11. 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, the SAU Board 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. Every school district is required to be in an SAU.

**Sources of School Funding**

12. New Hampshire school districts are mainly funded by property taxes with additional funding from other sources which may vary from district to district. By law, school districts cannot exceed their appropriation unless they can establish an emergency exception.

13. **Property Taxes.** On average, school districts in New Hampshire receive approximately two thirds of their funding from property taxes. There are two categories of property tax funding. The first and larger category of property tax funding is based on the local tax rate applied to the value of property in the district. The second type of property tax funding is the Statewide Education Property Tax, known as "SWEPT." The State of New Hampshire decides the amount of the SWEPT tax, but the local school districts pay the tax.

14. **Other Sources of Funding.** School districts in New Hampshire receive about one third of their funding from sources other than property taxes. These include the adequate education grant received from the State of New Hampshire; federal funding under various programs, including Medicaid, IDEA, and Title I; and the child nutrition / hot lunch program. In addition, some school districts, known as receiving districts, have agreements to educate students from other districts in exchange for revenue. Through these arrangements, some receiving districts receive additional revenue.

15. This breakdown means that in a school district with a $10,000,000 budget, about $6,666,667 in funding would come from property taxes. Roughly speaking, about 90 percent of the property tax funds would come from local property taxes, and about 10 percent would come from SWEPT, which is also charged to local property tax payers, but is set by the State of New Hampshire.

16. In the same school district with a $10,000,000 budget, about $3,333,333 of the funding would come from sources other than property taxes, primarily including state adequate education funding and federal programs.

17. The availability of funding sources other than property taxes is uncertain. For example, earlier this year, the New Hampshire legislature enacted HB 1815, which will change how the State defines what constitutes an adequate education, and may reduce the amount of adequacy aid provided to school districts. Recently, other bills that could potentially impact funding have been enacted. For example, the passage of HB 1563, which related to special education funding, changed the formula for special education reimbursement. As of this writing it is unclear whether it will or will not assist in mitigating financial impact.

**<u>Deciding the School District Budget</u>**

18. **Timeline.** New Hampshire school district budgets are set annually. They operate on a fiscal year running from July to June. Budgets are presented to the district school board in the fall or early winter prior to the following school year, and locally approved in the first quarter of the calendar year in which that school year begins. For example, a typical school budgeting timeline for the 2025-2026 school year would have been as follows:

> <u>September 2024</u>: Administrative budget development begins
>
> <u>November 2024</u>: School officials present budget to school board
>
> <u>February 2025</u>: In SB 2 districts (discussed below) towns hold a deliberative session 30 days prior to the vote at which budgets or warrant articles may be modified or amended.
>
> <u>March 2025</u>: School board presents budget to local voters for approval.

June 2025: Some city school districts approve their budgets as late as June.

July 2025 – June 2026: School district operates under approved budget

19. **Preparation of the Budget to School Board.** The superintendent, in collaboration with and input from the administrative staff (including the business administrator, assistant superintendent, principals, and directors), prepares the superintendent's recommended budget to the school board. It is important to note that the direction and request within the budget would be focused on the district goals and previous input from the school board. The school board has the ultimate authority to revise and adjust the budget for presentation to the voters and/or city council.

20. Because of the established timeline for budget development and the availability of information regarding assessed valuation, the business administrator makes an educated projection as to the assessed valuation and state adequacy aid to assist in the in preparing and presenting the budget, as tax rates are not approved by the department of revenue administration until December. Too, since adequacy aid is partly based on the number of students, a projection of student enrollment is also used to determine the calculation of adequacy aid.

21. When administrators project costs, they must do so approximately 18 months before some of those costs are incurred. In the fall of 2024, administrators were projecting costs that would be incurred in June of 2026.

22. There are many things that can significantly impact costs that administrators do not know at the time the projections are made. For example, a special needs student may move into the district. That student may require services that the local district cannot provide,

which means the district, which must provide services to that student, has to pay to have them sent to another school where the necessary services are available. This is called an out of district placement. Out of district placement costs can be significantly higher than in-district special education services. The state provides partial reimbursement the following school year. The formula for reimbursement was changed in HB 1563, and its impact will be assessed going forward.

23. Other potential costs can vary in a similar way. For example, the cost of health insurance can fluctuate substantially year to year. Collective bargaining agreements have provisions that require the school district to cover a specific percentage of those costs regardless of what they are. If insurance claims increase substantially in a year, the school district still must pay the same percentage of those costs for the total amount. That increase can have a significant impact on the budget.

24. Because New Hampshire law prohibits school districts from exceeding their budgets, a school exceeding its approved budget does not have the ability to borrow additional funds to address the shortfall. This means that proper financial planning requires school districts to plan conservatively to avoid such shortfalls and/or be prepared to reduce costs in other budget areas.

25. Due in part to inflation and other costs beyond a school district's control, the budgeting process often results in a budget that exceeds the prior year's approved spending. Some school districts in New Hampshire have adopted spending caps. In districts without spending caps, school boards typically want to limit budget increases to a few percentage points above the prior year's budget.

26. The options for cutting school budgets are limited to certain categories of spending. In New Hampshire school districts, about three quarters of the costs are fixed, meaning they cannot be cut. Examples of fixed costs include utilities, transportation, and contracted salaries, benefits, and state retirement fund contributions. This leaves about twenty-five percent of a district's costs that can be cut. Cutting these costs could result in: reducing administrative positions, teaching positions and/or staff positions, reducing supplies, replacement of equipment, eliminating co-curricular activities or instituting fees for parking or for co-curricular activities.

**<u>Adoption of the School Budget</u>**

27. In New Hampshire, there are multiple methods that enable cities and towns to approve a school district budget and raise funds. Most towns adopt local school budgets through the town meeting process, in which registered voters meet with town officials to discuss budgets and/or modify or amend same.

28. In the traditional form of the process, the voters vote to approve, reject, or modify budgets at the end of the meeting.

29. Some New Hampshire towns have adopted what is known as the SB 2 process, under which there is a "deliberative session" where registered voters receive information on and ask questions about the budget and can amend or modify the budget and/or warrant articles prior to a separate voting session where voters actually cast their votes. New Hampshire cities adopt a budget by either a vote of a city council or, in the case of Concord, by the vote of the school board.

30. New Hampshire law already 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.

31. In recent years, some school districts have considered and rejected caps, including Kearsarge, Epping, Brookline, and Hollis.

**The Role of the SAU**

32. New Hampshire law requires an SAU to provide superintendent services. An SAU's responsibilities are extensive. They include defining "[a]n educational mission which indicates how the interests of pupils will be served under the administrative structure," as well as several specifically identified services that include (a) financial administration, payroll, and purchasing compliance; (b) staff recruitment, supervision, labor relations, and benefits management; (c) curriculum development, implementation, and professional development; (d) compliance with special education, civil rights, and other regulatory requirements; (e) pupil achievement assessment and testing methods; (f) ongoing assessment of district needs regarding enrollment, programs, and facilities; (g) grant writing, disbursement, and federal, state, and local compliance; (h) oversight of insurance, hearings, and litigation; (i) school board operations and board-administration relations; (j) daily school administration, including fiscal affairs, safety, and community relations; (k) assignment, use, and maintenance of facilities; (l) designation of student grade levels and enrollment information; (m) pupil governance and discipline, including due process; (n) administrative staffing; (o) pupil transportation; (p) annual budgeting across all funding sources; (q) school calendar and instructional days; and (r) identification of consultants for various services. R.S.A. 194-C:4.

**Impact of HB 1300 Ballot Question**

33. I have reviewed the ballot question HB 1300 requires to appear on the November 2026 general election ballot. The specific question is:

> 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.

34. This ballot measure will implement a school funding cap in every district in which it passes three-fifths (3/5) majority vote. The cap applies to both taxes and spending. The first part of the cap will limit how much money school districts can raise through property taxes by prohibiting any tax increase that would exceed inflation and, if it applies, new construction. The second part of the cap will limit the amount of the local district budget that may be spent on funding the SAU for the district.

35. My understanding of the reference "classroom instruction" is that the phrase refers to the educational experience that students receive in the classroom. According to the ballot question, the caps will not affect classroom instruction.

36. My understanding of the reference to "school-based services" is that the phrase refers to services that the school provides that do not occur in the classroom. I have reviewed the language of R.S.A. 32:5-i (IX), which explains what some of the language in the ballot question means. I note that the last sentence of that section refers to both "classroom

instruction," as well as "school-based administrative staff," "instructional support services," "special education services," "transportation," "food services," and "facilities operations and maintenance." I presume the items in that sentence other than classroom instruction are what the question refers to when it states that the caps will not affect school-based services.

37. I do not know what "other municipal expenditures" refers to in the context of the ballot question.

38. 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 approximately one third of a school district's revenue does not come from property taxes. Rather, it comes from sources beyond the district's control, such as adequacy funding and federal programs. A reduction in funding from one of those sources could require a school district to raise property taxes in order to maintain its budget at last year's level.

39. A school district could also exceed its revenue cap due to other things 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. A student could move into the district that required an out of district placement. Health insurance claims could be higher. A school building could require emergency repairs. The superintendent and business administrator use their budgeting process to plan for these costs. A cap on revenue would narrow the options for doing so. Further, the cap in this ballot question is based on the inflation rate, and those rates do not become available until after the time at which the school district needs to project budgets. Further, at this point in the timeline, many school district budgets have already been voted on by citizens of their community. Finally, the New Hampshire Department of Revenue

Administration, which will be charged with determining tax rates under the new law, has stated that it is unsure how it will ascertain the new construction component in the formula for assessed valuation.

40. It is possible that in some school districts with high property values and a large tax base these caps could be implemented with minimal impact, but in many, many districts it would be impossible to prepare a budget without cuts that would affect learning.

41. As mentioned, roughly three quarters of a school district's budget is made up of fixed costs. Utilities, ongoing building and transportation expenses, and collective bargaining agreements make up the majority of this part of the budget. In some districts, there are additional fixed costs. For example, some districts enter into tuition contracts to send students to other districts for instruction. These are contractual obligations that the school districts are required to comply with, and they add additional fixed costs to the budget. Districts with significant existing out of district placements also have contractual obligations to pay for those out of district services that increases their fixed costs.

42. A school district required to cut spending in order to comply with the tax cap that HB 1300 would impose is limited to the smaller part of its budget containing non-fixed costs. The school board in the district would decide what to cut. School administrators must provide school boards options for cutting costs during the budget planning process that begins in the fall for the school year starting the following summer. The options available would include cutting staff positions, increasing class size, reducing course offerings, reducing co-curricular activities, reducing administrative staff and/or ancillary services, deferring maintenance issues and limiting purchases of equipment and supplies.

43. 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.

44. It is obvious that reducing the number of teachers or the number of staff available to instruct students would affect classroom instruction by increasing class size and/or eliminating electives.

45. If a school had to cut janitorial staff to address a budget shortfall, that would affect the cleanliness of the school where the students go to learn. That would impact both classroom instruction and school-based services.

46. If a school had to cut certain elective classes, that would affect classroom instruction because those classes would no longer be available for students.

47. If a school had to cut co-curricular activities such as clubs, sports, or band and choir, that would affect school-based services because those services would no longer be available to students.

48. Limiting equipment and supply purchases would also impact classroom learning. If a school district were unable to purchase new or replacement computers, students may need to share computers. If a school was unable to purchase new or replacement texts, students would not have those books available to them.

49. Finally, deferred building expenses could impact the learning environment, which would affect both classroom instruction and school-based services. Many school districts in the State provide instruction in old buildings. Those buildings may have leaky roofs, old furnaces, aging HVAC systems, or inadequate security. Deferring investment in fixing these issues means risking that they become worse during a given school year and disrupt

learning or services. A school that has to close a portion of its building due to a leaking roof will likely see disrupted classroom instruction and, depending on the location of the building, school-based services.

50. Similarly, there is a serious risk that capping funding to the SAU will impact classroom instruction and school-based services. One of the key services an SAU provides to its districts is fiscal management and planning. Much like establishing a household budget that accounts for future uncertainties, the SAU provides the same service to the districts. Budget planning is a critical function in deploying thin resources. Appropriate forecasting must be done to account for long term costs, unexpected exigencies, and changes in available funding. By contrast, poor or nonexistent planning can lead to budget shortfalls. Those budget shortfalls would trigger the same process described above—a presentation to the local school board summarizing the limited options available for cutting the budget, and inevitable effects on classroom instruction and school-based services.

51. Further, SAUs provide school districts with services that the districts themselves do not have to fund, which frees up district funding to go towards classroom instruction and school-based services. For example, SAUs provide human resources and IT support to school districts. If SAU funding for those services is limited, they are shifted onto the local schools, who must decide whether to devote limited funding to support those services, or simply not provide them.

Signed under the pains and penalties of perjury this 30th day of August, 2026.

Nathan Greenberg

Nathan Greenberg

# Exhibit B

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

**AFFIDAVIT OF DANIEL ROSSNER**

NOW COMES Daniel Rossner and submits the following affidavit in the above-referenced matter.

1. I am an adult resident of Holderness, New Hampshire. I submit this affidavit based on my personal knowledge and belief. The basis for that knowledge is described below.

**Background**

2. I received a B.S. in business administration from Boston University in 1992.

3. Following graduation, I spent 16 years in corporate management. During that time, I earned a master's degree in business administration from Bryant College (now Bryant University) in 1999.

4. The last job I held in the private sector was the CFO and COO of the Brickle Group, which is a Rhode Island business conglomerate. I left that role in 2007.

5. I moved to New Hampshire in 2008. My first job was with the Newfound School District as business administrator.

6. Newfound Area School District is a cooperative school district. It is the only school district within SAU 4. The towns presently within the cooperative school district are

Alexandria, Bristol, Danbury, and New Hampton. At the time I was there, the towns Bridgewater, Groton, and Hebron were also members of that cooperative district.

7. In 2013, SAU 48 hired me to be the SAU's business administrator. I have held that position ever since.

8. SAU 48 includes the member school districts of Campton, Ellsworth, Holderness, Pemi-Baker Regional, Plymouth, Rumney, Thornton, Waterville Valley, and Wentworth.

9. I am presently the treasurer of the Tri-State ASBO Conference, which is an association of school business officials in Vermont, New Hampshire, and Maine.

10. I am presently the Chair of the Board of Directors of HealthTrust, a nonprofit New Hampshire risk pool.

11. I have been the Town Moderator in Holderness since 2015. In March 2026, I was elected Moderator of the Pemi-Baker School District.

12. Through my experience, primarily as an SAU business administrator, but also through serving in the other positions listed above, I have gained familiarity with how New Hampshire school districts are organized, how the districts interact with SAUs, and how school district budgets are prepared, adopted, and implemented.

**School Budgeting and HB 1300**

13. I have reviewed the declaration of Nathan Greenberg.

14. Mr. Greenberg's description of the budgeting process and how the caps in HB 1300 might impact the budget are accurate.

**Budget Analysis if HB 1300 Passes**

15. In order to understand how HB 1300 would impact school districts within SAU 48, I looked at how the tax cap within the statute would affect the budget of two of the school districts within SAU 48: Plymouth School District and Pemi-Baker School District.

16. In March of 2026, voters adopted the Plymouth School District budget for July 2026 through June 2027 ("FY27"). I considered how a tax cap would have applied to the numbers in the Plymouth School District FY27 budget. In order to determine the amount of the cap, I used the CPI-U Northeast 2025 inflation figure, which is 3.2%. I do not have historical new construction costs, so I did not consider that figure.

17. For FY27, Plymouth School District's appropriated budget was $11,367,972. That budget included property taxes of $7,589,636, which were comprised of $6,966,879 in local property taxes, and $622,757 in statewide education property taxes ("SWEPT"). The remainder of the appropriated budget came from non-property tax sources, such as adequacy aid and federal programs. In summary, the sources of the funding for the FY27 budget are as follows:

| | | |
|---|---|---|
| Non-Property Tax Revenue: | $3,778,336 | (33% of total) |
| Property Tax Revenue: | $7,589,636 | (67% of total) |
| Local Property Taxes: | $6,966,879 | |
| SWEPT: | $622,757 | |
| Total: | $11,367,972 | |

18. Applying the 3.2% inflation figure, a tax cap would have prohibited any budget increase for FY27 above $222,940.

19. I also looked at the major increased costs for FY27. Although I did not consider all potential cost increases, I identified four specific categories of cost increases that were beyond Plymouth School District's control. First, due to commitments under existing teacher contracts, regular education teacher wage, social security, and New Hampshire retirement system costs increased by $166,518. Second, required special education purchased services increased by $207,810. Third, based on required reimbursement levels in teacher and staff contracts and prior healthcare costs, health insurance went up by $85,943. Fourth, transportation contracted services costs increased by $93,494. These unavoidable cost increases for FY27 totaled $553,765.

20. The cost increases would have exceeded an HB 1300 cap by $330,825.

21. I performed the same analysis for Pemi-Baker School District, which is also in SAU 48. For FY27, Pemi-Baker School District's appropriated budget was $18,323,213. That budget included property taxes of $13,896,066, which were comprised of $12,132,496 in local property taxes, and $1,763,570 in SWEPT. The remainder of the appropriated budget came from non-property tax sources, such as adequacy aid and federal programs. In summary, the sources of the funding for the FY27 budget are as follows:

| | | |
|---|---|---|
| Non-Property Tax Revenue: | $4,427,147 | (24% of total) |
| Property Tax Revenue: | $13,896,066 | (76% of total) |
| Local Property Taxes: | $12,132,496 | |
| SWEPT: | $1,763,570 | |
| Total: | $18,323,213 | |

22. I used the same process I used with the Plymouth School District to estimate the tax cap limit using 2025's 3.2% inflation number. For Pemi-Baker School District, that limit would have prohibited any budget increase for FY27 above $388,240.

23. As I did with Plymouth School District, I reviewed increased costs in Pemi-Baker School District for FY27 in the same four categories of costs (teachers, special education, insurance, and transportation). Much like Plymouth School District, costs in each of these categories increased for reasons beyond the school district's control. Specifically, regular education teacher wage, social security, and New Hampshire retirement system costs increased by $92,675 even though the FY27 budget for Pemi-Baker School District included the elimination of one full-time equivalent. Second, required special education purchased services increased by $122,910. Third, based on required reimbursement levels in teacher and staff contracts and prior healthcare costs, health insurance costs went up by $388,288. Fourth, transportation contracted services costs increased by $89,077. These unavoidable cost increases total $692,950. If the projected tax cap had been imposed, that would have resulted in a $304,710 shortfall for Pemi-Baker District's budget.

24. It is up to the school boards of these districts to decide on budget cuts. If the school districts had to comply with the HB 1300 tax cap last year, I would have prepared a list of options for cutting budget for the school board to consider. Because, as Mr. Greenberg correctly noted, much of the school budget is fixed, the options are narrow. They would have included items like teacher and staff contracts, unmandated curriculum subjects, and co-curricular clubs and sports.

25. Based on the sorts of options that I would have been required to present to the school boards if the HB 1300 cap had been in place for FY27, it is inevitable that the cuts would have affected classroom instruction and school-based services.

**2027-2028 Budget Projections**

26. In addition to looking at how HB 1300 would have impacted FY27 for Plymouth School District and Pemi-Baker School District, I have prepared preliminary projections for how HB 1300 would affect the FY28 budgets for those districts if it passes.

27. Preparing projected budgets required me to estimate the tax rates, CPI-U Northeast inflation number, increased costs, and other figures that I do not yet have. Typically, I would prepare the FY28 budgets in November.

28. For FY28, I estimate the sources of funding in Plymouth School District as follows:

| | | |
|---|---|---|
| Non-Property Tax Revenue: | $3,704,425 | (31% of total) |
| Property Tax Revenue: | $8,245,285 | (69% of total) |
| Local Property Taxes: | $7,640,048 | |
| SWEPT: | $605,237 | |
| Total: | $11,949,710 | |

29. I estimate that the CPI-U Northeast inflation figure will be 3.2%. That would impose a tax cap increase of $244,482 on Plymouth School District.

30. My estimates for the FY28 budget, based on existing Plymouth School District commitments, include the following cost increases in the four categories I considered for FY27:

| | |
|---|---|
| Teacher salary and benefits: | $221,269 |
| Special education: | $211,995 |
| Health insurance: | $89,990 |
| Transportation: | $164,000 |
| Total Projected Increases: | $687,254 |

31. Based on that estimate, the Plymouth School District FY28 budget would exceed the projected cap by $442,772.

32. I made similar estimates for FY28 for Pemi-Baker School District:

| | | |
|---|---|---|
| Non-Property Tax Revenue: | $4,300,419 | (22% of total) |
| Property Tax Revenue: | $15,151,612 | (78% of total) |
| Local Property Taxes: | $13,354,922 | |
| SWEPT: | $1,796,690 | |
| Total: | $19,452,031 | |

33. Assuming the same CPI-U Northeast inflation figure will be 3.2% that I used with Plymouth School District, the above revenue estimates would result in a tax cap increase of $427,358 on Pemi-Baker School District.

34. My estimates for the FY28 budget, based on existing Pemi-Baker School District commitments, include the following cost increases in the four categories I considered for FY27:

| | |
|---|---|
| Teacher salary and benefits: | $399,665 |
| Special education: | $280,137 |
| Health insurance: | $142,957 |

Transportation: $60,028

Total Projected Increases: $882,429

35. Based on that estimate, the Pemi-Baker School District FY28 budget would exceed the projected cap by $455,429.

36. If the estimated shortfalls for Plymouth School District FY28 or Pemi-Baker School District FY28 became a reality, I would prepare a list of options that the school boards may consider to cut to come within budget. As noted above, those options would include items like teacher and staff contracts, unmandated curriculum subjects, and co-curricular clubs and sports. It is inevitable that classroom instruction and school-based services would be affected by such cuts.

37. I am a New Hampshire voter, and I plan to vote in the statewide general election where the HB 1300 question will appear on the ballot. Based on my understanding of the school budgeting process, and the analysis that I reviewed above, the ballot question's statement that "[t]hese caps apply only to administrative options of the SAU central office and do not affect classroom instruction, school-based services, or other municipal expenditures," is misleading.

38. I have attached a spreadsheet summarizing the calculations presented above as an exhibit to this affidavit.

Signed under the pains and penalties of perjury this 31st day of August, 2026.

Daniel Rossner

**Projection of Downsize requirement for FY27 based on FY26**

| | Plymouth School District $ | State Form Source | | Pemi-Baker School District $ | State Form Source |
|---|---|---|---|---|---|
| FY 26 Complete Appropriation | $ 11,367,972 | MS-22 | | $ 18,323,213 | MS-22 |
| Misc Revenues | $ (1,028,288) | MS-24 | | $ (1,829,749) | MS-24 |
| Adequacy Aid | $ (2,750,048) | | * | $ (2,597,398) | |
| Net Assessment | $ 7,589,636 | | | $ 13,896,066 | |
| SWEPT | $ 622,757 | | $ 925,439 | $ 1,763,570 | |
| Net Local Assessment | $ 6,966,879 | | | $ 12,132,496 | |
| 32:5-i Estimated Cap Basis | $ 222,940 | | | $ 388,240 | |
| CPI-U Northeast 2025 | 3.2% | | | 3.2% | |
| https://www.bls.gov/regions/northeast/data/xg-tables/ro1xg01.htm | | | | | |
| Notable Changes FY26 - FY27 | | | | | |
| Regular Ed Teacher Wage, SS, NHRS | $ 166,518 | | | $ 92,675 | Note: 1 FTE Cut |
| SpEd Purchased Services | $ 207,810 | | | $ 122,910 | Note: Prior Year Tuition +$1MM |
| Health Insurance | $ 85,943 | | | $ 388,288 | |
| Transportation Contracted Service | $ 93,494 | | | $ 89,077 | |
| | $ 553,765 | | | $ 692,950 | |
| Imputed Cut | $ 330,825 | | | $ 304,710 | |

* FY27 Adequacy Estimate (Final Sept 1)

**Projection of Downsize requirement for FY28 based on FY27**

| | Plymouth School District $ | State Form Source | Pemi-Baker School District $ | State Form Source |
|---|---|---|---|---|
| | $ 11,949,710 | MS-22 | $ 19,452,031 | MS-22 |
| | $ (1,043,219) | MS-24 | $ (1,731,062) | MS-24 |
| | $ (2,661,206) | | $ (2,569,357) | |
| | $ 8,245,285 | | $ 15,151,612 | |
| | $ 605,237 | | $ 1,796,690 | |
| | $ 7,640,048 | | $ 13,354,922 | |
| | $ 244,482 | | $ 427,358 | |
| | 3.2% | | 3.2% | |
| Notable Changes FY27 - FY28 | | | | |
| | $ 221,269 | | $ 399,665 | |
| | $ 211,995 | | $ 280,137 | |
| See Note 1 | $ 89,990 | | $ 142,957 | |
| | $ 164,000 | | $ 60,028 | |
| | $ 687,254 | | $ 882,787 | |
| | $ 442,772 | | $ 455,429 | |

Note 1 Rates for FY28 are unknown at this time. This number is the current year (FY27) + 6% which is the actual average increase over the past 20 Years.

# Exhibit C

# 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

# Exhibit D

## SECTION I. STATEMENT OF INQUIRY

I have been asked by Plaintiffs' counsel to consider and provide my expert opinion on the "understandability" of the ballot question presented in New Hampshire House Bill 1300 ("HB 1300"). I am evaluating the language in the question against three ISO 24495-1 plain-language principles: 1) relevance, 2) understandability, and 3) usability. The fourth principle is "findable" when content is either on a website or is in a long document where the intended audience might search for specific content. In this context, "findability" is irrelevant to a single paragraph.

Relevance is obvious as a voter who comes to vote would assume everything they read on a ballot is relevant. As for the other two principles, I have analyzed the "understandability" of this ballot question as defined in my field of expertise, in which we make a distinction between "readability," "understandability," and "usability." "Readability" refers to whether or not the text is sufficiently clear to a reader. "Understandability" refers to whether a text is one that a person could read *and* understand the significance of what is contained in the document. "Usability" refers to how easily a reader understands how to use the information they read (i.e., what action they should take). "Usability" also refers to the practice of testing a document ("usability testing") with members of the intended audience to get their feedback on the clarity or complexity of a document. We did not have time to conduct usability tests with members of the NH voting public; therefore, my focus will be on the former explanation of "usability."

The following is the paragraph I was asked to review:

> Shall the [name of municipality] limit property tax growth for [name(s) of school district(s)] under RSA32:5-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.

This is the question: *Can voters understand what they've read to make a decision; that is, will they know from reading the question whether to vote yes or no because they understand what is being asked?*

## SECTION II. QUALIFICATIONS

I am an Associate Professor Emerita in English (Technical Writing) at the University of North Carolina at Charlotte after retiring in 2013 (1989–2013). As an Associate Professor, I taught technical writing to undergraduates and graduate students including students from liberal arts, engineering, and business programs. As a professor, I won the Jay R. Gould Award for Excellence in Teaching from the Society of Technical Communications. As an administrator at UNC Charlotte, I was the Director of the following:

- the Center for Humanities, Technology, and Science;
- the Center for Writing, Language, and Literacy; and
- the University Writing Programs.

I have published (special editor, written, or co-written) three books and more than two dozen articles on issues related to clear communication. I have also won awards for my research, teaching, and professional activities from the following:

- the Center for Plain Language in Washington, D.C. for my work with JPMorgan on revising their credit card terms and conditions;
- the Association for Professional Writing Consultants for a plain language style book written for TIAA-CREF;

- the Nell Ann Picket Award for Best Article of the Year in Technical Communication Quarterly from the Association of Teachers of Technical Writing; and
- an Outstanding Article Award in Technical Communication presented by the Society for Technical Communication (a professional organization with more than 10,000 members).

I have given more than 100 presentations on plain language nationally and internationally to government agencies, corporations, universities, and professional organizations, such as the:

- Society for Corporate Compliance and Ethics,
- Plain Language Association InterNational (PLAIN),
- CLARITY (an international organization devoted to clarity in legal language),
- The European Commission,
- The Federal Trade Commission,
- The Office of the President at the University of California System,
- The Mayor's Office of New York City,
- Wells Fargo,
- eBay,
- Google,
- the Mecklenburg County Bar Association, among others.

My plain language work has included training employees to write using plain language strategies, conducting readability tests on documents from a variety of sectors, conducting usability testing on a specified population to determine their experience trying to read and understand a text, writing analytical reports on the clarity of print and online material, helping corporations meet regulatory requirements for "clear and conspicuous" language, and being an expert witness in the following cases:

- Democratic Party of Georgia, Inc., et al. v. Brad Raffensperger, Secretary of State of Georgia et al. (2019-2020)
- Greater Boston Legal Services (March 2020)
- League of Women Voters of New Hampshire, et al. v. William M. Gardner et al., 226-2017-CV-00432 (2017), affirmed in New Hampshire Democratic Party v. Secretary of State, 174 N.H. 312 (2021).
- Zakia, et al. v. The Ridge at Back Brook (2009)
- Richards v. FleetBoston Financial Corp., D. Conn., No. 3:04-cv-1638 (JCH) (2006)
- Engers v. AT&T Management Pension Plan, C.A. 98-3660 (DNJ) (2006)

My curriculum vitae is attached. I am being compensated at a rate of $500.00 per hour.

**SECTION III. EXPERT ANALYSIS**

My professional, plain language experience (both as an academic and a practitioner) working with written content from legal, technology, health, finance, engineering, energy, and other sectors gives me the ability to determine whether or not a specific text is likely or unlikely to be understood by the intended audience. In determining the understandability or clarity of written content, I look for the proven thinking concepts and writing strategies for plain language.

This table shows my conclusions based on plain language concepts and strategies.

## Plain Language Standards

| PLAIN LANGUAGE CONCEPTS | WHY THEY'RE IMPORTANT | MEETS STANDARDS? |
|---|---|---|
| 1. Understand Audiences | **Consider as much as possible the people who will be interacting with your content.** What expertise do they have (or not)? Are they familiar with the topic? How do they interact with content? Take action? | **Does not:** Uses language general public would not understand. |
| 2. Focus on Purposes | **State the purpose(s) immediately.** The public must immediately know the purpose. Why am I reading this? Is it important? What am I supposed to do? When? | **Does not** |
| 3. Consider Context | **Know where/how the public will interact with the content.** Understand contexts under which they will be reading your content. Is the situation emotionally charged? | **Does not:** Voting booths are not compatible with figuring out a difficult ballot question. |
| 4. Main Ideas First | **Begin with the main idea.** Begin with the main idea and follow with explanations. | **Meets** |
| 5. Use Visuals | **Add tables and/or other visuals.** Visuals help to clarify written content. Use tables for numbers. | **N/A** |
| 6. Conduct Tests | **Find out how your audience responds to the content.** Usability testing is the best way to determine how easy or difficult it is for the intended audience to understand content. | **Does not meet** |
| 7. Meet Regulations | **Comply with regulations** that require the use of plain language. | **N/A** |
| 8. Increase Trust | **Build trust:** People tend to trust what they understand. | **Does not meet:** Complicated, confusing language increases distrust. |

| PLAIN LANGUAGE STRATEGIES | | MEETS STANDARDS? |
|---|---|---|
| 1. Short Sentences | **Write short sentences to increase understanding.** The average sentence should have only 15-20 words. Long, complex sentences often tax our short-term memory. | **Does not:** 24 average # of words |
| 2. Short Paragraphs | **Create short paragraphs to give information in chunks.** Dense paragraphs are difficult to read and remember. Use 3-5 short sentences per paragraph. | **Meets** |
| 3. Active Voice | **Use the active voice for easy reading.** Active voice is stronger, makes it clear who is responsible (Jim sent in the report.) and is easier to read and to remember than passive voice (The report was sent by Jim). | **Meets** |
| 4. Positive Language | **Focus on what people can do rather than on what they cannot do.** "Close the door" is easier to understand than "Do not leave the door open." | **Does not:** Items 1, 2, and 3 in the paragraph are phrased in the negative. |
| 5. Helpful Tone | **Be friendly and helpful.** Even when giving people financial or legal or any technical information, be as conversational as possible. | **Does not:** Not helpful if confusing and lacks understandability |
| 6. Common Words | **Eliminate as much jargon as possible.** Your public does not use the same language that you use. They want common words that they understand. | **Does not:** Too much financial, legal, and administrative language |
| 7. No Legalese | **Eliminate legal language.** If the audience is expected to, e.g., follow instructions, meet requirements, vote, or take advantage of services, they have to understand what they're reading. Use legal language only when absolutely necessary but explain the meaning in plain language. | **Does not:** Rife with legal language or what appears to be legal language. |
| 8. Pronouns | **Use "you" when referring to the public.** Using pronouns makes it easier for the public to see themselves in the content. Pronouns sound more conversational and friendly. | **Does not:** Eliminates "human" element. |
| 9. Defined Terms | **Define words or phrases the public might not understand.** It's best to define a word or term at the point of first reading even if you include a glossary. | **Does not:** Words or acronym not defined even when necessary (e.g., SAU) |
| 10. Concrete Words | **Avoid using abstract words** like "soon," "when you can," "immediately," etc. Be specific: e.g., "before 02/10/27" | **N/A** |
| 11. Wordiness | **Eliminate information** that isn't necessary. Decrease content by 30% when possible. | **Does not** |
| 12. Format | **Use headings and lists.** Headings help readers skim content to find relevant information. Lists break up thicker paragraphs for easy skimming. | **Does not:** At minimum, list 1, 2, 3 to see and read more easily. |

The following are more detailed explanations of many of the standards for plain language and understandability that are not met.

### 1.1 The opening question does not tell voters what they are actually deciding.

The paragraph begins: "Shall the [name of municipality] limit property tax growth for [name(s) of school district(s)] under RSA 32:5-i?" This wording assumes voters understand several things that are not explained:

- What "property tax growth" means?
- What exactly is being limited?
- Who controls the limit? and
- What RSA 32:5-i provides?

The statutory citation is particularly problematic. A voter should not have to know or research a statute to understand the basic consequence of voting yes or no. I emphasize the distinction between reading the words and understanding the decision. A person can read every word correctly and still not know what a "yes" vote will do; that is, the "usability" mentioned earlier that makes it clear to the reader what action to take and why.

### 1.2 The paragraph imposes a high cognitive load particularly given the context in which voters are reading it.

A voter must simultaneously process at least three different financial rules:

1. a limit on growth in the property tax levy;
2. a 6% limit on SAU central-office spending; and
3. an exclusion for bonded capital costs.

The voter then encounters qualifications to those rules: the caps last two years, inflation, and new construction affect one calculation; some school expenditures are unaffected; municipal expenditures are unaffected; the limits can be overridden; and adoption requires a three-fifths majority. That is a substantial amount of information to integrate before answering what appears to be a simple yes/no question.

## 1.3 The voting-booth context makes the written deficiencies more consequential.

A ballot is a particularly demanding communication environment. The voter generally has:

- limited time;
- other ballot questions competing for attention;
- no expectation that the ballot itself will provide a legal tutorial;
- no convenient opportunity to ask for clarification;
- a need to make a binary decision;
- and a strong reason to understand the practical consequence of "Yes" versus "No."

In the case of the paragraph, the question will appear on the general election ballot and will be asked after multiple choices the voter must make for elected officials. Cognitive load has increased and it is quite possible that the voter's ability to read and understand is diminished. The problem is the voter must now parse, retain, integrate, and apply several interrelated propositions before deciding how to vote. That is precisely the kind of situation in which plain-language drafting is particularly valuable.

## 1.4. Important terms are too technical or undefined.

Many terms are specific to understanding financial and organizational language and may not be understood by the average voter, such as:

- property tax growth
- local property tax levy
- adjusted for inflation
- new construction
- SAU
- SAU central office spending
- total school district appropriations
- bonded capital costs
- administrative operations
- municipal expenditures
- overridden
- three-fifths majority

The problem is not simply that some words are difficult. Several are terms of art whose legal or financial, governmental, or bureaucratic meaning may differ from what a lay reader assumes. In addition, the use of an acronym without a definition causes problems: "SAU" is an especially clear plain-language problem because it has not previously been defined. Acronyms increase the likelihood that readers unfamiliar with the governmental structure will fail to understand the provision.

### 1.5 The relationship among the limits is difficult to follow.

The passage states: "bonded capital costs are excluded from both limits." But the preceding text appears to describe multiple restrictions. A voter has to determine what "both limits" refers to. The next sentence compounds the problem: "These caps apply only to administrative operations of the SAU central office…" A reader may reasonably ask: Does this statement refer to both the property-tax-growth limit and the 6% SAU spending limit? If so, the earlier description of the property tax levy may seem inconsistent with the statement that the caps apply "only" to SAU administrative operations. That is more than a stylistic weakness. *Ambiguous references can materially affect a voter's understanding of what government spending is being restricted.*

### 1.6 The paragraph tells voters what is excluded before clearly establishing what is included.

Information framed in the negative can cause greater likelihood of confusion for readers. The sentence stating that the limits "do not affect classroom instruction, school-based services, or other municipal expenditures" is intended to clarify the proposal. But it requires readers to understand the boundaries among SAU central-office administration, school-district spending, classroom spending, school-based services, and municipal spending. Those distinctions may be obvious to government officials familiar with school finance. They are not necessarily obvious to voters. *This is a classic expert-to-public communication problem: the language reflects the conceptual framework of* *the people who administer the system rather than the knowledge structure of the people being asked to vote on it.*

## 1.7 The override provision is effectively unexplained.

The paragraph says: "These limits may be overridden as provided in RSA 32:5-i." That sentence tells voters that an exception exists without telling them who can override the limits, under what circumstances, by what procedure, or with what vote threshold. The voter therefore receives information that is legally significant but not sufficiently explained to be useful. The ambiguity of who can "override" the limits might be of concern to a voter and that control is left unexplained.

## 1.8 The text does not explain the consequences of a "yes" or "no" vote.

For a ballot question to be most effective, voters need to know what happens ("usability") if they vote "yes" or "no."

- A YES vote means…
- A NO vote means…

That omission is significant when using language whose primary purpose is to enable a voter to make an informed decision.

## 1.9 The paragraph contains an important conceptual contradiction from a reader's perspective.

The paragraph first presents **three restrictions**, including the tax-levy limitation and the 6-percent SAU limitation. Then it says: "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." The problem is that this sentence appears to redefine the scope of **"these caps"** after the paragraph has already described two different kinds of caps. A careful reader has to ask:

- Does the property-tax cap apply only to SAU administrative operations?
- Does the 6-percent cap apply only to SAU administrative operations?
- Does "these caps" mean both caps?

- How can a limit on the overall school-district property-tax levy apply only to administrative operations?

In other words, the reader has to reconcile the first cap, which appears to concern the overall school-district tax levy, with a later sentence suggesting that the caps apply only to SAU central-office administration.

## SECTION IV. CONCLUSIONS

In my expert opinion, the ballot language creates an unreasonable risk of misunderstanding for an ordinary voter. The text requires voters to interpret specialized legal and governmental terminology, understand multiple interrelated financial restrictions, resolve potentially ambiguous references such as “both limits” and “these caps,” and understand the effect of a statute that is incorporated by reference but not explained. Most importantly, the language does not directly tell voters the practical consequences of voting yes or no. As a result, a voter may be able to read the paragraph fluently without being able to accurately explain what the proposed measure would do. There is also an important distinction between technical legal sufficiency and plain-language understandability. The fact that language may accurately implement a statute does not make it easy for the general public to understand. All these items (1.1-1.9) I have discussed present serious problems for the voter.

Deborah Bosley

**Deborah S. Bosley, Ph.D.**
The Plain Language Group, LLC

Date: August 27, 2026

# Exhibit E

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

**AFFIDAVIT OF DAVID BATES**

NOW COMES David Bates, and submits the following affidavit in the above-referenced matter.

1. I am an adult individual residing at 32 West Main Street, Warner, New Hampshire 03278.

2. I am a New Hampshire taxpayer and voter, and I reside within Kearsarge School District.

3. I have reviewed the HB 1300 ballot question, which I understand to be as follows:

> 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.

4. I found the question confusing.

5. I have reviewed the affidavits of Nathan Greenberg and Daniel Rossner submitted in this litigation. After reviewing those affidavits, I understand that, if the HB 1300 ballot question passes, classroom instruction and school-based services in my school district could be affected. If I did not know that prior to voting on the question, I would have felt misled by the text of the question.

6. As I understand the question, it contains two types of caps. One relates to a property tax levy, and one relates to SAU central office spending. The question does not give me the choice to vote on just one of these caps. I either have to vote for both caps, or no caps.

Sworn under the pains and penalties of perjury this 30th day of August, 2026.

David Bates

# Exhibit F

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

**AFFIDAVIT OF KELLY WIESER**

NOW COMES Kelly Wieser, and submits the following affidavit in the above-referenced matter.

1. I am an adult individual residing at 9 Deacon Willey Road, Campton, New Hampshire 03223.

2. I am a New Hampshire taxpayer and voter, and I reside within Campton School District and Pemi-Baker Regional School District.

3. I am Vice Chair of the Campton School Board.

4. I am an attorney.

5. I have reviewed the HB 1300 ballot question, which I understand to be as follows:

> 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.

6. I found the question confusing.

7. I have reviewed the affidavits of Nathan Greenberg and Daniel Rossner submitted in this litigation. After reviewing those affidavits, I understand that, if the HB 1300 ballot question passes, classroom instruction and school-based services in my school district could be affected. If I did not know that prior to voting on the question, I would have felt misled by the text of the question.

8. As I understand the question, it contains two types of caps. One relates to a property tax levy, and one relates to SAU central office spending. The question does not give me the choice to vote on just one of these caps. I either have to vote for both caps, or no caps.

Sworn under the pains and penalties of perjury this 31st day of August, 2026.

Kelly Wieser

Kelly Wieser