

HB 1300/CHAPTER 324
NOVEMBER VOTE ON DISTRICT TAX CAP AND FIXED CAP ON
ADMINISTRATIVE EXPENSES

INTRODUCTION

Until this year, voters in school districts with school district meetings (typically in March) determined either by official ballot vote or at a traditional meeting whether they wished to adopt an optional tax cap or budget cap. Meanwhile, in cities, either a city's charter commission and voters or its legislative body (council or alderman) decided whether to adopt a tax cap. This year, the Legislature decided voters who vote during the State and Federal election in November should be asked a local question on whether to adopt a district only tax cap and a fixed cap on administrative expenses. As a result, voters who show up to vote in the State and Federal elections this November will be asked to chime in on a totally unrelated municipal matter.

In addition, the Legislature chose to prescribe the question to be asked of voters on whether to adopt the new law. Although there are provisions of this new law that are internally inconsistent that will be discussed below, it appears that a portion of the prescribed question to be asked of voters in November is misleading. It states in part:

“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.”

Welcome to House Bill 1300 which is chapter 324 of the 2026 Legislative session.

THE DETAILS OF THE LAW

House Bill 1300, Chapter 324 adopted in 2026 inserts a new subsection in RSA 32 entitled “School District Tax Cap and School Administrative Fixed Cap on Central Office Administrative Budgets”. See RSA 32:5-i.

In November 2026 and November 2028, during the general election, a question on the adoption of a school district only tax cap as well as a 6% fixed budget cap on central office expenses will be presented to voters during the State's general election on ballots prepared by the Secretary of State. The 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% 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.”

See RSA 32:5-i, V.

If a 3/5 majority of “...voters voting in the municipalities and wards served by the *school district* approve the question...” the “local” (i.e. not SWEPT) tax cap is adopted. Meanwhile, if a 3/5 majority of “...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 administrative budget...” is adopted. See RSA 32:5-i, VI(a) and (b).¹

THE TAX CAP

If adopted by the required majority, the tax cap limiting the amount the district can raise and, therefore, spend is set forth in RSA 32:5-i, VIII(a).

The maximum allowable levy shall equal the “*prior fiscal year property tax levy*” (*excluding bonded capital costs*) x (1+ *inflation + net new taxable property growth*).

- a. “Prior fiscal year property tax levy” appears to refer to the levy in the year prior to effective date of the cap. So for a cap that goes into effect for fiscal year 2028 (July 1,

¹ The majority vote required is 3/5 of the “voters voting” in those municipalities and wards served by either the school district, for the tax cap, or served by the SAU, for the central office budget cap. Please note, unlike all the other provisions of the tax-cap laws that already exist (see RSA 32:5-c, I; RSA 32:5-f, I; RSA 32:5-h, I), the provisions determining the majority needed to adopt the new law (RSA 32:5-i, VI(a) and (b)) do not state that only the votes of those voting on “the question” will be tabulated to determine the 3/5 majority or that only votes in the affirmative or negative will be counted to determine adoption of the law. Rather, the new law “3/5 of **voters voting**”; i.e. 3/5 of those who show up at the polls and cast a ballot regardless of whether they vote on the adoption question. Furthermore, elsewhere in RSA 32:5-i, the law states the majority votes needed to override the tax cap, or the fixed cap, is 3/5 of “those voting **on the question**” and specifically provides that “only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority...”. See RSA 32:5, I, X(a). Because the legislature has demonstrated in all these statutes that it knows how to limit the count to those voting yes or no on the question the omission of the language limiting the tabulation of a 3/5 majority to those voting yes or no on the question in the provisions relating to the adoption of RSA 32:5-i appears to be intentional. As a result, that would overcome the common law presumption that it is only those who actually vote on a question who determine whether the majority required is obtained. Thus, it appears that a 3/5 majority vote of all those who vote in the election is required to approve a tax cap or SAU budget cap (i.e. all those who vote in the election, but who do not vote on the question will count against the majority needed to adopt the law).

027 – June 30, 2028) the prior fiscal year tax levy is the district’s tax levy for fiscal year 2027.

- b. “Bonded capital costs” are “principal or interest on bonds or notes” if issued for “the acquisition, construction, or major structural renovation of real property.” See RSA 32:5-i, XVI(a). The Department of Revenue Administration shall certify annually the portion of debt service that qualifies for exclusion. The law does not say, however, when that calculation will be made. Bonded capital costs shall be excluded from the prior fiscal year property tax levy and from the maximum allowable levy that is calculated by following the statute. No amount attributable to bonded capital costs shall be included in the prior fiscal year levy for the purpose of calculating the maximum allowable levy in any subsequent year. See RSA 32:5-i, VIII(a).
- c. “Inflation” is the one-year percentage change in the Consumer Price Index for All Urban Consumers, Northeast Region, as published by the BLS, USDOL using the amount published in March “in the prior fiscal year.” (See RSA 32:5-i, VIII(b)). Since the adoption of the tax cap in November 2026 would limit the amount that can be raised in fiscal year 2028 (July 1, 2027-June 30, 2028), it appears that the prior fiscal year referred to will be March 2027. The problem is that when districts which adopt the law in November 2026 and then vote at their district meetings in March 2027, they will not know what the inflation factor is because it will not have been determined yet.
- d. “New net property growth” is the percentage increase in assessed valuation from the prior year attributable to...” new construction, physical expansion, or improvement of structures, subdivisions, or redevelopment of land, conversion from exempt to taxable status, or any fiscal change increasing taxable value. It is not general market appreciation, reevaluation values, or change in assessment methodology. Again, prior year is not defined. Is it the prior tax year or the fiscal year? DRA is to certify this factor annually. We do not know when that will occur. See RSA 32:5-I, VIII(d).

THE FIXED CAP ON SAU (CENTRAL OFFICE ADMINISTRATIVE BUDGET)

The central office administrative budget cap shall be 6% of “the sum of the total school district appropriation amounts,” except costs of bonded capital projects (same definition as the tax cap) in all the school districts comprising the SAU. See RSA 32:5-i, IX.

The “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% 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.”

In a multi-district SAU, the cap on central office administrative budgets is 6% “of the sum of the total of school district appropriation amounts.” See RSA 32:5-i, IX.

Please note, the definition of central office expenses excludes special education services, transportation, food service, and facilities operation and maintenance, among other things. It is not clear whether that means the Special Education Director, Transportation Coordinator, Food Service Director, and Facilities Manager, along with their respective support personnel are excluded from the calculation or whether they are all “personnel reported to the DOE as employed in the central office” and therefore included. Furthermore, this definition means that the “school administrative unit central office administrative budget” may end up being different than the budget for the school administrative unit that is presented to voters pursuant to RSA 194-C:9 as required by House Bill 564, Chapter 153 (2026 legislation). In other words, due to the exclusion of certain “services” and personnel who may be included in the “SAU budget”, it is likely that the school administrative unit central office administrative budget” may be less than the “SAU budget” presented to voters.

OVERRIDE

The local tax cap may be overridden by a 3/5 majority vote on a budget question. Only votes in the affirmative or negative are included in the calculation of the 3/5 majority or supermajority required by charter. See RSA 32:5-i, IX. To exceed the tax cap, voting on a question must be by ballot in a traditional meeting and will be by official ballot in a Senate Bill 2 meeting. In communities without an annual meeting, the legislative body will adopt the school district budget, and it may not exceed the tax cap unless the legislative body overrides a cap by a supermajority vote as determined by a charter. Because two of the factors used to calculate the tax levy (the inflation factor and the net new taxable growth) may not be known at the 1st session of a SB2 in February when the appropriations to voted on in March are finalized and they still may be unknown when voters vote on the district’s proposed appropriations in March by ballot in a SB2 district on or at a traditional district meeting. Therefore, the maximum tax levy allowed may not be known at the time of the vote so it will be guess work to decide whether a particular appropriation requires a 3/5 majority in order to pass.

APPLICATION OF THE TAX CAP AND SAU FIXED CAP

DRA is forbidden from setting a tax rate in the Fall, following the district meetings, which causes a taxing authority to exceed its *certified limits*.

The governing body (the school board/SAU board) must forward documentation to the Department of Revenue demonstrating compliance with the “adopted caps.” That documentation includes: (1) how the district computed the school district tax cap and the school administrative unit fixed cap; (2) the proposed appropriations by the governing body and the budget committee; (3) the estimated revenue going into the annual meeting showing the estimated amount of property tax to be raised for the school district budget or school administrative unit central office administrative budgets or both; (4) the appropriations voted by the annual or special meeting of the legislative body; (5) and the count of any ballot votes taken to override the school district cap or SAU fixed cap.

RSA 32:5-I, XI then provides:

(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.

Paragraph (b) is very confusing. It directs DRA to determine whether the “school district budget” results in taxes which exceed *the adopted school administrative unit fixed cap*. It is not clear how taxes can exceed a budget cap on a portion of the district’s budget. And, more importantly it is not clear whether this provision means that the “cap” on the district “tax levy” only applies to the extent the administrative fixed cap is exceeded. It appears this provision only allows DRA to reduce the tax levy to the extent it supports that portion of “central office” appropriations which exceeds the central office’s fixed budget cap. Such an interpretation would be consistent with the question that is asked of voters which states that the “**caps**” only apply “to administrative operations of the SAU and do not affect classroom instruction, school-based services, or other municipal expenditures. (See RSA 32:5-i,V) And, it would be consistent with

the legislature's amended analysis of the bill which avoids the issue of a school district tax caps entirely and states only that the bill establishes a local tax cap *question*, limits central office expenses, and requires DRA to adopt *rules on the tax cap question* and limitations on central office expenses.

On the other hand, such an interpretation would ignore the provisions in paragraph (d) which state that DRA "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..." (See RSA 32:5-iXI(d). That is the tax cap on **the** district. In addition, the plain language in RSA 32:5-i, VIII states clearly that the district's tax levy cannot exceed the prior year's tax levy by more than 1+ inflation + net new taxable property growth. Because of the clear formula set out in section VIII of the law, and paragraph (d) in RSA 32:5-i, XI it appears clear that if the caps question is approved this November or in November 2028 there will be a cap on all district expenditures to make sure the capped tax levy is not exceeded in the district as a whole. Thus, adopting the law will not just place a fixed cap on SAU expenses and the question to be presented to voters is extremely misleading!

Other things to note in these sections/paragraphs are;

- 1) If there was no valid override for a particular appropriation causing the cap to be exceeded, it is "the governing body" and not DRA (either the school board or SAU board) that "shall reduce the appropriation of the *certified budget* by the amount that the *certified budget* exceeds the cap." See RSA 32:5-i, XI (b). Similarly, the adopted school administrative fixed cap will be reviewed, and it is the SAUs "governing body" not DRA that shall reduce the appropriation of the certified budget by the amount that the certified budget exceeds the cap. See RSA 32:5-i, XI(c). Thus, it is the governing **body** which makes the choices on what to eliminate to remain under the caps. This appears to mean, for example, that if a CBA passes by a simple majority but not a 3/5 majority thereby causing the tax cap to be exceeded, the school board is allowed to make the cuts it wishes to the operating budget to accommodate the adoption of the CBA. In other words, DRA's role is only to determine the caps and make sure the tax cap and the budget cap on central office expenses are not exceeded.
- 2) It is not clear when DRA will make the determination of any cuts that need to be made. We assume it will be before actual revenues are known and set in the Fall. Therefore, the determination of the maximum levy will be based only on revenue estimates, not actuals. As a result, a district's estimate of revenues in its budget takes on added importance.
- 3) "Certified budget results" is not defined but it appears to be the MS 22 form which is the required report of district meeting appropriations filed after the district's meeting.

DURATION AND SUNSETTING

If the caps are adopted in November 2026, they will apply beginning with fiscal year 2028. That fiscal year 2028 budget will be adopted in March of 2027. According to the question asked of voters set out in RSA 32:5-i, V the cap will only be in place for 2 years if adopted in 2026. However, the sunset provisions do not provide that the adoption in 2026 is only valid for 2 years. That sunset provision is only contained in the otherwise misleading question to be presented to voters.

Meanwhile, if approved at the November 2028 general election, the tax cap will begin to apply in fiscal year 2030. The meetings adopting the 2030 fiscal year budget will take place in the spring of 2029.

RSA 32:5-i, XVII does provide that any tax cap adopted under the statute shall expire on January 1, 2032.

CUMULATIVE EFFECT

RSA 32:5-i, XIV indicates that if the new law is adopted, it does not supersede or diminish any other property tax limitations already adopted under existing law, and that if more than one property tax limitation, tax cap, local tax cap or budget cap apply, each applicable limitation must be fully satisfied within that district.

RECOUNTS

The law contains its own recount provisions allowing 10 registered voters to request a recount within 7 days from the date of the general election. See RSA 32:5-i, VII(a) and (b).