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House Election Law Committee
1 Granite Place, Room 158
Concord, NH 03301

Re: HB 1300

Dear Committee Members:

I am an attorney whose practice consists solely of representing New Hampshire towns. I write in opposition to Amendment No. 2026-0093h to HB 1300. I am not representing any client, but am expressing my own concerns for how the bill will affect municipalities and their voters.

This legislation is based on an imagined concept of the tax-setting process that is completely divorced from reality. It cannot possibly be implemented or even understood.

The amendment seeks to limit increases in a town's "total property tax levy" to "inflation plus net new taxable property growth." This implies an assumption that town officials, or voters, can simply decide how much they want to increase property taxes in a given year and set the tax rate accordingly. That is not how the process works.

Three factors go into establishing a town's tax rate: the town's total appropriations (*i.e.*, the amount of money to be spent), the amount of non-tax revenue received, and the town's total property valuation. The tax rate calculation is:

(total appropriations minus non-tax revenue) ÷ taxable property value = tax rate.

Because some of these numbers are not available until late in the year, the tax rate cannot be set until October or November. At that point it is far too late to adjust the "total property tax levy."

Here is how the process works:

1. Total appropriations. The selectmen (or budget committee in some towns) prepare a proposed budget by January or early February. The selectmen do not adopt the budget—they recommend it, and the town meeting adopts it in early March (in most towns) after making whatever amendments a majority of the voters approve. The town meeting-adopted budget establishes how much can be raised and spent (total appropriations) during the year.

2. Non-tax revenue. The budget adopted in March also contains estimates of non-tax revenue. These include items such as motor vehicle registration fees, various license fees, grants, and revenue from the state. These revenues will reduce the amount that needs to be raised by

property taxation, but they are only estimates: the town cannot possibly know, just over two months into the year, how much non-tax revenue it will receive during the year.

By September 1, the town can make a much better estimate of its revenues, and that is the date by which it must report that estimate to the Department of Revenue Administration. By October 1, state agencies must report to DRA the amounts to be distributed to municipalities and school districts in meals and rooms tax revenue, highway block grants, environmental grants, and education aid. Only at this point is it possible to determine the amount of property taxes that must be raised—the “total property tax levy,” in the words of HB 1300. This is done by subtracting the total non-tax revenue from the appropriations that were approved in March.

3. Total property valuation. Also by September 1, the town must report its total property valuation to DRA. This is needed to calculate the tax rate—the distribution of the total property tax levy among all the taxable properties. After all this information is received, DRA can set the tax rate, using the formula described above; this typically happens in October or November.

Amendment 2026-0093h seems to contemplate that a town has the power to establish the precise amount of its tax levy at some point, presumably when it adopts its budget in March. Obviously, this is wrong. In March the town establishes how much it may spend, but it has little control over its revenues, and those revenues are not known until the year is almost over. Because it cannot know what its revenues will be, it cannot know at that time what amount it will need to raise through taxation. Further, one of the factors in the proposed tax limit is “net new taxable property growth”—*i.e.*, increase in property valuation. As explained above, that number is not known until September 1, almost six months after the budget is adopted.

A town trying to operate under the proposed tax limit might adopt a budget in March that appears to stay within the limit; but it might then find out by September 1 or October 1 that revenues are less than expected and the increase in valuation is less than expected, with the result that it cannot fund its budget without exceeding the tax limit. What happens then? Does DRA arbitrarily decide what expenditures for November and December must be eliminated? Does the town stop paying its employees? Stop paying creditors? Default on its bonds?

Apart from the fact that this process can’t work, there are numerous other items in the amendment that simply make no sense, again indicating an alarming misunderstanding of how municipal taxation and finance work.

For one, the amendment refers to taxes “levied” by school districts and counties. Those entities, however, do not levy taxes. Only cities and towns (and some unincorporated areas) levy taxes. School districts and counties appropriate funds and have their tax rates set by DRA, but they do not assess and collect taxes. Instead, the town assesses and collects the taxes to fund school and county appropriations and pays those amounts over to the school district and the county. School districts and counties do not send property tax bills.

Further, the legislation’s calculation of the tax limit is nonsensical. As stated on page 2, lines 9-10, the maximum allowable levy is:

Prior fiscal year property tax levy x (1 + inflation + net new taxable property growth).

Using that formula, let us assume that last year's total property tax levy for a given town was \$6 million, which is about what a small town might raise. Assume inflation of 2 percent, and assume a modest increase in new taxable property value—say, \$100,000. Putting those figures into the formula, we get:

$$\$6,000,000 \times (1 + .02 + \$100,000) - \text{OR} - \$6,000,000 \times \$100,001.02.$$

My calculator can't display a number that high, but I believe it comes to approximately \$600 billion, plus or minus a few million. While a town that raised \$6 million last year should have no problem limiting this year's amount to \$600 billion, I doubt that is what the sponsors intended. Clearly, this legislation has not been considered very carefully.

Further confusion can be found in the section that excludes payments on bonds or notes from the limitation. This section (page 3, lines 5-14) states that no exclusion shall apply, however, to bonded indebtedness for, among other things, operating expenses, salaries or benefits, or "vehicles or rolling stock."

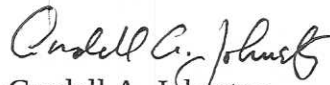
"Rolling stock"? This refers to railroad cars. Do the sponsors actually believe that towns are issuing bonds *to buy railroad cars*? The reference to operating expenses and salaries and benefits is also confusing, as towns are not permitted to issue bonds for those purposes.

Beyond the bill's impossibility of implementation and nonsensical language, the policy is offensive—it is yet another attempt by state legislators to dictate how local voters make decisions. The idea that this question must be placed on the ballot in every town, school district, and county in every state election is ridiculous. In my town, and many others, it would require four separate questions on each ballot—one for the town, one for the local school district, one for the regional school district, and one for the county.

If local voters want to impose spending limits on themselves, they already have a way to do it. Fifteen years ago, I worked with Senator David Boutin and other Republican leaders to write RSA 32:5-b and :5-c, establishing a process for towns to adopt a voluntary tax cap. That process works well and makes sense, and any town can adopt it. Several have done so.

Amendment 2026-0093h cannot work, it demonstrates a total lack of understanding of the tax rate-setting process, and the language is gibberish. Most of all, it represents a further step in the legislature's effort to control town government, without bothering to understand how town government works. The amendment should be killed.

Sincerely,


Cordell A. Johnston