



January 10, 2026

PRESENTED BY JONATHAN COWAL,
LEGAL SERVICES COUNSEL

SB 2 MODERATORS WORKSHOP, BEGINNERS

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ZOOM INSTRUCTIONS

1. Click the "CC" (Show Captions) button at the bottom of your Zoom screen.
 - a. If you don't see it, click "More (...)" and then select "Show Captions."
2. Captions will appear at the bottom of your Zoom window.
3. To change the font size, click the arrow (^) next to the CC button, then choose "Caption Settings," then change Font Size on scale to either Small or Large.



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AGENDA

Moderators Workshop, Beginners	Jonathan Cowal
Tips and Tricks	Cordelle Johnstone and Chris Hawkins
Moderator Q&A	Moderator Panel



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**TOWN MEETING &
SCHOOL MEETING
Handbook**
— 2026–2027 —



New Hampshire Municipal Association

TOWN MEETING & SCHOOL MEETING HANDBOOK 2026-2027

- A guide to all the basics for both SB 2 and Traditional town meetings
- Includes a chapter specific to school districts
- Appendices with useful handouts and answers to frequently asked questions
- Voter guide to understanding town meeting
- This edition contains significant updates based on legislative changes in 2025
- Copies available for free through member portal, and sent as part of attending this workshop



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INTRODUCTION TO THE LAWS





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Official Ballot vs. Official Ballot Referendum



- RSA 39:2-a, I: Allowed towns/districts to adopt official ballot
- Two sessions:
 - First: Ballot voting (officers, zoning, certain other questions by law)
 - Second: Town Meeting (voting on all other warrant articles)
- RSA 39:2-a, II: New provision (Senate Bill 2) that allowed towns/districts to adopt official ballot referendum (a.k.a. "SB 2") via RSA 40:12 - :15
- Two sessions:
 - First: Deliberative Session
 - Second: Ballot voting

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SB 2 Town Meeting: Two Sessions



- First session (Deliberative Session): Explanation, discussion, and debate of each warrant article; warrant article amendments.
- Second Session (Ballot Voting): "All warrant articles shall be placed on the official ballot for a final vote, including warrant articles as amended by the first session."

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RSA Chapter 40: The statute to know!



RSA 40:13: The “SB 2 statute”

- ✓ Schedule (March, April, or May)
- ✓ Deadlines (e.g. budget hearings) → NHMA
- Important Dates Calendars**
- ✓ Warrant Articles/Amendments
- ✓ Procedural rules in RSA 40:4, :4-a, :4-b, :4-f and :6 – :10 apply to traditional town meetings and SB 2 deliberative sessions (197:19, schools)
- ✓ Restricting Reconsideration
- ✓ Second session

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Other Important Statutes



RSA Chapter 39: Holding/Warning Town Meeting

RSA Chapter 32: Municipal Budget Act

RSA Chapter 35: Capital Reserve Funds

RSA Chapter 31: Powers and Duties of Towns

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MODERATOR PREPARATION

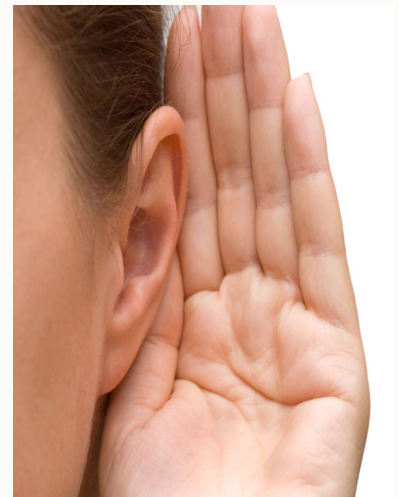


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Prepare Yourself to Serve



1. What's your plan?
2. Local issues
3. Rules of procedure
4. Review warrant
5. Expect the unexpected



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HUDSON TOWN MEETING DELIBERATIVE SESSION

DATE: February 3, 2024



1. OPENING

- The Moderator called the meeting to order at: _____
- Presentation of the Flags: Police Honor Guard
- National Anthem sung by: _____
- Pledge of Allegiance to the Flag led by: Selectman _____

2. REMARKS BY THE MODERATOR

Ladies and gentlemen, this is the Deliberative Session of the Hudson Town Meeting. You will act as a legislative body to determine the final form of the Warrant Articles that will be voted on at the March 8th Election. All the Articles, by law, MUST be placed on the ballot.

The rules we will follow are the Moderator's Rules which are in the handout you received as you checked in. If you have any questions about the rules, please feel free to ask for clarification at any time by rising a "Point of Order". This body may also vote to establish rules that you deem necessary. You may also vote to overrule any decision of the Moderator. If you are new to the Deliberative Session, please review these rules.

POINT TO PONDER

As a Legislature, we will be discussing the Warrant Articles before us. Please be respectful of all comments and opinions as you would want yours to be respected. To keep personalities out of the debate, please use terms such as "the previous speaker", "the Selectmen", or "the Budget Committee Member". All questions and comments are to be directed to the Moderator. There is no requirement that anyone must yield to answer a question posed to them.

If you are a registered voter of Hudson, you were issued a red voter card. We will use this card for any votes that are taken at the meeting. Do not lose your VOTER CARD. You will not get another one. After the meeting, you can recycle your card in a box at the back of the room.

Only registered voters of Hudson are allowed to participate in the discussion of the warrant. There are some non-voters, staff members of the Town and some others who will be allowed to speak and answer questions to assist us in the meeting.

Please turn your phones and pagers off or to silent mode so as not to interrupt the discussions.

We will be taking a few breaks as needed. Refreshments are for sale by the Hudson Women's Club. Also, this meeting is being televised live on Hudson Cable and the HCTV web site and Facebook. It will be available for viewing or streaming after today on HCTV. We appreciate the Hudson Cable Committee and staff for all they do in keeping the citizens of Hudson informed.

At the end of this meeting, The Budget Committee and the Board of Selectmen will hold separate meetings to consider their recommendations on the Warrant Articles.

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3. Non Voters

Non- voters on the floor:

Name	Function	Name	Function
	Attorney for the Town		

4. Introduction of the members of the Board of Selectmen – Chairperson

5. Introduction of the members of the Budget Committee – Chairperson

6. Return of the Warrant by the Chairman of the Board of Selectmen to the Town Clerk

7. Reading of the Warrant Articles and Action of the Meeting:

8. Final Notes: Next Saturday, the School District Deliberative Session will take place here at 9 AM.

Please remember to vote on March 12th. Ward 1 will vote here at the Community Center and Ward 2 will vote at Alvirne High School.

9. Adjournment: Motion made by: _____ Seconded by: _____

Vote Result: Yea: _____ Nay: _____

Meeting adjourned at: _____



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Is the meeting space ready?



- ✓ Room arrangement
- ✓ Technology
- ✓ Moderator's "Toolkit"
- ✓ Security?



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Your Team



- "Pro Tem," 658:19
- "Assistant moderator," RSA 40:3-a/RSA 197:19-a
- The "Supporting Cast": Town clerk or district clerk, supervisors of the checklist, volunteer counters
- Police?
- Video or audio recording?



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The Voters



- Registered
- No proxies
- Make identification easy
- Non-voters



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Moderator's Authority & Duties



RSA 40:4, I: Moderator's essential duties

Basic procedural rules: RSA 40:4, II (postponement); :4-a (secret ballot); :4-b (questioning vote); :4-f (checklist); :10 (reconsideration)

Preventing Disorder

RSA 40:7, speaking

RSA 40:8, disorderly conduct

RSA 40:9, commanding officer

RSA 40:6: Failure to follow law



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THE DELIBERATIVE SESSION

Explanation, discussion, debate,
and (possibly) amendments of
warrant articles



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Introduce

Explain/Recognize Advocate

Debate/Amend

Move On

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HUDSON TOWN DELIBERATIVE SESSION

DATE:

WARRANT ARTICLE NO: 1 Operating Budget AMOUNT: \$PRESENTED BY: Budget Committee Chairperson
Board of Selectmen Member

QUESTIONS/COMMENTS:

AMENDMENT # ____ Moved By: _____ Seconded By: _____

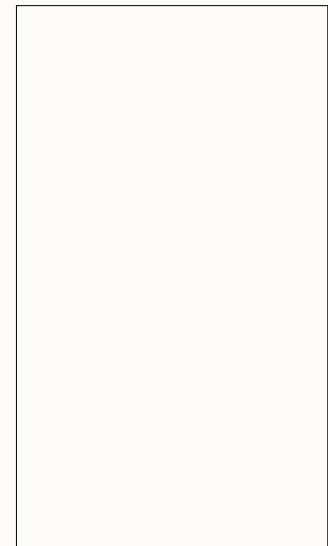
VOTE: Yea: _____ Nay: _____ Vote Card ☐ Standing Ct. ☐ Secret Ballot ☐

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Voting



- Voice
- Hands (voting cards)
- Division (standing vote)
- Secret Ballot
- Move the question, point of order



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"A vote to restrict reconsideration shall be deemed to prohibit any further action on the restricted article until the second session"

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The Secret Ballot

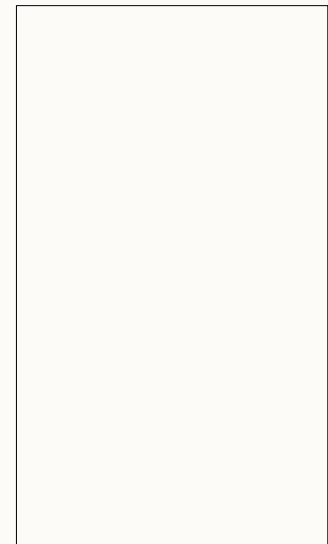


Secret Ballot Voting, RSA 40:4-a, I (a)

- 5 voters
- Written
- Present, prior to vote
- Recount of secret ballot vote RSA 40:4-a, I(b)

Questioning a Vote, RSA 40:4-b

- 7 voters
- Orally or in writing
- Before other business



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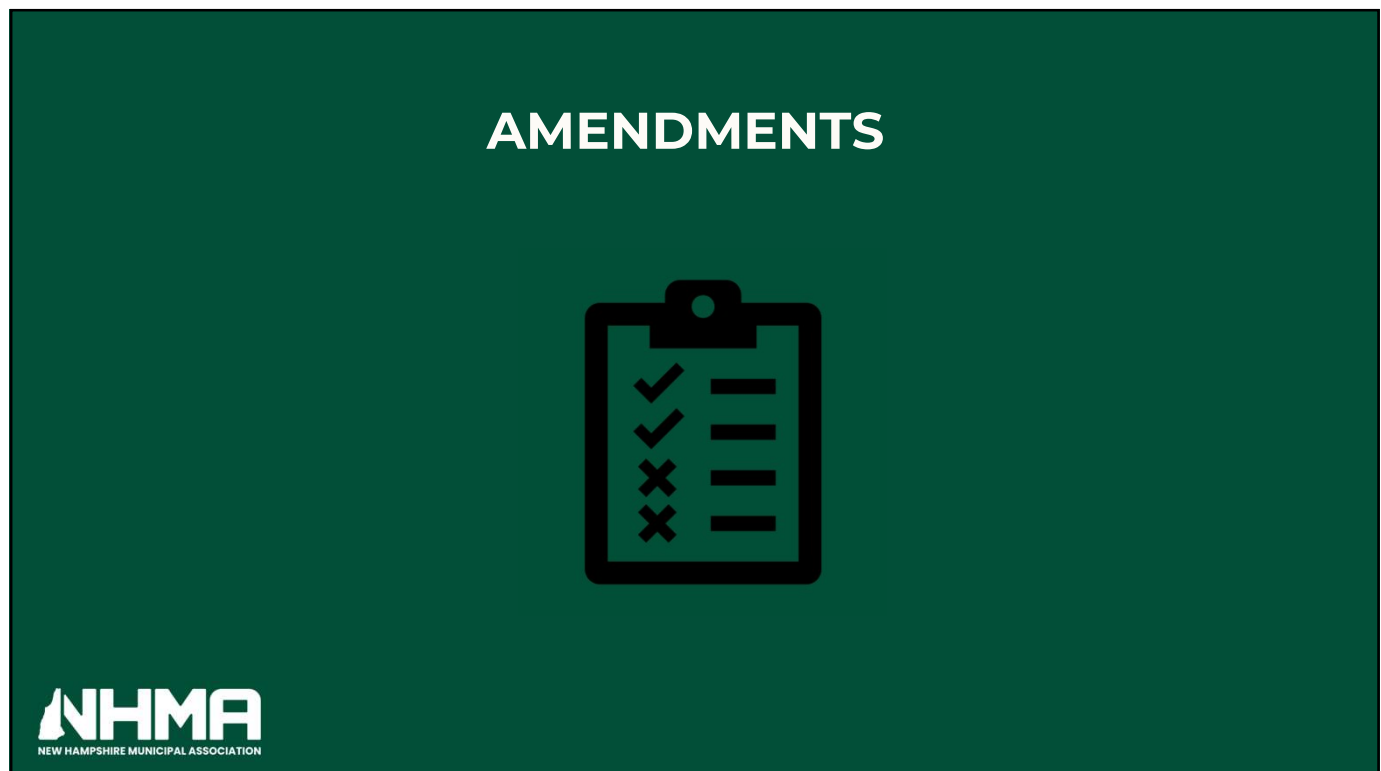
 NHMA
 NEW HAMPSHIRE MUNICIPAL ASSOCIATION

**TOWN OF HUDSON MEETING
 REQUEST FOR SECRET BALLOT
 (RSA 40: 4-a,b)**

Date: _____ Article: _____ Amendment: _____

	<u>NAME</u>	<u>ADDRESS</u>
REQUESTED BY:	1. _____	_____
	2. _____	_____
	3. _____	_____
	4. _____	_____
	5. _____	_____
	6. _____	_____
	7. _____	_____

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“No warrant article shall be amended to eliminate the subject matter of the article.”



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“Warrant articles may be amended at the first session subject to the following limitations . . .”

- Cannot “decide not to decide”; all articles go to the ballot—if amended, amended form goes on the ballot. RSA 40:13, VI
- Power to amend is limited, RSA 40:13, IV
- Wording prescribed by law can’t be changed
- The ballot uses the language as amended
- Cannot “eliminate the subject matter of the article”
- Can change the dollar amount of an appropriation, all the way to zero

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Reduction of Appropriations



- “To see if the town will raise and appropriate ~~\$20,000~~ \$0 to buy a new snowplow.”
 - This is OK, retains subject matter “snowplow”
 - \$0 triggers the No means No rule
 - Consider and explain consequences
 - How does this affect operating budget of highway department or CRF funds to purchase new snowplow?
 - Consider leaving at \$1

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Deleting a Line Item



- “I move to delete the police department line item from the budget.”
 - Functionally the same as zeroing out, but know the consequences
 - Difference between removing an entire line item and amending the bottom line
 - Lines on the MS 636 or 737 can be amended or even zeroed out

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Removing the Question

- “To see ~~if the town will raise and appropriate \$20,000 to buy a new snowplow.~~”
 - Towns have tried getting creative but this is now prohibited by law
 - Functionally, removes subject matter entirely
 - Instead, discuss zeroing out appropriation or amending to \$1

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Adding the Word “Not”

- “To see if the town will **not** establish an official budget committee pursuant to RSA 32:14.”
 - Add the word “not”... If the impact is to remove the choice on the issue from the voters, the change violates the statute. Bailey v. Town of Exeter, No. 218-2011-CV-00203, Rockingham Superior Court, 5/31/2011 (making the question a “nullity”)
 - Still same subject matter, but arguable as to legality.
 - Better approach, create a study committee

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Wording Prescribed By Law



- RSA 32:5-c

IV. For a tax cap using a fixed dollar amount or a fixed percentage, the wording of the question shall be:

"Shall we adopt the provisions of RSA 32:5-b, and implement a tax cap whereby the governing body (or budget committee) shall not submit a recommended budget that increases the amount to be raised by local taxes, based on the ~~prior fiscal year's average~~ of the prior 3 fiscal year's actual amount of local taxes raised, by more than ____ (insert either a fixed dollar amount or a fixed percentage)?"

- Can't change wording prescribed by statute, this would be improper
- However, note that the actual amount is not included in the statutory language
- Legislative body could amend the amount inserted, as that was not set by statute (New Boston case)

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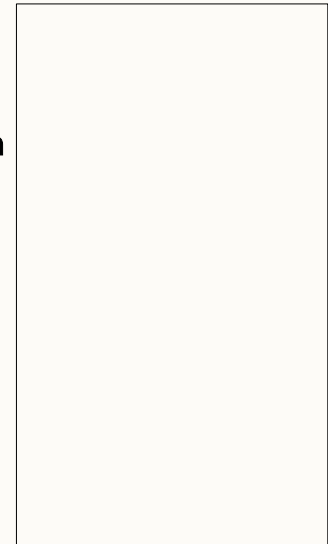
FREEDOM OF SPEECH AND ELECTIONEERING



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Speech & Other “Expressive” Conduct

- ▶ Right-to-Know Law applies to deliberative session
- ▶ Who has the right to speak?
- ▶ Reasonable restrictions



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1st Amendment Cases

- Dayton v. Estari (Ohio)- Regulation of “expressive conduct” not permissible unless it is accompanied by other impermissible conduct.
- Norse v. City of Santa Cruz- Government officials in America must occasionally tolerate offensive and irritating speech.
- Cohen v. California- Citizens have the right to express their opinions and criticisms, even if the speech is foolish and without moderation.

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Artus v. Town of Atkinson



- To state a viable claim of First Amendment retaliation, a plaintiff must show that the defendant intended to “chill his expression”.
- The defendant’s actions must be such that it would curb the expression of a “reasonably hardy individual”.
- Moderators are protected by “Legislative Immunity” when they are enforcing rules to keep the proceedings in order.
 - No person shall speak in any meeting without leave of the moderator
 - All persons shall be silent at the desire of the moderator
 - If any person persists in disorderly behavior after a warning from the moderator, the moderator may command that person to be removed.

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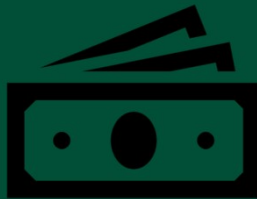
Electioneering At Polling Places - RSA 659:43



- Electioneering shall be prohibited within the polling place building.
- Establish one or more no-electioneering corridors, no less than 10 feet wide, that extend from all entrances of the polling place.
- Voter must be allowed to enter polling place building without interference from individuals outside the corridor.
- Moderator shall designate a preferred area for electioneering
- The distribution or posting of electioneering communications, including but not limited to posters, cards, handbills, placards, pictures, pins, stickers, circulars, or articles of clothing, is prohibited within any no-electioneering corridor established outside the polling place by the moderator.

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BUDGETARY ISSUES



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New Hampshire
Department of
Revenue Administration

2015
MS-737S



MS-737 SUPPLEMENTAL SCHEDULE

ENTITY'S INFORMATION ?

Entity Type: ☒ Municipality ☐ Village

Municipality: County:

BUDGET COMMITTEE SUPPLEMENTAL SCHEDULE

1. Total recommended by Budget Committee (from MS-737):

Less Exclusions:

2. Principal: Long-Term Bonds & Notes:

3. Interest: Long-Term Bonds & Notes:

4. Capital outlays funded from Long-Term Bonds & Notes

5. Mandatory Assessments

6. Total Exclusions (Line 2 + Line 3 + Line 4 + Line 5)

7. Amount Recommended, Less Exclusions (Line 1 - Line 6)

8. 10% of Amount Recommended Less Exclusions (Line 7 x 10%)

Collective Bargaining Cost Items

9. Recommended Cost Items (Prior to Meeting)

10. Voted Cost Items (Voted at Meeting)

11. Amount voted over recommended amount (Difference of Lines 9 and 10)

Mandatory Water & Waste Treatment Facilities (RSA 32:21)

**Budget
Act & 10%
Limitation
-RSA 32:19**

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Capital Reserve Funds

RSA Chapter 35



- Creation
- Discontinuance
- Changing purpose
- Agents to expends
- Transferring funds



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Special Revenue Funds



- RSA 31:95-c
- No agents
- Changes, 2/3 vote

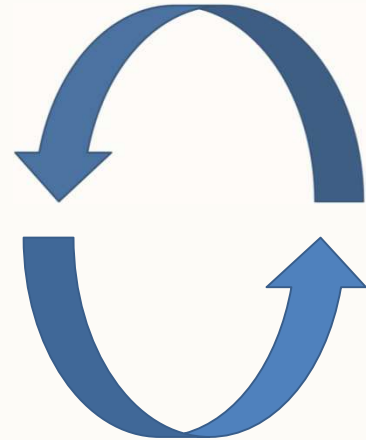


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Revolving Funds, RSA 31:95-h



- Purposes
 - Recycling
 - Ambulance
 - Special details
 - Affordable housing
 - Cable access
 - Energy conservation
 - Law enforcement purpose
 - Can also have recreation revolving funds with separate rules
- Also must have agents to expend
 - Set by town meeting
 - Can put limits on expenditures



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Collective Bargaining



Collective Bargaining

RSA 32:19—budget committee recommendations
 RSA 32:19-a—presentation of cost items at annual meeting
 RSA 273-A:1, IV—“cost items” cannot be amended
 RSA 31:5, III—special meeting to reconsider

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DRA Authority



- DRA has authority to delete an appropriation if not made in strict accordance with state statute. RSA 21-J:35, III. Effect is that sum will not be allowed to be raised in the property tax.
- Department of Revenue has duty to assist municipalities, and in fact does so.
 - Suggest warrant article language available through your DRA portal
- Leading reasons for DRA disallowance:
 - Subject matter not properly warned
 - Amendments involving Reserve Funds
 - Multi-year lease obligation without 3/5 vote or fiscal funding clause.
 - Exceeding 10% limitation, official budget committee—important for moderator to keep notes and let voters know immediately if they will exceed the 10% limitation!

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Remember, No Means No!



If the meeting:

Deletes a purpose within the budget form; or
 Reduces the appropriation for a purpose to zero; or
 No amount may be later transferred to or expended for the purpose in that year.



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How does the meeting end?

- No requirement that articles be moved to the ballot, that happens automatically.
- Once discussion and amendments are finished, the article, as amended must go to the official ballot, RSA 40:13, VI
- Subject to reconsideration until meeting ends, unless restricted per RSA 40:10
- Moderator need only announce the end of debate
- Recess v. adjournment.
 - Recess is a temporary delay, such as to count votes; meeting will resume that day.
 - Adjournment is to another date and time certain.
- No statutory language or process for ending the deliberative session.
- However, don't declare a "final adjournment" prior to completing all items of business; since RSA 40:13, VI requires all articles to go to the ballot, no option to pass over.
- You could have a pre-planned recess, or call recesses as appropriate.

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Can the meeting be postponed? RSA 40:4

Is the Moderator postponing a town meeting session that does not:

- Choose officers by official ballot
- Have voting by official ballot referenda
- Allow voter a right to vote by absentee ballot

Then:

The moderator can postpone, . . . however if you are voting by ballot at the polls, talk with the town attorney

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QUESTIONS?



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THANK YOU!



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