



Town Meeting School Meeting Handbook
2021 Supplement to the 2020-2021 Edition

Chapter 2

The Moderator

Page 18

II. Moderator's Duties

C. At Elections

Revise the last full paragraph to read as follows:

For a complete discussion of the moderator's role in state elections, see the *New Hampshire Election Procedure Manual -2020*, published by the Secretary of State, who has authority to oversee all state elections, which may be downloaded from this location: <https://sos.nh.gov/elections/local-election-officials/election-procedure-manual-2020/>.

Chapter 3

Conduct of the Meeting

I. Rules of Procedure

N. Articles Requiring a Two-Thirds Vote

Strike the fourth bullet as bonds or notes are approved by a three-fifths vote not a two-thirds vote under RSA 33:8

Chapter 4

Procedure for Appropriations

III. Requirements for Bond Articles

Page 30

Revise the first sentence of Paragraph A. to read as follows:

A. Three-Fifths Vote Required

A three-fifths ballot vote of all voters present and voting is required for all bond or note issues except for tax anticipation notes. RSA 33:8.

Chapter 5
Official Ballot Referendum System (SB 2)
II. SB 2 Official Ballot Referendum System
Page 37

Revise Paragraph F. to read as follows:

F. Supermajority Needed for Bond Articles

For all municipalities that have not adopted an optional form of legislative body, whether they employ the official ballot referendum system or retain the traditional town meeting form of government, a three-fifths majority of votes is required for approval of bonds or notes under RSA 33:8. The issue of notes or bonds by a municipality that has adopted an optional form of legislative body under RSA 49-D:3, I-a or RSA 49-D:3, II-a, bonds or notes shall be authorized by either a 2/3 or 3/5 vote as adopted and provided for in the charter.

Nevertheless, in towns and districts, RSA 33:3-a, II, still requires a two-thirds vote to approve the use of bond proceeds for a different purpose than originally authorized, where no expenditure of bond proceeds has been made for the bond's purpose, or where unspent proceeds remain after completion of the project. However, for towns and districts that have adopted the official ballot referendum town meeting, a three-fifths vote, rather than two-thirds is necessary. In towns that have adopted the official ballot town council by charter under RSA 49-D:3, I-a, the approval majority is two-thirds unless the town charter provides for three-fifths vote.

Chapter 6
Ballot Systems and Conduct of Elections
Pages 42 - 44
II. Official Ballot Systems
E. Conduct of Official Ballot System Election

Revise the second paragraph 2. *Election Date and Polling Hours* to read as follows:

A moderator must be thoroughly familiar with the state election laws, as summarized in the New Hampshire Election Procedure Manual: 2020-2021 (EPM) available on the Secretary of State website. A checklist of the Moderator's election day duties from the EPM is reprinted in part and is set forth below (this content has been copied from the New Hampshire Election Procedure Manual: 2020-2021, pp. 134-137):

POLL OPENING CHECKLIST

Prior to the opening of the polls, the moderator must ensure that:

- 3 copies of the Instructions for Voters (#1-2019) have been posted outside the guardrail. RSA 658:28.
- 1 copy of the Instructions for Voters (#1-2019) has been posted inside every booth. RSA 658:28.
- Sample ballots have been posted outside the guardrail (8 for the state general election and 8 of each party for the primary, and at least several for local elections). RSA 658:26. State law requires a minimum of 2 sample ballots be posted, however, the law also requires the Secretary of State to

provide 10 sample ballots, two for posting in advance of the election, therefore it is recommended that the remaining 8 be posted at the polling place.

- Post at least one sample ballot for the general election and one sample ballot for each party at a primary election no higher than 48" for those voters in wheelchairs. RSA 658:26.
- Post a notice indicating the time that processing of absentee ballots will start. Start processing absentee ballots at 1:00 p.m. if no notice is posted.
- A sharp pencil or pen has been placed in each voting booth. Polling places with ballot counting devices should use only pens.
- Purity of Elections statutes are posted outside the voting area. (#3-2019), (#4-2019), and (#6-2019). RSA 658:29.
- Proof of Voter Identity Instructions are posted outside the guardrail. (#5-2019) RSA 658:29-a.
- Two duplicate checklists to be used at the election are ready and available. Ensure the supervisors of the checklist have certified the checklist as accurate and complete, as of the start of the election, by signing the supervisor's certification section printed on the last page of an official checklist printed from *ElectioNet*. If the town/ward uses a ballot counting device, only 1 checklist is required.
- Prior to election day do not mark the checklist used at an election in any manner that could be misunderstood as documenting that the person voted. The practice of pre marking absentee voters on the checklist as having voted in advance of the election is improper and is a suspected source of inaccurate checklist markings regarding absentee voters. It is however, permissible to highlight the names of voters who have returned an absentee ballot. Some election officials report it is beneficial to highlight the names of voters on the checklist who have returned an absentee ballot. Use a highlighter; do not pre-mark the voter as voting. Typically done in the days just before the election, this also makes it easier to find and mark the voter on election day. It also improves accuracy of marking. Finding a name that is not highlighted will prompt the ballot clerk to double check that he or she has the correct name. Finishing a batch that covers a section of the alphabet and seeing a highlighted name not yet marked as voting will prompt a double check to confirm this is a rejected absentee ballot or to find a checklist marking error.
- Ballot clerks should be instructed to make only those marks on the checklist that are required by law. See Duties of Inspectors of Election at page 124. Non-public information, such as voter's dates of birth or other data that may be missing from voter records may not be written onto the election day checklist. The election day checklist becomes a public document following the election, therefore may not have dates-of-birth or other non-public information written on them.
- Certify that all electronic ballot counting devices and memory cards passed testing requirements and deposit evidence of testing in the front pocket of the canvas bag for the device. Verify that all device seals are intact and that appropriate activity and access logs are recorded, signed and stored in the front pocket of the canvas bag. RSA 656:42. See Electronic Ballot Counting Device Standard Operating Procedures for Testing & Security Seals on page 316. Do not put a ballot counting device into use that has not been properly tested or which is not properly sealed. The moderator must report any broken seals that are not documented in the device activity log to the attorney general, the Secretary of State, the clerk, and the selectmen. RSA 656:42, VIII (d)(5). The ballots must be hand counted or the town/ward can arrange for the vendor to provide a replacement device. Properly test and seal the replacement device before using.
- The moderator must have all the ballots delivered to him or her from the clerk counted to establish the number of official ballots. Report this number on the moderator's certificate. This ballot inventory will aid the moderator in anticipating the need for the clerk to prepare extra ballots if there is a heavy turnout and is available as a cross reference when checking the accuracy of the ballot counting. This number is also entered on the Moderators Worksheet. (See

page 361). This pre-election count establishing the number of ballots in the inventory may be done prior to election day, provided the clerk posts a notice and the public has an opportunity to observe. RSA 658:31.

- Fill out the two copies of the moderator's certificate if the election is a state election. One copy is for the moderator's records and return one to the Secretary of State with the Return of Votes.
- Position all officials:
 - Trained greeters are positioned to meet voters as they enter the polling place and to ask them to go to (a) the supervisors of the checklist if they are unregistered (b) the "No Photo ID" table if they have no approved photo ID, or (c) the "Voter Check-in" line if they are registered and have a photo ID or a completed Challenged Voter Affidavit.
 - A "No Photo ID table" should be equipped with a camera, film, copy of the checklist, ballot clerk instructions, a copy of RSA 659:13 (the photo ID law), and copies of Challenged Voter Affidavits.
 - Ballot clerks sit at the check-in table.
 - In hand count towns, the town or ward clerk, or a deputy clerk/assistant clerk is positioned at the checkout table by the ballot box.
 - In hand count towns, the moderator or an assistant moderator stands where the ballot box is placed and inserts the ballot handed to him or her by the voter. In towns where ballot counting devices are used, the voter may insert his or her cast ballot into the device without the assistance of the moderator. The moderator or a designee should still closely monitor the process to provide assistance and ensure that only the proper number of ballots are inserted by any one voter.
 - Position any challengers appointed by either a party committee or the Attorney General, outside the rail, but in a position where he or she can hear and see each voter as the voter checks in.
 - Position the selectmen, supervisors and any other assistants he deems necessary within the polling place.
- Open the polls punctually at the appointed hour.
- Inspect the ballot box, prior to the first ballot being issued to a voter, and show any members of the public present that it is empty. If a ballot counting device is used, the moderator should display the zero tape produced by the device when it is set up and turned on for the election. This tape shows that the starting count for each candidate and question is zero. The zero tape must be preserved and kept with the results tape following the election.
- Seal the ballot box.
- Publicly announce when the processing of absentee ballots shall begin. This customarily begins at 1 PM. However, if 24-hours' notice is provided in two public places, the moderator may announce the beginning of processing absentee ballots no earlier than two hours after the polls open. RSA 659:49.
- The moderator shall designate 2 or more of the inspectors of election, one from each party, to act as ballot clerks for each check-in station. RSA 658:25; RSA 659:23.
- Begin accepting voters.

Add a new paragraph 7 on page 46 as follows:

7. Allowing Voters Waiting in Line to Vote

An amendment to RSA 659:12 now provides that all people who are waiting in line to check in or to register to vote at the moment the polls close shall be permitted to vote. In addition, if lines of cars containing those seeking to vote exist due to parking not being available or other traffic congestion, election officials and law enforcement shall work to identify the last person who joins the line of cars at the moment when the polls close to voting and allow that person and all who previously

joined the line to obtain parking, enter the polling place, apply for registration, and, if registered, vote.

Replace the first paragraph of I. *Electioneering*, on page 48 with the following:

No election officer can “electioneer” while performing official duties. “Electioneer” means acting in any way designed to influence a voter’s vote. RSA 659:44. Within the building where the election is being held, no candidate or person campaigning for a candidate can distribute or display any campaign material intended to influence a vote. Through recently enacted SB 45 (effective January 1, 2020) a new definition of what is considered electioneering, RSA 652:16-h, and amendments to RSA 659:43, further define and clarify the scope of permissible electioneering at the polling place. Among other things, it clarifies the definition of electioneering, requires the moderator to establish one or more no-electioneering corridors at each entrance to the polling place and to designate a preferred area for electioneering, and prohibits affixing electioneering signs to the building or grounds and leaving electioneering signs unattended. It also allows an authorized official to remove a vehicle that has been parked or left unattended on election day for longer than three hours in an area designated for voters who are temporarily present for the purpose of voting.

The new definition of prohibited electioneering within the polling place building states that electioneering includes, but is not limited to:

- I. Wearing clothing or paraphernalia that displays a candidate's name, likeness, or logo, a ballot measure's number, title, subject, or logo, a political party's name or logo, or any communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure, provided that a person eligible to vote or register to vote in the voting district who is unable to remove or cover clothing that explicitly advocates for or against any candidate, political party, or measure, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively engaged in the process of voting.
- II. Distributing or posting a card, handbill, poster, placard, picture, pin, sticker, circular, or any other form of communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure I (HB 1503) now also prohibits the wearing at a polling place of any pin, sticker, or article of clothing that is intended to influence the action of any voter within the building where the election is being held.

The Secretary of State’s manual states “Upon observing a voter enter the polling place to vote wearing campaign material, where the nature of the material and the individual’s attire make doing so appropriate, it is reasonable to ask the voter to remove or cover up campaign material being worn which is intended to influence voters in the polling place. The Attorney General’s Office has recommended, but the law does not mandate, that local election officials keep spare shirts or inexpensive rain ponchos on hand to offer voters to cover unlawful attire. However, should the voter refuse, he or she must be allowed to vote..” However, moderators should be aware that in 2018 the United States Supreme Court ruled in *Minnesota Voters Alliance v. Mansky*, 138 S.Ct. 1876, that a Minnesota law prohibiting individuals, including voters, from wearing a “political badge, political button, or other political insignia” inside a polling place on Election Day clearly violated the First Amendment. However, the Court indicated that a message that supports or opposes a candidate or measure on the ballot at that election and polling station can be prohibited.

Appendix C – 16 Things Every Citizen Should Know About Town Meeting

Revise #13 to read as follows:

13.) A Vote to go into Debt (Issue Bonds or Notes) Must Pass by a 3/5 Ballot vote.