

NH DEPARTMENT OF REVENUE ADMINISTRATION
Municipal and Property Division
P.O. Box 487
Concord, NH 03302-0487
Phone (603) 230-5090
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2014 MEETING

SUGGESTED WARRANT

ARTICLES FOR

TOWNS

VILLAGE DISTRICTS

SCHOOL DISTRICTS

Revisions/New Information Highlighted

In accordance with the American Disabilities Act, if you need or prefer an alternate format of communication, please contact us at the number located on the front of this brochure.

HOUSE BILL 252, (CHAPTERS 247, LAWS OF 2013)

**An Act that consolidated the Property Appraisal Division and
Municipal Services Division of the Department of Revenue
Administration
To be called the Municipal and Property Division**

Director – Stephan Hamilton
Assistant Director, - David Cornell
Program Assistant – Renee Fisher
Clerk – Elizabeth McGill
Municipal Supervisor –
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Assistant Utility Appraiser – Kathy Caprone
Equalization Supervisor – Linda Kennedy
Equalization Staff – Cindy Paige, Deb Gage, Natalie Duffy, Stephanie
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Appraisal Staff – Craig Nichols, Diane Frechette, Joanne Tramontozzi, Keith
Gagnon, Lionel MacEachern, Ron Cote, Sam Greene
Gravel Appraiser – Mary Pinkham Langer
Timber Appraiser – Jesse Bushaw
Gravel/Timber Assistant – Brenda Pabon

Street Address: 109 Pleasant Street in the Governor Hugh Gallen State
Office Park South Campus
Mailing Address: PO Box 487, Concord NH 03302

Office Hours: Monday – Friday 8:00 to 4:30

Requirements for NH Towns & Cities

Reappraisal of all real estate property:

NH Constitution [Art.] 6. [Valuation and Taxation.] *The public charges of government, or any part thereof, may be raised by taxation upon polls, estates, and other classes of property, including franchises and property when passing by will or inheritance; and there shall be a valuation of the estates within the state taken anew once in every five years, at least, and as much oftener as the general court shall order.*

RSA 75:8-a Five-Year Valuation. – *The assessors and/or selectmen shall reappraise all real estate within the municipality so that the assessments are at full and true value at least as often as every fifth year,....*

The New Hampshire Department of Revenue Administration's **Municipal and Property Division** is available to provide technical assistance to municipalities and to help meet constitutional and statutory taxation requirements.

There are various financing methods to accomplish this constitutional revaluation of property. To spread the financial impact over time, a municipality may borrow funds for a reappraisal with the payments being spread out over five years (see RSA 33:3-b).

Our recommendation is to budget for the process in each year. A non-lapsing capital reserve fund (CRF) could be established **during the annual town meeting process**. One fifth of the anticipated costs could be appropriated each year **and deposited into the established CRF**. Please refer to the examples on the establishment of **a capital reserve fund**, the funding to and from **and the naming agents on a revaluation CRF**.

Annual audit requirement for all municipalities:

RSA 41:31-c Duties *All municipalities shall annually, or more often as necessary, conduct an audit of the accounts of any officer or agent handling funds of the municipality. Elected auditors conducting such audits shall follow audit procedures in rules adopted by the commissioner pursuant to RSA 541-A.*

RSA 41:31-b Choice: Election *Any municipality that has not hired an auditor under RSA 21-J:19 shall, at the annual meeting under an article in the warrant, choose one or more auditors....*

Financial audits play a vital role in helping to preserve integrity of public finance and maintain citizen's confidence in their elected leaders. Audits provide independent assurance that financial information is reliable. This is particularly important given the issues we hear about in the news almost every day. Transparency and accountability in government audits is essential to show that public functions are being carried out efficiently, ethically and equitably. Though an audit will not necessarily detect fraud, it will help to facilitate awareness and financial accountability within each municipality.

Auditors should conduct audits within the constraints of confidentiality of laws, rules and policies and in an independent and objective manner, demonstrating the highest standards of personal integrity, honesty and fortitude.

If you need assistance with warrant article wording or have finance questions, contact the **Municipal Bureau** at (603)230-5090.

If you have specific property valuation or revaluation questions, please call (603)230-5950.

2013 STATUTORY CHANGES IMPACTING MUNICIPAL LAWS

<u>RSA</u>	<u>TOPIC</u>	<u>BRIEF EXPLANATION</u>
32:3, VI(e)	Special Warrant Article Definition	Appropriation to a capital project
32:7-a	Appropriations for Capital Projects	By a 2/3 or 3/5 vote of legislative body, fund may be appropriated beyond one fiscal year not to exceed 5 fiscal years
38:22	Electronic Billing	Person responsible for issuing utility bills may issue electronically only after the customer requests such
32:5-b	Local Tax Cap	Adds back into calculation any fund balance used to reduce taxes
31:95-h, I(a)	Revolving Funds	Includes maintenance of recycling programs
32:11	Contingency Fund	Contingency fund may be used for emergencies
31:98-a	Establish Contingency Fund	Annually by warrant article for unanticipated expenses
40:13	Adoption/Amendments To an ordinance in SB2	Topical description on official ballot instead of full text: full text available prior to 2 nd session and available day of meeting: statutory wording found in 40:13 VIII-a
53-B:6, I	Approval of bonding for Solid Waste Management Districts	Approval changed to 120-day period; RSA 32 and 33:8-a shall apply
21-J:15	Consolidation of Municipal Services and Property Appraisal Divisions	Now known as the Municipal and Property Division
197:3-a	Allows Special Meeting for Changes in Education Funding	Legislative body to consider reduction, rescission or increase of appropriations made at annual meeting
671:33, IV	Cooperative School Vacancy on Budget Committee	Modifies the procedure for filling a vacancy on a cooperative school budget committee

This is not intended to be a complete list. Please refer to the law or call for specifics. More information is also available on the Department's website www.nh.gov/revenue

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TERM	RSA/Rule	GENERAL EXPLANATION
Agents to Expend	35:15, I 198:20-c,I	Voters appoint an official to expend from CRF or expendable trust fund without further approval.
Amendment		Change in the amount of an appropriation at the annual meeting; the purpose cannot be changed
Appropriate	32:3, I	Authorization to expend municipal funds for a specific purpose.
Appropriation	32:3, II	Amount of money authorized to be expended for a specific purpose.
Auditor	Rev 1904	CPA or locally elected municipal auditor
Budget	32:3, III	List of recommended appropriations & anticipated revenues as warned in the warrant and budget form to be addressed by voters.
Budget Committee	32:14 - 24	Official committee whose main objective is to prepare budgets & hold budget hearings.
Budget Committee Supplemental Schedule		Form used to calculate the 10% maximum allowable increase to the posted MS 7, MS 27 and MS 37
Budget Forms	21-J:34, VI & Rev1707	Forms prescribed by DRA to post with warrant (MS-6, 6c, 7, 26, 26c, 27, 36, or 37).
Calendar Days	RSA 80:54	Calendar days with Sunday and holidays included
Capital Reserve Fund (CRF)	RSA 35	Fund established for the purpose of saving money to finance a specific capital improvement at a future date.
Contingency Funds	RSA 31:98-a & 52:4-a & 198:4-b	Funds that may be set aside for unanticipated expenditures in towns, village districts or schools annually by an article in the warrant
Default Budget	RSA 40:13, IX(b)	Budget that is adopted in an SB2 municipality if the proposed operating budget article fails
Deliberative Session	RSA 40:13, III & IV	First session of the annual meeting in an SB2 community to discuss, debate and explain proposed warrant articles
DRA	21-J	NH Department of Revenue Administration sets property tax rates & provides technical assistance.
Disallowed Appropriation	21-J:35	Appropriation inconsistent with procedural requirements of law.
Election Ballot	RSA 669:14	Ballot to be used for the election of municipal officials
Escape Clause		Clause contained in a lease/purchase agreement that permits the termination of a lease for non-appropriation on an annual basis
Fiduciary Funds	Rev 1703.01(b)	Assets held by municipality for other parties that cannot be used to finance the municipality's own operating programs
Fiscal Funding Clause		Clause contained in a lease/purchase agreement that permits the termination of a lease for non-appropriation on an annual basis
Fiscal Year	Rev 1902.01	January 1 st through December 31 st budget year (see optional fiscal year)
Fund Balance, see Surplus	Rev1706.03 Rev1110.02 (d)	Balance sheet amount remaining after subtracting liabilities from assets.
Governing Body	41:8,52:3-a, 21:29,44:3	Selectmen; Village District Commissioners; School Board; City Council.
Government Funds	Rev 1703.01(a)	The general fund to account for all financial resources of the municipality except those required to be accounted for in another fund

TERM	RSA/Rule	GENERAL EXPLANATION
Gross Budget	32:5	Budget must include ALL appropriations (even with offsetting revenues).
Legislative Body	RSA 21:47	The voters at town, school district, or village district meeting; City Council.
Municipality	Rev 1701.10 & 1901.05:	(and RSA 672:10) City, town or unincorporated place
Negotiated Cost Items	273-A:1, IV	Benefit of collective bargaining agreement requiring an appropriation.
Official Ballot	RSA 40:13	Ballot used in SB2 municipalities for elections and all business
Optional Fiscal Year	Rev 1902.02	July 1 st through June 30 th budget year
Procedural Defect	31:5-b, II 40:16	Minor defect of a meeting that can be fixed at a "procedural defect" meeting.
Proprietary Funds	Rev 1703.04(c)	Enterprise funds which may be used to account for operations similar to private business enterprises funded by user charges
Purpose	32:3, V	Goal or aim to be accomplished; line item on DRA budget forms.
Raise and Appropriate		Find a source of revenue and authorize the expenditure of it.
Rev Rules		Rules adopted by state agencies
SAU		School Administration Unit
SB2 (senate bill 2)	40:13 - 14	Alternative form of municipal govt. requiring 2 sessions; final vote is by ballot.
Special Warrant Article	RSA 32:3, VI	Article that falls within the definition contained in the RSA: requires recommendations of governing body and budget committee
Sum Certain	32:3, I	Appropriations must be for a specific amount, not an unspecified amount.
Supplemental Appropriation		Additional appropriation made within the current year
Surety Bond	Rev 1903 RSA 41:6	Insurance policy to cover losses suffered through the acts of a municipal official or employee
Surplus (unassigned fund balance)	Rev 1110.02 (d)	An excess balance sheet amount that can be used to offset appropriations to reduce tax rate at the tax rate setting. Also see fund balance.
"Sweep" Article	Don't do this	All inclusive article that essentially requires a double vote on appropriations.
Tally Votes	RSA 32:5, V-a	Recorded votes of governing body and budget committee on budget items or any warrant articles included on warrant article
TAN's	33:7	Tax Anticipation Notes - Borrowing in anticipation of tax receipts.
Tax Impact	RSA 32:5, V-b	Notation stating the estimated tax impact of an appropriation contained in a proposed warrant article :to be determined by governing body
10% Rule	32:18 and 18-a	Voted budget can't be more than 10% above budget committee's recommended budget as reported on the MS 7, 27, 37.
Town means School	RSA 194:1	In connection with government, improvement, support and administration
Uniform Chart of Accounts	Rev 1701.12	Account titles, descriptions and numbering classification system established by the department of revenue
Village District	RSA 52 & Rev 2001.15	Municipal entity within a town that holds a separate budgetary meeting and has its own tax rate, governing body, and voters (precinct).
"Warned" Purpose	39:2	Subject matter stated on the posted warrant to be discussed at meeting.
Warrant for Meeting	39:2 & 5	Document posted with budget prior to meeting containing date & location of meeting & a list of all issues & appropriations to be addressed signed by governing body.

PREPARING THE WARRANT AND BUDGET

The following pages contain sample warrant articles covering specific purposes for schools, towns, and village districts. Unless otherwise required by law, it is not necessary to use the *exact* wording, but we strongly recommend using the suggested wording in order to clearly state the purpose of the article and to ensure properly voted appropriations. All warrant articles with appropriations must be reported on the posted budget per RSA 32:5, IV or they may be disallowed. The forms have a separate area to isolate individual and special warrant articles separate from the operating budget. Do not include capital reserve funds or trusts as a part of the warrant article for the operating budget. These fund articles should be treated as "special" warrant articles.

The Department of Revenue Administration (DRA) recommends submitting proposed articles containing appropriations and the proposed budget form to the assigned municipal accounts advisor well in advance of the warrant posting date so they can provide a preliminary review of the wording and budget form presentation. These documents may be faxed to 230-5947 or email them to the respective municipal accounts advisor for your municipality. If assistance is needed in developing wording for amendments to be presented at an annual or special meeting or deliberative session, we can assist with that with prior notice (be sure to include the original wording as well). Improper amendments are frequently the reason for DRA to disallow an appropriation.

If the municipality plans to add any new positions or activities to a traditional line item, we suggest treating this function separately in an "individual" or "special" warrant article. Individual articles to be addressed separately from the operating budget should be listed separately on the budget form in the pages provided. However, under RSA 32:10, I (e), if the separate article fails, no money can be transferred or expended for that purpose, **“no means no”**.

DO NOT USE A "SWEEP" ARTICLE SUMMARIZING ALL OTHER ARTICLES PREVIOUSLY ADDRESSED.

Some municipalities summarize the municipal meeting action with an additional warrant article, which includes some or all appropriations already voted. We strongly discourage this additional vote. The danger of the additional vote is the appropriation voted in this final article could be in error and result in an incorrect tax commitment. The vote in a "sweep" article is the appropriated amount for the meeting. Errors have occurred from appropriations being included twice, being left out, or amendments not being recognized.

An alternative to the "sweep" vote is to verbally disclose the bottom line of the already voted warrant articles to those in attendance.

The posted budget form (MS-6, 6c, 7, 26, 26c, 27, 36, or 37) must be submitted to DRA within 20 days after the annual meeting. RSA 21-J:34, VI requires cities to file a proposed budget form (MS-6c or MS-26c) within 20 days after adopting any budget resolution.

Amendments – Annual, Special, or Deliberative Session Meeting

The voters at an annual or special meeting may amend the amount of an appropriation; however, it is important to remember that the PURPOSE of the appropriation cannot be changed. No new purposes can be introduced that were not warned to the voters in the posted warrant or that were not disclosed or discussed at the budget hearing(s) for the meeting. An article cannot be amended to make it "special" or "non-transferable".

Amendments introducing an appropriation for a new purpose have consistently been disallowed by the DRA. One example is when it is warned to put money into capital reserve "Y", and an amendment is made to appropriate money to purchase "Y" this year instead. This amendment would be a change of purpose and the appropriation would be disallowed because putting money aside into a fund pursuant to statute is a different purpose than purchasing a piece of equipment. Please allow DRA to review any proposed amendments anticipated at the meeting.

RSAs Referring to Calculation of Days

There are various RSAs that determine how to calculate days and some are listed below and should not be considered a complete list:

RSA 21:35: Time, How Reckoned, Day Included and Excluded- I. Except where specifically stated to the contrary, when a period or limit of time is to be reckoned from a day or date, that day or date shall be excluded from and the day on which an act should occur shall be included in the computation of the period or limit of time.

II. If a statute specifies a date for filing documents or paying fees and the specified date falls on a Saturday, Sunday, or legal holiday, the document or fee shall be deemed timely filed if it is received by the next business day.

RSA 80:54 Calendar Days - Whenever the word "day" or "days" is used in this or any other chapter of the Revised Statutes Annotated relating or appertaining to the collection of taxes, giving of notices, holding of distrained property or in making reports to a register of deeds, it shall be construed to mean calendar days and Sundays and holidays shall be included.

RSA 652:18 Days Included and Excluded - I. Except where specifically stated to the contrary, when a period or limit of time is to be reckoned from a day or date, that day or date shall be excluded from and the day on which an act should occur shall be included in the computation of the period or limit of time.

II. Whenever the election laws refer to a period or limit of time, Saturdays, Sundays, and holidays shall be included, except as provided in paragraph I. However, when the last day for performing any act under the election laws is a Saturday, Sunday or official state holiday, the act required shall be deemed to be duly performed if it is performed on the following business day.

RSA 39:14 Adjournment Date Falling on Sunday - Whenever any adjournment of any town meeting shall fall upon a Sunday, it shall be held on the next secular day thereafter, at the same time and place, and the proceedings thereon at that time shall be of the same force and validity as if the meeting had been adjourned thereto.

RSA 652:20 End of Day - Whenever the election laws require a filing with or an action by an official, such filing or action shall be performed before 5 o'clock in the afternoon of the stipulated day. During the afternoon of the stipulated day, the school district clerk or his designee, or the town clerk or his designee, shall arrange his time so as to be available between the hours of 3 o'clock and 5 o'clock.

There are other RSAs that address the issue of notices for public hearings. Please refer to the Technical Assistance Brochure for information on public hearings and a shortened explanation of the 18 statutes listed there.

Special Meetings

There may arise the need for a special meeting to be held after the current year's annual meeting has concluded but before the next year's annual meeting is held. If no money is to be raised, the governing body may not have to petition the superior court for permission to hold such a meeting. If additional appropriations need to be raised, the governing body must first petition the court for permission (see RSA 31:5 and RSA 197:3). The Laws of 2013 amended RSA 197:3 by inserting a new section (197:3-a) that allows for a special school district meeting to be held if changes in adequate education funding occur after the annual meeting.

Reasons that Appropriations May be Disallowed

Listed below are some errors made that result in disallowed appropriations. Beside each topic is the page number and example to be referred to in this booklet.

Reason for Disallowance	Helpful Pages	Helpful Examples
Failure to appropriate "specific" amount; no sum certain	18	18
Bond/note/lease greater than \$100,000 not first appropriation to be addressed on the warrant, no ballot vote on borrowing, or not holding the required hearing	13, 14, 22	--
Failure to appropriate "specific" amount for expenditure of interest earned on bond proceeds	14	10
Failure to get 2/3 ballot vote on lease with no fiscal funding clause or 3/5 th ballot vote if SB2	22	30
Failure to get 2/3 vote on changing the purpose of CRF & ETFs.	19	22
Amendment made to change the of purpose of proposed article	8	--
Appropriation exceeded 10% of budget committee's recommendations.	11, 13, 14	--
Agents of a CRF not warned on posted warrant	20	24
Article amended to be "special or non-lapsing" but not warned on posted warrant	8	--

Recommendation Tallies and Tax Impact Statement on Warrant Articles

Recommendation Tallies - RSA 32:5, V-a and RSA 40:13, V-a (both effective 7/1/2013) allow the legislative body of any town, school district, or village district to adopt a warrant article requiring the governing body, budget committee or advisory budget committee, to include vote tallies on recommendations relative to budget items or any warrant articles or ballot questions. Unless the legislative body has voted otherwise, the governing body may do so on its own initiative. Recommendations are required on special warrant articles, as defined in RSA 32:3, VI.

Example 1: Recommendation Tallies

Shall the town vote pursuant to RSA 32:5, V-a and RSA 40:13, V-a, to require that all votes on recommendations on budget items or warrant articles by the governing body and budget committee shall be recorded votes and that the numerical tally of such votes shall be printed in the warrant next to the affected warrant article. (Majority Vote Required)

Tax Impact Statement – RSA 32:5, V-b allows voters to require the governing body to determine and include an estimated tax impact statement on warrant articles.

Example 2: Tax Impact Statement

To see if the town will vote to require that the annual budget and all special warrant articles having a tax impact, as determined by the governing body, shall contain a notation stating the estimated tax impact of the article.

10% Rule

In municipalities with budget committees adopted under RSA 32:14, the meeting cannot appropriate a total amount which exceeds the total recommended by the budget committee by more than 10%. (See RSA 32:18 for details of this calculation). **The calculation is based on the budget committee's recommended amount on the posted budget form (MS-7, 27, or 37).** If the voted appropriations are over the 10% maximum amount, DRA will disallow on a "last voted, first out" basis. Therefore, it is important to consider the order in which warrant articles will be voted. We recommend that priority articles, like the operating budget, be placed towards the beginning of the warrant. The voters can still change the order **during town meeting** in which the warrant articles are addressed and voted upon. **However, long-term funding articles (bonds/notes) must be the first money articles voted on.** See RSA 33:8-a for the placement of articles with long term financing over \$100,000.

Other Information

If applicable, the warrant for the annual municipal meeting should contain an article addressing each of the following subjects (unless they were previously voted "until rescinded" at a prior meeting):

Borrowing money in anticipation of taxes (TANs for towns or village districts): No limits should be written into this warrant article because limits are effectively imposed on this type of borrowing by RSA 33:7. Once voted, using the wording in **Example 3**, the vote stays in effect until rescinded.

Authorization for the selectmen to dispose of tax deeded property: The article could state how this is to be done, i.e., sealed bids, auction, or **as justice may require**, etc., see legal counsel for warrant article construction to suit the municipality. The law allows this authority to extend indefinitely until rescinded. See RSA 80:80.

Personal property per RSA 31:95-e, **Example 4**

Library trustees per RSA 202-A:4-c, **Example 5**

Authorization for selectmen to accept trusts without further action by the town (RSA 31:19). The law allows this authority to extend indefinitely until rescinded.

Tax Anticipation Note (TAN) – Towns and Village Districts

Example 3: Tax Anticipation Note

Shall the town (*or village district*) accept the provision of RSA 33:7 providing that any town (*or village district*) at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the selectmen (*or commissioners*) to issue tax anticipation notes? (Majority vote required).

Acceptance of Personal Property Donated – Towns or Village Districts

RSA 31:95-e allows for the inclusion of a warrant article authorizing the selectmen or commissioners to accept gifts of personal property, other than money, for any public purpose for the municipality. Such authorization will remain in effect until rescinded by a vote of the town or village district meeting. If the gift is valued under \$5000, a hearing may not be necessary.

Example 4: Acceptance of Donated Personal Property

To see if the municipality will vote to authorize the selectmen (*or commissioners*) to accept gifts of personal property, other than cash, to the municipality for any public purposes. This authorization, in accordance with RSA 31:95-e, shall remain in effect until rescinded by a vote of the town (*or village district*)

meeting. (Majority vote required).

Acceptance of Personal Property Donated – Libraries

RSA 202-A:4-d allows for the inclusion of a warrant article authorizing (until rescinded) the library trustees to accept gifts of personal property, other than money. If the gift is valued under \$5,000, a hearing may not be necessary.

Example 5: Library Trustees Acceptance of Personal Property

Shall the town adopt the provisions of RSA 202-A:4-d providing that any town at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the public library trustees to accept gifts of personal property, other than money, which may be offered to the library for any public purpose? Prior to the acceptance of a gift valued at over \$5,000 the public library trustees shall hold a public hearing on the proposed acceptance. (Majority vote required).

General Acceptance of Unanticipated Funds

RSA 31:95-b (for towns and village districts) and 198:20-b (for school districts) allow for the inclusion of a warrant article (with specific wording required by law), at the annual meeting, authorizing the governing body to apply for, accept and expend money from unanticipated sources, **(not unanticipated funding)** without further action by municipal meeting. There are, however, some restrictions on the use of these funds:

Used only for legal purposes for which the town, village, or school district may appropriate money;

When the amount is \$5,000 or more, the governing body must hold a public hearing to discuss the expenditure of the funds. For amounts under \$5,000, the governing body may address it at a regular governing body meeting after posting notice in the agenda;

Not require the expenditure of other funds, except those funds lawfully appropriated for the same purpose; and,

Be exempt from all provisions of RSA 32 relative to limitation and expenditure of municipal monies, such as the 10% rule.

Example 6: Acceptance of Unanticipated Sources of Funds – Town or Village District

Shall the *{town or village district name}* accept the provisions of RSA 31:95-b providing that any *{town or village district}* at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the *{selectmen or commissioners}* to apply for, accept and expend, without further action by the *{town or village district}* meeting, unanticipated money from a state, federal, or other governmental unit or a private source which becomes available during the fiscal year? (Majority vote required).

Example 7: Acceptance of Unanticipated Sources of Funds – School District

Shall the *{school district name}* accept the provisions of RSA 198:20-b providing that any school district at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the school board to apply for, accept and expend, without further action by the school district, unanticipated money from a state, federal, or other governmental unit or a private source which becomes available during the fiscal year? (Majority vote required).

Library Trustees Authority to Accept and Expend Unanticipated Funds

RSA 202-A:4-c allows for a warrant article authorizing library trustees to accept unanticipated funds. The following restrictions are listed:

Be used only for legal purposes for which a town may appropriate money;

Not require expenditure of other town funds;

Hold a public hearing prior to taking action; for amounts over \$5,000. For amounts under \$5,000, library trustees need to address it at a regular trustee meeting after posting notice in the agenda;

Be exempt from all provisions of RSA 32, relative to limitation and expenditure of town monies;

The law specifically states that the warrant article shall be worded as in the example provided.

Example 8: Library Trustees Accept/Expend Unanticipated Sources of Funds

Shall the town accept the provisions of RSA 202-A:4-c providing that any town at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the public library trustees to apply for, accept and expend, without further action by the town meeting, unanticipated money from a state, federal or other governmental unit or a private source which becomes available during the fiscal year? (Majority vote required).

RSA 202-A:11-a allows librarians to retain money in a non-lapsing fund for library purchases of books and supplies, if so authorized by the legislative body. The authorization is granted by vote on a town or city election ballot. RSA 202-A:11-b requires specific wording and requirements.

Long-Term Borrowing

When a municipality needs to borrow for a long-term major purchase or capital project, it is extremely important to follow the requirements of the Municipal Finance Act, RSA Chapter 33. All long-term funding requires a two-thirds (2/3) ballot vote (3/5 if SB2 or applicable charter) of those in attendance and voting at the annual or special meeting called for that purpose (RSA 33:8). The major lending institutions, through their bond counsel, will examine the process to be sure it is not faulty. RSA 33:8-a, II requires financing agreements over \$100,000 be acted upon prior to other appropriation warrant articles. See the law for other requirements, such as holding a hearing or see RSA 32:18 and the example below if the municipality has an official budget committee and wishes to override the 10% limitation, due to non-recommendation of the budget committee. **Per RSA 32:5, V, "special" warrant articles must show the recommendation of the governing body and budget committee.**

Long-Term Borrowing Not Recommended by Budget Committee

Under RSA 32:14-24, the municipality may vote to override the 10% limitation of RSA 32:18 on a bond article not recommended by the budget committee (see the following example). This optional override wording must be warned on the warrant. It cannot be added at the meeting.

Example 9: Long-Term Borrowing with 10% Override – Special Warrant Article

[Passage of this article shall override the 10 percent limitation imposed on this appropriation due to the non-recommendation of the budget committee]. To see if the municipality will vote to raise and appropriate the sum of \$4,000,000 (gross budget) for the construction and original equipping of a new Police/Fire/Rescue building, and to authorize the issuance of not more than \$3,500,000 of bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA 33) and to authorize the municipal officials to issue and negotiate such bonds or notes and to determine the rate of interest thereon; furthermore, to authorize the withdrawal of

\$250,000 from the Safety Building Capital Reserve Fund created for this purpose; with the balance of \$250,000 to be raised by taxation. The selectmen recommend this appropriation. The budget committee does not recommend this appropriation. (2/3 ballot vote required, 3/5 ballot vote required if SB2 or applicable per charter).

Money appropriated must reflect the total dollar value required for the purpose (the gross budget), offset by the sources of funding. When posting this example on the budget form, it will be listed in the appropriate recommended or not recommended columns, under special warrant articles, with a gross appropriation of \$4,000,000. The offsetting revenue will show on the revenue pages of the budget form with \$3,500,000 from bonds and \$250,000 from capital reserve funds.

Another thing to keep in mind is whether or not the first year's payment should be included in the warrant article. This phrase can be inserted before the recommendations, "...and further to raise and appropriate an additional sum of \$xxx for the first year's interest payment on the bond". That additional appropriation must be included on the budget form.

Use of Interest Earned on Bond Proceeds

Interest earned on the investment of bond proceeds should be recognized as general fund revenue. Interest income that accumulates in the Capital Project Fund **cannot** be used to increase the specific amount appropriated for a capital project without further appropriation by the legislative body.

When the money is transferred from the capital project fund to the general fund, it will usually create a surplus. Therefore, the legislative body at an annual or special meeting may vote to appropriate money from surplus for a specific purpose. This example is a warrant article for the use of the interest income transferred to the general fund.

Example 10: Appropriating Interest Earned on Bond

To see if the municipality will vote to raise and appropriate the sum of *[insert \$]* for the purpose of *[insert purpose]* and authorize the use in that amount of December 31 *[or June 30]* fund balance for this purpose. (This amount will represent the interest earned on bond proceeds that was transferred to the general fund on or before December 31 *[or June 30]*).

Interest earned on the investment of bond proceeds should be recognized as general fund revenue. Interest income that accumulates in the Capital Project Fund **cannot** be used to increase the specific amount appropriated for a capital project without further appropriation by the legislative body.

If a balance remains after the completion of a bonded project, the town, village district or school district by a vote of 2/3rd or 3/5th of the voters present and voting at the annual meeting may authorize the expenditure or the remaining funds and any interest accrued for any purpose for which bonds may be issued. See RSA 33:3-a for more information.

Bond Rescission

- The warrant article authorizing borrowing can state the length of time the bond authorization remains valid. If the bond has not been issued by the expiration date, it is considered rescinded. (RSA 33:8-f)

- A vote to rescind an unissued bond or note can take place, but only after 5 years from the vote that authorized it.
- A vote to rescind must follow the same procedures as required to adopt a bond or note, however, if greater than \$100,000, it does not need to be acted on prior to other business.

Operating Budgets

Operating Budget for General Operations

ALL warrant articles with appropriations must be on the posted budget in the appropriate recommended or not recommended columns. All municipalities must “gross” appropriate. This means an appropriation is needed for any expenditure, including water, sewer, and tax increment financing districts. The budget forms are designed to isolate any special, individual, or collective bargaining articles. Budget form amounts are used to calculate the allowable 10% increase to appropriations if the municipality has a budget committee.

Combine the entire municipal budget for general operations into one article, not including special or individual warrant articles. The operating budget warrant article in a municipality with a budget committee under RSA 32:14, RSA 32:5, VII (a) must contain the budget committee’s recommended amount. Do not include capital reserve funds or trust funds as a part of the warrant article for general municipal operations. They should be treated as "special" warrant articles.

If the municipality plans to add any new positions or activities to a traditional line item, we suggest treating this function separately in an "individual" or "special" warrant article. These articles should be addressed separately from the "operating" budget article and reported on the budget form in the pages provided for special and individual warrant articles.

Example 11: Operating Budget with a Budget Committee– Town or Village District

To see if the municipality will vote to raise and appropriate the budget committee recommended sum of \$606,050 for general municipal operations. The selectmen (*or commissioners*) recommend \$616,050. This article does not include appropriations contained in special or individual articles addressed separately. (Majority vote required)

Example 12: Operating Budget with a Budget Committee – School District

To see if the district will vote to raise and appropriate the budget committee’s recommended amount of \$1,800,000 for the support of schools, for the payment of salaries for the school district officials and agents, and for the payment for the statutory obligations of the district. This article does not include appropriations proposed in other warrant articles. (Majority vote required)

For traditional town, school and village district who haven’t adopted a Municipal Budget Committee per RSA 32:14, the proposed budget should state the budget as recommended by the governing body. It should not say, “To see what amount the (town, school, district) will vote in support of town functions.” A sum certain should be included in the article as well as the posted budget.

Operating Budget by Function

Another approach might be to budget by function, such as General Government, Public Safety, Highway, or Sanitation. The activity within each function would be recognized as detail for budgetary purposes.

Example 13: Operating Budget by Function In a Budget Committee Town

To see if the municipality will vote to raise and appropriate the budget committee’s recommended amount of \$57,875 for General Government. (The selectmen recommend \$67,875.) (Majority vote required)

	<u>Budget Committee</u>	<u>Selectmen</u>
Financial Administration	\$25,000	\$25,000
Legal Expenses	8,000	8,000
General Government Bld.	16,000	16,000
Planning and Zoning	4,500	9,500
Election and Registration	2,500	2,500
Other General Government	<u>1,875</u>	<u>6,875</u>
TOTAL	<u>\$57,875</u> =====	<u>\$67,875</u> =====

(Continue with similar articles for police, fire, highways, sanitation, health, welfare, etc.)

Example 14: Operating Budget by Function in a Budget Committee School District

To see if the school district will vote to raise and appropriate the budget committee’s recommended amount of \$14,129,060 for General Operations. (Majority vote required)

	<u>Budget Committee</u>	<u>School Board</u>
Regular Programs	\$5,010,620	\$ 5,010,620
Special Programs	2,907,757	2,907,757
Other Programs	588,350	588,350
Support Services	1,723,622	1,723,622
SAU management	566,542	566,542
Student Transportation	402,306	402,306
Other Support Services	1,814,160	1,814,160
Non Instructional Services	5,203	5,203
Facilities Acquisition	225,500	225,500
Other Outlays	<u>885,000</u>	<u>885,000</u>
TOTAL	<u>\$14,129,060</u> =====	<u>\$14,129,060</u> =====

Operating Budget for SB2 Municipality

The required statutory wording of the operating budget per RSA 40:13, XI is as follows:

Example 15: SB2 Operating Budget

“Shall the (*local political subdivision*) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$_____? Should this article be defeated, the default budget shall be \$_____, which is the same as last year, with certain adjustments required by previous action of the (*local political subdivision*) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.”

The article excludes special warrant articles and other appropriations voted separately.

Special Warrant Articles

Special warrant articles per RSA 32:3, VI are: petitioned warrant articles with appropriations; warrant articles to issue bonds or notes; appropriations to or from a separate fund such as a trust, capital reserve, or special revenue fund; or a warrant article designated by the governing body as "special" or "non-lapsing" or "nontransferable" or calls for an appropriation of an amount for a capital project under RSA 32:7-a. Special warrant articles must indicate the recommendation or non-recommendation of the governing body and budget committee if there is one. RSA 31:131 states that petition articles may be placed on the warrant by the selectmen, even in the absence of any petition.

Per RSA 32:10, I (d), "Any amount appropriated at the meeting under a special warrant article may be used only for the purpose specified in that article and shall not be transferred."

If an appropriation for a special project item is included in the operating budget in the capital projects line and construction is not started (or started but not completed) by the end of the budget year, the monies raised would normally lapse to the general fund balance (surplus) at year-end if not encumbered by a properly executed contract, purchase order, etc. By separating that special project out and designating it as "special" in a separate article allows the appropriation to be brought forward the following year if so voted by the governing body at one of their meetings prior to the close of the fiscal year. Some special warrant articles must state that it is "special" or "non-lapsing" and should designate a lapse date; for example December 31, 2016, (up to 5 years after year-end), otherwise any special warrant article may be encumbered for one additional year at a properly noticed meeting.

Special Purpose Non-Lapsing Article

A project that won't be completed within the budget year could be addressed in a **"special non-lapsing"** warrant article (see RSA 32:3, VI and 32:7, VI). If the project is completed in this budget year, no further action is required and the balance of the appropriation would lapse into the general fund balance. However, if the project is not completed, the balance could be carried forward into the next budget year. If the special warrant article had not specified the number of years for the project, the governing body must meet and vote to encumber the funds for one additional year (RSA 32:7, V).

Example 16: Non-Lapsing Special Warrant Article

To see if the municipality will vote to raise and appropriate the sum of twenty-five thousand dollars (\$25,000) to resurface the playground. This will be a non-lapsing appropriation per RSA 32:7, VI and will not lapse until the playground is completed or by June 30, 2016, whichever is sooner. The governing body and the budget committee recommend this appropriation. (Majority vote required).

Non-Lapsing Capital Project Under RSA 32:7-a

Chapter 109, Laws of 2013 amended RSA 32:3, VI to add an additional definition for Special Warrant Article and RSA 32:7 to include appropriations for capital projects. The law change allows a municipality to raise and appropriate funds at an annual meeting for an identified project which would be lawful under RSA 33:3 or RSA 33:3-c. The appropriation would be for a term beyond one fiscal year, but could not exceed 5 fiscal years. The article must indicate the total cost of the project, the number of years and the amount that will be appropriated in each of those years. Passage requires either a 2/3rd or 3/5 majority vote if SB2 for passage. Please refer to RSA 32:7-a for specifics.

Example 17: Appropriation for a Capital Project

To see if the municipality will vote to approve the reconstruction of the park pavilion to bring it back to its original functional use at a cost not to exceed \$150,000 payable over a term of 5 years with an annual appropriation of \$30,000, and further to raise and appropriate \$30,000 for the first year's payment. In each of the following 4 years the appropriation of \$30,000 will be contained in the operating budget and the default budget. This is a special warrant article. 2/3rd (3/5th if SB2) majority vote required for passage.

Capital Reserve Funds (CRF)

When a municipality identifies the need for the future purchase of a major capital item, or a NH constitutionally required revaluation, it may create a fund in advance to spread the financial impact over time. RSA 35:1-c allows for the establishment of a reserve for items of a non-capital nature or for the maintenance and operation of a specific public facility or type of facility. The town trustees of trust funds must have custody of any capital and non-capital reserve funds, including those established for village or school districts (RSA 35:2 and 35:13). Municipalities may use a CRF for debt payment of a project per RSA 35:15, III-a if the CRF was set up in connection with a specific project. It cannot be established as a “general purpose” debt retirement fund and cannot be named a debt retirement fund.

In accordance with RSA 35:1, 35:1-a and 35:1-b, the purposes for which a government may raise and appropriate money for the establishment of a Capital Reserve Fund (CRF) are:

The construction, reconstruction or acquisition of a specific capital improvement, or the acquisition of a specific item(s) of equipment; or

The construction, reconstruction, or acquisition of a type of capital improvement or the acquisition of a type of equipment; or

Revaluation by approved appraisal firms of real estate for tax assessment purposes; or

The acquisition of land; or

The acquisition of a tax map of said municipality; or

Extraordinary legal fees and expenses related to present or foreseeable litigation involving the municipality or its officers and employees; or

In anticipation of the adoption of the optional fiscal year; or

To meet the expenses of educating educationally handicapped children; or

Transportation improvement projects.

Establish a CRF With a Sum Certain Appropriation

The warrant article must distinctly address the purpose for which the CRF is to be established. CRFs may be funded from sources other than taxes or “surplus”, but not from charitable donations. (See RSA 35:5). The appropriations must contain a “sum certain”. The article **cannot say**, “.....to deposit into a capital reserve all revenues received from ambulance calls,” or “...\$10,530 created from the discontinuance of the Ambulance CRF and any interest earned prior to the discontinuance.” A specific dollar amount must be voted on.

The procedure required to establish a new CRF, appropriate to a CRF, appoint agents to expend, to discontinue an existing fund or to authorize withdrawal from an established fund, must be presented by a warrant article at the annual or special meeting. A majority vote of the legal voters present and voting is necessary. Below are sample warrant articles to establish and appropriate to, withdraw from, change the purpose of, discontinue, or appoint agents to expend from CRFs. Agents to expend cannot be added at an annual meeting, without having been warned on the posted warrant.

Example 18: Establish CRF – Special Warrant Article

To see if the municipality will vote to establish a Capital Reserve Fund under the provisions of RSA 35:1 for the purpose of a Highway Road Grader and to raise and appropriate the sum of twenty thousand dollars (\$20,000) to be placed in this fund. The selectmen and the budget committee recommend this appropriation. (Majority vote required).

Example 19: Establish For Matching Share of Grant Money Received

To see if the Town will vote to establish a Capital Reserve Fund under the provisions of RSA 35:1 for the purpose of the town's matching share of grant money received for town projects and to raise and appropriate the sum of \$XX to be placed in this fund and further to name the selectmen as agents to expend from said fund. (Majority vote required.)

Appropriate to a CRF From Fund Balance – Town or Village District

When the CRF is to be funded from surplus RSA 35:11, the money must be turned over to the trustee(s) within 10 days after passage or, in the case of optional fiscal year municipalities (July 1 – June 30) within 10 days of the determination of surplus following the close of the fiscal year.

Example 20: Appropriate to CRF From Fund Balance – Special Warrant Article

To see if the municipality will vote to raise and appropriate the sum of ten thousand dollars (\$10,000) to be added to the Highway Road Grader Capital Reserve Fund previously established. This sum to come from fund balance and no amount to be raised from taxation. The selectmen and the budget committee recommend this appropriation. (Majority vote required)

Appropriate to a CRF From Fund Balance – School District

When the CRF is to be funded from "surplus" (RSA 35:11), the money must be turned over to the trustee(s) within 10 days of the determination of surplus following the close of the fiscal year". This is true of all municipalities that have a fiscal year of July 1 to June 30. If not, per RSA 35:14, members of the school board or governing body "...shall be guilty of a violation for every week said failure shall continue".

Example 21: Appropriate to CRF From Fund Balance – Special Warrant Article

To see if the school district will vote to raise and appropriate the sum of ten thousand dollars (\$10,000) to be added to the School Bus Capital Reserve Fund previously established. This sum to come from June 30 fund balance available for transfer on July 1. No amount to be raised from taxation. The school board and the budget committee recommend this appropriation. (Majority vote required).

Withdraw from CRF and Taxation – Special Warrant Article

Example 22: Use of CRF and Taxation

To see if the municipality will vote to raise and appropriate the sum of eight thousand dollars (\$8,000) for a financial audit and authorize the withdrawal of five thousand dollars (\$5,000) from the Capital Reserve Fund created for that purpose. The balance of three thousand dollars (\$3,000) is to come from general taxation. The selectmen recommend. The budget committee does not recommend. (Majority vote required).

Changing the Purpose of a CRF

Many municipalities have created CRFs for purposes that are no longer needed and may wish to discontinue or change the purpose. To change the purpose of a CRF, a warrant article must be acted on at the ANNUAL meeting by a two-thirds vote (2/3) of all voters present and voting (RSA 35:16). The vote does not require a paper ballot; however, a vote count in the minutes is required to verify the 2/3 vote. Authorization must be given to name agents to expend from this new capital reserve fund if agents are intended.

Example 23: Change of CRF Purpose

To see if the municipality will vote to change the purpose of the existing Highway Heavy Equipment Capital Reserve Fund to the Refuse Packer Capital Reserve Fund. (2/3 vote required).

Discontinue a CRF(s)

Per RSA 35:3, a municipality shall include a warrant article to discontinue a CRF. It is a good housekeeping measure to discontinue CRFs as soon as they become unnecessary. Discontinuing a CRF may be done at an annual or special meeting and only requires a majority vote. The termination of a CRF authorizes the trustees of trust funds to transfer the monies to the municipality's general fund (RSA 35:16-a). **The law doesn't specify when the money should be transferred out but it should be by the end of the budget year.** The monies cannot be "transferred" to another CRF or expendable trust without the inclusion of an article authorizing the funds to be raised and appropriated into the new fund. The next example is for the discontinuance of one CRF, however if there are many CRFs that need to be discontinued, it can be done in one warrant article as shown below:

Example 24: Discontinue CRF

To see if the municipality will vote to discontinue the Fire Truck Capital Reserve Fund created in 1997. Said funds, with accumulated interest to date of withdrawal, are to be transferred to the municipality's general fund. (Majority vote required).

OR

To see if the municipality will vote to discontinue the following Capital Reserve Funds with said funds with accumulated interest to date of withdrawal, to be transferred to the municipality's general fund. (Majority vote required).

(Then list out the CRFs to be discontinued, indicating date established, name of CRF and approximate amount to deposit into general fund).

Appointment of CRF Agent

A warrant article may be presented at an annual or special meeting to authorize the governing body (selectmen, school board or village district commissioners) or other person(s) to act as agent(s) to carry out the objectives of the fund. This authorizes the trustees of the trust funds to disburse the funds on order of the agent without further approval. Naming agents must be warned in a warrant article and cannot be brought up (amended) from the floor of a meeting. **Note:** *If agents are named on school district capital reserve funds, the agents must first hold a public hearing prior to the expenditure and expenditures can only be made for the purpose for which the trust fund was established.*

Example 25: Appoint Agents

To see if the municipality will vote to appoint the selectmen as agents to expend from the Office Equipment CRF previously established in 2006. (Majority vote required).

Recent changes to RSA 41:14-a & RSA 35:15,II have expanded the means by which towns can acquire or sell land, buildings, or both. In towns, agents cannot be appointed to a land purchase CRF unless RSA 41:14-a has been adopted by warrant article at a duly warned meeting. These provisions are not applicable to village districts and school districts.

Establish a CRF for a Revaluation - Towns

There are various financing methods to pay for the NH constitutionally required revaluation of property every five years. To spread the financial impact for these associated costs over time, a municipality may budget for the process each year by establishing a non-lapsing CRF with one fifth of the anticipated costs appropriated each year. Because a revaluation can span more than one fiscal year, agents could be appointed, if warned to the voters in the posted warrant, thereby allowing the designated agents to carry out the purpose of the fund without obtaining further legislative body approval.

Example 26: Revaluation CRF – Special Warrant Article

To see if the municipality will authorize the establishment of a capital reserve fund to meet our

constitutional and statutory requirement that assessments are at full and true value at least as often as every fifth year. Furthermore, to raise and appropriate the sum of \$10,000 towards this purpose, and appoint the selectmen as agents to expend from the fund. It is anticipated that a revaluation will take place in 20xx. The selectmen and the budget committee recommend this appropriation. (Majority vote required).

Expendable Trust Funds (ETF)

RSA 31:19-a allows for the creation, at the annual or special meeting, of municipal trust funds for maintenance and operation purposes and are subject to the same provisions concerning the custody, investment, expenditure, change of purpose, and audit as are CRFs. Expendable trust funds are funded from an appropriation raised by taxation or from the general fund balance, but not from privately donated gifts, legacies and devises. The warrant article to create a municipal ETF must specify that the fund is an expendable trust fund, in which the principal and interest may be appropriated and expended. Agents to expend from these trust funds per RSA 31:19-a may be appointed in the same manner as they are for a CRF, with proper notice in a warrant article.

For school districts, RSA 198:20-c, V, expendable trust funds must be held by the town's trustee of trust funds and are subject to the same provisions of the law as capital reserve funds except in order for school district agents to expend such funds, they must hold a public hearing prior to expenditure and expenditures may only be made for the purpose for which the trust fund was established.

Example 27: Establish an Expendable Trust Fund – Special Warrant Article

To see if the town will vote to establish a Government Buildings Maintenance Expendable Trust Fund per RSA 31:19-a, for the maintenance and upkeep of town buildings and to raise and appropriate \$5,000 to put in the fund, with this amount to come from fund balance; further to name the selectmen as agents to expend from the fund. Recommended by the selectmen.

Towns and school districts (RSA 198:20-c, III) may establish expendable trust funds for maintaining health insurance funds for employees or retired employees. They may name their own health trust trustees for this type of fund and expend from the trust without holding a hearing. An annual accounting and report of the activities must be made to the selectmen or school board and also published in the annual report.

Individual Warrant Articles

An individual warrant article is any appropriation not meeting the definition of a special warrant article in RSA 32:3, VI. It is presented separately from the operating budget and reported in the Individual Warrant Article section on the posted budget. The following example is an individual warrant article for the purchase of equipment using tax dollars and should be listed on the MS-6, 7, 26, 27, 36 or 37 in the area designated for individual warrant articles in the appropriate recommended or not recommended columns. This type of article could also be written to raise and appropriate funds to pay for services or to participate in a community service program. Recommendations are not required on an individual warrant article.

Example 28: Household Waste Day

To see if the municipality will vote to have a town-wide free Household Waste Day at the transfer station in April and to raise and appropriate the sum of \$6,500 for this purpose. (Majority vote required)

Contingency Fund

RSA 31:98 allows every town annually by an article in the warrant to establish a contingency fund to meet the cost of unanticipated expenses that may arise during the year. Such fund shall not exceed one per cent of the amount appropriated by the town for town purposes during the preceding year excluding capital expenditures and the amortization of debt. A detailed report of all expenditures from the contingency fund shall be made annually by the selectmen and published with their report.

Example 29: Contingency Fund

To see if the (town, school district, village district) will vote to establish a contingency fund for the current year for unanticipated expenses that may arise and further to raise and appropriate \$10,000 to go into the fund. This sum to come from fund balance and no amount to be raised from taxation. Any appropriation left in the fund at the end of the year will lapse to the general fund. Majority vote required.

Lease Arrangements

Equipment Lease (Escape Clause) - Lease agreements may contain a "fiscal funding clause" (otherwise known as "escape" clause) which permits the termination of the lease, on an annual basis, should the funds necessary to make the required payments not be appropriated by a future municipal meeting. Equipment leases with such fiscal funding clauses require a majority vote (RSA 33:7-e) and capital reserve funds cannot be used for this lease/purchase except for the final payment if so voted.

Capital Lease - Lease agreements without fiscal funding clauses are essentially long-term purchasing agreements and, as such, constitute long-term debt. Because such agreements "bind future municipal meetings", the provisions of the Municipal Finance Act (RSA 33:8 and 33:8-a) pertain to such action, specifically the requirement of a 2/3 ballot vote (3/5 ballot vote if SB2). A capital reserve fund may be used for payments of this purchase pursuant to RSA 35:15, III for this type of financing agreement.

Capital Project Under RSA 32:7-a – With the passage of this amendment, a municipality may be able to authorize the purchase of equipment and receive approval for the annual payment for a term of not more than 5 years. Discuss this option with your Municipal Advisor at the Department of Revenue Administration.

Lease Agreement With Escape Clause (Authorization & Appropriation)

The following example combines both the authorization to enter into a lease agreement and the first year's appropriation necessary for that agreement. Such a combined article eliminates the possibility of receiving the authorization without an appropriation.

Example 30: Equipment Lease With Fiscal Funding Clause (Escape Clause)

To see if the municipality will vote to authorize the selectmen to enter into a three year lease agreement for \$32,500 for the purpose of leasing a front-end loader for the Highway Department, and to raise and appropriate the sum of \$10,850 for the first year's payment for that purpose. This lease agreement contains an escape clause. (Majority vote required).

In subsequent years, an article should be placed on the warrant to raise the annual payment; if the annual appropriation is not approved, the lease terminates.

Lease Agreement Without Escape Clause (Capital Lease)

This example is a lease/purchase agreement in which no fiscal funding clause has been provided. Such a financing agreement would require a 2/3 ballot vote (3/5 if SB2). If the amount is greater than \$100,000 a hearing is required per RSA 33:8-a, II and it must be acted upon prior to other appropriation warrant articles.

Example 31: Capital Equipment Lease Without Escape Clause

To see if the municipality will vote to authorize the selectmen to enter into a long-term lease/purchase agreement in the amount of Fifty Thousand Nine Hundred Ninety Dollars (\$50,990) payable over a term of 48 (forty-eight) months for a new dump truck for the highway department and to raise and appropriate the sum of \$8,500 (Eight Thousand Five Hundred Dollars) for the first year's payment for that purpose. The selectmen and the budget committee recommend this appropriation. (2/3 ballot vote required OR, 3/5 ballot vote if SB2).

Special Revenue Funds – Towns and Village

RSA 31:95-c allows municipalities to restrict revenue or portions of revenue from a specific source to expenditures for those specific purposes if within the district's purpose. The provisions of this section are **limited to municipal activities funded primarily through user fees such as franchise, ambulance, or recycling fees.** In order to establish a special revenue fund, the selectmen must hold a public hearing on the question at least 15 days, but not more than 30 days, before the question is to be voted on at the annual meeting or deliberative session if SB2. Notice of this hearing is to be posted in two public places in the municipality and published in a newspaper of general circulation at least seven days prior to the hearing. **The wording of the warrant article is dictated by statute found in RSA 31:95-d, I(c).**

If adopted, the law allows revenues from special highway funds, such as block grants from the state highway funds, motor vehicle permit fees, parking fees or fines, or other highway related revenues to be put in a special revenue fund to be appropriated for highway expenditures. If there is a capital improvement plan in place per RSA 674:5-8, the appropriate revenue can be restricted for a special capital improvement plan fund.

Such revenues and expenditures are accounted for in a special revenue fund separate from the general fund. Any surplus in this fund is not considered part of the general fund accumulated surplus. This surplus shall not be transferred to or expended for any purpose or appropriation until the legislative body votes a specific amount for a **purpose related to the source of revenue.**

Example 32: Special Revenue Fund

Shall we adopt the provisions of RSA 31:95-c to restrict (insert portion as a fractional or dollar amount) of revenues from (*insert source*) to expenditures for the purpose of (*insert purpose*)? Such revenues and expenditures shall be accounted for in a special revenue fund to be known as the (-----) fund, separate from the general fund. Any surplus in said fund shall not be deemed part of the general fund accumulated surplus and shall be expended only after a vote by the legislative body to appropriate a specific amount from said fund for a specific purpose related to the purpose of the fund or source of revenue. (Majority ballot vote).

Special revenue funds can be rescinded. Use the same wording as above only replace the word "adopt" with "rescind". **Any remaining amounts in a rescinded fund will become part of the general fund accumulated surplus. The amounts cannot be "transferred" to another fund without an additional appropriation. The source or purpose of an existing special revenue fund can be expanded or changed by a warrant article at an annual meeting. These changes require a 2/3 vote of all the voters present and voting.**

Revolving Funds

Revolving funds may be established **only** for the following purposes under RSA 31:95-h: recycling, **maintaining recycling programs**, ambulance services, public safety special detail, cable access, affordable housing, or certain energy efficiency improvements. RSA 35-B:2 authorizes a recreation revolving fund for recreation park services and facilities. Revenues generated by fees and charges for any of the above purposes may be set aside in a fund separate from the general fund.

Establish a Police Special Detail Revolving Fund

By changing the wording in the article below, this example could be used for recycling, ambulance services, cable access, or affordable housing by outlining specific expenditures for which the funds may be used. Example expenditures could be supplies, wages and benefits or vehicle replacement. Money may also be appropriated into the fund at its creation.

Example 33: Police Special Detail Revolving Fund

To see if the town will vote to establish a revolving fund pursuant to RSA 31:95-h, for the purpose of police special details. All revenues (or designate a portion thereof) received for police special details will be deposited into the fund, and the money in the fund shall be allowed to accumulate

from year to year, and shall not be considered part of the town's general fund balance. The town treasurer shall have custody of all moneys in the fund, and shall pay out the same only upon order of the governing body and no further approval is required by the legislative body to expend. Such funds may be expended only for the purpose for which the fund was created.

Establish a Recreation Revolving Fund – Towns, Village or School Districts

Example 34: Recreation Revolving Fund

To see if the municipality will vote to establish a Recreation Revolving Fund pursuant to RSA 35-B:2 II. The money received from fees and charges for recreation park services and facilities shall be allowed to accumulate from year to year, and shall not be considered to be part of the general fund unassigned fund balance. The treasurer shall have custody of all monies in the fund, and shall pay out the same only upon order of the recreation or park commission or other board or body designated by the local legislative body (no further legislative body approval required). These funds may be expended only for recreation purposes as stated in RSA 35-B, and no expenditure shall be made in such a way as to require the expenditure of other funds that have not been appropriated for that purpose.

If a recreation revolving fund is rescinded by the voters, any remaining amounts in the rescinded fund will become part of the general fund accumulated surplus. The amounts cannot be "transferred" to another fund without an additional appropriation.

Revolving Fund - Schools

RSA 194:3-c allows school districts to establish a revolving fund for self-supporting school programs. The purpose of the fund must be specified and may also be non-lapsing if so specified at the time of its establishment. The funds are dispersed at regular intervals, if appropriated in an article in the warrant, for the specified purpose of the fund. The fund is subject to an annual audit.

Example 35: Revolving Fund - Schools

Shall the School District establish a non-lapsing Athletics Revolving Fund in accordance with RSA 194:3-c, to be funded by receipts at athletic events, further to raise and appropriate up to Five Thousand Dollars (\$5,000) for the purpose of supporting athletic programs, with said amount to be withdrawn from the revolving fund at monthly intervals as needed. (Majority vote required.)

Collective Bargaining Agreements

When a multi-year agreement has been reached between the governing body and the representative union, the governing body has a legal responsibility to do all that it can to have the agreement ready for voter approval/disapproval. RSA 32:5-a states that "...cost items must be finalized by the date prescribed in RSA 39:3..." (fifth Tuesday before the annual meeting) *see below for SB2 dates*. Those cost items not negotiated by that date, may be submitted to the voters through a *special* meeting approved by superior court.

For a March SB2 meeting, the deadline is the second Tuesday in January {RSA 40:13, II-a (b)}; an April SB2 meeting deadline is the second Tuesday in February {RSA 40:13, II-b (b)}; and a May SB2 meeting deadline is the second Tuesday in March {RSA 40:13, II-c (b)}.

Collective Bargaining Agreement – Multiple Years

As the "Sanborn Decision" (appeal of Sanborn Regional Sch. Bd. {1990} 133N.H.513.579 A.2d 282) has stated, ratification requires full knowledge of the financial terms of the collective bargaining agreement. In order to comply with the dictates of "Sanborn", the Department of Revenue Administration recommends a separate warrant article such as the one below. RSA 32:19 requires adding a statement of recommendation or non-recommendation by the governing body and the budget committee. **Non-recommendation by the budget**

committee exempts the appropriation from the 10% limitation calculation set forth in RSA 32:18 and is not deemed to be an unfair labor practice under RSA 273-A.

Example 36: Multiple Year Collective Bargaining Agreement

To see if the (*municipality*) will vote to approve the cost items included in the collective bargaining agreement reached between the (*governing body*) and the (*union*) which calls for the following increases in salaries and benefits at the current staffing level:

Fiscal Year	Estimated Increase	Fiscal Year	Estimated Increase
201x	\$ xxxxx	201x	\$xxxxx

and further to raise and appropriate the sum of \$xxxxx for the current fiscal year, such sum representing the additional costs attributable to the increase in salaries and benefits required by the new agreement over those that would be paid at current staffing levels. The selectmen and the budget committee recommend this appropriation.

Authorization for Special Meeting on Defeated or Amended Collective Bargaining Article (CBA)

If the cost items are amended or rejected, RSA 31:5, III (RSA 197:3 for schools) allows one authorized special meeting without petitioning superior court. The wording in the example is prescribed by law.

Example 37: Authorization for Special Meeting on CBA Rejected or Amended

Shall (*the local political subdivision*), if article ____ is defeated, authorize the governing body to call one special meeting, at its option, to address article ____ cost items only? (Majority vote)

Establish Conservation Commission – Towns or Cities

A town or city may accept the provisions of RSA 36-A to establish a conservation commission for the proper utilization and protection of the natural resources of the municipality. A municipality may appropriate money as deemed necessary and any balances at year-end, along with gifts, may be placed in a conservation fund in the custody of the municipal treasurer (RSA 41:29). Money may be expended from the Conservation Commission Fund by the conservation commission, for the purposes outlined in Chapter 36-A without further approval of the municipal meeting. The disbursement of conservation funds must be authorized by a majority of the conservation commission officials.

Example 38: Establish Conservation Commission and Conservation Fund

To see if the town will vote to establish a Conservation Commission under the provisions of RSA 36-A for the proper utilization and protection of the natural resources of the municipality and to raise and appropriate the sum of \$5,000 for this purpose. Furthermore, any balance remaining at year-end may be transferred to a conservation fund account in the hands of the municipal treasurer (RSA 41:29). (Majority vote required).

Land Use Change Tax Fund

Per RSA 79-A:25-b, a town may elect to account for all revenues received from land use change tax revenues separate from the general fund by establishing a Land Use Change Tax Fund. It requires a public hearing and statutory wording for the warrant article.

Example 39: Establish Land Use Change Tax Fund

Shall we adopt the provisions of RSA 79-A:25-a to account for revenues received from the land use

change tax in a fund separate from the general fund? Any surplus remaining in the land use change tax fund shall not be part of the general fund until such time as the legislative body shall have had the opportunity at an annual meeting to vote to appropriate a specific amount from the land use change tax fund for any purpose not prohibited by the laws or by the constitution of this state. After an annual meeting any unappropriated balance of the land use change tax revenue received during the prior fiscal year shall be recognized as general fund revenue for the current fiscal year. Majority vote required.

Authorize % of Land Use Change Tax (LUCT) Funds to Conservation Fund - Towns

A town or city may want to set aside a designated percentage of the land use change tax to automatically be deposited into the conservation fund. The percentage could be designated from 1% to 100% or could be a specific dollar amount. Per RSA 32-A:25-a, I, "Any land use change tax revenue collected pursuant to this chapter which is to be placed in a conservation fund in accordance with RSA 79-A:25 II, shall first be accounted for as revenue to the land use change tax fund before being transferred to the conservation fund at the time of collection."

Example 40: Percentage of Land Use Change Tax to Conservation Fund

To see if the town will vote to authorize (%) or (\$) of the Land Use Change Tax collected pursuant to RSA 79-A:25 to be deposited into the existing Conservation Fund in accordance with RSA 36-A:5, III, as authorized by RSA 79-A:25, II. If adopted this article shall take effect April 1, 200x, and shall remain in effect until altered or rescinded by a future vote of the town meeting. (Majority vote required).

Acquire or Sell Land, Buildings or Both

If RSA 41:14-a is adopted in the town, the selectmen shall have the authority to acquire or sell land, buildings or both provided they meet the approval of the planning board and the conservation commission. There are other restrictions outlined in the RSA. This may be adopted until rescinded.

Example 41: To Adopt RSA 41:14-a

To see if the town will vote to adopt RSA 41:14-a, to allow the selectmen to acquire or sell land, buildings or both; provided, however, they shall first submit any such proposed acquisition or sale to the planning board and to the conservation commission for review and recommendation by those bodies. This article will remain in effect until rescinded by majority vote.

Treasurers

RSA 41:29, III requires treasurers to submit a report to the Department of Revenue Administration at the close of each fiscal year. Sample treasurer reports are in our technical assistance book. This report can be the same report given to the town showing the particular account of the financial transactions during the year and the account balances at the end of the year. Towns may authorize the governing body or town manager to appoint a treasurer (rather than elect). See RSA 669:17-d for more information. **Note:** *School district treasurers must be elected, but a school district deputy treasurer may be appointed (see RSA 194:24-a).*

Example 42: Appointment of a Town Treasurer

To see if the town will vote to change the office of town treasurer from an elected position to an appointed position in accordance with RSA 41:26-e. Such appointment shall be made in accordance with RSA 669:17-d by the board of selectmen. Such appointment shall be made in writing and shall include the compensation to be paid. If approved the person holding the elected office shall continue to hold such office until the next annual town election following the vote.

Combine Town Clerk and Tax Collector Positions

RSA 41:45-a allows for an article to be placed on the warrant by petition, asking for approval to combine the offices of town clerk and tax collector and to determine the term of office, one or three years. It requires a ballot vote. If approved, the office of town clerk/tax collector will be placed on the election ballot for the following year.

Example 43: Combining Town Clerk and Tax Collector Positions

Are you in favor of combining the offices of the Town Clerk and Tax Collector to create a new office of Town Clerk/Tax Collector and to have the term of office be three years? If approved, an article shall be placed on the ballot at the next annual meeting to choose a town clerk/tax collector. Majority ballot vote required.

Changing Terms of Elected Officials

An article can be put on the warrant to change the terms of the town clerk, tax collector, and the combined position of town clerk/tax collector or the treasurer. School district clerks, moderator and treasurer terms can be changed also, but all three must have the same terms, either 1, 2 or 3 years. Refer to RSA 41:16-b; 41:2-b; 41:45-a; and RSA 671:6-a.

Balance Sheet Deficit Reduction – Towns and Village Districts

RSA 41:9, IV (*RSA 52:3-a, I-a for villages*) requires the governing body to publish the general fund balance sheet in the annual report or post it at the annual meeting. If the accumulated general fund is in deficit, this law requires an article be inserted in the warrant recommending action deemed appropriate, such as having a professional audit to determine the exact amount of the deficit. Another action might be to have an article to raise money to reduce the deficit.

Example 44: Balance Sheet Deficit Warrant Article – Town or Village District

To see if the town [*village district*] will vote to raise \$xxx for the purpose of reducing the general fund deficit pursuant to RSA 41:9, V [*RSA 52:3-a, I-b for villages*]. (Majority vote required).

Balance Sheet Deficit Reduction – School Districts

RSA 189:28-a requires the school board to publish the general fund balance sheet in the annual report or post it at the annual meeting. If the fund balance is in deficit, this law requires inserting an article in the warrant recommending the action deemed appropriate, such as having a professional audit to determine the exact amount of the deficit. Another action might be to raise money to reduce the deficit.

Example 45: Balance Sheet Deficit Reduction – School

To see if the school district will vote to raise \$ xx to reduce the general fund deficit pursuant to RSA 194:3-b.

Deficit Appropriation – School

A deficit appropriation is handled differently from a balance sheet reported deficit. For a school district it means an additional appropriation for the current school year (July – June). The revenue source is new taxes to be raised when tax rate is calculated in the fall (September – December) of the current school year. The town would pay the amount of the deficit appropriation to the school district in the current school district fiscal year.

Example 46: Deficit Appropriation – School

To see if the Town will vote to raise and appropriate \$15,000 for the school district for the current year to cover unanticipated repairs at the middle school.

Supplemental Appropriation – School or Optional Fiscal Year

A supplemental appropriation at the annual meeting increases the appropriation for the current fiscal year. It is funded from existing excess revenues received during the current fiscal year or existing fund balance. No additional taxes will be raised for a supplemental appropriation.

Example 47: Supplemental Appropriation – School or Optional Fiscal Year

To see if the school district will vote to raise and appropriate a supplemental appropriation of \$20,000 for additional heating costs for the current school year. This amount will be funded from existing revenues.

School Fund Balance Retention

In accordance with RSA 198:4-b, II, at the annual meeting, the voters may authorize the district to retain a total unassigned general fund balance in an amount that is up to 2.5 percent of that fiscal year's net assessment pursuant to RSA 198:5. The retained fund balance may only be used to reduce the tax rate or to be used as an emergency revenue source under RSA 32:11. This authorization would remain in effect until rescinded.

Example 48: Fund Balance Retention – School

To see if the school district will vote to authorize, indefinitely until rescinded, to retain year-end unassigned general funds in an amount not to exceed, in any fiscal year, 2.5 percent of the current fiscal year's net assessment, in accordance with RSA 198:4-b, II. Such fund balance retained may only be used to reduce the tax rate or for emergencies to be approved by the Department of Education under RSA 32:11.

20 days after the meeting the following items must be sent to the Municipal and Property Division:

Signed posted warrant; signed posted budget - MS-6 or 7 (towns), MS-26 or 27 (schools), signed deliberative minutes; official ballot; certified results of voting (if SB2); signed posted budget MS-36 or 37 (villages); Cities - MS-6c and MS-26c; signed minutes or resolutions from meeting; report of appropriations voted MS-2, 22, or 32; and Annual Report.

The following page has a complete list of what can be found on our webpage at:

http://www.revenue.nh.gov/munc_prop/municipalservices.htm

Technical Assistance Documents

Glossary of Basic Terms
Various Funds and How to Use Them
Technical Assistance for Towns, Village Districts, & Budget Committees
Technical Assistance for SB 2 Towns
Suggested Warrant Articles for Municipalities, Village Districts and Schools
When Forms are Due
Tax Collector's Q and A's
What is a Village District?
Emergency Expenditure Procedures
Municipal Audit Program
Contacting Your DRA Advisor
Budget Committee Supplemental Schedule (10% calculation)

Timelines

Timeline for Traditional Annual Meeting
Timeline for Traditional Annual School District Meeting
SB 2 Timeline for March, April or May Meeting

Town/City Reporting Forms

MS-1 Summary Inventory of Valuation and Instructions
MS-1V Summary Inventory of Valuation for Village Districts
MS-1 Extension
MS-2 Report of Appropriations Actually Voted
MS-4 Revised Estimated Revenues
MS-5 Financial Report **of the Town or City Budget**
MS-6 Budget for Municipalities
MS-6c Proposed Budget of the City
MS-7 Budget for Municipalities with Budget Committee
MS-DT Town SB2 Default Budget
MS-9 Report of Trusts in Capital Reserve Funds and Instructions for MS 9 & 10
MS-10 Report of Common Trust Fund Investments
MS-11 Annual Report of Town Officers
MS-12 Report of City Officials
MS-50 Treasurer's Report
MS-60 Local Auditor's Report
MS 60A Auditor Option Schedule
MS 60W Audit Waiver Request
MS-61 Tax Collector's Report

School Reporting Forms

MS-22 Report of Appropriations Actually Voted
MS-24 Revised Estimated Revenues
MS-25 Cover sheet for financial report (DOE 25 contains MS 25 report)
MS-26 Budget Form for Schools
MS-26c Dependent School Budget Form
MS-27 Budget Form for Schools with Budget Committee
MS-DS School SB2 Default Budget

Village District Reporting Forms

MS-31 Village District Officials
MS-32 Report of Appropriations
MS-34 Revised Estimated Revenues
MS-35 Financial Report **of the Village District Budget**
MS-36 Village District Budget and Instructions
MS-37 Village District Budget with Budget Committee and Instructions

REMEMBER THE 20 DAY RULE