

Fundamentals of the Municipal Budget Process

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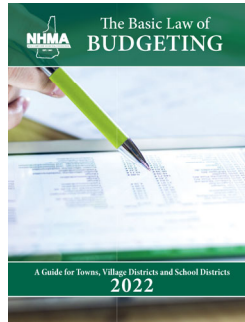


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Contents:

- Appropriations
- Gross Basis Budgeting
- Warrant Notice
- No Spending w/out Appropriations
- Lapse of Appropriations
- Transfers of Appropriations
- Budget Committee
- SB 2 - Official Ballot law
- Town/Village/School Meetings
- Capital Improvement Plans
- Property Tax System
- Eight Appendices



Easy electronic navigation in the Table of Contents; chapters and appendices are clickable. If you're in the table of contents and you click on Appendix E... BOOM, you're there.

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Types of Governmental Entities

Cities

Towns

Village Districts

School Districts

Counties

Intergovernmental Agreements

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Budgeting Laws

- RSA Ch. 32 (Municipal Budget Law)
- RSA Ch. 33 (Bonds)
- RSA Ch. 35 (Capital Reserve Funds)
- RSA Chapter 31 (Powers & Duties)
- RSA Chapter 39 (Town Meeting)
- RSA Chapter 21-J

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No Spending without an Appropriation

▶ No board of selectmen, school board, village district commissioners or any other officer, employee, or agency of the municipality acting as such shall pay or agree to pay any money, or incur any liability involving the expenditure of any money, for any purpose in excess of the amount appropriated by the legislative body for that purpose, or for any purpose for which no appropriation has been made, except as provided in RSA 32:9-11.

▶ RSA 32:8

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Violations of Budget Law

Removal,
RSA 32:12

*Blake v.
Pittsfield*

DRA
Disallowance

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The Budget Process: Key Players

- ▶ Legislative Body
- ▶ Governing Body
- ▶ Budget Committee:
Advisory v. Official



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The Town Meeting

Approves all appropriations

Votes to create and fund common municipal funds

Citizen authority to propose appropriations by petition

May amend separate articles to reduce or zero out appropriations

May amend budget to reduce (or increase) total bottom line appropriation

Can zero out line item appropriations in DRA budget form

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- ✓ The procedure for authorizing and rescinding bonds or notes is contained in RSA chapter 33.
- ✓ As of September 27, 2020 the necessary majority for passage is three-fifths (3/5) for both traditional town meeting municipalities and those who have adopted the official ballot voting procedures under RSA 40:13 (SB2).
- ✓ 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 shall be authorized by either a 2/3 or 3/5 vote as adopted and provided for in the charter. If such charter does not specify which majority vote is required, then the required majority vote shall be three fifths (3/5).

3/5ths Majority to Approve Bonds

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Governing Body - Definition

- ▶ 21:48 Governing Body. - the term "governing body" shall mean the board of selectmen in a town, the board of aldermen or council in a city or town with a town council, the school board in a school district or the village district commissioners in a village district

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Governing Body - Budget Role

Prepares warrant, drafts separate warrant articles

Pay all sums of money received to the town treasurer

Prepares manifest to pay all town expenses

Maintain records of all town financial transactions

Publish in annual report, the general fund balance sheet based upon audited financial statements

Establish and maintain appropriate internal control procedures

Annually review and adopt an investment policy

Ensure all funds totaling \$500 or more are remitted by departments, town clerk and tax collection to the treasurer

Submit proposed budget to the Budget Committee or Town Meeting.

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Budget Committee

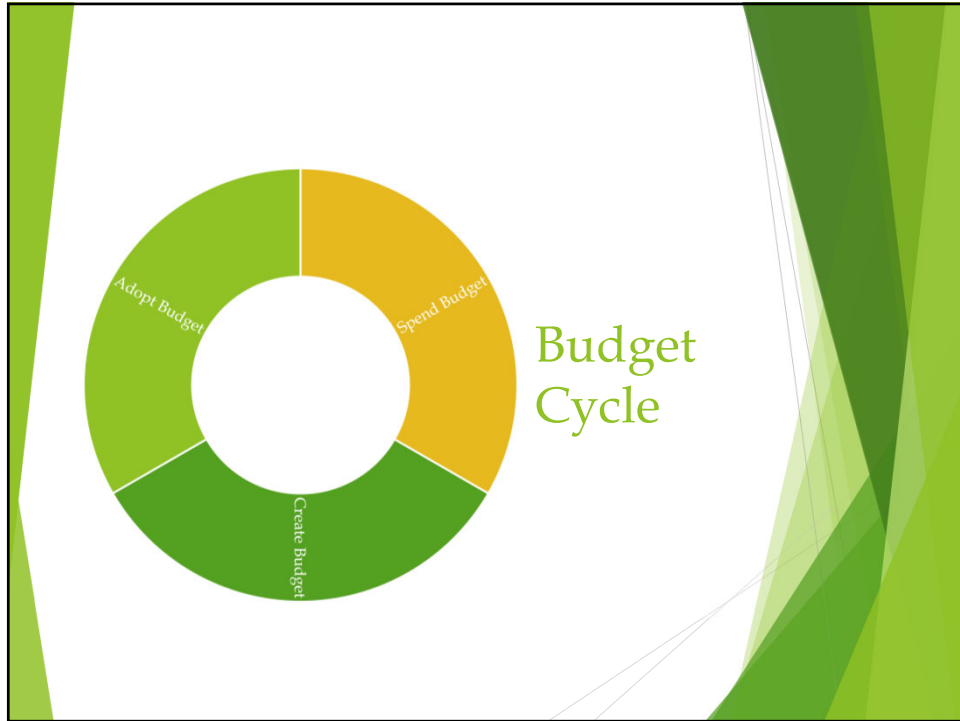
- ▶ Review current year's expenditures
- ▶ Review proposals, request information
- ▶ Prepare budget
- ▶ Schedule and hold budget hearings
- ▶ Forward final proposed budget to governing body
- ▶ **Does not control spending**
- ▶ 10% Rule in towns with official budget committee

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- ▶ The membership of an elected municipal budget committee is prescribed by RSA 32:15 and shall include one member *each* from the select board, school board and village district located in town.
- ▶ These Ex-Officio members serve as full voting members of a municipal budget committee - this is not optional, it is mandatory.
- ▶ Budget Committees cannot by procedural rule make these Ex-Officio representatives non-voting members: *Town of Hudson and Hudson School District v. Hudson Budget Committee* - Hillsborough County Superior Court- Case No. 2022-CV-00223, 8/15/22

Status of Ex-Officio Budget Committee Members

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Why May a Municipality Appropriate Money?

- No Home Rule
- RSA 32:3, V & RSA 31:4
- Village Districts, RSA 52:1
- School Districts, RSA 198:4

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Budget Development

- ▶ Department heads prepare estimated expenditures and revenue projections and submit to governing body. RSA 32:4. (library trustees may directly submit their proposed budget to budget committee – RSA 202-A:11, II)
- ▶ Towns with Town Manager – the manager provides the governing body with an estimate of the probable expenditures of the town for the ensuing fiscal year, along with an estimate of revenues. RSA 37:6, V
- ▶ Select Board reviews information provided under RSA 32:4 and RSA 37:6, V and submits their budget recommendations to the budget committee (if there is one).
- ▶ Budget Committee prepares the budget as provided in RSA 32:5, and if authorized under RSA 40:14-b, a default budget under RSA 40:13. RSA 32:16, I.

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Appropriating Money



- ▶ Legislative Act, RSA 32:6
 - ▶ Warrant article
 - ▶ Operating budget
- ▶ Raise + Appropriate
- ▶ Create “guiding values”:
 - ▶ Legislative body authorizes
 - ▶ Annual basis (exceptions)
 - ▶ Governing body spends

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Appropriations

Account	Purpose	Article	Appropriations Prior Year as Approved by DRA	Expenditures Prior Year	Selectmen's Appropriations Ensuing FY (Recommended)	Selectmen's Appropriations Ensuing FY (Not Recommended)	Budget Committee's Appropriations Ensuing FY (Recommended)	Budget Committee's Appropriations Ensuing FY (Not Recommended)
General Government								
0000-0000	Collective Bargaining		\$0	\$0	\$0	\$0	\$0	\$0
4130-4139	Executive		\$0	\$0	\$0	\$0	\$0	\$0
4140-4149	Election, Registration, and Vital Statistics		\$0	\$0	\$0	\$0	\$0	\$0
4150-4151	Financial Administration		\$0	\$0	\$0	\$0	\$0	\$0
4152	Revaluation of Property		\$0	\$0	\$0	\$0	\$0	\$0
4153	Legal Expense		\$0	\$0	\$0	\$0	\$0	\$0
4155-4159	Personnel Administration		\$0	\$0	\$0	\$0	\$0	\$0
4191-4193	Planning and Zoning		\$0	\$0	\$0	\$0	\$0	\$0
4194	General Government Buildings		\$0	\$0	\$0	\$0	\$0	\$0
4195	Cemeteries		\$0	\$0	\$0	\$0	\$0	\$0
4196	Insurance		\$0	\$0	\$0	\$0	\$0	\$0
4197	Advertising and Regional Association		\$0	\$0	\$0	\$0	\$0	\$0
4199	Other General Government		\$0	\$0	\$0	\$0	\$0	\$0
General Government Subtotal			\$0	\$0	\$0	\$0	\$0	\$0
Public Safety								
4210-4214	Police		\$0	\$0	\$0	\$0	\$0	\$0
4215-4219	Ambulance		\$0	\$0	\$0	\$0	\$0	\$0
4220-4229	Fire		\$0	\$0	\$0	\$0	\$0	\$0
4240-4249	Building Inspection		\$0	\$0	\$0	\$0	\$0	\$0
4290-4298	Emergency Management		\$0	\$0	\$0	\$0	\$0	\$0
4299	Other (Including Communications)		\$0	\$0	\$0	\$0	\$0	\$0
Public Safety Subtotal			\$0	\$0	\$0	\$0	\$0	\$0
Airport/Aviation Center								
4301-4309	Airport Operations		\$0	\$0	\$0	\$0	\$0	\$0

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- ▶ By Statute and Rule the DRA establishes a uniform chart of accounts, a standard numbering and classification system for accounting by cities and towns. RSA 21-J:13, IV; NH Admin Code Rev 1701.12
- ▶ Amendments to the Municipal Budget Law effective September 21, 2021, require the governing body to provide to the budget committee sub-account information, defined as “an optional level of accounting, one or more levels below the account level,” which, if used, must support the numbering classification system established by the DRA
- ▶ Any detail included in sub-accounts must be made available for public inspection at the town’s budget hearing and must be included in the information provided to the budget committee
- ▶ The new law also requires the governing body to provide information to the budget committee in a format acceptable to the budget committee, but states that this requirement may be satisfied “by providing the assistance of a knowledgeable staff person who will attend the budget committee meetings with access to and the ability to provide the required information.”

Uniform Chart of Accounts and Sub- Accounts

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“Separate” Articles

“Special” Articles, RSA 32:3, VI:

- Petitioned
- Bonds
- Capital reserve/town-funded trust funds
- Designated non-lapsing, non-transferable, special

- Nontransferable, RSA 32:10, I(d)
- Can be encumbered for one more year
- Can be designated initially as nonlapsing for up to 5 years

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General Warrant Article Suggestions

- ✓ Disclose gross appropriation
- 🏠 Disclose revenue sources
- 📄 Consider order of articles
- 👍 Consider statutory wording and vote requirements
- 📖 Use DRA’s “Suggested Warrant Articles” publication

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Problems to Avoid

Change of Purpose

Improper Use of CRF

Agents of CRF Not Warned

Made "Non-Lapsing" From Floor

Not Warned

Did Not Gross Appropriate

No Recommendations on Special Warrant Articles

No "Sum Certain"

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Procedural Requirements for Valid Appropriations (Budget Creation)

- ✓ Public budget hearing
- ✓ Disclosure of purpose and amounts at hearing (including sub-account information)
- ✓ Disclosure of default budget at first budget hearing
- ✓ Budgeting on gross basis
- ✓ Recommendations
- ✓ Warrant Notice
- ✓ Listing of all appropriations and separate warrant articles on posted budget

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Public Budget Hearings Required

- ▶ Amounts & Purposes
“Discussed or Disclosed”
- ▶ RSA 32:5



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842,313	
47,101	
14,239	
2,498	
694,691	
43,034	
88,700	
	32.5
	40.8
	632.6
	3.9
	7.9
	1.7

Gross Basis Budgeting
RSA 32:5, III

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Multi-Year Agreements

Municipalities are authorized to make multi-year contracts under the basic statutory power to “make any contracts which may be necessary and convenient for the transaction of the public business of the town,” quoting what is now RSA 31:3.

A municipality can bind itself to a multi-year agreement if the total cost items for the full life of the agreement are fully disclosed and adopted by the legislative body.

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Recommendations & Numeric Tallies RSA 32:5, V & V-a

Recommendations:

- Required on special articles, 32:5, V
- Required on collective bargaining cost items, 32:19
- Defects/ deficiencies don't affect validity of appropriations, 32:5, V

Numeric tallies:

- 32:5, V-a

Olson v. Grafton:

- recommendations on non-money articles allowed by governing body

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Estimated Tax Impact



RSA 32:5, V-b



Must be adopted by legislative body



Governing body determines



Only an estimate!

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Whose Budget Is It?

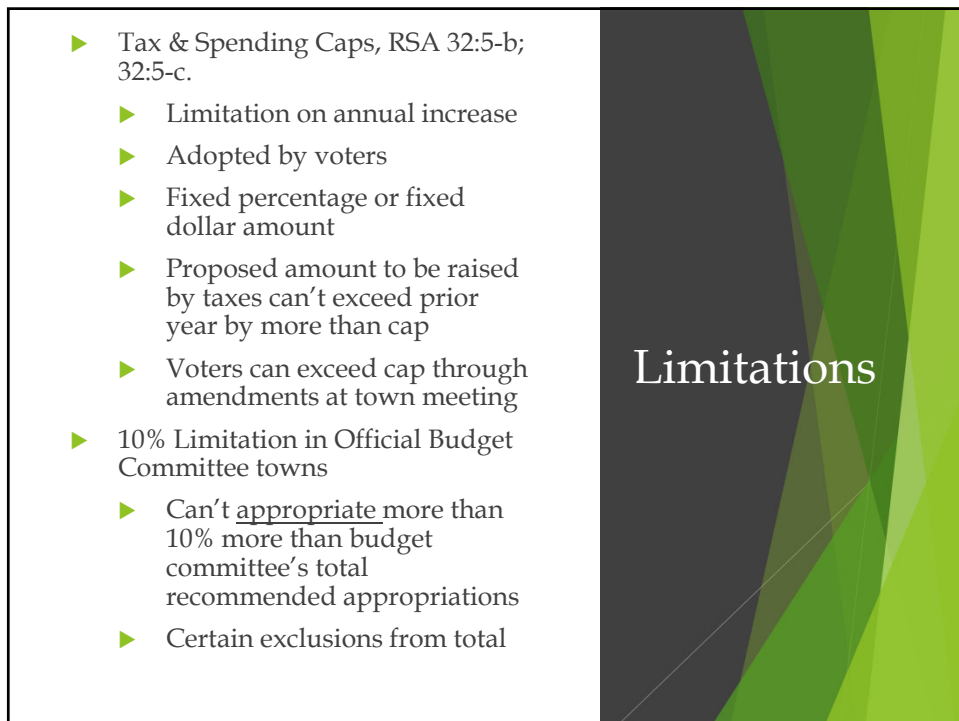
- ▶ Budget = recommended "plan" for spending
- ▶ Only the voters adopt a budget!
- ▶ Budget cuts & *Brentwood School District v. Brentwood Budget Committee* case



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TIME FOR A 15-MINUTE BREAK!



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Other forms of Spending

Transfers, RSA 32:10

Legal judgments, RSA 32:9

DRA permission, RSA 32:11

Spending prior to town meeting, RSA 32:13

Unanticipated revenue, RSA 31:95-b

Capital reserve/trust funds

Other statutory funds

Certain multi-year appropriations

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Emergency Expenditures RSA 32:11

Unusual circumstance
requiring over
expenditure of budget

Before making
expenditure apply to
DRA for permission

Official Budget
Committee must vote
to approve

Governing body must
designate the source of
the proposed
spending

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Special Meetings

Appropriations
require court
approval

“Emergency”

RSA 31:5, III & RSA
197:3, III – special
meeting to
reconsider cost items

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Transfer Of Appropriations RSA 32:10



- ▶ Governing body may transfer money from one line to another
- ▶ Transfer authority is the same over the default budget
- ▶ Voters cannot restrict transfer authority
- ▶ Special warrant articles – can transfer into, but not out of

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Certain Multi-Year Expenditures

Lease/purchase agreements, RSA 33:7-e

- With escape clause (simple majority)
- Without escape clause (supermajority vote)

Capital projects, RSA 32:7-a

- Identified capital projects
- 2/3 or 3/5 majority vote
- Up to 5 years
- Included in default budget

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Lapse of Appropriations RSA 32:7

- ▶ All appropriations shall lapse at the end of the fiscal year and any unexpended portion thereof shall not be expended without further appropriation, **UNLESS**:
 - Encumbered by legally-enforceable obligation;
 - Placed in nonlapsing fund: e.g. capital reserve or trust;
 - Appropriated to a capital reserve fund;
 - Amount is raised through bonds or notes (then lapses upon completion of purpose);
 - Money received from state, federal, or private grant (then nonlapsing for as long as program rules)
 - Special warrant article:
 - Governing body can vote to encumber for one year; OR
 - Article was labeled as nonlapsing by meeting (specifies lapse, up to 5 years).

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Encumbering and Special Non-Lapse Rule

- ▶ First, the unspent funds must be encumbered by a legally enforceable obligation for their expenditure. Second, the obligation must attach to the funds before the end of the fiscal year for which they were appropriated. *Monadnock Regional School District v. Monadnock District Education Assoc.*, 173 N.H. 411 (2020)
- ▶ Under RSA 36-A:5, I, Conservation Commission may deposit any unspent part of its annual budget appropriation into the conservation fund.

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No Means No RSA 32:10, I (e)

▶IF

- ▶ Budget line item reduced to zero or
- ▶ Separate warrant article with appropriation defeated reduced to zero.

▶THEN

- ▶ That “purpose” is deemed to be one where no appropriation is made.
- ▶ No money may be spent for that defeated purpose during the ensuing fiscal year.



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Common Municipal Funds

- ▶ Reserve Funds
- ▶ Special Revenue Funds
- ▶ Revolving Funds
- ▶ Expendable Trust Fund
- ▶ (Private) Trust Funds

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New Rules for Capital Reserve Funds and Lease Payments

- ▶ **RSA 35:15 amended by 2021 Chapter 105 (SB 87)**
- ▶ Allows a capital reserve fund to be used to make payments under a lease/purchase agreement, regardless of whether the agreement contains an “escape” or “non-appropriation” clause.
- ▶ This is a significant change from previously, where payments could be made from the fund only after super-majority approval by town meeting and no escape clause existed.
- ▶ **Effective Date: August 30, 2021.**

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Reserve Funds

- ▶ Savings Account
- ▶ Expendable Trust Fund, RSA 31:19-a
- ▶ Capital Reserve Fund, RSA Ch. 35
- ▶ Non-Capital Reserve Funds, RSA 35:1-c

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Expendable Trust Fund RSA 31:19-a

- ▶ RSA 31:19-a authorizes towns to create trust funds for any valid public purpose
- ▶ Agents can be appointed to expend trust funds
- ▶ Expendable trust funds subject to same provisions concerning custody, investment, expenditure, change of purpose, and audit as are capital reserve funds
- ▶ Expendable trust funds can be permitted to accept privately donated gifts and legacies provided there is no commingling of private money with public money

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Capital Reserve Funds: RSA chapter 35

Creation: Majority
vote

Discontinuance:
Majority vote

Changing
purpose: 2/3 vote

Agents to expend:
Majority, can't be
added from floor

Transferring
funds: NO!

Additional
payments into by
separate warrant
article

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Special Revenue Funds

- ▶ RSA 31:95-c
- ▶ Hearing prior to town meeting
- ▶ No agents
- ▶ Changes, 2/3 vote



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Revolving Funds RSA 31:95-h

Particular
Purposes

Agents to
expend

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Revolving Funds Purposes

- ▶ Facilitating, maintaining, or encouraging recycling as defined in RSA 149-M:4;
- ▶ Providing ambulance services, or fire services, or both;
- ▶ Providing public safety services by municipal employees or volunteers outside of the ordinary detail of such persons, including but not limited to public safety services in connection with special events, highway construction, and other construction projects, or for any other public safety purpose deemed appropriate by the municipality;
- ▶ Creating affordable housing and facilitating transactions relative thereto;
- ▶ Providing cable access for public, educational, or governmental use;
- ▶ Financing of energy conservation and efficiency and clean energy improvements by participating property owners in an energy efficiency and clean energy district established pursuant to RSA 53-F; or
- ▶ Facilitating transactions relative to municipal group net metering.
- ▶ Recreation Revolving Fund – RSA 35-B:2, II
- ▶ NO OTHER REVOLVING FUND PURPOSES PERMITTED

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Trust Funds RSA 31:19

Town meeting may authorize the select board, or town council, to accept gifts and donations without further action by the town.

Depending on the terms of the trust, the select board as agents of the town may expend the trust fund “to carry out the objects designated by such trusts.”

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Contingency Fund RSA 31:98-a

- ▶ Useful for recoveries from extreme weather events -
 - ▶ *New Hampshire's climate is now characterized by periods of drought punctuated by extreme precipitation events, resulting in an average increase in precipitation of around 5" since 1895.*
 - ▶ *There are now an estimated 50% more extreme precipitation events than 1996.*
 - ▶ *These precipitation events have extraordinary impacts on road infrastructure throughout the state.*
- ▶ Better option than RSA 32:11 (Emergency Expenditures) or RSA 31:5 (Special Meetings).

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- ▶ Acceptance of Personal Property Donation – RSA 31:95-e
- ▶ Acceptance of Unanticipated Revenue – RSA 31:95-b
- ▶ Authorization of Tax Anticipation Borrowing – RSA 33:7
- ▶ Authorization of Select Board to set and establish fees – RSA 41:9-a

<https://www.revenue.nh.gov/mun-prop/municipal/documents/suggested-warrant-articles.docx>

Suggested Warrant Articles

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SB 2 & The Default Budget: RSA 40:13

- As long as statutory formula is used, default budget may be higher or lower than last year's budget.
- Default budget is amount of the same appropriations as contained in the operating budget authorized for the previous year . . .
 - reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and
 - reduced by one-time expenditures contained in the operating budget and by **salaries and benefits of positions that have been eliminated in the proposed budget.**
 - RSA 40:13, IX(b).

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Default Budget Terms Defined

“One-time expenditures”: Appropriations not likely to recur in the succeeding budget.

“Contracts”: Contracts previously approved, in the amount so approved, by the legislative body in either the operating budget authorized for the previous year or in a separate warrant article for a previous year.

“Eliminated positions” does not include vacant positions under recruitment or position redefined in the proposed operating budget.

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Default Budget Procedure

- ▶ Disclosed and presented for questions and discussion at first budget hearing
- ▶ Line item changes must be available at budget hearing:
 - ▶ Appropriations in last year's budget
 - ▶ Reductions and increases, including identification of specific items that constitute a change by account code and the reason for change
 - ▶ One-time expenditures
 - ▶ Reductions for eliminated positions
- ▶ Discussion and debate of default budget at deliberative session (not amended)

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Capital Improvement Plan *RSA 674:5 - 8*



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CIP Basics

A CIP "shall" do the following:

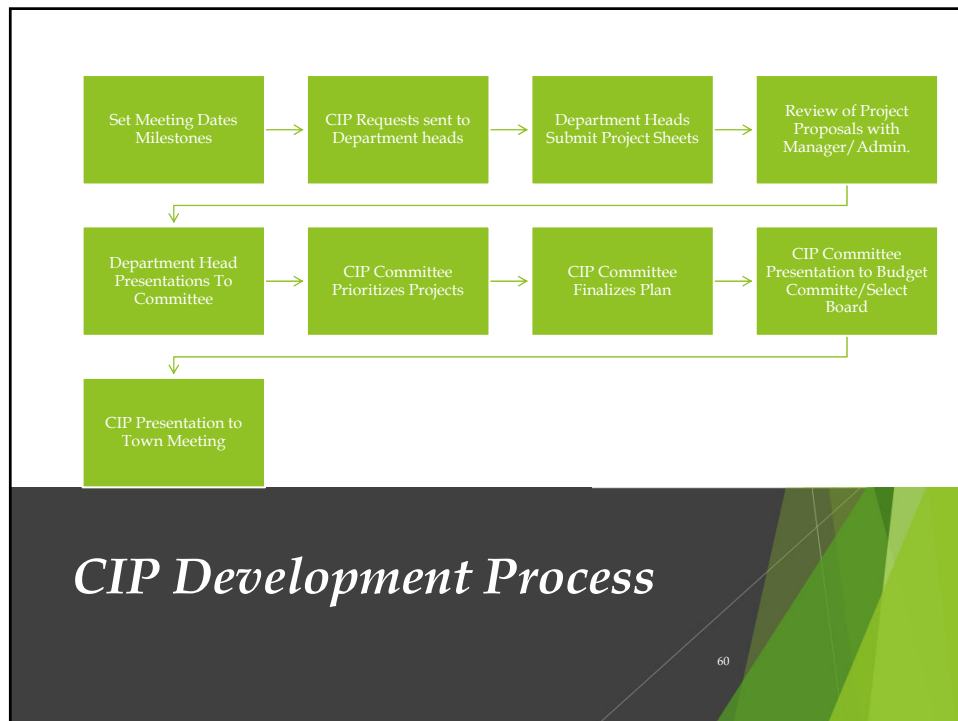
- ▶ Address capital improvement projects over a period of at least six years.
- ▶ Classify projects according to the urgency and need for implementation.
- ▶ Include a timetable for implementation of projects.
- ▶ Take into account public facility needs shown in the master plan.

A CIP "may" include the following:

- ▶ The estimated cost of each project.
- ▶ The probable operation and maintenance costs
- ▶ The probable revenues (if any) from each project


CIP preparation by planning board or CIP Committee

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ONE HOUR FOR LUNCH - 12NOON TO 1PM

TIME *for* **LUNCH**



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