

HB1396

Make the Default Budget Effective Taxpayer Protection

Proposed Changes to RSA 40:13 IX

Key Changes

Currently:

- Definition and removal of “One-Time Expenditures” is at the discretion of the governing body
- The governing body is required to provide only summary information about the proposed default budget, which cannot be effectively evaluated or challenged. (* Although many bodies do provide line-item detail allowing comparison with the current and proposed budgets, this is discretionary and not enforceable in court)
- There is no transparent method of dealing with a known exceptional need, such as a major roof or HVAC replacement, without padding the default to ensure that there will be enough available appropriation. If a warrant article is used, defeat of the warrant could actually prevent the body from dealing with a critical need.

Under the proposed amendments:

- One-time expenditures are defined objectively, and “shall” be removed
- Citizens are entitled to see that the default budget is published, deliberated and approved with the same line item detail as the current and proposed budgets. Citizens and members of governing bodies are empowered to effectively question the treatment of specific line items.
- The proposal provides an explicit and objective method for dealing with exceptional needs in the default budget.

Sample Objections

- 1. Capital expenditures are an ongoing need, not one-time.**
Response: Replace a boiler, and that boiler does not get replaced again the following year. New capital expenditures need to be justified to the taxpayer in a sound, responsible proposed budget.
- 2. Municipalities will lack the funds for needed upgrades.** **Response:**
A critical expenditure can be included in the default budget if there is objective evidence that it is necessary for safety, asset protection, or code compliance. And improvements can be proposed to the voters as a warrant article to be voted separately from the budget.
- 3. Municipalities will lack the funds to maintain current facilities.** **Response:**
Maintenance and replacement of existing facilities are not removed from the default budget.
- 4. Voters will always choose the default if it is lower.** **Response:**
New Hampshire voters have been very generous with their towns and school districts when they are persuaded of the benefits of a proposed expenditure.

Example: Timberlane Regional School District 2016/17 Default Budget

As the law stands:

- Budget 2016/17: **\$70,194,990**
- Contractual and reductions and increases: **\$1,802,913**
- Remove one-time expenditures: **\$438,892**
- Default budget 2017/18: **\$71,559,011**

This was **\$200,000 higher** than the proposed 2017/18 budget, thus **nullifying the taxpayer protection** of the default budget.

Under the proposed amendments:

- Budget 2016/17: **\$70,194,990**
- Contractual and reductions and increases: **\$1,802,913**
- Remove one-time expenditures: **\$1,926,936**
- Default budget 2017/18: **\$70,070,967**

This would be about **\$100,000 lower** than the then-current 2016/17 budget, which would place the onus on the governing body to **produce a proposed budget which truly meets the needs of the residents** while respecting taxpayer capacity.

Example: What would be the impact on Timberlane of the default budget as proposed?

Not funded:

- Planned upgrade projects such as parking lot repaving, mechanized bleachers, upgrading classroom doors, upgrading gym air handlers to air conditioners
- New computers and laptops

Continue to fund:

- Replacement computers, laptops and other equipment to maintain existing inventory and functionality – over \$500,000
- Ongoing repair and maintenance of \$440,000, same as prior year
- Special Ed funding substantially unchanged at \$9,000,000, except for \$15,000 of new equipment
- The administration proposed budget for 2017/18 had line items which were lower than the prior year by more than \$600,000. This provides a reserve which can be applied to priority expenditures which may have been reduced in the default budget.

Proposed wording

(b) "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the ~~[DELETE: operating budget authorized for the previous year]~~ **current year budget**, 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 ~~[DELETE: contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body, unless the provisions of RSA 40:14-b are adopted, of the local political subdivision]~~. **The governing body may increase the default budget to include qualifying capital expenditures. The default budget shall be deliberated and presented to the legislative body using the same individual line items in the detailed budget or chart of accounts that is regularly used by the municipality under RSA 32:10, I(a)-(d). A qualifying capital expenditure which has been removed from the proposed budget as presented on the ballot shall also be removed from the default budget.**

New term defined below. Previous wording "previous year" is ambiguous.

Remove discretion of governing body to determine one-time expenditures.

Qualifying Capital Expenditures is a new term defined below.

The governing body and the legislative body must have access to analyze and deliberate the default budget in the same detail as the proposed budget.

If a Qualifying Capital Expenditure may only be included in the Default Budget if it is also present in the Proposed Budget which is put to ballot.

Proposed wording

Clarify that the budget under which the body is currently operating, including all voted warrants, is the baseline for creating the Default Budget for the upcoming year

(c) ***"Current year budget," as used in this paragraph, means the total appropriation approved by the annual meeting under which the political subdivision is operating while preparing the budget for the next year.***

Reference to the prior (most recently completed) year is needed in order to correctly determine some categories of one-time expenditure, since the "one-time" event is occurring during the current year

(d) ***"Prior year budget," as used in this paragraph, means the total appropriation approved by the annual meeting under which the political subdivision operated for the most recently completed budget year.***

An appropriation line item such as "software" may include funding for many expenditures, some of which are recurring, and some of which are one-time.

(e) ***For purposes of this section, an "expenditure" shall be a planned use of appropriated funds for the purchase of a particular object, product, or project.***

Proposed wording

There is no discretion on removal of one-time expenditures from the Default Budget. Items fulfilling any of these conditions "shall" be considered one-time expenditures and so removed.

- (f) **For purposes of this section, "one-time expenditures" shall be:**
- (1) **All appropriations in the current year budget for new equipment, new computer equipment, new vehicles, site improvements, and facilities improvements.**
 - (2) **Any increases in appropriation in the current year budget compared to the prior year budget for non-salary items, unless specifically documented as a permanent increase and so certified by the governing body, unless the provisions of RSA 40:14-b are adopted.**
 - (3) **Any non-salary expenditure appropriated but not expended in the prior year budget, and included in the current year budget.**
 - (4) **Any appropriation in the current year budget which was approved by warrant article with no multi-year or non-lapsing provision.**

In the current year, if we are buying 50 new laptops as well as replacements for 50 worn-out laptops, the default budget will remove the 50 new but retain the 50 replacements.

In the current year, if we are replacing the boiler at one building, we will not be replacing that same boiler at the same building. If the plan for the coming year was to install a new roof on the same or a different building, that represents a different one-time expenditure and is not funded by the default budget.

If we appropriated more for a line in the current year than was done in the most recently completed year, that increase is presumed to be a one-time expenditure, unless certified by vote of the governing body. This certification should also cover contractually committed increases.

This provision identifies and rolls back fund contributions and purchases approved by Special Warrant Articles.

An expenditure such as a project or purchase may have been included in the prior year appropriation, but the funds may have been used for another purpose. Then the same expenditure may have been included in the current year appropriation. In this case, the appropriation may appear to be flat from the prior year to the current year, but the expenditure is one-time, and must be removed from the default budget.

Proposed wording

This provision is designed to allow prudent and transparent planning for critical protection and safe operation of capital assets.

(g) For purposes of *this paragraph*, a qualifying capital expenditure shall be an appropriation for a site improvement or facilities improvement expenditure satisfying all of the following conditions:

(1) The appropriation for the expenditure shall be included in the proposed budget when posted for public hearing and not removed from the budget which is presented for approval on the ballot.

(2) The expenditure shall be certified in writing by an external party, such as an engineer or town code inspector, as a non-deferable issue of safety, code compliance, or protection against property loss.

(3) The expenditure shall not be included in the current year budget.

A Qualifying Capital Expenditure is a non-discretionary need which must be recognized as such for purposes of both the proposed budget and the default budget. It cannot be used to inflate the default budget in order to make the proposed budget more attractive.

A Qualifying Capital Expenditure requires arms-length certification by a third-party professional. It is not at the discretion of the governing body.

If an expenditure is a bona fide need under requirement number 2, and is also included in the current year budget, then it should be prioritized and completed in the current year (if necessary, by encumbering funds). If not, then it is deemed to be discretionary and does not meet the requirements to be a Qualifying Capital Expenditure added to the default budget.