

September 29, 2026
12:00 – 1:00 p.m.



Legal Lunch and Learn: **Default Budgets**

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1

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2

ZOOM INSTRUCTIONS

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

3

Questions?

Please type your questions in the Q&A section. Questions will be answered out loud for the recording during scheduled question breaks. Please keep questions to general concerns about the content of the presentation. If your question is about a specific situation you are dealing with, it is better sent to legalinquiries@nhmunicipal.org.

Not all questions may be addressed due to time constraints. If we do not get to your question, please feel free to send it to our legal inquiries department and we will provide a response.

4

AGENDA

Purpose



Content of
Default Budget



Process

5

Municipal Authority



- Fundamental rule of municipal government in NH:
 - Towns and cities have no inherent authority to act
 - All authority comes from the legislature through statutes
 - Municipal officials and employees must find a statute that either specifically grants authority or "necessarily implies" that authority
 - *Girard v. Allenstown*, 121 N.H. 268 (1981)
- Not enough to say "no statute says we can't do it"

6

Purpose of the Default Budget



7



Budget Process - Traditionally

- Traditional town, school district, village district annual meeting – voters gather at business session to debate, amend and take final votes on budget.
- If the operating budget warrant article fails:
 - Continue discussing the article
 - Offer amendments
 - Try again to vote on it
 - Recess until the next night and continue
- Ultimately, most moderators will not allow the meeting to finally adjourn until a budget of some sort is passed.

8



Budget Process – SB 2 Meeting

- Official Ballot Referendum meeting (SB 2) does not have that flexibility.
- Deliberative session – voters debate and amend warrant articles, but don't take any final votes.
- Official ballot voting day (about 5 weeks later) – all warrant articles, including operating budget, are voted on at the voting booth.
- There is no option to continue to discuss, debate, amend, and vote again before the meeting ends.
- If the operating budget fails, there must be a contingency plan.

9



Contingency Plan

- If the second (ballot) session rejects the operating budget, the town or district still needs money to function.
- Default budget acts as a financial safety net so there will still be some kind of budget for the coming year.
- It is a compromise:
 - Rather than no budget, it reverts to the previous year's operating budget.
 - However, some adjustments have to be made, which is when it gets complicated.

10

Content of the Default Budget



11



Definition – RSA 40:13, IX(b)

“...the 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.”

12

Previous Year's Operating Budget – RSA 40:13, IX(a)



- “Operating budget” means the total appropriations, but without any separate appropriations articles or special articles or “any appropriations voted separately.”
- In other words, the line-item budget.
- The choice of whether to put a proposed appropriation in the operating budget or in a separate/special article has consequences for the next year's default budget.

13

Examples



- 2026 town meeting approved:
 - Line item budget that included an increase of \$300,000 for 4 new firefighters
 - Warrant article of \$300,000 for 4 new firefighters
 - Bond article for \$1,000,000 to repair Town Hall, project that is expected to last 2 years

14

Previous Year's Operating Budget



- “The amount...”
 - Same dollar amount, not the same number of units or services that were budgeted for in that previous budget.
- “...of the same appropriations...”
 - Only the purposes for which appropriations were made in the previous year's operating budget.
 - No new budget line items can be added

15

Adjustments



- “Debt service” – look at all bonds, notes, and other long-term debt
- Must be something that was properly approved by the voters at a previous meeting
- Are payments scheduled to start, end, increase or decrease in the new budget year?
- Default budget should include the actual, required payments that are scheduled for the new year (may be more or less than last year)

16

Adjustments



- “Contracts” and “other obligations previously incurred or mandated by law” – RSA 40:13, IX(c)
- 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.
 - Increased health insurance costs – only included if part of a CBA/employment contract approved by voters
 - Increased workers' comp, unemployment insurance costs – are included because mandated by law
 - Select Board COLA policy – not included, not voter approved

17

Adjustments



- “One-time expenditures” are “appropriations not likely to recur in the succeeding budget,” which should be removed. RSA 40:13, IX(b).
 - Example: previous year’s operating budget included appropriation to replace windows in town hall, “not likely to recur”
 - Example: Town’s USA 250th Celebration, not likely to recur in 2027.

18



Adjustments

- Reduced by salaries and benefits of positions that have been eliminated in the proposed budget. RSA 40:13, IX(b).
- Eliminated positions do NOT include vacant positions under recruitment, or positions redefined in the proposed operating budget; these stay in the default budget.

19



Capital Projects – RSA 32:7-a

- If voters previously approved a warrant article for a capital project multi-year appropriation:
 - Every year after the first year, the annual amount designated for that year in the original article is deemed appropriated without further vote of the legislative body.
 - Therefore, it goes into the default budget.
 - It is appropriated whether operating budget passes or fails.

20

Lower or Higher?



- In calculating the default budget amount, “follow the statutory formula which may result in a higher or lower amount than the proposed operating budget.” RSA 40:13, IX(b).
- Goal of calculating the default budget is not to make policy or reduce expenditures or advance priorities; it is SOLELY to calculate the statutorily-required amount.
- Legislature has made all the policy decisions here already.

21

2 "Other" Default Budgets



- If the town/village district maintains a separate "water fund" under RSA 38:29 or "sewer fund" under RSA 149-I:10 for operation, maintenance and improvement of a water or sewer system; AND
- If any of the appropriations to go into that fund are to be raised by user fees/charges in a separate warrant article from the operating budget, THEN
- That warrant article may include a separate default budget for that purpose, which takes effect if the warrant article fails. RSA 40:13, XI-a.

22

Default Budget Process



23

Who Prepares It?



- Depends on whether there is an “official budget committee.”
- Official budget committee – town may vote to adopt this under RSA 32:14.
 - If there is one, it prepares the proposed budget for the town, plus for any school or village district located wholly within the town
- Advisory budget committee – any town may choose to have one, can create its duties, but it has no official duties under RSA 32 and doesn’t affect school or village district budgets

24

Who Prepares It?



- Originally, the governing body of the town or district prepared the default budget (select board, school board, village district commissioners)
- 2004 amendment: voters could assign it to the official budget committee instead of governing body
- NEW: as of Aug. 12, 2026, governing body prepares unless there is an official budget committee, in which case the budget committee always prepares default budget. RSA 40:14-b.

25

Use the DRA Form



- Form MS-DTB, required by RSA 40:13, XI(a)
- Must have line item details for reductions and increases including ID by account code, amount of change, and the reason for each change
- Start with the last successful operating budget and adjust as appropriate using the statutory formula

26



Making It Available to Voters

- Board that prepared it must make default budget available for “questions and discussions” at the first public budget hearing. RSA 40:13, XI(a).
- Same board should be prepared for “explanation, discussion, and debate” of the default budget at the deliberative session. RSA 40:13, IV.
- HOWEVER – voters may ask questions and express opinions, but may not amend it. RSA 40:13, XI(b).
- Post with proposed budget and warrant. RSA 40:13.

27



What If There Are Errors?

- Voters may not amend it. RSA 40:13, XI(b).
- Board that prepared default budget may adjust it "acting on new relevant information"
- Can correct it at any time before the ballots are printed
- Must complete a new default budget form for this
- No specific "notice" required; post corrected version wherever budget and warrant are posted.

28



After Voting Day

- If the operating budget passes, the default budget has no further purpose.
- If the operating budget fails, governing body chooses whether to go with the default budget or hold a special meeting to try to pass an amended operating budget. RSA 40:13, X, XVI.
- If the default budget takes effect for that budget year, the governing body administers it in the same way as any operating budget (including transfers).

29

QUESTIONS?



30

NHMA's Legal and Finance Advisory Services



Open 8:30 a.m. – 4:30 p.m.

- Email: legalinquiries@nhmunicipal.org
- Email: financeinquiries@nhmunicipal.org
- Phone: 603-224-7447

Provide general legal advice

- Not comprehensive legal review of documents,
- Not drafting individualized ordinances or charters,
- Not reviewing specific applications before local boards,
- Not settle intra-municipal disputes.

Provide general financial advice

Goal: Response w/in 48 hours.

31

Our Vision

NHMA is known as the premier source of information and support needed for town and city officials as effectively serve the public.

Our Mission

NHMA supports effective municipal government by leveraging the collaborative strengths of New Hampshire cities and towns through education, training, advocacy, and legal services.

Our History

The New Hampshire Municipal Association, Inc. (NHMA) is a nonprofit, nonpartisan membership organization of municipalities. Founded in 1941 for the purpose of exchanging information to facilitate more efficient and effective local government, NHMA was reorganized in July 2003 under the umbrella of the New Hampshire Local Government Center (LGC). At that time all services provided to municipalities by NHMA were assumed by LGC except legislative advocacy, which remained in NHMA LLC, a separate subsidiary of LGC. In the fall of 2012 all "traditional municipal league services" including legislative advocacy, legal advisory services, training programs, and educational publications, were consolidated under NHMA with oversight by the NHMA Board of Directors. Currently, NHMA, Inc. operates as a totally separate, independent organization from the former LGC risk pools (HealthTrust, Inc. and Property Liability Trust, Inc.) with a board comprising only elected and appointed municipal officials elected by NHMA members.

32

**MEMBER
FEEDBACK**

