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March 28, 2016

Michael J. Tursi
Superintendent
SAU #64
18 Commerce Way, Unit 1
Milton, NH 03852

Re: Milton School District/Default Budget

Dear Michael:

I am responding to your request for advice for the Milton School Board regarding management of the default budget. The question is whether you can use money in the default budget for raises which were not in the operating budget either for the current year or the proposed operating budget for next year. The answer to your question is yes. When the voters reject the operating budget and you have to run the school district with a default budget, it is still a bottom line budget.

What do we mean when we say bottom line budget?

RSA 32:8, Limitation of Expenditures, prohibits a school board from spending 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...”

However, RSA 32:10, Transfer of Appropriations, allows a school board to transfer an unexpended balance of one appropriation into another, provided that the

school board does not over expend the bottom line. In addition, money appropriated under a special warrant article may not be transferred. RSA 32:10 (e) also prohibits spending money for any purpose that the voters at the district meeting have reduced to zero or if the voters have rejected an appropriation for that purpose contained in a separate warrant article.

When we talk about line item transfers, purpose means a line on the MS-27, the budget form posted with the warrant. See: RSA 32:3, V. RSA 32:10, I (e) and RSA 32:10, II, Therefore, when the municipal budget law prohibits line item transfers and prohibits spending money for any purpose for which no appropriation has been made, purpose means either a line on the MS-27 or a separate warrant article. It does not refer to the detail or object lines on the MS-27. There are only thirty eight purpose lines on the MS-27.

The Department of Revenue Administration (DRA) regulations establish a hierarchy of expenditure codes for school district budgets designated as function codes and object codes. Rev 1107. "Function" means a description of the activity for which a service or material item is acquired. Rev. 1101.09. "Object" means a description of the service or material item obtained as a result of a specific expenditure. Rev. 1101.18. Under each function line of the MS-27 are a number of sub lines or detail lines which are the object lines. The object lines are not listed on the MS-27, but are included in the budget detail. There are hundreds of object lines in a school district budget. The DRA rules tell school officials which expenditure goes into which object line of which function line.

The lines on the MS-27 are based on the DRA regulations for school district budgeting and accounting. See: Rev.1100. The lines on the MS-27 are the function lines as defined in 1101.09. When we talk about the requirement that money be spent only for a purpose for which money has been appropriated and the restrictions on line item transfers, "purpose" means "function code" as used in the DRA regulations.

The budget law limits on transferring appropriations restricts transfers *between the function lines on the MS-27*, by prohibiting transfers *into a line on the MS-27* where there was no dollar amount in that line in the school board's recommended budget column or if the voters at the annual meeting have zeroed out that line. Zeroed out lines are

considered purposes/functions for which no appropriation has been made. See RSA 32:3, V. The budget law does not restrict transfers between object lines.

Based on the foregoing, the only restrictions on the school board's management of its budget are as follows: if one of the function lines in the school board's recommended budget on the MS-27, either when the budget was posted with the annual meeting warrant, or as a result of action of the district meeting, is zeroed out, the school board may not spend money for that purpose/function; the school board also may not spend money for a purpose stated in a separate warrant article if the separate article is defeated (no means no)¹; the school board may not spend money appropriated under a special warrant article for any purpose other than that stated in the special warrant article; the school board may not over-expend the bottom line. Aside from those four limitations, the school board can manage its budget, however it wants.

The lines on the default budget form, the MS-DS, are the same as the function lines on the MS-27. There is nothing in either the budget law or SB2 to suggest that the same rules for expenditures and transfers that apply when a school board manages an operating budget approved by the voters do not also apply when operating under a default budget.

That leaves us with two questions when determining whether you may spend money for a particular purpose or transfer money between lines of the budget while operating under a default budget. The first is whether we are talking about the lines on the MS-DS form, or the lines on the MS-27, the operating budget form. If we use the MS-27, do we use the one for the current year, since that was the starting point for calculating the default budget or do we use the MS-27 that was proposed for the upcoming year and defeated by the voters? I cannot find the answer to that question in either the budget law or SB 2. In my opinion, the answer is *probably* the MS-DS form.

The question as to which budget form's lines (the MS-27 or the MS-DS) govern, is, in terms of your question, academic. As you can see, if you look at the purpose/function code lines of the MS-27 and the MS-DS, the lines from which salary increases will be paid have money in them on both forms. That means we do not have to decide which form controls.

¹ If you have an amount on the MS-27 that would apply to the same expenditure, you may be able to spend the money notwithstanding no means no after defeat of the separate warrant article, based on the operating budget form as the source for authority to make the expenditure.

The second question is whether the school board is limited by the amounts in each line of the default budget. For example, the 1100-1199 regular programs line in the default budget has \$3,355,726 in it. Does that mean, since you are operating on a default budget, that you may not spend any more than that for regular programs? I can find nothing in either SB 2 or the budget law suggesting that the school board's authority to make expenditures is limited to the amounts shown in the budget form, provided that the board does not over expend the bottom line.

Since we are talking about salary increases, rather than salaries for positions not previously filled, you already have money in the appropriate lines of the MS-27 and the MS-DS, from which the salaries for the people in question are being paid. Since you have money in the function lines from which the salaries will be paid, you can also pay for salary increases out of those lines without violating the budget law. That also means that money may be transferred into those lines from other lines, if needed, to pay the salary increases.

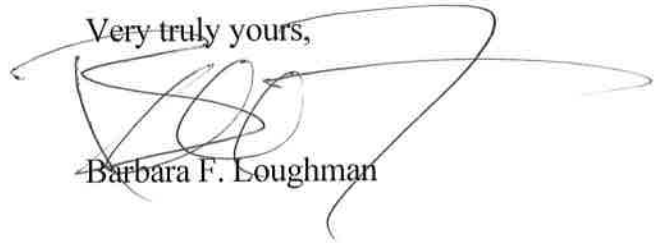
Does this mean the School Board will be amending the default budget?

Transferring money between lines of the budget does not mean that the school board is amending the default budget as that term is used in RSA 40:13, XI. RSA 40:13, XI (a) addresses how the default budget is prepared, not how it is expended. It tells us that in order to calculate the default budget, you start with the appropriations contained in the previous year's operating budget and make adjustments to arrive at the default amount. In my opinion, the statute is limited to describing how the default budget is calculated and does not address how the money will be spent.

RSA 40:13, XI (b) provides that the amount of the default budget may not be amended by vote of the district meeting, but may be adjusted by the school board "acting on relevant new information" any time before the ballots are printed. RSA 40:13, XI (b) has nothing to do with decisions made about expenditures. Instead, RSA 40:13, XI (b) deals with events that occur before the vote at the annual school district meeting. It allows the school board to adjust the default budget, if the school board gets new information, between the time it has prepared and posted the default budget and the date of official ballot voting. Both sections of the statute concern themselves only with preparation of the default budget and adjustments that may be made, up to the time that the ballots are printed.

Please let me know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Barbara F. Loughman', written over the typed name. The signature is stylized with loops and a long horizontal flourish extending to the right.

Barbara F. Loughman

BFL/rc