



Municipal Financing

“Appropriating” is not “Spending.”

- “Appropriate” means to set apart from the public revenue money for a specific purpose and authorize expenditure for that purpose. RSA 32:3, I.
- Appropriating is the underlying authority to spend. Without authority, money shall not be spent. RSA 32:8.

Appropriations are Legislative Acts.

- Appropriations can only be made by a vote of the legislative body. RSA 32:6.
- Appropriations can only be voted on at a properly noticed annual or special meeting. RSA 32:6.

No spending without Appropriating.

- No municipality shall spend money, or incur any liability to spend money, for any purpose in excess of the amount appropriated, or for any purpose for which no appropriation has been made. RSA 32:8.
- There are very limited exceptions under RSA 32:9 through 11.

Exceptions

Judgments: RSA 32:9

- Money may be spent without an appropriation to pay a legal judgment.

Transfer of Appropriations: RSA 32:10

- If necessary, a municipality may transfer to an appropriation already in the budget, unexpended funds from another appropriation.
- The total expenditure shall not exceed the total amount appropriated at town meeting.
- Appropriations made under a special warrant article shall not be transferred.

Emergencies: RSA 32:11

- Must hold a public hearing AND seek permission of the Commissioner of the Department of Revenue Administration.

Unanticipated Revenue RSA 31:95-b

- Requires prior local adoption of provision to expend unanticipated revenue.
- Receipt of \$5,000 or more requires a prior public hearing.
- Receipt of less than \$5,000 requires notice and shall be received only at a public select board meeting.
- Shall not require the expenditure of town funds for acceptance. (No matching grants)

Bonds

- Requires a 2/3 supermajority vote for traditional town meeting and a 3/5 vote for SB 2 towns. RSA 33:8.

Relevant Statutes

32:3 Definitions. – In this chapter:

I. "'Appropriate" means to set apart from the public revenue of a municipality a certain sum for a specified purpose and to authorize the expenditure of that sum for that purpose.

II. "'Appropriation" means an amount of money appropriated for a specified purpose by the legislative body.

(Paragraphs III through VI omitted)

32:6 Appropriations Only at Annual or Special Meeting. – All appropriations in municipalities subject to this chapter shall be made by vote of the legislative body of the municipality at an annual or special meeting. No such meeting shall appropriate any money for any purpose unless that purpose appears in the budget or in a special warrant article, provided, however, that the legislative body may vote to appropriate more than, or less than, the amount recommended for such purpose in the budget or warrant, except as provided in RSA 32:18, unless the municipality has voted to override the 10 percent limitation as provided in RSA 32:18-a.

32:8 Limitation on Expenditures. – 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.

32:9 Exception. – Money may be spent to pay a judgment against the town or district, without an appropriation.

32:10 Transfer of Appropriations. –

I. If changes arise during the year following the annual meeting that make it necessary to expend more than the amount appropriated for a specific purpose, the governing body may transfer to that appropriation an unexpended balance remaining in some other appropriation, provided, however, that:

(a) The total amount spent shall not exceed the total amount appropriated at the town or district meeting.

(b) Records shall be kept by the governing body, such that the budget committee, if any, or any citizen requesting such records pursuant to RSA 91-A:4, may ascertain the purposes of appropriations to which, and from which, amounts have been transferred; provided, however, that neither the budget committee nor other citizens shall have any authority to dispute or challenge the discretion of the governing body in making such transfers.

(c) A statement comparing all legislative body appropriations against all expenditures shall be deemed adequate for purposes of the records required by subparagraph (b), so long as every expenditure has been properly authorized and properly classified and entered and any expenditures exceeding the original legislative appropriations are offset by unexpended balances remaining in other appropriations, in

which case the governing body shall not be required to designate the specific source of each transfer.

(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.

(e) The town or district meeting may vote separately on individual purposes of appropriation contained within any warrant article or budget, but such a separate vote shall not affect the governing body's legal authority to transfer appropriations, provided, however, that if the meeting deletes a purpose, or reduces the amount appropriated for that purpose to zero or does not approve an appropriation contained in a separate article, that purpose or article shall be deemed one for which no appropriation is made, and no amount shall be transferred to or expended for such purpose.

II. As used in RSA 32:10, I(a)-(d), concerning transfers of appropriations and records thereof, ""purpose" refers, in addition to its meaning in RSA 32:3, V, to individual line items in whatever detailed budget or chart of accounts is regularly used by the municipality. The general wording of a vote adopting a budget or portion of a budget shall not be considered a ""purpose" to which an amount may be transferred. The definition of ""purpose" as used in RSA 32:10, I(e) shall be the definition of ""purpose" under RSA 32:3, V.

32:11 Emergency Expenditures and Overexpenditures. – When an unusual circumstance arises during the year which makes it necessary to expend money in excess of an appropriation which may result in an overexpenditure of the total amount appropriated for all purposes at the meeting or when no appropriation has been made, the selectmen or village district commissioners, upon application to the commissioner of revenue administration or the school board upon application to the commissioner of education, may be given authority to make such expenditure, provided that:

I. Such application shall be made prior to the making of such expenditure. No such authority shall be granted until a majority of the budget committee, if any, has approved the application in writing. If there is no budget committee, the governing body shall hold a public hearing on the request, with notice as provided in RSA 91-A:2.

II. The commissioner of revenue administration or the commissioner of education may accept and approve an application after an expenditure if caused by a sudden or unexpected emergency, in which case paragraph I shall not apply.

III. Neither the commissioner of revenue administration nor the commissioner of education shall approve such an expenditure unless the governing body designates the source of revenue to be used. Neither commissioner shall have the authority to increase the town or district's tax rate in order to fund such an expenditure.

IV. When applying to the commissioner of education for such authority, the school board shall send a copy of such application to the department of revenue administration. The commissioner of education, when granting authority to the school board, shall notify, in writing, the commissioner of revenue administration of any and all authorizations given to school boards for emergency expenditures or overexpenditures, and the revenue source for funding such expenditures.

31:95-b Appropriation for Funds Made Available During Year. –

I. Notwithstanding any other provision of law, any town or village district at an annual meeting may adopt an article authorizing, indefinitely until specific rescission of such authority,

the board of selectmen or board of commissioners to apply for, accept and expend, without further action by the town or village district meeting, unanticipated money from the state, federal or other governmental unit or a private source which becomes available during the fiscal year.

The following shall apply:

(a) Such warrant article to be voted on shall read: ""Shall the town (or village district) 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?"

(b) If a majority of voters voting on the question vote in the affirmative, the proposed warrant article shall be in effect in accordance with the terms of the article until such time as the town or village district meeting votes to rescind its vote.

II. Such money shall be used only for legal purposes for which a town or village district may appropriate money.

III. (a) For unanticipated moneys in the amount of \$5,000 or more, the selectmen or board of commissioners shall hold a prior public hearing on the action to be taken. Notice of the time, place, and subject of such hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the hearing is held.

(b) The board of selectmen may establish the amount of unanticipated funds required for notice under this subparagraph, provided such amount is less than \$5,000. For unanticipated moneys in an amount less than \$5,000, the board of selectmen shall post notice of the funds in the agenda and shall include notice in the minutes of the board of selectmen meeting in which such moneys are discussed. The acceptance of unanticipated moneys under this subparagraph shall be made in public session of any regular board of selectmen meeting.

IV. Action to be taken under this section shall:

(a) Not require the expenditure of other town or village district funds except those funds lawfully appropriated for the same purpose; and

(b) Be exempt from all provisions of RSA 32 relative to limitation and expenditure of town or village district moneys.