

# Unassigned Fund Balance

**Presented by:**

**Keriann Roman, Esq.**

**Steven Whitley, Esq.**

**Thursday, November 4, 2021**

**North Conway, NH**

*A Presentation for:*



**New Hampshire  
Government Finance  
Officer's Association**

[NHGFOA.org](http://NHGFOA.org)

# What is it?

- “Unencumbered surplus” = funds “available for any purpose” and “reported only in the general fund”<sup>[1]</sup>
- Previously known as the “unreserved undesignated fund balance”<sup>[2]</sup>
- Not in its own “fund”

1 NH DRA Municipal Bureau – Municipal Matters, 3/19/2019  
GASB Statement No. 54; NHMA, Fund Balance: New and Improved (S. Gauthier, March 2010)

# Ways to Use Unassigned Fund Balance

## 1. Apply to Warrant Article Appropriations

- To fund Capital Reserve Funds (towns)
  - By Warrant Article. RSA 35:5
  - One of the initial purposes of the CRF statute “was to enable municipalities to use surplus money [and annual appropriations] for specific capital improvements at a future date.”<sup>[3]</sup>
  - Process. RSA 35:11
    - Within 10 days of legislative vote, Town Clerk must forward to Select Board and Town Treasurer certified copy of the vote
    - Select Board shall draw an order on the treasurer
    - Upon receipt, treasurer shall immediately transfer the amount on the order to the Trustees of the Trust Funds
    - Optional Fiscal Year Municipalities: “Within 10 days of determination of surplus following close of the fiscal year”

<sup>3</sup> *Duncan v. Town of Jaffrey*, 98 N.H. 305, 306 (1953)

# Ways to Use Unassigned Fund Balance (Cont'd)

- Capital Reserve Funds (cities)
  - Public Hearing with notice under RSA 34:2
  - $\frac{3}{4}$  vote of City Council members
  - not more than  $\frac{1}{2}$  of the unencumbered surplus
  - not more than 0.25% of the last assessed valuation of the city. RSA 34:4.
  - Process. RSA 34:7
    - City Clerk shall immediately forward to treasurer a certified copy of Council vote
    - Upon receipt, treasurer shall immediately transfer the amount to the trustees of trust funds

# Ways to Use Unassigned Fund Balance(Cont'd)

- Towns - Contingency Fund - RSA 31:98-a
  - Separate Warrant Article
  - “to meet the cost of unanticipated expenses that may arise during the year”
  - Amount in the fund “shall not exceed 1% of the amount appropriated by the town for town purposes during the preceding year excluding capital expenditures and the amortization of debt”
  - Create a “detailed report of all expenditures from the contingency fund” and include with the Annual Report
- School Contingency Funds – RSA 198:4-b
  - Separate Warrant Article
  - Or, Annual Meeting can vote to authorize indefinitely until rescinded, permitting the district to retain unassigned fund balance up to 5% of the current fiscal year net assessment

# Ways to Use Unassigned Fund Balance (Cont'd)

## 2. To lower the Tax Rate - by the Governing Body

- Estimate impact on tax rate:
  - Net valuation
  - Drop last 3 digits – applying this amount of fund balance reduces tax rate by \$1.00
  - Applying ½ this amount reduces the tax rate by \$0.50
- Pay attention to what is used each year and how it affects the tax rate – want to aim for a stable tax rate over a fluctuating tax rate
  - Have a plan for replenishment of the unassigned fund balance

# Ways to Use Unassigned Fund Balance (Cont'd)

## 3. Retain it

- Available for emergency, un-approved expenditure or over expenditure, upon application to DRA under RSA 32:11
- Helps credit rating

## 4. When should it be used?

Generally, “it’s only **when there are more funds than necessary** that the unassigned fund balance should be reduced through either assigning expenditures to it or reducing the tax rate.” NHMA, “What is Unassigned Fund Balance”

# What does not go into the Unassigned Fund Balance

- Surplus from Special Revenue Funds, RSA 31:95-c (towns), RSA 47:1-b (cities)
  - Unless SRF is rescinded by vote of legislative body – “shall become part of the general fund accumulated surplus” RSA 31:95, IV(b).
- Accumulated money in Revolving Funds. RSA 31:95-h, II.
- Surplus from special assessment fund. RSA 52-A:11
  - But can be voted into a CRF
- Surplus in a Recreation Revolving Fund. RSA 35-B:2, II.
  - Unless rescinded by vote of legislative body.



# How Much Should be Kept in the Unassigned Fund Balance?

- NH GFOA Guidelines:
  - “5% to 15% of regular general fund operating revenues” or
  - “8% to 17% of regular general fund operating expenditures”
- GFOA Guideline<sup>[4]</sup>:
  - “no less than two months of regular general fund operating revenues” or
  - Two months of regular general fund “operating expenditures”
  - Review period – once a year with report to Selectmen/Council on any revisions needed
  - Adopted in public meeting by vote of the Selectmen/Council

4 GFOA (2011), Best Practice: Replenishing General Fund Balance

# Creating a Fund Balance Policy

Policy should include:

- 1. Purpose and Scope** – to maintain adequate fund balances
- 2. Definitions** – each type of fund per GASB 54
- 3. Spending Prioritization/Guidelines** – how fund balance will be used, range of fund balance/minimum level of unassigned fund balance
- 4. Review period** – at least annual with recommendations for any revisions

-- Adopted by the Governing Body in a Public Meeting --

# Special Considerations

- Emergency Expenditure or Overexpenditure – RSA 32:11
  - Requirements:
    - “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”
- Approval by Budget Committee in writing
  - If no Budget Committee, governing body must hold public hearing with RSA 91-A:2 notice

# Special Considerations (Cont'd)

- Application prior to Expenditure
  - Select Board applies to DRA in advance for approval
  - School Board applies to Commissioner of Education
  - Application may be made *after* expenditure if “caused by sudden or unexpected emergency”
- Designated Source of Revenue
  - Cannot increase tax rate
  - Unassigned fund balance can be used

# Questions?



# Thank You!



**Keriann Roman, Esq.**  
603.716.2895  
kroman@dwmlaw.com



**Steven Whitley, Esq.**  
603.716.2895  
swhitley@dwmlaw.com