

SOULE, LESLIE, KIDDER, SAYWARD & LOUGHMAN

P.L.L.C. -- ATTORNEYS AT LAW

Lewis Soule (1924-1986)
Bradley F. Kidder (1939-2000)

220 MAIN STREET
SALEM, NEW HAMPSHIRE 03079

Peter H. Bronstein
David W. Sayward
Barbara F. Loughman
Michael S. Elwell
Gordon B. Graham
Diane M. Gorrow

TELEPHONE: (603) 898-9776
FAX: (603) 898-3418
FAX: (603) 893-7678

16 Depot Street
P.O. Box 908
Wolfeboro, N.H. 03894
TEL: (603) 569-8044
FAX: (603) 569-2137

Peter C. Phillips
Maureen L. Pomeroy
Robert P. Leslie, Of Counsel

June 23, 2014

VIA EMAIL

George Stokinger, Business Administrator
SAU #55
30 Greenough Road
Plaistow, NH 03865-2762

Re: Timberlane School District/Unanticipated Revenue

Dear George:

This letter is a follow-up to our conversation today regarding the Timberlane School District's receipt of approximately \$855,000 in net funds as a refund for the over-expenditure of health insurance premiums the District paid on behalf of employees. As I understand it, a question has been raised about whether the District was required to hold a public hearing before receiving the refund. As I told you on the phone, the answer is no, unless the District plans on expending a portion of the unanticipated revenue.

Under RSA 198:20-b, the District has the ability to appropriate and expend money over the bottom line of its budget if the funds received were unanticipated and received during the course of the school year. If the amount of money received from grants or other sources exceeds \$5000, the School District must schedule and hold a public hearing prior to the expenditure of the money. The expenditure of the money also cannot require expenditure of other District funds except those lawfully appropriated for the same purpose. The expenditure is also exempt from all provisions of RSA 32 relative to the limitation and expenditure of school district monies.

There is no law, however, that requires the District to hold a public hearing prior to receiving excess or unanticipated revenue if it does not anticipate expending that revenue. In the case where unanticipated revenue is to lapse to surplus at the end of the fiscal year, no hearing is needed. Under RSA 198:20-b it is only when the District intends to accept and **expend** revenue received that the District is required to hold a public hearing.

George Stokinger, Business Administrator
June 23, 2014
Page 2 of 2

If you have questions, please call.

Best wishes,

A handwritten signature in black ink, appearing to read 'G. B. Graham', written in a cursive style.

Gordon B. Graham

GBG/tl

TITLE XV EDUCATION

**CHAPTER 198
SCHOOL MONEY**

Miscellaneous Provisions

Section 198:20-b

198:20-b Appropriation for Unanticipated Funds Made Available During Year. -

I. Notwithstanding any other provision of law to the contrary, any school district at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the school board to apply for, accept and expend, without further action by the school district, unanticipated money from a 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 school district accept the provisions of RSA 198:20-b providing that any school district at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the school board to apply for, accept and expend, without further action by the school district, 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 school district votes to rescind its vote.

II. Such money shall be used only for legal purposes for which a school district may appropriate money. No funds disbursed from the education trust fund pursuant to RSA 198:42 shall, under any circumstances, emergency or otherwise, be deemed to be unanticipated money under the provisions of this section.

III. (a) For unanticipated funds in the amount of \$5,000 or more, the school board 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 meeting is held.

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

be made in public session of any regular school board meeting.

IV. Action to be taken under this section shall:

(a) Not require the expenditure of other school 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 school district moneys.

Source. 1981, 167:1. 1991, 329:1. 1993, 176:12, 13. 2000, 201:1. 2005, 188:1, eff. Aug. 29, 2005.