

HIGHWAY FUNDS

A LEGAL AND FINANCIAL PERSPECTIVE

One question frequently asked of VLCT legal staff is whether towns can use unexpended highway funds for other purposes. VLCT's belief is that the law mandates that surplus highway funds be rolled over into the next year's budget (whereas unexpended monies in the general fund cannot be spent until the voters reapprove such spending). 19 V.S.A. § 312.

HIGHWAY FUND BALANCE

Essentially, highway funds are a reserved fund that can only be expended for highway purposes, and must be rolled over into the following year's budget. Therefore, a good practice would be to keep these accounts separate, because from an accounting perspective, they must be separated at the end of the year anyway. This can be done in accordance with generally accepted accounting principles (GAAP) without maintaining separate bank accounts or even separate funds.

Keep in mind that our advice to keep the highway funds separate is not based on whether the town has voted the highway funds as a separate article. Instead, it is based on our belief that because the law requires the funds to be treated in different ways, a good accounting practice would be to account for and report the transactions in such a way that the fund balance for highway funds is clear and properly disclosed.

HIGHWAY FUND TAXES

Page 12, paragraph 3 of VLCT's *Handbook for Municipal Treasurers* was taken directly from state law: "The treasurer shall keep a record showing the amount of taxes voted for the support of highways, schools, special departments, if any, and for general town purposes . . ." 24 V.S.A. § 1574. This is what the law states that treasurers shall do, and VLCT feels strongly that treasurers should follow this state mandate.

As noted above, VLCT believes Vermont state law as it applies to accounting should be and can be followed by using generally accepted accounting principles (GAAP). These principles are outlined by the Governmental Accounting Standards Board (GASB); compliance with both GAAP and GASB can be achieved by adhering to some of the following accounting guidelines:

1. If you set separate tax rates for the General Fund and the Highway Fund, it would be a good practice, both accounting-wise and politically, to account for the highway revenues and expenditures in a separate fund. This is not to be confused with a separate checking or other bank account. Use GAAP fund accounting procedures to account and report transactions in your accounting records, using a single General Fund checkbook for all fund transactions and making the proper interfund accounting entries to balance the funds. This applies to the options below as well.

2. If you set a single tax rate that includes funding for both General and Highway Funds, you can do one of two things:

- a. Maintain accounting for separate funds, making sure that the tax revenue that corresponds to the highway budget is transferred via an accounting entry

from the General Fund into the Highway Fund. Also be sure that the highway block grant is reported in the Highway Fund.

b. Report the highway transactions in the General Fund, but in such a way that you are able to account for the highway budget and expenditures separately, so that you can report how much was budgeted and expended, as well as how much tax and block grant revenue was received to cover those expenditures, the balance of which should be shown as a reserved-for-highway fund balance in your financial statements.

OVEREXPENDING THE HIGHWAY BUDGET

Another common question asks, “Is there some remedy when a town overspends the highway budget?” There is no “remedy” for overspending the highway budget, but there may be political repercussions. The town has a statutory duty to maintain town highways: the town must keep all class 1, 2, and 3 highways “in good and sufficient repair during all seasons of the year.” 19 V.S.A. § 310 (a).

The point is that the town has a statutory duty to keep the roads in passable condition; therefore, the town must spend any money necessary to do so. If the highway budget is overspent, the town must make that money up, whether it comes from taxes, grants, or donations. It could also be recovered through some type of debt vehicle like a loan. Of course, the selectboard could be voted out of office if the voters don’t think it has done a good job maintaining the roads within a reasonable budget. Some would certainly call that a remedy.

TREASURER HAS SOME LATITUDE

Surpluses or deficits are rolled into your fund balance at yearend and legal compliance depends on your ability to properly disclose the fund balance for highway purposes. At the end of the day, the decision on how many accounts to keep is yours as town treasurer, because the law does not require multiple accounts. You just need to be sure that your records and reporting clearly show a fund balance that is reserved for highway purposes.

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