
Committee Report

REGULAR CALENDAR

February 2, 2017

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Ways and Means to
which was referred HB 569-FN-A,**

**AN ACT requiring the reimbursement of dedicated funds
transferred for other purposes. Having considered the
same, report the same with the following resolution:**

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Arthur Barnes

FOR THE MAJORITY OF THE COMMITTEE

Original: House Clerk

Cc: Committee Bill File

**MAJORITY
COMMITTEE REPORT**

Committee:	Ways and Means
Bill Number:	HB 569-FN-A
Title:	requiring the reimbursement of dedicated funds transferred for other purposes.
Date:	February 2, 2017
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill provides that before surplus funds are deposited in the revenue stabilization account, the funds shall be used to reimburse dedicated funds transferred for other purposes during the previous biennium. The committee feels the body needs the flexibility to direct funds as necessary to meet the financial responsibilities of the state. This bill also runs counter to the principle that one legislative body may not bind a future one.

Vote 12-9.

Rep. Arthur Barnes
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Ways and Means

HB 569-FN-A, requiring the reimbursement of dedicated funds transferred for other purposes.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Arthur Barnes for the **Majority** of Ways and Means. This bill provides that before surplus funds are deposited in the revenue stabilization account, the funds shall be used to reimburse dedicated funds transferred for other purposes during the previous biennium. The committee feels the body needs the flexibility to direct funds as necessary to meet the financial responsibilities of the state. This bill also runs counter to the principle that one legislative body may not bind a future one. **Vote 12-9.**

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Ways and Means

HB 569-FN-A, requiring the reimbursement of dedicated funds transferred for other purposes.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

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A Z Maggi
2/7/2017

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Barnes

COMMITTEE: WAYS + MEANS

BILL NUMBER: 569-FID-A

TITLE: REQUIRING THE REIMBURSEMENT OF

DEDICATED FUNDS TRANSFERRED FOR OTHER PURPOSES

DATE: 2/2/17 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

THIS BILL PROVIDES THAT BEFORE SURPLUS FUNDS
ARE DEPOSITED IN THE REVENUE STABILIZATION
ACCOUNT, THE FUNDS SHALL BE USED TO REIMBURSE
DEDICATED FUNDS TRANSFERRED FOR OTHER PURPOSES
DURING THE PREVIOUS BIENNIUM.

THE COMMITTEE FELT THE BODY NEEDED THE
FLEXIBILITY TO DIRECT FUNDS AS NECESSARY TO
FUND THE FINANCIAL RESPONSIBILITY OF THE STATE.

THIS BILL ALSO RUNS COUNTER TO THE PRINCIPLE
THAT ONE LEGISLATIVE SESSION CAN NOT BIND
A FUTURE ONE.

COMMITTEE VOTE: 12-9

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. ARTHUR BARNES

For the Committee

Arthur Barnes

REGULAR CALENDAR

February 2, 2017

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on Ways and Means to
which was referred HB 569-FN-A,**

**AN ACT requiring the reimbursement of dedicated funds
transferred for other purposes. Having considered the
same, and being unable to agree with the Majority,
report with the recommendation that the bill OUGHT
TO PASS.**

Rep. Susan Almy

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Ways and Means
Bill Number:	HB 569-FN-A
Title:	requiring the reimbursement of dedicated funds transferred for other purposes.
Date:	February 2, 2017
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill is a fiscally responsible way to deal with the consequences of the diversion of dedicated funds to deal with major budget emergencies. It states that, if there had to be a raid of funds in a biennium, in the case that the next biennium ends with a surplus, part or all of that surplus will be used to reimburse those funds before depositing any remainder in the rainy day fund. The minority felt that this was a responsible way to deal with the perennial argument about this issue.

Rep. Susan Almy
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Ways and Means

HB 569-FN-A, requiring the reimbursement of dedicated funds transferred for other purposes.
OUGHT TO PASS.

Rep. Susan Almy for the **Minority** of Ways and Means. This bill is a fiscally responsible way to deal with the consequences of the diversion of dedicated funds to deal with major budget emergencies. It states that, if there had to be a raid of funds in a biennium, in the case that the next biennium ends with a surplus, part or all of that surplus will be used to reimburse those funds before depositing any remainder in the rainy day fund. The minority felt that this was a responsible way to deal with the perennial argument about this issue.

Original: House Clerk

Cc: Committee Bill File

Minority blurb HB569, reimbursement of dedicated funds Rep Almy

This bill is a fiscally responsible way to deal with the consequences of the diversion of dedicated funds to deal with major budget emergencies. It states that, if there had to be a raid of funds in a biennium, in the case that the next biennium ends with a surplus, part or all of that surplus will be used to reimburse those funds before depositing any remainder in the rainy day fund. The minority felt that this was a responsible way to deal with the perennial argument about this issue.

2/6/2017

H. J. Meyer

MINORITY REPORT

Almy

COMMITTEE: _____

BILL NUMBER: 569-FN-1A

TITLE: reimbursing dedicated funds

DATE: 2-2-17 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

This bill is a fiscally responsible way to deal with the consequences of the diversion of dedicated funds to deal with major budget emergencies. It states that, if there had to be a raid of funds in a biennium, in the case that the ^{next} biennium ends with a surplus, part or all of that surplus will be used to reimburse those funds before depositing any remainder in the rainy day fund. The minority felt that this was a responsible way to deal with the perennial argument about this issue.

COMMITTEE VOTE: 12-9

RESPECTFULLY SUBMITTED,

• Copy to Committee Bill File

Rep. Susan W. Almy

For the Minority

Voting Sheets

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 569-FN-A

BILL TITLE: requiring the reimbursement of dedicated funds transferred for other purposes.

DATE: February 2, 2017

LOB ROOM: 202

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Barnes

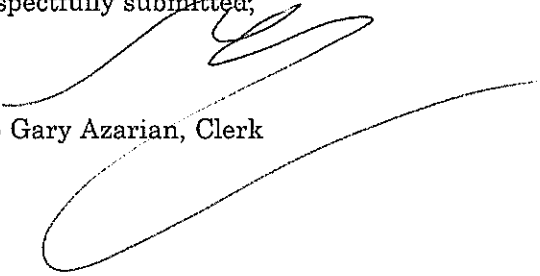
Seconded by Rep. Abear

Vote: 12-9

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep Gary Azarian, Clerk

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 569-FN-A

BILL TITLE: requiring the reimbursement of dedicated funds transferred for other purposes.

DATE: 2-2-17

LOB ROOM: 202

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. Burns Seconded by Rep. Ascar Vote: 12-9

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

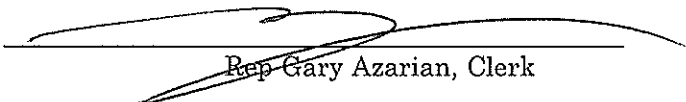
MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: _____ YES NO

Minority Report? Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted:  Rep Gary Azarian, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2017 9:35:22 AM
Roll Call Committee Registers
Report

2017 SESSION

WAYS&MEANS

Bill #: 569 Title: reimburse dental funds
PH Date: 2, 2, 17 Exec Session Date: 2, 2, 17
Motion: ITC Amendment #: _____

MEMBER	YEAS	NAYS
Major, Norman L. Chariman	✓	
Abrami, Patrick F. Vice Chairman	✓	
Griffin, Mary E.	✓	
Ulery, Jordan G.	✓	
Azarian, Gary S. Clerk	✓	
Ober, Russell T.	✓	
Ohm, Bill H.	✓	
Manning, John J.	✓	
Barnes, Arthur E.	✓	
Abear, Marc	✓	
Burns, Charlie	✓	
Lang, Timothy P.	✓	
Almy, Susan W.		✓
Ames, Richard		✓
Henle, Paul J.		✓
Southworth, Thomas L.		✓
Herbert, Christopher J.		✓
Theberge, Robert L.		✓
Malloy, Dennis J.		✓
Martin, Joelle		✓
Tucker, Edith		✓
TOTAL VOTE:		

12-9

Hearing Minutes

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON HB 569-FN-A

BILL TITLE: requiring the reimbursement of dedicated funds transferred for other purposes.

DATE: 1-31-17

ROOM: 202

Time Public Hearing Called to Order: 3:00

Time Adjourned: 3:20

(please circle if present)

Committee Members: Reps. Major, Abrami, M. Griffin, Ulery, R. Ober, Ohm, Manning, Barnes, Abear, Burns, Lang, Almy, Ames, Henle, Southworth, Herbert, Theberge, Malloy, Martin, Tucker and Azarian

Bill Sponsors:

Rep. Shepardson
Rep. Roberts

Rep. Backus
Rep. Danielson

Rep. S. Harvey

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Shepardson Primi

Dave Burde energy committee (support)

Michael Fitzgerald NH OES no posit-

Bill Bider ~~oppose~~ self supporting

Tom Brown reports The Note concerning (no posit-)
support intent
but not legislat

Testimony



The State of New Hampshire
Department of Environmental Services

F. G.



Clark B. Freise, Assistant Commissioner

January 31, 2017

The Honorable Norman Major
Chair, House Ways and Means Committee
Legislative Office Building, Room 202
Concord, New Hampshire 03301

Re: House Bill 569-FN-A, requiring the reimbursement of dedicated funds transferred for other purposes

Dear Chair Major and Members of the Committee:

Thank you for the opportunity to testify on House Bill 569-FN-A. This bill provides that before surplus funds are deposited in the revenue stabilization account, the funds shall be used to reimburse dedicated funds transferred for other purposes during the previous biennium. As appropriations and allocations of revenue are the sole purview of the General Court, the New Hampshire Department of Environmental Services (NHDES) takes no position on this bill.

NHDES has a number of programs funded with dedicated funds, and feels it is important to emphasize the impacts of diverting these funds. For example, state proceeds from Regional Greenhouse Gas Initiative (RGGI) allowance auctions are either rebated to ratepayers or deposited into the Energy Efficiency Fund (EEF) and invested in energy efficiency. Investment in energy efficiency directly benefits *all* New Hampshire citizens and ratepayers by reducing the overall demand for electricity, which in turn reduces additional capital investments in generation, transmission and distribution by electricity providers. In 2010, \$3.1 million in New Hampshire proceeds were transferred to general funds. This means that \$3.1 million that could have been rebated to ratepayers or deposited into the Energy Efficiency Fund (EEF) and invested in energy efficiency was forgone.

Thank you again for the opportunity to comment on HB 569-FN-A. Should you have further questions or need additional information, please feel free to contact either Craig Wright, Director of the Air Resources Division (271-1108, craig.wright@des.nh.gov) or Michael Fitzgerald, Assistant Director of the Air Resources Division (271-6390, michael.fitzgerald@des.nh.gov).

Sincerely,

Clark B. Freise
Assistant Commissioner

cc: Sponsors HB 569-FN-A: Reps. Shepardson, Backus, S. Harvey, Roberts, Danielson

Testimony in Favor of HB 569 31 January 2017

Thank you Chairman and members of the Ways and Means committee.

I am David Borden and representing the New Castle Energy Committee and owner of real estate on the seacoast and Salisbury New Hampshire.

I pay a small fee for the transfer of deeds, which I do not mind because those funds go to LCHIP which helps restore historic structures throughout the state. I also pay the equivalent of two cups of coffee on my electric bill each month some of which goes into the Renewable Energy Fund.

Two years ago former Senators Jeanie Forester and Nancy Stiles wrote in the Union Leader: "Municipalities, businesses and homeowners are all looking to bring energy projects forward to increase sustainability, save money and decrease dependency on imported fossil fuels. Once completed, RPS-funded energy efficiency and energy conservation projects guarantee lower energy costs for towns as well as higher profit margins and increased competitiveness for New Hampshire businesses."

I have run into very few business people who object to the idea of paying to these funds. But they do resent raiding of these funds to support the state budget.

This bill does not prevent the raiding of dedicated funds but it does restore raided funds if a budgetary surplus allows it.

On the reverse side of my testimony is an extraordinary article by the late Martin Gross of New London who was an extraordinary constitutional scholar on the legal ramifications of raiding dedicated funds.

David Borden
New Castle
603 848 0463

Why we can't raid dedicated funds

By Martin Gross Published: June 27, 2015

At the State House, memories can be very short, particularly under the stress of budget making.

Apparently, there is a lesson that needs to be repeated every biennium: The Legislature isn't free to balance budgets by raiding "dedicated funds." Dedicated funds are raised by special fees imposed to support special programs, rather than by general taxation. The Legislature has created quite a few of them, for a variety of purposes.

Two years ago, at budget time, funds raised by special fees for the Land and Community Heritage Investment Program were proposed as the raiding target. Fortunately, by the time the final budget was adopted, the raid had been abandoned and the LCHIP fund was left intact.

This time around, the fund in the crosshairs has been raised from special fees to support renewable energy initiatives under the Renewable Portfolio Standard program. The budget passed by the House would have looted the Renewable Energy Fund, diverting the proceeds to balancing the state's general operating expenses. The Senate version would divert a major portion of the Renewable Energy dollars to support an entirely different and unrelated set of expenses -- disaster and emergency response programs. The House eventually agreed to go along with the Senate.

Worthy as those programs are, they have nothing to do with renewable energy initiatives, and nobody is saying otherwise. The only justification seems to be that there is money in the Renewable Energy Fund that can be raided.

However, the New Hampshire Constitution says otherwise.

Our state Constitution requires that all taxes be "proportional," which the NH Supreme Court has repeatedly said must be based on the value of the class of property being taxed, at a uniform rate. Excise taxes, which are taxes assessed at fixed dollars or cents per taxable item, are generally not permitted in New Hampshire, except for the "road toll" (gas tax), which is authorized by a special constitutional provision.

When it comes to imposing fees like the ones in LCHIP or the renewable energy program, the court has said that "fees" imposed for special programs must be related to a special service of value to those paying the fee, and all proceeds from the fee must be devoted to supporting that service, except for an amount that reasonably reflects the state's cost in administering the special program.

Like LCHIP, the Renewable Energy Fund is raised from special fees, in this case, compliance payments by electricity providers unable to procure adequate supplies of power from renewable energy sources. The expense of making these payments is passed along to electricity ratepayers, which is just about everybody.

These payments can't pass muster as a constitutional "tax," because they are imposed at a flat rate and bear no relation to the value of any property or transaction. Raiding them to support general fund expenditures or purposes unrelated to energy conservation would sever the payments from the special purpose for which they were raised, in effect converting the payments from a permissible flat fee to an impermissible excise tax on the already high cost of energy in New Hampshire.

Once again, the Legislature is overlooking this constitutional limit on their taxing power. There is still time for them to remember the lesson and avoid the litigation.

Martin Gross of New London is senior counsel at Suloway & Hollis

Bill as Introduced

HB 569-FN-A - AS INTRODUCED

2017 SESSION

17-0434
05/10

HOUSE BILL **569-FN-A**

AN ACT requiring the reimbursement of dedicated funds transferred for other purposes.

SPONSORS: Rep. Shepardson, Ches. 10; Rep. Backus, Hills. 19; Rep. S. Harvey, Hills. 29; Rep. Roberts, Hills. 4; Rep. Danielson, Hills. 7.

COMMITTEE: Ways and Means

ANALYSIS

This bill provides that before surplus funds are deposited in the revenue stabilization account, the funds shall be used to reimburse dedicated funds transferred for other purposes during the previous biennium.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT requiring the reimbursement of dedicated funds transferred for other purposes.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Revenue Stabilization Reserve Account; Reimbursement of Dedicated Funds. Amend
2 RSA 9:13-e, II to read as follows:

3 II.(a) There is hereby established within the general fund general ledger a revenue
4 stabilization reserve account. At the close of the fiscal biennium ending June 30, 2001, and at the
5 close of each fiscal biennium thereafter, any surplus, as determined by the official audit performed
6 pursuant to RSA 21-I:8, II(a) *and subject to the limitation in subparagraph (b)*, shall be
7 transferred by the comptroller to a special nonlapsing revenue stabilization reserve account. The
8 comptroller is hereby directed to establish the revenue stabilization reserve account in which to
9 deposit any money received from a general fund operating budget surplus. The state treasurer
10 shall invest funds in this account as authorized by RSA 6:8. The interest so earned shall be
11 deposited as unrestricted general fund revenue.

12 (b) *Prior to deposit in the revenue stabilization reserve account, the surplus*
13 *shall be reduced by the amount necessary to reimburse any dedicated fund or account*
14 *identified in RSA 6:12, I(b) from which, during the previous biennium, funds were*
15 *transferred to the general fund or otherwise used for a purpose not stated in the statutory*
16 *authority for that fund or account. If multiple dedicated funds or accounts are involved,*
17 *the surplus funds shall be divided and dispersed to each in proportion to the amounts*
18 *originally transferred from those funds or accounts, as necessary to make them whole.*
19 *The governor shall direct the comptroller to transfer such sums.*

20 2 Effective Date. This act shall take effect July 1, 2017.

**HB 569-FN-A- FISCAL NOTE
AS INTRODUCED**

AN ACT requiring the reimbursement of dedicated funds transferred for other purposes.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2018	FY 2019	FY 2020	FY 2021
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	\$0	Indeterminable
Expenditures	\$0	\$0	\$0	\$0
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

METHODOLOGY:

This bill provides before surplus funds are deposited in the revenue stabilization reserve account pursuant to RSA 9:13-e, the surplus funds would reimburse any dedicated funds, identified in RSA 6:12, from which funds were transferred in the previous biennium for a purpose other than the statutory purpose of the fund. The Department of Administrative Services indicates this bill would not affect the overall total amount of state revenue, but would shift revenue from unrestricted to restricted. With an effective date of July 1, 2017, the earliest reimbursement of dedicated funds would be at the end of the FY 2018-19 biennium based on transfers out of dedicated funds in the FY 2016-17 biennium. Assuming there is a surplus on June 30, 2019 and based on transfers from dedicated funds as of January 13, 2017, \$4,833,000 would be reimbursed to dedicated funds at the end of FY 2019. (\$2.333 million to the employee and retiree benefit risk management fund, and \$2.5 million to the education credentialing fund.)

The State Treasury indicates recent reports issued by credit rating agencies recommend the State maximize the level of funding statutorily permitted in the revenue stabilization fund and maintain it for several years to generate positive credit ratings for the State. The Treasury also notes the rating agencies are critical of one-time budget balancing measures and State agencies are concerned when statutory constraints are introduced limiting the financial flexibility of policy makers.

AGENCIES CONTACTED:

Department of Administrative Services and the State Treasury