

**CHAPTER 32**  
**HB 297 – FINAL VERSION**

08Jan2014... 2381h

2014 SESSION

13-0556  
08/04

HOUSE BILL            **297**

AN ACT                relative to the management of trust funds and capital reserve funds and pertaining to library trustees.

SPONSORS:            Rep. F. Rice, Rock 21; Rep. Roberts, Ches 4; Rep. Hagan, Rock 4; Rep. Emerick, Rock 21; Sen. Stiles, Dist 24; Sen. Boutin, Dist 16

COMMITTEE:          Municipal and County Government

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AMENDED ANALYSIS

This bill:

- I. Allows municipalities to keep certain trust records in electronic format.
- II. Changes the date by which certain municipal sums shall be transferred.
- III. Allows municipalities to contract for brokerage assistance with town trust funds.
- IV. Allows library trustees to govern investments through application of the prudent investor rule.

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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                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT relative to the management of trust funds and capital reserve funds and pertaining to library trustees.

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

1 32:1 Trust Funds; Records. Amend RSA 31:34 to read as follows:

2 31:34 Records. The trustees shall keep a record of all trusts in a record book *or maintained in*  
3 *electronic format*, which shall be open to the inspection of all persons in their town.

4 32:2 Trust Funds; Reports. Amend RSA 31:38 to read as follows:

5 31:38 Reports. A copy of the reports required of the town and city trustees and of the auditor  
6 thereof shall be filed annually with the attorney general, *the department of revenue*  
7 *administration, and with the governing body of the town or city.*

8 32:3 Appropriation. Amend RSA 35:12 to read as follows:

9 35:12 Appropriation. Whenever the vote of the town is to appropriate any sum for the capital  
10 reserve fund, the same duties shall devolve upon the town clerk, selectmen, and town treasurer, as  
11 specified in RSA 35:11, except that the order must be drawn, and the sum transferred on or before  
12 December [~~31~~] **15** following the vote, or, in the case of an optional fiscal year town, after July 1, but  
13 no later than June [~~30~~] **15**, of the fiscal year for which the sum was appropriated.

14 32:4 New Section; Professional Banking or Brokerage Assistance. Amend RSA 34 by inserting  
15 after section 15 the following new section:

16 34:16 Professional Banking or Brokerage Assistance.

17 I. Any trustee or trustees of trust funds having custody of capital reserve funds authorized  
18 by this chapter may contract with the trust department or departments of a bank, a brokerage firm,  
19 a portfolio management department, or investment advisor in the same manner and for the same  
20 purposes as described in RSA 31:38-a, III. They may also place securities in the nominee name of a  
21 trust department or departments of a bank a brokerage firm, a portfolio management department, or  
22 investment advisor to facilitate transfers for such securities. Capital reserve fund records  
23 maintained by any bank, brokerage firm, portfolio management department, or investment advisor  
24 shall be available at all times for examination by local auditors, by independent accountants or  
25 auditors retained by a municipality, or by the auditors of the department of revenue administration;  
26 and such records shall be municipal records and property. In employing such trust departments of  
27 banks, brokerage firms, portfolio management departments, or investment advisors, the trustees  
28 may enter into contracts or agreements delegating the management of such capital reserve funds to  
29 those departments or brokerage firms subject to investment guidelines adopted by the trustees

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1 under applicable statutes and subject to at least quarterly review and approval of such management  
2 by the trustees. For purposes of this section, the terms “bank,” “brokerage firm,” “portfolio  
3 management department,” and “investment advisor” shall have the definitions set forth in RSA  
4 31:38-a.

5 II. The governing body may authorize the trustees of trust funds to charge any expenses  
6 incurred pursuant to paragraph I against the capital reserve funds involved, and such authority  
7 shall remain in effect until rescinded by the governing body. No vote by the governing body to  
8 rescind such authority shall occur within 5 years of the original adoption of such article. Any  
9 professional banking and brokerage fees incurred shall be reported in the annual report of the  
10 trustees of trust funds as expenditures out of capital reserve funds.

11 32:5 New Section; Professional Banking or Brokerage Assistance. Amend RSA 35 by inserting  
12 after section 9 the following new section:

13 35:9-a Professional Banking or Brokerage Assistance.

14 I. Any trustee or trustees of trust funds having custody of capital reserve funds authorized  
15 by this chapter may contract with the trust department or departments of a bank, a brokerage firm,  
16 a portfolio management department, or investment advisor in the same manner and for the same  
17 purposes as described in RSA 31:38-a, III. They may also place securities in the nominee name of a  
18 trust department of a bank, or departments, a brokerage firm, a portfolio management department,  
19 or investment advisor, to facilitate transfers for such securities. Capital reserve fund records  
20 maintained by any bank, brokerage firm, portfolio management department, or investment advisor  
21 shall be available at all times for examination by local auditors, by independent accountants or  
22 auditors retained by a municipality, or by the auditors of the department of revenue administration;  
23 and such records shall be municipal records and property. In employing such trust departments of  
24 banks, brokerage firms, portfolio management departments, or investment advisor, the trustees may  
25 enter into contracts or agreements delegating the management of such capital reserve funds to those  
26 departments or brokerage firms subject to investment guidelines adopted by the trustees under  
27 applicable statutes and subject to at least quarterly review and approval of such management by the  
28 trustees. For purposes of this section, the terms “bank,” “brokerage firm,” “portfolio management  
29 department” and “investment advisor” shall have the definitions set forth in RSA 31:38-a.

30 II. The town meeting may adopt an article authorizing the trustees of trust funds, without  
31 further action of the town meeting, to charge any expenses incurred pursuant to paragraph I against  
32 the capital reserve funds involved. Such authority shall remain in effect until rescinded by a vote of  
33 the town meeting. No vote by the town to rescind such authority shall occur within 5 years of the  
34 original adoption of such article. In a town that has a town council, such authority may be granted  
35 by the town council and shall remain in effect until rescinded by the town council. No vote by the  
36 town council to rescind such authority shall occur within 5 years of the original adoption of such

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1 article. Any professional banking and brokerage fees incurred shall be reported in the annual report  
2 of the trustees of trust funds as expenditures out of capital reserve funds.

3 32:6 Library Trustees; Exceptions. Amend RSA 202-A:23 to read as follows:

4 202-A:23 Exceptions. Nothing in this chapter shall preclude the library trustees from accepting,  
5 receiving, investing, and administering directly any trust funds and donations when so specified by  
6 the donor. Library trustees administering and investing such special funds shall be governed by the  
7 provisions of RSA 31:25, ***RSA 31:25-d***, and RSA 41:6.

8 32:7 Effective Date. This act shall take effect 60 days after its passage.

9 Approved: May 27, 2014

10 Effective Date: July 26, 2014