CONSENT CALENDAR

March 7, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Education to which was referred HB 550-FN,

AN ACT relative to chartered public school dissolution.

Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Rick Ladd

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Education**
Bill Number:	**HB 550-FN**
Title:	**relative to chartered public school dissolution.**
Date:	**March 7, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS WITH AMENDMENT 2023-0624h**

STATEMENT OF INTENT

Amending language replaces the entire bill. The bill, as amended, establishes a committee to study the chartered public school dissolution process if the closure of a chartered public school is required in order to ensure an orderly school closure that supports students, avoids insolvency, and reduces liability to the school and state. Chartered school assets may consist not only of assets received from the state, but also assets that may have been received from private, charitable resources. In general, when a charitable organization dissolves, its unrestricted charitable assets must be distributed in accordance with the dissolution clause in the organization's articles of agreement. This situation must be considered if a chartered school is faced with closure. Among other concerns, the committee is further tasked to study and present recommendations regarding matters of financial liability to the state, school districts, employees, boards, and parents as well as other non-financial issues related to the placement of student records and retention of student records.

Vote 18-2.

Rep. Rick Ladd
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Education

HB 550-FN, relative to chartered public school dissolution. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Rick Ladd for Education. Amending language replaces the entire bill. The bill, as amended, establishes a committee to study the chartered public school dissolution process if the closure of a chartered public school is required in order to ensure an orderly school closure that supports students, avoids insolvency, and reduces liability to the school and state. Chartered school assets may consist not only of assets received from the state, but also assets that may have been received from private, charitable resources. In general, when a charitable organization dissolves, its unrestricted charitable assets must be distributed in accordance with the dissolution clause in the organization's articles of agreement. This situation must be considered if a chartered school is faced with closure. Among other concerns, the committee is further tasked to study and present recommendations regarding matters of financial liability to the state, school districts, employees, boards, and parents as well as other non-financial issues related to the placement of student records and retention of student records. **Vote 18-2.**

Original: House Clerk
Cc: Committee Bill File

Rep. Luneau, Merr. 9
Rep. Fellows, Graf. 8
February 21, 2023
2023-0624h
10/07

Amendment to HB 550-FN

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study chartered public school dissolution.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Chartered Public School Dissolution. There is established a committee to study the current chartered public school dissolution process and identify ways to ensure an orderly school closure that will support students, avoid insolvency, and reduce liability to the school and the state.

I. The members of the committee shall be as follows:

(a) Four members of the house of representatives, at least 2 of whom are from the education committee, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

II.(a) The committee shall seek the expertise and advice from:

(1) A financial administrator (employee or contractor), preferably a CPA, for a charter school, nominated by the commissioner of education.

(2) The administrator of the department of education's chartered public school office.

(3) A representative of the charitable trust unit of the department of justice.

(4) The commissioner of the department of administrative services, or designee.

(5) Any other person or entity relevant to the duty of the committee.

(b) Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study the following issues related to the operation of chartered public schools, which are recognized by the state as both private non-profit organizations and public schools:

(a) Existing federal and state statues and rules related to financial and risk management, and dissolution including the disposal of property, inventory and monetary assets.

(b) Identification of all state agencies that do, or should, have responsibilities related to the monitoring of financial status and practices, maintenance of fiscal solvency, and the dissolution process.

(c) Financial liability of the state, school districts, and the employees, boards, parents and volunteers of chartered schools.

(d) Current practices and best practices for schools and state agencies, related to maintenance of financial stability, risk management, and the dissolution process of chartered schools.

(e) Non-financial issues related to dissolution including, but not limited to, notification of closure, placement of students and retention of academic records.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the chairs of the education committees in both the house of representatives and senate, the house clerk, the senate clerk, the governor, and the state library on or before December 15, 2023.

2 Effective Date. This act shall take effect upon its passage.

2023-0624h

AMENDED ANALYSIS

The bill establishes a committee to study the chartered public school dissolution process.

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 550-FN

BILL TITLE: relative to chartered public school dissolution.

DATE: March 7, 2023

LOB ROOM: 207

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Luneau	Seconded by Rep. Myler	AM Vote: 19-1

Amendment # 2023-0624h

Moved by Rep. Ladd	Seconded by Rep. Luneau	Vote: 18-2

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Margaret Drye, Acting Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on Bill # HB 550

BILL TITLE: ... charter school dissolution

DATE: 3/7/23

LOB ROOM: 205-207

MOTION: (Please check one box)

☒ OTP ☐ ITL ☐ Retain (1st year) ☒ Adoption of Amendment # 0624h *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. Luneau Seconded by Rep. Myler Vote: 19-1

MOTION: (Please check one box)

☐ OTP ☒ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. Ladd Seconded by Rep. Luneau Vote: 18-2

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 Margaret M Drye

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/6/2023 12:35:36 PM
Roll Call Committee Registers Report

2023 SESSION

Education

Bill #: HB550 Motion: OTP/A AM #: _____ Exec Session Date: 3/7/23

Members	YEAS	Nays	NV
Ladd, Rick M. Chairman	18		
Cordelli, Glenn Vice Chairman		1	
Lekas, Alicia D.	1		
Ford, Oliver J. Clerk	2		
Belcher, Mike S.		2	
Drye, Margaret M.	3		
McDonnell, Valerie E.	4		
Noble, Kristin	5		
Peternel, Katy	6		
~~Quaratiello, Arlene~~ Tenczar	7		
Myler, Mel	8		
Cornell, Patricia	9		
Tanner, Linda L.	10		
Luneau, David J.	11		
Ellison, Arthur S.	12		
Woodcock, Stephen L.	13		
~~Hall, Muriel C.~~ Preece	14		
Balboni, Peggy	15		
S Cascadden, Corinne E.	16		
Damon, Hope	17		
TOTAL VOTE:			

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/6/2023 12:35:36 PM
Roll Call Committee Registers Report

2023 SESSION

Education

Bill #: HB 550 **Motion:** OTP **AM #:** 0624h **Exec Session Date:** 3/7/23

Members	YEAS	Nays	NV
Ladd, Rick M. Chairman	19		
Cordelli, Glenn Vice Chairman		1	
Lekas, Alicia D.	1		
Ford, Oliver J. Clerk	2		
Belcher, Mike S.	3		
Drye, Margaret M.	4		
McDonnell, Valerie E.	5		
Noble, Kristin	6		
Peternel, Katy	7		
~~Quaratiello, Arlene~~ Tenczar	8		
Myler, Mel	9		
Cornell, Patricia	10		
Tanner, Linda L.	11		
Luneau, David J.	12		
Ellison, Arthur S.	13		
Woodcock, Stephen L.	14		
~~Hall, Muriel~~ C. Preece	15		
Balboni, Peggy	16		
S Cascadden, Corinne E.	17		
Damon, Hope	18		
TOTAL VOTE:			

Rep. Luneau, Merr. 9
Rep. Fellows, Graf. 8
February 21, 2023
2023-0624h
10/07

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(4) The commissioner of the department of administrative services, or designee.

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2023-0624h

AMENDED ANALYSIS

The bill establishes a committee to study the chartered public school dissolution process.

AMENDED

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 550-FN

BILL TITLE: **relative to chartered public school dissolution.**

DATE: **February 13, 2023**

LOB ROOM: **205-207** **Time Public Hearing Called to Order:** **10:00 am**

Time Adjourned: **10:42 am**

Committee Members: Reps. Ladd, O. Ford, Belcher, Drye, Myler, Tanner, Luneau, Ellison, Woodcock, Hall, Balboni, Cascadden and Damon

Bill Sponsors:
Rep. Fellows **Rep. Heath** **Rep. Tanner**

TESTIMONY

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

***Rep. Fellows - Prime Sponsor**
- Sponsor asks that only Section 2 be considered part of the bill (delete lines 1-16) because Charter Schools are both public schools and 501(c)3 organizations, a dissolution process is complicated.
- Therefore, the Sponsor proposes a study committee and offered possible committee make-up and advisors.

***Diane Quinlau - Director of Charitable Trusts - DOJ**
- No position
- Offered background information
- Submitted written testimony

Respectfully submitted,

Rep. Margaret Drye Clerk

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB550-FN Date: 2/13/23

Committee: EDUCATION

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Rep Sallie Fellows				X	

House Remote Testify

Education Committee Testify List for Bill HB550 on 2023-02-13

Support: 50 Oppose: 7 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Anastasia, Patricia	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2023 12:48 PM
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/9/2023 10:19 PM
Caton, Mark	Merrimack, NH markcaton55@outlook.com	A Member of the Public	Myself	Oppose	No	No	2/10/2023 11:31 AM
RHOADES, CHARLES	Dover, NH chuckrhoades@comcast.net	A Member of the Public	Myself	Support	No	No	2/11/2023 1:42 PM
Davis, Tod	Nashua, NH todc.18@gmail.com	A Member of the Public	Myself	Support	No	No	2/12/2023 5:03 AM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Oppose	No	No	2/12/2023 5:21 PM
Moccia, Lianne	Lebanon, NH lianne.moccia@gmail.com	A Member of the Public	Myself	Support	No	No	2/12/2023 7:22 PM
Keegan, John	BOscawen, NH peoresnada@tds.net	A Member of the Public	Myself	Support	No	No	2/12/2023 10:07 PM
Coon, Katharine	Peterborough, NH kate2coon@gmail.com	A Member of the Public	Myself	Support	No	No	2/12/2023 10:13 PM
Cote, Lois	Manchester, NH, NH lcote06@outlook.com	A Member of the Public	Myself	Support	No	No	2/12/2023 10:19 PM
Cevasco, Karin	Milford, NH Karin.cevasco@gmail.com	A Member of the Public	Myself	Support	No	No	2/12/2023 10:22 PM
Clifford, Virginia	Candia, NH vstmartin@comcast.net	A Member of the Public	Myself	Support	No	No	2/12/2023 10:34 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Support	No	No	2/12/2023 10:39 PM

ellermann, maureen	concord, NH ellermannf@aol.com	A Member of the Public	Myself	Support	No	No	2/13/2023 6:35 AM
Bartlett, Christy	Concord, NH peter.christybartlett@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 7:30 AM
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 7:57 AM
Brennan, Arthur	Weare, NH arete201314@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 8:02 AM
Brennan, Jane	Weare, NH janelb@gsinet.net	A Member of the Public	Myself	Support	No	No	2/13/2023 8:06 AM
Taylor, David	Plainfield, NH dstaylor342@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 8:15 AM
Oxenham, Lee	Plainfield, NH leeoxenham@comcast.net	A Member of the Public	Myself	Support	No	No	2/13/2023 8:35 AM
Koch, Laurie	Concord, NH kochlj@aol.com	A Member of the Public	Myself	Support	No	No	2/13/2023 8:50 AM
Fuentes, Sebastian	Thornton, NH sebastian@radnh.org	A Lobbyist	Rights & Democracy NH	Support	No	No	2/13/2023 8:58 AM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 9:09 AM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	2/13/2023 9:20 AM
Sims, Julie	Newport, NH jpmom39@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/13/2023 9:26 AM
Sims, Roy	Newport, NH jpmom39@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/13/2023 9:26 AM
Lamphier, Regan	Nashua, NH reganburkelamphier@gmail.com	An Elected Official	Myself	Support	No	No	2/13/2023 9:29 AM
Babadelis, Ashley	Concord, NH ash.hatch@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 10:19 AM
Spielman, Kathy Sue	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Support	No	No	2/13/2023 10:26 AM
Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Support	No	No	2/13/2023 10:43 AM
Bergevin, Leslie	Loudon, NH Leslie.bergevin@gmail. Om	A Member of the Public	Myself	Support	No	No	2/13/2023 10:48 AM

Chase, Karen	Hanover, NH kpchase@verizon.net	A Member of the Public	Myself	Support	No	No	2/13/2023 10:50 AM
Devore, Gary	Pembroke, NH torin_asheron@yahoo.com	A Member of the Public	Myself	Support	No	No	2/13/2023 10:52 AM
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 10:59 AM
Dube, Priscilla	Concord, NH Priscilla2NH@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 11:09 AM
Lindpaintner, Lyn	Concord, NH lynlin@bluewin.ch	A Member of the Public	Myself	Support	No	No	2/13/2023 11:44 AM
Doherty, David	Pembroke, NH, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 12:04 PM
Liscord, Barbara	Mont Vernon, NH barbmcklis@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 12:05 PM
Spencer, Louise	Concord, NH 70windemere@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 12:28 PM
Rettew, Ann	Concord, NH abrettew@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 12:41 PM
Walker, Deborah Klein	Meredith, NH deb.publichealth@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 12:58 PM
Wilke, Mary	Concord, NH wilke.mary@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 1:36 PM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/13/2023 2:55 PM
Vincent, Laura	Loudon, NH lvlauravincent5@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 3:02 PM
Hershey, Jane	Rindge, NH janelhershey@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 3:04 PM
Thomas, A	Rindge, NH annekerosie@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 3:04 PM
Martin, Patricia	Rindge, NH pmartin2894@yahoo.com	A Member of the Public	Myself	Support	No	No	2/13/2023 3:04 PM
Steel, Laura	Plainfield, NH lfsteel@verizon.net	A Member of the Public	Myself	Support	No	No	2/13/2023 3:25 PM
Holt, David	Somersworth, NH Davholt@aol.com	A Member of the Public	Myself	Support	No	No	2/13/2023 5:40 PM

MacGregor, Leslie	Grantham, NH lsmacgregor@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 6:33 PM
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 7:30 PM
DeMark, Harriet	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 7:30 PM
Koch, Helmut	Concord, NH helmut.koch.2001@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 8:02 PM
Bass, Patricia	Concord, NH pattybass@comcast.net	A Member of the Public	Myself	Support	No	No	2/13/2023 9:06 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 9:47 PM
Farkas, Catharine	Sanbornton, NH cafarkas@hotmail.com	A Member of the Public	Myself	Support	No	No	2/13/2023 11:42 PM
Shea, Katherine	Goffstown, NH klynshea4618@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/13/2023 11:51 PM

Priscilla Dube

I am in support of HB 550. It is only reasonable that assets attached to a failing public chartered school be sent to the State. This measure also prevents individuals from profiting from sale of failed public charter school assets and dissuades frivolous attempts by charter school start-ups with profit in mind.

Patricia Bass

There's nothing more important than the foundational rules that guide setting standards for public schools. I support HB371 in hopes it will allow good and plenty light in on the process.

TESTIMONY OF THE
ATTORNEY GENERAL, DIRECTOR OF CHARITABLE TRUSTS
REGARDING HB 550
February 13, 2023

One of the important responsibilities of the Director of Charitable Trusts of the Office of the Attorney General is to protect the public's interest in the use of assets for the charitable purposes to which they must be devoted. The health of the charitable nonprofit sector relies, in part, on the principle that a donor's intention with respect to the donor's charitable gift is enforceable. Although the Director of Charitable Trusts takes no position on HB 550, our office wishes to provide the committee with the following information regarding the bill and its potential impact on charitable organizations' obligation to honor donor intent.

HB 550

HB 550 requires that the articles of agreement of a charter school include a provision that "[u]pon dissolution of [the] chartered public school, after all the schools' financial obligations are met, all remaining assets shall be returned to the State of New Hampshire." It also provides that the department of education and department of administrative services "shall take possession of all [charter school] assets." These provisions do not recognize that the charter school's assets may include charitable gifts with specific restrictions.

The foregoing provisions appear to apply to all new charter school approvals. The bill establishes a committee to study how to address the dissolution of existing charter schools.

Charter School Assets

Charter schools are organized as 501(c)(3) nonprofit organizations in the State of New Hampshire, and they are governed by a board of trustees. Under RSA 7:21, II(a) and (b), they constitute charitable trusts and are subject to the supervision, administration, and enforcement of the Director of Charitable Trusts. Charter schools' assets are held in trust by the trustees and are required to be used in furtherance of the organization's charitable purpose, as that purpose is articulated in the school's articles of agreement.

Charter schools' assets may consist not only of assets that they receive from the state, but also assets that they receive from private sources. Indeed, RSA 194-B:5, III (g) allows charter schools to "solicit, accept, manage, and use any grants or gifts...." Some of those gifts may be subject to one or more specific restrictions on their use. For example, a school may receive a donation that is to be used exclusively for scholarships or exclusively to construct a building or playing field.

In general, when a charitable organization dissolves, its unrestricted charitable assets must be distributed in accordance with the dissolution clause in the organization's articles of

agreement. In order to qualify for tax-exempt 501(c)(3) status, the dissolution clause in the articles of agreement must provide that, upon dissolution, the organization will distribute its assets to another non-profit organization or governmental entity. The provision may or may not specify a particular non-profit organization or governmental entity.

However, certain donor-restricted funds held by charitable organizations cannot simply be distributed in accordance with the dissolution provision without court approval. For example, if an individual donates a building to a charter school for the sole purpose of operating a school for students in grades 7–12, upon dissolution, the school cannot simply sell the building or convey the building to another charitable organization or government agency. That is because once the school accepts the restricted gift, it has an obligation to comply with the restriction, an obligation that is enforceable by the Director of Charitable Trusts. In most cases, the purpose or administration of the gift can only be changed by order of the probate or superior court through a petition for *cy pres* or deviation.

Prior Legislative Attempts to Alter Charitable Purposes

Both the New Hampshire Supreme Court and the United States Supreme Court have found unconstitutional legislative efforts to change the terms of existing charitable trusts. For example, in *Trustees of Dartmouth College v. Woodward*, 17 U.S. 518 (1819), Dartmouth College challenged the New Hampshire Legislature's attempt in 1816 to convert the college into a secular institution called Dartmouth University. Dartmouth College was founded by a Congregational minister in 1769. It was chartered by the English Crown and governed by its own board of trustees. The United States Supreme Court held that the college was a private charitable trust, and the Legislature's attempt to exercise control over the institution by amending its charter was unconstitutional. The Court noted that "When the legislature gives to these institutions, it may, and does, accompany its grants with such conditions as it pleases. [But w]hen donations are made, by the legislature, or others, to a charity already existing, without any condition, or the specification of any new use, the donation follows the nature of the charity." In other words, the Legislature was not permitted to pass a law that granted government control over a private, charitable institution or a law that would change the purpose of funds already donated to the charity.

Similarly, in 1957, the New Hampshire Supreme Court analyzed a bill that would have permitted the income of perpetual care funds established to maintain particular cemetery plots to be used for the general maintenance of the cemetery. *Opinion of the Justices*, 101 N.H. 531, 532 (1957). The Court held that because these perpetual care funds are charitable trusts, modification of their terms was within the jurisdiction of the courts and not the legislature. *Id.* at 533. The bill, therefore, violated the separation of powers provision of the constitution.

HB 550 Charter Dissolution

Rep. Sallie Fellows

Every charter school's charter has a dissolution provision that spells out what will happen with any assets that remain after all financial obligations have been resolved.

At least 6 charter schools have closed, so I wondered what happened to the assets of those schools. That information is not on the web, but you can read current charters, so I looked up the dissolution provisions of about 10 charters. All seemed to give the charter school board the sole authority to make dissolution decisions.

Several charters provided two options - give assets and money to another charter school or a non-profit that supports charter schools. Specific schools and non-profits were never identified.

> One said remaining assets could go to any 501(c) 3.
>
> One said remaining assets could go to any 501(c) 3 or to the federal, state or local government for educational purposes.
>
> One said donated property, or proceeds from the sale of that property, would be returned to the donor. Proceeds from the sale of items purchased with federal or state grants would be returned to the state.

I think returning property or money to donors, may conflict with IRS regulations for charitable deductions. And, because 501 (c) 3 are relatively easy to create, I am concerned that individuals could personally benefit from a school closure.

I also think that dissolution property and money should be returned to the state, because state aid is the primary source of operating revenue.

These concerns lead me to file an LSR which was ONLY section 1. After a meeting with DOE and DAS staff, I learned of other concerns related to charter school closures. The Charitable Division of DOJ has an oversite role for charter schools because they are 501 (c) 3s. The DOE has oversite because they are public schools. DAS is responsible for the disposal of state property. A study committee creates an opportunity for these agencies to work together to provide appropriate and compatible guidance.

So, I had the LSR redrafted as a study committee. I hope you will amend this bill by deleting the first section, but keeping the study committee, so multiple agencies to work together and identify requirements, procedures RSA amendments that will do three things.

1. Provide transparency, accountability and clear guidance for the disposal of charter school assets that were purchased with state funds.
2. Make it possible to identify financial instability before it becomes financial insolvency, and determine potential liability for the state.
3. Minimize the disruption for charter school students and staff when a school closes.

HB 550-FN - AS INTRODUCED

2023 SESSION

23-0099
09/10

HOUSE BILL ***550-FN***

AN ACT relative to chartered public school dissolution.

SPONSORS: Rep. Fellows, Graf. 8; Rep. Heath, Hills. 41; Rep. Tanner, Sull. 5

COMMITTEE: Education

ANALYSIS

This bill provides for the assets of a chartered public school to be distributed to the nearest public school district following dissolution of the chartered public school. The bill also establishes a committee to study the current charter public school dissolution process.

- -

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

23-0099
09/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to chartered public school dissolution.

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

1 Charter School Dissolution. Amend RSA 194-B:3, II(z) to read as follows:

(z) Provision for dissolution of the chartered public school**,** including disposition of its assets ***back to the state of New Hampshire***, or amendment of its program plan.

(1) Upon dissolution of the chartered public school, the department of education and the department of administrative services shall take possession of all charter school assets and offer them to the nearest public school district.

(2) Any assets that remain unclaimed after dissolution shall be sold or disposed of by the department of education and the department of administrative services. Any revenue generated from the sale or disposal of said assets shall be deposited in the state general fund.

(3) The provision for dissolution of the chartered public school shall read as follows:

"Upon dissolution of _____ chartered public school, after all the school's financial obligations are met, all remaining assets shall be returned to the State of New Hampshire. The Department of Education and Department of Administrative Services shall take possession of said assets and offer them to the nearest public school district."

2 Committee Established; Chartered Public School Dissolution. There is established a committee to study the current charter public school dissolution process and identify ways to ensure an orderly school closure that will support students, avoid insolvency, and reduce liability to the school and the state.

I. The members of the committee shall be as follows:

(a) Four members of the house of representatives, at least 2 of whom are from the education committee, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II.(a) The committee shall seek the expertise and advice from:

(1) A financial administrator (employee or contractor), preferably a CPA, for a charter school, nominated by the commissioner of education.

(2) The administrator of the department of education's chartered public school office.

(3) A representative of the charitable trust division of the department of justice.

(4) The commissioner of the department of administrative services, or designee.

(5) Any other person or entity relevant to the duty of the committee.

(b) Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study the following issues as related to the operation of public charter schools which are recognized by the state as both a private non-profit organizations and public schools:

(a) Existing federal and state statues and rules related to financial and risk management, and dissolution including the disposal of property, inventory and monetary assets.

(b) Identification of all state agencies that do, or should, have responsibilities related to the monitoring of financial status and practices, maintenance of fiscal solvency, and the dissolution process.

(c) Financial liability of the state, school districts, and the employees, boards, parents and volunteers of chartered schools.

(d) Current practices and best practices for schools and state agencies, related to maintenance of financial stability, risk management, and the dissolution process of chartered schools.

(e) Non-financial issues related to dissolution including, but not limited to, notification of closure, placement of students and retention of academic records.

IV. The members of the study committee shall elect a chairperson from among the voting members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Five voting members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the chairs of the education committees in both the house of representatives and senate, the house clerk, the senate clerk, the governor, and the state library on or before December 15, 2023.

3 Effective Date. This act shall take effect upon its passage.

LBA
23-0099
1/9/23

HB 550-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to charter school dissolution.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, **as introduced**, at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

AGENCIES CONTACTED:

Department of Education and Department of Administrative Services