



Adopted	Rejected
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## COMMITTEE REPORT

<b>YES:</b>	<b>9</b>
<b>NO:</b>	<b>4</b>

**MR. SPEAKER:**

*Your Committee on Education, to which was referred Senate Bill 358, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 20-26-7.1-2.3 IS ADDED TO THE INDIANA
- 3 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2021]: **Sec. 2.3. As used in this chapter, "state**
- 5 **educational institution" has the meaning set forth in IC 21-7-13-32.**
- 6 SECTION 2. IC 20-26-7.1-3, AS AMENDED BY P.L.92-2020,
- 7 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JANUARY 1, 2021 (RETROACTIVE)]: Sec. 3. (a) **This subsection**
- 9 **applies to any school building that is owned by a school**
- 10 **corporation or any other entity that is related in any way to, or**
- 11 **created by, the school corporation or the governing body, including**
- 12 **but not limited to a building corporation, and that has at any time**

1 **been used for classroom instruction. Except as provided in**  
 2 **subsection (b)(1),** before a governing body may sell, ~~or exchange,~~  
 3 **lease, demolish, hold without operating, or dispose of** a school  
 4 building, ~~described in this section in accordance with IC 20-25-4-14,~~  
 5 ~~IC 20-26-5-4(a)(7), or IC 20-26-7-1,~~ and except as provided in this  
 6 ~~chapter,~~ a governing body shall **do the following:**

7 **(1) This subdivision applies after June 30, 2021. The**  
 8 **governing body shall obtain a certification from the attorney**  
 9 **general's office under section 8.5 of this chapter.**

10 **(2) The governing body shall** make available for lease or  
 11 purchase ~~to any~~ **by a charter school or, after June 30, 2021, a**  
 12 **state educational institution** any school building owned by the  
 13 school corporation or any other entity that is related in any way to,  
 14 or created by, the school corporation or the governing body,  
 15 including but not limited to a building corporation, that:

16 ~~(1)~~ **(A)** is vacant or unused; and

17 ~~(2)~~ **(B)** was previously used for classroom instruction;

18 in order for the charter school to conduct kindergarten through grade  
 19 12 classroom instruction **or to be used by a state educational**  
 20 **institution for an academic purpose.**

21 (b) The following are not required to comply with ~~the requirements~~  
 22 ~~provided in section 4~~ of this chapter:

23 (1) A governing body that vacates a school building in order to:

24 (A) renovate the school building for future use by the school  
 25 corporation; or

26 (B) demolish the school building and build a new school  
 27 building on the same site as the demolished building.

28 (2) An emergency manager of a distressed school corporation  
 29 under IC 6-1.1-20.3.

30 (3) The governing body of the School City of East Chicago school  
 31 corporation for the Carrie Gosch Elementary School building.

32 (c) Notwithstanding subsection (a), a lease entered into by a  
 33 governing body under IC 20-26-5-4(a)(7) prior to ~~July 1, 2019,~~  
 34 **January 1, 2019,** with a state accredited nonpublic school shall remain  
 35 in full force and effect. In addition, the governing body may, during or  
 36 at the expiration of the term of such lease, sell the school building  
 37 leased under IC 20-26-5-4(a)(7) to the nonpublic school at a purchase  
 38 price mutually agreed to by the governing body and the nonpublic

1 school.

2 SECTION 3. IC 20-26-7.1-4, AS AMENDED BY THE  
3 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL  
4 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2021]: Sec. 4. (a) Not later than ten (10) days after passing a  
6 resolution or taking other official action to close, no longer use, or no  
7 longer occupy a school building that was previously used for classroom  
8 instruction **under section 3 of this chapter**, the governing body shall:

9 (1) notify the department of the official action and the effective  
10 date that the school building will be closed, no longer used, or no  
11 longer occupied;

12 (2) make the school building available for inspection by a charter  
13 school **or state educational institution** that notifies the  
14 department that it is interested in leasing or purchasing the school  
15 building described under section 3 of this chapter; and

16 (3) make the following information available to a charter school  
17 **or state educational institution** described in subdivision (2):

18 (A) Estimates of the operating expenses for the school  
19 building for the past three (3) years.

20 (B) Written information regarding the condition of the  
21 building, including the age of the roof and the HVAC system,  
22 and any known conditions which, in the governing body's  
23 opinion, require prompt repair or replacement.

24 (C) A **legal** description of the property. ~~as shown on the~~  
25 ~~current tax statement.~~

26 (b) Within five (5) days of receiving notice under subsection (a)(1),  
27 the department shall provide written notification to each **state**  
28 **educational institution**, charter school authorizer (excluding school  
29 corporation authorizers as defined in IC 20-24-1-2.5(1)), and statewide  
30 organizations representing charter schools in Indiana of the school  
31 corporation's resolution or official action described in subsection (a),  
32 including the date when the school building will close, no longer be  
33 used, or become vacant.

34 (c) The school corporation shall lease the school building to a  
35 charter school **or state educational institution** for one dollar (\$1) per  
36 year for as long as the **state educational institution uses the building**  
37 **for an academic purpose or the** charter school uses the school  
38 building for classroom instruction, for a term at the **state educational**

1 **institution's** or charter school's discretion, or sell the school building  
 2 for one dollar (\$1), if the charter school **or state educational**  
 3 **institution** does the following:

4 (1) Within thirty (30) days of receiving the department's notice  
 5 under subsection (b), a charter school **or state educational**  
 6 **institution** must submit a preliminary request to purchase or lease  
 7 the school building.

8 (2) Subject to subsection (d), within ninety (90) days of receiving  
 9 the department's notice under subsection (b), a charter school **or**  
 10 **state educational institution** must submit to the school  
 11 corporation the following information:

12 (A) The name of the charter school **or state educational**  
 13 **institution** that is interested in leasing or purchasing the  
 14 vacant or unused school building.

15 (B) A time frame, which may not exceed two (2) years from  
 16 the date that the school building is to be closed, no longer  
 17 used, or no longer occupied, in which the:

18 (i) charter school intends to begin providing classroom  
 19 instruction in the vacant or unused school building; **or**

20 (ii) **state educational institution intends to begin using**  
 21 **the building for an academic purpose.**

22 (C) A resolution, adopted by the board of the charter school **or**  
 23 **state educational institution** stating that the board **of the**  
 24 **charter school or the state educational institution** has  
 25 determined that, after the charter school **or state educational**  
 26 **institution** has made any necessary repairs or modifications,  
 27 the school building will be sufficient to meet the charter  
 28 school's **or state educational institution's** needs and can be  
 29 operated within the charter school's **or state educational**  
 30 **institution's** budget.

31 (D) This clause applies to a vacant or unused school building  
 32 with more than two hundred thousand (200,000) gross square  
 33 feet. In addition to the information provided in clauses (A)  
 34 through (C), a charter school shall submit the following:

35 (i) The charter school's projected enrollment when all of the  
 36 grade levels are added.

37 (ii) A letter from the charter school's authorizer or  
 38 prospective authorizer that indicates that the charter school's

1 authorizer or prospective authorizer has reviewed the items  
 2 described in clauses (B) through (C) and that the projected  
 3 enrollment of the charter school when all of the grade levels  
 4 are added or fully implemented will be at least sixty percent  
 5 (60%) of the maximum annual student enrollment of the  
 6 school building during the past twenty-five (25) years as  
 7 validated by records maintained or created by the  
 8 department.

9 (d) If the department does not receive any preliminary requests to  
 10 purchase or lease a school building within the time frame described in  
 11 subsection (c)(1) and except as provided in section 7 of this chapter,  
 12 the department shall send notification to the school corporation that the  
 13 department has not received any preliminary requests to purchase or  
 14 lease the school building. Upon receipt of the notification under this  
 15 subsection, the school corporation may sell or otherwise dispose of the  
 16 school building in accordance with IC 36-1-11, IC 20-25-4-14,  
 17 ~~IC 20-26-5-4(7)~~; **IC 20-26-5-4(a)(7)**, and section 8 of this chapter.

18 (e) **Except as provided in subsection (g)**, in the event that two (2)  
 19 or more charter schools **but no state educational institutions**, submit  
 20 a preliminary request to purchase or lease a school building within the  
 21 time frame described in subsection (c)(1), the department shall send  
 22 notification to an authorizer described in IC 20-24-1-2.5(3) and each  
 23 statewide charter school authorizer and statewide organization  
 24 representing charter schools in Indiana (excluding school corporation  
 25 authorizers as defined in IC 20-24-1-2.5(1)) and the school corporation  
 26 that the department has received two (2) or more preliminary requests  
 27 under this section. An authorizer committee shall be established, with  
 28 each statewide authorizer that has authorized one (1) or more charter  
 29 schools appointing a representative, and the committee shall establish  
 30 the chairperson and procedures for the committee. Within sixty (60)  
 31 days of receiving notice under this subsection, the committee shall  
 32 select which charter school may proceed under subsection (c)(2) to  
 33 purchase or lease the school building or determine if two (2) or more  
 34 charter schools should co-locate within the school building. The  
 35 committee shall give priority to a charter school located within one (1)  
 36 mile of the vacant or unused school building. In the event that the  
 37 committee determines that two (2) or more charter schools should  
 38 co-locate in the school building and, if applicable, that the combined

1 enrollment of the charter schools will meet or exceed the requirements  
 2 in subsection (c)(2)(D), the charter schools have sixty (60) days to  
 3 submit a memorandum of understanding stating that the charter schools  
 4 shall be jointly and severally liable for the obligations related to the  
 5 sale or lease of the school building, and specifying how the charter  
 6 schools will utilize the school building and share responsibility for  
 7 operational, maintenance, and renovation expenses. If the charter  
 8 schools are unable to agree, the charter schools shall be deemed to have  
 9 revoked their prior request regarding the lease or sale of the school  
 10 building.

11 **(f) If two (2) or more state educational institutions but no**  
 12 **charter schools submit timely preliminary requests under**  
 13 **subsection (c)(1) regarding a school building, the secretary of**  
 14 **education shall appoint three (3) representatives of other state**  
 15 **educational institutions. The appointed representatives shall act as**  
 16 **a committee to determine which of the state educational**  
 17 **institutions that have submitted preliminary requests as described**  
 18 **in this subsection is best able to meet the needs of the students in**  
 19 **the locality in which the school building is located. Not later than**  
 20 **sixty (60) days after the date that the secretary of education**  
 21 **appoints the committee of representatives under this subsection,**  
 22 **the committee of representatives shall:**

23 **(1) select which state educational institution may proceed to**  
 24 **purchase or lease the building; or**

25 **(2) determine if two (2) or more state educational institutions**  
 26 **should co-locate within the school building.**

27 **(g) If one (1) or more charter schools and one (1) or more state**  
 28 **educational institutions submit timely preliminary requests under**  
 29 **subsection (c)(1) regarding a school building, the charter school**  
 30 **shall be provided preference to the school building. If more than**  
 31 **one (1) charter school submits timely preliminary requests under**  
 32 **subsection (c)(1) regarding a school building, the determination of**  
 33 **which charter school may obtain the school building shall be**  
 34 **resolved in the manner prescribed in subsection (e).**

35 **(h) A school corporation shall lease the school building for one**  
 36 **dollar (\$1) per year to the charter school or the state educational**  
 37 **institution for as long as the charter school uses the school building for**  
 38 **classroom instruction for any combination of kindergarten through**

1 grade 12 or a state educational institution uses the building for an  
 2 academic purpose. The term of the lease shall be established at the  
 3 charter school's or state educational institution's discretion and  
 4 include an option for the state educational institution or charter  
 5 school to purchase the school building for one dollar (\$1). for a term  
 6 at the charter school's discretion, or **Alternatively, the school**  
 7 **corporation shall** sell the school building to the charter school **or the**  
 8 **state educational institution** for one dollar (\$1), if the charter school  
 9 **or the state educational institution** has met the requirements set forth  
 10 in subsection (c) and uses the vacant or unused school building to  
 11 provide classroom instruction to students in any combination of  
 12 kindergarten through grade 12. **in the manner prescribed by this**  
 13 **subsection.** If a charter school **or state educational institution** has not  
 14 met the requirements under subsection (c), the school corporation may,  
 15 subject to section 7 of this chapter, sell or otherwise dispose of the  
 16 school building in accordance with IC 36-1-11, IC 20-25-4-14,  
 17 ~~IC 20-26-5-4(7);~~ **IC 20-26-5-4(a)(7)**, and section 8 of this chapter.

18 SECTION 4. IC 20-26-7.1-4.5 IS ADDED TO THE INDIANA  
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 20 [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) After a governing**  
 21 **body passes a resolution or takes official action to close, no longer**  
 22 **use, or no longer occupy a school building that was previously used**  
 23 **for classroom instruction under section 3 of this chapter, a school**  
 24 **corporation is responsible for meeting the requirements described**  
 25 **in subsection (b) until the applicable school building is:**

26 (1) sold or leased to a charter school or state educational  
 27 institution;

28 (2) sold to an accredited nonpublic school or postsecondary  
 29 educational institution other than a state educational  
 30 institution under section 7 of this chapter; or

31 (3) eligible to be sold or otherwise disposed in accordance with  
 32 IC 36-1-11, IC 20-25-4-14, IC 20-26-5-4(a)(7), and section 8 of  
 33 this chapter.

34 (b) During the period described in subsection (a), a school  
 35 corporation is:

36 (1) responsible for the maintenance of a vacant or unused  
 37 school building, including;

38 (A) protection against theft or vandalism;

- 1                   **(B) fire protection; and**
- 2                   **(C) ensuring the vacant or unused school building is not**
- 3                   **damaged during adverse weather conditions;**
- 4                   **(2) responsible for maintaining the physical condition of the**
- 5                   **vacant or unused school building in the same physical**
- 6                   **condition the applicable school building was on the last day**
- 7                   **that it was used for classroom instruction; and**
- 8                   **(3) financially responsible for any damage or destruction that**
- 9                   **occurs to the vacant or unused school building.**

10           SECTION 5. IC 20-26-7.1-5, AS ADDED BY P.L.270-2019,  
 11           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12           JULY 1, 2021]: Sec. 5. (a) If a school building is sold to a charter  
 13           school **or state educational institution** under section 3 or 4 of this  
 14           chapter and the charter school **or the state educational institution**, or  
 15           any subsequent owner, subsequently sells or transfers the school  
 16           building to a third party, the charter school **or state educational**  
 17           **institution**, or subsequent owner, must transfer an amount equal to the  
 18           gain in the property minus the adjusted basis (including costs of  
 19           improvements to the school building) to the school corporation that  
 20           initially sold the vacant school building to the charter school **or the**  
 21           **state educational institution**. Gain and adjusted basis shall be  
 22           determined in the manner prescribed by the Internal Revenue Code and  
 23           the applicable Internal Revenue Service regulations and guidelines.

24           (b) A charter school **or state educational institution** that purchases  
 25           a school building assumes total control of the school building and must  
 26           maintain the school building, including utilities, insurance,  
 27           maintenance, and repairs. In the event a:

- 28                   **(1) charter school does not use the school building for classroom**
- 29                   **instruction; or**
- 30                   **(2) state educational institution does not use the school**
- 31                   **building for an academic purpose;**

32           within two (2) years after acquiring the school building, the school  
 33           building shall revert to the school corporation, which may sell or  
 34           otherwise dispose of the school building under IC 36-1-11.

35           SECTION 6. IC 20-26-7.1-6, AS ADDED BY P.L.270-2019,  
 36           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37           JULY 1, 2021]: Sec. 6. During the term of a lease under section 4 of  
 38           this chapter, the charter school **or the state educational institution** is



1 responsible for the direct expenses related to the school building  
 2 leased, including utilities, insurance, maintenance, repairs, and  
 3 remodeling. If the lease involves co-locating charter schools **or a**  
 4 **co-location with a state educational institution**, the obligations under  
 5 the lease of the school building shall be joint and several. The school  
 6 corporation is responsible for any debt incurred for or liens that  
 7 attached to the school building before the charter school leased the  
 8 school building.

9 SECTION 7. IC 20-26-7.1-7, AS AMENDED BY P.L.92-2020,  
 10 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2021]: Sec. 7. (a) As used in this section, "accredited  
 12 nonpublic school" means a nonpublic school that:

- 13 (1) has voluntarily become accredited under IC 20-31-4.1; or
- 14 (2) is accredited by a national or regional accrediting agency that  
 15 is recognized by the state board.

16 (b) This section applies to a school building with a gross square  
 17 footage of two hundred thousand (200,000) square feet or less.

18 (c) If the school corporation receives notification from the  
 19 department that the department has not received any preliminary  
 20 requests to purchase or lease a vacant or unused school building under  
 21 section 4(c)(1) of this chapter or a charter school **or state educational**  
 22 **institution** has not met the requirements under section 4(c)(2) or 4(e)  
 23 of this chapter, the school corporation must sell the school building to  
 24 an accredited nonpublic school or a postsecondary educational  
 25 institution **other than a state educational institution** that sends a  
 26 letter of intent to the school corporation to purchase the vacant or  
 27 unused school building for an amount not more than the minimum bid  
 28 for the vacant or unused school building determined in accordance with  
 29 IC 36-1-11, or an amount agreed to by both parties.

30 (d) The accredited nonpublic school or postsecondary educational  
 31 institution, **other than a state educational institution**, must submit its  
 32 letter of intent to purchase the school building within thirty (30) days  
 33 of the date the school corporation passes a resolution or takes other  
 34 official action to close, no longer use, or no longer occupy a school  
 35 building that was previously used for classroom instruction. However,  
 36 in the event that a charter school **or state educational institution** has  
 37 submitted a preliminary request to purchase or lease a school building,  
 38 the accredited nonpublic school or postsecondary educational

1 institution **other than a state educational institution** may send a letter  
 2 of intent to purchase or lease the school building within ninety (90)  
 3 days of the date that the school corporation passed a resolution or took  
 4 official action to close, no longer use, or no longer occupy a school  
 5 building.

6 (e) Within forty-five (45) days of notice of the minimum bid, the  
 7 accredited nonpublic school or postsecondary educational institution  
 8 **other than a state educational institution** must provide a binding  
 9 offer to the school corporation to purchase the property in its current  
 10 condition and provide a nonrefundable down payment equal to five  
 11 percent (5%) of the minimum bid or an amount agreed to by both  
 12 parties. In the event that two (2) or more binding offers are submitted  
 13 to the school corporation under this subsection, the school corporation  
 14 may select which offer to accept.

15 (f) If the sale of the property does not close within one hundred  
 16 eighty (180) days of the school corporation's receipt of the binding  
 17 offer, and the delay in closing is not caused by the school corporation  
 18 or its representatives, the school corporation may refund the down  
 19 payment and sell or otherwise dispose of the school building under  
 20 IC 20-25-4-14, IC 20-26-5-4(a)(7), or IC 36-1-11.

21 SECTION 8. IC 20-26-7.1-8.5 IS ADDED TO THE INDIANA  
 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) This section applies**  
 24 **after June 30, 2021.**

25 (b) **Except as provided in section 3(b)(1) of this chapter, if a**  
 26 **governing body passes a resolution to sell, exchange, lease,**  
 27 **demolish, hold without operation, or dispose of a school building,**  
 28 **the governing body of the school corporation must receive a**  
 29 **certification from the attorney general to ensure that the governing**  
 30 **body is in compliance with the requirements of this chapter. The**  
 31 **governing body of the school corporation shall submit an**  
 32 **application, not later than fifteen (15) days after the governing**  
 33 **body passes the resolution described in this subsection, to the**  
 34 **attorney general in a manner prescribed by the attorney general.**  
 35 **The attorney general shall approve or deny a certification within**  
 36 **thirty (30) days of the date the request for certification is received**  
 37 **by the attorney general. If the attorney general denies a**  
 38 **certification under this section, the attorney general shall provide**

1 the specific reason why the request for certification was denied. If  
2 a governing body's request for certification is denied under this  
3 subsection, the governing body may reapply for certification upon  
4 remedying the reason for the attorney general's certification  
5 denial.

6 (c) A contract entered by a school corporation to sell, lease,  
7 demolish, or otherwise dispose of a school building without  
8 receiving a certification from attorney general under this section  
9 is null and void.

10 (d) The attorney general shall submit all certification findings  
11 to the department, which shall post the attorney general's  
12 certification findings on the department's Internet web site.

13 SECTION 9. IC 20-26-7.1-9, AS ADDED BY P.L.270-2019,  
14 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 UPON PASSAGE]: Sec. 9. (a) The attorney general shall investigate  
16 complaints that a school corporation has not complied with the  
17 requirements under this chapter if the complaint is filed within one  
18 (1) year of the date in which the governing body is alleged to have  
19 taken an official action that does not comply with this chapter. The  
20 attorney general shall notify the school corporation of the  
21 investigation within five (5) business days of receipt of a complaint  
22 under this section. The attorney general shall complete the  
23 investigation within sixty (60) days of the date of the complaint.  
24 The school corporation must provide any information requested by  
25 the attorney general necessary to conduct the investigation. Upon  
26 completion of the investigation, the attorney general shall issue  
27 findings indicating whether the complaint is either substantiated  
28 or unsubstantiated.

29 (b) Subject to subsection (d), in the event that a complaint is  
30 substantiated, the attorney general, in consultation with the  
31 department and state board, is authorized to take any action  
32 necessary to remedy a substantiated complaint, which may include  
33 actions to be performed by the state board or the department to  
34 ensure compliance of a school corporation under this section.

35 (c) Upon completion of the investigation under subsection (a),  
36 the attorney general shall publish findings of an investigation  
37 under subsection (a) on the attorney general's Internet web site. In  
38 the event a complaint is substantiated, a copy of the findings shall

1       **be sent to the state board and the department.**  
 2       **(d) If a school corporation does not comply with the requirements**  
 3       **to sell a vacant school building** provided in this chapter **as**  
 4       **determined by the attorney general under subsection (a),** the school  
 5       corporation shall submit any proceeds from the sale of the vacant  
 6       school building to the state board, **which shall be distributed equally**  
 7       **between each charter school located in the attendance area of the**  
 8       **school corporation. If no charter schools are located in the**  
 9       **attendance area, the state board must use the proceeds** to provide  
 10       grants under the charter school and innovation grant program under  
 11       IC 20-24-13. **The attorney general is authorized to initiate any legal**  
 12       **action necessary to ensure compliance with this section.**

13       SECTION 10. **An emergency is declared for this act.**  
 (Reference is to SB 358 as reprinted February 23, 2021.)

**and when so amended that said bill do pass.**

Representative Behning


