



April 1, 2021

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## ENGROSSED SENATE BILL No. 358

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DIGEST OF SB 358 (Updated March 31, 2021 11:37 am - DI 116)

**Citations Affected:** IC 20-26.

**Synopsis:** School buildings. Provides that before a governing body may sell, exchange, lease, demolish, hold without operating, or dispose of a school building, the governing body shall: (1) obtain a certification from the attorney general's office; and (2) make the building available for lease or purchase by a charter school or state educational institution. Provides that before a governing body may sell, exchange, lease, demolish, hold without operating, or dispose of a school building, the governing body must receive a certification from the attorney general to ensure that the governing body is in compliance with requirements for making a vacant school building available for sale or lease to a charter school or state educational institution for \$1. Requires the attorney general to investigate complaints that a school corporation has not complied with the requirements for making a vacant school building available for sale or lease to a charter school or state educational institution for \$1. Provides that, in the event that a complaint is substantiated, the attorney general, in consultation with  
(Continued next page)

**Effective:** Upon passage; January 1, 2021 (retroactive); July 1, 2021.

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### Rogers, Raatz, Kruse

(HOUSE SPONSORS — BEHNING, DEVON, TESHKA)

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January 11, 2021, read first time and referred to Committee on Education and Career Development.

February 18, 2021, amended, reported favorably — Do Pass.

February 22, 2021, read second time, amended, ordered engrossed.

February 23, 2021, engrossed. Read third time, passed. Yeas 30, nays 16.

#### HOUSE ACTION

March 4, 2021, read first time and referred to Committee on Education.

April 1, 2021, amended, reported — Do Pass.

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ES 358—LS 7143/DI 136



## Digest Continued

the department of education (department) and Indiana state board of education (state board), is authorized to take any action necessary to remedy a substantiated complaint, which may include actions to be performed by the state board or the department to ensure compliance of a school corporation. Provides that, if a school corporation does not comply with the requirements to sell a vacant school building, as determined by the attorney general, the school corporation shall submit any proceeds from the sale of the vacant school building to the state board. Provides that the state board shall distribute proceeds collected equally between each charter school located in the attendance area of the school corporation. Provides that, if no charter schools are located in the attendance area, the state board must use the proceeds to provide grants under the charter school and innovation grant program. Provides that a lease of school property entered into by a governing body prior to January 1, 2019, with a state accredited nonpublic school shall remain in full force and effect. (Current law provides that a lease of school property entered into by a governing body prior to July 1, 2019, with a state accredited nonpublic school shall remain in full force and effect.) Provides that a school corporation is responsible for maintaining a vacant school building until it is: (1) sold or leased to a charter school or state educational institution; (2) sold to an accredited nonpublic school or postsecondary educational institution other than a state educational institution; or (3) eligible to be sold or otherwise disposed.

**ES 358—LS 7143/DI 136**



April 1, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 358

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 20-26-7.1-2.3 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2021]: **Sec. 2.3. As used in this chapter, "state**  
4 **educational institution" has the meaning set forth in IC 21-7-13-32.**  
5 SECTION 2. IC 20-26-7.1-3, AS AMENDED BY P.L.92-2020,  
6 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JANUARY 1, 2021 (RETROACTIVE)]: Sec. 3. (a) **This subsection**  
8 **applies to any school building that is owned by a school**  
9 **corporation or any other entity that is related in any way to, or**  
10 **created by, the school corporation or the governing body, including**  
11 **but not limited to a building corporation, and that has at any time**  
12 **been used for classroom instruction. Except as provided in**  
13 **subsection (b)(1), before a governing body may sell, or exchange,**  
14 **lease, demolish, hold without operating, or dispose of a school**  
15 **building, described in this section in accordance with IC 20-25-4-14,**  
16 **IC 20-26-5-4(a)(7), or IC 20-26-7-1, and except as provided in this**  
17 **chapter, a governing body shall do the following:**

ES 358—LS 7143/DI 136



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

4           **(2) The governing body shall** make available for lease or  
 5           purchase ~~to any~~ **by a charter school or, after June 30, 2021, a**  
 6           **state educational institution** any school building owned by the  
 7           school corporation or any other entity that is related in any way to,  
 8           or created by, the school corporation or the governing body,  
 9           including but not limited to a building corporation, that:

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

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

12           in order for the charter school to conduct kindergarten through grade  
 13           12 classroom instruction **or to be used by a state educational**  
 14           **institution for an academic purpose.**

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

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

18                (A) renovate the school building for future use by the school  
 19                corporation; or

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

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

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

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

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

41                (1) notify the department of the official action and the effective  
 42                date that the school building will be closed, no longer used, or no



- 1 longer occupied;
- 2 (2) make the school building available for inspection by a charter
- 3 school **or state educational institution** that notifies the
- 4 department that it is interested in leasing or purchasing the school
- 5 building described under section 3 of this chapter; and
- 6 (3) make the following information available to a charter school
- 7 **or state educational institution** described in subdivision (2):
- 8 (A) Estimates of the operating expenses for the school
- 9 building for the past three (3) years.
- 10 (B) Written information regarding the condition of the
- 11 building, including the age of the roof and the HVAC system,
- 12 and any known conditions which, in the governing body's
- 13 opinion, require prompt repair or replacement.
- 14 (C) A **legal** description of the property. ~~as shown on the~~
- 15 ~~current tax statement.~~
- 16 (b) Within five (5) days of receiving notice under subsection (a)(1),
- 17 the department shall provide written notification to each **state**
- 18 **educational institution**, charter school authorizer (excluding school
- 19 corporation authorizers as defined in IC 20-24-1-2.5(1)), and statewide
- 20 organizations representing charter schools in Indiana of the school
- 21 corporation's resolution or official action described in subsection (a),
- 22 including the date when the school building will close, no longer be
- 23 used, or become vacant.
- 24 (c) The school corporation shall lease the school building to a
- 25 charter school **or state educational institution** for one dollar (\$1) per
- 26 year for as long as the **state educational institution uses the building**
- 27 **for an academic purpose or the** charter school uses the school
- 28 building for classroom instruction, for a term at the **state educational**
- 29 **institution's or** charter school's discretion, or sell the school building
- 30 for one dollar (\$1), if the charter school **or state educational**
- 31 **institution** does the following:
- 32 (1) Within thirty (30) days of receiving the department's notice
- 33 under subsection (b), a charter school **or state educational**
- 34 **institution** must submit a preliminary request to purchase or lease
- 35 the school building.
- 36 (2) Subject to subsection (d), within ninety (90) days of receiving
- 37 the department's notice under subsection (b), a charter school **or**
- 38 **state educational institution** must submit to the school
- 39 corporation the following information:
- 40 (A) The name of the charter school **or state educational**
- 41 **institution** that is interested in leasing or purchasing the
- 42 vacant or unused school building.



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

- 4 (i) charter school intends to begin providing classroom  
 5 instruction in the vacant or unused school building; or  
 6 (ii) **state educational institution intends to begin using  
 7 the building for an academic purpose.**

8 (C) A resolution, adopted by the board of the charter school or  
 9 **state educational institution** stating that the board of the  
 10 **charter school or the state educational institution** has  
 11 determined that, after the charter school or **state educational**  
 12 **institution** has made any necessary repairs or modifications,  
 13 the school building will be sufficient to meet the charter  
 14 school's or **state educational institution's** needs and can be  
 15 operated within the charter school's or **state educational**  
 16 **institution's** budget.

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

- 21 (i) The charter school's projected enrollment when all of the  
 22 grade levels are added.  
 23 (ii) A letter from the charter school's authorizer or  
 24 prospective authorizer that indicates that the charter school's  
 25 authorizer or prospective authorizer has reviewed the items  
 26 described in clauses (B) through (C) and that the projected  
 27 enrollment of the charter school when all of the grade levels  
 28 are added or fully implemented will be at least sixty percent  
 29 (60%) of the maximum annual student enrollment of the  
 30 school building during the past twenty-five (25) years as  
 31 validated by records maintained or created by the  
 32 department.

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

42 (e) **Except as provided in subsection (g)**, in the event that two (2)



1 or more charter schools **but no state educational institutions**, submit  
2 a preliminary request to purchase or lease a school building within the  
3 time frame described in subsection (c)(1), the department shall send  
4 notification to an authorizer described in IC 20-24-1-2.5(3) and each  
5 statewide charter school authorizer and statewide organization  
6 representing charter schools in Indiana (excluding school corporation  
7 authorizers as defined in IC 20-24-1-2.5(1)) and the school corporation  
8 that the department has received two (2) or more preliminary requests  
9 under this section. An authorizer committee shall be established, with  
10 each statewide authorizer that has authorized one (1) or more charter  
11 schools appointing a representative, and the committee shall establish  
12 the chairperson and procedures for the committee. Within sixty (60)  
13 days of receiving notice under this subsection, the committee shall  
14 select which charter school may proceed under subsection (c)(2) to  
15 purchase or lease the school building or determine if two (2) or more  
16 charter schools should co-locate within the school building. The  
17 committee shall give priority to a charter school located within one (1)  
18 mile of the vacant or unused school building. In the event that the  
19 committee determines that two (2) or more charter schools should  
20 co-locate in the school building and, if applicable, that the combined  
21 enrollment of the charter schools will meet or exceed the requirements  
22 in subsection (c)(2)(D), the charter schools have sixty (60) days to  
23 submit a memorandum of understanding stating that the charter schools  
24 shall be jointly and severally liable for the obligations related to the  
25 sale or lease of the school building, and specifying how the charter  
26 schools will utilize the school building and share responsibility for  
27 operational, maintenance, and renovation expenses. If the charter  
28 schools are unable to agree, the charter schools shall be deemed to have  
29 revoked their prior request regarding the lease or sale of the school  
30 building.

31 **(f) If two (2) or more state educational institutions but no**  
32 **charter schools submit timely preliminary requests under**  
33 **subsection (c)(1) regarding a school building, the secretary of**  
34 **education shall appoint three (3) representatives of other state**  
35 **educational institutions. The appointed representatives shall act as**  
36 **a committee to determine which of the state educational**  
37 **institutions that have submitted preliminary requests as described**  
38 **in this subsection is best able to meet the needs of the students in**  
39 **the locality in which the school building is located. Not later than**  
40 **sixty (60) days after the date that the secretary of education**  
41 **appoints the committee of representatives under this subsection,**  
42 **the committee of representatives shall:**



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

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

5           (g) If one (1) or more charter schools and one (1) or more state  
6           educational institutions submit timely preliminary requests under  
7           subsection (c)(1) regarding a school building, the charter school  
8           shall be provided preference to the school building. If more than  
9           one (1) charter school submits timely preliminary requests under  
10          subsection (c)(1) regarding a school building, the determination of  
11          which charter school may obtain the school building shall be  
12          resolved in the manner prescribed in subsection (e).

13          ~~(f)~~ (h) A school corporation shall lease the school building for one  
14          dollar (\$1) per year to the charter school or the state educational  
15          institution for as long as the charter school uses the school building for  
16          classroom instruction for any combination of kindergarten through  
17          grade 12 or a state educational institution uses the building for an  
18          academic purpose. The term of the lease shall be established at the  
19          charter school's or state educational institution's discretion and  
20          include an option for the state educational institution or charter  
21          school to purchase the school building for one dollar (\$1). ~~for a term~~  
22          at the charter school's discretion; or Alternatively, the school  
23          corporation shall sell the school building to the charter school or the  
24          state educational institution for one dollar (\$1), if the charter school  
25          or the state educational institution has met the requirements set forth  
26          in subsection (c) and uses the vacant or unused school building to  
27          provide classroom instruction to students in any combination of  
28          kindergarten through grade 12; in the manner prescribed by this  
29          subsection. If a charter school or state educational institution has not  
30          met the requirements under subsection (c), the school corporation may,  
31          subject to section 7 of this chapter, sell or otherwise dispose of the  
32          school building in accordance with IC 36-1-11, IC 20-25-4-14,  
33          ~~IC 20-26-5-4(7); IC 20-26-5-4(a)(7),~~ and section 8 of this chapter.

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

42          (1) sold or leased to a charter school or state educational





1           **institution;**

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

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

8           **(b) During the period described in subsection (a), a school**  
 9           **corporation is:**

10           **(1) responsible for the maintenance of a vacant or unused**  
 11           **school building, including;**

12                   **(A) protection against theft or vandalism;**

13                   **(B) fire protection; and**

14                   **(C) ensuring the vacant or unused school building is not**  
 15                   **damaged during adverse weather conditions;**

16           **(2) responsible for maintaining the physical condition of the**  
 17           **vacant or unused school building in the same physical**  
 18           **condition the applicable school building was on the last day**  
 19           **that it was used for classroom instruction; and**

20           **(3) financially responsible for any damage or destruction that**  
 21           **occurs to the vacant or unused school building.**

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

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

40                   **(1) charter school does not use the school building for classroom**  
 41                   **instruction; or**

42                   **(2) state educational institution does not use the school**



1           **building for an academic purpose;**

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

5           SECTION 6. IC 20-26-7.1-6, AS ADDED BY P.L.270-2019,  
6           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7           JULY 1, 2021]: Sec. 6. During the term of a lease under section 4 of  
8           this chapter, the charter school **or the state educational institution** is  
9           responsible for the direct expenses related to the school building  
10          leased, including utilities, insurance, maintenance, repairs, and  
11          remodeling. If the lease involves co-locating charter schools **or a**  
12          **co-location with a state educational institution**, the obligations under  
13          the lease of the school building shall be joint and several. The school  
14          corporation is responsible for any debt incurred for or liens that  
15          attached to the school building before the charter school leased the  
16          school building.

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

21                 (1) has voluntarily become accredited under IC 20-31-4.1; or

22                 (2) is accredited by a national or regional accrediting agency that  
23                 is recognized by the state board.

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

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

38                 (d) The accredited nonpublic school or postsecondary educational  
39                 institution, **other than a state educational institution**, must submit its  
40                 letter of intent to purchase the school building within thirty (30) days  
41                 of the date the school corporation passes a resolution or takes other  
42                 official action to close, no longer use, or no longer occupy a school



1 building that was previously used for classroom instruction. However,  
 2 in the event that a charter school **or state educational institution** has  
 3 submitted a preliminary request to purchase or lease a school building,  
 4 the accredited nonpublic school or postsecondary educational  
 5 institution **other than a state educational institution** may send a letter  
 6 of intent to purchase or lease the school building within ninety (90)  
 7 days of the date that the school corporation passed a resolution or took  
 8 official action to close, no longer use, or no longer occupy a school  
 9 building.

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

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

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

29 (b) **Except as provided in section 3(b)(1) of this chapter, if a**  
 30 **governing body passes a resolution to sell, exchange, lease,**  
 31 **demolish, hold without operation, or dispose of a school building,**  
 32 **the governing body of the school corporation must receive a**  
 33 **certification from the attorney general to ensure that the governing**  
 34 **body is in compliance with the requirements of this chapter. The**  
 35 **governing body of the school corporation shall submit an**  
 36 **application, not later than fifteen (15) days after the governing**  
 37 **body passes the resolution described in this subsection, to the**  
 38 **attorney general in a manner prescribed by the attorney general.**  
 39 **The attorney general shall approve or deny a certification within**  
 40 **thirty (30) days of the date the request for certification is received**  
 41 **by the attorney general. If the attorney general denies a**  
 42 **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  
 39 be sent to the state board and the department.

40 (d) If a school corporation does not comply with the requirements  
 41 to sell a vacant school building provided in this chapter as  
 42 determined by the attorney general under subsection (a), the school



1 corporation shall submit any proceeds from the sale of the vacant  
2 school building to the state board, **which shall be distributed equally**  
3 **between each charter school located in the attendance area of the**  
4 **school corporation. If no charter schools are located in the**  
5 **attendance area, the state board must use the proceeds** to provide  
6 grants under the charter school and innovation grant program under  
7 IC 20-24-13. **The attorney general is authorized to initiate any legal**  
8 **action necessary to ensure compliance with this section.**

9 SECTION 10. An emergency is declared for this act.



## COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 358, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective date in SECTION 7 with "[EFFECTIVE UPON PASSAGE]".

Page 1, delete lines 1 through 17, begin a new paragraph and insert: "SECTION 1. IC 20-26-7.1-1, AS ADDED BY P.L.270-2019, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter does not apply to ~~a~~ **the following:**

- (1) **A school building that ~~on~~ has since July 1, 2011, is been continuously leased or loaned by the school corporation that owns the school building to another an entity if the entity that is not a building corporation or other entity that is related in any way to, or created by, the school corporation or the governing body.**
- (2) **A school building that is the only building owned by a school corporation.**
- (3) **A school building that is vacant as a result of consolidation of two (2) or more school corporations.**

SECTION 2. IC 20-26-7.1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. As used in this chapter, "authorizer" has the meaning set forth in IC 20-24-1-2.5.**

SECTION 3. IC 20-26-7.1-2, AS ADDED BY P.L.270-2019, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "charter school" has the meaning set forth in ~~IC 20-24-1-4~~ and includes an entity that has filed an application with an authorizer and is seeking approval from the authorizer to operate a charter school under ~~IC 20-24-3~~. **organization" means an entity that:**

- (1) **operates a charter school (as defined in IC 20-24-1-4);**
- (2) **has submitted a proposal to an authorizer seeking approval to establish a charter school under IC 20-24; or**
- (3) **has filed with an authorizer a letter of intent to operate a charter school.**

SECTION 4. IC 20-26-7.1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter,**



**"underutilized" means a school building in which the number of students enrolled in the school is less than fifty percent (50%) of the number of students enrolled at the highest enrollment for the building, as reported by the department.**

SECTION 5. IC 20-26-7.1-3, AS AMENDED BY P.L.92-2020, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **This subsection applies to any school building that:**

- (1) is owned by a school corporation; and**
- (2) has at any time been used for classroom instruction.**

Before a ~~governing body~~ **school corporation** may sell, or exchange, lease, demolish, hold without operating, or dispose of a school building, described in this section in accordance with ~~IC 20-25-4-14, IC 20-26-5-4(a)(7), or IC 20-26-7-1,~~ and except as provided in this chapter, ~~a governing body~~ **the school corporation** shall make ~~the building~~ **the building** available for lease or purchase to ~~any by a charter school~~ **any school building owned by the school corporation or any other entity that is related in any way to, or created by, the school corporation or the governing body, including but not limited to a building corporation;** that:

- ~~(1) is vacant or unused; and~~
- ~~(2) was previously used for classroom instruction;~~

~~in order for the charter school to conduct kindergarten through grade 12 classroom instruction:~~

**organization in accordance with this chapter.**

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

- (1) A ~~governing body~~ **school corporation** that vacates a school building in order to:
  - (A) renovate the school building for future use by the school corporation; or
  - (B) demolish the school building and build a new school building on the same site as the demolished building.
- (2) An emergency manager of a distressed school corporation under IC 6-1.1-20.3.
- (3) The ~~governing body of the~~ School City of East Chicago school corporation for the Carrie Gosch Elementary School building.
- (4) A school corporation that uses at least fifty percent (50%) of a school building for:**
  - (A) storage;**
  - (B) administrative use;**
  - (C) a preschool;**



(D) alternative education;  
 (E) a school health clinic; or  
 (F) any combination of clauses (A) through (E);  
**and the school corporation does not own any other building that can accommodate the uses described in clauses (A) through (F) for which the school building is being used.**

(5) A school corporation that:

(A) has an underutilized school building; and  
 (B) does not own another building with sufficient capacity to receive the number of students enrolled at the underutilized school building.

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

SECTION 6. IC 20-26-7.1-4, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Not later than ~~ten (10)~~ **thirty (30)** days after ~~passing the date a school corporation passes~~ a resolution or ~~taking takes~~ other official action to close, no longer use, or no longer occupy a school building that was previously used for classroom instruction, the ~~governing body~~ **school corporation** shall:

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

(2) make the school building available for inspection by a charter ~~school organization~~ that ~~notifies~~ **provides, not later than sixty (60) days after the date the charter organization receives a notice under subsection (b), preliminary notice to the department and the school corporation that it the charter organization** is interested in leasing or purchasing the school building; ~~described under section 3 of this chapter;~~ and

(3) make the following information available to a charter ~~school organization~~ **organization** described in subdivision (2):

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

(B) A copy of any building maintenance records.





~~(B)~~ **(C)** Written information regarding the condition of the building, including the age of the roof and the HVAC system, and any known conditions which, in the ~~governing body's~~ **school corporation's** opinion, require prompt repair or replacement.

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

**(E) A copy of any available:**

**(i) building drawings and floor plans; and**

**(ii) property surveys.**

~~(b) Within five (5) days of receiving after~~ **(b) Not later than ten (10) days of receiving after the date the department receives the notice under subsection (a)(1),** the department shall:

**(1) provide written notification of the availability of a school building to:**

**(A) each charter school located in a county in which the school corporation is located;**

**(B) each charter school authorizer (excluding school corporation authorizers as defined in IC 20-24-1-2.5(1)); and**

**(C) all statewide organizations representing charter schools in Indiana; of the school corporation's resolution or official action described in subsection (a); including and**

**(2) post on the department's Internet web site the written notification described in subdivision (1) and include the date when on which the school building will close, no longer be used, or become vacant.**

~~(c) The school corporation shall lease the school building to a charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction for a term at the charter school's discretion; or sell the school building for one dollar (\$1); if the charter school does the following:~~

~~(1) Within thirty (30) days of receiving the department's notice under subsection (b); a charter school must submit a preliminary request to purchase or lease the school building.~~

~~(2) Subject to subsection (d); within ninety (90) days of receiving the department's notice under subsection (b); a charter school must submit to the school corporation the following information:~~

~~(A) The name of the charter school that is interested in leasing or purchasing the vacant or unused school building.~~

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



intends to begin providing classroom instruction in the vacant or unused school building:

(C) A resolution, adopted by the board of the charter school stating that the board has determined that, after the charter school has made any necessary repairs or modifications, the school building will be sufficient to meet the charter school's needs and can be operated within the charter school's budget.

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

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

(ii) A letter from the charter school's authorizer or prospective authorizer that indicates that the charter school's authorizer or prospective authorizer has reviewed the items described in clauses (B) through (C) and that the projected enrollment of the charter school when all of the grade levels are added or fully implemented will be at least sixty percent (60%) of the maximum annual student enrollment of the school building during the past twenty-five (25) years as validated by records maintained or created by the department.

(c) Until the time that a charter organization leases or acquires a school building or the charter organization's rights in a school building are waived under this chapter, a school corporation shall be:

- (1) responsible for maintenance of a building described in this chapter, including protection against fire, theft, and weather conditions;
- (2) responsible for completing any repairs necessary to restore the building to the same condition that the building was in on the last day of classroom instruction; and
- (3) financially responsible for any damage or destruction to the building prior to the charter organization taking possession of the building.

(d) A charter organization shall waive all rights regarding a school building described in subsection (a) if the charter organization does not:

- (1) provide, not later than sixty (60) days after the date the charter organization receives the notice under subsection (b)(1), the preliminary notice of interest to the school



corporation as described in subsection (a)(2); and  
 (2) provide, not later than two hundred seventy-five (275) days after the school corporation completes its duties of disclosure relating to the building, written notice to the school corporation that the charter organization intends to lease or buy the building.

(e) A school corporation that receives a notice described in subsection (d) from a charter organization regarding a school building shall take all actions necessary on its part to enable the charter organization to:

- (1) purchase the building for one dollar (\$1); or
- (2) lease the building for one dollar (\$1) per year, with an option to purchase the building at any time for an additional one dollar (\$1).

However, a school building that is subject to mortgage debt may only be leased to a charter organization and not purchased. A school building purchased or leased as described in this subsection must include all personal property used in the operation of the building other than removable furniture.

(f) A charter organization may terminate the lease of a school building that is entered into or renewed under this section after June 30, 2021, if the charter organization provides to the school corporation, at least six (6) months before the charter organization intends to terminate the lease, written notice that the charter organization is terminating the lease.

(d) (g) If:

- (1) the department does not receive any preliminary requests **notice** to purchase or lease a school building within the time frame described in subsection (e)(1) and except as provided in section 7 of this chapter; (d)(1); or
- (2) a charter organization provided the preliminary notice but has not provided a notice of intent to purchase within the time frame described in subsection (d)(2);

the department shall send notification to the school corporation that ~~the department has not received any preliminary requests to purchase or lease the school building.~~ **all charter school organization rights to the building under this chapter have been waived.** Upon receipt of the notification under this subsection, the school corporation may sell or otherwise dispose of the school building in accordance with IC 36-1-11, IC 20-25-4-14, or ~~IC 20-26-5-4(7).~~ and section 8 of this chapter. **IC 20-26-5-4(a)(7).**

(e) In the event that two (2) or more charter schools submit a



preliminary request to purchase or lease a school building within the time frame described in subsection (c)(1); the department shall send notification to an authorizer described in IC 20-24-1-2.5(3) and each statewide charter school authorizer and statewide organization representing charter schools in Indiana (excluding school corporation authorizers as defined in IC 20-24-1-2.5(1)) and the school corporation that the department has received two (2) or more preliminary requests under this section. An authorizer committee shall be established, with each statewide authorizer that has authorized one (1) or more charter schools appointing a representative; and the committee shall establish the chairperson and procedures for the committee. Within sixty (60) days of receiving notice under this subsection, the committee shall select which charter school may proceed under subsection (c)(2) to purchase or lease the school building or determine if two (2) or more charter schools should co-locate within the school building. The committee shall give priority to a charter school located within one (1) mile of the vacant or unused school building. In the event that the committee determines that two (2) or more charter schools should co-locate in the school building and, if applicable, that the combined enrollment of the charter schools will meet or exceed the requirements in subsection (c)(2)(D), the charter schools have sixty (60) days to submit a memorandum of understanding stating that the charter schools shall be jointly and severally liable for the obligations related to the sale or lease of the school building; and specifying how the charter schools will utilize the school building and share responsibility for operational, maintenance, and renovation expenses. If the charter schools are unable to agree, the charter schools shall be deemed to have revoked their prior request regarding the lease or sale of the school building.

(f) A school corporation shall lease the school building for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction for any combination of kindergarten through grade 12 for a term at the charter school's discretion; or sell the school building to the charter school for one dollar (\$1); if the charter school has met the requirements set forth in subsection (c) and uses the vacant or unused school building to provide classroom instruction to students in any combination of kindergarten through grade 12. If a charter school has not met the requirements under subsection (c), the school corporation may, subject to section 7 of this chapter, sell or otherwise dispose of the school building in accordance with IC 36-1-11; IC 20-25-4-14; IC 20-26-5-4(7); and section 8 of this chapter.



**(h) If two (2) or more charter organizations submit timely preliminary notices under subsection (d)(1) regarding a school building, the secretary of education shall appoint three (3) authorizers that have no business relationship with the charter organizations that are seeking to lease or purchase the building. The appointed authorizers shall act as a committee to determine which of the charter organizations that have submitted notices as described in this subsection is best able to meet the needs of the students in the locality in which the school building is located. Not later than sixty (60) days after the date that the secretary of education appoints the authorizers under this subsection, the committee of authorizers shall select which charter organization may proceed to purchase or lease the school building.**

SECTION 7. IC 20-26-7.1-5, AS ADDED BY P.L.270-2019, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a school building is sold to a charter ~~school~~ **organization** under ~~section 3 or 4~~ of this chapter and the charter ~~school~~, **organization**, or any subsequent owner, subsequently sells or transfers the school building to a third party, the charter ~~school~~ **organization** or subsequent owner must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school corporation that initially sold the ~~vacant school~~ building to the charter ~~school~~. **organization**. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(b) A charter ~~school~~ **organization** that purchases a school building assumes total control of the school building and must maintain the school building, including utilities, insurance, maintenance, and repairs. In the event a charter ~~school~~ **organization** does not use the school building for classroom instruction within two (2) years after acquiring the school building, the school building shall revert to the school corporation, which may sell or otherwise dispose of the school building under IC 36-1-11.

SECTION 8. IC 20-26-7.1-6, AS ADDED BY P.L.270-2019, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. During the term of a lease under section 4 of this chapter, the charter ~~school~~ **organization** is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. ~~If the lease involves co-locating charter schools, the obligations under the lease of the school building shall be joint and several.~~ The school corporation is



responsible for any debt incurred for or liens that attached to the school building before the charter school **organization** leased the school building.

SECTION 9. IC 20-26-7.1-7 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 7: (a) As used in this section, "accredited nonpublic school" means a nonpublic school that:

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

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

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

(d) The accredited nonpublic school or postsecondary educational institution must submit its letter of intent to purchase the school building within thirty (30) days of the date the school corporation passes a resolution or takes other official action to close, no longer use, or no longer occupy a school building that was previously used for classroom instruction. However, in the event that a charter school has submitted a preliminary request to purchase or lease a school building, the accredited nonpublic school or postsecondary educational institution may send a letter of intent to purchase or lease the school building within ninety (90) days of the date that the school corporation passed a resolution or took official action to close, no longer use, or no longer occupy a school building.

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



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

SECTION 10. IC 20-26-7.1-8 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 8: (a) This section applies to the sale of a vacant or unused school building with more than two hundred thousand (200,000) gross square feet under IC 36-1-11; as permitted by this chapter.

(b) In determining whether to accept a proposal to purchase and redevelop the school building and any adjacent property; the governing body must ensure that a charter school that is located within one (1) mile of the site to be redeveloped and has notified the governing body in writing of its interest in locating the charter school on the redeveloped site is provided with the opportunity to lease adequate facilities on the redeveloped site at fifty percent (50%) or less than the current market rate for the redeveloped property or a rate agreed upon by the parties:

(c) In the event that a charter school does not enter into a lease for the appropriate facilities as part of the initial development of the school building parcel; this section shall no longer be binding on the school corporation or the purchaser of the property; which shall not be required to make the space available for use by another charter school:

SECTION 11. IC 20-26-7.1-9, AS ADDED BY P.L.270-2019, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. If **(a) At the request of a school corporation does not comply with the requirements provided in or charter organization, any dispute under** this chapter the school corporation shall submit any proceeds from the sale of the vacant school building to the state board to provide grants under the charter school and innovation grant program under IC 20-24-13: **is subject to mediation or arbitration.**

**(b) The parties to a dispute under this chapter shall share equally the costs of mediation or arbitration.**

**(c) A charter organization shall have a private right of action to enforce a school corporation to comply with the requirements under this chapter.**

**(d) A charter organization that prevails in a private right of action is entitled to reasonable court costs, costs for arbitration and mediation, and attorney's fees.**



**(e) An action under this chapter may be enforced by injunction."**

Delete pages 2 through 6.

Page 7, delete lines 1 through 35.

Page 7, line 38, delete "in 2022," and insert **"with the 2021-2022 school year,"**.

Page 8, line 3, delete "The maximum student capacity." and insert **"The number of students enrolled at the highest enrollment for the building, as reported by the department."**

Page 8, line 6, delete "utilization." and insert **"utilization, as determined by dividing the number of students enrolled in the school by the number of students enrolled at the highest enrollment for the building, as reported by the department."**

Page 8, delete lines 8 through 42, begin a new line block indented and insert:

**"(5) If the school corporation requested and was granted a waiver under section 11 of this chapter, information regarding:**

**(A) implementation of the school corporation's plan submitted under section 11 of this chapter; and**

**(B) current use of the school building.**

SECTION 13. IC 20-26-7.1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) If the department determines that a school building is underutilized for two (2) consecutive fall ADM counts, the department shall:**

**(1) place the school building in underutilized status; and**

**(2) notify the school corporation that the school corporation is required to offer the building for sale or lease to a charter organization not later than the end of the school year in which the department makes the determination.**

**(b) The department may consider factors other than, or in addition to, a school corporation's report submitted under section 10 of this chapter in determining that a school building is underutilized as described in subsection (a).**

**(c) Not later than sixty (60) days after the date that the school corporation receives a notice under subsection (a), the school corporation may submit a request to the department to remove the school building from underutilized status. If a school corporation submits a request under this subsection, the school corporation must submit with the request a plan to bring the building out of underutilized status.**





**(d) If:**

**(1) the school corporation does not submit a request and a plan under subsection (c); or**

**(2) the request is denied by the department;**

**the department shall provide written notice of the availability of the school building as described in section 4(b) of this chapter and the requirements and process under section 4 of this chapter apply to the building.**

**SECTION 14. An emergency is declared for this act."**

Delete page 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 358 as introduced.)

RAATZ, Chairperson

Committee Vote: Yeas 9, Nays 4.

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SENATE MOTION

Madam President: I move that Senate Bill 358 be amended to read as follows:

Page 3, delete lines 11 through 21, begin a new line block indented and insert:

**"(4) A school corporation that uses at least fifty percent (50%) of a school building for at least twenty (20) hours each week for one (1) or more school related uses approved by the department and the school corporation does not own any other building that can accommodate the approved uses."**

Page 6, line 21, delete "buy" and insert "**purchase**".

Page 7, line 1, after "notice" insert "**of interest**".

Page 7, line 4, after "notice" insert "**of interest**".

Page 7, line 5, after "intent to" insert "**lease or**".

Page 8, line 27, delete "shall select which charter organization" and insert "**shall:**

**(1) select which charter organization may proceed to purchase or lease the building; or**

**(2) determine if two (2) or more charter schools should co-locate within the school building."**

Page 8, delete lines 28 through 42, begin a new paragraph and

ES 358—LS 7143/DI 136



insert:

"SECTION 7. IC 20-26-7.1-5, AS ADDED BY P.L.270-2019, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a school building is sold to a charter school under section 3 or 4 of this chapter and the charter school; or any subsequent owner; subsequently sells or transfers the school building to a third party, the charter school or subsequent owner must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school corporation that initially sold the vacant school building to the charter school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(b) (a) A charter school **organization** that purchases a school building assumes total control of the school building and must maintain the school building, including utilities, insurance, maintenance, and repairs. ~~In the event~~

**(b) If:**

**(1) a charter school organization that purchased a school building under this chapter:**

**(A) does not use the school building for classroom instruction within two (2) years after acquiring the school building; the school building shall revert to the school corporation, which may sell or otherwise dispose of the school building under IC 36-1-11; or**

**(B) no longer uses or intends to use the building; or**

**(2) the department determines that the building is underutilized as provided under section 12 of this chapter; the charter organizer shall provide notice as provided under section 12(d)(2)(B) of this chapter and take all actions necessary on its part to enable the school corporation to repurchase the building for one dollar (\$1).**

**(c) If the school corporation intends to repurchase the school building, the school corporation shall, not later than sixty (60) days after the date that the charter organization provides the school corporation the notice under subsection (b), provide a notice to the charter organization that the school corporation intends to repurchase the building.**

**(d) If the school corporation repurchases a school building as described in subsection (b), the school corporation may sell or otherwise dispose of the school building in accordance with IC 20-25-4-14, IC 20-26-5-4(a)(7), or IC 36-1-11.**



**(e) If the school corporation does not provide the notice of intent to repurchase within the time period described in subsection (c), the charter organization may sell or transfer the building to a third party. If the charter organization sells or transfers the school building under this subsection, the charter organization must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building less depreciation on the cost of improvements) to the school corporation from which the charter organization purchased the building. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines."**

Page 9, delete lines 1 through 7.

Page 11, line 2, delete "or" and insert "**and a**".

Page 11, line 3, delete "any dispute" and insert "**a dispute between the school corporation and charter organization**".

Page 11, delete lines 13 through 15, begin a new paragraph and insert:

**"(d) A court may award a charter organization that prevails in a private right of action under this section reasonable court costs and attorney's fees."**

Page 11, line 27, delete "building, as reported by the department." and insert "**school building**".

Page 12, line 15, after "department" insert "**for a waiver**".

Page 12, between lines 19 and 20, begin a new paragraph and insert:

**"(d) If:**

**(1) a school corporation submits a request and plan under subsection (c); and**

**(2) the department denies the request;**

**the school corporation may, not later than ten (10) days after the date that the department provides notice of its denial to the school corporation, appeal the department's decision to the state board. The state board shall make a determination regarding an appeal submitted under this subsection at the state board's next meeting following receipt of the appeal."**

Page 12, line 20, delete "(d)" and insert "(e)".

Page 12, line 23, delete "department;" and insert "**department and the school corporation:**

**(A) does not appeal to the state board the department's decision within the time period established under subsection (d); or**

**(B) filed an appeal with the state board and the state board**



**denied the request for a waiver;"**.

Page 12, between lines 27 and 28, begin a new paragraph and insert:

**"SECTION 14. IC 20-26-7.1-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to a charter organization that is leasing or has purchased a school building for one dollar (\$1) under this chapter.**

**(b) Subsection (d) does not apply to a charter organization for the first five (5) years that the charter organization leases a school building or the first five (5) years after the charter organization purchases the building, whichever is applicable. If the charter organization leases and later purchases a school building, the total number of years to which subsection (d) does not apply is five (5) years from the date that the charter organization initially leased the school building.**

**(c) Beginning with the 2021-2022 school year, and each school year thereafter, not later than sixty (60) days after the date of the fall count of ADM, each charter organization shall submit to the department on a form prescribed by the department the:**

**(1) information described in section 10(1) through 10(4) of this chapter regarding a school building that the charter organization has leased or purchased as described in subsection (a); and**

**(2) if the charter organization requested and was granted a waiver under this section, information regarding:**

**(A) implementation of the charter organization's plan submitted under subsection (f); and**

**(B) current use of the school building.**

**(d) If the department determines that a school building described in subsection (a) is underutilized for two (2) consecutive fall ADM counts beginning after the five (5) year period described in subsection (b), the department shall:**

**(1) place the school building in underutilized status; and**

**(2) provide notification to the charter organization of the following:**

**(A) If the building is leased, the charter organization is required to do the following:**

**(i) If the lease was entered into or renewed after June 30, 2021, terminate the lease.**

**(ii) If the lease was entered into or renewed before July 1, 2021, terminate the lease as soon as the lease agreement allows for termination or nonrenewal of the**



lease.

**(B) If the building was purchased, the charter organization is required to do the following:**

**(i) Not later than thirty (30) days after the date that the charter organization is notified by the department under this subdivision, provide notice to the school corporation from which the charter organization purchased the building that the building is available for repurchase.**

**(ii) Take all actions necessary on the charter organization's part to enable the school corporation to repurchase the building for one dollar (\$1).**

**(e) The department may consider factors other than, or in addition to, a charter organization's report submitted under subsection (c) in determining that a school building is underutilized as described in subsection (d).**

**(f) Not later than sixty (60) days after the date that the charter organization receives a notice under subsection (d), the charter organization may submit a request to the department for a waiver to remove the school building from underutilized status. If a charter organization submits a request under this subsection, the charter organization must submit with the request a plan to bring the building out of underutilized status.**

**(g) If:**

**(1) a charter organization submits a request and plan under subsection (f); and**

**(2) the department denies the request;**

**the charter organization may, not later than ten (10) days after the date that the department provides notice of its denial to the charter organization, appeal the department's decision to the state board. The state board shall make a determination regarding an appeal submitted under this subsection at the state board's next meeting following receipt of the appeal.**

**(h) If:**

**(1) the charter organization does not submit a request and a plan under subsection (f); or**

**(2) the request is denied by the department and the school corporation:**

**(A) does not appeal to the state board the department's decision within the time period established under subsection (g); or**

**(B) filed an appeal with the state board and the state board denied the request for a waiver;**



**the charter organization shall provide written notice of the availability of the school building as described in section 5(b) of this chapter and the requirements and process under section 5 of this chapter apply to the building."**

Renumber all SECTIONS consecutively.

(Reference is to SB 358 as printed February 19, 2021.)

ROGERS

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COMMITTEE REPORT

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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 358 as reprinted February 23, 2021.)

BEHNING

Committee Vote: yeas 9, nays 4.

