



Reprinted
February 28, 2023

SENATE BILL No. 391

DIGEST OF SB 391 (Updated February 27, 2023 4:21 pm - DI 110)

Citations Affected: IC 20-26.

Synopsis: Closure of school buildings. Establishes standards concerning when a school corporation may close an underutilized school building that had been used at any time for classroom instruction. Provides procedures regarding petitioning for a determination as to whether a school building meets criteria for closure or should be made available for sale or lease. Requires the department of education (department) to make a determination regarding a petition. Requires each school corporation to annually report to the department certain information regarding school buildings. Provides procedures for notifying charter schools or state educational institutions through the department of the availability of a covered school building. Provides for appeals of certain orders or decisions to the state board of education. Provides that the: (1) department; or (2) selected charter school or state educational institution; may request the attorney general to commence a legal action to enforce a final order for the sale or lease of a covered school building or file a civil action to enforce the final order for the sale or lease after certain time periods. Makes other related changes. Repeals certain provisions regarding investigating complaints and enforcement by the attorney general.

Effective: July 1, 2023.

Rogers, Raatz, Buchanan

January 19, 2023, read first time and referred to Committee on Education and Career Development.
February 23, 2023, amended, reported favorably — Do Pass.
February 27, 2023, read second time, amended, ordered engrossed.

SB 391—LS 7109/DI 51



Reprinted
February 28, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 391

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 20-26-7-5, AS AMENDED BY P.L.233-2015,
2 SECTION 108, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2023]: Sec. 5. **Except as otherwise provided**
4 **in IC 20-26-7.1**, a school corporation (as defined in IC 36-1-2-17) may
5 convey property owned by the school corporation to a civil city or other
6 political subdivision for civic purposes if:
7 (1) the governing body adopts a resolution recommending the
8 transfer and conveyance of the school property;
9 (2) the civil city or political subdivision agrees to accept the
10 school property; and
11 (3) the governing body executes a deed for the school property.
12 SECTION 2. IC 20-26-7-39, AS ADDED BY P.L.1-2005,
13 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2023]: Sec. 39. (a) **Except as otherwise provided in**
15 **IC 20-26-7.1**, if:
16 (1) a school corporation; and
17 (2) the state, either in the name of the state or in the name of the

SB 391—LS 7109/DI 51



1 trustees of an agency of the state;
 2 each own improved or unimproved real estate that lies within the
 3 boundaries of the school corporation and that is not needed or required
 4 for the purpose for which it was acquired, the school corporation and
 5 the state may sell, trade, exchange, or convey to or with each other the
 6 unneeded real estate upon such terms and conditions mutually agreed
 7 upon and incorporated in an agreement between the trustees or board
 8 of trustees of the school corporation and the state or, if the real estate
 9 is held in the name of the trustees of an agency of the state, by the
 10 trustees.

11 (b) A value must be assigned to each parcel of real estate involved
 12 in the sale, trade, or exchange in the agreement. The assigned value
 13 must be the fair market value of the real estate as determined by three
 14 (3) appraisers appointed as follows:

15 (1) One (1) to be appointed by the board of trustees of the school
 16 corporation.

17 (2) One (1) to be appointed by the state or, if the real estate is held
 18 in the name of the trustees of an agency of the state, by the
 19 trustees.

20 (3) One (1) to be appointed by the two (2).

21 (c) The agreement must provide for payment by the party owning
 22 the real estate of the smaller value to the other party of the difference
 23 of value of the properties.

24 SECTION 3. IC 20-26-7-47 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2023]: **Sec. 47. (a) The following definitions apply throughout
 27 this section:**

28 (1) "Covered school building" has the meaning set forth in
 29 IC 20-26-7.1-2.1.

30 (2) "Current school year" refers to a year in which the
 31 governing body is required to conduct a review of school
 32 building usage under subsection (c).

33 (3) "Enrollment" refers to students counted in ADM (as
 34 defined in IC 20-43-1-6) in the first count date for a school
 35 year fixed under IC 20-43-4-3.

36 (4) "Interested person" has the meaning set forth in
 37 IC 20-26-7.1-2.2.

38 (b) This section applies to a school corporation only if:

39 (1) the total student enrollment for in-person instruction in
 40 the school corporation in the current school year is at least ten
 41 percent (10%) less than the student enrollment for in-person
 42 instruction in the school corporation in a school year that



- 1 precedes the current school year by five (5); and
 2 (2) the school corporation in the current school year has more
 3 than one (1) school building serving the same grade level as
 4 the school building subject to closure under this section.
- 5 (c) Each school year, the governing body of a school corporation
 6 shall review the usage of school buildings used by the school
 7 corporation to determine whether any school building should be
 8 closed for the ensuing school year and subsequent school years.
- 9 (d) A school corporation may close a school building for the
 10 ensuing school year (and subsequent school years) if:
 11 (1) at any time the school building had been used for
 12 classroom instruction;
 13 (2) in the current school year and the two (2) school years
 14 immediately preceding the current school year the school
 15 building was underutilized for classroom instruction purposes
 16 or other allowable uses specified by this section;
 17 (3) as of the end of the school year before the school building
 18 is required to be closed under this section, the school
 19 corporation was not subject to a transitional plan adopted by
 20 the governing body and approved by the department to use
 21 the school building for an allowable use not later than the next
 22 school year after the school building is otherwise required to
 23 be closed under this section;
 24 (4) in the case of a school building that was used in any part
 25 in the current school year for instructional purposes, the
 26 school corporation has another school building:
 27 (A) with sufficient capacity to take the students using the
 28 school building being considered for closure; and
 29 (B) that does not require more than twenty (20) minutes of
 30 travel time from the school building being considered for
 31 closure; and
 32 (5) the school building is not a school building described in
 33 IC 20-26-7.1-1, IC 20-26-7.1-3(b), IC 20-26-7.1-3(c), or
 34 IC 20-26-7.1-3(d).
- 35 (e) For purposes of this section, a school building is
 36 underutilized in a school year if the school building is not used for
 37 any of the following allowable uses:
 38 (1) The number of full-time equivalent students enrolled for
 39 in-person instruction in the school building on instructional
 40 days (as determined under IC 20-30-2) for instructional
 41 purposes, averaged over the current school year and the two
 42 (2) school years immediately preceding the current school



- 1 year, is at least sixty percent (60%) of:
2 (A) the known classroom design capacity of the school
3 building; or
4 (B) if the design capacity is not known, the average
5 maximum full-time equivalent enrollment in any of the last
6 twenty-five (25) years, as validated by records created or
7 maintained by the department.
- 8 (2) The school corporation demonstrates through facts
9 included in a resolution that the school building is being used
10 and that it is financially prudent to continue to use the school
11 building, considering all community resources, for a distinct
12 student population that reasonably cannot be served through
13 integration with the general school population, such as
14 students attending an alternative education program (as
15 defined in IC 20-30-8-1). However, to be an allowable use
16 under this subdivision, the average number of full-time
17 equivalent students using the school building in a school year
18 for instructional purposes must be at least thirty percent
19 (30%) of:
20 (A) the known classroom design capacity of the school
21 building; or
22 (B) if the design capacity is not known, the average
23 maximum full-time equivalent enrollment in any of the last
24 twenty-five (25) years, as validated by records created or
25 maintained by the department; and
26 (if multiple school buildings are used for the same purposes)
27 combining the student populations into fewer school buildings
28 is not reasonably feasible.
- 29 (3) The school corporation demonstrates through facts
30 included in a resolution that the school building is being used
31 and that it is financially prudent to continue to use the school
32 building, considering all community resources, for
33 administrative or other school offices. However, to be an
34 allowable use under this subdivision, at least fifty percent
35 (50%) of the square footage of the school building must be
36 used for offices, the personnel headquartered in the school
37 building must consistently use the space for office purposes,
38 and the occupancy cost of using the school building cannot be
39 more than comparable office space that is available in the
40 school district.
- 41 (4) The school corporation demonstrates through facts
42 included in a resolution that the school building is being used



1 and that it is financially prudent to continue to use the school
 2 building, considering all community resources, for storage.
 3 However, to be an allowable use under this subdivision, at
 4 least fifty percent (50%) of the square footage of the school
 5 building must be used for storage, on average the storage
 6 space must be used to capacity, and the cost of using the
 7 school building for storage must be less than comparable
 8 storage space that is available in the school district.

9 (5) The school corporation demonstrates through facts
 10 included in a resolution that the school building is being used
 11 and that it is financially prudent to continue to use the school
 12 building, considering all community resources, for a
 13 combination of office space and storage. However, to be an
 14 allowable use under this subdivision, at least fifty percent
 15 (50%) of the square footage of the school building must be
 16 used for a combination of office space and storage and:

17 (A) the personnel headquartered in the school building
 18 must consistently use the office space for office purposes,
 19 and the occupancy cost of using the office space, calculated
 20 using the costs of operating the school building, cannot be
 21 more than comparable office space that is available in the
 22 school district; and

23 (B) on average, the storage space must be used to capacity
 24 and the cost of using the school building for storage must
 25 be less than comparable storage space that is available in
 26 the school district.

27 (f) Closure of a school building that:

28 (1) is owned by the school corporation or any other entity that
 29 is related in any way to, or created by, the school corporation
 30 or the governing body; or

31 (2) jointly owned in the same manner by two (2) or more
 32 school corporations;

33 shall be carried out in conformity with IC 20-26-7.1.

34 (g) Before filing a petition under subsection (h), a charter school
 35 or state educational institution that is interested in a school
 36 corporation's school building must give written notice to the school
 37 corporation to determine whether an agreement can be reached
 38 regarding the school corporation making the school building
 39 available for lease or purchase under IC 20-26-7.1.

40 (h) If an agreement is not reached within forty-five (45) days
 41 after the date that the school corporation receives the notice under
 42 subsection (g), the charter school or state educational institution



1 may petition the department or the department on its own may
 2 initiate a proceeding for a determination as to whether a school
 3 building meets the criteria for closure under this section or a
 4 covered school building that is no longer used for classroom
 5 instruction by a school corporation should be made available under
 6 IC 20-26-7.1. If a charter school or state educational institution
 7 petitions the department under this subsection, the charter school
 8 or state educational institution must provide a copy of the petition
 9 to the applicable school corporation.

10 (i) An interested person that is not otherwise a party to the
 11 proceeding may intervene in the proceeding under subsection (h)
 12 as a party. The school corporation has the burden of going forward
 13 with the evidence and the burden of proof to demonstrate that the
 14 school building does not meet the criteria for closure or the
 15 covered school building is not required to be made available under
 16 IC 20-26-7.1.

17 (j) Not more than sixty (60) days after receiving notice of a
 18 petition under subsection (h), the school corporation must:

19 (1) file a response to the petition that notifies the department
 20 that the school corporation:

21 (A) is not contesting the petition; or

22 (B) is contesting the petition and states the facts upon
 23 which the school corporation relies in contesting the
 24 petition; and

25 (2) provide a copy of the response to the petitioner and any
 26 intervening party.

27 (k) If the school corporation:

28 (1) files a response that the school corporation is not
 29 contesting the petition; or

30 (2) fails to submit a timely response under subsection (j);

31 the department shall issue an order granting the petition. A
 32 petition and any response or reply are public documents.

33 (l) If a school corporation contests a petition under subsection
 34 (j), a party to the proceeding has not more than sixty (60) days
 35 after the date that the school corporation files a response under
 36 subsection (j) to submit a reply to the school corporation's
 37 response.

38 (m) The department shall make a determination regarding a
 39 petition under subsection (h) not more than one hundred twenty
 40 (120) days after the date that the:

41 (1) petitioner and any intervening party have submitted a
 42 reply under subsection (l); or



- 1 **(2) time period to reply under subsection (l) has expired.**
 2 **(n) A school corporation or another party to the proceeding may**
 3 **file with the state board a petition requesting review of the**
 4 **department's determination. Upon receipt of a petition under this**
 5 **subsection, the state board shall review the department's**
 6 **determination. An appeal to the state board shall be subject to the**
 7 **procedure described in IC 20-26-11-15(b).**
 8 **(o) Upon the issuance of a final unappealable order granting a**
 9 **petition, the school corporation may make the school building**
 10 **available for lease or purchase in accordance with IC 20-26-7.1.**
 11 **SECTION 4. IC 20-26-7-48 IS ADDED TO THE INDIANA CODE**
 12 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 13 **1, 2023]: Sec. 48. (a) The following definitions apply throughout**
 14 **this section:**
 15 **(1) "Current school year" refers to a year in which the**
 16 **governing body is required to conduct a review of school**
 17 **building usage under subsection (c).**
 18 **(2) "Enrollment" refers to students counted in ADM (as**
 19 **defined in IC 20-43-1-6) in the first count date for a school**
 20 **year fixed under IC 20-43-4-3.**
 21 **(b) This section applies to a school corporation only if:**
 22 **(1) the total student enrollment for in-person instruction in**
 23 **the school corporation in the current school year is at least ten**
 24 **percent (10%) less than the student enrollment for in-person**
 25 **instruction in the school corporation in a school year that**
 26 **precedes the current school year by five (5); and**
 27 **(2) the school corporation in the current school year has more**
 28 **than one (1) school building serving the same grade level as a**
 29 **school building subject to closure under section 47 of this**
 30 **chapter.**
 31 **(c) Each school corporation shall annually report to the**
 32 **department in the form and on the schedule specified the following**
 33 **information by the department:**
 34 **(1) A listing of all buildings owned or leased by the school**
 35 **corporation that were originally designed as a school building.**
 36 **(2) The following information for each building listed in**
 37 **subdivision (1):**
 38 **(A) Designed occupancy, regardless of current use.**
 39 **(B) Current use (and percentage of use) for classroom**
 40 **instruction, as special use classrooms, as office space, or as**
 41 **storage or alternatively the building's status as**
 42 **transitioning from one (1) use or combination of uses to**



1 another.

2 (C) The following information:

3 (i) Current average full-time equivalent student
4 enrollment for in-person instruction in the school
5 building on instructional days (as determined under
6 IC 20-30-2) in a school year.

7 (ii) Percentage of instructional use.

8 (iii) Percentage of use for other purposes.

9 (D) Self-evaluation of whether the building qualifies for
10 closure under section 47 of this chapter or the school board
11 otherwise intends to close the building and the date closure
12 will occur (if applicable).

13 SECTION 5. IC 20-26-7.1-2.1 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2023]: **Sec. 2.1. As used in this chapter,**
16 **"covered school building" means a school building that is owned**
17 **by a school corporation or any other entity that is related in any**
18 **way to, or created by, the school corporation or the governing**
19 **body, including a building corporation, and that has at any time**
20 **been used for classroom instruction.**

21 SECTION 6. IC 20-26-7.1-2.2 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2023]: **Sec. 2.2. As used in this chapter,**
24 **"interested person" refers to the following:**

25 (1) Each state educational institution.

26 (2) Each charter school in a county where a school
27 corporation with a covered school building subject to closure
28 is located.

29 (3) All charter school authorizers (excluding school
30 corporation authorizers as defined in IC 20-24-1-2.5(1)).

31 (4) Each trade or professional organization representing
32 charter schools listed as an organization representing charter
33 schools on the website of the department or otherwise known
34 to a school corporation with a covered school building subject
35 to closure.

36 (5) The Indiana charter school board.

37 (6) Each charter school that is not described in subdivision (2)
38 that has provided a written notice of interest in a covered
39 school building to the department.

40 SECTION 7. IC 20-26-7.1-2.8 IS ADDED TO THE INDIANA
41 CODE AS A NEW SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2023]: **Sec. 2.8. When a notice is given to an**



1 **authorizer under this chapter or IC 20-26-7-47, the authorizer is**
 2 **responsible for notifying all charter schools authorized by or**
 3 **applying for authorization by the authorizer. The authorizer must**
 4 **provide the notice to charter schools not more than ten (10) days**
 5 **after the authorizer received the notice.**

6 SECTION 8. IC 20-26-7.1-3, AS AMENDED BY P.L.155-2021,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2023]: Sec. 3. (a) ~~This subsection applies to any school~~
 9 ~~building that is owned by a school corporation or any other entity that~~
 10 ~~is related in any way to, or created by, the school corporation or the~~
 11 ~~governing body, including but not limited to a building corporation;~~
 12 ~~and that has at any time been used for classroom instruction. Except as~~
 13 ~~provided in section 1 of this chapter or subsection (b)(1), (b), (c), or~~
 14 ~~(d), before a governing body may sell, exchange, lease, demolish, hold~~
 15 ~~without operating, or dispose of a covered school building, a governing~~
 16 ~~body shall do the following:~~

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

20 ~~(2) The governing body shall make available for lease or purchase~~
 21 ~~by a charter school or after June 30, 2021, a state educational~~
 22 ~~institution any covered school building owned by the school~~
 23 ~~corporation or any other entity that is related in any way to, or~~
 24 ~~created by, the school corporation or the governing body,~~
 25 ~~including but not limited to a building corporation, that~~

26 ~~(A) is vacant or unused; and~~

27 ~~(B) was previously used for classroom instruction;~~

28 **the governing body elects to close or the school corporation is**
 29 **required to close under IC 20-26-7-47, in order for the covered**
 30 **school building to be used by a:**

31 **(1) charter school to conduct kindergarten prekindergarten**
 32 **through grade 12 classroom instruction; or to be used by a**

33 **(2) state educational institution for an academic purpose.**

34 (b) The following are not required to comply with this chapter:

35 (1) A governing body that vacates a **covered** school building in
 36 order to:

37 (A) renovate the **covered** school building for a future
 38 **allowable** use by the school corporation **as permitted under**
 39 **IC 20-26-7-47; or**

40 (B) demolish the **covered** school building and build a new
 41 school building on the same site as the demolished building.

42 (2) An emergency manager of a distressed school corporation



1 under IC 6-1.1-20.3.
 2 (3) The governing body of the School City of East Chicago school
 3 corporation for the Carrie Gosch Elementary School building.
 4 (c) **Notwithstanding subsection (a), a lease entered into by This**
 5 **section does not apply to a covered school building in which a**
 6 governing body under IC 20-26-5-4(a)(7) entered a lease prior to
 7 January 1, 2019, with a state accredited nonpublic school. ~~shall remain~~
 8 ~~in full force and effect.~~ In addition, the governing body may, during or
 9 at the expiration of the term of such lease, sell the school building
 10 leased under IC 20-26-5-4(a)(7) to the nonpublic school at a purchase
 11 price mutually agreed to by the governing body and the nonpublic
 12 school.
 13 (d) **This section does not apply to a covered school building of a**
 14 **school corporation to which the following apply:**
 15 (1) **The school corporation had, before January 1, 2023,**
 16 **entered into a lease or memorandum of understanding with**
 17 **a nonprofit organization exempt from federal taxation under**
 18 **Section 501(c)(3) through 501(c)(7) of the Internal Revenue**
 19 **Code for the use of the covered school building.**
 20 (2) **The lease or memorandum of understanding described in**
 21 **subdivision (1):**
 22 (A) **continues in effect;**
 23 (B) **is renewed; or**
 24 (C) **is replaced by a new lease or memorandum of**
 25 **understanding that is entered into between the school**
 26 **corporation and the nonprofit organization described in**
 27 **subdivision (1).**
 28 (3) **The nonprofit organization described in subdivision (1)**
 29 **uses the covered school building for an educational purpose**
 30 **throughout the term of any lease or memorandum of**
 31 **understanding.**
 32 **If at any time the conditions under subdivisions (2) and (3) are not**
 33 **met, the covered school building is subject to IC 20-26-7-47 and**
 34 **this chapter.**
 35 (e) **A covered school building that a school corporation closes or**
 36 **is required to close may not be retained by the school corporation**
 37 **for storage or office use unless the conditions of**
 38 **IC 20-26-7-47(e)(3), IC 20-26-7-47(e)(4), or IC 20-26-7-47(e)(5) are**
 39 **met.**
 40 SECTION 9. IC 20-26-7.1-4, AS AMENDED BY P.L.155-2021,
 41 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2023]: Sec. 4. (a) **A school corporation may notify the**



1 department any time after the governing body elects to close a
 2 covered school building. The school corporation shall notify the
 3 department in the annual report required under IC 20-26-7-48 that
 4 the school corporation elects to or is required under IC 20-26-7-47
 5 to close a covered school building. The notice must be in the annual
 6 report submitted under IC 20-26-7-48 after the school elects to or
 7 is required to close the covered school building. The department
 8 shall notify interested persons concerning the availability of a
 9 covered school building under subsection (d).

10 (b) Not later than ~~ten (10)~~ fifteen (15) days after: passing a
 11 resolution or taking other official action to close, no longer use, or no
 12 longer occupy a school building that was previously used for classroom
 13 instruction under section 3 of this chapter;

14 (1) the department receives the earliest notice under
 15 subsection (a); or

16 (2) if the department determines that a covered school
 17 building qualifies for closure under IC 20-26-7-47, the date a
 18 final order to close a covered school building is issued under
 19 IC 20-26-7-47;

20 the governing body shall take the actions specified by this subsection
 21 and subsection (c). The department may order a school
 22 corporation to comply with this subsection and subsection (c) and
 23 request that the attorney general enforce the order under section
 24 9(a) of this chapter.

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

28 (c) **The governing body shall do the following:**

29 ~~(2)~~ (1) Make the covered school building available for inspection
 30 by a charter school or state educational institution that notifies the
 31 department that it is interested in leasing or purchasing the
 32 covered school building. ~~described under section 3 of this~~
 33 ~~chapter; and~~

34 ~~(3)~~ (2) Make the following information available to a charter
 35 school or state educational institution described in subdivision

36 ~~(2):~~ (1):

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

39 (B) Written information regarding the condition of the
 40 covered school building, including the age of the roof and the
 41 HVAC system, and any known conditions which, in the
 42 governing body's opinion, require prompt repair or



1 replacement.

2 (C) A legal description of the property.

3 ~~(b)~~ **(d)** ~~Within Not later than five (5) fifteen (15) days of after the~~
4 **earlier of:**

5 **(1)** receiving the earliest notice under subsection ~~(a)(1);~~
6 **subsection (a); or**

7 **(2) if the department determines that a covered school**
8 **building qualifies for closure under IC 20-26-7-47, the date a**
9 **final unappealable order to close a covered school building is**
10 **issued under IC 20-26-7-47;**

11 the department shall **place a notice on the department's website that**
12 **the covered school building is available for purchase or lease under**
13 **this chapter and** provide written notification to each state educational
14 institution, charter school authorizer ~~(excluding school corporation~~
15 ~~authorizers as defined in IC 20-24-1-2.5(1)); and statewide~~
16 ~~organizations representing charter schools in Indiana of the school~~
17 ~~corporation's resolution or official action described in subsection (a);~~
18 **interested person**, including the date when the **covered** school
19 building will close, no longer be used, or become vacant.

20 ~~(c)~~ **(e)** The school corporation shall lease the **covered** school
21 building to a charter school or state educational institution for one
22 dollar (\$1) per year for as long as the state educational institution uses
23 the **covered school** building for an academic purpose or the charter
24 school uses the **covered** school building for classroom instruction, for
25 a term at the state educational institution's or charter school's
26 discretion, or sell the **covered** school building for one dollar (\$1), if the
27 charter school or state educational institution does the following:

28 **(1)** Within ~~thirty (30) ninety (90)~~ days of receiving the
29 department's notice under subsection ~~(b); (d)~~, a charter school or
30 state educational institution must submit a preliminary request to
31 purchase or lease the **covered** school building.

32 **(2)** Subject to subsection ~~(d); (f)~~, within ninety (90) days of
33 receiving the department's notice under subsection ~~(b); (d)~~, a
34 charter school or state educational institution must submit to the
35 school corporation the following information:

36 **(A)** The name of the charter school or state educational
37 institution that is interested in leasing or purchasing the ~~vacant~~
38 ~~or unused~~ **covered** school building.

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

42 **(i)** charter school intends to begin providing classroom



1 instruction in the ~~vacant or unused~~ **covered** school building;
 2 or

3 (ii) state educational institution intends to begin using the
 4 **covered school** building for an academic purpose.

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

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

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

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

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

40 ~~(e)~~ **(g)** If only one (1) charter school submits a preliminary
 41 request to purchase or lease the covered school building, the
 42 department shall notify the school corporation of the identity of the



1 **charter school and direct the school corporation to complete a sale**
 2 **or lease to the charter school in accordance with subsection (k).**
 3 ~~Except as provided in subsection (g),~~ In the event that two (2) or more
 4 charter schools ~~but no state educational institutions,~~ submit a
 5 preliminary request to purchase or lease a **covered** school building
 6 within the time frame described in subsection ~~(c)(1); (e)(1),~~ the
 7 department shall send notification to ~~an authorizer described in~~
 8 ~~IC 20-24-1-2.5(3) and each statewide charter school authorizer and~~
 9 ~~statewide organization representing charter schools in Indiana~~
 10 ~~(excluding school corporation authorizers as defined in~~
 11 ~~IC 20-24-1-2.5(1));~~ **each interested person** and the school corporation
 12 that the department has received two (2) or more preliminary requests
 13 under this section. An authorizer committee shall be established, with
 14 each statewide authorizer that has authorized one (1) or more charter
 15 schools appointing a representative, and the committee shall establish
 16 the chairperson and procedures for the committee. Within sixty (60)
 17 days of receiving notice under this subsection, the committee shall
 18 select which charter school may proceed under subsection ~~(e)(2) (k)~~ to
 19 purchase or lease the **covered** school building or determine if two (2)
 20 or more charter schools should co-locate within the **covered** school
 21 building. The committee shall ~~give priority to a charter school located~~
 22 ~~within one (1) mile of the vacant or unused school building.~~ **base the**
 23 **committee's decision on the following criteria:**

- 24 **(1) Preference shall be given to existing charter schools that**
 25 **have a proven track record of student academic performance.**
 26 **(2) If two (2) or more charter schools of proven academic**
 27 **performance are competing and only one (1) charter school is**
 28 **operating in the county in which the covered school building**
 29 **is located, the charter school in the same county as the**
 30 **covered school building shall be given preference.**

31 In the event that the committee determines that two (2) or more charter
 32 schools should co-locate in the **covered** school building, ~~and, if~~
 33 ~~applicable, that the combined enrollment of the charter schools will~~
 34 ~~meet or exceed the requirements in subsection (c)(2)(D);~~ the charter
 35 schools have sixty (60) days to submit a memorandum of
 36 understanding stating that the charter schools shall be jointly and
 37 severally liable for the obligations related to the sale or lease of the
 38 **covered** school building, and specifying how the charter schools will
 39 utilize the **covered** school building and share responsibility for
 40 operational, maintenance, and renovation expenses. If the charter
 41 schools are unable to agree, the charter schools shall be deemed to have
 42 revoked their prior request regarding the lease or sale of the **covered**



1 school building. **The committee shall give notice of the committee's**
 2 **decision to the school corporation and each interested person. A**
 3 **charter school that is not selected by the authorizer committee may**
 4 **appeal the decision to the state board not more than thirty (30)**
 5 **days after receipt of the authorizer committee's decision. The state**
 6 **board shall issue a final order in the appeal not more than sixty**
 7 **(60) days after receipt of a properly filed appeal. Notice of the**
 8 **appeal and the final order in the appeal must be given to the school**
 9 **corporation.**

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

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

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

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

33 (h) If a charter school does not submit a preliminary request to
 34 purchase or lease the covered school building and only one (1) state
 35 educational institution submits a preliminary request to purchase
 36 or lease the covered school building, the department shall:

37 (1) notify the school corporation of the identity of the state
 38 educational institution; and

39 (2) direct the school corporation to complete a sale or lease to
 40 the state educational institution in accordance with subsection

41 (k).

42 (i) If one (1) or more state educational institutions submit



1 preliminary requests to purchase or lease a covered school
 2 building, a selection committee shall be established consisting of
 3 one (1) member appointed by the executive of the largest city or
 4 town in the county in which the covered school building is located,
 5 one (1) member appointed by the city or town council of the largest
 6 city or town in the county in which the covered school building is
 7 located, one (1) member appointed by the county commissioners of
 8 the county in which the covered school building is located, one (1)
 9 member appointed by the county council of the county in which the
 10 covered school building is located, and one (1) member appointed
 11 by the chamber of commerce of the county in which the covered
 12 school building is located.

13 (j) Not later than sixty (60) days after the date that a member is
 14 appointed under subsection (i), the committee shall:

- 15 (1) select which state educational institution may proceed to
 16 purchase or lease the covered school building; or
- 17 (2) determine whether more than one (1) state educational
 18 institution should co-locate within the covered school
 19 building.

20 In making the committee's determination, the committee shall give
 21 preference to a state educational institution whose proposed use of
 22 the covered school building is assessed as having the greatest
 23 educational benefit for prekindergarten through grade 12
 24 education. A committee determination under this subsection may
 25 not be appealed.

26 ~~(h)~~ (k) A school corporation shall lease the **covered** school building for
 27 one dollar (\$1) per year to the charter school or ~~the~~ state
 28 educational institution for as long as the:

- 29 (1) charter school uses the **covered** school building for classroom
 30 instruction for any combination of kindergarten through grade 12;
 31 or a
- 32 (2) state educational institution uses the **covered school** building
 33 for an academic purpose.

34 The term of the lease shall be established at the charter school's or state
 35 educational institution's discretion and include an option for the state
 36 educational institution or charter school to purchase the **covered** school
 37 building for one dollar (\$1). Alternatively, the school corporation shall
 38 sell the **covered** school building to the charter school or ~~the~~ state
 39 educational institution for one dollar (\$1), if the charter school or ~~the~~
 40 state educational institution has met the requirements set forth in
 41 subsection ~~(e)~~ (e) and uses the ~~vacant or unused~~ **covered** school
 42 building in the manner prescribed by this subsection. **If the charter**



1 school or state educational institution selected to lease or purchase
 2 the covered school building has met the requirements under
 3 subsection (e), the school corporation has not more than ninety (90)
 4 days after the date notice of a final unappealable decision is
 5 received by the school corporation to complete the lease or sale of
 6 the covered school building to the charter school or state
 7 educational institution. If the transaction is not completed within
 8 ninety (90) days, the department or the selected charter school or
 9 state educational institution may, under section 9 of this chapter,
 10 request that the attorney general enforce the sale or lease or may
 11 file suit to enforce the sale or lease. If a charter school or state
 12 educational institution has not met the requirements under subsection
 13 (e); (e), the school corporation may subject to section 7 of this chapter,
 14 sell or otherwise dispose of the covered school building in accordance
 15 with IC 36-1-11, IC 20-25-4-14, and IC 20-26-5-4(a)(7). and section
 16 8 of this chapter:

17 SECTION 10. IC 20-26-7.1-4.5, AS ADDED BY P.L.155-2021,
 18 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2023]: Sec. 4.5. (a) After a governing body passes a resolution
 20 or takes official action to close, no longer use, or no longer occupy a
 21 covered school building that was previously used for classroom
 22 instruction under section 3 of this chapter; or the covered school
 23 building is required to be closed under IC 20-26-7-47, a school
 24 corporation is responsible for meeting the requirements described in
 25 subsection (b) until the applicable covered 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 institution
- 30 under section 7 of this chapter; or
- 31 (3) (2) eligible to be sold or otherwise disposed in accordance
- 32 with IC 36-1-11, IC 20-25-4-14, and IC 20-26-5-4(a)(7). and
- 33 section 8 of 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 covered school building, including;
- 38 (A) protection against theft or vandalism;
- 39 (B) fire protection; and
- 40 (C) ensuring the vacant or unused school building is not
- 41 damaged during adverse weather conditions;
- 42 (2) responsible for maintaining the physical condition of the



1 ~~vacant or unused~~ **covered** school building in the same physical
2 condition the applicable **covered** school building was on the last
3 day that it was used for classroom instruction; and

4 (3) financially responsible for any damage or destruction that
5 occurs to the ~~vacant or unused~~ **covered** school building.

6 SECTION 11. IC 20-26-7.1-5, AS AMENDED BY P.L.155-2021,
7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2023]: Sec. 5. (a) ~~If: a school building is sold to a charter
9 school or state educational institution under section 3 or 4 of this
10 chapter and the charter school or the state educational institution; or
11 any subsequent owner; subsequently sells or transfers~~

12 **(1) a covered school building is sold to a charter school or
13 state educational institution under section 4 of this chapter;
14 and**

15 **(2) the charter school or state educational institution
16 described in subdivision (1) no longer intends to use the
17 covered school building for the purposes described in section
18 4(e) of this chapter;**

19 **the charter school or state educational institution shall offer to
20 transfer the covered school building back to the school corporation
21 that initially sold the covered school building to the charter school
22 or state educational institution.**

23 **(b) If a school corporation described in subsection (a) declines
24 the offer to transfer a covered school building back to the school
25 corporation, the charter school or state educational institution may
26 sell or transfer the covered school building to a third party. ~~the~~ If a
27 charter school or state educational institution ~~or subsequent owner;~~
28 **sells or transfers a covered school building to a third party under
29 this subsection, the charter school or state educational institution
30 must transfer an amount equal to the gain in the property minus the
31 adjusted basis (including costs of improvements to the covered school
32 building) to the school corporation that initially sold the ~~vacant~~
33 covered school building to the charter school or ~~the~~ state educational
34 institution. Gain and adjusted basis shall be determined in the manner
35 prescribed by the Internal Revenue Code and the applicable Internal
36 Revenue Service regulations and guidelines.****

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

42 (1) charter school does not use the **covered** school building for



1 classroom instruction; or
 2 (2) state educational institution does not use the **covered** school
 3 building for an academic purpose;
 4 within two (2) years after acquiring the **covered** school building, the
 5 **covered** school building shall revert to the school corporation, which
 6 may sell or otherwise dispose of the **covered** school building under
 7 IC 36-1-11.

8 SECTION 12. IC 20-26-7.1-6, AS AMENDED BY P.L.155-2021,
 9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2023]: Sec. 6. During the term of a lease under section 4 of
 11 this chapter, the charter school or ~~the~~ state educational institution is
 12 responsible for the direct expenses related to the **covered** school
 13 building leased, including utilities, insurance, maintenance, repairs,
 14 and remodeling. If the lease involves co-locating charter schools or a
 15 co-location with a state educational institution, the obligations under
 16 the lease of the **covered** school building shall be joint and several. The
 17 school corporation is responsible for any debt incurred for or liens that
 18 attached to the **covered** school building before the charter school **or**
 19 **state educational institution** leased the **covered** school building.

20 SECTION 13. IC 20-26-7.1-7 IS REPEALED [EFFECTIVE JULY
 21 1, 2023]. Sec. 7. (a) As used in this section, "accredited nonpublic
 22 school" means a nonpublic school that:

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

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

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

40 (d) The accredited nonpublic school or postsecondary educational
 41 institution, other than a state educational institution, must submit its
 42 letter of intent to purchase the school building within thirty (30) days



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

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

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

27 SECTION 14. IC 20-26-7.1-8 IS REPEALED [EFFECTIVE JULY
 28 1, 2023]. Sec. 8: (a) This section applies to the sale of a vacant or
 29 unused school building with more than two hundred thousand
 30 (200,000) gross square feet under IC 36-1-11; as permitted by this
 31 chapter.

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

41 (c) In the event that a charter school does not enter into a lease for
 42 the appropriate facilities as part of the initial development of the school



1 building parcel; this section shall no longer be binding on the school
 2 corporation or the purchaser of the property, which shall not be
 3 required to make the space available for use by another charter school.

4 SECTION 15. IC 20-26-7.1-8.5 IS REPEALED [EFFECTIVE JULY
 5 1, 2023]. Sec. 8-5: (a) This section applies after June 30, 2021.

6 (b) Except as provided in section 3(b)(1) of this chapter, if a
 7 governing body passes a resolution to sell, exchange, lease, demolish,
 8 hold without operation, or dispose of a school building, the governing
 9 body of the school corporation must receive a certification from the
 10 attorney general to ensure that the governing body is in compliance
 11 with the requirements of this chapter. The governing body of the school
 12 corporation shall submit an application, not later than fifteen (15) days
 13 after the governing body passes the resolution described in this
 14 subsection, to the attorney general in a manner prescribed by the
 15 attorney general. The attorney general shall approve or deny a
 16 certification within thirty (30) days of the date the request for
 17 certification is received by the attorney general. If the attorney general
 18 denies a certification under this section, the attorney general shall
 19 provide the specific reason why the request for certification was
 20 denied. If a governing body's request for certification is denied under
 21 this subsection, the governing body may reapply for certification upon
 22 remedying the reason for the attorney general's certification denial.

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

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

29 SECTION 16. IC 20-26-7.1-9, AS AMENDED BY P.L.155-2021,
 30 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2023]: Sec. 9. (a) The attorney general shall investigate
 32 complaints that a school corporation has not complied with the
 33 requirements under this chapter if the complaint is filed within one (1)
 34 year of the date in which the governing body is alleged to have taken
 35 an official action that does not comply with this chapter. The attorney
 36 general shall notify the school corporation of the investigation within
 37 five (5) business days of receipt of a complaint under this section. The
 38 attorney general shall complete the investigation within sixty (60) days
 39 of the date of the complaint. The school corporation must provide any
 40 information requested by the attorney general necessary to conduct the
 41 investigation. Upon completion of the investigation, the attorney
 42 general shall issue findings indicating whether the complaint is either



1 substantiated or unsubstantiated:

2 (b) Subject to subsection (d); in the event that a complaint is
 3 substantiated; (a) The attorney general, in consultation with the
 4 department and state board, is authorized to take any action necessary
 5 to remedy a substantiated complaint; which may include actions to be
 6 performed by the state board or the department to ensure compliance
 7 of a school corporation under this section:

8 (c) Upon completion of the investigation under subsection (a); the
 9 attorney general shall publish findings of an investigation under
 10 subsection (a) on the attorney general's Internet web site. In the event
 11 a complaint is substantiated; a copy of the findings shall be sent to the
 12 state board and the department: **enforce a department or state board
 13 order under IC 20-26-7-47 or this chapter (or an order issued by
 14 the attorney general under IC 20-26-7.1 (as effective before July 1,
 15 2023)), including equitable actions to enjoin or mandate an action
 16 of a school corporation. No final court order shall be issued until
 17 the school corporation has had ninety (90) days after the
 18 department or state board has issued a final order to complete a
 19 sale or lease of the covered school building. If the attorney general
 20 does not commence legal action for an injunction to enforce a final
 21 order to make a covered school building available for purchase or
 22 lease under this chapter within one hundred (100) days after the
 23 date the final order was issued, the charter school or state
 24 educational institution that submitted the preliminary notice of
 25 interest to acquire or lease the covered school building may file a
 26 civil action to enforce this chapter.**

27 (d) **(b) In addition to the remedy under subsection (a),** if a school
 28 corporation does not comply with the requirements to sell **or lease** a
 29 vacant **covered** school building ~~provided in~~ **under** this chapter, as
 30 ~~determined by the attorney general under subsection (a);~~ the school
 31 corporation shall submit any proceeds from the sale of the ~~vacant~~
 32 **covered** school building to the state board, which shall be distributed
 33 equally between each charter school located in the attendance area of
 34 the school corporation. If no charter schools are located in the
 35 attendance area, the state board must use the proceeds to provide grants
 36 under the charter school and innovation grant program under
 37 IC 20-24-13. The attorney general is authorized to initiate any legal
 38 action necessary to ensure compliance with this ~~section.~~ **chapter.**

39 SECTION 17. IC 20-26-7.1-10 IS ADDED TO THE INDIANA
 40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2023]: **Sec. 10. (a) The following may adopt
 42 rules under IC 4-22-2 to carry out this chapter:**

SB 391—LS 7109/DI 51



- 1 **(1) The department.**
- 2 **(2) The state board.**
- 3 **(3) The attorney general.**
- 4 **(b) An action to complete the closure of a covered school**
- 5 **building or sell or lease a covered school building to a charter**
- 6 **school or state educational institution after June 30, 2023, that is**
- 7 **based on an action initiated in compliance with IC 20-26-7.1 (as**
- 8 **effective before July 1, 2023) is validated and legalized to the same**
- 9 **extent as if all actions were taken under this chapter (as effective**
- 10 **after June 30, 2023).**



COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 391, 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:

Page 2, between lines 27 and 28, begin a new line block indented and insert:

"(1) "Covered school building" has the meaning set forth in IC 20-26-7.1-2.1."

Page 2, line 28, delete "(1)" and insert "(2)".

Page 2, line 31, delete "(2)" and insert "(3)".

Page 2, line 34, delete "(3)" and insert "(4)".

Page 2, between lines 35 and 36, begin a new line block indented and insert:

"(5) "Qualified nonprofit corporation" has the meaning set forth in IC 20-26-7.1-2.7."

Page 2, line 37, after "enrollment" insert **"for in-person instruction"**.

Page 2, line 39, after "enrollment" insert **"for in-person instruction"**.

Page 3, line 6, delete "shall" and insert **"may"**.

Page 3, delete lines 34 through 42, begin a new line block indented and insert:

"(1) The number of full-time equivalent students enrolled for in-person instruction in the school building on instructional days (as determined under IC 20-30-2) for instructional purposes, averaged over the current school year and the two (2) school years immediately preceding the current school year, is at least sixty percent (60%) of:

(A) the known classroom design capacity of the school building; or

(B) if the design capacity is not known, the average maximum full-time equivalent enrollment in any of the last twenty-five (25) years, as validated by records created or maintained by the department."

Page 4, delete lines 1 through 5.

Page 5, delete lines 32 through 42, begin a new paragraph and insert:

"(g) Before filing a petition under subsection (h), a charter school, state educational institution, or qualified nonprofit



corporation that is interested in a school corporation's school building must give written notice to the school corporation to determine whether an agreement can be reached regarding the school corporation making the school building available for lease or purchase under IC 20-26-7.1.

(h) If an agreement is not reached within forty-five (45) days after the date that the school corporation receives the notice under subsection (g), the charter school, state educational institution, or qualified nonprofit corporation may petition the department or the department on its own may initiate a proceeding for a determination as to whether a school building meets the criteria for closure under this section or a covered school building that is no longer used for classroom instruction by a school corporation should be made available under IC 20-26-7.1. If a charter school, state educational institution, or qualified nonprofit corporation petitions the department under this subsection, the charter school, state educational institution, or qualified nonprofit corporation must provide a copy of the petition to the applicable school corporation.

(i) An interested person that is not otherwise a party to the proceeding may intervene in the proceeding under subsection (h) as a party. The school corporation has the burden of going forward with the evidence and the burden of proof to demonstrate that the school building does not meet the criteria for closure or the covered school building is not required to be made available under IC 20-26-7.1.

(j) Not more than sixty (60) days after receiving notice of a petition under subsection (h), the school corporation must:

(1) file a response to the petition that notifies the department that the school corporation:

(A) is not contesting the petition; or

(B) is contesting the petition and states the facts upon which the school corporation relies in contesting the petition; and

(2) provide a copy of the response to the petitioner and any intervening party.

(k) If the school corporation:

(1) files a response that the school corporation is not contesting the petition; or

(2) fails to submit a timely response under subsection (j);

the department shall issue an order granting the petition. A petition and any response or reply are public documents.



(l) If a school corporation contests a petition under subsection (j), a party to the proceeding has not more than sixty (60) days after the date that the school corporation files a response under subsection (j) to submit a reply to the school corporation's response.

(m) The department shall make a determination regarding a petition under subsection (h) not more than one hundred twenty (120) days after the date that the:

(1) petitioner and any intervening party have submitted a reply under subsection (l); or

(2) time period to reply under subsection (l) has expired.

(n) A school corporation or another party to the proceeding may file with the state board a petition requesting review of the department's determination. Upon receipt of a petition under this subsection, the state board shall review the department's determination. An appeal to the state board shall be subject to the procedure described in IC 20-26-11-15(b).

(o) Upon the issuance of a final unappealable order granting a petition, the school corporation may make the school building available for lease or purchase in accordance with IC 20-26-7.1."

Page 6, delete lines 1 through 33.

Page 7, line 3, after "enrollment" insert "for in-person instruction".

Page 7, line 5, after "enrollment" insert "for in-person instruction".

Page 7, line 25, delete "students" and insert "student".

Page 7, line 26, after "enrollment" insert "for in-person instruction".

Page 8, between lines 15 and 16, begin a new line block indented and insert:

"(6) Each charter school that is not described in subdivision (2) or qualified nonprofit corporation that has provided a written notice of interest in a covered school building to the department.

SECTION 7. IC 20-26-7.1-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2.7. As used in this chapter, "qualified nonprofit corporation" means a nonprofit corporation that:**

(1) is qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(2) is not owned or otherwise controlled by a school corporation or employee of a school corporation; and

(3) has engaged in exempt educational purpose activities for



at least two (2) years."

Page 8, delete lines 24 through 42, begin a new paragraph and insert:

"SECTION 8. IC 20-26-7.1-3, AS AMENDED BY P.L.155-2021, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) ~~This subsection applies to any school building that is owned by a 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, and that has at any time been used for classroom instruction. Except as provided in section 1 of this chapter or subsection (b)(1); (b) or (c), before a governing body may sell, exchange, lease, demolish, hold without operating, or dispose of a covered school building, a governing body shall do the following:~~

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

~~(2) The governing body shall make available for lease or purchase by a charter school, or after June 30, 2021, a state educational institution, or **qualified nonprofit corporation** any covered 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~~

~~(A) is vacant or unused; and~~

~~(B) was previously used for classroom instruction;~~

the governing body elects to close or the school corporation is required to close under IC 20-26-7-47, in order for the covered school building to be used by a:

(1) charter school to conduct kindergarten prekindergarten through grade 12 classroom instruction; or to be used by a

(2) state educational institution for an academic purpose; or

(3) qualified nonprofit corporation for educational purposes.

(b) The following are not required to comply with this chapter:

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

(A) renovate the **covered** school building for a future **allowable** use by the school corporation **as permitted under IC 20-26-7-47**; or

(B) demolish the **covered** 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.

(c) ~~Notwithstanding subsection (a), a lease entered into by This section does not apply to a covered school building in which a governing body under IC 20-26-5-4(a)(7) entered a lease prior to January 1, 2019, with a state accredited nonpublic school. shall remain in full force and effect.~~ In addition, the governing body 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 and the nonpublic school.

(d) A covered school building that a school corporation closes or is required to close may not be retained by the school corporation for storage or office use unless the conditions of IC 20-26-7-47(e)(3), IC 20-26-7-47(e)(4), or IC 20-26-7-47(e)(5) are met."

Page 9, delete lines 1 through 28.

Page 10, line 10, delete "shall" and insert "**may**".

Page 10, delete lines 17 through 33, begin a new paragraph and insert:

"(c) The governing body shall do the following:

~~(2)~~ **(1) Make the covered school building available for inspection by a charter school, or state educational institution, or qualified nonprofit corporation that notifies the department that it is interested in leasing or purchasing the covered school building. described under section 3 of this chapter; and**

~~(3)~~ **(2) Make the following information available to a charter school, or state educational institution, or qualified nonprofit corporation described in subdivision (2): (1):**

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

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

(C) A legal description of the property."

Page 11, delete lines 9 through 42, begin a new paragraph and insert:

~~(e)~~ **(e) The school corporation shall lease the covered school building to a charter school, or state educational institution, or**



qualified nonprofit corporation for one dollar (\$1) per year for as long as the state educational institution uses the **covered school building** for an academic purpose, ~~or~~ the charter school uses the **covered school building** for classroom instruction, **or the qualified nonprofit corporation uses the covered school building for educational purposes**, for a term at the state educational institution's, ~~or~~ charter school's, **or qualified nonprofit corporation's** discretion, or sell the **covered school building** for one dollar (\$1), if the charter school, ~~or~~ state educational institution, **or qualified nonprofit corporation** does the following:

(1) Within ~~thirty (30)~~ **ninety (90)** days of receiving the department's notice under subsection ~~(b); (d)~~, a charter school, ~~or~~ state educational institution, **or qualified nonprofit corporation** must submit a preliminary request to purchase or lease the **covered school building**.

(2) Subject to subsection ~~(d); (f)~~, within ninety (90) days of receiving the department's notice under subsection ~~(b); (d)~~, a charter school, ~~or~~ state educational institution, **or qualified nonprofit corporation** must submit to the school corporation the following information:

(A) The name of the charter school, ~~or~~ state educational institution, **or qualified nonpublic corporation** that is interested in leasing or purchasing the ~~vacant or unused~~ **covered school building**.

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

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

~~or~~

(ii) state educational institution intends to begin using the **covered school building** for an academic purpose; **or**

(iii) qualified nonprofit corporation intends to begin using the covered school building for educational purposes.

(C) A resolution, adopted by the board of the charter school, ~~or~~ state educational institution, **or qualified nonprofit corporation** stating that the board of the charter school, ~~or~~ the state educational institution, **or qualified nonprofit corporation** has determined that, after the charter school, ~~or~~ state educational institution, **or qualified nonprofit corporation** has made any necessary repairs or modifications,



the **covered** school building will be sufficient to meet the charter school's, ~~or~~ state educational institution's, **or qualified nonprofit corporation's** needs and can be operated within the charter school's, ~~or~~ state educational institution's, **or qualified nonprofit corporation'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."

Page 12, delete lines 1 through 18.

Page 12, line 31, delete "identify" and insert "**identity**".

Page 12, line 33, delete "(j)." and insert "**(k).**".

Page 12, line 34, strike "Except as provided in subsection".

Page 12, line 34, delete "(i), in" and insert "In".

Page 12, line 35, strike "but no state educational institutions,".

Page 13, line 7, delete "(e)(2)" and insert "**(k)**".

Page 13, line 14, delete "performance" and insert "**performance.**".

Page 13, delete line 15.

Page 13, line 17, delete "and socio-emotional learning success".

Page 13, line 18, delete "competing," and insert "**competing and only one (1) charter school is operating in the county in which the covered school building is located,**".

Page 13, delete lines 41 through 42, begin a new paragraph and insert:

"(~~f~~) If two (~~2~~) or more state educational institutions but no charter schools submit timely preliminary requests under subsection (~~e~~)(~~1~~) regarding a school building; the secretary of education shall appoint three (~~3~~) representatives of other state educational institutions. The appointed representatives shall act as a committee to determine which of the state educational institutions that have submitted preliminary



requests 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 committee of representatives under this subsection, the committee of representatives shall:

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

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

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

(h) If a charter school does not submit a preliminary request to purchase or lease the covered school building and only one (1) state educational institution or qualified nonprofit corporation submits a preliminary request to purchase or lease the covered school building, the department shall:

(1) notify the school corporation of the identity of the state educational institution or qualified nonprofit corporation; and

(2) direct the school corporation to complete a sale or lease to the state educational institution or qualified nonprofit corporation in accordance with subsection (k).

(i) If one (1) or more:

(1) state educational institutions;

(2) qualified nonprofit corporations; or

(3) state educational institutions and qualified nonprofit corporations;

submit preliminary requests to purchase or lease a covered school building, a selection committee shall be established consisting of one (1) member appointed by the executive of the largest city or town in the county in which the covered school building is located, one (1) member appointed by the city or town council of the largest city or town in the county in which the covered school building is located, one (1) member appointed by the county commissioners of the county in which the covered school building is located, one (1) member appointed by the county council of the county in which the



covered school building is located, and one (1) member appointed by the chamber of commerce of the county in which the covered school building is located.

(j) Not later than sixty (60) days after the date that a member is appointed under subsection (i), the committee shall:

(1) select which qualifying nonprofit corporation or state educational institution may proceed to purchase or lease the covered school building; or

(2) determine if:

(A) more than one (1) state educational institution;

(B) more than one (1) qualified nonprofit corporation; or

(C) a state educational institution and qualified nonprofit corporation;

should co-locate within the covered school building.

In making the committee's determination, the committee shall give preference to a qualifying nonprofit corporation or state educational institution whose proposed use of the covered school building is assessed as having the greatest educational benefit for prekindergarten through grade 12 education. A committee determination under this subsection may not be appealed.

~~(h)~~ (k) A school corporation shall lease the covered school building for one dollar (\$1) per year to the charter school, ~~or the~~ state educational institution, **or qualified nonprofit corporation** for as long as the:

(1) charter school uses the covered school building for classroom instruction for any combination of kindergarten through grade 12;

~~or a~~

(2) state educational institution uses the covered school building for an academic purpose; or

(3) **qualified nonprofit corporation uses the covered school building for educational purposes.**

The term of the lease shall be established at the charter school's, ~~or~~ state educational institution's, **or qualified nonprofit corporation's** discretion and include an option for the state educational institution, ~~or~~ charter school, **or qualified nonprofit corporation** to purchase the covered school building for one dollar (\$1). Alternatively, the school corporation shall sell the covered school building to the charter school, ~~or the~~ state educational institution, **or qualified nonprofit corporation** for one dollar (\$1), if the charter school, ~~or the~~ state educational institution, **or qualified nonprofit corporation** has met the requirements set forth in subsection ~~(e)~~ (e) and uses the ~~vacant or unused~~ covered school building in the manner prescribed by this



subsection. **If the charter school, state educational institution, or qualified nonprofit corporation selected to lease or purchase the covered school building has met the requirements under subsection (e), the school corporation has not more than ninety (90) days after the date notice of a final unappealable decision is received by the school corporation to complete the lease or sale of the covered school building to the charter school, state educational institution, or qualified nonprofit corporation. If the transaction is not completed within ninety (90) days, the department or the selected charter school, state educational institution, or qualified nonprofit corporation may, under section 9 of this chapter, request that the attorney general enforce the sale or lease or may file suit to enforce the sale or lease.** If a charter school, or state educational institution, or **qualified nonprofit corporation** has not met the requirements under subsection ~~(c)~~; **(e)**, the school corporation may ~~subject to section 7 of this chapter~~, sell or otherwise dispose of the **covered** school building in accordance with IC 36-1-11, IC 20-25-4-14, **and** IC 20-26-5-4(a)(7). **and section 8 of this chapter:"**.

Delete page 14.

Page 15, delete lines 1 through 32.

Page 15, line 42, delete "school" and insert "school,".

Page 15, line 42, after "school" strike "or".

Page 16, line 1, delete "institution;" and insert "**institution, or qualified nonprofit corporation;**".

Page 16, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 11. IC 20-26-7.1-5, AS AMENDED BY P.L.155-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) If: a school building is sold to a charter school or state educational institution under section 3 or 4 of this chapter and the charter school or the state educational institution, or any subsequent owner, subsequently sells or transfers

(1) a covered school building is sold to a charter school, state educational institution, or qualified nonprofit corporation under section 4 of this chapter; and

(2) the charter school, state educational institution, or qualified nonprofit corporation described in subdivision (1) no longer intends to use the covered school building for the purposes described in section 4(e) of this chapter;

the charter school, state educational institution, or qualified nonprofit corporation shall offer to transfer the covered school building back to the school corporation that initially sold the



covered school building to the charter school, state educational institution, or qualified nonprofit corporation.

(b) If a school corporation described in subsection (a) declines the offer to transfer a covered school building back to the school corporation, the charter school, state educational institution, or qualified nonprofit corporation may sell or transfer the covered school building to a third party. ~~the~~ If a charter school, or state educational institution, or subsequent owner, or qualified nonprofit corporation sells or transfers a covered school building to a third party under this subsection, the charter school, state educational institution, or qualified nonprofit corporation must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the covered school building) to the school corporation that initially sold the ~~vacant~~ covered school building to the charter school, or the state educational institution, or qualified nonprofit corporation. 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)~~(c) A charter school, or state educational institution, or qualified nonprofit corporation that purchases a covered school building assumes total control of the covered school building and must maintain the covered school building, including utilities, insurance, maintenance, and repairs. In the event a:

- (1) charter school does not use the covered school building for classroom instruction; or
- (2) state educational institution does not use the covered school building for an academic purpose; or
- (3) qualified nonprofit corporation does not use the covered school building for educational purposes;

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

Page 17, delete lines 1 through 6.

Page 17, line 10, delete "school" and insert "school,".

Page 17, line 10, strike "or the".

Page 17, line 10, delete "institution" and insert "institution, or qualified nonprofit corporation".

Page 17, line 17, delete "charter school" and insert "charter school, state educational institution, or qualified nonprofit corporation".

Page 20, delete lines 16 through 42, begin a new line blocked left and insert:



"the school corporation has had ninety (90) days after the department or state board has issued a final order to complete a sale or lease of the covered school building. If the attorney general does not commence legal action for an injunction to enforce a final order to make a covered school building available for purchase or lease under this chapter within one hundred (100) days after the date the final order was issued, the charter school, state educational institution, or qualified nonprofit corporation that submitted the preliminary notice of interest to acquire or lease the covered school building may file a civil action to enforce this chapter.

~~(d)~~ **(b)** In addition to the remedy under subsection (a), if a school corporation does not comply with the requirements to sell **or lease a vacant covered** school building ~~provided in~~ **under** this chapter, as determined by the attorney general under subsection (a); the school corporation shall submit any proceeds from the sale of the ~~vacant covered~~ school building to the state board, which shall be distributed equally between each charter school located in the attendance area of the school corporation. 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 under IC 20-24-13. The attorney general is authorized to initiate any legal action necessary to ensure compliance with this ~~section.~~ **chapter.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 391 as introduced.)

RAATZ, Chairperson

Committee Vote: Yeas 8, Nays 4.

SENATE MOTION

Madam President: I move that Senate Bill 391 be amended to read as follows:

Page 2, delete lines 38 through 39.

Page 3, line 35, delete "IC 20-26-7.1-3(b), or IC 20-26-7.1-3(c)." and insert "**IC 20-26-7.1-3(b), IC 20-26-7.1-3(c), or IC 20-26-7.1-3(d).**"

Page 5, line 36, delete "school," and insert "**school or**".

SB 391—LS 7109/DI 51



Page 5, line 36, delete "institution, or qualified nonprofit" and insert **"institution"**.

Page 5, line 37, before "that" delete "corporation".

Page 6, line 2, delete "school, state educational institution, or" and insert **"school or state educational institution"**.

Page 6, line 3, delete "qualified nonprofit corporation".

Page 6, line 8, delete "school," and insert **"school or"**.

Page 6, line 9, delete "institution, or qualified nonprofit corporation" and insert **"institution"**.

Page 6, line 10, delete "school," and insert **"school or"**.

Page 6, line 11, delete "institution, or qualified nonprofit corporation" and insert **"institution"**.

Page 8, line 37, delete "school" and insert **"schools"**.

Page 8, line 42, delete "or qualified nonprofit corporation".

Page 9, delete lines 3 through 13.

Page 9, line 29, delete "(b) or (c)," and insert **"(b), (c), or (d),"**.

Page 9, line 37, delete "school," and insert "school".

Page 9, line 37, reset in roman "or".

Page 9, line 38, delete ", or qualified nonprofit corporation".

Page 10, line 7, reset in roman "or".

Page 10, line 8, delete "purpose; or" and insert "purpose.".

Page 10, delete line 9.

Page 10, between lines 30 and 31, begin a new paragraph and insert:

"(d) This section does not apply to a covered school building of a school corporation to which the following apply:

(1) The school corporation had, before January 1, 2023, entered into a lease or memorandum of understanding with a nonprofit organization exempt from federal taxation under Section 501(c)(3) through 501(c)(7) of the Internal Revenue Code for the use of the covered school building.

(2) The lease or memorandum of understanding described in subdivision (1):

(A) continues in effect;

(B) is renewed; or

(C) is replaced by a new lease or memorandum of understanding that is entered into between the school corporation and the nonprofit organization described in subdivision (1).

(3) The nonprofit organization described in subdivision (1) uses the covered school building for an educational purpose throughout the term of any lease or memorandum of understanding.



If at any time the conditions under subdivisions (2) and (3) are not met, the covered school building is subject to IC 20-26-7-47 and this chapter."

Page 10, line 31, delete "(d)" and insert "(e)".

Page 10, line 39, delete "anytime" and insert "**any time**".

Page 11, delete lines 24 through 40, begin a new paragraph and insert:

"(c) The governing body shall do the following:

~~(2)~~ **(1)** Make the **covered** school building available for inspection by a charter school or state educational institution that notifies the department that it is interested in leasing or purchasing the **covered** school building. ~~described under section 3 of this chapter; and~~

~~(3)~~ **(2)** Make the following information available to a charter school or state educational institution described in subdivision ~~(2)~~: **(1)**:

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

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

(C) A legal description of the property."

Page 12, delete lines 16 through 42, begin a new paragraph and insert:

~~(c)~~ **(e)** The school corporation shall lease the **covered** school building to a charter school or state educational institution for one dollar (\$1) per year for as long as the state educational institution uses the **covered school** building for an academic purpose or the charter school uses the **covered** school building for classroom instruction, for a term at the state educational institution's or charter school's discretion, or sell the **covered** school building for one dollar (\$1), if the charter school or state educational institution does the following:

(1) Within ~~thirty (30)~~ **ninety (90)** days of receiving the department's notice under subsection ~~(b); (d)~~, a charter school or state educational institution must submit a preliminary request to purchase or lease the **covered** school building.

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



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

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

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

or

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

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

Page 13, delete lines 1 through 38.

Page 16, line 2, delete "or qualified nonprofit corporation".

Page 16, line 6, delete "institution or qualified nonprofit corporation;" and insert "**institution;**".

Page 16, line 9, delete "or qualified nonprofit".

Page 16, line 10, delete "corporation".



Page 16, delete lines 11 through 42, begin a new paragraph and insert:

"(i) If one (1) or more state educational institutions submit preliminary requests to purchase or lease a covered school building, a selection committee shall be established consisting of one (1) member appointed by the executive of the largest city or town in the county in which the covered school building is located, one (1) member appointed by the city or town council of the largest city or town in the county in which the covered school building is located, one (1) member appointed by the county commissioners of the county in which the covered school building is located, one (1) member appointed by the county council of the county in which the covered school building is located, and one (1) member appointed by the chamber of commerce of the county in which the covered school building is located.

(j) Not later than sixty (60) days after the date that a member is appointed under subsection (i), the committee shall:

- (1) select which state educational institution may proceed to purchase or lease the covered school building; or**
- (2) determine whether more than one (1) state educational institution should co-locate within the covered school building.**

In making the committee's determination, the committee shall give preference to a state educational institution whose proposed use of the covered school building is assessed as having the greatest educational benefit for prekindergarten through grade 12 education. A committee determination under this subsection may not be appealed.

~~(h)~~ **(k)** A school corporation shall lease the **covered** school building for one dollar (\$1) per year to the charter school or ~~the~~ state educational institution for as long as the:

- (1) charter school uses the **covered** school building for classroom instruction for any combination of kindergarten through grade 12; or a**
- (2) state educational institution uses the **covered school** building for an academic purpose.**

The term of the lease shall be established at the charter school's or state educational institution's discretion and include an option for the state educational institution or charter school to purchase the **covered** school building for one dollar (\$1). Alternatively, the school corporation shall sell the **covered** school building to the charter school or ~~the~~ state educational institution for one dollar (\$1), if the charter school or ~~the~~



state educational institution has met the requirements set forth in subsection ~~(e)~~ (e) and uses the ~~vacant or unused~~ **covered** school building in the manner prescribed by this subsection. **If the charter school or state educational institution selected to lease or purchase the covered school building has met the requirements under subsection (e), the school corporation has not more than ninety (90) days after the date notice of a final unappealable decision is received by the school corporation to complete the lease or sale of the covered school building to the charter school or state educational institution. If the transaction is not completed within ninety (90) days, the department or the selected charter school or state educational institution may, under section 9 of this chapter, request that the attorney general enforce the sale or lease or may file suit to enforce the sale or lease.** If a charter school or state educational institution has not met the requirements under subsection ~~(e); (e)~~, the school corporation may ~~subject to section 7 of this chapter,~~ sell or otherwise dispose of the **covered** school building in accordance with IC 36-1-11, IC 20-25-4-14, **and IC 20-26-5-4(a)(7).** ~~and section 8 of this chapter:".~~

Delete page 17.

Page 18, line 10, delete "school, or" and insert "school or".

Page 18, line 11, delete ", or qualified nonprofit corporation;" and insert ";

Page 18, line 16, after "IC 20-25-4-14" insert ",."

Page 18, delete lines 32 through 42, begin a new paragraph and insert:

"SECTION 11. IC 20-26-7.1-5, AS AMENDED BY P.L.155-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) If: a ~~school building is sold to a charter school or state educational institution under section 3 or 4 of this chapter and the charter school or the state educational institution, or any subsequent owner, subsequently sells or transfers~~

(1) a covered school building is sold to a charter school or state educational institution under section 4 of this chapter; and

(2) the charter school or state educational institution described in subdivision (1) no longer intends to use the covered school building for the purposes described in section 4(e) of this chapter;

the charter school or state educational institution shall offer to transfer the covered school building back to the school corporation that initially sold the covered school building to the charter school



or state educational institution.

(b) If a school corporation described in subsection (a) declines the offer to transfer a covered school building back to the school corporation, the charter school or state educational institution may sell or transfer the covered school building to a third party. ~~the~~ If a charter school or state educational institution or subsequent owner, sells or transfers a covered school building to a third party under this subsection, the charter school or state educational institution must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the covered school building) to the school corporation that initially sold the ~~vacant~~ covered school building to the charter school or ~~the~~ state educational institution. 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)~~ **(c)** A charter school or state educational institution that purchases a **covered** school building assumes total control of the **covered** school building and must maintain the **covered** school building, including utilities, insurance, maintenance, and repairs. In the event a:

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

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

Page 19, delete lines 1 through 38.

Page 19, line 42, delete "school," and insert "school".

Page 19, line 42, reset in roman "or".

Page 19, line 42, delete "institution, or" and insert "institution".

Page 20, line 1, delete "qualified nonprofit corporation".

Page 20, line 8, after "charter" delete "school," and insert "school or".

Page 20, line 9, delete "institution, or qualified nonprofit corporation" and insert "**institution**".

Page 23, line 14, delete "school," and insert "**school or**".



Page 23, line 15, delete "institution, or qualified nonprofit corporation" and insert "**institution**".

Re-number all SECTIONS consecutively.

(Reference is to SB 391 as printed February 24, 2023.)

ROGERS

