

SENATE BILL No. 391

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26.

Synopsis: Closure of school buildings. Establishes standards concerning when a school corporation must close an underutilized school building that had been used at any time for classroom instruction. Moves from the attorney general to the department of education review of whether a school building must be closed. Provides procedures for notifying charter school and state educational institutions through the department of education of the availability of a closed school building. Imposes a civil penalty on a school corporation that intentionally and without good cause fails to comply with the law concerning closing a school building and offering the school building to a charter school or state educational institution. Makes other related changes.

Effective: July 1, 2023.

Rogers

January 19, 2023, read first time and referred to Committee on Education and Career Development.



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



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

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

34 (3) "Interested person" has the meaning set forth in
 35 IC 20-26-7.1-2.2.

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

37 (1) the total student enrollment in the school corporation in
 38 the current school year is at least ten percent (10%) less than
 39 the student enrollment in the school corporation in a school
 40 year that precedes the current school year by five (5); and

41 (2) the school corporation in the current school year has more
 42 than one (1) school building serving the same grade level as



- 1 the school building subject to closure under this section.
- 2 (c) Each school year, the governing body of a school corporation
- 3 shall review the usage of school buildings used by the school
- 4 corporation to determine whether any school building should be
- 5 closed for the ensuing school year and subsequent school years.
- 6 (d) A school corporation shall close a school building for the
- 7 ensuing school year (and subsequent school years) if:
- 8 (1) at any time the school building had been used for
- 9 classroom instruction;
- 10 (2) in the current school year and the two (2) school years
- 11 immediately preceding the current school year the school
- 12 building was underutilized for classroom instruction purposes
- 13 or other allowable uses specified by this section;
- 14 (3) as of the end of the school year before the school building
- 15 is required to be closed under this section, the school
- 16 corporation was not subject to a transitional plan adopted by
- 17 the governing body and approved by the department to use
- 18 the school building for an allowable use not later than the next
- 19 school year after the school building is otherwise required to
- 20 be closed under this section;
- 21 (4) in the case of a school building that was used in any part
- 22 in the current school year for instructional purposes, the
- 23 school corporation has another school building:
- 24 (A) with sufficient capacity to take the students using the
- 25 school building being considered for closure; and
- 26 (B) that does not require more than twenty (20) minutes of
- 27 travel time from the school building being considered for
- 28 closure; and
- 29 (5) the school building is not a school building described in
- 30 IC 20-26-7.1-1, IC 20-26-7.1-3(b), or IC 20-26-7.1-3(c).
- 31 (e) For purposes of this section, a school building is
- 32 underutilized in a school year if the school building is not used for
- 33 any of the following allowable uses:
- 34 (1) The average number of full-time equivalent students
- 35 enrolled in the school building on instructional days (as
- 36 determined under IC 20-30-2) for instructional purposes in
- 37 the current school year and the two (2) school years
- 38 immediately preceding the current school year (excluding in
- 39 each school year full-time equivalent students transferred
- 40 from another school building) is at least sixty percent (60%)
- 41 of:
- 42 (A) the known classroom design capacity of the school



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



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

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

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

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

25 **(f) Closure of a school building that:**

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

29 **(2) jointly owned in the same manner by two (2) or more**
 30 **school corporations;**

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

32 **(g) A charter school or other interested person at any time may**
 33 **petition the department or the department on its own motion may**
 34 **initiate a proceeding for a determination as to whether a school**
 35 **building meets the criteria for closure under this section. The**
 36 **school corporation has the burden of going forward with the**
 37 **evidence and the burden of proof to demonstrate that the school**
 38 **building does not meet the criteria for closure. Not more than**
 39 **fifteen (15) days after receiving a petition under this subsection, the**
 40 **department shall notify the school corporation of the filing of the**
 41 **petition and request a response from the school corporation. Not**
 42 **more than sixty (60) days after receiving notice of the petition, the**



1 school corporation must file a response to the petition that does one
2 (1) of the following:

3 (1) Notifies the department that the school corporation agrees
4 that school building meets the criteria for closure and that the
5 school corporation is not contesting closure of the school
6 building.

7 (2) Notifies the department that the school corporation
8 contests the closure of the school building, supported by
9 sufficient facts that demonstrate that the school building does
10 not meet the criteria for closure.

11 The petition and the response are public documents. The school
12 corporation shall notify the petitioner and each other interested
13 person of the school corporation's responsive pleading to a petition
14 under this subsection. A notified interested person that is not
15 otherwise a party to the proceeding may intervene in the
16 proceedings as a party. If subdivision (2) applies, a party to the
17 proceeding has not more than sixty (60) days after the department
18 files a response under this subsection to submit additional facts
19 that demonstrate that the school building qualifies for closure and
20 to refute any matter raised by the school corporation. The
21 department shall make a final determination concerning the
22 closure of a school building not more than sixty (60) days after the
23 earliest of the date the department receives a response under
24 subdivision (1) or the time in which a party may respond to a
25 school corporation's response under subdivision (2) has expired. If
26 the department determines that a school building meets the criteria
27 for closure or will meet the criteria for closure after the end of a
28 school year, the department shall order the school building to be
29 closed. IC 4-21.5-3 applies to the proceeding. Upon the school
30 corporation or another party to the proceeding filing a petition for
31 review of a department's determination, the state board shall
32 review under IC 4-21.5-3-30 a determination concerning closure of
33 a school building.

34 SECTION 4. IC 20-26-7-48 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2023]: Sec. 48. (a) The following definitions apply throughout
37 this section:

38 (1) "Current school year" refers to a year in which the
39 governing body is required to conduct a review of school
40 building usage under subsection (c).

41 (2) "Enrollment" refers to students counted in ADM (as
42 defined in IC 20-43-1-6) in the first count date for a school



1 year fixed under IC 20-43-4-3.

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

3 (1) the total student enrollment in the school corporation in
4 the current school year is at least ten percent (10%) less than
5 the student enrollment in the school corporation in a school
6 year that precedes the current school year by five (5); and

7 (2) the school corporation in the current school year has more
8 than one (1) school building serving the same grade level as a
9 school building subject to closure under section 47 of this
10 chapter.

11 (c) Each school corporation shall annually report to the
12 department in the form and on the schedule specified the following
13 information by the department:

14 (1) A listing of all buildings owned or leased by the school
15 corporation that were originally designed as a school building.

16 (2) The following information for each building listed in
17 subdivision (1):

18 (A) Designed occupancy, regardless of current use.

19 (B) Current use (and percentage of use) for classroom
20 instruction, as special use classrooms, as office space, or as
21 storage or alternatively the building's status as
22 transitioning from one (1) use or combination of uses to
23 another.

24 (C) The following information:

25 (i) Current average full-time equivalent students
26 enrollment in the school building on instructional days
27 (as determined under IC 20-30-2) in a school year.

28 (ii) Percentage of instructional use.

29 (iii) Percentage of use for other purposes.

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

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

42 SECTION 6. IC 20-26-7.1-2.2 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2023]: **Sec. 2.2. As used in this chapter,**
 3 **"interested person" refers to the following:**

4 (1) Each state educational institution.

5 (2) Each charter school in a county where a school
 6 corporation with a covered school building subject to closure
 7 is located.

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

10 (4) Each trade or professional organization representing
 11 charter schools listed as an organization representing charter
 12 school on the website of the department or otherwise known
 13 to a school corporation with a covered school building subject
 14 to closure.

15 (5) The Indiana charter school board.

16 SECTION 7. IC 20-26-7.1-2.8 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2023]: **Sec. 2.8. When a notice is given to an**
 19 **authorizer under this chapter or IC 20-26-7-47, the authorizer is**
 20 **responsible for notifying all charter schools authorized by or**
 21 **applying for authorization by the authorizer. The authorizer must**
 22 **provide the notice to charter schools not more than ten (10) days**
 23 **after the authorizer received the notice.**

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

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

38 (2) The governing body shall make available for lease or purchase
 39 by a charter school or after June 30, 2021, a state educational
 40 institution any **covered** school building owned by the school
 41 corporation or any other entity that is related in any way to, or
 42 created by, the school corporation or the governing body,



1 including ~~but not limited to~~ a building corporation, that
 2 ~~(A) is vacant, or unused,~~ **the governing body elects to close,**
 3 **or the school corporation is required to close under**
 4 **IC 20-26-7-47 and**
 5 ~~(B) was previously used for classroom instruction;~~
 6 in order for the charter school to conduct kindergarten through grade
 7 12 classroom instruction or to be used by a state educational institution
 8 for an academic purpose.

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

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

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

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

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

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

21 (c) ~~Notwithstanding subsection (a),~~ **This section does not apply to**
 22 a lease entered into by a governing body under IC 20-26-5-4(a)(7) prior
 23 to January 1, 2019, with a state accredited nonpublic school shall
 24 remain in full force and effect. In addition, the governing body may,
 25 during or at the expiration of the term of such lease, sell the school
 26 building leased under IC 20-26-5-4(a)(7) to the nonpublic school at a
 27 purchase price mutually agreed to by the governing body and the
 28 nonpublic school.

29 SECTION 9. IC 20-26-7.1-4, AS AMENDED BY P.L.155-2021,
 30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2023]: Sec. 4. (a) **A school corporation may notify the**
 32 **department anytime after the governing body elects to close a**
 33 **covered school building. The school corporation shall notify the**
 34 **department in the annual report required under IC 20-26-7-48 that**
 35 **the school corporation elects to or is required under IC 20-26-7-47**
 36 **to close a covered school building. The notice must be in the annual**
 37 **report submitted under IC 20-26-7-48 after the school elects to or**
 38 **is required to close the covered school building. The department**
 39 **shall notify interested persons concerning the availability of a**
 40 **covered school building under subsection (d).**

41 (b) Not later than ~~ten (10)~~ **fifteen (15)** days after: ~~passing a~~
 42 ~~resolution or taking other official action to close, no longer use, or no~~



1 longer occupy a school building that was previously used for classroom
2 instruction under section 3 of this chapter;

3 (1) the department receives the earliest notice under
4 subsection (a); or

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

9 the governing body shall take the actions specified by this subsection
10 and subsection (c). The department shall order a school
11 corporation to comply with this subsection and subsection (c) and
12 request that the attorney general enforce the order under section
13 9(a) of this chapter.

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

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

18 (‡) (1) Make the covered school building available for inspection
19 by a charter school or state educational institution that notifies the
20 department that it is interested in leasing or purchasing the
21 covered school building, described under section 3 of this
22 chapter; and

23 (‡) (2) Make the following information available to a charter
24 school or state educational institution described in subdivision

25 (‡): (1):

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

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

33 (C) A legal description of the property.

34 (b) (d) ~~Within Not later than five (5) fifteen (15) days of after the~~
35 earlier of:

36 (1) receiving the earliest notice under subsection (a)(†);
37 subsection (a); or

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

42 the department shall place a notice on the department's website that



1 **the covered school building is available for purchase or lease under**
 2 **this chapter and** provide written notification to each state educational
 3 institution, charter school authorizer (excluding school corporation
 4 authorizers as defined in IC 20-24-1-2.5(1)), and statewide
 5 organizations representing charter schools in Indiana of the school
 6 corporation's resolution or official action described in subsection (a);
 7 **interested person**, including the date when the **covered** school
 8 building will close, no longer be used, or become vacant.

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

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

21 (2) Subject to subsection ~~(d)~~; **(f)**, within ~~ninety (90)~~ **thirty (30)**
 22 days of receiving the department's notice under subsection ~~(b)~~;
 23 **(d)**, a charter school or state educational institution must submit
 24 to the school corporation the following information:

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

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

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

33 or

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

36 (C) A resolution, adopted by the board of the charter school or
 37 state educational institution stating that the board of the
 38 charter school or the state educational institution has
 39 determined that, after the charter school or state educational
 40 institution has made any necessary repairs or modifications,
 41 the **covered** school building will be sufficient to meet the
 42 charter school's or state educational institution's needs and can



1 be operated within the charter school's or state educational
2 institution's budget.

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

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

9 (ii) A letter from the charter school's authorizer or
10 prospective authorizer that indicates that the charter school's
11 authorizer or prospective authorizer has reviewed the items
12 described in clauses (B) through (C) and that the projected
13 enrollment of the charter school when all of the grade levels
14 are added or fully implemented will be at least sixty percent
15 (60%) of the maximum annual student enrollment of the
16 school building during the past twenty-five (25) years as
17 validated by records maintained or created by the
18 department.

19 ~~(d)~~ (f) If the department does not receive any preliminary requests
20 to purchase or lease a **covered** school building within the time frame
21 described in subsection ~~(e)(1)~~; and ~~except as provided in section 7 of~~
22 ~~this chapter~~; **(e)(1)**, the department shall send notification to the school
23 corporation that the department has not received any preliminary
24 requests to purchase or lease the **covered** school building. Upon receipt
25 of the notification under this subsection, the school corporation may
26 sell or otherwise dispose of the **covered** school building in accordance
27 with IC 36-1-11, IC 20-25-4-14, and IC 20-26-5-4(a)(7). and section
28 8 of this chapter.

29 ~~(e)~~ (g) **If only one (1) charter school submits a preliminary**
30 **request to purchase or lease the covered school building, the**
31 **department shall notify the school corporation of the identify of the**
32 **charter school and direct the school corporation to complete a sale**
33 **or lease to the charter school in accordance with subsection (j).**
34 Except as provided in subsection ~~(g)~~; **(i)**, in the event that two (2) or
35 more charter schools but no state educational institutions, submit a
36 preliminary request to purchase or lease a **covered** school building
37 within the time frame described in subsection ~~(e)(1)~~; **(e)(1)**, the
38 department shall send notification to an authorizer described in
39 IC 20-24-1-2.5(3) and each statewide charter school authorizer and
40 statewide organization representing charter schools in Indiana
41 (excluding school corporation authorizers as defined in
42 IC 20-24-1-2.5(1)); **each interested person** and the school corporation



1 that the department has received two (2) or more preliminary requests
 2 under this section. An authorizer committee shall be established, with
 3 each statewide authorizer that has authorized one (1) or more charter
 4 schools appointing a representative, and the committee shall establish
 5 the chairperson and procedures for the committee. Within sixty (60)
 6 days of receiving notice under this subsection, the committee shall
 7 select which charter school may proceed under subsection ~~(c)(2)~~ **(e)(2)**
 8 to purchase or lease the **covered** school building or determine if two
 9 (2) or more charter schools should co-locate within the **covered** school
 10 building. The committee shall ~~give priority to a charter school located~~
 11 ~~within one (1) mile of the vacant or unused school building;~~ **base the**
 12 **committee's decision on the following criteria:**

13 **(1) Preference shall be given to existing charter schools that**
 14 **have a proven track record of student academic performance**
 15 **and socio-emotional learning.**

16 **(2) If two (2) or more charter schools of proven academic**
 17 **performance and socio-emotional learning success are**
 18 **competing, the charter school in the same county as the**
 19 **covered school building shall be given preference.**

20 In the event that the committee determines that two (2) or more charter
 21 schools should co-locate in the **covered** school building, ~~and, if~~
 22 ~~applicable, that the combined enrollment of the charter schools will~~
 23 ~~meet or exceed the requirements in subsection (c)(2)(D);~~ the charter
 24 schools have sixty (60) days to submit a memorandum of
 25 understanding stating that the charter schools shall be jointly and
 26 severally liable for the obligations related to the sale or lease of the
 27 **covered** school building, and specifying how the charter schools will
 28 utilize the **covered** school building and share responsibility for
 29 operational, maintenance, and renovation expenses. If the charter
 30 schools are unable to agree, the charter schools shall be deemed to have
 31 revoked their prior request regarding the lease or sale of the **covered**
 32 school building. **The committee shall give notice of the committee's**
 33 **decision to the school corporation and each interested person. A**
 34 **charter school that is not selected by the authorizer committee may**
 35 **appeal the decision to the state board not more than thirty (30)**
 36 **days after receipt of the authorizer committee's decision. The state**
 37 **board shall issue a final order in the appeal not more than sixty**
 38 **(60) days after receipt of a properly filed appeal. Notice of the**
 39 **appeal and the final order in the appeal must be given to the school**
 40 **corporation.**

41 ~~(f)~~ **(h)** If two (2) or more state educational institutions but no charter
 42 schools submit timely preliminary requests under subsection ~~(c)(1)~~



1 (e)(1) regarding a **covered** school building, the secretary of education
 2 shall appoint three (3) representatives of other state educational
 3 institutions. The appointed representatives shall act as a committee to
 4 determine which of the state educational institutions that have
 5 submitted preliminary requests as described in this subsection is best
 6 able to meet the needs of the students in the locality in which the
 7 **covered** school building is located. Not later than sixty (60) days after
 8 the date that the secretary of education appoints the committee of
 9 representatives under this subsection, the committee of representatives
 10 shall:

- 11 (1) select which state educational institution may proceed to
 12 purchase or lease the **covered school** building; or
 13 (2) determine if two (2) or more state educational institutions
 14 should co-locate within the **covered** school building.

15 **The committee shall give notice of the committee's decision to the**
 16 **school corporation and each interested person. A state educational**
 17 **institution that is not selected by the authorizer committee may**
 18 **appeal the decision to the state board not more than thirty (30)**
 19 **days after receipt of the authorizer committee's decision. The state**
 20 **board shall issue a final order in the appeal not more than sixty**
 21 **(60) days after receipt of a properly filed appeal. Notice of the**
 22 **appeal and the final order in the appeal must be given to the school**
 23 **corporation.**

24 ~~(g)~~ (i) If one (1) or more charter schools and one (1) or more state
 25 educational institutions submit timely preliminary requests under
 26 subsection ~~(e)(1)~~ (e)(1) regarding a **covered** school building, ~~the a~~
 27 charter school shall be provided preference to the **covered** school
 28 building. If more than one (1) charter school submits timely
 29 preliminary requests under subsection ~~(e)(1)~~ (e)(1) regarding a **covered**
 30 school building, the determination of which charter school may obtain
 31 the **covered** school building shall be resolved in the manner prescribed
 32 in subsection ~~(e)~~: (g). **If none of the charter schools choose or fail to**
 33 **qualify to lease or purchase the covered school building, the**
 34 **covered school building shall be offered to one (1) or jointly to two**
 35 **(2) or more state educational institutions that submitted timely**
 36 **preliminary requests. The committee shall give notice of the**
 37 **committee's decision to the school corporation and each interested**
 38 **person. A state educational institution that is not selected by the**
 39 **authorizer committee may appeal the decision to the state board**
 40 **not more than thirty (30) days after receipt of the authorizer**
 41 **committee's decision. The state board shall issue a final order in**
 42 **the appeal not more than sixty (60) days after receipt of a properly**



1 **filed appeal. Notice of the appeal and the final order in the appeal**
 2 **must be given to the school corporation.**

3 ~~(h)~~ **(j)** A school corporation shall lease the **covered** school building
 4 for one dollar (\$1) per year to the charter school or the state
 5 educational institution for as long as the charter school uses the
 6 **covered** school building for classroom instruction for any combination
 7 of kindergarten through grade 12 or a state educational institution uses
 8 the **covered school** building for an academic purpose. The term of the
 9 lease shall be established at the charter school's or state educational
 10 institution's discretion and include an option for the state educational
 11 institution or charter school to purchase the **covered** school building
 12 for one dollar (\$1). Alternatively, the school corporation shall sell the
 13 **covered** school building to the charter school or the state educational
 14 institution for one dollar (\$1), if the charter school or the state
 15 educational institution has met the requirements set forth in subsection
 16 ~~(e)~~ **(e)** and uses the ~~vacant or unused~~ **covered** school building in the
 17 manner prescribed by this subsection. **If the charter school or state**
 18 **educational institution selected to lease or purchase the covered**
 19 **school building has met the requirements under subsection (e), the**
 20 **school corporation has not more than ninety (90) days after the**
 21 **date notice of a final unappealable decision is received by the**
 22 **school corporation to complete the lease or sale of the covered**
 23 **school building to the charter school or state educational**
 24 **institution. If the transaction is not completed in ninety (90) days,**
 25 **the department or the selected charter school or state educational**
 26 **institution may request that the attorney general enforce the sale**
 27 **or lease under section 9 of this chapter.** If a charter school or state
 28 educational institution has not met the requirements under subsection
 29 ~~(e); (e)~~, the school corporation may ~~subject to section 7 of this chapter;~~
 30 sell or otherwise dispose of the **covered** school building in accordance
 31 with IC 36-1-11, IC 20-25-4-14, **and IC 20-26-5-4(a)(7).** ~~and section~~
 32 ~~8 of this chapter.~~

33 SECTION 10. IC 20-26-7.1-4.5, AS ADDED BY P.L.155-2021,
 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2023]: Sec. 4.5. (a) After a governing body passes a resolution
 36 or takes official action to close, no longer use, or no longer occupy a
 37 **covered** school building ~~that was previously used for classroom~~
 38 ~~instruction under section 3 of this chapter;~~ **or the covered school**
 39 **building is required to be closed under IC 20-26-7-47,** a school
 40 corporation is responsible for meeting the requirements described in
 41 subsection (b) until the applicable **covered** school building is:

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



1 institution;

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

5 ~~(3) (2) eligible to be sold or otherwise disposed in accordance~~
 6 ~~with IC 36-1-11, IC 20-25-4-14 and IC 20-26-5-4(a)(7). and~~
 7 ~~section 8 of this chapter.~~

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

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

12 (A) protection against theft or vandalism;

13 (B) fire protection; and

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

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

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

22 SECTION 11. IC 20-26-7.1-5, AS AMENDED BY P.L.155-2021,
 23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2023]: Sec. 5. (a) If a **covered** school building is sold to a
 25 charter school or state educational institution under section 3 or 4 of
 26 this chapter and the charter school or the state educational institution,
 27 or any subsequent owner, subsequently sells or transfers the **covered**
 28 school building to a third party, the charter school or state educational
 29 institution, or subsequent owner, must transfer an amount equal to the
 30 gain in the property minus the adjusted basis (including costs of
 31 improvements to the **covered** school building) to the school
 32 corporation that initially sold the ~~vacant~~ **covered** school building to the
 33 charter school or the state educational institution. Gain and adjusted
 34 basis shall be determined in the manner prescribed by the Internal
 35 Revenue Code and the applicable Internal Revenue Service regulations
 36 and guidelines.

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

40 (c) In the event that a charter school does not enter into a lease for
 41 the appropriate facilities as part of the initial development of the school
 42 building parcel, this section shall no longer be binding on the school



1 corporation or the purchaser of the property, which shall not be
 2 required to make the space available for use by another charter school:

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

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

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

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

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



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

7 (c) Upon completion of the investigation under subsection (a); the
 8 attorney general shall publish findings of an investigation under
 9 subsection (a) on the attorney general's Internet web site. In the event
 10 a complaint is substantiated; a copy of the findings shall be sent to the
 11 state board and the department. **enforce a department or state board
 12 order under IC 20-26-7-47 or this chapter (or an order issued by
 13 the attorney general under IC 20-26-7.1 (as effective before July 1,
 14 2023)), including equitable actions to enjoin or mandate an action
 15 of a school corporation. No final court order shall be issued until
 16 the school corporation has been given by the court not more than
 17 ninety (90) days to complete a sale or lease of the covered school
 18 building to a charter school or state educational institution in
 19 conformity with this section 4(j) of this chapter.**

20 (d) (b) If a school corporation does not comply with the
 21 requirements to sell a vacant school building provided in this chapter
 22 as determined by the attorney general under subsection (a);
 23 intentionally and without good cause fails to close a covered school
 24 building after June 30, 2023, as required by an order issued under
 25 IC 20-26-7-47 to sell or lease a covered school building, or sells,
 26 exchanges, leases, demolishes, holds without operating, or disposes
 27 of a covered school building without complying with this chapter:

28 (1) the department shall withhold three percent (3%) from the
 29 amount of state tuition support otherwise payable to the
 30 school corporation in the next twelve (12) months after the
 31 department determines a violation has occurred as a civil
 32 penalty; and

33 (2) if a sale has occurred, the school corporation shall submit
 34 any proceeds from the sale of the ~~vacant~~ covered school building
 35 to the state board, which shall be distributed equally between each
 36 charter school located in the attendance area of the school
 37 corporation.

38 If no charter schools are located in the attendance area, the state board
 39 must use the proceeds to provide grants under the charter school and
 40 innovation grant program under IC 20-24-13. The attorney general is
 41 authorized to initiate any legal action necessary to ensure compliance
 42 with this ~~section~~. **subsection.**



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

5 (1) **The department.**

6 (2) **The state board.**

7 (3) **The attorney general.**

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

