

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 105 be amended to read as follows:

- 1 Page 3, line 15, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".
2 Page 3, line 28, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".
3 Page 3, line 35, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".
4 Page 3, line 37, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".
5 Page 5, between lines 5 and 6, begin a new paragraph and insert:
6 "SECTION 4. IC 5-1.5-8-5.1 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2011]: **Sec. 5.1. (a) Upon receiving notice from the bank that a
9 qualified entity has failed to pay the principal or interest on the
10 securities of the qualified entity then held or owned by or arising
11 from an agreement with the bank when due, the treasurer of the
12 state shall:**
13 **(1) reduce the amount of any revenues or other money or
14 property held, possessed, maintained or controlled by, or
15 otherwise in the custody of, the state, or any department,
16 agency or instrumentality thereof, which would otherwise be
17 available for distribution to the qualified entity under any
18 other law, by an amount equal to the amount of the qualified
19 entity's unpaid securities;**
20 **(2) pay the amount by which the revenues or other money or
21 property are reduced under subdivision (1) to the bank for the
22 purpose of paying principal of and interest on bonds or other
23 obligations of the bank; and**
24 **(3) notify the qualified entity that these revenues or other
25 money or property, which would otherwise be available for
26 distribution to the qualified entity, have been reduced by an
27 amount necessary to satisfy all or a portion of the qualified
28 entity's unpaid securities to the bank.**
29 **(b) A reduction under subsection (a) must be made:**
30 **(1) first, from distributions of county adjusted gross income
31 tax distributions under IC 6-3.5-1.1, county option income tax
32 distributions under IC 6-3.5-6, or county economic
33 development income tax distributions under IC 6-3.5-7 that
34 would otherwise be distributed to the county under the
35 schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16,**

1 **IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and**
2 **(2) second, from any other revenues or other money or**
3 **property held, possessed, maintained or controlled by, or**
4 **otherwise in the custody of, the state, or any department,**
5 **agency or instrumentality of the state, which would otherwise**
6 **be available for distribution to the qualified entity under any**
7 **other law.**

8 **(c) Any reductions under subsection (a) may be used only for the**
9 **purpose of paying principal of and interest on the debt service**
10 **obligations of the qualified entity which the qualified entity has**
11 **failed to pay to the bank and for no other purpose.**

12 **(d) Notwithstanding any other law, a qualified entity has no**
13 **legal or equitable right to any revenues or other money or property**
14 **held, possessed, maintained, controlled or otherwise in the custody**
15 **of the state or any political subdivision, or any department, agency,**
16 **or instrumentality of the state, that would otherwise be available**
17 **for distribution to the qualified entity, until:**

18 **(1) any reduction permitted under this section have been**
19 **applied; and**

20 **(2) the revenues or other money or property have been**
21 **distributed to and received by the qualified entity.**

22 **(e) However, the reduction of payment from the qualified entity**
23 **and payment to the bank under this section may not adversely**
24 **affect the validity of the security in default.**

25 **(f) This section shall be interpreted liberally so that the state**
26 **shall, to the extent permitted by law, ensure that the debt service**
27 **obligations of each qualified entity are paid when due. However,**
28 **this section does not create a debt of the state or any political**
29 **subdivision."**

30 Page 11, between lines 10 and 11, begin a new paragraph and insert:

31 "SECTION 14. IC 6-1.1-20.6-10, AS ADDED BY P.L.146-2008,
32 SECTION 226, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) As used in this section,
34 "debt service obligations of a political subdivision" refers to:

35 (1) the principal and interest payable during a calendar year on
36 bonds, **notes, or warrants**; and

37 (2) lease rental payments payable during a calendar year on
38 leases;

39 of a political subdivision payable from ad valorem property taxes.

40 (b) Political subdivisions are required by law to fully fund the
41 payment of their debt obligations in an amount sufficient to pay any
42 debt service or lease rentals on outstanding obligations, regardless of
43 any reduction in property tax collections due to the application of tax
44 credits granted under this chapter. Any reduction in collections must
45 be applied to the other funds of the political subdivision after debt
46 service or lease rentals have been fully funded.

47 (c) ~~Upon the failure of a political subdivision to pay any of the~~
48 ~~political subdivision's debt service obligations during a calendar year~~
49 ~~when due, the treasurer of state, upon being notified of the failure by~~
50 ~~a claimant, shall pay the unpaid debt service obligations that are due~~
51 ~~from money in the possession of the state that would otherwise be~~
52 ~~available for distribution to the political subdivision under any other~~

1 law, deducting the payment from the amount distributed. A deduction
2 under this subsection must be made:

3 (1) first from distributions of county adjusted gross income tax
4 distributions under IC 6-3.5-1.1; county option income tax
5 distributions under IC 6-3.5-6; or county economic development
6 income tax distributions under IC 6-3.5-7 that would otherwise be
7 distributed to the county under the schedule in IC 6-3.5-1.1-10;
8 IC 6-3.5-1.1-21.1; IC 6-3.5-6-16; IC 6-3.5-6-17.3; IC 6-3.5-7-17;
9 and IC 6-3.5-7-17.3; and

10 (2) second from any other undistributed funds of the political
11 subdivision in the possession of the state.

12 **(c) Upon receiving notice from any creditor that a political**
13 **subdivision has failed to pay any of the political subdivision's debt**
14 **service obligations during a calendar year when due, the treasurer**
15 **of the state shall:**

16 (1) reduce the amount of any revenues or other money or
17 property held, possessed, maintained or controlled by, or
18 otherwise in the custody of, the state, or any department,
19 agency, or instrumentality of the state, which would otherwise
20 be available for distribution to the political subdivision under
21 any other law, by an amount equal to the amount of the
22 political subdivision's unpaid debt service obligations;

23 (2) pay the amount by which these revenues or other money
24 or property are reduced under subdivision (1) to the creditor;
25 and

26 (3) notify the political subdivision that the revenues or other
27 money or property, which would otherwise be available for
28 distribution to the political subdivision, have been reduced by
29 an amount necessary to satisfy all or a portion of the political
30 subdivision's unpaid debt service obligations.

31 **(d) A reduction under subsection (c) must be made:**

32 (1) first, from distributions of county adjusted gross income
33 tax distributions under IC 6-3.5-1.1, county option income tax
34 distributions under IC 6-3.5-6, or county economic
35 development income tax distributions under IC 6-3.5-7 that
36 would otherwise be distributed to the county under the
37 schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16,
38 IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and

39 (2) second, from any other revenues or other money or
40 property held, possessed, maintained or controlled by, or
41 otherwise in the custody of, the state, or any department,
42 agency or instrumentality thereof, which would otherwise be
43 available for distribution to the political subdivision under
44 any other law.

45 **(e) Any reductions under subsection (c) must be used only for**
46 **the purpose of paying principal of and interest on the debt service**
47 **obligations of the political subdivision which the political**
48 **subdivision has failed to pay and for no other purpose.**

49 **(f) Notwithstanding any other law, a political subdivision has no**
50 **legal or equitable right to any revenues or other money or property**

1 **held, possessed, maintained, controlled or otherwise in the custody**
 2 **of the state or any political subdivision, or any department, agency,**
 3 **or instrumentality of the state, that would otherwise be available**
 4 **for distribution to the political subdivision, until:**

5 **(1) any reduction permitted under the provisions of this**
 6 **section have been applied; and**

7 **(2) the revenues or other money or property have been**
 8 **distributed to and received by the political subdivision.**

9 ~~(d)~~ **(g)** This section shall be interpreted liberally so that the state
 10 shall to the extent ~~legally valid~~ **permitted by law** ensure that the debt
 11 service obligations of each political subdivision are paid when due.
 12 However, this section does not create a debt of the state **or any**
 13 **political subdivision.**

14 **(h) Notwithstanding this section, the payment of any reduction**
 15 **under subsection (c) to a creditor may not adversely affect the**
 16 **validity of the debt service obligations with respect to which the**
 17 **creditor has notified the treasurer of the state under this section.**

18 SECTION 15. IC 20-48-1-11, AS AMENDED BY P.L.146-2008,
 19 SECTION 525, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) As used in this section,
 21 "debt service obligations" refers to the principal and interest payable
 22 during a calendar year on a school corporation's general obligation
 23 bonds **under IC 20-48-1-1, IC 20-48-1-2, and a school corporation's**
 24 **lease rentals under IC 20-47-2 and IC 20-47-3, and a school**
 25 **corporations tax anticipation warrants under IC 30-48-1-9.**

26 (b) Before the end of each calendar year, the department of local
 27 government finance shall review the bond and lease rental levies, or
 28 any levies that replace bond and lease rental levies, of each school
 29 corporation that are payable in the next succeeding year and the
 30 appropriations from the levies from which the school corporation is to
 31 pay the amount, if any, of the school corporation's debt service
 32 obligations. If the levies and appropriations of the school corporation
 33 are not sufficient to pay the debt service obligations, the department of
 34 local government finance shall establish for each school corporation:

35 (1) bond or lease rental levies, or any levies that replace the bond
 36 and lease rental levies; and

37 (2) appropriations;

38 that are sufficient to pay the debt service obligations.

39 ~~(c)~~ **(c)** Upon the failure of a school corporation to pay any of the school
 40 corporation's debt service obligations during a calendar year when due;
 41 the treasurer of state, upon being notified of the failure by a claimant;
 42 shall pay the unpaid debt service obligations that are due from the
 43 funds of the state only to the extent of the amounts appropriated by the
 44 general assembly for the calendar year for distribution to the school
 45 corporation from state funds, deducting the payment from the
 46 appropriated amounts. A deduction under this subsection must be
 47 made:

48 ~~(1)~~ **(1)** first from all funds except state tuition support; and

49 ~~(2)~~ **(2)** second from state tuition support.

50 **(c) Upon receiving notice from any creditor that a school**

1 corporation has failed to pay any of the political subdivision's debt
 2 service obligations during a calendar year when due, the treasurer
 3 of the state shall:

4 (1) reduce the amount of any revenues or other moneys or
 5 property held, possessed, maintained or controlled by, or
 6 otherwise in the custody of, the state, or any department,
 7 agency or instrumentality of the state, which would otherwise
 8 be available for distribution to the school corporation under
 9 any other law, by an amount equal to the amount of the school
 10 corporation's unpaid debt service obligations;

11 (2) pay the amount by which these revenues or other moneys
 12 or property are reduced under subdivision (1) to the creditor;
 13 and

14 (3) notify the school corporation that the revenues or other
 15 moneys or property, which would otherwise be available for
 16 distribution to the school corporation, have been reduced by
 17 an amount necessary to satisfy all or a portion of the school
 18 corporation's unpaid debt service obligations.

19 (d) A reduction under subsection (c) must be made:

20 (1) first, from any revenues or other moneys or property held,
 21 possessed, maintained or controlled by, or otherwise in the
 22 custody of, the state, or any department, agency or
 23 instrumentality of the state, which would otherwise be
 24 available for distribution to the school corporation under any
 25 other law, except state tuition support; and

26 (2) second from state tuition support.

27 (e) Any reductions under subsection (c) may be used only for the
 28 purpose of paying principal of and interest on the debt service
 29 obligations of the school corporation which the school corporation
 30 has failed to pay and for no other purpose.

31 (f) Notwithstanding any other law, a school corporation has no
 32 legal or equitable right to any revenues or other money or property
 33 held, possessed, maintained, controlled or otherwise in the custody
 34 of the state or any political subdivision, or any department, agency
 35 or instrumentality of the state, that would otherwise be available
 36 for distribution to the school corporation, until:

37 (1) any reduction permitted under the provisions of this
 38 section have been applied; and

39 (2) the revenues or other money or property have been
 40 distributed to and received by the school corporation.

41 (g) This section shall be interpreted liberally so that the state
 42 shall to the extent ~~legally valid~~ permitted by law ensure that the debt
 43 service obligations of each school corporation are paid. However, this
 44 section does not create a debt of the state or any political subdivision.

45 (h) Notwithstanding this section, the payment of any reduction
 46 under subsection (c) to a creditor may not adversely affect the
 47 validity of the debt service obligations with respect to which the
 48 creditor has notified the treasurer of the state pursuant to this
 49 section."

50 Page 11, line 12, after "2011]" insert "IC 5-1.5-8-5;"

- 1 Renumber all SECTIONS consecutively.
 (Reference is to SB 105 as printed January 28, 2011.)

Senator Charbonneau