

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 388, 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:

- 1 Page 1, delete lines 11 through 17, begin a new paragraph and
2 insert:
3 "SECTION 2. IC 5-1-14-17 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2011]: **Sec. 17. (a) As used in this section, "issuing body"**
6 **includes:**
7 **(1) the state of Indiana and its agencies, commissions, and**
8 **authorities;**
9 **(2) the Indiana bond bank established under IC 5-1.5-2;**
10 **(3) a political subdivision (except a local airport authority**
11 **created by a county having a consolidated city), school**
12 **corporation, hospital association, municipal corporation, and**
13 **special taxing district;**
14 **(4) a local public improvement bond bank established under**
15 **IC 5-1.4-2; and**
16 **(5) any entity that has issued bonds payable directly or**
17 **indirectly from taxes or lease rentals payable by any of the**
18 **entities listed in subdivisions (1) through (4).**
19 **(b) This section provides restrictions on any issuing body**
20 **entering into a swap agreement and does not authorize an issuing**

1 **body to enter into a swap agreement separate from any other**
2 **authority the issuing body has for entering into a swap agreement.**

3 **(c) For an issuing body that is authorized by another law to**
4 **enter into swap agreements, the issuing body:**

5 **(1) may enter into a swap agreement only in connection with**
6 **the financing activities of the issuing body as provided in this**
7 **section; and**

8 **(2) may not enter into a swap agreement as an investment.**

9 **(d) An issuing body may enter into one (1) or more swap**
10 **agreements in connection with the financing activities of the issuing**
11 **body only under the following conditions:**

12 **(1) If in connection with or in anticipation of the issuance of**
13 **an obligation, entering into the swap agreement would not**
14 **cause the aggregate outstanding notional amounts of all its**
15 **outstanding swap agreements to exceed twenty percent (20%)**
16 **of the sum of:**

17 **(A) all aggregate outstanding obligations of the issuing**
18 **body; plus**

19 **(B) obligations not yet issued but for which one (1) or more**
20 **swap agreements have been entered into by the issuing**
21 **body.**

22 **For purposes of the calculation, if more than one (1) swap**
23 **agreement has been entered into in connection with or in**
24 **anticipation of specified principal amounts and maturities of**
25 **the same obligations, only the swap agreement with the**
26 **highest outstanding notional amount is to be included in the**
27 **calculation of the aggregate outstanding notional amounts of**
28 **outstanding swap agreements. However, if the issuing body,**
29 **except the Indiana finance authority, receives prior approval**
30 **for entering into a particular swap agreement from the**
31 **Indiana finance authority, an issuing body may enter into the**
32 **swap agreement in excess of the threshold. In the case of the**
33 **Indiana finance authority, the authority may enter into a**
34 **swap agreement in excess of the threshold only after review**
35 **by the state budget committee.**

36 **(2) The issuing body, except the Indiana finance authority, has**
37 **adopted a comprehensive swap agreement policy at a public**
38 **meeting that:**

39 **(A) includes provisions governing the adoption of swap**
40 **agreements;**

41 **(B) is not less restrictive than the swap agreement policy**
42 **governing the adoption of swap agreements that is in place**

1 **for the Indiana finance authority at the time the issuing**
 2 **body adopts the comprehensive swap agreement policy;**
 3 **and**

4 **(C) is submitted to the Indiana finance authority for a**
 5 **determination that it complies with this subdivision.**

6 **(3) Each swap agreement is approved by a resolution of the**
 7 **governing board of the issuing body at a public meeting and**
 8 **the resolution includes a thorough analysis of the risk the**
 9 **issuing body is assuming by entering into the swap agreement.**

10 **(e) On an annual basis, an issuing body shall report to the**
 11 **governing board of the issuing body the status and terms and**
 12 **conditions of all outstanding swap agreements. The issuing body**
 13 **shall provide a final report to the governing board of the issuing**
 14 **body upon termination or expiration of each swap agreement.**

15 **(f) A swap agreement shall be considered as being entered into**
 16 **in connection with the financing activities of an issuing body if:**

17 **(1) the swap agreement is entered into not later than one**
 18 **hundred eighty (180) days after the issuance of the obligation**
 19 **and specifically indicates the swap agreement's relationship**
 20 **to the obligation;**

21 **(2) the issuing body designates the swap agreement as having**
 22 **a relationship to the obligation;**

23 **(3) the swap agreement amends, modifies, or reverses a swap**
 24 **agreement described in subdivision (1) or (2); or**

25 **(4) the terms of the swap agreement bear a reasonable**
 26 **relationship to the terms of the obligation."**

27 Page 2, delete lines 1 through 9.

(Reference is to SB 388 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 1.

Senator Hershman, Chairperson