

# 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.)

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Senator Charbonneau