



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3868

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 100/5-45

from Ch. 127, par. 1005-45

305 ILCS 5/5A-10

from Ch. 23, par. 5A-10

30 ILCS 805/8.41 new

Creates the Unbalanced Budget Response Act. Provides authority and procedures for the Governor to establish contingency reserves of previously appropriated funds, and to transfer balances between special funds in the State treasury and the General Revenue Fund. Describes the agencies and programs subject to this authority. Provides that designated agencies may adopt emergency rules to carry out the purposes of the Act. Defines terms. Provides that the Act is repealed on July 1, 2018. Amends the Illinois Administrative Procedure Act to make conforming changes. Amends the Illinois Public Aid Code. Adds actions taken under the Unbalanced Budget Response Act to a Section relating to applicability. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective immediately.

LRB100 08065 JWD 18151 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Unbalanced Budget Response Act.

6 Section 5. Legislative intent. The State is currently
7 confronted with an unprecedented fiscal crisis. Although the
8 Constitution of the State of Illinois requires that spending
9 not exceed available revenues, the State is currently spending
10 in excess of estimated revenues during fiscal year 2017, which
11 is significantly increasing the backlog of unpaid bills.
12 Without substantial corrective action taken by the General
13 Assembly, the fiscal year 2018 budget will also be unbalanced.
14 This Act is to be liberally construed and interpreted in a
15 manner that allows the State to address the fiscal crisis for
16 fiscal years 2017 and 2018.

17 Section 10. Definitions. As used in this Act, "agency"
18 includes all officers, boards, commissions, departments, and
19 agencies of the executive branch of the State government
20 created by the Constitution, statute, or Executive Order,
21 including, but not limited to, public institutions of higher
22 education (as defined in the Board of Higher Education Act).

1 Section 15. Designation of contingency reserves. For the
2 purposes of balancing the State's budget, the Governor may
3 designate, by written notice to the Comptroller, a contingency
4 reserve from the amounts appropriated from funds held by the
5 Treasurer for the State's fiscal years 2017 and 2018 to any
6 agency, including without limitation amounts appropriated
7 pursuant to a statutory continuing appropriation; provided,
8 however, that the Governor may not designate amounts to be set
9 aside as a contingency reserve from amounts that have been
10 appropriated for (i) payment of debt service, (ii) to the State
11 Board of Education for general State aid to the common schools
12 pursuant to Section 18-8.05 of the School Code, or (iii) to the
13 State Board of Education for grants or aid for early childhood
14 education.

15 Section 20. Fund transfers. Notwithstanding any other
16 provision of law, for the State's fiscal years 2017 and 2018:

17 (a) at the direction of and upon notification from the
18 Governor, the Comptroller shall direct and the Treasurer shall
19 transfer an amount specified by the Governor from any fund held
20 by the Treasurer to any general fund held by the Treasurer;
21 provided, however, that no transfer may be made out of: (i) any
22 federal trust fund; (ii) any amount set aside for payment of
23 debt service; (iii) amounts held in investments or cash by the
24 State retirement systems governed by Articles 2, 14, 15, 16, or

1 18 of the Illinois Pension Code; or (iv) the Road Fund; and

2 (b) the Governor, by written notice to the Comptroller, may
3 modify statutory transfers out of any fund held by the
4 Treasurer, and the Comptroller and the Treasurer shall give
5 effect to any such modification; provided, however, that no
6 modification may be made to statutory transfers out of a
7 general fund (i) for payment of debt service, or (ii) to the
8 Road Fund.

9 No transfer made pursuant to this Section may reduce the
10 cumulative balance of all of the funds held by the Treasurer to
11 an amount less than the total debt service payable during the
12 12 months immediately following the date of the transfer on any
13 bonded indebtedness of the State and any certificates issued
14 under the Short Term Borrowing Act. If the Director of the
15 Governor's Office of Management and Budget determines that any
16 transfer to the general funds from any of the funds from which
17 moneys have been transferred under this Section either (i)
18 jeopardizes federal funding based on a written communication
19 from a federal official or (ii) violates an order of a court of
20 competent jurisdiction, then the Director may order the
21 Treasurer and Comptroller, in writing, to transfer from the
22 General Revenue Fund to that fund all or part of the amounts
23 transferred from that fund under this Section.

24 Section 25. Payment rate modifications. Notwithstanding
25 any other provision of law, for the State's fiscal years 2017

1 and 2018, the Governor may modify any rate for payments made by
2 an agency to providers of services.

3 Section 30. Limitations; notice.

4 (a) The sum of contingency reserves designated pursuant to
5 Section 15, transfers made pursuant to subsection (a) of
6 Section 20, modifications to transfers pursuant to subsection
7 (b) of Section 20, savings to be realized by the State due to
8 payment rate modifications pursuant to Section 25, and the
9 value of payments delayed pursuant to Section 35 shall not
10 exceed for each fiscal year the amount by which total State
11 spending for that fiscal year is estimated to exceed available
12 revenues for that fiscal year, as determined by the Governor's
13 Office of Management and Budget.

14 (b) The Governor shall provide notice of each contingency
15 reserve designated pursuant to Section 15, transfer made
16 pursuant to subsection (a) of Section 20, modification to
17 transfers pursuant to subsection (b) of Section 20, payment
18 rate modification pursuant to Section 25, and direction to
19 delay payments pursuant to Section 35 within 10 business days
20 after the action is taken to the Clerk of the House of
21 Representatives, the Secretary of the Senate, the Commission on
22 Government Forecasting and Accountability, the Comptroller,
23 and the Treasurer. A copy of such notices, or a cumulative
24 summary of the actions taken, shall be posted on a public
25 website maintained by the Governor's Office of Management and

1 Budget.

2 Section 35. Delay in payments under continuing
3 appropriations. Notwithstanding any other law, payments under
4 any statutory continuing appropriation for the State's fiscal
5 years 2017 and 2018 may be delayed upon written direction of
6 the Governor to the Comptroller, provided however that the
7 Governor may not direct any delay in the payment of debt
8 service. Notwithstanding any provision of the State Finance Act
9 or other law to the contrary, any payment delayed under this
10 Section may be paid out of the next fiscal year's
11 appropriation.

12 Section 40. Emergency rules. Notwithstanding any other
13 provision of law, the Department on Aging, the Department of
14 Children and Family Services, the Department of Healthcare and
15 Family Services, the Department of Human Services, and the
16 Department of Public Health may each adopt emergency rules
17 pursuant to subsection (v) of Section 5-45 of the Illinois
18 Administrative Procedure Act to limit, reduce, or adjust
19 services, payment rates, expenditures, transfers of funds, and
20 eligibility criteria, to the extent permitted by federal law,
21 as necessary to implement (i) the State's fiscal years 2017 and
22 2018 budgets, (ii) any contingency reserves designated by the
23 Governor pursuant to Section 15, (iii) any transfer of balances
24 or modification of statutory transfers pursuant to Section 20

1 affecting State funds designated for use by the agency, or (iv)
2 modifications made by the Governor pursuant to Section 25. The
3 effectiveness of any such emergency rule, and any such
4 adjustment, reduction, or limitation made pursuant thereto,
5 shall expire on July 1, 2018. Nothing in this Section shall
6 require rulemaking if the limitation, reduction, or adjustment
7 would otherwise be within the authority of the agency without
8 rulemaking.

9 Section 45. Repeal. This Act is repealed on July 1, 2018.

10 Section 105. The Illinois Administrative Procedure Act is
11 amended by changing Section 5-45 as follows:

12 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

13 (Text of Section before amendment by P.A. 99-906)

14 Sec. 5-45. Emergency rulemaking.

15 (a) "Emergency" means the existence of any situation that
16 any agency finds reasonably constitutes a threat to the public
17 interest, safety, or welfare.

18 (b) If any agency finds that an emergency exists that
19 requires adoption of a rule upon fewer days than is required by
20 Section 5-40 and states in writing its reasons for that
21 finding, the agency may adopt an emergency rule without prior
22 notice or hearing upon filing a notice of emergency rulemaking
23 with the Secretary of State under Section 5-70. The notice

1 shall include the text of the emergency rule and shall be
2 published in the Illinois Register. Consent orders or other
3 court orders adopting settlements negotiated by an agency may
4 be adopted under this Section. Subject to applicable
5 constitutional or statutory provisions, an emergency rule
6 becomes effective immediately upon filing under Section 5-65 or
7 at a stated date less than 10 days thereafter. The agency's
8 finding and a statement of the specific reasons for the finding
9 shall be filed with the rule. The agency shall take reasonable
10 and appropriate measures to make emergency rules known to the
11 persons who may be affected by them.

12 (c) An emergency rule may be effective for a period of not
13 longer than 150 days, but the agency's authority to adopt an
14 identical rule under Section 5-40 is not precluded. No
15 emergency rule may be adopted more than once in any 24-month ~~24~~
16 ~~month~~ period, except that this limitation on the number of
17 emergency rules that may be adopted in a 24-month ~~24-month~~
18 period does not apply to (i) emergency rules that make
19 additions to and deletions from the Drug Manual under Section
20 5-5.16 of the Illinois Public Aid Code or the generic drug
21 formulary under Section 3.14 of the Illinois Food, Drug and
22 Cosmetic Act, (ii) emergency rules adopted by the Pollution
23 Control Board before July 1, 1997 to implement portions of the
24 Livestock Management Facilities Act, (iii) emergency rules
25 adopted by the Illinois Department of Public Health under
26 subsections (a) through (i) of Section 2 of the Department of

1 Public Health Act when necessary to protect the public's
2 health, (iv) emergency rules adopted pursuant to subsection (n)
3 of this Section, (v) emergency rules adopted pursuant to
4 subsection (o) of this Section, ~~or~~ (vi) emergency rules adopted
5 pursuant to subsection (c-5) of this Section, or (vii)
6 emergency rules adopted pursuant to subsection (v) of this
7 Section. Two or more emergency rules having substantially the
8 same purpose and effect shall be deemed to be a single rule for
9 purposes of this Section.

10 (c-5) To facilitate the maintenance of the program of group
11 health benefits provided to annuitants, survivors, and retired
12 employees under the State Employees Group Insurance Act of
13 1971, rules to alter the contributions to be paid by the State,
14 annuitants, survivors, retired employees, or any combination
15 of those entities, for that program of group health benefits,
16 shall be adopted as emergency rules. The adoption of those
17 rules shall be considered an emergency and necessary for the
18 public interest, safety, and welfare.

19 (d) In order to provide for the expeditious and timely
20 implementation of the State's fiscal year 1999 budget,
21 emergency rules to implement any provision of Public Act 90-587
22 or 90-588 or any other budget initiative for fiscal year 1999
23 may be adopted in accordance with this Section by the agency
24 charged with administering that provision or initiative,
25 except that the 24-month limitation on the adoption of
26 emergency rules and the provisions of Sections 5-115 and 5-125

1 do not apply to rules adopted under this subsection (d). The
2 adoption of emergency rules authorized by this subsection (d)
3 shall be deemed to be necessary for the public interest,
4 safety, and welfare.

5 (e) In order to provide for the expeditious and timely
6 implementation of the State's fiscal year 2000 budget,
7 emergency rules to implement any provision of Public Act 91-24
8 or any other budget initiative for fiscal year 2000 may be
9 adopted in accordance with this Section by the agency charged
10 with administering that provision or initiative, except that
11 the 24-month limitation on the adoption of emergency rules and
12 the provisions of Sections 5-115 and 5-125 do not apply to
13 rules adopted under this subsection (e). The adoption of
14 emergency rules authorized by this subsection (e) shall be
15 deemed to be necessary for the public interest, safety, and
16 welfare.

17 (f) In order to provide for the expeditious and timely
18 implementation of the State's fiscal year 2001 budget,
19 emergency rules to implement any provision of Public Act 91-712
20 or any other budget initiative for fiscal year 2001 may be
21 adopted in accordance with this Section by the agency charged
22 with administering that provision or initiative, except that
23 the 24-month limitation on the adoption of emergency rules and
24 the provisions of Sections 5-115 and 5-125 do not apply to
25 rules adopted under this subsection (f). The adoption of
26 emergency rules authorized by this subsection (f) shall be

1 deemed to be necessary for the public interest, safety, and
2 welfare.

3 (g) In order to provide for the expeditious and timely
4 implementation of the State's fiscal year 2002 budget,
5 emergency rules to implement any provision of Public Act 92-10
6 or any other budget initiative for fiscal year 2002 may be
7 adopted in accordance with this Section by the agency charged
8 with administering that provision or initiative, except that
9 the 24-month limitation on the adoption of emergency rules and
10 the provisions of Sections 5-115 and 5-125 do not apply to
11 rules adopted under this subsection (g). The adoption of
12 emergency rules authorized by this subsection (g) shall be
13 deemed to be necessary for the public interest, safety, and
14 welfare.

15 (h) In order to provide for the expeditious and timely
16 implementation of the State's fiscal year 2003 budget,
17 emergency rules to implement any provision of Public Act 92-597
18 or any other budget initiative for fiscal year 2003 may be
19 adopted in accordance with this Section by the agency charged
20 with administering that provision or initiative, except that
21 the 24-month limitation on the adoption of emergency rules and
22 the provisions of Sections 5-115 and 5-125 do not apply to
23 rules adopted under this subsection (h). The adoption of
24 emergency rules authorized by this subsection (h) shall be
25 deemed to be necessary for the public interest, safety, and
26 welfare.

1 (i) In order to provide for the expeditious and timely
2 implementation of the State's fiscal year 2004 budget,
3 emergency rules to implement any provision of Public Act 93-20
4 or any other budget initiative for fiscal year 2004 may be
5 adopted in accordance with this Section by the agency charged
6 with administering that provision or initiative, except that
7 the 24-month limitation on the adoption of emergency rules and
8 the provisions of Sections 5-115 and 5-125 do not apply to
9 rules adopted under this subsection (i). The adoption of
10 emergency rules authorized by this subsection (i) shall be
11 deemed to be necessary for the public interest, safety, and
12 welfare.

13 (j) In order to provide for the expeditious and timely
14 implementation of the provisions of the State's fiscal year
15 2005 budget as provided under the Fiscal Year 2005 Budget
16 Implementation (Human Services) Act, emergency rules to
17 implement any provision of the Fiscal Year 2005 Budget
18 Implementation (Human Services) Act may be adopted in
19 accordance with this Section by the agency charged with
20 administering that provision, except that the 24-month
21 limitation on the adoption of emergency rules and the
22 provisions of Sections 5-115 and 5-125 do not apply to rules
23 adopted under this subsection (j). The Department of Public Aid
24 may also adopt rules under this subsection (j) necessary to
25 administer the Illinois Public Aid Code and the Children's
26 Health Insurance Program Act. The adoption of emergency rules

1 authorized by this subsection (j) shall be deemed to be
2 necessary for the public interest, safety, and welfare.

3 (k) In order to provide for the expeditious and timely
4 implementation of the provisions of the State's fiscal year
5 2006 budget, emergency rules to implement any provision of
6 Public Act 94-48 or any other budget initiative for fiscal year
7 2006 may be adopted in accordance with this Section by the
8 agency charged with administering that provision or
9 initiative, except that the 24-month limitation on the adoption
10 of emergency rules and the provisions of Sections 5-115 and
11 5-125 do not apply to rules adopted under this subsection (k).
12 The Department of Healthcare and Family Services may also adopt
13 rules under this subsection (k) necessary to administer the
14 Illinois Public Aid Code, the Senior Citizens and Persons with
15 Disabilities Property Tax Relief Act, the Senior Citizens and
16 Disabled Persons Prescription Drug Discount Program Act (now
17 the Illinois Prescription Drug Discount Program Act), and the
18 Children's Health Insurance Program Act. The adoption of
19 emergency rules authorized by this subsection (k) shall be
20 deemed to be necessary for the public interest, safety, and
21 welfare.

22 (l) In order to provide for the expeditious and timely
23 implementation of the provisions of the State's fiscal year
24 2007 budget, the Department of Healthcare and Family Services
25 may adopt emergency rules during fiscal year 2007, including
26 rules effective July 1, 2007, in accordance with this

1 subsection to the extent necessary to administer the
2 Department's responsibilities with respect to amendments to
3 the State plans and Illinois waivers approved by the federal
4 Centers for Medicare and Medicaid Services necessitated by the
5 requirements of Title XIX and Title XXI of the federal Social
6 Security Act. The adoption of emergency rules authorized by
7 this subsection (l) shall be deemed to be necessary for the
8 public interest, safety, and welfare.

9 (m) In order to provide for the expeditious and timely
10 implementation of the provisions of the State's fiscal year
11 2008 budget, the Department of Healthcare and Family Services
12 may adopt emergency rules during fiscal year 2008, including
13 rules effective July 1, 2008, in accordance with this
14 subsection to the extent necessary to administer the
15 Department's responsibilities with respect to amendments to
16 the State plans and Illinois waivers approved by the federal
17 Centers for Medicare and Medicaid Services necessitated by the
18 requirements of Title XIX and Title XXI of the federal Social
19 Security Act. The adoption of emergency rules authorized by
20 this subsection (m) shall be deemed to be necessary for the
21 public interest, safety, and welfare.

22 (n) In order to provide for the expeditious and timely
23 implementation of the provisions of the State's fiscal year
24 2010 budget, emergency rules to implement any provision of
25 Public Act 96-45 or any other budget initiative authorized by
26 the 96th General Assembly for fiscal year 2010 may be adopted

1 in accordance with this Section by the agency charged with
2 administering that provision or initiative. The adoption of
3 emergency rules authorized by this subsection (n) shall be
4 deemed to be necessary for the public interest, safety, and
5 welfare. The rulemaking authority granted in this subsection
6 (n) shall apply only to rules promulgated during Fiscal Year
7 2010.

8 (o) In order to provide for the expeditious and timely
9 implementation of the provisions of the State's fiscal year
10 2011 budget, emergency rules to implement any provision of
11 Public Act 96-958 or any other budget initiative authorized by
12 the 96th General Assembly for fiscal year 2011 may be adopted
13 in accordance with this Section by the agency charged with
14 administering that provision or initiative. The adoption of
15 emergency rules authorized by this subsection (o) is deemed to
16 be necessary for the public interest, safety, and welfare. The
17 rulemaking authority granted in this subsection (o) applies
18 only to rules promulgated on or after July 1, 2010 (the
19 effective date of Public Act 96-958) through June 30, 2011.

20 (p) In order to provide for the expeditious and timely
21 implementation of the provisions of Public Act 97-689,
22 emergency rules to implement any provision of Public Act 97-689
23 may be adopted in accordance with this subsection (p) by the
24 agency charged with administering that provision or
25 initiative. The 150-day limitation of the effective period of
26 emergency rules does not apply to rules adopted under this

1 subsection (p), and the effective period may continue through
2 June 30, 2013. The 24-month limitation on the adoption of
3 emergency rules does not apply to rules adopted under this
4 subsection (p). The adoption of emergency rules authorized by
5 this subsection (p) is deemed to be necessary for the public
6 interest, safety, and welfare.

7 (q) In order to provide for the expeditious and timely
8 implementation of the provisions of Articles 7, 8, 9, 11, and
9 12 of Public Act 98-104, emergency rules to implement any
10 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
11 may be adopted in accordance with this subsection (q) by the
12 agency charged with administering that provision or
13 initiative. The 24-month limitation on the adoption of
14 emergency rules does not apply to rules adopted under this
15 subsection (q). The adoption of emergency rules authorized by
16 this subsection (q) is deemed to be necessary for the public
17 interest, safety, and welfare.

18 (r) In order to provide for the expeditious and timely
19 implementation of the provisions of Public Act 98-651,
20 emergency rules to implement Public Act 98-651 may be adopted
21 in accordance with this subsection (r) by the Department of
22 Healthcare and Family Services. The 24-month limitation on the
23 adoption of emergency rules does not apply to rules adopted
24 under this subsection (r). The adoption of emergency rules
25 authorized by this subsection (r) is deemed to be necessary for
26 the public interest, safety, and welfare.

1 (s) In order to provide for the expeditious and timely
2 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
3 the Illinois Public Aid Code, emergency rules to implement any
4 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
5 Public Aid Code may be adopted in accordance with this
6 subsection (s) by the Department of Healthcare and Family
7 Services. The rulemaking authority granted in this subsection
8 (s) shall apply only to those rules adopted prior to July 1,
9 2015. Notwithstanding any other provision of this Section, any
10 emergency rule adopted under this subsection (s) shall only
11 apply to payments made for State fiscal year 2015. The adoption
12 of emergency rules authorized by this subsection (s) is deemed
13 to be necessary for the public interest, safety, and welfare.

14 (t) In order to provide for the expeditious and timely
15 implementation of the provisions of Article II of Public Act
16 99-6, emergency rules to implement the changes made by Article
17 II of Public Act 99-6 to the Emergency Telephone System Act may
18 be adopted in accordance with this subsection (t) by the
19 Department of State Police. The rulemaking authority granted in
20 this subsection (t) shall apply only to those rules adopted
21 prior to July 1, 2016. The 24-month limitation on the adoption
22 of emergency rules does not apply to rules adopted under this
23 subsection (t). The adoption of emergency rules authorized by
24 this subsection (t) is deemed to be necessary for the public
25 interest, safety, and welfare.

26 (u) In order to provide for the expeditious and timely

1 implementation of the provisions of the Burn Victims Relief
2 Act, emergency rules to implement any provision of the Act may
3 be adopted in accordance with this subsection (u) by the
4 Department of Insurance. The rulemaking authority granted in
5 this subsection (u) shall apply only to those rules adopted
6 prior to December 31, 2015. The adoption of emergency rules
7 authorized by this subsection (u) is deemed to be necessary for
8 the public interest, safety, and welfare.

9 (v) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 99-516 ~~this~~
11 ~~amendatory Act of the 99th General Assembly~~, emergency rules to
12 implement Public Act 99-516 ~~this amendatory Act of the 99th~~
13 ~~General Assembly~~ may be adopted in accordance with this
14 subsection (v) by the Department of Healthcare and Family
15 Services. The 24-month limitation on the adoption of emergency
16 rules does not apply to rules adopted under this subsection
17 (v). The adoption of emergency rules authorized by this
18 subsection (v) is deemed to be necessary for the public
19 interest, safety, and welfare.

20 (w) ~~(v)~~ In order to provide for the expeditious and timely
21 implementation of the provisions of Public Act 99-796 ~~this~~
22 ~~amendatory Act of the 99th General Assembly~~, emergency rules to
23 implement the changes made by Public Act 99-796 ~~this amendatory~~
24 ~~Act of the 99th General Assembly~~ may be adopted in accordance
25 with this subsection (w) ~~(v)~~ by the Adjutant General. The
26 adoption of emergency rules authorized by this subsection (w)

1 ~~(v)~~ is deemed to be necessary for the public interest, safety,
2 and welfare.

3 (y) In order to provide for the expeditious and timely
4 implementation of the provisions of the State's budget for
5 fiscal years 2017 and 2018, emergency rules to implement any
6 provision of this amendatory Act of the 100th General Assembly
7 may be adopted in accordance with this Section by each agency
8 identified in Section 40 of the Unbalanced Budget Response Act.
9 The adoption of emergency rules authorized by this subsection
10 (y) shall be deemed to be necessary for the public interest,
11 safety, and welfare. The rulemaking authority granted in this
12 subsection (y) shall apply only to rules adopted prior to July
13 1, 2018. Notwithstanding any other provision of this Section,
14 any emergency rule adopted pursuant to this subsection (y)
15 shall expire on July 1, 2018.

16 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
17 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;
18 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff.
19 6-30-16; 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; revised
20 9-21-16.)

21 (Text of Section after amendment by P.A. 99-906)

22 Sec. 5-45. Emergency rulemaking.

23 (a) "Emergency" means the existence of any situation that
24 any agency finds reasonably constitutes a threat to the public
25 interest, safety, or welfare.

1 (b) If any agency finds that an emergency exists that
2 requires adoption of a rule upon fewer days than is required by
3 Section 5-40 and states in writing its reasons for that
4 finding, the agency may adopt an emergency rule without prior
5 notice or hearing upon filing a notice of emergency rulemaking
6 with the Secretary of State under Section 5-70. The notice
7 shall include the text of the emergency rule and shall be
8 published in the Illinois Register. Consent orders or other
9 court orders adopting settlements negotiated by an agency may
10 be adopted under this Section. Subject to applicable
11 constitutional or statutory provisions, an emergency rule
12 becomes effective immediately upon filing under Section 5-65 or
13 at a stated date less than 10 days thereafter. The agency's
14 finding and a statement of the specific reasons for the finding
15 shall be filed with the rule. The agency shall take reasonable
16 and appropriate measures to make emergency rules known to the
17 persons who may be affected by them.

18 (c) An emergency rule may be effective for a period of not
19 longer than 150 days, but the agency's authority to adopt an
20 identical rule under Section 5-40 is not precluded. No
21 emergency rule may be adopted more than once in any 24-month
22 period, except that this limitation on the number of emergency
23 rules that may be adopted in a 24-month period does not apply
24 to (i) emergency rules that make additions to and deletions
25 from the Drug Manual under Section 5-5.16 of the Illinois
26 Public Aid Code or the generic drug formulary under Section

1 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
2 emergency rules adopted by the Pollution Control Board before
3 July 1, 1997 to implement portions of the Livestock Management
4 Facilities Act, (iii) emergency rules adopted by the Illinois
5 Department of Public Health under subsections (a) through (i)
6 of Section 2 of the Department of Public Health Act when
7 necessary to protect the public's health, (iv) emergency rules
8 adopted pursuant to subsection (n) of this Section, (v)
9 emergency rules adopted pursuant to subsection (o) of this
10 Section, ~~or~~ (vi) emergency rules adopted pursuant to subsection
11 (c-5) of this Section, or (vii) emergency rules adopted
12 pursuant to subsection (v) of this Section. Two or more
13 emergency rules having substantially the same purpose and
14 effect shall be deemed to be a single rule for purposes of this
15 Section.

16 (c-5) To facilitate the maintenance of the program of group
17 health benefits provided to annuitants, survivors, and retired
18 employees under the State Employees Group Insurance Act of
19 1971, rules to alter the contributions to be paid by the State,
20 annuitants, survivors, retired employees, or any combination
21 of those entities, for that program of group health benefits,
22 shall be adopted as emergency rules. The adoption of those
23 rules shall be considered an emergency and necessary for the
24 public interest, safety, and welfare.

25 (d) In order to provide for the expeditious and timely
26 implementation of the State's fiscal year 1999 budget,

1 emergency rules to implement any provision of Public Act 90-587
2 or 90-588 or any other budget initiative for fiscal year 1999
3 may be adopted in accordance with this Section by the agency
4 charged with administering that provision or initiative,
5 except that the 24-month limitation on the adoption of
6 emergency rules and the provisions of Sections 5-115 and 5-125
7 do not apply to rules adopted under this subsection (d). The
8 adoption of emergency rules authorized by this subsection (d)
9 shall be deemed to be necessary for the public interest,
10 safety, and welfare.

11 (e) In order to provide for the expeditious and timely
12 implementation of the State's fiscal year 2000 budget,
13 emergency rules to implement any provision of Public Act 91-24
14 or any other budget initiative for fiscal year 2000 may be
15 adopted in accordance with this Section by the agency charged
16 with administering that provision or initiative, except that
17 the 24-month limitation on the adoption of emergency rules and
18 the provisions of Sections 5-115 and 5-125 do not apply to
19 rules adopted under this subsection (e). The adoption of
20 emergency rules authorized by this subsection (e) shall be
21 deemed to be necessary for the public interest, safety, and
22 welfare.

23 (f) In order to provide for the expeditious and timely
24 implementation of the State's fiscal year 2001 budget,
25 emergency rules to implement any provision of Public Act 91-712
26 or any other budget initiative for fiscal year 2001 may be

1 adopted in accordance with this Section by the agency charged
2 with administering that provision or initiative, except that
3 the 24-month limitation on the adoption of emergency rules and
4 the provisions of Sections 5-115 and 5-125 do not apply to
5 rules adopted under this subsection (f). The adoption of
6 emergency rules authorized by this subsection (f) shall be
7 deemed to be necessary for the public interest, safety, and
8 welfare.

9 (g) In order to provide for the expeditious and timely
10 implementation of the State's fiscal year 2002 budget,
11 emergency rules to implement any provision of Public Act 92-10
12 or any other budget initiative for fiscal year 2002 may be
13 adopted in accordance with this Section by the agency charged
14 with administering that provision or initiative, except that
15 the 24-month limitation on the adoption of emergency rules and
16 the provisions of Sections 5-115 and 5-125 do not apply to
17 rules adopted under this subsection (g). The adoption of
18 emergency rules authorized by this subsection (g) shall be
19 deemed to be necessary for the public interest, safety, and
20 welfare.

21 (h) In order to provide for the expeditious and timely
22 implementation of the State's fiscal year 2003 budget,
23 emergency rules to implement any provision of Public Act 92-597
24 or any other budget initiative for fiscal year 2003 may be
25 adopted in accordance with this Section by the agency charged
26 with administering that provision or initiative, except that

1 the 24-month limitation on the adoption of emergency rules and
2 the provisions of Sections 5-115 and 5-125 do not apply to
3 rules adopted under this subsection (h). The adoption of
4 emergency rules authorized by this subsection (h) shall be
5 deemed to be necessary for the public interest, safety, and
6 welfare.

7 (i) In order to provide for the expeditious and timely
8 implementation of the State's fiscal year 2004 budget,
9 emergency rules to implement any provision of Public Act 93-20
10 or any other budget initiative for fiscal year 2004 may be
11 adopted in accordance with this Section by the agency charged
12 with administering that provision or initiative, except that
13 the 24-month limitation on the adoption of emergency rules and
14 the provisions of Sections 5-115 and 5-125 do not apply to
15 rules adopted under this subsection (i). The adoption of
16 emergency rules authorized by this subsection (i) shall be
17 deemed to be necessary for the public interest, safety, and
18 welfare.

19 (j) In order to provide for the expeditious and timely
20 implementation of the provisions of the State's fiscal year
21 2005 budget as provided under the Fiscal Year 2005 Budget
22 Implementation (Human Services) Act, emergency rules to
23 implement any provision of the Fiscal Year 2005 Budget
24 Implementation (Human Services) Act may be adopted in
25 accordance with this Section by the agency charged with
26 administering that provision, except that the 24-month

1 limitation on the adoption of emergency rules and the
2 provisions of Sections 5-115 and 5-125 do not apply to rules
3 adopted under this subsection (j). The Department of Public Aid
4 may also adopt rules under this subsection (j) necessary to
5 administer the Illinois Public Aid Code and the Children's
6 Health Insurance Program Act. The adoption of emergency rules
7 authorized by this subsection (j) shall be deemed to be
8 necessary for the public interest, safety, and welfare.

9 (k) In order to provide for the expeditious and timely
10 implementation of the provisions of the State's fiscal year
11 2006 budget, emergency rules to implement any provision of
12 Public Act 94-48 or any other budget initiative for fiscal year
13 2006 may be adopted in accordance with this Section by the
14 agency charged with administering that provision or
15 initiative, except that the 24-month limitation on the adoption
16 of emergency rules and the provisions of Sections 5-115 and
17 5-125 do not apply to rules adopted under this subsection (k).
18 The Department of Healthcare and Family Services may also adopt
19 rules under this subsection (k) necessary to administer the
20 Illinois Public Aid Code, the Senior Citizens and Persons with
21 Disabilities Property Tax Relief Act, the Senior Citizens and
22 Disabled Persons Prescription Drug Discount Program Act (now
23 the Illinois Prescription Drug Discount Program Act), and the
24 Children's Health Insurance Program Act. The adoption of
25 emergency rules authorized by this subsection (k) shall be
26 deemed to be necessary for the public interest, safety, and

1 welfare.

2 (l) In order to provide for the expeditious and timely
3 implementation of the provisions of the State's fiscal year
4 2007 budget, the Department of Healthcare and Family Services
5 may adopt emergency rules during fiscal year 2007, including
6 rules effective July 1, 2007, in accordance with this
7 subsection to the extent necessary to administer the
8 Department's responsibilities with respect to amendments to
9 the State plans and Illinois waivers approved by the federal
10 Centers for Medicare and Medicaid Services necessitated by the
11 requirements of Title XIX and Title XXI of the federal Social
12 Security Act. The adoption of emergency rules authorized by
13 this subsection (l) shall be deemed to be necessary for the
14 public interest, safety, and welfare.

15 (m) In order to provide for the expeditious and timely
16 implementation of the provisions of the State's fiscal year
17 2008 budget, the Department of Healthcare and Family Services
18 may adopt emergency rules during fiscal year 2008, including
19 rules effective July 1, 2008, in accordance with this
20 subsection to the extent necessary to administer the
21 Department's responsibilities with respect to amendments to
22 the State plans and Illinois waivers approved by the federal
23 Centers for Medicare and Medicaid Services necessitated by the
24 requirements of Title XIX and Title XXI of the federal Social
25 Security Act. The adoption of emergency rules authorized by
26 this subsection (m) shall be deemed to be necessary for the

1 public interest, safety, and welfare.

2 (n) In order to provide for the expeditious and timely
3 implementation of the provisions of the State's fiscal year
4 2010 budget, emergency rules to implement any provision of
5 Public Act 96-45 or any other budget initiative authorized by
6 the 96th General Assembly for fiscal year 2010 may be adopted
7 in accordance with this Section by the agency charged with
8 administering that provision or initiative. The adoption of
9 emergency rules authorized by this subsection (n) shall be
10 deemed to be necessary for the public interest, safety, and
11 welfare. The rulemaking authority granted in this subsection
12 (n) shall apply only to rules promulgated during Fiscal Year
13 2010.

14 (o) In order to provide for the expeditious and timely
15 implementation of the provisions of the State's fiscal year
16 2011 budget, emergency rules to implement any provision of
17 Public Act 96-958 or any other budget initiative authorized by
18 the 96th General Assembly for fiscal year 2011 may be adopted
19 in accordance with this Section by the agency charged with
20 administering that provision or initiative. The adoption of
21 emergency rules authorized by this subsection (o) is deemed to
22 be necessary for the public interest, safety, and welfare. The
23 rulemaking authority granted in this subsection (o) applies
24 only to rules promulgated on or after July 1, 2010 (the
25 effective date of Public Act 96-958) through June 30, 2011.

26 (p) In order to provide for the expeditious and timely

1 implementation of the provisions of Public Act 97-689,
2 emergency rules to implement any provision of Public Act 97-689
3 may be adopted in accordance with this subsection (p) by the
4 agency charged with administering that provision or
5 initiative. The 150-day limitation of the effective period of
6 emergency rules does not apply to rules adopted under this
7 subsection (p), and the effective period may continue through
8 June 30, 2013. The 24-month limitation on the adoption of
9 emergency rules does not apply to rules adopted under this
10 subsection (p). The adoption of emergency rules authorized by
11 this subsection (p) is deemed to be necessary for the public
12 interest, safety, and welfare.

13 (q) In order to provide for the expeditious and timely
14 implementation of the provisions of Articles 7, 8, 9, 11, and
15 12 of Public Act 98-104, emergency rules to implement any
16 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
17 may be adopted in accordance with this subsection (q) by the
18 agency charged with administering that provision or
19 initiative. The 24-month limitation on the adoption of
20 emergency rules does not apply to rules adopted under this
21 subsection (q). The adoption of emergency rules authorized by
22 this subsection (q) is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (r) In order to provide for the expeditious and timely
25 implementation of the provisions of Public Act 98-651,
26 emergency rules to implement Public Act 98-651 may be adopted

1 in accordance with this subsection (r) by the Department of
2 Healthcare and Family Services. The 24-month limitation on the
3 adoption of emergency rules does not apply to rules adopted
4 under this subsection (r). The adoption of emergency rules
5 authorized by this subsection (r) is deemed to be necessary for
6 the public interest, safety, and welfare.

7 (s) In order to provide for the expeditious and timely
8 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
9 the Illinois Public Aid Code, emergency rules to implement any
10 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
11 Public Aid Code may be adopted in accordance with this
12 subsection (s) by the Department of Healthcare and Family
13 Services. The rulemaking authority granted in this subsection
14 (s) shall apply only to those rules adopted prior to July 1,
15 2015. Notwithstanding any other provision of this Section, any
16 emergency rule adopted under this subsection (s) shall only
17 apply to payments made for State fiscal year 2015. The adoption
18 of emergency rules authorized by this subsection (s) is deemed
19 to be necessary for the public interest, safety, and welfare.

20 (t) In order to provide for the expeditious and timely
21 implementation of the provisions of Article II of Public Act
22 99-6, emergency rules to implement the changes made by Article
23 II of Public Act 99-6 to the Emergency Telephone System Act may
24 be adopted in accordance with this subsection (t) by the
25 Department of State Police. The rulemaking authority granted in
26 this subsection (t) shall apply only to those rules adopted

1 prior to July 1, 2016. The 24-month limitation on the adoption
2 of emergency rules does not apply to rules adopted under this
3 subsection (t). The adoption of emergency rules authorized by
4 this subsection (t) is deemed to be necessary for the public
5 interest, safety, and welfare.

6 (u) In order to provide for the expeditious and timely
7 implementation of the provisions of the Burn Victims Relief
8 Act, emergency rules to implement any provision of the Act may
9 be adopted in accordance with this subsection (u) by the
10 Department of Insurance. The rulemaking authority granted in
11 this subsection (u) shall apply only to those rules adopted
12 prior to December 31, 2015. The adoption of emergency rules
13 authorized by this subsection (u) is deemed to be necessary for
14 the public interest, safety, and welfare.

15 (v) In order to provide for the expeditious and timely
16 implementation of the provisions of Public Act 99-516,
17 emergency rules to implement Public Act 99-516 may be adopted
18 in accordance with this subsection (v) by the Department of
19 Healthcare and Family Services. The 24-month limitation on the
20 adoption of emergency rules does not apply to rules adopted
21 under this subsection (v). The adoption of emergency rules
22 authorized by this subsection (v) is deemed to be necessary for
23 the public interest, safety, and welfare.

24 (w) In order to provide for the expeditious and timely
25 implementation of the provisions of Public Act 99-796,
26 emergency rules to implement the changes made by Public Act

1 99-796 may be adopted in accordance with this subsection (w) by
2 the Adjutant General. The adoption of emergency rules
3 authorized by this subsection (w) is deemed to be necessary for
4 the public interest, safety, and welfare.

5 (x) In order to provide for the expeditious and timely
6 implementation of the provisions of Public Act 99-906 ~~this~~
7 ~~amendatory Act of the 99th General Assembly~~, emergency rules to
8 implement subsection (i) of Section 16-115D, subsection (g) of
9 Section 16-128A, and subsection (a) of Section 16-128B of the
10 Public Utilities Act may be adopted in accordance with this
11 subsection (x) by the Illinois Commerce Commission. The
12 rulemaking authority granted in this subsection (x) shall apply
13 only to those rules adopted within 180 days after June 1, 2017
14 (the effective date of Public Act 99-906) ~~this amendatory Act~~
15 ~~of the 99th General Assembly~~. The adoption of emergency rules
16 authorized by this subsection (x) is deemed to be necessary for
17 the public interest, safety, and welfare.

18 (y) In order to provide for the expeditious and timely
19 implementation of the provisions of the State's budget for
20 fiscal years 2017 and 2018, emergency rules to implement any
21 provision of this amendatory Act of the 100th General Assembly
22 may be adopted in accordance with this Section by each agency
23 identified in Section 40 of the Unbalanced Budget Response Act.
24 The adoption of emergency rules authorized by this subsection
25 (y) shall be deemed to be necessary for the public interest,
26 safety, and welfare. The rulemaking authority granted in this

1 subsection (y) shall apply only to rules adopted prior to July
2 1, 2018. Notwithstanding any other provision of this Section,
3 any emergency rule adopted pursuant to this subsection (y)
4 shall expire on July 1, 2018.

5 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
6 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;
7 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff.
8 6-30-16; 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906,
9 eff. 6-1-17; revised 1-1-17.)

10 Section 110. The Illinois Public Aid Code is amended by
11 changing Section 5A-10 as follows:

12 (305 ILCS 5/5A-10) (from Ch. 23, par. 5A-10)

13 Sec. 5A-10. Applicability.

14 (a) The assessment imposed by subsection (a) of Section
15 5A-2 shall cease to be imposed and the Department's obligation
16 to make payments shall immediately cease, and any moneys
17 remaining in the Fund shall be refunded to hospital providers
18 in proportion to the amounts paid by them, if:

19 (1) The payments to hospitals required under this
20 Article are not eligible for federal matching funds under
21 Title XIX or XXI of the Social Security Act;

22 (2) For State fiscal years 2009 through 2018, the
23 Department of Healthcare and Family Services adopts any
24 administrative rule change to reduce payment rates or

1 alters any payment methodology that reduces any payment
2 rates made to operating hospitals under the approved Title
3 XIX or Title XXI State plan in effect January 1, 2008
4 except for:

5 (A) any changes for hospitals described in
6 subsection (b) of Section 5A-3;

7 (B) any rates for payments made under this Article
8 V-A;

9 (C) any changes proposed in State plan amendment
10 transmittal numbers 08-01, 08-02, 08-04, 08-06, and
11 08-07;

12 (D) in relation to any admissions on or after
13 January 1, 2011, a modification in the methodology for
14 calculating outlier payments to hospitals for
15 exceptionally costly stays, for hospitals reimbursed
16 under the diagnosis-related grouping methodology in
17 effect on July 1, 2011; provided that the Department
18 shall be limited to one such modification during the
19 36-month period after the effective date of this
20 amendatory Act of the 96th General Assembly;

21 (E) any changes affecting hospitals authorized by
22 Public Act 97-689;

23 (F) any changes authorized by Section 14-12 of this
24 Code, or for any changes authorized under Section 5A-15
25 of this Code; ~~or~~

26 (G) any changes authorized under Section 5-5b.1;

1 or -

2 (H) any changes authorized under the Unbalanced
3 Budget Response Act.

4 (b) The assessment imposed by Section 5A-2 shall not take
5 effect or shall cease to be imposed, and the Department's
6 obligation to make payments shall immediately cease, if the
7 assessment is determined to be an impermissible tax under Title
8 XIX of the Social Security Act. Moneys in the Hospital Provider
9 Fund derived from assessments imposed prior thereto shall be
10 disbursed in accordance with Section 5A-8 to the extent federal
11 financial participation is not reduced due to the
12 impermissibility of the assessments, and any remaining moneys
13 shall be refunded to hospital providers in proportion to the
14 amounts paid by them.

15 (c) The assessments imposed by subsection (b-5) of Section
16 5A-2 shall not take effect or shall cease to be imposed, the
17 Department's obligation to make payments shall immediately
18 cease, and any moneys remaining in the Fund shall be refunded
19 to hospital providers in proportion to the amounts paid by
20 them, if the payments to hospitals required under Section
21 5A-12.4 are not eligible for federal matching funds under Title
22 XIX of the Social Security Act.

23 (d) The assessments imposed by Section 5A-2 shall not take
24 effect or shall cease to be imposed, the Department's
25 obligation to make payments shall immediately cease, and any
26 moneys remaining in the Fund shall be refunded to hospital

1 providers in proportion to the amounts paid by them, if:

2 (1) for State fiscal years 2013 through 2018, the
3 Department reduces any payment rates to hospitals as in
4 effect on May 1, 2012, or alters any payment methodology as
5 in effect on May 1, 2012, that has the effect of reducing
6 payment rates to hospitals, except for any changes
7 affecting hospitals authorized in Public Act 97-689 and any
8 changes authorized by Section 14-12 of this Code, ~~and~~
9 except for any changes authorized under Section 5A-15, ~~and~~
10 except for any changes authorized under Section 5-5b.1, and
11 except for any changes authorized under the Unbalanced
12 Budget Response Act;

13 (2) for State fiscal years 2013 through 2018, the
14 Department reduces any supplemental payments made to
15 hospitals below the amounts paid for services provided in
16 State fiscal year 2011 as implemented by administrative
17 rules adopted and in effect on or prior to June 30, 2011,
18 except for any changes affecting hospitals authorized in
19 Public Act 97-689 and any changes authorized by Section
20 14-12 of this Code, ~~and~~ except for any changes authorized
21 under Section 5A-15, ~~and~~ except for any changes authorized
22 under Section 5-5b.1, and except for any changes authorized
23 under the Unbalanced Budget Response Act; or

24 (3) for State fiscal years 2015 through 2018, the
25 Department reduces the overall effective rate of
26 reimbursement to hospitals below the level authorized

1 under Section 14-12 of this Code, except for any changes
2 under Section 14-12 or Section 5A-15 of this Code, ~~and~~
3 except for any changes authorized under Section 5-5b.1, and
4 except for any changes authorized under the Unbalanced
5 Budget Response Act.

6 (Source: P.A. 98-463, eff. 8-16-13; 98-651, eff. 6-16-14; 99-2,
7 eff. 3-26-15.)

8 Section 115. The State Mandates Act is amended by adding
9 Section 8.41 as follows:

10 (30 ILCS 805/8.41 new)

11 Sec. 8.41. Exempt mandate. Notwithstanding Sections 6 and 8
12 of this Act, no reimbursement by the State is required for the
13 implementation of any mandate created by this amendatory Act of
14 the 100th General Assembly.

15 Section 995. No acceleration or delay. Where this Act makes
16 changes in a statute that is represented in this Act by text
17 that is not yet or no longer in effect (for example, a Section
18 represented by multiple versions), the use of that text does
19 not accelerate or delay the taking effect of (i) the changes
20 made by this Act or (ii) provisions derived from any other
21 Public Act.

22 Section 999. Effective date. This Act takes effect upon
23 becoming law.