

1 AMENDMENT TO SENATE BILL 102

2 AMENDMENT NO. _____. Amend Senate Bill 102 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by changing
5 Section 6z-43 as follows:

6 (30 ILCS 105/6z-43)

7 Sec. 6z-43. Tobacco Settlement Recovery Fund.

8 (a) There is created in the State Treasury a special
9 fund to be known as the Tobacco Settlement Recovery Fund,
10 into which shall be deposited all monies paid to the State
11 pursuant to (1) the Master Settlement Agreement entered in
12 the case of People of the State of Illinois v. Philip Morris,
13 et al. (Circuit Court of Cook County, No. 96-L13146) and (2)
14 any settlement with or judgment against any tobacco product
15 manufacturer other than one participating in the Master
16 Settlement Agreement in satisfaction of any released claim as
17 defined in the Master Settlement Agreement, as well as any
18 other monies as provided by law. All earnings on Fund
19 investments shall be deposited into the Fund. Upon the
20 creation of the Fund, the State Comptroller shall order the
21 State Treasurer to transfer into the Fund any monies paid to
22 the State as described in item (1) or (2) of this Section

1 before the creation of the Fund plus any interest earned on
2 the investment of those monies. The Treasurer may invest the
3 moneys in the Fund in the same manner, in the same types of
4 investments, and subject to the same limitations provided in
5 the Illinois Pension Code for the investment of pension funds
6 other than those established under Article 3 or 4 of the
7 Code.

8 (b) As soon as may be practical after June 30, 2001,
9 upon notification from and at the direction of the Governor,
10 the State Comptroller shall direct and the State Treasurer
11 shall transfer the unencumbered balance in the Tobacco
12 Settlement Recovery Fund as of June 30, 2001, as determined
13 by the Governor, into the Budget Stabilization Fund. The
14 Treasurer may invest the moneys in the Budget Stabilization
15 Fund in the same manner, in the same types of investments,
16 and subject to the same limitations provided in the Illinois
17 Pension Code for the investment of pension funds other than
18 those established under Article 3 or 4 of the Code.

19 (c) In addition to any other deposits authorized by law,
20 after any delivery of any bonds as authorized by Section 7.5
21 of the General Obligation Bond Act for deposits to the
22 General Revenue Fund and the Budget Stabilization Fund
23 (referred to as "tobacco securitization general obligation
24 bonds"), the Governor shall certify, on or before June 30,
25 2003 and June 30 of each year thereafter, to the State
26 Comptroller and State Treasurer the total amount of principal
27 of, interest on, and premium, if any, due on those bonds in
28 the next fiscal year beginning with amounts due in fiscal
29 year 2004. As soon as practical after the annual payment of
30 tobacco settlement moneys to the Tobacco Settlement Recovery
31 Fund as described in item (1) of subsection (a), the State
32 Treasurer and State Comptroller shall transfer from the
33 Tobacco Settlement Recovery Fund to the General Obligation
34 Bond Retirement and Interest Fund the amount certified by the

1 Governor, plus any cumulative deficiency in those transfers
2 for prior years.

3 (d) (e) All federal financial participation moneys
4 received pursuant to expenditures from the Fund shall be
5 deposited into the Fund.

6 (e) In any civil litigation under any legal theory in
7 which a judgment is entered against a signatory or a
8 successor to a signatory of the Master Settlement Agreement,
9 as defined in Section 10 of the Tobacco Product
10 Manufacturers' Escrow Act, the appeal bond that the signatory
11 or successor or any other defendant may be required to post
12 to stay execution on the judgment during the time that an
13 appeal or discretionary review of the judgment is pending
14 shall be set in accordance with the law and the rules of the
15 court, unless a signatory or successor or any other defendant
16 demonstrates to the court by a preponderance of the evidence
17 undue financial hardship, in which case the total amount of
18 the appeal bond may be limited to \$100,000,000, regardless of
19 the total amount of the judgment.

20 (f) If it is proved by a preponderance of the evidence
21 that an appellant for whom an appeal bond has been limited
22 under subsection (e) is intentionally dissipating or
23 diverting assets outside the ordinary course of its business
24 for the purpose of avoiding payment of the judgment, the
25 court shall enter any orders that are necessary to prevent
26 the dissipation or diversion of assets.

27 (g) The changes made by this amendatory Act of the 93rd
28 General Assembly apply to any action pending on or after the
29 effective date of this amendatory Act of the 93rd General
30 Assembly.

31 (Source: P.A. 91-646, eff. 11-19-99; 91-704, eff. 7-1-00;
32 91-797, eff. 6-9-00; 92-11, eff. 6-11-01; 92-16, eff.
33 6-28-01; 92-596, eff. 6-28-02; 92-597, eff. 6-28-02; revised
34 9-3-02.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".