



Sen. John J. Cullerton

**Filed: 5/7/2010**

09600HB2428sam002

LRB096 10442 HLH 41448 a

1 AMENDMENT TO HOUSE BILL 2428

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2428, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "ARTICLE 1. EMERGENCY BUDGET ACT OF FISCAL YEAR 2011

6 Section 1-1. Short title. This Act may be cited as the  
7 Emergency Budget Act of Fiscal Year 2011.

8 Section 1-5. Legislative intent and purpose. The General  
9 Assembly hereby finds and declares that the State is confronted  
10 with an unprecedented fiscal crisis. It is the purpose of this  
11 Act to authorize changes in State programs that are necessary  
12 to implement the State fiscal year 2011 budget. This Act is to  
13 be liberally construed and interpreted in a manner that allows  
14 the State to address the fiscal crisis for the State fiscal  
15 year 2011.

1           ARTICLE 3. RAILSPLITTER TOBACCO SETTLEMENT AUTHORITY ACT

2           Section 3-1. Short title. This Act may be cited as the  
3           Railsplitter Tobacco Settlement Authority Act.

4           Section 3-2. Definitions. In this Act words or terms shall  
5           have the following meanings unless the context or usage clearly  
6           indicates that another meaning is intended.

7           (a) "Authority" means the Railsplitter Tobacco Settlement  
8           Authority created and established pursuant to Section 3-4 of  
9           this Act.

10          (b) "Authorized officer" means any of the members of the  
11          Authority identified and described in Section 3-4 of this Act.

12          (c) "Bond" means any instrument evidencing the obligation  
13          to pay money authorized or issued by or on behalf of the  
14          Authority pursuant to the authorization granted by this Act,  
15          including without limitation, bonds, notes, or certificates.

16          (d) "Bondholder" means, in the case of a bond issued in  
17          registered form, the registered owner of the bond and  
18          otherwise, the owner of the bond.

19          (e) "Budget Director" means the Director of the Governor's  
20          Office of Management and Budget.

21          (f) "Consent Decree" means the Consent Decree and Final  
22          Judgment of the Circuit Court of Cook County, Illinois, dated  
23          December 8, 1998, as the same has been and may be corrected,

1 amended or modified, in the action entitled People of the State  
2 of Illinois v. Philip Morris Incorporated, et al. (No. 96 L  
3 13146).

4 (g) "Master Settlement Agreement" means the Master  
5 Settlement Agreement, dated November 23, 1998, among the  
6 attorneys general of 46 states, including the State of  
7 Illinois, the District of Columbia, the Commonwealth of Puerto  
8 Rico, Guam, the United States Virgin Islands, American Samoa  
9 and the Territory of the Northern Mariana Islands, on the one  
10 hand, and certain tobacco manufacturers, on the other hand, and  
11 the subject of the Consent Decree.

12 (h) "Master Settlement Escrow Agent" means the escrow agent  
13 under the Master Settlement Agreement.

14 (i) "Net proceeds of bonds" means the gross proceeds of the  
15 sale of bonds issued under Section 3-6 of this Act, less any  
16 amounts applied or to be applied to pay transaction and  
17 administrative expenses, including underwriting discount, and  
18 to fund any reserves deemed necessary or appropriate by the  
19 Authority, but does not include any investment earnings  
20 realized thereon.

21 (j) "Participating manufacturer" means a tobacco product  
22 manufacturer that is or becomes a signatory to the Master  
23 Settlement Agreement.

24 (k) "Pledged tobacco revenues" means the State's tobacco  
25 settlement revenues sold to the Authority pursuant to the sale  
26 agreement and pledged by the Authority for the payment of bonds

1 and any related bond facility.

2 (l) "Qualifying statute" has the meaning given that term in  
3 the Master Settlement Agreement, constituting the Tobacco  
4 Product Manufacturers' Escrow Act.

5 (m) "Related bond facility" means any interest rate  
6 exchange or similar agreement or any bond insurance policy,  
7 letter of credit or other credit enhancement facility,  
8 liquidity facility, guaranteed investment or reinvestment  
9 agreement, or other similar agreement, arrangement or  
10 contract.

11 (n) "Residual interest in tobacco settlement revenues"  
12 means any tobacco settlement revenues determined as moneys are  
13 received, to be not required for the identified period in which  
14 revenues are received, to pay principal or interest on bonds or  
15 administrative or transaction expenses of the Authority or to  
16 fund reserves or other requirements relating to bonds issued or  
17 related bond facilities made under this Act.

18 (o) "Sale agreement" means any agreement authorized  
19 pursuant to this Act in which the State provides for the sale  
20 of all or a portion of the tobacco settlement revenues to the  
21 Authority.

22 (p) "State" means the State of Illinois.

23 (q) "State Finance Act" means the State Finance Act of the  
24 State, as amended (30 ILCS 105/1 et seq.).

25 (r) "Tobacco settlement bond proceeds account" means the  
26 Account by that name within the Tobacco Settlement Recovery

1 Fund established under Section 6z-43(a) of the State Finance  
2 Act.

3 (s) "Tobacco Settlement Residual Account" means the  
4 Account by that name within the Tobacco Settlement Recovery  
5 Fund established under Section 6z-43(a) of the State Finance  
6 Act.

7 (t) "Tobacco settlement revenues" means all tobacco  
8 settlement payments received by the State on and after the  
9 effective date of this Act and required to be made, pursuant to  
10 the terms of the Master Settlement Agreement, by participating  
11 manufacturers and the State's rights to receive the tobacco  
12 settlement payments on and after the effective date of this  
13 Act, exclusive of any payments made with respect to liability  
14 to make those payments for calendar years completed before the  
15 effective date of this Act.

16 Section 3-3. Transfer and sale of State's right to tobacco  
17 settlement revenues. During fiscal years 2010 and 2011, the  
18 State may sell, convey, or otherwise transfer to the Authority  
19 the tobacco settlement revenues in exchange for the net  
20 proceeds of bonds and a right to the residual interest in  
21 tobacco settlement revenues. Unless otherwise directed by  
22 statute, the net proceeds of bonds shall be deposited in the  
23 Tobacco Settlement Bond Proceeds Account, and the residual  
24 interest in tobacco settlement revenues received by the State  
25 from time to time shall be deposited in the Tobacco Settlement

1 Residual Account, in each case to be applied for the purposes  
2 and in the manner described in this Act and in Section 6z-43 of  
3 the State Finance Act.

4 Any sale, conveyance, or other transfer authorized by this  
5 Section shall be evidenced by an instrument or agreement in  
6 writing signed on behalf of the State by the Governor. A  
7 certified copy of the instrument or agreement shall be filed  
8 with the Governor, Comptroller, Treasurer, Budget Director,  
9 Speaker and Minority Leader of the House of Representatives,  
10 President and Minority Leader of the Senate, and the Commission  
11 on Government Forecasting and Accountability promptly upon  
12 execution and delivery thereof. The instrument or agreement may  
13 include an irrevocable direction to the Master Settlement  
14 Escrow Agent to pay all or a specified portion of the tobacco  
15 settlement revenues directly to or upon the order of the  
16 Authority, or to any escrow agent or any trustee under an  
17 indenture or other agreement securing any bonds issued or  
18 related bond facilities made under this Act. Upon execution and  
19 delivery of the sale agreement as provided in this Act, the  
20 sale, conveyance, or other transfer of the right to receive the  
21 Tobacco Settlement Revenues, shall, for all purposes, be a true  
22 sale and absolute conveyance of all right, title, and interest  
23 therein and not as a pledge or other security interest for any  
24 borrowing, valid, binding, and enforceable in accordance with  
25 the terms thereof and such instrument or agreements and any  
26 related instrument, agreement, or other arrangement, including

1 any pledge, grant of security interest, or other encumbrance  
2 made by Authority to secure any Bonds issued by the Authority,  
3 and shall not be subject to disavowal, disaffirmance,  
4 cancellation, or avoidance by reason of insolvency of any  
5 party, lack of consideration, or any other fact, occurrence, or  
6 rule of law. On and after the effective date of the sale of any  
7 portion (including all) of the tobacco settlement revenues, the  
8 State shall have no right, title or interest in or to the  
9 portion of the tobacco settlement revenues sold, and the  
10 portion of the tobacco settlement revenues so sold shall be the  
11 property of the Authority, and shall be received, held and  
12 disbursed by the Authority in a trust fund outside the State  
13 treasury. Any portions of the tobacco settlement revenues sold  
14 and held in trust shall be invested in accordance with the  
15 Public Funds Investment Act.

16 The State may not transfer any right to those amounts  
17 received by the State which were deposited into the Disputed  
18 Payments Account or withheld in accordance with Section  
19 XI(f)(2) of the Master Settlement Agreement prior to the  
20 closing of any Bonds issued pursuant to this Act.

21 The procedures and requirements set forth in this Section  
22 shall be the sole procedures and requirements applicable to the  
23 sale of the tobacco settlement revenues.

24 Section 3-4. Establishment and Powers of Authority. The  
25 Authority is hereby established as a special purpose

1 corporation which shall be body corporate and politic of, but  
2 having a legal existence independent and separate from, the  
3 State and, accordingly, the assets, liabilities, and funds of  
4 the Authority shall be neither consolidated nor commingled with  
5 those of the State treasury. The Authority and its corporate  
6 existence shall continue until 6 months after all its  
7 liabilities have been met or otherwise discharged. Upon the  
8 termination of the existence of the Authority, all of its  
9 rights and property shall pass to and be vested in the State.  
10 The Authority shall be established for the express limited  
11 public purposes set forth in this Act, and no part of the net  
12 earnings of the Authority shall inure to any private  
13 individual.

14 The Authority shall be governed by a 3-member board  
15 consisting of the Budget Director and two other members  
16 appointed by the Governor. The powers of the Authority shall be  
17 subject to the terms, conditions, and limitations contained  
18 within this Act, and any applicable covenants or agreements of  
19 the Authority in any indenture or other agreement relating to  
20 any then outstanding bonds or related bond facilities. The  
21 Authority may enter into contracts regarding any matter  
22 connected with any corporate purpose within the objects and  
23 purposes of this Act. The members of the Authority and the  
24 Chief Financial Officer of the Authority shall receive no  
25 salary or other compensation, either direct or indirect, for  
26 serving as members of the Authority, other than reimbursement



1 for actual and necessary expenses incurred in the performance  
2 of such person's duties. The Authority may elect one of its  
3 members as chairman, who shall sign instruments or agreements  
4 authorized by this Act on behalf of the Authority. The  
5 Authority may also appoint a Chief Financial Officer of the  
6 Authority who may or may not be a member of the Authority in  
7 order to provide financial analysis and advice regarding any  
8 transaction of the Authority. Notwithstanding the foregoing,  
9 the Authority shall not be authorized to make any covenant,  
10 pledge, promise or agreement purporting to bind the State with  
11 respect to Tobacco Settlement Revenues, except as otherwise  
12 specifically authorized by this Act.

13 The Authority may not file a voluntary petition under or be  
14 or become a debtor or bankrupt under the federal bankruptcy  
15 code or any other federal or State bankruptcy, insolvency, or  
16 moratorium law or statute as may, from time to time, be in  
17 effect and neither any public officer nor any organization,  
18 entity, or other person shall authorize the Authority to be or  
19 become a debtor or bankrupt under the federal bankruptcy code  
20 or any other federal or State bankruptcy, insolvency, or  
21 moratorium law or statute, as may, from time to time be in  
22 effect.

23 The Authority may not guarantee the debts of another.

24 Section 3-5. Certain powers of the Authority. The Authority  
25 shall have the power to:

1 (1) sue and be sued;

2 (2) have a seal and alter the same at pleasure;

3 (3) make and alter by-laws for its organization and  
4 internal management and make rules and regulations governing  
5 the use of its property and facilities;

6 (4) appoint by and with the consent of the Attorney  
7 General, assistant attorneys for such Authority; those  
8 assistant attorneys shall be under the control, direction, and  
9 supervision of the Attorney General and shall serve at his or  
10 her pleasure;

11 (5) retain special counsel, subject to the approval of the  
12 Attorney General, as needed from time to time, and fix their  
13 compensation, provided however, such special counsel shall be  
14 subject to the control, direction and supervision of the  
15 Attorney General and shall serve at his or her pleasure;

16 (6) make and execute contracts and all other instruments  
17 necessary or convenient for the exercise of its powers and  
18 functions under this Section and to commence any action to  
19 protect or enforce any right conferred upon it by any law,  
20 contract, or other agreement, provided that any underwriter,  
21 financial advisor, bond counsel, or other professional  
22 providing services to the Authority may be selected pursuant to  
23 solicitations issued and completed by the Governor's Office of  
24 Management and Budget for those services;

25 (7) appoint officers and agents, prescribe their duties and  
26 qualifications, fix their compensation and engage the services

1 of private consultants and counsel on a contract basis for  
2 rendering professional and technical assistance and advice,  
3 provided that this shall not be construed to limit the  
4 authority of the Attorney General provided in Section 4 of the  
5 Attorney General Act;

6 (8) pay its operating expenses and its financing costs,  
7 including its reasonable costs of issuance and sale and those  
8 of the Attorney General, if any, in a total amount not greater  
9 than 1% of the principal amount of the proceeds of the bond  
10 sale;

11 (9) borrow money in its name and issue negotiable bonds and  
12 provide for the rights of the holders thereof as otherwise  
13 provided in this Act;

14 (10) procure insurance against any loss in connection with  
15 its activities, properties, and assets in such amount and from  
16 such insurers as it deems desirable;

17 (11) invest any funds or other moneys under its custody and  
18 control in investment securities or under any related bond  
19 facility;

20 (12) as security for the payment of the principal of and  
21 interest on any Bonds issued by it pursuant to this Act and any  
22 agreement made in connection therewith and for its obligations  
23 under any Related Bond Facility, pledge all or any part of the  
24 tobacco settlement revenues;

25 (13) do any and all things necessary or convenient to carry  
26 out its purposes and exercise the powers expressly given and

1 granted in this Section.

2 Section 3-6. Bonds of the Authority.

3 (a) The Authority shall have power and is hereby authorized  
4 to issue bonds, in an amount no greater than \$1,750,000,000, to  
5 provide sufficient funds for the purchase of all or a portion  
6 of the tobacco settlement revenues pursuant to Section 3-3 of  
7 this Act and the payment or provision for financing costs.

8 The issuance of bonds shall be authorized by a resolution  
9 of the Authority, adopted by a majority of the members of the  
10 Authority without further authorization or approval. The issue  
11 of the bonds of the Authority shall be special revenue  
12 obligations payable from and secured by a pledge of the pledged  
13 tobacco revenues, those proceeds of such Bonds deposited in a  
14 reserve fund for the benefit of Bondholders, and earnings on  
15 funds of the Authority, upon such terms and conditions as  
16 specified by the Authority in the resolution under which the  
17 Bonds are issued or in a related trust indenture.

18 The Authority shall have the power and is hereby authorized  
19 from time to time to issue bonds, whenever it deems refunding  
20 expedient, to refund any outstanding bonds by the issuance of  
21 new bonds, provided that the refunding debt matures within the  
22 term of the bonds to be refunded. The refunding bonds may be  
23 exchanged for the bonds to be refunded or sold and the proceeds  
24 applied to the purchase, redemption, or payment of such bonds.

25 (b) The bonds of each issue shall be dated, shall bear

1 interest (which may be includable in or excludable from the  
2 gross income of the owners for federal income tax purposes) at  
3 such fixed or variable rates, payable at or prior to maturity,  
4 and shall mature at such time or times, not more than 19 years  
5 after the date of issuance, as may be determined by the  
6 Authority and may be made redeemable before maturity, at the  
7 option of the Authority, at such price or prices and under such  
8 terms and conditions as may be fixed by the Authority. The  
9 principal and interest of such bonds may be made payable in any  
10 lawful medium. The resolution or the certificate of the officer  
11 of the Authority approving the issuance of the bonds shall  
12 determine the form of the bonds and the manner of execution of  
13 the bonds and shall fix the denomination or denominations of  
14 the bonds and the place or places of payment of principal and  
15 interest thereof, which may be at any bank or trust company  
16 within or outside the State. If any officer whose signature or  
17 a facsimile thereof appears on any bonds shall cease to be such  
18 officer before the delivery of such bonds, such signature or  
19 facsimile shall nevertheless be valid and sufficient for all  
20 purposes the same as if he had remained in office until such  
21 delivery.

22 (c) The Authority may sell such bonds pursuant to notice of  
23 sale and public bid or by negotiated sale in accordance with  
24 the corresponding procedures applicable to like sales of  
25 general obligation bonds under Section 11 of the General  
26 Obligation Bond Act. The proceeds of such bonds shall be

1       disbursed for the purposes for which such bonds were issued  
2       under such restrictions as the sale agreement and the  
3       resolution authorizing the issuance of such bonds or the  
4       related trust indenture may provide. Such bonds shall be issued  
5       upon approval of the Authority and without any other approvals,  
6       filings, proceedings or the happening of any other conditions  
7       or things other than the approvals, findings, proceedings,  
8       conditions, and things that are specified and required by this  
9       Act.

10       (d) Any pledge made by the Authority shall be valid and  
11       binding at the time the pledge is made. The assets, property,  
12       revenues, reserves, or earnings so pledged shall immediately be  
13       subject to the lien of such pledge without any physical  
14       delivery thereof or further act and the lien of any such pledge  
15       shall be valid and binding as against all parties having claims  
16       of any kind in tort, contract, or otherwise against the  
17       Authority, irrespective of whether such parties have notice  
18       thereof. Notwithstanding any other provision of law to the  
19       contrary, neither the resolution nor any indenture or other  
20       instrument by which a pledge is created or by which the  
21       Authority's interest in pledged assets, property, revenues,  
22       reserves, or earnings thereon is assigned need be filed,  
23       perfected or recorded in any public records in order to protect  
24       the pledge thereof or perfect the lien thereof as against third  
25       parties, except that a copy thereof shall be filed in the  
26       records of the Authority.

1           (e) Whether or not the bonds of the Authority are of such  
2 form and character as to be negotiable instruments under the  
3 terms of the Uniform Commercial Code, the bonds are hereby made  
4 negotiable instruments for all purposes, subject only to the  
5 provisions of the bonds for registration.

6           (f) At the sole discretion of the Authority, any bonds  
7 issued by the Authority and any related bond facility made  
8 under the provisions of this Act shall be secured by a  
9 resolution or trust indenture by and between the Authority and  
10 the indenture trustee, which may be any trust company or bank  
11 having the powers of a trust company, whether located within or  
12 outside the State. Such trust indenture or resolution providing  
13 for the issuance of such bonds shall, without limitation, (i)  
14 provide for the creation and maintenance of such reserves as  
15 the Authority shall determine to be proper; (ii) include  
16 covenants setting forth the duties of the Authority in relation  
17 to the bonds, the income of the Authority, the related sale  
18 agreement and the related tobacco settlement revenues; (iii)  
19 contain provisions relating to the prompt transfer of the  
20 residual interest upon receipt of the tobacco settlement  
21 revenues; (iv) contain provisions respecting the custody,  
22 safeguarding, and application of all moneys and securities; (v)  
23 contain such provisions for protecting and enforcing against  
24 the Authority or the State the rights and remedies (pursuant  
25 thereto and to the sale agreement) of the owners of the bonds  
26 and any provider of a related bond facility as may be

1 reasonable and proper and not in violation of law; and (vi)  
2 contain such other provisions as the Authority may deem  
3 reasonable and proper for priorities and subordination among  
4 the owners of the bonds and providers of related bond  
5 facilities. Any reference in this Act to a resolution of the  
6 Authority shall include any trust indenture authorized  
7 thereby.

8 (g) The net proceeds of bonds and any earnings thereon  
9 shall never be pledged to, nor made available for, payment of  
10 the bonds or any interest or redemption price thereon or any  
11 other debt or obligation of the Authority. The net proceeds of  
12 bonds shall be deposited by the State in the Tobacco Settlement  
13 Bond Proceeds Account, and shall be used by the State (either  
14 directly or by reimbursement) for the payment of outstanding  
15 obligations of the General Revenue Fund or to supplement the  
16 Tobacco Settlement Residual Account to pay for appropriated  
17 obligations of the Tobacco Settlement Recovery Fund for State  
18 fiscal year 2011 through 2013. Any residual interest in tobacco  
19 settlement revenues shall be deposited in the Tobacco  
20 Settlement Residual Account, and shall be used by the State  
21 (either directly or by reimbursement) in accordance with  
22 Section 6z-43 of the State Finance Act for appropriated  
23 obligations of the Tobacco Settlement Recovery Fund. With  
24 respect to any bonds of the Authority, the interest on which is  
25 intended to be excludable from the gross income of the owners  
26 for federal income tax purposes, the Authority and the



1 authorized officers may provide restrictions on the use of net  
2 proceeds of bonds and other amounts in the sale agreement or  
3 otherwise in a tax regulatory agreement only as necessary to  
4 assure such tax-exempt status.

5 (h) The Authority may enter into, amend, or terminate, as  
6 it determines to be necessary or appropriate, any related bond  
7 facility (i) to facilitate the issuance, sale, resale,  
8 purchase, repurchase, or payment of bonds, interest rate  
9 savings or market diversification, or the making or performance  
10 of swap contracts, including without limitation bond  
11 insurance, letters of credit and liquidity facilities, or (ii)  
12 to attempt to manage or hedge risk or achieve a desirable  
13 effective interest rate or cash flow. Such facility shall be  
14 made upon the terms and conditions established by the  
15 Authority, including without limitation provisions as to  
16 security, default, termination, payment, remedy, jurisdiction  
17 and consent to service of process.

18 (i) The Authority may enter into, amend, or terminate, as  
19 it deems to be necessary or appropriate, any related bond  
20 facility to place the obligations or investments of the  
21 Authority, as represented by the bonds or the investment of  
22 reserves securing the bonds or related bond facilities or other  
23 tobacco settlement revenues or its other assets, in whole or in  
24 part, on the interest rate, cash flow, or other basis approved  
25 by the Authority, which facility may include without limitation  
26 contracts commonly known as interest rate swap agreements,

1 forward purchase contracts, or guaranteed investment contracts  
2 and futures or contracts providing for payments based on levels  
3 of, or changes in, interest rates. These contracts or  
4 arrangements may be entered into by the Authority in connection  
5 with, or incidental to, entering into, or maintaining any (i)  
6 agreement which secures bonds of the Authority or (ii)  
7 investment or contract providing for investment of reserves or  
8 similar facility guaranteeing an investment rate for a period  
9 of years not to exceed the underlying term of the bonds. The  
10 determination by the Authority that a related bond facility or  
11 the amendment or termination thereof is necessary or  
12 appropriate as aforesaid shall be conclusive. Any related bond  
13 facility may contain such provisions as to security, default,  
14 termination, payment, remedy, jurisdiction, and consent to  
15 service of process and other terms and conditions as determined  
16 by the Authority, after giving due consideration to the  
17 creditworthiness of the counterparty or other obligated party,  
18 including any rating by any nationally recognized rating  
19 agency, and any other criteria as may be appropriate.

20 (j) Bonds or any related bond facility may contain a  
21 recital that they are issued or executed, respectively,  
22 pursuant to this Act, which recital shall be conclusive  
23 evidence of their validity, respectively, and the regularity of  
24 the proceedings relating thereto.

25 Section 3-7. State not liable on bonds or related bond

1 facilities. No bond or related bond facility shall constitute  
2 an indebtedness or an obligation of the State of Illinois or  
3 any subdivision thereof, within the purview of any  
4 constitutional or statutory limitation or provision or a charge  
5 against the general credit or taxing powers, if any, of any of  
6 them but shall be payable solely from pledged tobacco revenues.  
7 No owner of any bond or provider of any related bond facility  
8 shall have the right to compel the exercise of the taxing power  
9 of the State to pay any principal installment of, redemption  
10 premium, if any, or interest on the bonds or to make any  
11 payment due under any related bond facility.

12 Section 3-8. Agreement with the State.

13 (a) The State pledges and agrees with the Authority, and  
14 the owners of the bonds of the Authority in which the Authority  
15 has included such pledge and agreement, that the State shall  
16 (i) irrevocably direct the escrow agent under the Master  
17 Settlement Agreement to transfer all pledged tobacco revenues  
18 directly to the Authority or its assignee, (ii) enforce its  
19 right to collect all moneys due from the participating  
20 manufacturers under the Master Settlement Agreement and, in  
21 addition, shall diligently enforce the qualifying statute as  
22 contemplated in Section IX(d)(2)(B) of the Master Settlement  
23 Agreement against all nonparticipating manufacturers selling  
24 tobacco products in the State and that are not in compliance  
25 with the qualifying statute, in each case in the manner and to

1 the extent deemed necessary in the judgment of and consistent  
2 with the discretion of the Attorney General of the State,  
3 provided, however, that the sale agreement shall provide (a)  
4 that the remedies available to the Authority and the  
5 bondholders for any breach of the pledges and agreements of the  
6 State set forth in this clause shall be limited to injunctive  
7 relief, and (b) that the State shall be deemed to have  
8 diligently enforced the qualifying statute so long as there has  
9 been no judicial determination by a court of competent  
10 jurisdiction in this State, in an action commenced by a  
11 participating tobacco manufacturer under the Master Settlement  
12 Agreement, that the State has failed to diligently enforce the  
13 qualifying statute for the purposes of Section IX(d)(2)(B) of  
14 the Master Settlement Agreement, (iii) in any materially  
15 adverse way, neither amend the Master Settlement Agreement nor  
16 the Consent Decree or take any other action that would (a)  
17 impair the Authority's right to receive pledged tobacco  
18 revenues, or (b) limit or alter the rights hereby vested in the  
19 Authority to fulfill the terms of its agreements with the  
20 bondholders, or (c) impair the rights and remedies of such  
21 bondholders or the security for such bonds until such bonds,  
22 together with the interest thereon and all costs and expenses  
23 in connection with any action or proceedings by or on behalf of  
24 such bondholders, are fully paid and discharged (provided, that  
25 nothing herein shall be construed to preclude the State's  
26 regulation of smoking, smoking cessation activities and laws,

1 and taxation and regulation of the sale of cigarettes or the  
2 like or to restrict the right of the State to amend, modify,  
3 repeal, or otherwise alter statutes imposing or relating to the  
4 taxes), and (iv) not amend, supersede or repeal the Master  
5 Settlement Agreement or the qualifying statute in any way that  
6 would materially adversely affect the amount of any payment to,  
7 or the rights to such payments of, the Authority or such  
8 bondholders. This pledge and agreement may be included in the  
9 sale agreement and the Authority may include this pledge and  
10 agreement in any contract with the bondholders of the  
11 Authority.

12 (b) The provisions of this Act, the bonds issued pursuant  
13 to this Act, and the pledges and agreements by the State and  
14 the Authority to the bondholders shall be not be interpreted or  
15 construed to limit or impair the authority or discretion of the  
16 Attorney General to administer and enforce provisions of the  
17 Master Settlement Agreement or to direct, control, and settle  
18 any litigation or arbitration proceeding arising from or  
19 relating to the Master Settlement Agreement.

20 Section 3-9. Enforcement of contract. The provisions of  
21 this Act and of any resolution or proceeding authorizing the  
22 issuance of bonds or a related bond facility shall constitute a  
23 contract with the holders of the bonds or the related bond  
24 facility, and the provisions thereof shall be enforceable  
25 either by mandamus or other proceeding in any Illinois court of

1 competent jurisdiction to enforce and compel the performance of  
2 all duties required by this Act and by any resolution  
3 authorizing the issuance of bonds a related bond facility  
4 adopted in response hereto.

5 Section 3-10. Bonds as legal investments. The State and all  
6 counties, cities, villages, incorporated towns and other  
7 municipal corporations, political subdivisions and public  
8 bodies, and public officers of any thereof, all banks, bankers,  
9 trust companies, savings banks and institutions, building and  
10 loan associations, savings and loan associations, investment  
11 companies, and other persons carrying on a banking business,  
12 all insurance companies, insurance associations, and other  
13 persons carrying on an insurance business, and all executors,  
14 administrators, guardians, trustees, and other fiduciaries may  
15 legally invest any sinking funds, moneys, or other funds  
16 belonging to them or within their control in any bonds issued  
17 pursuant to this Act, it being the purpose of this Section to  
18 authorize the investment in such bonds of all sinking,  
19 insurance, retirement, compensation, pension, and trust funds,  
20 whether owned or controlled by private or public persons or  
21 officers; provided, however, that nothing contained in this  
22 Section may be construed as relieving any person, firm, or  
23 corporation from any duty of exercising reasonable care in  
24 selecting securities for purchase or investment.

1           Section 3-12. Exemption from taxation. It is hereby  
2 determined that the creation of the Authority and the carrying  
3 out of its corporate purposes are in all respects for the  
4 benefit of the people of the State and are public purposes.  
5 Accordingly, the property of the Authority, its income and its  
6 operations shall be exempt from taxation. The Authority shall  
7 not be required to pay any fees, taxes or assessments of any  
8 kind, whether state or local, including, but not limited to,  
9 fees, taxes, ad valorem taxes on real property, sales taxes or  
10 other taxes, upon or with respect to any property owned by it  
11 or under its jurisdiction, control or supervision, or upon the  
12 uses thereof, or upon or with respect to its activities or  
13 operations in furtherance of the powers conferred upon it by  
14 this Act.

15           Section 3-13. Illinois State Auditing Act. The Auditor  
16 General shall conduct financial audits and program audits of  
17 the Authority, in accordance with the Illinois State Auditing  
18 Act.

19           Section 3-15. Supplemental nature of Act; construction and  
20 purpose. The powers conferred by this Act shall be in addition  
21 to and supplemental to the powers conferred by any other law,  
22 general or special, and may be exercised notwithstanding the  
23 provisions of any other such law. Insofar as the provisions of  
24 this Act are inconsistent with the provisions of any other law,

1 general or special, the provisions of this Act shall be  
2 controlling.

3 Section 3-16. Severability. If any provision of this Act is  
4 held invalid, such provision shall be deemed to be excised and  
5 the invalidity thereof shall not affect any of the other  
6 provisions of this Act. If the application of any provision of  
7 this Act to any person or circumstance is held invalid, it  
8 shall not affect the application of such provision to such  
9 persons or circumstances other than those as to which it is  
10 held invalid.

11 ARTICLE 5. AMENDATORY PROVISIONS

12 Section 5-5. The Illinois Administrative Procedure Act is  
13 amended by changing Section 5-45 as follows:

14 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

15 Sec. 5-45. Emergency rulemaking.

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

19 (b) If any agency finds that an emergency exists that  
20 requires adoption of a rule upon fewer days than is required by  
21 Section 5-40 and states in writing its reasons for that  
22 finding, the agency may adopt an emergency rule without prior



1 notice or hearing upon filing a notice of emergency rulemaking  
2 with the Secretary of State under Section 5-70. The notice  
3 shall include the text of the emergency rule and shall be  
4 published in the Illinois Register. Consent orders or other  
5 court orders adopting settlements negotiated by an agency may  
6 be adopted under this Section. Subject to applicable  
7 constitutional or statutory provisions, an emergency rule  
8 becomes effective immediately upon filing under Section 5-65 or  
9 at a stated date less than 10 days thereafter. The agency's  
10 finding and a statement of the specific reasons for the finding  
11 shall be filed with the rule. The agency shall take reasonable  
12 and appropriate measures to make emergency rules known to the  
13 persons who may be affected by them.

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

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

9 (d) In order to provide for the expeditious and timely  
10 implementation of the State's fiscal year 1999 budget,  
11 emergency rules to implement any provision of Public Act 90-587  
12 or 90-588 or any other budget initiative for fiscal year 1999  
13 may be adopted in accordance with this Section by the agency  
14 charged with administering that provision or initiative,  
15 except that the 24-month limitation on the adoption of  
16 emergency rules and the provisions of Sections 5-115 and 5-125  
17 do not apply to rules adopted under this subsection (d). The  
18 adoption of emergency rules authorized by this subsection (d)  
19 shall be deemed to be necessary for the public interest,  
20 safety, and welfare.

21 (e) In order to provide for the expeditious and timely  
22 implementation of the State's fiscal year 2000 budget,  
23 emergency rules to implement any provision of this amendatory  
24 Act of the 91st General Assembly or any other budget initiative  
25 for fiscal year 2000 may be adopted in accordance with this  
26 Section by the agency charged with administering that provision

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

7 (f) In order to provide for the expeditious and timely  
8 implementation of the State's fiscal year 2001 budget,  
9 emergency rules to implement any provision of this amendatory  
10 Act of the 91st General Assembly or any other budget initiative  
11 for fiscal year 2001 may be adopted in accordance with this  
12 Section by the agency charged with administering that provision  
13 or initiative, except that the 24-month limitation on the  
14 adoption of emergency rules and the provisions of Sections  
15 5-115 and 5-125 do not apply to rules adopted under this  
16 subsection (f). The adoption of emergency rules authorized by  
17 this subsection (f) shall be deemed to be necessary for the  
18 public interest, safety, and welfare.

19 (g) In order to provide for the expeditious and timely  
20 implementation of the State's fiscal year 2002 budget,  
21 emergency rules to implement any provision of this amendatory  
22 Act of the 92nd General Assembly or any other budget initiative  
23 for fiscal year 2002 may be adopted in accordance with this  
24 Section by the agency charged with administering that provision  
25 or initiative, except that the 24-month limitation on the  
26 adoption of emergency rules and the provisions of Sections

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

5 (h) In order to provide for the expeditious and timely  
6 implementation of the State's fiscal year 2003 budget,  
7 emergency rules to implement any provision of this amendatory  
8 Act of the 92nd General Assembly or any other budget initiative  
9 for fiscal year 2003 may be adopted in accordance with this  
10 Section by the agency charged with administering that provision  
11 or initiative, except that the 24-month limitation on the  
12 adoption of emergency rules and the provisions of Sections  
13 5-115 and 5-125 do not apply to rules adopted under this  
14 subsection (h). The adoption of emergency rules authorized by  
15 this subsection (h) shall be deemed to be necessary for the  
16 public interest, safety, and welfare.

17 (i) In order to provide for the expeditious and timely  
18 implementation of the State's fiscal year 2004 budget,  
19 emergency rules to implement any provision of this amendatory  
20 Act of the 93rd General Assembly or any other budget initiative  
21 for fiscal year 2004 may be adopted in accordance with this  
22 Section by the agency charged with administering that provision  
23 or initiative, except that the 24-month limitation on the  
24 adoption of emergency rules and the provisions of Sections  
25 5-115 and 5-125 do not apply to rules adopted under this  
26 subsection (i). The adoption of emergency rules authorized by

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

3 (j) In order to provide for the expeditious and timely  
4 implementation of the provisions of the State's fiscal year  
5 2005 budget as provided under the Fiscal Year 2005 Budget  
6 Implementation (Human Services) Act, emergency rules to  
7 implement any provision of the Fiscal Year 2005 Budget  
8 Implementation (Human Services) Act may be adopted in  
9 accordance with this Section by the agency charged with  
10 administering that provision, except that the 24-month  
11 limitation on the adoption of emergency rules and the  
12 provisions of Sections 5-115 and 5-125 do not apply to rules  
13 adopted under this subsection (j). The Department of Public Aid  
14 may also adopt rules under this subsection (j) necessary to  
15 administer the Illinois Public Aid Code and the Children's  
16 Health Insurance Program Act. The adoption of emergency rules  
17 authorized by this subsection (j) shall be deemed to be  
18 necessary for the public interest, safety, and welfare.

19 (k) In order to provide for the expeditious and timely  
20 implementation of the provisions of the State's fiscal year  
21 2006 budget, emergency rules to implement any provision of this  
22 amendatory Act of the 94th General Assembly or any other budget  
23 initiative for fiscal year 2006 may be adopted in accordance  
24 with this Section by the agency charged with administering that  
25 provision or initiative, except that the 24-month limitation on  
26 the adoption of emergency rules and the provisions of Sections

1 5-115 and 5-125 do not apply to rules adopted under this  
2 subsection (k). The Department of Healthcare and Family  
3 Services may also adopt rules under this subsection (k)  
4 necessary to administer the Illinois Public Aid Code, the  
5 Senior Citizens and Disabled Persons Property Tax Relief and  
6 Pharmaceutical Assistance Act, the Senior Citizens and  
7 Disabled Persons Prescription Drug Discount Program Act (now  
8 the Illinois Prescription Drug Discount Program Act), and the  
9 Children's Health Insurance Program Act. The adoption of  
10 emergency rules authorized by this subsection (k) shall be  
11 deemed to be necessary for the public interest, safety, and  
12 welfare.

13 (l) In order to provide for the expeditious and timely  
14 implementation of the provisions of the State's fiscal year  
15 2007 budget, the Department of Healthcare and Family Services  
16 may adopt emergency rules during fiscal year 2007, including  
17 rules effective July 1, 2007, in accordance with this  
18 subsection to the extent necessary to administer the  
19 Department's responsibilities with respect to amendments to  
20 the State plans and Illinois waivers approved by the federal  
21 Centers for Medicare and Medicaid Services necessitated by the  
22 requirements of Title XIX and Title XXI of the federal Social  
23 Security Act. The adoption of emergency rules authorized by  
24 this subsection (l) shall be deemed to be necessary for the  
25 public interest, safety, and welfare.

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

1 implementation of the provisions of the State's fiscal year  
2 2008 budget, the Department of Healthcare and Family Services  
3 may adopt emergency rules during fiscal year 2008, including  
4 rules effective July 1, 2008, in accordance with this  
5 subsection to the extent necessary to administer the  
6 Department's responsibilities with respect to amendments to  
7 the State plans and Illinois waivers approved by the federal  
8 Centers for Medicare and Medicaid Services necessitated by the  
9 requirements of Title XIX and Title XXI of the federal Social  
10 Security Act. The adoption of emergency rules authorized by  
11 this subsection (m) shall be deemed to be necessary for the  
12 public interest, safety, and welfare.

13 (n) In order to provide for the expeditious and timely  
14 implementation of the provisions of the State's fiscal year  
15 2010 budget, emergency rules to implement any provision of this  
16 amendatory Act of the 96th General Assembly or any other budget  
17 initiative authorized by the 96th General Assembly for fiscal  
18 year 2010 may be adopted in accordance with this Section by the  
19 agency charged with administering that provision or  
20 initiative. The adoption of emergency rules authorized by this  
21 subsection (n) shall be deemed to be necessary for the public  
22 interest, safety, and welfare. The rulemaking authority  
23 granted in this subsection (n) shall apply only to rules  
24 promulgated during Fiscal Year 2010.

25 (o) In order to provide for the expeditious and timely  
26 implementation of the provisions of the State's fiscal year

1 2011 budget, emergency rules to implement any provision of this  
2 amendatory Act of the 96th General Assembly or any other budget  
3 initiative authorized by the 96th General Assembly for fiscal  
4 year 2011 may be adopted in accordance with this Section by the  
5 agency charged with administering that provision or  
6 initiative. The adoption of emergency rules authorized by this  
7 subsection (o) is deemed to be necessary for the public  
8 interest, safety, and welfare. The rulemaking authority  
9 granted in this subsection (o) applies only to rules  
10 promulgated on or after the effective date of this amendatory  
11 Act of the 96th General Assembly through June 30, 2011.

12 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 96-45,  
13 eff. 7-15-09.)

14 Section 5-10. The General Assembly Compensation Act is  
15 amended by adding Section 1.6 as follows:

16 (25 ILCS 115/1.6 new)

17 Sec. 1.6. FY11 furlough days. During the first 6 months of  
18 the fiscal year beginning July 1, 2010, every member of the  
19 96th General Assembly is mandatorily required to forfeit 6 days  
20 of compensation. The State Comptroller shall deduct the  
21 equivalent of 1/365th of the annual salary of each member of  
22 the 96th General Assembly from the compensation of that member  
23 in each of the first 6 months of the fiscal year. During the  
24 second 6 months of the fiscal year beginning July 1, 2010,



1 every member of the 97th General Assembly is mandatorily  
2 required to forfeit 6 days of compensation. The State  
3 Comptroller shall deduct the equivalent of 1/365th of the  
4 annual salary of each member of the 97th General Assembly from  
5 the compensation of that member in each of the second 6 months  
6 of the fiscal year. For purposes of this Section, annual  
7 compensation includes compensation paid to each member by the  
8 State for one year of service pursuant to Section 1, except any  
9 payments made for mileage and allowances for travel and meals.  
10 The forfeiture required by this Section is not considered a  
11 change in salary and shall not impact pension or other benefits  
12 provided to members of the General Assembly.

13 Section 5-15. The State Finance Act is amended by changing  
14 Sections 6z-43 and 25 and by adding Sections 5h and 14.2 as  
15 follows:

16 (30 ILCS 105/5h new)

17 Sec. 5h. Cash flow borrowing and general funds liquidity.

18 (a) In order to meet cash flow deficits and to maintain  
19 liquidity in the General Revenue Fund and the Common School  
20 Fund, this Section shall constitute the irrevocable and  
21 continuing authority for and direction to the State Treasurer  
22 and the State Comptroller to make transfers to the General  
23 Revenue Fund or the Common School Fund, as directed by the  
24 Governor, out of special funds of the State, to the extent

1 allowed by federal law. No transfer may be made from a fund  
2 under this Section that would have the effect of reducing the  
3 available balance in the fund to an amount less than the amount  
4 remaining unexpended and unreserved from the total  
5 appropriation from that fund estimated to be expended for that  
6 fiscal year. No such transfer may reduce the cumulative balance  
7 of all of the special funds of the State to an amount less than  
8 the total debt service payable during the 12 months immediately  
9 following the date of the transfer on any bonded indebtedness  
10 of the State and any certificates issued under the Short Term  
11 Borrowing Act. Notwithstanding any other provision of this  
12 Section, no such transfer may be made from any special fund  
13 that is exclusively collected by or appropriated to any other  
14 constitutional officer without the written approval of that  
15 constitutional officer.

16 (b) If moneys have been transferred to the General Revenue  
17 Fund or the Common School Fund pursuant to subsection (a) of  
18 this Section, this amendatory Act of the 96th General Assembly  
19 shall constitute the irrevocable and continuing authority for  
20 and direction to the State Treasurer and State Comptroller to  
21 reimburse the funds of origin from the General Revenue Fund or  
22 the Common School Fund, as appropriate, by transferring to the  
23 funds of origin, at such times and in such amounts as directed  
24 by the Governor when necessary to support appropriated  
25 expenditures from the funds, an amount equal to that  
26 transferred from them plus any interest that would have accrued

1 thereon had the transfer not occurred, except that any moneys  
2 transferred pursuant to subsection (a) of this Section shall be  
3 repaid to the fund of origin within 18 months after the date on  
4 which they were borrowed.

5 (c) On the first day of each quarterly period in each  
6 fiscal year, the Governor's Office of Management and Budget  
7 shall provide to the President and the Minority Leader of the  
8 Senate, the Speaker and the Minority Leader of the House of  
9 Representatives, and the Commission on Government Forecasting  
10 and Accountability a report on all transfers made pursuant to  
11 this Section in the prior quarterly period. The report must be  
12 provided in both written and electronic format. The report must  
13 include all of the following:

14 (1) The date each transfer was made.

15 (2) The amount of each transfer.

16 (3) In the case of a transfer from the General Revenue  
17 Fund or the Common School Fund to a fund of origin pursuant  
18 to subsection (b) of this Section, the amount of interest  
19 being paid to the fund of origin.

20 (4) The end of day balance of both the fund of origin  
21 and the General Revenue Fund or the Common School Fund,  
22 whichever the case may be, on the date the transfer was  
23 made.

24 (30 ILCS 105/6z-43)

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

1 (a) There is created in the State Treasury a special fund  
2 to be known as the Tobacco Settlement Recovery Fund, which  
3 shall contain 3 accounts: (i) the General Account, (ii) the  
4 Tobacco Settlement Bond Proceeds Account and (iii) the Tobacco  
5 Settlement Residual Account. There shall be deposited into the  
6 several accounts of the Tobacco Settlement Recovery Fund ~~into~~  
7 ~~which shall be deposited~~ all monies paid to the State pursuant  
8 to (1) the Master Settlement Agreement entered in the case of  
9 People of the State of Illinois v. Philip Morris, et al.  
10 (Circuit Court of Cook County, No. 96-L13146) and (2) any  
11 settlement with or judgment against any tobacco product  
12 manufacturer other than one participating in the Master  
13 Settlement Agreement in satisfaction of any released claim as  
14 defined in the Master Settlement Agreement, as well as any  
15 other monies as provided by law. Moneys ~~All earnings on Fund~~  
16 ~~investments~~ shall be deposited into the Tobacco Settlement Bond  
17 Proceeds Account and the Tobacco Settlement Residual Account as  
18 provided by the terms of the Railsplitter Tobacco Settlement  
19 Authority Act, provided that an annual amount not less than  
20 \$2,500,000, subject to appropriation, shall be deposited into  
21 the Tobacco Settlement Residual Account for use by the Attorney  
22 General for enforcement of the Master Settlement Agreement. All  
23 other moneys available to be deposited into the Tobacco  
24 Settlement Recovery Fund shall be deposited into the General  
25 Account. An investment made from moneys credited to a specific  
26 account constitutes part of that account and such account shall

1 be credited with all income from the investment of such moneys.  
2 ~~Fund. Upon the creation of the Fund, the State Comptroller~~  
3 ~~shall order the State Treasurer to transfer into the Fund any~~  
4 ~~moneys paid to the State as described in item (1) or (2) of~~  
5 ~~this Section before the creation of the Fund plus any interest~~  
6 ~~earned on the investment of those moneys.~~ The Treasurer may  
7 invest the moneys in the several accounts the Fund in the same  
8 manner, in the same types of investments, and subject to the  
9 same limitations provided in the Illinois Pension Code for the  
10 investment of pension funds other than those established under  
11 Article 3 or 4 of the Code. Notwithstanding the foregoing, to  
12 the extent necessary to preserve the tax-exempt status of any  
13 Bonds issued pursuant to the Railsplitter Tobacco Settlement  
14 Authority Act, the interest on which is intended to be  
15 excludable from the gross income of the owners for federal  
16 income tax purposes, moneys on deposit in the Tobacco  
17 Settlement Bond Proceeds Account and the Tobacco Settlement  
18 Residual Account may be invested in obligations the interest  
19 upon which is tax-exempt under the provisions of Section 103 of  
20 the Internal Revenue Code of 1986, as now or hereafter amended,  
21 or any successor code or provision.

22 (b) Moneys on deposit in the Tobacco Settlement Bond  
23 Proceeds Account and the Tobacco Settlement Residual Account  
24 may be expended, subject to appropriation, for the purposes  
25 authorized in Section 6(g) of the Railsplitter Tobacco  
26 Settlement Authority Act.

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

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

1 ~~Interest Fund the amount certified by the Governor, plus any~~  
2 ~~cumulative deficiency in those transfers for prior years.~~

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

6 (Source: P.A. 95-331, eff. 8-21-07.)

7 (30 ILCS 105/14.2 new)

8 Sec. 14.2. Fiscal year 2011 State officer compensation  
9 forfeiture.

10 (a) During the fiscal year beginning on July 1, 2010, each  
11 State officer listed in subsection (b) is required to forfeit  
12 one day of compensation each month. The State Comptroller shall  
13 deduct the equivalent of 1/261st of the annual compensation of  
14 each of those State officers that is paid from the General  
15 Revenue Fund from the compensation of that State officer in  
16 each month of the fiscal year. For purposes of this Section,  
17 annual compensation includes compensation paid to each of those  
18 State officers by the State for one year of service, except any  
19 payments made for mileage and allowances for travel and meals.  
20 The forfeiture required by this Section is not considered a  
21 change in salary and shall not impact pension or other benefits  
22 provided to those State officers.

23 (b) "State officers" for the purposes of subsection (a) are  
24 the following:

25 Governor

1 Lieutenant Governor

2 Secretary of State

3 Attorney General

4 Comptroller

5 State Treasurer

6 Department on Aging: Director

7 Department of Agriculture: Director and Assistant

8 Director

9 Department of Central Management Services: Director

10 and Assistant Directors

11 Department of Children and Family Services: Director

12 Department of Corrections: Director and Assistant

13 Director

14 Department of Commerce and Economic Opportunity:

15 Director and Assistant Director

16 Environmental Protection Agency: Director

17 Department of Financial and Professional Regulation:

18 Secretary and Directors

19 Department of Human Services: Secretary and Assistant

20 Secretaries

21 Department of Juvenile Justice: Director

22 Department of Labor: Director, Assistant Director,

23 Chief Factory Inspector, and Superintendent of Safety

24 Inspection and Education

25 Department of State Police: Director and Assistant

26 Director



1           Department of Military Affairs: Adjutant General and  
2           Chief Assistants to the Adjutant General

3           Department of Natural Resources: Director, Assistant  
4           Director, Mine Officers, and Miners' Examining Officers

5           Illinois Labor Relations Board: Chairman, State Labor  
6           Relations Board members, and Local Labor Relations Board  
7           members

8           Department of Healthcare and Family Services: Director  
9           and Assistant Director

10          Department of Public Health: Director and Assistant  
11          Director

12          Department of Revenue: Director and Assistant Director  
13          Property Tax Appeal Board: Chairman and members

14          Department of Veterans' Affairs: Director and  
15          Assistant Director

16          Civil Service Commission: Chairman and members

17          Commerce Commission: Chairman and members

18          State Board of Elections: Chairman, Vice-Chairman, and  
19          members

20          Illinois Emergency Management Agency: Director and  
21          Assistant Director

22          Department of Human Rights: Director

23          Human Rights Commission: Chairman and members

24          Illinois Workers' Compensation Commission: Chairman  
25          and members

26          Liquor Control Commission: Chairman, members, and

1       Secretary

2               Executive Ethics Commission: members

3               Illinois Power Agency: Director

4               Pollution Control Board: Chairman and members

5               Prisoner Review Board: Chairman and members

6               Secretary of State Merit Commission: Chairman and  
7       members

8               Educational Labor Relations Board: Chairman and  
9       members

10              Department of Transportation: Secretary and Assistant  
11       Secretary

12              Office of Small Business Utility Advocate: small  
13       business utility advocate

14              Executive Inspector General for the Office of the  
15       Governor

16              Executive Inspector General for the Office of the  
17       Attorney General

18              Executive Inspector General for the Office of the  
19       Secretary of State

20              Executive Inspector General for the Office of the  
21       Comptroller

22              Executive Inspector General for the Office of the  
23       Treasurer

24              Office of Auditor General: Auditor General and Deputy  
25       Auditors General.

1 (30 ILCS 105/25) (from Ch. 127, par. 161)

2 Sec. 25. Fiscal year limitations.

3 (a) All appropriations shall be available for expenditure  
4 for the fiscal year or for a lesser period if the Act making  
5 that appropriation so specifies. A deficiency or emergency  
6 appropriation shall be available for expenditure only through  
7 June 30 of the year when the Act making that appropriation is  
8 enacted unless that Act otherwise provides.

9 (b) Outstanding liabilities as of June 30, payable from  
10 appropriations which have otherwise expired, may be paid out of  
11 the expiring appropriations during the 2-month period ending at  
12 the close of business on August 31. Any service involving  
13 professional or artistic skills or any personal services by an  
14 employee whose compensation is subject to income tax  
15 withholding must be performed as of June 30 of the fiscal year  
16 in order to be considered an "outstanding liability as of June  
17 30" that is thereby eligible for payment out of the expiring  
18 appropriation.

19 However, payment of tuition reimbursement claims under  
20 Section 14-7.03 or 18-3 of the School Code may be made by the  
21 State Board of Education from its appropriations for those  
22 respective purposes for any fiscal year, even though the claims  
23 reimbursed by the payment may be claims attributable to a prior  
24 fiscal year, and payments may be made at the direction of the  
25 State Superintendent of Education from the fund from which the  
26 appropriation is made without regard to any fiscal year

1 limitations.

2 All outstanding liabilities as of June 30, 2010, payable  
3 from appropriations that would otherwise expire at the  
4 conclusion of the lapse period for fiscal year 2010, and  
5 interest penalties payable on those liabilities under the State  
6 Prompt Payment Act, may be paid out of the expiring  
7 appropriations until December 31, 2010, without regard to the  
8 fiscal year in which the payment is made, as long as vouchers  
9 for the liabilities are received by the Comptroller no later  
10 than August 31, 2010.

11 Medical payments may be made by the Department of Veterans'  
12 Affairs from its appropriations for those purposes for any  
13 fiscal year, without regard to the fact that the medical  
14 services being compensated for by such payment may have been  
15 rendered in a prior fiscal year.

16 Medical payments may be made by the Department of  
17 Healthcare and Family Services and medical payments and child  
18 care payments may be made by the Department of Human Services  
19 (as successor to the Department of Public Aid) from  
20 appropriations for those purposes for any fiscal year, without  
21 regard to the fact that the medical or child care services  
22 being compensated for by such payment may have been rendered in  
23 a prior fiscal year; and payments may be made at the direction  
24 of the Department of Central Management Services from the  
25 Health Insurance Reserve Fund and the Local Government Health  
26 Insurance Reserve Fund without regard to any fiscal year

1 limitations.

2 Medical payments may be made by the Department of Human  
3 Services from its appropriations relating to substance abuse  
4 treatment services for any fiscal year, without regard to the  
5 fact that the medical services being compensated for by such  
6 payment may have been rendered in a prior fiscal year, provided  
7 the payments are made on a fee-for-service basis consistent  
8 with requirements established for Medicaid reimbursement by  
9 the Department of Healthcare and Family Services.

10 Additionally, payments may be made by the Department of  
11 Human Services from its appropriations, or any other State  
12 agency from its appropriations with the approval of the  
13 Department of Human Services, from the Immigration Reform and  
14 Control Fund for purposes authorized pursuant to the  
15 Immigration Reform and Control Act of 1986, without regard to  
16 any fiscal year limitations.

17 Further, with respect to costs incurred in fiscal years  
18 2002 and 2003 only, payments may be made by the State Treasurer  
19 from its appropriations from the Capital Litigation Trust Fund  
20 without regard to any fiscal year limitations.

21 Lease payments may be made by the Department of Central  
22 Management Services under the sale and leaseback provisions of  
23 Section 7.4 of the State Property Control Act with respect to  
24 the James R. Thompson Center and the Elgin Mental Health Center  
25 and surrounding land from appropriations for that purpose  
26 without regard to any fiscal year limitations.

1 Lease payments may be made under the sale and leaseback  
2 provisions of Section 7.5 of the State Property Control Act  
3 with respect to the Illinois State Toll Highway Authority  
4 headquarters building and surrounding land without regard to  
5 any fiscal year limitations.

6 (c) Further, payments may be made by the Department of  
7 Public Health and the Department of Human Services (acting as  
8 successor to the Department of Public Health under the  
9 Department of Human Services Act) from their respective  
10 appropriations for grants for medical care to or on behalf of  
11 persons suffering from chronic renal disease, persons  
12 suffering from hemophilia, rape victims, and premature and  
13 high-mortality risk infants and their mothers and for grants  
14 for supplemental food supplies provided under the United States  
15 Department of Agriculture Women, Infants and Children  
16 Nutrition Program, for any fiscal year without regard to the  
17 fact that the services being compensated for by such payment  
18 may have been rendered in a prior fiscal year.

19 (d) The Department of Public Health and the Department of  
20 Human Services (acting as successor to the Department of Public  
21 Health under the Department of Human Services Act) shall each  
22 annually submit to the State Comptroller, Senate President,  
23 Senate Minority Leader, Speaker of the House, House Minority  
24 Leader, and the respective Chairmen and Minority Spokesmen of  
25 the Appropriations Committees of the Senate and the House, on  
26 or before December 31, a report of fiscal year funds used to

1 pay for services provided in any prior fiscal year. This report  
2 shall document by program or service category those  
3 expenditures from the most recently completed fiscal year used  
4 to pay for services provided in prior fiscal years.

5 (e) The Department of Healthcare and Family Services, the  
6 Department of Human Services (acting as successor to the  
7 Department of Public Aid), and the Department of Human Services  
8 making fee-for-service payments relating to substance abuse  
9 treatment services provided during a previous fiscal year shall  
10 each annually submit to the State Comptroller, Senate  
11 President, Senate Minority Leader, Speaker of the House, House  
12 Minority Leader, the respective Chairmen and Minority  
13 Spokesmen of the Appropriations Committees of the Senate and  
14 the House, on or before November 30, a report that shall  
15 document by program or service category those expenditures from  
16 the most recently completed fiscal year used to pay for (i)  
17 services provided in prior fiscal years and (ii) services for  
18 which claims were received in prior fiscal years.

19 (f) The Department of Human Services (as successor to the  
20 Department of Public Aid) shall annually submit to the State  
21 Comptroller, Senate President, Senate Minority Leader, Speaker  
22 of the House, House Minority Leader, and the respective  
23 Chairmen and Minority Spokesmen of the Appropriations  
24 Committees of the Senate and the House, on or before December  
25 31, a report of fiscal year funds used to pay for services  
26 (other than medical care) provided in any prior fiscal year.

1 This report shall document by program or service category those  
2 expenditures from the most recently completed fiscal year used  
3 to pay for services provided in prior fiscal years.

4 (g) In addition, each annual report required to be  
5 submitted by the Department of Healthcare and Family Services  
6 under subsection (e) shall include the following information  
7 with respect to the State's Medicaid program:

8 (1) Explanations of the exact causes of the variance  
9 between the previous year's estimated and actual  
10 liabilities.

11 (2) Factors affecting the Department of Healthcare and  
12 Family Services' liabilities, including but not limited to  
13 numbers of aid recipients, levels of medical service  
14 utilization by aid recipients, and inflation in the cost of  
15 medical services.

16 (3) The results of the Department's efforts to combat  
17 fraud and abuse.

18 (h) As provided in Section 4 of the General Assembly  
19 Compensation Act, any utility bill for service provided to a  
20 General Assembly member's district office for a period  
21 including portions of 2 consecutive fiscal years may be paid  
22 from funds appropriated for such expenditure in either fiscal  
23 year.

24 (i) An agency which administers a fund classified by the  
25 Comptroller as an internal service fund may issue rules for:

26 (1) billing user agencies in advance for payments or



1 authorized inter-fund transfers based on estimated charges  
2 for goods or services;

3 (2) issuing credits, refunding through inter-fund  
4 transfers, or reducing future inter-fund transfers during  
5 the subsequent fiscal year for all user agency payments or  
6 authorized inter-fund transfers received during the prior  
7 fiscal year which were in excess of the final amounts owed  
8 by the user agency for that period; and

9 (3) issuing catch-up billings to user agencies during  
10 the subsequent fiscal year for amounts remaining due when  
11 payments or authorized inter-fund transfers received from  
12 the user agency during the prior fiscal year were less than  
13 the total amount owed for that period.

14 User agencies are authorized to reimburse internal service  
15 funds for catch-up billings by vouchers drawn against their  
16 respective appropriations for the fiscal year in which the  
17 catch-up billing was issued or by increasing an authorized  
18 inter-fund transfer during the current fiscal year. For the  
19 purposes of this Act, "inter-fund transfers" means transfers  
20 without the use of the voucher-warrant process, as authorized  
21 by Section 9.01 of the State Comptroller Act.

22 (Source: P.A. 95-331, eff. 8-21-07.)

23 ARTICLE 97. SEVERABILITY

24 Section 97-1. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

2 ARTICLE 99. EFFECTIVE DATE

3 Section 99-1. Effective date. This Act takes effect upon  
4 becoming law.".