



Rep. Sara Feigenholtz

Filed: 4/22/2010

09600SB0044ham003

LRB096 03720 HLH 40196 a

1 AMENDMENT TO SENATE BILL 44

2 AMENDMENT NO. _____. Amend Senate Bill 44, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The State Comptroller Act is amended by adding
6 Section 10.05c as follows:

7 (15 ILCS 405/10.05c new)

8 Sec. 10.05c. Deduction from warrants and payments for
9 satisfaction of delinquent provider loans under Article 841 of
10 the Illinois Finance Authority Act. At the direction of the
11 Illinois Finance Authority, the Comptroller shall deduct from a
12 warrant or other payment described in Section 10.05 of this
13 Act, in accordance with the procedures provided in that
14 Section, and pay over to the Illinois Finance Authority the
15 amount certified as necessary to satisfy, in whole or in part,
16 delinquent or defaulted amounts due and owing from a borrower

1 on any loan entered into under Section 841-15 of the Illinois
2 Finance Authority Act. The Comptroller shall provide the
3 Authority with the address to which the warrant or other
4 payment was to be mailed.

5 Section 10. The Illinois Finance Authority Act is amended
6 by changing Section 845-5 and by adding Article 841 as follows:

7 (20 ILCS 3501/845-5)

8 Sec. 845-5. Bond limitations.

9 (a) The Authority may not have outstanding at any one time
10 bonds for any of its corporate purposes in an aggregate
11 principal amount exceeding \$28,150,000,000, excluding bonds
12 issued to refund the bonds of the Authority, ~~or~~ or bonds of the
13 Predecessor Authorities, and bonds issued under Article 841 of
14 this Act.

15 (b) The Authority may not have outstanding at any one time
16 revenue bonds in an aggregate principal amount exceeding
17 \$4,000,000,000 on behalf of the Illinois Power Agency as set
18 forth in Section 825-90. Any such revenue bonds issued on
19 behalf of the Illinois Power Agency pursuant to this Act shall
20 not be counted against the bond authorization limit set forth
21 in subsection (a).

22 (Source: P.A. 94-1068, eff. 8-1-06; 95-481, eff. 8-28-07;
23 95-697, eff. 11-6-07; 95-876, eff. 8-21-08; 95-879, eff.
24 8-21-08.)

1 (20 ILCS 3501/Art. 841 heading new)

2 ARTICLE 841

3 FINANCIALLY DISTRESSED PROVIDERS

4 (20 ILCS 3501/841-5 new)

5 Sec. 841-5. Definitions. In this Article, except where the
6 context clearly requires otherwise:

7 (a) "Costs of issuance" means all reasonable costs incurred
8 in connection with the issuance of the bonds including, but not
9 limited to, legal and accounting fees and expenses, printing
10 expenses, financial consultants' fees, financing charges
11 (including underwriting and placement fees and discounts),
12 printing costs, costs incurred in connection with public
13 approvals, fees and expenses associated with obtaining a rating
14 on the bonds, costs for the preparation of any disclosure
15 document and other documents necessary for the issuance of the
16 bonds, and fees of trustees, paying agents, and other
17 fiduciaries.

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

20 (c) "Financially distressed provider" means a health care
21 or human services provider that has received significant
22 amounts of funding from the State in the past, but is
23 experiencing financial difficulties or cash flow problems
24 because of inadequate or untimely State funding.

1 (d) "Financially Distressed Provider Debt Service Fund"
2 means the special fund created in the State treasury under the
3 State Finance Act.

4 (20 ILCS 3501/841-10 new)

5 Sec. 841-10. Financially distressed provider loan program;
6 findings and declaration of policy. The General Assembly finds
7 and declares that health care and human services providers in
8 the State of Illinois are currently experiencing serious and
9 sustained financial problems. These financial problems are
10 most severe for a group of health and human services providers
11 who receive significant amounts of funding from the State of
12 Illinois. The financial difficulties being experienced by this
13 group of health care and human services providers has been
14 significantly worsened as a result of failure by the State of
15 Illinois to provide adequate funding to support essential
16 programs and services and by the State's failure to make timely
17 payment of amounts appropriated for payment to these providers.
18 These institutions provide essential health care and human
19 services for the people of the State of Illinois. The ability
20 of these entities effectively to carry out their mission and to
21 provide these essential services, however, is being
22 significantly hampered by these financial problems.

23 (20 ILCS 3501/841-15 new)

24 Sec. 841-15. Revolving loan fund. The Authority shall

1 establish a financially distressed provider revolving loan
2 fund. The proceeds from any series of bonds issued under this
3 Article must be deposited into the fund. Qualified providers
4 may apply for short-term, zero-interest loans from the fund
5 only for the purpose of meeting the providers' operations and
6 service-related obligations. Loans shall be administered by
7 the Authority, but no loan may exceed \$200,000.

8 For the purpose of this Section, the term "qualified
9 provider" means a participating health care or human services
10 provider that demonstrates, to the reasonable written
11 satisfaction of the Director, that, for its last 3 fiscal years
12 for which audited financial statements have been prepared,
13 State funding accounted for an annual average of at least 40%
14 of its operating revenues.

15 If appropriations from the Financially Distressed Provider
16 Debt Service Fund are insufficient to cover the debt service
17 requirements on bonds issued under this Article, then moneys in
18 the financially distressed provider revolving loan fund shall
19 also be used for debt service purposes.

20 (20 ILCS 3501/841-20 new)

21 Sec. 841-20. Issuance of bonds. The Authority may issue its
22 bonds in an aggregate principal amount not to exceed
23 \$300,000,000 for the purpose of providing short-term,
24 zero-interest loans to qualified providers as provided in this
25 Article.

1 Unless specifically approved in writing by the Director,
2 costs of issuance for each issue of bonds may not exceed one
3 and one-half percent of the principal amount of the proceeds of
4 sale of each issue of bonds.

5 If any bonds are to be sold by negotiated sale, the
6 Authority, in consultation with the Director, must comply with
7 the competitive request for proposal process set forth in the
8 Illinois Procurement Code and all other applicable
9 requirements of that Code.

10 (20 ILCS 3501/841-25 new)

11 Sec. 841-25. Nature of bonds. All bonds issued under this
12 Article shall be limited obligations of the State of Illinois
13 payable from: (i) amounts appropriated to the Authority from
14 the Financially Distressed Provider Debt Service Fund, (ii) the
15 financially distressed provider revolving loan fund, and (ii)
16 amounts in any fund or account maintained pursuant to any
17 indenture or resolution securing those bonds to the extent
18 provided in the indenture or resolution. The bonds are not
19 general obligations of the State of Illinois and are not
20 secured by the full faith and credit of the State of Illinois,
21 and the holders of the bonds may not require the levy or
22 imposition of any taxes or the application of State revenues,
23 other than amounts appropriated from the Financially
24 Distressed Provider Debt Service Fund, to the payment of the
25 bonds. Each bond shall describe the limited nature of the

1 State's obligation on the face of the bond.

2 (20 ILCS 3501/841-30 new)

3 Sec. 841-30. Actions to compel payment. If the State fails
4 to appropriate required amounts from the Financially
5 Distressed Provider Debt Service Fund to the Authority, as
6 provided in Section 6z-84 of the State Finance Act, or fails to
7 make transfers from cigarette tax receipts to the Financially
8 Distressed Provider Debt Service Fund, as provided in Section
9 6z-84 of the State Finance Act, a civil action to compel that
10 appropriation or transfer may be instituted in the Circuit
11 Court of Sangamon County by the holder or holders of the bonds
12 issued under this Article. Delivery of a summons and a copy of
13 the complaint to the Attorney General constitutes sufficient
14 service to give the Circuit Court of Sangamon County
15 jurisdiction of the subject matter of such a suit and
16 jurisdiction over the State and its officers named as
17 defendants for the purpose of compelling the transfer.

18 (20 ILCS 3501/841-35 new)

19 Sec. 841-35. Covenants with bondholders. The State of
20 Illinois irrevocably covenants and agrees with the holders of
21 bonds issued under this Article that the State will not alter
22 or limit: (i) the basis on which transfers are required to be
23 made from cigarette tax receipts to the Distressed Provider
24 Debt Service Fund, pursuant to Section 6z-84 of the State

1 Finance Act; (ii) the basis on which appropriations are
2 required to be made from the Distressed Provider Debt Service
3 Fund to the Authority; or (iii) the provisions of this Act or
4 the State Finance Act so as to impair, in any of the foregoing
5 respects, the obligations of contract incurred in favor of the
6 holders of bonds issued under this Article. The covenant and
7 agreement set forth in this Section may be included in a trust
8 indenture, resolution, or bond issued under this Article.

9 (20 ILCS 3501/841-40 new)

10 Sec. 841-40. Tax exemption. The exercise of the powers
11 granted in this Article are in all respects for the benefit of
12 the people of Illinois. In consideration of that benefit, the
13 bonds issued under this Article and the income from those bonds
14 are free from all taxation by the State or its political
15 subdivisions, except for estate, transfer, and inheritance
16 taxes. For purposes of Section 250 of the Illinois Income Tax
17 Act, the exemption of the income from bonds issued under those
18 Sections terminates after all of the bonds have been fully
19 paid. The amount of that income to be added to and then
20 subtracted from federal adjusted gross income or federal
21 taxable income on the Illinois income tax return of a taxpayer,
22 as provided in Section 203 of the Illinois Income Tax Act, in
23 computing Illinois base income shall be the interest net of any
24 bond premium amortization.

1 (20 ILCS 3501/841-45 new)

2 Sec. 841-45. Generally applicable provisions. Except as
3 specifically provided for in this Article, all bonds issued
4 under this Article are subject to this Act in the same manner
5 and to the same extent as other bonds issued under this Act.

6 Section 15. The State Finance Act is amended by adding
7 Sections 5.756, 5.757, 5.758, 6z-82, 6z-83, and 6z-84 as
8 follows:

9 (30 ILCS 105/5.756 new)

10 Sec. 5.756. The Healthcare Provider Relief Fund.

11 (30 ILCS 105/5.757 new)

12 Sec. 5.757. The Public Health Chronic Disease Prevention
13 Fund.

14 (30 ILCS 105/5.758 new)

15 Sec. 5.758. The Financially Distressed Provider Debt
16 Service Fund.

17 (30 ILCS 105/6z-82 new)

18 Sec. 6z-82. The Healthcare Provider Relief Fund. The
19 Healthcare Provider Relief Fund is created as a special fund in
20 the State treasury. Moneys in the Fund may be used, subject to
21 appropriation, by Department of Healthcare and Family Services

1 only for the purpose of making reimbursements to providers of
2 goods or services under the medical assistance program under
3 Article V of the Illinois Public Aid Code, the Children's
4 Health Insurance Program Act, the Covering All Kids Health
5 Insurance Act, and the pharmaceutical assistance program under
6 the Senior Citizens and Disabled Persons Property Tax Relief
7 and Pharmaceutical Assistance Act. The Department shall make
8 all such reimbursements from the Fund in the order that claims
9 for those reimbursements were received by the Department.

10 Any interest earnings that are attributable to moneys in
11 the Fund must be deposited into the Fund.

12 The Healthcare Provider Relief Fund is not subject to
13 sweeps, administrative charges, or charge-backs, including but
14 not limited to, those authorized under Section 8h of the State
15 Finance Act, or any other fiscal or budgetary maneuver that
16 would in any way transfer any funds from the Healthcare
17 Provider Relief Fund into any other fund of the State.

18 (30 ILCS 105/6z-83 new)

19 Sec. 6z-83. The Public Health Chronic Disease Prevention
20 Fund. The Public Health Chronic Disease Prevention Fund is
21 created as a special fund in the State treasury. Moneys in the
22 Fund shall be used, subject to appropriation, by the Department
23 of Public Health only for the purpose of making grants to
24 State-certified local public health departments for purposes
25 related to tobacco prevention and cessation and other chronic

1 disease prevention programs.

2 (30 ILCS 105/6z-84 new)

3 Sec. 6z-84. Financially Distressed Provider Debt Service
4 Fund.

5 (a) The Financially Distressed Provider Debt Service Fund
6 is created as a special fund in the State treasury. Amounts in
7 the Fund shall be appropriated to the Illinois Finance
8 Authority for the purpose of paying its debt service
9 obligations with respect to bonds issued under Article 841 of
10 the Illinois Finance Authority Act.

11 (b) Beginning with the first month to occur not less than
12 30 days after the effective date of this amendatory Act of the
13 96th General Assembly, and on the first day of each month
14 thereafter, the Director of the Governor's Office of Management
15 and Budget shall certify to the State Treasurer and the State
16 Comptroller the debt service reserve requirement actually
17 established in connection with all bonds issued under Article
18 841 of the Illinois Finance Authority Act. The State
19 Comptroller shall direct and the State Treasurer shall transfer
20 the amount certified from cigarette tax receipts, as provided
21 in Section 2 of the Cigarette Tax Act, to the Financially
22 Distressed Provider Debt Service Fund.

23 Section 20. The Cigarette Tax Act is amended by changing
24 Sections 1 and 2 as follows:

1 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

2 Sec. 1. For the purposes of this Act:

3 "Brand Style" means a variety of cigarettes distinguished
4 by the tobacco used, tar and nicotine content, flavoring used,
5 size of the cigarette, filtration on the cigarette or
6 packaging.

7 "Cigarette", means any roll for smoking made wholly or in
8 part of tobacco irrespective of size or shape and whether or
9 not such tobacco is flavored, adulterated or mixed with any
10 other ingredient, and the wrapper or cover of which is made of
11 paper ~~or any other substance or material except tobacco.~~

12 "Cigarette" when used in this Act, shall also be construed
13 to mean: any roll for smoking made wholly or in part of tobacco
14 labeled as anything other than a cigarette or not bearing a
15 label, if it meets 2 or more of the following criteria:

16 (a) the product is sold in packs similar to cigarettes;

17 (b) the product is available for sale in cartons of 10
18 packs;

19 (c) the product is sold in soft packs, hard packs, flip-top
20 boxes, clam shells, or other cigarette-type boxes;

21 (d) the product is of a length and diameter found in
22 commercially-manufactured cigarettes;

23 (e) the product has a cellulose acetate or other integrated
24 filter;

25 (f) the product weighs less than 3 pounds per thousand

1 sticks;

2 (g) the product is marketed or advertised to consumers as a
3 cigarette or cigarette substitute; or

4 (h) there is other evidence that the product fits within
5 the definition of cigarette.

6 "Contraband cigarettes" means:

7 (a) cigarettes that do not bear a required tax stamp
8 under this Act;

9 (b) cigarettes for which any required federal taxes
10 have not been paid;

11 (c) cigarettes that bear a counterfeit tax stamp;

12 (d) cigarettes that are manufactured, fabricated,
13 assembled, processed, packaged, or labeled by any person
14 other than (i) the owner of the trademark rights in the
15 cigarette brand or (ii) a person that is directly or
16 indirectly authorized by such owner;

17 (e) cigarettes imported into the United States, or
18 otherwise distributed, in violation of the federal
19 Imported Cigarette Compliance Act of 2000 (Title IV of
20 Public Law 106-476);

21 (f) cigarettes that have false manufacturing labels;

22 (g) cigarettes identified in Section 3-10(a)(1) of
23 this Act; or

24 (h) cigarettes that are improperly tax stamped,
25 including cigarettes that bear a tax stamp of another state
26 or taxing jurisdiction.

1 "Person" means any natural individual, firm, partnership,
2 association, joint stock company, joint adventure, public or
3 private corporation, however formed, limited liability
4 company, or a receiver, executor, administrator, trustee,
5 guardian or other representative appointed by order of any
6 court.

7 "Prior Continuous Compliance Taxpayer" means any person
8 who is licensed under this Act and who, having been a licensee
9 for a continuous period of 5 years, is determined by the
10 Department not to have been either delinquent or deficient in
11 the payment of tax liability during that period or otherwise in
12 violation of this Act. Also, any taxpayer who has, as verified
13 by the Department, continuously complied with the condition of
14 his bond or other security under provisions of this Act for a
15 period of 5 consecutive years shall be considered to be a
16 "Prior continuous compliance taxpayer". In calculating the
17 consecutive period of time described herein for qualification
18 as a "prior continuous compliance taxpayer", a consecutive
19 period of time of qualifying compliance immediately prior to
20 the effective date of this amendatory Act of 1987 shall be
21 credited to any licensee who became licensed on or before the
22 effective date of this amendatory Act of 1987.

23 "Department" means the Department of Revenue.

24 "Sale" means any transfer, exchange or barter in any manner
25 or by any means whatsoever for a consideration, and includes
26 and means all sales made by any person.

1 "Original Package" means the individual packet, box or
2 other container whatsoever used to contain and to convey
3 cigarettes to the consumer.

4 "Distributor" means any and each of the following:

5 (1) Any person engaged in the business of selling
6 cigarettes in this State who brings or causes to be brought
7 into this State from without this State any original packages
8 of cigarettes, on which original packages there is no
9 authorized evidence underneath a sealed transparent wrapper
10 showing that the tax liability imposed by this Act has been
11 paid or assumed by the out-of-State seller of such cigarettes,
12 for sale or other disposition in the course of such business.

13 (2) Any person who makes, manufactures or fabricates
14 cigarettes in this State for sale in this State, except a
15 person who makes, manufactures or fabricates cigarettes as a
16 part of a correctional industries program for sale to residents
17 incarcerated in penal institutions or resident patients of a
18 State-operated mental health facility.

19 (3) Any person who makes, manufactures or fabricates
20 cigarettes outside this State, which cigarettes are placed in
21 original packages contained in sealed transparent wrappers,
22 for delivery or shipment into this State, and who elects to
23 qualify and is accepted by the Department as a distributor
24 under Section 4b of this Act.

25 "Place of business" shall mean and include any place where
26 cigarettes are sold or where cigarettes are manufactured,

1 stored or kept for the purpose of sale or consumption,
2 including any vessel, vehicle, airplane, train or vending
3 machine.

4 "Business" means any trade, occupation, activity or
5 enterprise engaged in for the purpose of selling cigarettes in
6 this State.

7 "Retailer" means any person who engages in the making of
8 transfers of the ownership of, or title to, cigarettes to a
9 purchaser for use or consumption and not for resale in any
10 form, for a valuable consideration. "Retailer" does not include
11 a person:

12 (1) who transfers to residents incarcerated in penal
13 institutions or resident patients of a State-operated
14 mental health facility ownership of cigarettes made,
15 manufactured, or fabricated as part of a correctional
16 industries program; or

17 (2) who transfers cigarettes to a not-for-profit
18 research institution that conducts tests concerning the
19 health effects of tobacco products and who does not offer
20 the cigarettes for resale.

21 "Retailer" shall be construed to include any person who
22 engages in the making of transfers of the ownership of, or
23 title to, cigarettes to a purchaser, for use or consumption by
24 any other person to whom such purchaser may transfer the
25 cigarettes without a valuable consideration, except a person
26 who transfers to residents incarcerated in penal institutions

1 or resident patients of a State-operated mental health facility
2 ownership of cigarettes made, manufactured or fabricated as
3 part of a correctional industries program.

4 "Stamp" or "stamps" mean the indicia required to be affixed
5 on a pack of cigarettes that evidence payment of the tax on
6 cigarettes under Section 2 of this Act.

7 "Related party" means any person that is associated with
8 any other person because he or she:

9 (a) is an officer or director of a business; or

10 (b) is legally recognized as a partner in business.

11 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;
12 96-782, eff. 1-1-10.)

13 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

14 Sec. 2. Tax imposed; rate; collection, payment, and
15 distribution; discount.

16 (a) A tax is imposed upon any person engaged in business as
17 a retailer of cigarettes in this State at the rate of 5 1/2
18 mills per cigarette sold, or otherwise disposed of in the
19 course of such business in this State. In addition to any other
20 tax imposed by this Act, a tax is imposed upon any person
21 engaged in business as a retailer of cigarettes in this State
22 at a rate of 1/2 mill per cigarette sold or otherwise disposed
23 of in the course of such business in this State on and after
24 January 1, 1947, and shall be paid into the Metropolitan Fair
25 and Exposition Authority Reconstruction Fund or as otherwise

1 provided in Section 29. On and after December 1, 1985, in
2 addition to any other tax imposed by this Act, a tax is imposed
3 upon any person engaged in business as a retailer of cigarettes
4 in this State at a rate of 4 mills per cigarette sold or
5 otherwise disposed of in the course of such business in this
6 State. Of the additional tax imposed by this amendatory Act of
7 1985, \$9,000,000 of the moneys received by the Department of
8 Revenue pursuant to this Act shall be paid each month into the
9 Common School Fund. On and after the effective date of this
10 amendatory Act of 1989, in addition to any other tax imposed by
11 this Act, a tax is imposed upon any person engaged in business
12 as a retailer of cigarettes at the rate of 5 mills per
13 cigarette sold or otherwise disposed of in the course of such
14 business in this State. On and after the effective date of this
15 amendatory Act of 1993, in addition to any other tax imposed by
16 this Act, a tax is imposed upon any person engaged in business
17 as a retailer of cigarettes at the rate of 7 mills per
18 cigarette sold or otherwise disposed of in the course of such
19 business in this State. On and after December 15, 1997, in
20 addition to any other tax imposed by this Act, a tax is imposed
21 upon any person engaged in business as a retailer of cigarettes
22 at the rate of 7 mills per cigarette sold or otherwise disposed
23 of in the course of such business of this State. All of the
24 moneys received by the Department of Revenue pursuant to this
25 Act and the Cigarette Use Tax Act from the additional taxes
26 imposed by this amendatory Act of 1997, shall be paid each

1 month into the Common School Fund. On and after July 1, 2002,
2 in addition to any other tax imposed by this Act, a tax is
3 imposed upon any person engaged in business as a retailer of
4 cigarettes at the rate of 20.0 mills per cigarette sold or
5 otherwise disposed of in the course of such business in this
6 State. Beginning on September 1, 2010, in addition to any other
7 tax imposed by this Act, a tax is imposed upon any person
8 engaged in business as a retailer of cigarettes at the rate of
9 25 mills per cigarette sold or otherwise disposed of in the
10 course of such business in this State. Beginning on September
11 1, 2011, in addition to any other tax imposed by this Act, a
12 tax is imposed upon any person engaged in business as a
13 retailer of cigarettes at the rate of 12.5 mills per cigarette
14 sold or otherwise disposed of in the course of such business in
15 this State. Beginning on September 1, 2012, in addition to any
16 other tax imposed by this Act, a tax is imposed upon any person
17 engaged in business as a retailer of cigarettes at the rate of
18 12.5 mills per cigarette sold or otherwise disposed of in the
19 course of such business in this State. Of the moneys received
20 by the Department of Revenue under this Act and the Cigarette
21 Use Tax Act from the additional taxes imposed by this
22 amendatory Act of the 96th General Assembly: (i) \$54,167 must
23 be paid each month into the Tax Compliance and Administration
24 Fund for the purpose of cigarette and tobacco related
25 enforcement, retail inspections, and prevention of internet
26 and interstate trafficking of contraband cigarettes, (ii)

1 \$2,500,000 must be paid each month into the Public Health
2 Chronic Disease Prevention Fund, and (iii) of the remaining
3 balance, 95% must be paid each month into the Healthcare
4 Provider Relief Fund and 5% must be paid into the Financially
5 Distressed Provider Debt Service Fund. The payment of such
6 taxes shall be evidenced by a stamp affixed to each original
7 package of cigarettes, or an authorized substitute for such
8 stamp imprinted on each original package of such cigarettes
9 underneath the sealed transparent outside wrapper of such
10 original package, as hereinafter provided. However, such taxes
11 are not imposed upon any activity in such business in
12 interstate commerce or otherwise, which activity may not under
13 the Constitution and statutes of the United States be made the
14 subject of taxation by this State.

15 Beginning on the effective date of this amendatory Act of
16 the 92nd General Assembly and through June 30, 2006, all of the
17 moneys received by the Department of Revenue pursuant to this
18 Act and the Cigarette Use Tax Act, other than the moneys that
19 are dedicated to the Common School Fund, shall be distributed
20 each month as follows: first, there shall be paid into the
21 General Revenue Fund an amount which, when added to the amount
22 paid into the Common School Fund for that month, equals
23 \$33,300,000, except that in the month of August of 2004, this
24 amount shall equal \$83,300,000; then, from the moneys
25 remaining, if any amounts required to be paid into the General
26 Revenue Fund in previous months remain unpaid, those amounts

1 shall be paid into the General Revenue Fund; then, beginning on
2 April 1, 2003, from the moneys remaining, \$5,000,000 per month
3 shall be paid into the School Infrastructure Fund; then, if any
4 amounts required to be paid into the School Infrastructure Fund
5 in previous months remain unpaid, those amounts shall be paid
6 into the School Infrastructure Fund; then the moneys remaining,
7 if any, shall be paid into the Long-Term Care Provider Fund. To
8 the extent that more than \$25,000,000 has been paid into the
9 General Revenue Fund and Common School Fund per month for the
10 period of July 1, 1993 through the effective date of this
11 amendatory Act of 1994 from combined receipts of the Cigarette
12 Tax Act and the Cigarette Use Tax Act, notwithstanding the
13 distribution provided in this Section, the Department of
14 Revenue is hereby directed to adjust the distribution provided
15 in this Section to increase the next monthly payments to the
16 Long Term Care Provider Fund by the amount paid to the General
17 Revenue Fund and Common School Fund in excess of \$25,000,000
18 per month and to decrease the next monthly payments to the
19 General Revenue Fund and Common School Fund by that same excess
20 amount.

21 Beginning on July 1, 2006, all of the moneys received by
22 the Department of Revenue pursuant to this Act and the
23 Cigarette Use Tax Act, other than the moneys that are dedicated
24 to the Common School Fund and, beginning on the effective date
25 of this amendatory Act of the 96th General Assembly, other than
26 the moneys from the additional taxes imposed by this amendatory

1 Act of the 96th General Assembly that must be paid each month
2 into the Tax Compliance and Administration Fund, the Public
3 Health Chronic Disease Prevention Fund, the Healthcare
4 Provider Relief Fund, and the Financially Distressed Provider
5 Debt Service Fund, shall be distributed each month as follows:
6 first, there shall be paid into the General Revenue Fund an
7 amount that, when added to the amount paid into the Common
8 School Fund for that month, equals \$29,200,000; then, from the
9 moneys remaining, if any amounts required to be paid into the
10 General Revenue Fund in previous months remain unpaid, those
11 amounts shall be paid into the General Revenue Fund; then from
12 the moneys remaining, \$5,000,000 per month shall be paid into
13 the School Infrastructure Fund; then, if any amounts required
14 to be paid into the School Infrastructure Fund in previous
15 months remain unpaid, those amounts shall be paid into the
16 School Infrastructure Fund; then the moneys remaining, if any,
17 shall be paid into the Long-Term Care Provider Fund.

18 When any tax imposed herein terminates or has terminated,
19 distributors who have bought stamps while such tax was in
20 effect and who therefore paid such tax, but who can show, to
21 the Department's satisfaction, that they sold the cigarettes to
22 which they affixed such stamps after such tax had terminated
23 and did not recover the tax or its equivalent from purchasers,
24 shall be allowed by the Department to take credit for such
25 absorbed tax against subsequent tax stamp purchases from the
26 Department by such distributor.

1 The impact of the tax levied by this Act is imposed upon
2 the retailer and shall be prepaid or pre-collected by the
3 distributor for the purpose of convenience and facility only,
4 and the amount of the tax shall be added to the price of the
5 cigarettes sold by such distributor. Collection of the tax
6 shall be evidenced by a stamp or stamps affixed to each
7 original package of cigarettes, as hereinafter provided.

8 Each distributor shall collect the tax from the retailer at
9 or before the time of the sale, shall affix the stamps as
10 hereinafter required, and shall remit the tax collected from
11 retailers to the Department, as hereinafter provided. Any
12 distributor who fails to properly collect and pay the tax
13 imposed by this Act shall be liable for the tax. Any
14 distributor having cigarettes to which stamps have been affixed
15 in his possession for sale on the effective date of this
16 amendatory Act of 1989 shall not be required to pay the
17 additional tax imposed by this amendatory Act of 1989 on such
18 stamped cigarettes. Any distributor having cigarettes to which
19 stamps have been affixed in his or her possession for sale at
20 12:01 a.m. on the effective date of this amendatory Act of
21 1993, is required to pay the additional tax imposed by this
22 amendatory Act of 1993 on such stamped cigarettes. This
23 payment, less the discount provided in subsection (b), shall be
24 due when the distributor first makes a purchase of cigarette
25 tax stamps after the effective date of this amendatory Act of
26 1993, or on the first due date of a return under this Act after

1 the effective date of this amendatory Act of 1993, whichever
2 occurs first. Any distributor having cigarettes to which stamps
3 have been affixed in his possession for sale on December 15,
4 1997 shall not be required to pay the additional tax imposed by
5 this amendatory Act of 1997 on such stamped cigarettes.

6 Any distributor having cigarettes to which stamps have been
7 affixed in his or her possession for sale on July 1, 2002 shall
8 not be required to pay the additional tax imposed by this
9 amendatory Act of the 92nd General Assembly on those stamped
10 cigarettes. Any retailer having cigarettes in his or her
11 possession on September 1, 2010 to which tax stamps have been
12 affixed is not required to pay the additional tax that begins
13 on September 1, 2010 imposed by an amendatory Act of the 96th
14 General Assembly on those stamped cigarettes. Any distributor
15 having cigarettes in his or her possession on September 1, 2010
16 to which tax stamps have been affixed is required to pay the
17 additional tax that begins on September 1, 2010 imposed by an
18 amendatory Act of the 96th General Assembly to the extent the
19 calendar year 2010 average monthly volume of cigarette stamps
20 in the distributor's possession exceeds the average monthly
21 volume of cigarette stamps purchased by the distributor in
22 calendar year 2009. This payment, less the discount provided in
23 subsection (b), is due when the distributor first makes a
24 purchase of cigarette stamps on or after September 1, 2010 or
25 on the first due date of a return under this Act occurring on
26 or after September 1, 2010, whichever occurs first.

1 Any retailer having cigarettes in his or her possession on
2 September 1, 2011 to which tax stamps have been affixed is not
3 required to pay the additional tax that begins on September 1,
4 2011 imposed by an amendatory Act of the 96th General Assembly
5 on those stamped cigarettes. Any distributor having cigarettes
6 in his or her possession on September 1, 2011 to which tax
7 stamps have been affixed is required to pay the additional tax
8 that begins on September 1, 2011 imposed by an amendatory Act
9 of the 96th General Assembly to the extent the calendar year
10 2011 average monthly volume of cigarette stamps in the
11 distributor's possession exceeds the average monthly volume of
12 cigarette stamps purchased by the distributor in calendar year
13 2010. This payment, less the discount provided in subsection
14 (b), is due when the distributor first makes a purchase of
15 cigarette stamps on or after September 1, 2011 or on the first
16 due date of a return under this Act occurring on or after
17 September 1, 2011, whichever occurs first.

18 Any retailer having cigarettes in his or her possession on
19 September 1, 2012 to which tax stamps have been affixed is not
20 required to pay the additional tax that begins of September 1,
21 2012 imposed by an amendatory Act of the 96th General Assembly
22 on those stamped cigarettes. Any distributor having cigarettes
23 in his or her possession on September 1, 2012 to which tax
24 stamps have been affixed is required to pay the additional tax
25 that begins on September 1, 2012 imposed by an amendatory Act
26 of the 96th General Assembly to the extent the calendar year

1 2012 average monthly volume of cigarette stamps in the
2 distributor's possession exceeds the average monthly volume of
3 cigarette stamps purchased by the distributor in calendar year
4 2011. This payment, less the discount provided in subsection
5 (b), is due when the distributor first makes a purchase of
6 cigarette stamps on or after September 1, 2012 or on the first
7 due date of a return under this Act occurring on or after
8 September 1, 2012, whichever occurs first.

9 The amount of the Cigarette Tax imposed by this Act shall
10 be separately stated, apart from the price of the goods, by
11 both distributors and retailers, in all advertisements, bills
12 and sales invoices.

13 (b) The distributor shall be required to collect the taxes
14 provided under paragraph (a) hereof, and, to cover the costs of
15 such collection, shall be allowed a discount during any year
16 commencing July 1st and ending the following June 30th in
17 accordance with the schedule set out hereinbelow, which
18 discount shall be allowed at the time of purchase of the stamps
19 when purchase is required by this Act, or at the time when the
20 tax is remitted to the Department without the purchase of
21 stamps from the Department when that method of paying the tax
22 is required or authorized by this Act. Prior to December 1,
23 1985, a discount equal to 1 2/3% of the amount of the tax up to
24 and including the first \$700,000 paid hereunder by such
25 distributor to the Department during any such year; 1 1/3% of
26 the next \$700,000 of tax or any part thereof, paid hereunder by

1 such distributor to the Department during any such year; 1% of
2 the next \$700,000 of tax, or any part thereof, paid hereunder
3 by such distributor to the Department during any such year, and
4 2/3 of 1% of the amount of any additional tax paid hereunder by
5 such distributor to the Department during any such year shall
6 apply. On and after December 1, 1985, a discount equal to 1.75%
7 of the amount of the tax payable under this Act up to and
8 including the first \$3,000,000 paid hereunder by such
9 distributor to the Department during any such year and 1.5% of
10 the amount of any additional tax paid hereunder by such
11 distributor to the Department during any such year shall apply.

12 Two or more distributors that use a common means of
13 affixing revenue tax stamps or that are owned or controlled by
14 the same interests shall be treated as a single distributor for
15 the purpose of computing the discount.

16 (c) The taxes herein imposed are in addition to all other
17 occupation or privilege taxes imposed by the State of Illinois,
18 or by any political subdivision thereof, or by any municipal
19 corporation.

20 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,
21 eff. 6-6-06.)

22 Section 25. The Cigarette Use Tax Act is amended by
23 changing Sections 1, 2, and 12 as follows:

24 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

1 Sec. 1. For the purpose of this Act, unless otherwise
2 required by the context:

3 "Use" means the exercise by any person of any right or
4 power over cigarettes incident to the ownership or possession
5 thereof, other than the making of a sale thereof in the course
6 of engaging in a business of selling cigarettes and shall
7 include the keeping or retention of cigarettes for use, except
8 that "use" does not include the use of cigarettes by a
9 not-for-profit research institution conducting tests
10 concerning the health effects of tobacco products, provided the
11 cigarettes are not offered for resale.

12 "Brand Style" means a variety of cigarettes distinguished
13 by the tobacco used, tar and nicotine content, flavoring used,
14 size of the cigarette, filtration on the cigarette or
15 packaging.

16 "Cigarette" means any roll for smoking made wholly or in
17 part of tobacco irrespective of size or shape and whether or
18 not such tobacco is flavored, adulterated or mixed with any
19 other ingredient, and the wrapper or cover of which is made of
20 paper ~~or any other substance or material except tobacco.~~

21 "Cigarette" when used in this Act, shall also be construed
22 to mean: any roll for smoking made wholly or in part of tobacco
23 labeled as anything other than a cigarette or not bearing a
24 label, if it meets 2 or more of the following criteria:

25 (a) the product is sold in packs similar to cigarettes;

26 (b) the product is available for sale in cartons of 10

1 packs;

2 (c) the product is sold in soft packs, hard packs, flip-top
3 boxes, clam shells, or other cigarette-type boxes;

4 (d) the product is of a length and diameter found in
5 commercially-manufactured cigarettes;

6 (e) the product has a cellulose acetate or other integrated
7 filter;

8 (f) the product weighs less than 3 pounds per thousand
9 sticks;

10 (g) the product is marketed or advertised to consumers as a
11 cigarette or cigarette substitute; or

12 (h) there is other evidence that the product fits within
13 the definition of cigarette.

14 "Contraband cigarettes" means:

15 (a) cigarettes that do not bear a required tax stamp
16 under this Act;

17 (b) cigarettes for which any required federal taxes
18 have not been paid;

19 (c) cigarettes that bear a counterfeit tax stamp;

20 (d) cigarettes that are manufactured, fabricated,
21 assembled, processed, packaged, or labeled by any person
22 other than (i) the owner of the trademark rights in the
23 cigarette brand or (ii) a person that is directly or
24 indirectly authorized by such owner;

25 (e) cigarettes imported into the United States, or
26 otherwise distributed, in violation of the federal

1 Imported Cigarette Compliance Act of 2000 (Title IV of
2 Public Law 106-476);

3 (f) cigarettes that have false manufacturing labels;

4 (g) cigarettes identified in Section 3-10(a)(1) of
5 this Act; or

6 (h) cigarettes that are improperly tax stamped,
7 including cigarettes that bear a tax stamp of another state
8 or taxing jurisdiction.

9 "Person" means any natural individual, firm, partnership,
10 association, joint stock company, joint adventure, public or
11 private corporation, however formed, limited liability
12 company, or a receiver, executor, administrator, trustee,
13 guardian or other representative appointed by order of any
14 court.

15 "Department" means the Department of Revenue.

16 "Sale" means any transfer, exchange or barter in any manner
17 or by any means whatsoever for a consideration, and includes
18 and means all sales made by any person.

19 "Original Package" means the individual packet, box or
20 other container whatsoever used to contain and to convey
21 cigarettes to the consumer.

22 "Distributor" means any and each of the following:

23 a. Any person engaged in the business of selling
24 cigarettes in this State who brings or causes to be brought
25 into this State from without this State any original
26 packages of cigarettes, on which original packages there is

1 no authorized evidence underneath a sealed transparent
2 wrapper showing that the tax liability imposed by this Act
3 has been paid or assumed by the out-of-State seller of such
4 cigarettes, for sale in the course of such business.

5 b. Any person who makes, manufactures or fabricates
6 cigarettes in this State for sale, except a person who
7 makes, manufactures or fabricates cigarettes for sale to
8 residents incarcerated in penal institutions or resident
9 patients or a State-operated mental health facility.

10 c. Any person who makes, manufactures or fabricates
11 cigarettes outside this State, which cigarettes are placed
12 in original packages contained in sealed transparent
13 wrappers, for delivery or shipment into this State, and who
14 elects to qualify and is accepted by the Department as a
15 distributor under Section 7 of this Act.

16 "Distributor" does not include any person who transfers
17 cigarettes to a not-for-profit research institution that
18 conducts tests concerning the health effects of tobacco
19 products and who does not offer the cigarettes for resale.

20 "Distributor maintaining a place of business in this
21 State", or any like term, means any distributor having or
22 maintaining within this State, directly or by a subsidiary, an
23 office, distribution house, sales house, warehouse or other
24 place of business, or any agent operating within this State
25 under the authority of the distributor or its subsidiary,
26 irrespective of whether such place of business or agent is

1 located here permanently or temporarily, or whether such
2 distributor or subsidiary is licensed to transact business
3 within this State.

4 "Business" means any trade, occupation, activity or
5 enterprise engaged in or conducted in this State for the
6 purpose of selling cigarettes.

7 "Prior Continuous Compliance Taxpayer" means any person
8 who is licensed under this Act and who, having been a licensee
9 for a continuous period of 5 years, is determined by the
10 Department not to have been either delinquent or deficient in
11 the payment of tax liability during that period or otherwise in
12 violation of this Act. Also, any taxpayer who has, as verified
13 by the Department, continuously complied with the condition of
14 his bond or other security under provisions of this Act of a
15 period of 5 consecutive years shall be considered to be a
16 "prior continuous compliance taxpayer". In calculating the
17 consecutive period of time described herein for qualification
18 as a "prior continuous compliance taxpayer", a consecutive
19 period of time of qualifying compliance immediately prior to
20 the effective date of this amendatory Act of 1987 shall be
21 credited to any licensee who became licensed on or before the
22 effective date of this amendatory Act of 1987.

23 "Stamp" or "stamps" mean the indicia required to be affixed
24 on a pack of cigarettes that evidence payment of the tax on
25 cigarettes under Section 2 of this Act.

26 "Related party" means any person that is associated with

1 any other person because he or she:

2 (a) is an officer or director of a business; or

3 (b) is legally recognized as a partner in business.

4 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;
5 96-782, eff. 1-1-10.)

6 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

7 Sec. 2. A tax is imposed upon the privilege of using
8 cigarettes in this State, at the rate of 6 mills per cigarette
9 so used. On and after December 1, 1985, in addition to any
10 other tax imposed by this Act, a tax is imposed upon the
11 privilege of using cigarettes in this State at a rate of 4
12 mills per cigarette so used. On and after the effective date of
13 this amendatory Act of 1989, in addition to any other tax
14 imposed by this Act, a tax is imposed upon the privilege of
15 using cigarettes in this State at the rate of 5 mills per
16 cigarette so used. On and after the effective date of this
17 amendatory Act of 1993, in addition to any other tax imposed by
18 this Act, a tax is imposed upon the privilege of using
19 cigarettes in this State at a rate of 7 mills per cigarette so
20 used. On and after December 15, 1997, in addition to any other
21 tax imposed by this Act, a tax is imposed upon the privilege of
22 using cigarettes in this State at a rate of 7 mills per
23 cigarette so used. On and after July 1, 2002, in addition to
24 any other tax imposed by this Act, a tax is imposed upon the
25 privilege of using cigarettes in this State at a rate of 20.0

1 mills per cigarette so used. Beginning on September 1, 2010, in
2 addition to any other tax imposed by this Act, a tax is imposed
3 upon the privilege of using cigarettes in this State at a rate
4 of 25 mills per cigarette so used. Beginning on September 1,
5 2011, in addition to any other tax imposed by this Act, a tax
6 is imposed upon the privilege of using cigarettes in this State
7 at the rate of 12.5 mills per cigarette so used. Beginning on
8 September 1, 2012, in addition to any other tax imposed by this
9 Act, a tax is imposed upon the privilege of using cigarettes in
10 this State at the rate of 12.5 mills per cigarette so used. The
11 taxes herein imposed shall be in addition to all other
12 occupation or privilege taxes imposed by the State of Illinois
13 or by any political subdivision thereof or by any municipal
14 corporation.

15 When any tax imposed herein terminates or has terminated,
16 distributors who have bought stamps while such tax was in
17 effect and who therefore paid such tax, but who can show, to
18 the Department's satisfaction, that they sold the cigarettes to
19 which they affixed such stamps after such tax had terminated
20 and did not recover the tax or its equivalent from purchasers,
21 shall be allowed by the Department to take credit for such
22 absorbed tax against subsequent tax stamp purchases from the
23 Department by such distributors.

24 When the word "tax" is used in this Act, it shall include
25 any tax or tax rate imposed by this Act and shall mean the
26 singular of "tax" or the plural "taxes" as the context may

1 require.

2 Any distributor having cigarettes to which stamps have been
3 affixed in his possession for sale on the effective date of
4 this amendatory Act of 1989 shall not be required to pay the
5 additional tax imposed by this amendatory Act of 1989 on such
6 stamped cigarettes. Any distributor having cigarettes to which
7 stamps have been affixed in his or her possession for sale at
8 12:01 a.m. on the effective date of this amendatory Act of
9 1993, is required to pay the additional tax imposed by this
10 amendatory Act of 1993 on such stamped cigarettes. This payment
11 shall be due when the distributor first makes a purchase of
12 cigarette tax stamps after the effective date of this
13 amendatory Act of 1993, or on the first due date of a return
14 under this Act after the effective date of this amendatory Act
15 of 1993, whichever occurs first. Once a distributor tenders
16 payment of the additional tax to the Department, the
17 distributor may purchase stamps from the Department. Any
18 distributor having cigarettes to which stamps have been affixed
19 in his possession for sale on December 15, 1997 shall not be
20 required to pay the additional tax imposed by this amendatory
21 Act of 1997 on such stamped cigarettes.

22 Any distributor having cigarettes to which stamps have been
23 affixed in his or her possession for sale on July 1, 2002 shall
24 not be required to pay the additional tax imposed by this
25 amendatory Act of the 92nd General Assembly on those stamped
26 cigarettes. Any retailer having cigarettes in his or her

1 possession on September 1, 2010 to which tax stamps have been
2 affixed is not required to pay the additional tax that begins
3 on September 1, 2010 imposed by an amendatory Act of the 96th
4 General Assembly on those stamped cigarettes. Any distributor
5 having cigarettes in his or her possession on September 1, 2010
6 to which tax stamps have been affixed is required to pay the
7 additional tax that begins on September 1, 2010 imposed by an
8 amendatory Act of the 96th General Assembly to the extent the
9 calendar year 2010 average monthly volume of cigarette stamps
10 in the distributor's possession exceeds the average monthly
11 volume of cigarette stamps purchased by the distributor in
12 calendar year 2009. This payment, less the discount provided in
13 Section 3, is due when the distributor first makes a purchase
14 of cigarette stamps on or after September 1, 2010 or on the
15 first due date of a return under this Act occurring on or after
16 September 1, 2010, whichever occurs first.

17 Any retailer having cigarettes in his or her possession on
18 September 1, 2011 to which tax stamps have been affixed is not
19 required to pay the additional tax that begins on September 1,
20 2011 imposed by an amendatory Act of the 96th General Assembly
21 on those stamped cigarettes. Any distributor having cigarettes
22 in his or her possession on September 1, 2011 to which tax
23 stamps have been affixed is required to pay the additional tax
24 that begins on September 1, 2011 imposed by an amendatory Act
25 of the 96th General Assembly to the extent the calendar year
26 2011 average monthly volume of cigarette stamps in the

1 distributor's possession exceeds the average monthly volume of
2 cigarette stamps purchased by the distributor in calendar year
3 2010. This payment, less the discount provided in Section 3, is
4 due when the distributor first makes a purchase of cigarette
5 stamps on or after September 1, 2011 or on the first due date
6 of a return under this Act occurring on or after September 1,
7 2011, whichever occurs first.

8 Any retailer having cigarettes in his or her possession on
9 September 1, 2012 to which tax stamps have been affixed is not
10 required to pay the additional tax that begins of September 1,
11 2012 imposed by an amendatory Act of the 96th General Assembly
12 on those stamped cigarettes. Any distributor having cigarettes
13 in his or her possession on September 1, 2012 to which tax
14 stamps have been affixed is required to pay the additional tax
15 that begins on September 1, 2012 imposed by an amendatory Act
16 of the 96th General Assembly to the extent the calendar year
17 2012 average monthly volume of cigarette stamps in the
18 distributor's possession exceeds the average monthly volume of
19 cigarette stamps purchased by the distributor in calendar year
20 2011. This payment, less the discount provided in Section 3, is
21 due when the distributor first makes a purchase of cigarette
22 stamps on or after September 1, 2012 or on the first due date
23 of a return under this Act occurring on or after September 1,
24 2012, whichever occurs first.

25 (Source: P.A. 92-536, eff. 6-6-02.)

1 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

2 Sec. 12. Declaration of possession of cigarettes on which
3 tax not paid.

4 (a) When cigarettes are acquired for use in this State by a
5 person (including a distributor as well as any other person),
6 who did not pay the tax herein imposed to a distributor, the
7 person, within 30 days after acquiring the cigarettes, shall
8 file with the Department a return declaring the possession of
9 the cigarettes and shall transmit with the return to the
10 Department the tax imposed by this Act.

11 (b) On receipt of the return and payment of the tax as
12 required by paragraph (a), the Department may furnish the
13 person with a suitable tax stamp to be affixed to the package
14 of cigarettes upon which the tax has been paid if the
15 Department determines that the cigarettes still exist.

16 (c) The return referred to in paragraph (a) shall contain
17 the name and address of the person possessing the cigarettes
18 involved, the location of the cigarettes and the quantity,
19 brand name, place, and date of the acquisition of the
20 cigarettes.

21 (d) The provisions of this Section are not subject to the
22 Uniform Penalty and Interest Act.

23 (Source: P.A. 92-322, eff. 1-1-02.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."