AN ACT concerning State government.

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

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

(15 ILCS 405/10.05c new)

Sec. 10.05c. Deduction from warrants and payments for satisfaction of delinquent provider loans under Article 841 of the Illinois Finance Authority Act. At the direction of the Illinois Finance Authority, the Comptroller shall deduct from a warrant or other payment described in Section 10.05 of this Act, in accordance with the procedures provided in that Section, and pay over to the Illinois Finance Authority the amount certified as necessary to satisfy, in whole or in part, delinquent or defaulted amounts due and owing from a borrower on any loan entered into under Section 841-15 of the Illinois Finance Authority Act. The Comptroller shall provide the Authority with the address to which the warrant or other payment was to be mailed.

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

(20 ILCS 3501/845-5)

Sec. 845-5. Bond limitations.

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

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

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

(20 ILCS 3501/Art. 841 heading new)

<u>ARTICLE 841</u>

<u>FINANCIALLY DISTRESSED PROVIDERS</u>

(20 ILCS 3501/841-5 new)

<u>Sec. 841-5. Definitions. In this Article, except where the context clearly requires otherwise:</u>

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

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

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

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

(20 ILCS 3501/841-10 new)

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

(20 ILCS 3501/841-15 new)

Sec. 841-15. Revolving loan fund. The Authority shall establish a financially distressed provider revolving loan fund. The proceeds from any series of bonds issued under this Article must be deposited into the fund. Qualified providers may apply for short-term, zero-interest loans from the fund only for the purpose of meeting the providers' operations and service-related obligations. Loans shall be administered by the Authority, but no loan may exceed $200,000. The Authority shall charge a reasonable fee to the qualified providers in connection with the origination of the loans.

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

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

(20 ILCS 3501/841-20 new)

Sec. 841-20. Issuance of bonds. The Authority may issue its bonds in an aggregate principal amount not to exceed $300,000,000 for the purpose of providing short-term, zero-interest loans to qualified providers as provided in this Article. The Authority shall charge a reasonable fee and shall be paid its costs of issuance in connection with its issuance of the bonds.

Unless specifically approved in writing by the Director, costs of issuance for each issue of bonds may not exceed 2% of the principal amount of the proceeds of sale of each issue of bonds.

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

(20 ILCS 3501/841-25 new)

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

(20 ILCS 3501/841-30 new)

Sec. 841-30. Actions to compel payment. If the State fails to appropriate required amounts from the Financially Distressed Provider Debt Service Fund to the Authority, as provided in Section 6z-82 of the State Finance Act, or fails to make transfers from cigarette tax receipts to the Financially Distressed Provider Debt Service Fund, as provided in Section 6z-82 of the State Finance Act, a civil action to compel that appropriation or transfer may be instituted in the Circuit Court of Sangamon County by the holder or holders of the bonds issued under this Article. Delivery of a summons and a copy of the complaint to the Attorney General constitutes sufficient service to give the Circuit Court of Sangamon County jurisdiction of the subject matter of such a suit and jurisdiction over the State and its officers named as defendants for the purpose of compelling the transfer.

(20 ILCS 3501/841-35 new)

Sec. 841-35. Covenants with bondholders. The State of Illinois irrevocably covenants and agrees with the holders of bonds issued under this Article that the State will not alter or limit: (i) the basis on which transfers are required to be made from cigarette tax receipts to the Financially Distressed Provider Debt Service Fund, pursuant to Section 6z-82 of the State Finance Act; (ii) the basis on which appropriations are required to be made from the Financially Distressed Provider Debt Service Fund to the Authority; or (iii) the provisions of this Act or the State Finance Act so as to impair, in any of the foregoing respects, the obligations of contract incurred in favor of the holders of bonds issued under this Article. The covenant and agreement set forth in this Section may be included in a trust indenture, resolution, or bond issued under this Article.

(20 ILCS 3501/841-40 new)

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

(20 ILCS 3501/841-45 new)

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

Section 15. The State Finance Act is amended by adding Sections 5.756 and 6z-82 as follows:

(30 ILCS 105/5.756 new)

Sec. 5.756. The Financially Distressed Provider Debt Service Fund.

(30 ILCS 105/6z-82 new)

Sec. 6z-82. Financially Distressed Provider Debt Service Fund.

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

(b) Beginning with the first month to occur not less than 30 days after the effective date of this amendatory Act of the 96th General Assembly, and on the first day of each month thereafter, the Director of the Governor's Office of Management and Budget shall certify to the State Treasurer and the State Comptroller the debt service reserve requirement actually established in connection with all bonds issued under Article

841 of the Illinois Finance Authority Act. The State Comptroller shall direct and the State Treasurer shall transfer the amount certified from cigarette tax receipts, as provided in Section 2 of the Cigarette Tax Act, to the Financially Distressed Provider Debt Service Fund.

Section 20. The Cigarette Tax Act is amended by changing Section 2 as follows:

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

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

(a) A tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at the rate of 5 1/2 mills per cigarette sold, or otherwise disposed of in the course of such business in this State. In addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 1/2 mill per cigarette sold or otherwise disposed of in the course of such business in this State on and after January 1, 1947, and shall be paid into the Metropolitan Fair and Exposition Authority Reconstruction Fund or as otherwise provided in Section 29. On and after December 1, 1985, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 4 mills per cigarette sold or otherwise disposed of in the course of such business in this State. Of the additional tax imposed by this amendatory Act of 1985, $9,000,000 of the moneys received by the Department of Revenue pursuant to this Act shall be paid each month into the Common School Fund. On and after the effective date of this amendatory Act of 1989, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 5 mills per cigarette sold or otherwise disposed of in the course of such business in this State. On and after the effective date of this amendatory Act of 1993, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State. On and after December 15, 1997, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business of this State. All of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act from the additional taxes imposed by this amendatory Act of 1997, shall be paid each month into the Common School Fund. On and after July 1, 2002, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 20.0 mills per cigarette sold or otherwise disposed of in the course of such business in this State. The payment of such taxes shall be evidenced by a stamp affixed to each original package of cigarettes, or an authorized substitute for such stamp imprinted on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, as hereinafter provided. However, such taxes are not imposed upon any activity in such business in interstate commerce or otherwise, which activity may not under the Constitution and statutes of the United States be made the subject of taxation by this State.

Beginning on the effective date of this amendatory Act of the 92nd General Assembly and through June 30, 2006, all of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund, shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount which, when added to the amount paid into the Common School Fund for that month, equals $33,300,000, except that in the month of August of 2004, this amount shall equal $83,300,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then, beginning on April 1, 2003, from the moneys remaining, $5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund. To the extent that more than $25,000,000 has been paid into the General Revenue Fund and Common School Fund per month for the period of July 1, 1993 through the effective date of this amendatory Act of 1994 from combined receipts of the Cigarette Tax Act and the Cigarette Use Tax Act, notwithstanding the distribution provided in this Section, the Department of Revenue is hereby directed to adjust the distribution provided in this Section to increase the next monthly payments to the Long Term Care Provider Fund by the amount paid to the General Revenue Fund and Common School Fund in excess of $25,000,000 per month and to decrease the next monthly payments to the General Revenue Fund and Common School Fund by that same excess amount.

Beginning on July 1, 2006, all of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund, shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount that, when added to the amount paid into the Common School Fund for that month, equals $29,200,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then from the moneys remaining, $5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; <u>then, from the moneys remaining, all unsatisfied amounts certified under Section 6z-82 of the State Finance Act shall be paid into the Financially Distressed Provider Debt Service Fund;</u> then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund.

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

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

Each distributor shall collect the tax from the retailer at or before the time of the sale, shall affix the stamps as hereinafter required, and shall remit the tax collected from retailers to the Department, as hereinafter provided. Any distributor who fails to properly collect and pay the tax imposed by this Act shall be liable for the tax. Any distributor having cigarettes to which stamps have been affixed in his possession for sale on the effective date of this amendatory Act of 1989 shall not be required to pay the additional tax imposed by this amendatory Act of 1989 on such stamped cigarettes. Any distributor having cigarettes to which stamps have been affixed in his or her possession for sale at 12:01 a.m. on the effective date of this amendatory Act of 1993, is required to pay the additional tax imposed by this amendatory Act of 1993 on such stamped cigarettes. This payment, less the discount provided in subsection (b), shall be due when the distributor first makes a purchase of cigarette tax stamps after the effective date of this amendatory Act of 1993, or on the first due date of a return under this Act after the effective date of this amendatory Act of 1993, whichever occurs first. Any distributor having cigarettes to which stamps have been affixed in his possession for sale on December 15, 1997 shall not be required to pay the additional tax imposed by this amendatory Act of 1997 on such stamped cigarettes.

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

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

(b) The distributor shall be required to collect the taxes provided under paragraph (a) hereof, and, to cover the costs of such collection, shall be allowed a discount during any year commencing July 1st and ending the following June 30th in accordance with the schedule set out hereinbelow, which discount shall be allowed at the time of purchase of the stamps when purchase is required by this Act, or at the time when the tax is remitted to the Department without the purchase of stamps from the Department when that method of paying the tax is required or authorized by this Act. Prior to December 1, 1985, a discount equal to 1 2/3% of the amount of the tax up to and including the first $700,000 paid hereunder by such distributor to the Department during any such year; 1 1/3% of the next $700,000 of tax or any part thereof, paid hereunder by such distributor to the Department during any such year; 1% of the next $700,000 of tax, or any part thereof, paid hereunder by such distributor to the Department during any such year, and 2/3 of 1% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year shall apply. On and after December 1, 1985, a discount equal to 1.75% of the amount of the tax payable under this Act up to and including the first $3,000,000 paid hereunder by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year shall apply.

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

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

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

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