



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 3660

2 AMENDMENT NO. _____. Amend Senate Bill 3660, AS AMENDED,
3 by 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. References in this
8 Article to "this Act" mean this Article.

9 Section 1-5. Legislative intent and purpose. The General
10 Assembly hereby finds and declares that the State is confronted
11 with an unprecedented fiscal crisis. It is the purpose of this
12 Act to authorize changes in State programs that are necessary
13 to implement the State fiscal year 2011 budget. It is also the
14 purpose of this Act to implement budget measures that
15 prioritize the payment of vouchers that (i) were submitted to

1 the State Comptroller prior to July 1, 2010 and (ii) are at
2 least 60 days past due on the effective date of this Act. This
3 Act is to be liberally construed and interpreted in a manner
4 that allows the State to address the fiscal crisis for the
5 State fiscal year 2011.

6 Section 1-10. Designation of contingency reserve.
7 Beginning on July 1, 2010 and until January 9, 2011, the
8 Governor may designate amounts to be set aside as a contingency
9 reserve from the amounts appropriated from the General Revenue
10 Fund, the Common School Fund, the Education Assistance Fund,
11 and any special fund of the State for State fiscal year 2011
12 for all boards, commissions, agencies, institutions,
13 authorities, colleges, universities, and bodies politic and
14 corporate of the State, but not other constitutional officers,
15 the legislative or judicial branch, the office of the Executive
16 Inspector General, or the Executive Ethics Commission. The
17 total contingency reserve may not exceed one-third of the sum
18 of (i) the total dollar amount of vouchers that have been
19 submitted to the State Comptroller for payment but for which
20 warrants have not been issued by the Comptroller as of July 1,
21 2010 and (ii) the total dollar amount of any fiscal year 2010
22 mandated statutory transfers that have not been executed as of
23 July 1, 2010. The State Comptroller shall certify the total
24 dollar amount of those outstanding vouchers and transfers to
25 the Governor on or before July 8, 2010.

1 Section 1-15. Contingency reserve restrictions. Until
2 January 9, 2011, the amounts placed in contingency reserve
3 shall not be transferred, obligated, encumbered, expended, or
4 otherwise committed unless the Governor authorizes the removal
5 of the amounts from the contingency reserve or the State, by an
6 Act of the 96th General Assembly, generates incremental
7 revenues sufficient to support such transfers, obligations,
8 encumbrances, expenditures, or other commitments.

9 Section 1-20. All State programs subject to appropriation.
10 Notwithstanding any other Act to the contrary, during State
11 fiscal year 2011, any expenditure from State funds authorized
12 or required by any State law are made subject to appropriation
13 through January 9, 2011 of that fiscal year. No moneys shall be
14 obligated or expended during that time unless they are
15 supported by available State fiscal year 2011 appropriations
16 that are not otherwise obligated or reserved pursuant to
17 Section 1-10 of this Act. The provisions of this Section do not
18 apply to non-appropriated funds, non-appropriated accounts,
19 locally held funds, or appropriations with continuing
20 authority.

21 Section 1-35. Act takes precedence. In case of any conflict
22 between the provisions of this Act and any other law, executive
23 order, or administrative regulation, the provisions of this Act

1 prevail and control.

2 Section 1-90. Repealer. This Act is repealed on July 1,
3 2011.

4 ARTICLE 3. RAILSPLITTER TOBACCO SETTLEMENT AUTHORITY ACT

5 Section 3-1. Short title. This Act may be cited as the
6 Railsplitter Tobacco Settlement Authority Act. References in
7 the Article to "this Act" mean this Article.

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

11 (a) "Authority" means the Railsplitter Tobacco Settlement
12 Authority created and established pursuant to Section 3-4 of
13 this Act.

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

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

20 (d) "Bondholder" means, in the case of a bond issued in
21 registered form, the registered owner of the bond and
22 otherwise, the owner of the bond.

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

3 (f) "Consent Decree" means the Consent Decree and Final
4 Judgment of the Circuit Court of Cook County, Illinois, dated
5 December 8, 1998, as the same has been and may be corrected,
6 amended or modified, in the action entitled People of the State
7 of Illinois v. Philip Morris Incorporated, et al. (No. 96 L
8 13146).

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

17 (h) "Master Settlement Escrow Agent" means the escrow agent
18 under the Master Settlement Agreement.

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

26 (j) "Participating manufacturer" means a tobacco product

1 manufacturer that is or becomes a signatory to the Master
2 Settlement Agreement.

3 (k) "Pledged tobacco revenues" means the State's tobacco
4 settlement revenues sold to the Authority pursuant to the sale
5 agreement and pledged by the Authority for the payment of bonds
6 and any related bond facility.

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

10 (m) "Related bond facility" means any interest rate
11 exchange or similar agreement or any bond insurance policy,
12 letter of credit or other credit enhancement facility,
13 liquidity facility, guaranteed investment or reinvestment
14 agreement, or other similar agreement, arrangement or
15 contract.

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

23 (o) "Sale agreement" means any agreement authorized
24 pursuant to this Act in which the State provides for the sale
25 of all or a portion of the tobacco settlement revenues to the
26 Authority.

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

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

4 (r) "Tobacco settlement bond proceeds account" means the
5 Account by that name within the Tobacco Settlement Recovery
6 Fund established under Section 6z-43(a) of the State Finance
7 Act.

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

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

21 Section 3-3. Transfer and sale of State's right to tobacco
22 settlement revenues. During fiscal years 2010 and 2011, the
23 State may sell, convey, or otherwise transfer to the Authority
24 the tobacco settlement revenues in exchange for the net
25 proceeds of bonds and a right to the residual interest in

1 tobacco settlement revenues. Unless otherwise directed by
2 statute, the net proceeds of bonds shall be deposited in the
3 Tobacco Settlement Bond Proceeds Account, and the residual
4 interest in tobacco settlement revenues received by the State
5 from time to time shall be deposited in the Tobacco Settlement
6 Residual Account, in each case to be applied for the purposes
7 and in the manner described in this Act and in Section 6z-43 of
8 the State Finance Act.

9 Any sale, conveyance, or other transfer authorized by this
10 Section shall be evidenced by an instrument or agreement in
11 writing signed on behalf of the State by the Governor. A
12 certified copy of the instrument or agreement shall be filed
13 with the Governor, Comptroller, Treasurer, Budget Director,
14 Speaker and Minority Leader of the House of Representatives,
15 President and Minority Leader of the Senate, and the Commission
16 on Government Forecasting and Accountability promptly upon
17 execution and delivery thereof. The instrument or agreement may
18 include an irrevocable direction to the Master Settlement
19 Escrow Agent to pay all or a specified portion of the tobacco
20 settlement revenues directly to or upon the order of the
21 Authority, or to any escrow agent or any trustee under an
22 indenture or other agreement securing any bonds issued or
23 related bond facilities made under this Act. Upon execution and
24 delivery of the sale agreement as provided in this Act, the
25 sale, conveyance, or other transfer of the right to receive the
26 Tobacco Settlement Revenues, shall, for all purposes, be a true

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

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

26 The procedures and requirements set forth in this Section

1 shall be the sole procedures and requirements applicable to the
2 sale of the tobacco settlement revenues.

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

18 The Authority shall be governed by a 3-member board
19 consisting of the Budget Director and two other members
20 appointed by the Governor. The powers of the Authority shall be
21 subject to the terms, conditions, and limitations contained
22 within this Act, and any applicable covenants or agreements of
23 the Authority in any indenture or other agreement relating to
24 any then outstanding bonds or related bond facilities. The
25 Authority may enter into contracts regarding any matter

1 connected with any corporate purpose within the objects and
2 purposes of this Act. The members of the Authority and the
3 Chief Financial Officer of the Authority shall receive no
4 salary or other compensation, either direct or indirect, for
5 serving as members of the Authority, other than reimbursement
6 for actual and necessary expenses incurred in the performance
7 of such person's duties. The Authority may elect one of its
8 members as chairman, who shall sign instruments or agreements
9 authorized by this Act on behalf of the Authority. The
10 Authority may also appoint a Chief Financial Officer of the
11 Authority who may or may not be a member of the Authority in
12 order to provide financial analysis and advice regarding any
13 transaction of the Authority. Notwithstanding the foregoing,
14 the Authority shall not be authorized to make any covenant,
15 pledge, promise or agreement purporting to bind the State with
16 respect to Tobacco Settlement Revenues, except as otherwise
17 specifically authorized by this Act.

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

1 effect.

2 The Authority may not guarantee the debts of another.

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

5 (1) sue and be sued;

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

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

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

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

20 (6) make and execute contracts and all other instruments
21 necessary or convenient for the exercise of its powers and
22 functions under this Section and to commence any action to
23 protect or enforce any right conferred upon it by any law,
24 contract, or other agreement, provided that any underwriter,
25 financial advisor, bond counsel, or other professional

1 providing services to the Authority may be selected pursuant to
2 solicitations issued and completed by the Governor's Office of
3 Management and Budget for those services;

4 (7) appoint officers and agents, prescribe their duties and
5 qualifications, fix their compensation and engage the services
6 of private consultants and counsel on a contract basis for
7 rendering professional and technical assistance and advice,
8 provided that this shall not be construed to limit the
9 authority of the Attorney General provided in Section 4 of the
10 Attorney General Act;

11 (8) pay its operating expenses and its financing costs,
12 including its reasonable costs of issuance and sale and those
13 of the Attorney General, if any, in a total amount not greater
14 than 1% of the principal amount of the proceeds of the bond
15 sale;

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

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

22 (11) invest any funds or other moneys under its custody and
23 control in investment securities or under any related bond
24 facility;

25 (12) as security for the payment of the principal of and
26 interest on any Bonds issued by it pursuant to this Act and any

1 agreement made in connection therewith and for its obligations
2 under any Related Bond Facility, pledge all or any part of the
3 tobacco settlement revenues;

4 (13) do any and all things necessary or convenient to carry
5 out its purposes and exercise the powers expressly given and
6 granted in this Section.

7 Section 3-6. Bonds of the Authority.

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

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

23 The Authority shall have the power and is hereby authorized
24 from time to time to issue bonds, whenever it deems refunding
25 expedient, to refund any outstanding bonds by the issuance of

1 new bonds, provided that the refunding debt matures within the
2 term of the bonds to be refunded. The refunding bonds may be
3 exchanged for the bonds to be refunded or sold and the proceeds
4 applied to the purchase, redemption, or payment of such bonds.

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

1 (c) The Authority may sell such bonds pursuant to notice of
2 sale and public bid or by negotiated sale in accordance with
3 the corresponding procedures applicable to like sales of
4 general obligation bonds under Section 11 of the General
5 Obligation Bond Act. The proceeds of such bonds shall be
6 disbursed for the purposes for which such bonds were issued
7 under such restrictions as the sale agreement and the
8 resolution authorizing the issuance of such bonds or the
9 related trust indenture may provide. Such bonds shall be issued
10 upon approval of the Authority and without any other approvals,
11 filings, proceedings or the happening of any other conditions
12 or things other than the approvals, findings, proceedings,
13 conditions, and things that are specified and required by this
14 Act.

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

1 reserves, or earnings thereon is assigned need be filed,
2 perfected or recorded in any public records in order to protect
3 the pledge thereof or perfect the lien thereof as against third
4 parties, except that a copy thereof shall be filed in the
5 records of the Authority.

6 (e) Whether or not the bonds of the Authority are of such
7 form and character as to be negotiable instruments under the
8 terms of the Uniform Commercial Code, the bonds are hereby made
9 negotiable instruments for all purposes, subject only to the
10 provisions of the bonds for registration.

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

1 safeguarding, and application of all moneys and securities; (v)
2 contain such provisions for protecting and enforcing against
3 the Authority or the State the rights and remedies (pursuant
4 thereto and to the sale agreement) of the owners of the bonds
5 and any provider of a related bond facility as may be
6 reasonable and proper and not in violation of law; and (vi)
7 contain such other provisions as the Authority may deem
8 reasonable and proper for priorities and subordination among
9 the owners of the bonds and providers of related bond
10 facilities. Any reference in this Act to a resolution of the
11 Authority shall include any trust indenture authorized
12 thereby.

13 (g) The net proceeds of bonds and any earnings thereon
14 shall never be pledged to, nor made available for, payment of
15 the bonds or any interest or redemption price thereon or any
16 other debt or obligation of the Authority. The net proceeds of
17 bonds shall be deposited by the State in the Tobacco Settlement
18 Bond Proceeds Account, and shall be used by the State (either
19 directly or by reimbursement) for the payment of outstanding
20 obligations of the General Revenue Fund or to supplement the
21 Tobacco Settlement Residual Account to pay for appropriated
22 obligations of the Tobacco Settlement Recovery Fund for State
23 fiscal year 2011 through 2013. Any residual interest in tobacco
24 settlement revenues shall be deposited in the Tobacco
25 Settlement Residual Account, and shall be used by the State
26 (either directly or by reimbursement) in accordance with

1 Section 6z-43 of the State Finance Act for appropriated
2 obligations of the Tobacco Settlement Recovery Fund. With
3 respect to any bonds of the Authority, the interest on which is
4 intended to be excludable from the gross income of the owners
5 for federal income tax purposes, the Authority and the
6 authorized officers may provide restrictions on the use of net
7 proceeds of bonds and other amounts in the sale agreement or
8 otherwise in a tax regulatory agreement only as necessary to
9 assure such tax-exempt status.

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

23 (i) The Authority may enter into, amend, or terminate, as
24 it deems to be necessary or appropriate, any related bond
25 facility to place the obligations or investments of the
26 Authority, as represented by the bonds or the investment of

1 reserves securing the bonds or related bond facilities or other
2 tobacco settlement revenues or its other assets, in whole or in
3 part, on the interest rate, cash flow, or other basis approved
4 by the Authority, which facility may include without limitation
5 contracts commonly known as interest rate swap agreements,
6 forward purchase contracts, or guaranteed investment contracts
7 and futures or contracts providing for payments based on levels
8 of, or changes in, interest rates. These contracts or
9 arrangements may be entered into by the Authority in connection
10 with, or incidental to, entering into, or maintaining any (i)
11 agreement which secures bonds of the Authority or (ii)
12 investment or contract providing for investment of reserves or
13 similar facility guaranteeing an investment rate for a period
14 of years not to exceed the underlying term of the bonds. The
15 determination by the Authority that a related bond facility or
16 the amendment or termination thereof is necessary or
17 appropriate as aforesaid shall be conclusive. Any related bond
18 facility may contain such provisions as to security, default,
19 termination, payment, remedy, jurisdiction, and consent to
20 service of process and other terms and conditions as determined
21 by the Authority, after giving due consideration to the
22 creditworthiness of the counterparty or other obligated party,
23 including any rating by any nationally recognized rating
24 agency, and any other criteria as may be appropriate.

25 (j) Bonds or any related bond facility may contain a
26 recital that they are issued or executed, respectively,

1 pursuant to this Act, which recital shall be conclusive
2 evidence of their validity, respectively, and the regularity of
3 the proceedings relating thereto.

4 Section 3-7. State not liable on bonds or related bond
5 facilities. No bond or related bond facility shall constitute
6 an indebtedness or an obligation of the State of Illinois or
7 any subdivision thereof, within the purview of any
8 constitutional or statutory limitation or provision or a charge
9 against the general credit or taxing powers, if any, of any of
10 them but shall be payable solely from pledged tobacco revenues.
11 No owner of any bond or provider of any related bond facility
12 shall have the right to compel the exercise of the taxing power
13 of the State to pay any principal installment of, redemption
14 premium, if any, or interest on the bonds or to make any
15 payment due under any related bond facility.

16 Section 3-8. Agreement with the State.

17 (a) The State pledges and agrees with the Authority, and
18 the owners of the bonds of the Authority in which the Authority
19 has included such pledge and agreement, that the State shall
20 (i) irrevocably direct the escrow agent under the Master
21 Settlement Agreement to transfer all pledged tobacco revenues
22 directly to the Authority or its assignee, (ii) enforce its
23 right to collect all moneys due from the participating
24 manufacturers under the Master Settlement Agreement and, in

1 addition, shall diligently enforce the qualifying statute as
2 contemplated in Section IX(d)(2)(B) of the Master Settlement
3 Agreement against all nonparticipating manufacturers selling
4 tobacco products in the State and that are not in compliance
5 with the qualifying statute, in each case in the manner and to
6 the extent deemed necessary in the judgment of and consistent
7 with the discretion of the Attorney General of the State,
8 provided, however, that the sale agreement shall provide (a)
9 that the remedies available to the Authority and the
10 bondholders for any breach of the pledges and agreements of the
11 State set forth in this clause shall be limited to injunctive
12 relief, and (b) that the State shall be deemed to have
13 diligently enforced the qualifying statute so long as there has
14 been no judicial determination by a court of competent
15 jurisdiction in this State, in an action commenced by a
16 participating tobacco manufacturer under the Master Settlement
17 Agreement, that the State has failed to diligently enforce the
18 qualifying statute for the purposes of Section IX(d)(2)(B) of
19 the Master Settlement Agreement, (iii) in any materially
20 adverse way, neither amend the Master Settlement Agreement nor
21 the Consent Decree or take any other action that would (a)
22 impair the Authority's right to receive pledged tobacco
23 revenues, or (b) limit or alter the rights hereby vested in the
24 Authority to fulfill the terms of its agreements with the
25 bondholders, or (c) impair the rights and remedies of such
26 bondholders or the security for such bonds until such bonds,

1 together with the interest thereon and all costs and expenses
2 in connection with any action or proceedings by or on behalf of
3 such bondholders, are fully paid and discharged (provided, that
4 nothing herein shall be construed to preclude the State's
5 regulation of smoking, smoking cessation activities and laws,
6 and taxation and regulation of the sale of cigarettes or the
7 like or to restrict the right of the State to amend, modify,
8 repeal, or otherwise alter statutes imposing or relating to the
9 taxes), and (iv) not amend, supersede or repeal the Master
10 Settlement Agreement or the qualifying statute in any way that
11 would materially adversely affect the amount of any payment to,
12 or the rights to such payments of, the Authority or such
13 bondholders. This pledge and agreement may be included in the
14 sale agreement and the Authority may include this pledge and
15 agreement in any contract with the bondholders of the
16 Authority.

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

25 Section 3-9. Enforcement of contract. The provisions of

1 this Act and of any resolution or proceeding authorizing the
2 issuance of bonds or a related bond facility shall constitute a
3 contract with the holders of the bonds or the related bond
4 facility, and the provisions thereof shall be enforceable
5 either by mandamus or other proceeding in any Illinois court of
6 competent jurisdiction to enforce and compel the performance of
7 all duties required by this Act and by any resolution
8 authorizing the issuance of bonds a related bond facility
9 adopted in response hereto.

10 Section 3-10. Bonds as legal investments. The State and all
11 counties, cities, villages, incorporated towns and other
12 municipal corporations, political subdivisions and public
13 bodies, and public officers of any thereof, all banks, bankers,
14 trust companies, savings banks and institutions, building and
15 loan associations, savings and loan associations, investment
16 companies, and other persons carrying on a banking business,
17 all insurance companies, insurance associations, and other
18 persons carrying on an insurance business, and all executors,
19 administrators, guardians, trustees, and other fiduciaries may
20 legally invest any sinking funds, moneys, or other funds
21 belonging to them or within their control in any bonds issued
22 pursuant to this Act, it being the purpose of this Section to
23 authorize the investment in such bonds of all sinking,
24 insurance, retirement, compensation, pension, and trust funds,
25 whether owned or controlled by private or public persons or

1 officers; provided, however, that nothing contained in this
2 Section may be construed as relieving any person, firm, or
3 corporation from any duty of exercising reasonable care in
4 selecting securities for purchase or investment.

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

19 Section 3-13. Illinois State Auditing Act. The Auditor
20 General shall conduct financial audits and program audits of
21 the Authority, in accordance with the Illinois State Auditing
22 Act.

23 Section 3-15. Supplemental nature of Act; construction and

1 purpose. The powers conferred by this Act shall be in addition
2 to and supplemental to the powers conferred by any other law,
3 general or special, and may be exercised notwithstanding the
4 provisions of any other such law. Insofar as the provisions of
5 this Act are inconsistent with the provisions of any other law,
6 general or special, the provisions of this Act shall be
7 controlling.

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

16 ARTICLE 5. AMENDATORY PROVISIONS

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

19 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

20 Sec. 5-45. Emergency rulemaking.

21 (a) "Emergency" means the existence of any situation that
22 any agency finds reasonably constitutes a threat to the public

1 interest, safety, or welfare.

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

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

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

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

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

1 implementation of the State's fiscal year 2000 budget,
2 emergency rules to implement any provision of this amendatory
3 Act of the 91st General Assembly or any other budget initiative
4 for fiscal year 2000 may be adopted in accordance with this
5 Section by the agency charged with administering that provision
6 or initiative, except that the 24-month limitation on the
7 adoption of emergency rules and the provisions of Sections
8 5-115 and 5-125 do not apply to rules adopted under this
9 subsection (e). The adoption of emergency rules authorized by
10 this subsection (e) shall be deemed to be necessary for the
11 public interest, safety, and welfare.

12 (f) In order to provide for the expeditious and timely
13 implementation of the State's fiscal year 2001 budget,
14 emergency rules to implement any provision of this amendatory
15 Act of the 91st General Assembly or any other budget initiative
16 for fiscal year 2001 may be adopted in accordance with this
17 Section by the agency charged with administering that provision
18 or initiative, except that the 24-month limitation on the
19 adoption of emergency rules and the provisions of Sections
20 5-115 and 5-125 do not apply to rules adopted under this
21 subsection (f). The adoption of emergency rules authorized by
22 this subsection (f) shall be deemed to be necessary for the
23 public interest, safety, and welfare.

24 (g) In order to provide for the expeditious and timely
25 implementation of the State's fiscal year 2002 budget,
26 emergency rules to implement any provision of this amendatory

1 Act of the 92nd General Assembly or any other budget initiative
2 for fiscal year 2002 may be adopted in accordance with this
3 Section by the agency charged with administering that provision
4 or initiative, except that the 24-month limitation on the
5 adoption of emergency rules and the provisions of Sections
6 5-115 and 5-125 do not apply to rules adopted under this
7 subsection (g). The adoption of emergency rules authorized by
8 this subsection (g) shall be deemed to be necessary for the
9 public interest, safety, and welfare.

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

22 (i) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 2004 budget,
24 emergency rules to implement any provision of this amendatory
25 Act of the 93rd General Assembly or any other budget initiative
26 for fiscal year 2004 may be adopted in accordance with this

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

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

24 (k) In order to provide for the expeditious and timely
25 implementation of the provisions of the State's fiscal year
26 2006 budget, emergency rules to implement any provision of this

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

18 (1) In order to provide for the expeditious and timely
19 implementation of the provisions of the State's fiscal year
20 2007 budget, the Department of Healthcare and Family Services
21 may adopt emergency rules during fiscal year 2007, including
22 rules effective July 1, 2007, in accordance with this
23 subsection to the extent necessary to administer the
24 Department's responsibilities with respect to amendments to
25 the State plans and Illinois waivers approved by the federal
26 Centers for Medicare and Medicaid Services necessitated by the

1 requirements of Title XIX and Title XXI of the federal Social
2 Security Act. The adoption of emergency rules authorized by
3 this subsection (l) shall be deemed to be necessary for the
4 public interest, safety, and welfare.

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

18 (n) In order to provide for the expeditious and timely
19 implementation of the provisions of the State's fiscal year
20 2010 budget, emergency rules to implement any provision of this
21 amendatory Act of the 96th General Assembly or any other budget
22 initiative authorized by the 96th General Assembly for fiscal
23 year 2010 may be adopted in accordance with this Section by the
24 agency charged with administering that provision or
25 initiative. The adoption of emergency rules authorized by this
26 subsection (n) shall be deemed to be necessary for the public

1 interest, safety, and welfare. The rulemaking authority
2 granted in this subsection (n) shall apply only to rules
3 promulgated during Fiscal Year 2010.

4 (o) In order to provide for the expeditious and timely
5 implementation of the provisions of the State's fiscal year
6 2011 budget, emergency rules to implement any provision of this
7 amendatory Act of the 96th General Assembly or any other budget
8 initiative authorized by the 96th General Assembly for fiscal
9 year 2011 may be adopted in accordance with this Section by the
10 agency charged with administering that provision or
11 initiative. The adoption of emergency rules authorized by this
12 subsection (o) is deemed to be necessary for the public
13 interest, safety, and welfare. The rulemaking authority
14 granted in this subsection (o) applies only to rules
15 promulgated on or after the effective date of this amendatory
16 Act of the 96th General Assembly through January 9, 2011.

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

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

21 (25 ILCS 115/1.6 new)

22 Sec. 1.6. FY11 furlough days. During the first 6 months of
23 the fiscal year beginning July 1, 2010, every member of the
24 96th General Assembly is mandatorily required to forfeit 6 days

1 of compensation. The State Comptroller shall deduct the
2 equivalent of 1/365th of the annual salary of each member of
3 the 96th General Assembly from the compensation of that member
4 in each of the first 6 months of the fiscal year. During the
5 second 6 months of the fiscal year beginning July 1, 2010,
6 every member of the 97th General Assembly is mandatorily
7 required to forfeit 6 days of compensation. The State
8 Comptroller shall deduct the equivalent of 1/365th of the
9 annual salary of each member of the 97th General Assembly from
10 the compensation of that member in each of the second 6 months
11 of the fiscal year. For purposes of this Section, annual
12 compensation includes compensation paid to each member by the
13 State for one year of service pursuant to Section 1, except any
14 payments made for mileage and allowances for travel and meals.
15 The forfeiture required by this Section is not considered a
16 change in salary and shall not impact pension or other benefits
17 provided to members of the General Assembly.

18 Section 5-15. The State Finance Act is amended by changing
19 Sections 6z-43, 14.1, and 25 and by adding Sections 5h and 14.2
20 as follows:

21 (30 ILCS 105/5h new)

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

23 (a) In order to meet cash flow deficits and to maintain
24 liquidity in the General Revenue Fund and the Common School

1 Fund, on and after July 1, 2010 and through January 9, 2011,
2 the State Treasurer and the State Comptroller shall make
3 transfers to the General Revenue Fund or the Common School
4 Fund, as directed by the Governor, out of special funds of the
5 State, to the extent allowed by federal law. No transfer may be
6 made from a fund under this Section that would have the effect
7 of reducing the available balance in the fund to an amount less
8 than the amount remaining unexpended and unreserved from the
9 total appropriation from that fund estimated to be expended for
10 that fiscal year. No such transfer may reduce the cumulative
11 balance of all of the special funds of the State to an amount
12 less than the total debt service payable during the 12 months
13 immediately following the date of the transfer on any bonded
14 indebtedness of the State and any certificates issued under the
15 Short Term Borrowing Act. Notwithstanding any other provision
16 of this Section, no such transfer may be made from any special
17 fund that is exclusively collected by or appropriated to any
18 other constitutional officer without the written approval of
19 that constitutional officer.

20 (b) If moneys have been transferred to the General Revenue
21 Fund or the Common School Fund pursuant to subsection (a) of
22 this Section, this amendatory Act of the 96th General Assembly
23 shall constitute the irrevocable and continuing authority for
24 and direction to the State Treasurer and State Comptroller to
25 reimburse the funds of origin from the General Revenue Fund or
26 the Common School Fund, as appropriate, by transferring to the

1 funds of origin, at such times and in such amounts as directed
2 by the Governor when necessary to support appropriated
3 expenditures from the funds, an amount equal to that
4 transferred from them plus any interest that would have accrued
5 thereon had the transfer not occurred, except that any moneys
6 transferred pursuant to subsection (a) of this Section shall be
7 repaid to the fund of origin within 18 months after the date on
8 which they were borrowed.

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

18 (1) The date each transfer was made.

19 (2) The amount of each transfer.

20 (3) In the case of a transfer from the General Revenue
21 Fund or the Common School Fund to a fund of origin pursuant
22 to subsection (b) of this Section, the amount of interest
23 being paid to the fund of origin.

24 (4) The end of day balance of both the fund of origin
25 and the General Revenue Fund or the Common School Fund,
26 whichever the case may be, on the date the transfer was

1 made.

2 (30 ILCS 105/6z-43)

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

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

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

26 (b) Moneys on deposit in the Tobacco Settlement Bond

1 Proceeds Account and the Tobacco Settlement Residual Account
2 may be expended, subject to appropriation, for the purposes
3 authorized in Section 6(g) of the Railsplitter Tobacco
4 Settlement Authority Act.

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

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

1 ~~to the Tobacco Settlement Recovery Fund as described in item~~
2 ~~(1) of subsection (a), the State Treasurer and State~~
3 ~~Comptroller shall transfer from the Tobacco Settlement~~
4 ~~Recovery Fund to the General Obligation Bond Retirement and~~
5 ~~Interest Fund the amount certified by the Governor, plus any~~
6 ~~cumulative deficiency in those transfers for prior years.~~

7 (d) All federal financial participation moneys received
8 pursuant to expenditures from the Fund shall be deposited into
9 the General Account Fund.

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

11 (30 ILCS 105/14.1) (from Ch. 127, par. 150.1)

12 Sec. 14.1. Appropriations for State contributions to the
13 State Employees' Retirement System; payroll requirements.

14 (a) Appropriations for State contributions to the State
15 Employees' Retirement System of Illinois shall be expended in
16 the manner provided in this Section. Except as otherwise
17 provided in subsections (a-1) and (a-2), at the time of each
18 payment of salary to an employee under the personal services
19 line item, payment shall be made to the State Employees'
20 Retirement System, from the amount appropriated for State
21 contributions to the State Employees' Retirement System, of an
22 amount calculated at the rate certified for the applicable
23 fiscal year by the Board of Trustees of the State Employees'
24 Retirement System under Section 14-135.08 of the Illinois
25 Pension Code. If a line item appropriation to an employer for

1 this purpose is exhausted or is unavailable due to any
2 limitation on appropriations that may apply, (including, but
3 not limited to, limitations on appropriations from the Road
4 Fund under Section 8.3 of the State Finance Act), the amounts
5 shall be paid under the continuing appropriation for this
6 purpose contained in the State Pension Funds Continuing
7 Appropriation Act.

8 (a-1) Beginning on the effective date of this amendatory
9 Act of the 93rd General Assembly through the payment of the
10 final payroll from fiscal year 2004 appropriations,
11 appropriations for State contributions to the State Employees'
12 Retirement System of Illinois shall be expended in the manner
13 provided in this subsection (a-1). At the time of each payment
14 of salary to an employee under the personal services line item
15 from a fund other than the General Revenue Fund, payment shall
16 be made for deposit into the General Revenue Fund from the
17 amount appropriated for State contributions to the State
18 Employees' Retirement System of an amount calculated at the
19 rate certified for fiscal year 2004 by the Board of Trustees of
20 the State Employees' Retirement System under Section 14-135.08
21 of the Illinois Pension Code. This payment shall be made to the
22 extent that a line item appropriation to an employer for this
23 purpose is available or unexhausted. No payment from
24 appropriations for State contributions shall be made in
25 conjunction with payment of salary to an employee under the
26 personal services line item from the General Revenue Fund.

1 (a-2) For fiscal year 2010 only, at the time of each
2 payment of salary to an employee under the personal services
3 line item from a fund other than the General Revenue Fund,
4 payment shall be made for deposit into the State Employees'
5 Retirement System of Illinois from the amount appropriated for
6 State contributions to the State Employees' Retirement System
7 of Illinois of an amount calculated at the rate certified for
8 fiscal year 2010 by the Board of Trustees of the State
9 Employees' Retirement System of Illinois under Section
10 14-135.08 of the Illinois Pension Code. This payment shall be
11 made to the extent that a line item appropriation to an
12 employer for this purpose is available or unexhausted. For
13 fiscal year 2010 only, no payment from appropriations for State
14 contributions shall be made in conjunction with payment of
15 salary to an employee under the personal services line item
16 from the General Revenue Fund.

17 (a-3) For fiscal year 2011 only, at the time of each
18 payment of salary to an employee under the personal services
19 line item from a fund other than the General Revenue Fund,
20 payment shall be made for deposit into the State Employees'
21 Retirement System of Illinois from the amount appropriated for
22 State contributions to the State Employees' Retirement System
23 of Illinois of an amount calculated at the rate certified for
24 fiscal year 2011 by the Board of Trustees of the State
25 Employees' Retirement System of Illinois under Section
26 14-135.08 of the Illinois Pension Code. This payment shall be

1 made to the extent that a line item appropriation to an
2 employer for this purpose is available or unexhausted. For
3 fiscal year 2011 only, no payment from appropriations for State
4 contributions shall be made in conjunction with payment of
5 salary to an employee under the personal services line item
6 from the General Revenue Fund.

7 (b) Except during the period beginning on the effective
8 date of this amendatory Act of the 93rd General Assembly and
9 ending at the time of the payment of the final payroll from
10 fiscal year 2004 appropriations, the State Comptroller shall
11 not approve for payment any payroll voucher that (1) includes
12 payments of salary to eligible employees in the State
13 Employees' Retirement System of Illinois and (2) does not
14 include the corresponding payment of State contributions to
15 that retirement system at the full rate certified under Section
16 14-135.08 for that fiscal year for eligible employees, unless
17 the balance in the fund on which the payroll voucher is drawn
18 is insufficient to pay the total payroll voucher, or
19 unavailable due to any limitation on appropriations that may
20 apply, including, but not limited to, limitations on
21 appropriations from the Road Fund under Section 8.3 of the
22 State Finance Act. If the State Comptroller approves a payroll
23 voucher under this Section for which the fund balance is
24 insufficient to pay the full amount of the required State
25 contribution to the State Employees' Retirement System, the
26 Comptroller shall promptly so notify the Retirement System.

1 (b-1) For fiscal year 2010 only, the State Comptroller
2 shall not approve for payment any non-General Revenue Fund
3 payroll voucher that (1) includes payments of salary to
4 eligible employees in the State Employees' Retirement System of
5 Illinois and (2) does not include the corresponding payment of
6 State contributions to that retirement system at the full rate
7 certified under Section 14-135.08 for that fiscal year for
8 eligible employees, unless the balance in the fund on which the
9 payroll voucher is drawn is insufficient to pay the total
10 payroll voucher, or unavailable due to any limitation on
11 appropriations that may apply, including, but not limited to,
12 limitations on appropriations from the Road Fund under Section
13 8.3 of the State Finance Act. If the State Comptroller approves
14 a payroll voucher under this Section for which the fund balance
15 is insufficient to pay the full amount of the required State
16 contribution to the State Employees' Retirement System of
17 Illinois, the Comptroller shall promptly so notify the
18 retirement system.

19 (c) Notwithstanding any other provisions of law, beginning
20 July 1, 2007, required State and employee contributions to the
21 State Employees' Retirement System of Illinois relating to
22 affected legislative staff employees shall be paid out of
23 moneys appropriated for that purpose to the Commission on
24 Government Forecasting and Accountability, rather than out of
25 the lump-sum appropriations otherwise made for the payroll and
26 other costs of those employees.

1 These payments must be made pursuant to payroll vouchers
2 submitted by the employing entity as part of the regular
3 payroll voucher process.

4 For the purpose of this subsection, "affected legislative
5 staff employees" means legislative staff employees paid out of
6 lump-sum appropriations made to the General Assembly, an
7 Officer of the General Assembly, or the Senate Operations
8 Commission, but does not include district-office staff or
9 employees of legislative support services agencies.

10 (Source: P.A. 95-707, eff. 1-11-08; 96-45, eff. 7-15-09.)

11 (30 ILCS 105/14.2 new)

12 Sec. 14.2. Fiscal year 2011 State officer compensation
13 forfeiture.

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

1 provided to those State officers.

2 (b) "State officers" for the purposes of subsection (a) are
3 the following:

4 Governor

5 Lieutenant Governor

6 Secretary of State

7 Attorney General

8 Comptroller

9 State Treasurer

10 Department on Aging: Director

11 Department of Agriculture: Director and Assistant
12 Director

13 Department of Central Management Services: Director
14 and Assistant Directors

15 Department of Children and Family Services: Director

16 Department of Corrections: Director and Assistant
17 Director

18 Department of Commerce and Economic Opportunity:
19 Director and Assistant Director

20 Environmental Protection Agency: Director

21 Department of Financial and Professional Regulation:
22 Secretary and Directors

23 Department of Human Services: Secretary and Assistant
24 Secretaries

25 Department of Juvenile Justice: Director

26 Department of Labor: Director, Assistant Director,

1 Chief Factory Inspector, and Superintendent of Safety
2 Inspection and Education

3 Department of State Police: Director and Assistant
4 Director

5 Department of Military Affairs: Adjutant General and
6 Chief Assistants to the Adjutant General

7 Department of Natural Resources: Director, Assistant
8 Director, Mine Officers, and Miners' Examining Officers

9 Illinois Labor Relations Board: Chairman, State Labor
10 Relations Board members, and Local Labor Relations Board
11 members

12 Department of Healthcare and Family Services: Director
13 and Assistant Director

14 Department of Public Health: Director and Assistant
15 Director

16 Department of Revenue: Director and Assistant Director
17 Property Tax Appeal Board: Chairman and members

18 Department of Veterans' Affairs: Director and
19 Assistant Director

20 Civil Service Commission: Chairman and members

21 Commerce Commission: Chairman and members

22 State Board of Elections: Chairman, Vice-Chairman, and
23 members

24 Illinois Emergency Management Agency: Director and
25 Assistant Director

26 Department of Human Rights: Director

1 Human Rights Commission: Chairman and members

2 Illinois Workers' Compensation Commission: Chairman
3 and members

4 Liquor Control Commission: Chairman, members, and
5 Secretary

6 Executive Ethics Commission: members

7 Illinois Power Agency: Director

8 Pollution Control Board: Chairman and members

9 Prisoner Review Board: Chairman and members

10 Secretary of State Merit Commission: Chairman and
11 members

12 Educational Labor Relations Board: Chairman and
13 members

14 Department of Transportation: Secretary and Assistant
15 Secretary

16 Office of Small Business Utility Advocate: small
17 business utility advocate

18 Executive Inspector General for the Office of the
19 Governor

20 Executive Inspector General for the Office of the
21 Attorney General

22 Executive Inspector General for the Office of the
23 Secretary of State

24 Executive Inspector General for the Office of the
25 Comptroller

26 Executive Inspector General for the Office of the

1 Treasurer

2 Office of Auditor General: Auditor General and Deputy
3 Auditors General.

4 (30 ILCS 105/25) (from Ch. 127, par. 161)

5 Sec. 25. Fiscal year limitations.

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

12 (b) Outstanding liabilities as of June 30, payable from
13 appropriations which have otherwise expired, may be paid out of
14 the expiring appropriations during the 2-month period ending at
15 the close of business on August 31. Any service involving
16 professional or artistic skills or any personal services by an
17 employee whose compensation is subject to income tax
18 withholding must be performed as of June 30 of the fiscal year
19 in order to be considered an "outstanding liability as of June
20 30" that is thereby eligible for payment out of the expiring
21 appropriation.

22 However, payment of tuition reimbursement claims under
23 Section 14-7.03 or 18-3 of the School Code may be made by the
24 State Board of Education from its appropriations for those
25 respective purposes for any fiscal year, even though the claims

1 reimbursed by the payment may be claims attributable to a prior
2 fiscal year, and payments may be made at the direction of the
3 State Superintendent of Education from the fund from which the
4 appropriation is made without regard to any fiscal year
5 limitations.

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

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

20 Medical payments may be made by the Department of
21 Healthcare and Family Services and medical payments and child
22 care payments may be made by the Department of Human Services
23 (as successor to the Department of Public Aid) from
24 appropriations for those purposes for any fiscal year, without
25 regard to the fact that the medical or child care services
26 being compensated for by such payment may have been rendered in

1 a prior fiscal year; and payments may be made at the direction
2 of the Department of Central Management Services from the
3 Health Insurance Reserve Fund and the Local Government Health
4 Insurance Reserve Fund without regard to any fiscal year
5 limitations.

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

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

21 Further, with respect to costs incurred in fiscal years
22 2002 and 2003 only, payments may be made by the State Treasurer
23 from its appropriations from the Capital Litigation Trust Fund
24 without regard to any fiscal year limitations.

25 Lease payments may be made by the Department of Central
26 Management Services under the sale and leaseback provisions of

1 Section 7.4 of the State Property Control Act with respect to
2 the James R. Thompson Center and the Elgin Mental Health Center
3 and surrounding land from appropriations for that purpose
4 without regard to any fiscal year limitations.

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

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

23 (d) The Department of Public Health and the Department of
24 Human Services (acting as successor to the Department of Public
25 Health under the Department of Human Services Act) shall each
26 annually submit to the State Comptroller, Senate President,

1 Senate Minority Leader, Speaker of the House, House Minority
2 Leader, and the respective Chairmen and Minority Spokesmen of
3 the Appropriations Committees of the Senate and the House, on
4 or before December 31, a report of fiscal year funds used to
5 pay for services provided in any prior fiscal year. This report
6 shall document by program or service category those
7 expenditures from the most recently completed fiscal year used
8 to pay for services provided in prior fiscal years.

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

23 (f) The Department of Human Services (as successor to the
24 Department of Public Aid) shall annually submit to the State
25 Comptroller, Senate President, Senate Minority Leader, Speaker
26 of the House, House Minority Leader, and the respective

1 Chairmen and Minority Spokesmen of the Appropriations
2 Committees of the Senate and the House, on or before December
3 31, a report of fiscal year funds used to pay for services
4 (other than medical care) provided in any prior fiscal year.
5 This report shall document by program or service category those
6 expenditures from the most recently completed fiscal year used
7 to pay for services provided in prior fiscal years.

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

12 (1) Explanations of the exact causes of the variance
13 between the previous year's estimated and actual
14 liabilities.

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

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

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

1 year.

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

4 (1) billing user agencies in advance for payments or
5 authorized inter-fund transfers based on estimated charges
6 for goods or services;

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

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

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

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

1 Section 5-20. The State Pension Funds Continuing
2 Appropriation Act is amended by changing Section 1.2 as
3 follows:

4 (40 ILCS 15/1.2)

5 Sec. 1.2. Appropriations for the State Employees'
6 Retirement System.

7 (a) From each fund from which an amount is appropriated for
8 personal services to a department or other employer under
9 Article 14 of the Illinois Pension Code, there is hereby
10 appropriated to that department or other employer, on a
11 continuing annual basis for each State fiscal year, an
12 additional amount equal to the amount, if any, by which (1) an
13 amount equal to the percentage of the personal services line
14 item for that department or employer from that fund for that
15 fiscal year that the Board of Trustees of the State Employees'
16 Retirement System of Illinois has certified under Section
17 14-135.08 of the Illinois Pension Code to be necessary to meet
18 the State's obligation under Section 14-131 of the Illinois
19 Pension Code for that fiscal year, exceeds (2) the amounts
20 otherwise appropriated to that department or employer from that
21 fund for State contributions to the State Employees' Retirement
22 System for that fiscal year. From the effective date of this
23 amendatory Act of the 93rd General Assembly through the final
24 payment from a department or employer's personal services line

1 item for fiscal year 2004, payments to the State Employees'
2 Retirement System that otherwise would have been made under
3 this subsection (a) shall be governed by the provisions in
4 subsection (a-1).

5 (a-1) If a Fiscal Year 2004 Shortfall is certified under
6 subsection (f) of Section 14-131 of the Illinois Pension Code,
7 there is hereby appropriated to the State Employees' Retirement
8 System of Illinois on a continuing basis from the General
9 Revenue Fund an additional aggregate amount equal to the Fiscal
10 Year 2004 Shortfall.

11 (a-2) If a Fiscal Year 2010 Shortfall is certified under
12 subsection (g) of Section 14-131 of the Illinois Pension Code,
13 there is hereby appropriated to the State Employees' Retirement
14 System of Illinois on a continuing basis from the General
15 Revenue Fund an additional aggregate amount equal to the Fiscal
16 Year 2010 Shortfall.

17 (b) The continuing appropriations provided for by this
18 Section shall first be available in State fiscal year 1996.

19 (c) Beginning in Fiscal Year 2005, any continuing
20 appropriation under this Section arising out of an
21 appropriation for personal services from the Road Fund to the
22 Department of State Police or the Secretary of State shall be
23 payable from the General Revenue Fund rather than the Road
24 Fund.

25 (d) For State fiscal year 2010 only, a continuing
26 appropriation is provided to the State Employees' Retirement

1 System equal to the amount certified by the System on or before
2 December 31, 2008, less the gross proceeds of the bonds sold in
3 fiscal year 2010 under the authorization contained in
4 subsection (a) of Section 7.2 of the General Obligation Bond
5 Act.

6 (e) For State fiscal year 2011 only, the continuing
7 appropriation under this Section provided to the State
8 Employees' Retirement System is limited to an amount equal to
9 the amount certified by the System on or before December 31,
10 2009, less any amounts received pursuant to subsection (a-3) of
11 Section 14.1 of the State Finance Act.

12 (Source: P.A. 96-43, eff. 7-15-09; 96-45, eff. 7-15-09; revised
13 11-3-09.)

14 ARTICLE 97. SEVERABILITY

15 Section 97-1. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

17 ARTICLE 99. EFFECTIVE DATE

18 Section 99-1. Effective date. This Act takes effect upon
19 becoming law."