

1 AN ACT concerning State government.

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

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

6 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

7 Sec. 5-45. Emergency rulemaking.

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

11 (b) If any agency finds that an emergency exists that
12 requires adoption of a rule upon fewer days than is required by
13 Section 5-40 and states in writing its reasons for that
14 finding, the agency may adopt an emergency rule without prior
15 notice or hearing upon filing a notice of emergency rulemaking
16 with the Secretary of State under Section 5-70. The notice
17 shall include the text of the emergency rule and shall be
18 published in the Illinois Register. Consent orders or other
19 court orders adopting settlements negotiated by an agency may
20 be adopted under this Section. Subject to applicable
21 constitutional or statutory provisions, an emergency rule
22 becomes effective immediately upon filing under Section 5-65 or
23 at a stated date less than 10 days thereafter. The agency's

1 finding and a statement of the specific reasons for the finding
2 shall be filed with the rule. The agency shall take reasonable
3 and appropriate measures to make emergency rules known to the
4 persons who may be affected by them.

5 (c) An emergency rule may be effective for a period of not
6 longer than 150 days, but the agency's authority to adopt an
7 identical rule under Section 5-40 is not precluded. No
8 emergency rule may be adopted more than once in any 24 month
9 period, except that this limitation on the number of emergency
10 rules that may be adopted in a 24 month period does not apply
11 to (i) emergency rules that make additions to and deletions
12 from the Drug Manual under Section 5-5.16 of the Illinois
13 Public Aid Code or the generic drug formulary under Section
14 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
15 emergency rules adopted by the Pollution Control Board before
16 July 1, 1997 to implement portions of the Livestock Management
17 Facilities Act, (iii) emergency rules adopted by the Illinois
18 Department of Public Health under subsections (a) through (i)
19 of Section 2 of the Department of Public Health Act when
20 necessary to protect the public's health, (iv) emergency rules
21 adopted pursuant to subsection (n) of this Section, or (v)
22 emergency rules adopted pursuant to subsection (o) of this
23 Section. Two or more emergency rules having substantially the
24 same purpose and effect shall be deemed to be a single rule for
25 purposes of this Section.

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

1 implementation of the State's fiscal year 1999 budget,
2 emergency rules to implement any provision of Public Act 90-587
3 or 90-588 or any other budget initiative for fiscal year 1999
4 may be adopted in accordance with this Section by the agency
5 charged with administering that provision or initiative,
6 except that the 24-month limitation on the adoption of
7 emergency rules and the provisions of Sections 5-115 and 5-125
8 do not apply to rules adopted under this subsection (d). The
9 adoption of emergency rules authorized by this subsection (d)
10 shall be deemed to be necessary for the public interest,
11 safety, and welfare.

12 (e) In order to provide for the expeditious and timely
13 implementation of the State's fiscal year 2000 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 2000 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 (e). The adoption of emergency rules authorized by
22 this subsection (e) shall be deemed to be necessary for the
23 public interest, safety, and welfare.

24 (f) In order to provide for the expeditious and timely
25 implementation of the State's fiscal year 2001 budget,
26 emergency rules to implement any provision of this amendatory

1 Act of the 91st General Assembly or any other budget initiative
2 for fiscal year 2001 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 (f). The adoption of emergency rules authorized by
8 this subsection (f) shall be deemed to be necessary for the
9 public interest, safety, and welfare.

10 (g) In order to provide for the expeditious and timely
11 implementation of the State's fiscal year 2002 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 2002 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 (g). The adoption of emergency rules authorized by
20 this subsection (g) shall be deemed to be necessary for the
21 public interest, safety, and welfare.

22 (h) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 2003 budget,
24 emergency rules to implement any provision of this amendatory
25 Act of the 92nd General Assembly or any other budget initiative
26 for fiscal year 2003 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 (h). The adoption of emergency rules authorized by
6 this subsection (h) shall be deemed to be necessary for the
7 public interest, safety, and welfare.

8 (i) In order to provide for the expeditious and timely
9 implementation of the State's fiscal year 2004 budget,
10 emergency rules to implement any provision of this amendatory
11 Act of the 93rd General Assembly or any other budget initiative
12 for fiscal year 2004 may be adopted in accordance with this
13 Section by the agency charged with administering that provision
14 or initiative, except that the 24-month limitation on the
15 adoption of emergency rules and the provisions of Sections
16 5-115 and 5-125 do not apply to rules adopted under this
17 subsection (i). The adoption of emergency rules authorized by
18 this subsection (i) shall be deemed to be necessary for the
19 public interest, safety, and welfare.

20 (j) In order to provide for the expeditious and timely
21 implementation of the provisions of the State's fiscal year
22 2005 budget as provided under the Fiscal Year 2005 Budget
23 Implementation (Human Services) Act, emergency rules to
24 implement any provision of the Fiscal Year 2005 Budget
25 Implementation (Human Services) Act may be adopted in
26 accordance with this Section by the agency charged with

1 administering that provision, except that the 24-month
2 limitation on the adoption of emergency rules and the
3 provisions of Sections 5-115 and 5-125 do not apply to rules
4 adopted under this subsection (j). The Department of Public Aid
5 may also adopt rules under this subsection (j) necessary to
6 administer the Illinois Public Aid Code and the Children's
7 Health Insurance Program Act. The adoption of emergency rules
8 authorized by this subsection (j) shall be deemed to be
9 necessary for the public interest, safety, and welfare.

10 (k) In order to provide for the expeditious and timely
11 implementation of the provisions of the State's fiscal year
12 2006 budget, emergency rules to implement any provision of this
13 amendatory Act of the 94th General Assembly or any other budget
14 initiative for fiscal year 2006 may be adopted in accordance
15 with this Section by the agency charged with administering that
16 provision or initiative, except that the 24-month limitation on
17 the 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 (k). The Department of Healthcare and Family
20 Services may also adopt rules under this subsection (k)
21 necessary to administer the Illinois Public Aid Code, the
22 Senior Citizens and Disabled Persons Property Tax Relief and
23 Pharmaceutical Assistance Act, the Senior Citizens and
24 Disabled Persons Prescription Drug Discount Program Act (now
25 the Illinois Prescription Drug Discount Program Act), and the
26 Children's Health Insurance Program Act. The adoption of

1 emergency rules authorized by this subsection (k) shall be
2 deemed to be necessary for the public interest, safety, and
3 welfare.

4 (l) In order to provide for the expeditious and timely
5 implementation of the provisions of the State's fiscal year
6 2007 budget, the Department of Healthcare and Family Services
7 may adopt emergency rules during fiscal year 2007, including
8 rules effective July 1, 2007, in accordance with this
9 subsection to the extent necessary to administer the
10 Department's responsibilities with respect to amendments to
11 the State plans and Illinois waivers approved by the federal
12 Centers for Medicare and Medicaid Services necessitated by the
13 requirements of Title XIX and Title XXI of the federal Social
14 Security Act. The adoption of emergency rules authorized by
15 this subsection (l) shall be deemed to be necessary for the
16 public interest, safety, and welfare.

17 (m) In order to provide for the expeditious and timely
18 implementation of the provisions of the State's fiscal year
19 2008 budget, the Department of Healthcare and Family Services
20 may adopt emergency rules during fiscal year 2008, including
21 rules effective July 1, 2008, in accordance with this
22 subsection to the extent necessary to administer the
23 Department's responsibilities with respect to amendments to
24 the State plans and Illinois waivers approved by the federal
25 Centers for Medicare and Medicaid Services necessitated by the
26 requirements of Title XIX and Title XXI of the federal Social

1 Security Act. The adoption of emergency rules authorized by
2 this subsection (m) shall be deemed to be necessary for the
3 public interest, safety, and welfare.

4 (n) In order to provide for the expeditious and timely
5 implementation of the provisions of the State's fiscal year
6 2010 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 2010 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 (n) shall be deemed to be necessary for the public
13 interest, safety, and welfare. The rulemaking authority
14 granted in this subsection (n) shall apply only to rules
15 promulgated during Fiscal Year 2010.

16 (o) In order to provide for the expeditious and timely
17 implementation of the provisions of the State's fiscal year
18 2011 budget, emergency rules to implement any provision of this
19 amendatory Act of the 96th General Assembly or any other budget
20 initiative authorized by the 96th General Assembly for fiscal
21 year 2011 may be adopted in accordance with this Section by the
22 agency charged with administering that provision or
23 initiative. The adoption of emergency rules authorized by this
24 subsection (o) is deemed to be necessary for the public
25 interest, safety, and welfare. The rulemaking authority
26 granted in this subsection (o) applies only to rules

1 promulgated on or after the effective date of this amendatory
2 Act of the 96th General Assembly through June 30, 2011 ~~January~~
3 ~~9, 2011~~.

4 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 96-45,
5 eff. 7-15-09; 96-958, eff. 7-1-10.)

6 Section 10. The State Finance Act is amended by changing
7 Section 5h as follows:

8 (30 ILCS 105/5h)

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

10 (a) In order to meet cash flow deficits and to maintain
11 liquidity in the General Revenue Fund and the Common School
12 Fund, on and after July 1, 2010 and through June 30, 2011
13 ~~January 9, 2011~~, the State Treasurer and the State Comptroller
14 shall make transfers to the General Revenue Fund or the Common
15 School Fund, as directed by the Governor, out of special funds
16 of the State, to the extent allowed by federal law. No transfer
17 may be made from a fund under this Section that would have the
18 effect of reducing the available balance in the fund to an
19 amount less than the amount remaining unexpended and unreserved
20 from the total appropriation from that fund estimated to be
21 expended for that fiscal year. No such transfer may reduce the
22 cumulative balance of all of the special funds of the State to
23 an amount less than the total debt service payable during the
24 12 months immediately following the date of the transfer on any

1 bonded indebtedness of the State and any certificates issued
2 under the Short Term Borrowing Act. Notwithstanding any other
3 provision of this Section, no such transfer may be made from
4 any special fund that is exclusively collected by or
5 appropriated to any other constitutional officer without the
6 written approval of that constitutional officer.

7 (b) If moneys have been transferred to the General Revenue
8 Fund or the Common School Fund pursuant to subsection (a) of
9 this Section, this amendatory Act of the 96th General Assembly
10 shall constitute the irrevocable and continuing authority for
11 and direction to the State Treasurer and State Comptroller to
12 reimburse the funds of origin from the General Revenue Fund or
13 the Common School Fund, as appropriate, by transferring to the
14 funds of origin, at such times and in such amounts as directed
15 by the Governor when necessary to support appropriated
16 expenditures from the funds, an amount equal to that
17 transferred from them plus any interest that would have accrued
18 thereon had the transfer not occurred, except that any moneys
19 transferred pursuant to subsection (a) of this Section shall be
20 repaid to the fund of origin within 18 months after the date on
21 which they were borrowed.

22 (c) On the first day of each quarterly period in each
23 fiscal year, the Governor's Office of Management and Budget
24 shall provide to the President and the Minority Leader of the
25 Senate, the Speaker and the Minority Leader of the House of
26 Representatives, and the Commission on Government Forecasting

1 and Accountability a report on all transfers made pursuant to
2 this Section in the prior quarterly period. The report must be
3 provided in both written and electronic format. The report must
4 include all of the following:

5 (1) The date each transfer was made.

6 (2) The amount of each transfer.

7 (3) In the case of a transfer from the General Revenue
8 Fund or the Common School Fund to a fund of origin pursuant
9 to subsection (b) of this Section, the amount of interest
10 being paid to the fund of origin.

11 (4) The end of day balance of both the fund of origin
12 and the General Revenue Fund or the Common School Fund,
13 whichever the case may be, on the date the transfer was
14 made.

15 (Source: P.A. 96-958, eff. 7-1-10.)

16 Section 15. The Emergency Budget Act of Fiscal Year 2011 is
17 amended by changing Sections 1-10, 1-15, and 1-20 as follows:

18 (30 ILCS 187/1-10)

19 (Section scheduled to be repealed on July 1, 2011)

20 Sec. 1-10. Designation of contingency reserve. Beginning
21 on July 1, 2010 and until June 30, 2011 ~~January 9, 2011~~, the
22 Governor may designate amounts to be set aside as a contingency
23 reserve from the amounts appropriated from the General Revenue
24 Fund, the Common School Fund, the Education Assistance Fund,

1 and any special fund of the State for State fiscal year 2011
2 for all boards, commissions, agencies, institutions,
3 authorities, colleges, universities, and bodies politic and
4 corporate of the State, but not other constitutional officers,
5 the legislative or judicial branch, the office of the Executive
6 Inspector General, or the Executive Ethics Commission. The
7 total contingency reserve may not exceed one-third of the sum
8 of (i) the total dollar amount of vouchers that have been
9 submitted to the State Comptroller for payment but for which
10 warrants have not been issued by the Comptroller as of July 1,
11 2010 and (ii) the total dollar amount of any fiscal year 2010
12 mandated statutory transfers that have not been executed as of
13 July 1, 2010. The State Comptroller shall certify the total
14 dollar amount of those outstanding vouchers and transfers to
15 the Governor on or before July 8, 2010.

16 (Source: P.A. 96-958, eff. 7-1-10.)

17 (30 ILCS 187/1-15)

18 (Section scheduled to be repealed on July 1, 2011)

19 Sec. 1-15. Contingency reserve restrictions. Until June
20 30, 2011 ~~January 9, 2011~~, the amounts placed in contingency
21 reserve shall not be transferred, obligated, encumbered,
22 expended, or otherwise committed unless the Governor
23 authorizes the removal of the amounts from the contingency
24 reserve or the State, by an Act of the 96th General Assembly,
25 generates incremental revenues sufficient to support such

1 transfers, obligations, encumbrances, expenditures, or other
2 commitments.

3 (Source: P.A. 96-958, eff. 7-1-10.)

4 (30 ILCS 187/1-20)

5 (Section scheduled to be repealed on July 1, 2011)

6 Sec. 1-20. All State programs subject to appropriation.
7 Notwithstanding any other Act to the contrary, during State
8 fiscal year 2011, any expenditure from State funds authorized
9 or required by any State law are made subject to appropriation
10 through June 30, 2011 ~~January 9, 2011~~ of that fiscal year. No
11 moneys shall be obligated or expended during that time unless
12 they are supported by available State fiscal year 2011
13 appropriations that are not otherwise obligated or reserved
14 pursuant to Section 1-10 of this Act. The provisions of this
15 Section do not apply to non-appropriated funds,
16 non-appropriated accounts, locally held funds, or
17 appropriations with continuing authority.

18 (Source: P.A. 96-958, eff. 7-1-10.)

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