

1 AN ACT concerning proceeds from tobacco litigation.

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

4 Section 1. Short title. This Act may be cited as the
5 Tobacco Settlement Bond Act.

6 Section 5. Definitions. In this Act:

7 "Bond" means a bond or note or any other evidence of
8 obligation for borrowed money deemed appropriate by the
9 Bureau of the Budget under this Act.

10 "Budget Director" means the Director of the Bureau of the
11 Budget.

12 "Master Settlement Agreement" means the Master Settlement
13 Agreement entered in the case of the People of the State of
14 Illinois v. Phillip Morris, et al. (Circuit Court of Cook
15 County, No. 96-L13146).

16 Section 10. Bonding.

17 (a) The Bureau of the Budget may issue no more than
18 \$1,500,000,000 in bonds that are revenue bonds and that are
19 payable solely from and secured solely by the proceeds of the
20 Master Settlement Agreement. The Bureau of the Budget may
21 issue bonds for the purpose of refunding, advance refunding,
22 or refinancing outstanding bonds, for the purpose of
23 establishing reserves, paying the interest on the bonds, and
24 paying costs of issuance of the bonds, and for any other
25 proper public purpose. Bonds may be issued in one or more
26 series and shall be payable solely and secured solely by the
27 moneys required under this Act to be transferred from the
28 Tobacco Settlement Recovery Fund to the Tobacco Settlement
29 Bond Fund.

30 (b) Bonds may be authorized by a resolution of the

1 Bureau of the Budget and may be secured by a trust agreement
2 by and between the Bureau of the Budget and a corporate
3 trustee or trustees, which may be any trust company or bank
4 having the powers of a trust company within or without the
5 State. Bonds may:

6 (1) Mature at any time or times not exceeding 30
7 years from the effective date of this Act.

8 (2) Notwithstanding the provisions of the Bond
9 Authorization Act or any other provision of law, bear
10 interest at any fixed or variable rate or rates
11 determined by the method provided in the resolution or
12 trust agreement.

13 (3) Be payable as to principal and interest at any
14 time or times on or after January 1, 2003, in the
15 denominations and form, either coupon or registered or
16 both, and carry the registration and privileges as to
17 exchange, transfer, or conversion and for the replacement
18 of mutilated, lost, or destroyed bonds as the resolution
19 or trust agreement may provide.

20 (4) Be payable in lawful money of the United States
21 at a designated place.

22 (5) Be subject to the terms of purchase, payment,
23 redemption, refunding, or refinancing that the resolution
24 or trust agreement provides.

25 (6) Be executed by the manual or facsimile
26 signature of the Budget Director, which signature shall
27 be valid at delivery even for one who has ceased to hold
28 office.

29 (7) Be sold at public or private sale in the manner
30 and upon the terms determined by the Bureau of the
31 Budget.

32 (8) Have such other terms and provisions as shall
33 be authorized by the Bureau of the Budget.

34 (c) Any resolution or trust agreement may contain

1 provisions that shall be a part of the contract with the
2 holders of the bonds as to:

3 (1) Limitations on the issue of additional bonds,
4 the terms upon which additional bonds may be issued and
5 secured, and the terms upon which additional bonds may
6 rank on a parity with, or be subordinate or superior to,
7 other bonds.

8 (2) The refunding, advance refunding or refinancing
9 of outstanding bonds.

10 (3) The procedure, if any, by which the terms of
11 any contract with holders of the bonds may be altered or
12 amended, the number of bond holders that must consent
13 thereto, and the manner in which consent shall be given.

14 (4) Defining the acts or omissions which shall
15 constitute a default in the duties of the Bureau of the
16 Budget to the holders of bonds and providing the rights
17 or remedies of such holders in the event of a default
18 which may include provisions restricting individual right
19 of action by the holders of the bonds.

20 (5) Any other matter relating to the bonds which
21 the Bureau of the Budget determines appropriate.

22 (d) In connection with the issuance of its bonds, the
23 Bureau of the Budget may enter into arrangements to provide
24 additional security and liquidity for the bonds. These may
25 include, without limitation, bond insurance, letters of
26 credit, lines of credit by which the Bureau of the Budget may
27 borrow funds to pay or redeem its bonds, and purchase or
28 remarketing arrangements for assuring the ability of holders
29 of the Bureau of the Budget's bonds to sell or to have
30 redeemed their bonds.

31 (e) A pledge by the Bureau of the Budget of the moneys
32 transferred from the Tobacco Settlement Recovery Fund to the
33 Tobacco Settlement Bond Fund as security for an issue of
34 bonds or for the performance of its obligations under any

1 management agreement shall be valid and binding from the time
2 when the pledge is made. The moneys transferred from the
3 Tobacco Settlement Recovery Fund to the Tobacco Settlement
4 Bond Fund and pledged by the Bureau of the Budget shall
5 immediately be subject to the lien of the pledge without any
6 physical delivery or further act, and the lien of any pledge
7 shall be valid and binding against any person having any
8 claim of any kind in tort, contract, or otherwise against the
9 Bureau of the Budget, irrespective of whether the person has
10 notice. No resolution, trust agreement, management agreement
11 or financing statement, continuation statement, or other
12 instrument adopted or entered into by the Bureau of the
13 Budget need be filed or recorded in any public record other
14 than the records of the Bureau of the Budget in order to
15 perfect the lien against third persons, regardless of any
16 contrary provision of law.

17 (f) The Bureau of the Budget may issue bonds to refund,
18 advance refund, or refinance any of its bonds then
19 outstanding, including the payment of any redemption premium
20 and any interest accrued or to accrue to the earliest or any
21 subsequent date of redemption, purchase, or maturity of the
22 bonds, provided that the Bureau of the Budget shall not issue
23 any bonds that mature later than 30 years from the effective
24 date of this Act.

25 (g) The bonds of the Bureau of the Budget shall not
26 constitute an indebtedness of the State or of any political
27 subdivision of the State. The bonds of the Bureau of the
28 Budget shall not be an obligation, general or moral, of the
29 State of Illinois and shall not be an obligation, general or
30 moral, secured by a pledge of the full faith and credit of
31 the State of Illinois, and the holders of bonds of the Bureau
32 of the Budget may not require the levy or imposition by the
33 State of any taxes or the application of other State revenues
34 or funds to the payment of the bonds of the Bureau of the

1 Budget. No employee of the Bureau of the Budget or any
2 person executing the bonds shall be liable personally on the
3 bonds or subject to any personal liability by reason of the
4 issuance of the bonds. The foregoing shall be stated on the
5 face of each bond.

6 (h) The State of Illinois pledges to and agrees with the
7 holders of the bonds of the Bureau of the Budget issued
8 pursuant to this Act that the State will not limit or alter
9 the rights and powers vested in the Bureau of the Budget by
10 this Act so as to impair the terms of any contract made by
11 the Bureau of the Budget with those holders or in any way
12 impair the rights and remedies of those holders until the
13 bonds, together with interest thereon, with interest on any
14 unpaid installments of interest, and all costs and expenses
15 in connection with any action or proceedings by or on behalf
16 of those holders, are fully met and discharged. In addition,
17 the State pledges to and agrees with the holders of the bonds
18 of the Bureau of the Budget issued pursuant to this Act that
19 the State will not limit or alter the basis on which the
20 moneys are transferred from the Tobacco Settlement Recovery
21 Fund to the Tobacco Settlement Bond Fund as provided in this
22 Act, or the use of those funds, so as to impair the terms of
23 any such contract. The Bureau of the Budget is authorized to
24 include these pledges and agreements of the State in any
25 contract with the holders of bonds issued pursuant to this
26 Section.

27 (i) The Bureau of the Budget may enter into agreements
28 or contracts with any person necessary or appropriate to
29 place the payment obligations of the Bureau of the Budget
30 under any of its bonds in whole or in part on any interest
31 rate basis, cash flow basis, or other basis desired by the
32 Bureau of the Budget, including without limitation agreements
33 or contracts commonly known as "interest rate swap
34 agreements", "forward payment conversion agreements", and

1 "futures", or agreements or contracts providing for payments
2 based on levels of or changes in interest rates, or
3 agreements or contracts to exchange cash flows or a series of
4 payments, or agreements or contracts, including without
5 limitation agreements or contracts commonly known as
6 "options", "puts", or "calls", to hedge payment, rate spread,
7 or similar exposure; provided, that any such agreement or
8 contract shall not constitute an obligation for borrowed
9 money and shall not be taken into account under this Act or
10 any other debt limit of the Bureau of the Budget or the State
11 of Illinois.

12 Section 15. Tobacco Settlement Bond Fund. Beginning on
13 the effective date of this Act, all moneys in the Tobacco
14 Settlement Recovery Fund and all moneys thereafter paid into
15 the Tobacco Settlement Recovery Fund shall be transferred to
16 the Tobacco Settlement Bond Fund, which is hereby created,
17 until the Bureau of the Budget certifies to the State
18 Treasurer and the Comptroller that the amount that will be
19 necessary to finance the principal of, interest on, and
20 premium, if any, on the \$1,500,000 in bonds issued under
21 this Act has been paid into the Tobacco Settlement Bond Fund.
22 All interest earned on moneys deposited into the Tobacco
23 Settlement Bond Fund shall be deposited into the Fund. The
24 Bureau of the Budget shall pay its administrative expenses
25 and debt service expenses from the Tobacco Settlement Bond
26 Fund, provided that its administrative expenses do not exceed
27 0.5% of the payments transferred to the Bureau of the Budget.

28 Section 20. Use of proceeds from the sale of bonds. All
29 proceeds from the sale of bonds under this Act shall be
30 deposited into the School Infrastructure Fund to be used only
31 for grants to school districts for school construction
32 projects and school maintenance projects as provided in the

1 School Construction Law.

2 Section 25. Records and reporting. The Budget Director
3 shall keep a record of the proceedings of the Bureau of the
4 Budget relating to this Act. The State Treasurer shall be
5 custodian of all Bureau of the Budget funds relating to this
6 Act. The accounts and books of the Bureau of the Budget
7 relating to this Act shall be set up and maintained in a
8 manner approved by the Auditor General, and the Bureau of the
9 Budget shall file with the Auditor General a certified annual
10 report within 120 days after the close of its fiscal year.
11 The Bureau of the Budget shall also file with the Governor,
12 the Secretary of the Senate, the Clerk of the House of
13 Representatives, and the Illinois Economic and Fiscal
14 Commission, by March 1 of each year, a written report
15 covering its activities relating to this Act for the previous
16 fiscal year. After being so filed, the report shall be a
17 public record and open for inspection at the offices of the
18 Bureau of the Budget during normal business hours.

19 Section 30. Conflicts of interest. No employee of the
20 Bureau of the Budget may participate in any decision on any
21 contract entered into by the Bureau of the Budget if the
22 employee has a 7.5% or greater pecuniary interest, direct or
23 indirect, in any firm, partnership, corporation, or
24 association which is or may be a party to the contract.
25 Contracts or agreements obtained through properly advertised
26 bid procedures, or the ownership of stock or other interest
27 in any firm, partnership, corporation, or association in
28 which the employee does not actively participate in
29 day-to-day management, shall not be interpreted as a direct
30 or indirect pecuniary interest in violation of this Act.
31 Notwithstanding any other provision of law, any contract or
32 agreement entered into in conformity with this subsection

1 shall not be void or invalid by reason of any such interest,
2 nor shall any person so refraining from participation be
3 guilty of any offense, be removed from employment, or be
4 subject to any other penalty on account of that interest.

5 Section 35. Limitation. Any action or proceeding in any
6 court to set aside a resolution authorizing the Bureau of the
7 Budget's issuance of bonds under this Act or to obtain any
8 relief upon the ground that the resolution is invalid must be
9 commenced within 30 days after the Bureau of the Budget
10 adopts the resolution. After this period of limitation
11 expires, no right of action or defense founded upon the
12 invalidity of the resolution or any of its provisions may be
13 asserted, nor may the validity of the resolution or any of
14 its provisions be open to question in any court on any
15 ground.

16 Section 40. Bonds as legal investments and security.
17 Notwithstanding any restrictions contained in any other law,
18 all national banking associations, state banks, trust
19 companies, savings banks and institutions, building and loan
20 associations, savings and loan associations, investment
21 companies and other persons carrying on a banking business,
22 all insurance companies, insurance associations and other
23 persons carrying on an insurance business, and all executors,
24 administrators, guardians, trustees and other fiduciaries,
25 may legally invest any sinking funds, money or other funds
26 belonging to them or within their control in any bonds issued
27 by the Bureau of the Budget under this Act.

28 Section 45. Tax exemptions. All bonds issued under this
29 Act are deemed to constitute essential public and
30 governmental purposes and the bonds so issued, their transfer
31 and the income from those bonds are at all times exempt from

1 taxation within this State. For purposes of Section 250 of
2 the Illinois Income Tax Act, the exemption of the income from
3 bonds issued under this Act shall terminate after all of the
4 bonds have been paid. The amount of such income that shall be
5 added and then subtracted on the Illinois income tax return
6 of a taxpayer, pursuant to Section 203 of the Illinois Income
7 Tax Act, from federal adjusted gross income or federal
8 taxable income in computing Illinois base income shall be the
9 interest net of any bond premium amortization.

10 Section 50. Personal liability. Neither the employees of
11 the Bureau of the Budget nor any person executing bonds
12 issued under this Act shall be liable personally on those
13 bonds by reason of the issuance of the bonds.

14 Section 55. Complete, additional, and alternative
15 methods. The foregoing Sections of this Act are deemed to
16 provide a complete, additional, and alternative method for
17 the doing of the things authorized thereby and shall be
18 regarded as supplemental and additional to powers conferred
19 by other laws, provided that the issuance of bonds under this
20 Act need not comply with the requirements of any other law
21 applicable to the issuance of bonds. Except as otherwise
22 expressly provided in this Act, none of the powers granted to
23 the Bureau of the Budget under this Act shall be subject to
24 the supervision or regulation or require the approval or
25 consent of any municipality or political subdivision or any
26 department, division, commission, board, body, bureau,
27 official, or agency thereof or of the State.

28 Section 60. Liberal construction of Act. This Act,
29 being necessary for the welfare of the State and its
30 inhabitants, shall be liberally construed to effect its
31 purposes.

1 Section 65. Severability. If any clause or other
2 portion of this Act is held invalid, that decision shall not
3 affect the validity of the remaining portions of this Act.
4 It is hereby declared that all such remaining portions of
5 this Act are severable, and that the General Assembly would
6 have enacted the remaining portions if the portions that may
7 be so held to be invalid had not been included in this Act.

8 Section 905. The State Finance Act is amended by
9 changing Section 6z-43 as follows:

10 (30 ILCS 105/6z-43)

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

12 (a) There is created in the State Treasury a special
13 fund to be known as the Tobacco Settlement Recovery Fund,
14 into which shall be deposited all monies paid to the State
15 pursuant to (1) the Master Settlement Agreement entered in
16 the case of People of the State of Illinois v. Philip Morris,
17 et al. (Circuit Court of Cook County, No. 96-L13146) and (2)
18 any settlement with or judgment against any tobacco product
19 manufacturer other than one participating in the Master
20 Settlement Agreement in satisfaction of any released claim as
21 defined in the Master Settlement Agreement, as well as any
22 other monies as provided by law. All earnings on Fund
23 investments shall be deposited into the Fund. Upon the
24 creation of the Fund, the State Comptroller shall order the
25 State Treasurer to transfer into the Fund any monies paid to
26 the State as described in item (1) or (2) of this Section
27 before the creation of the Fund plus any interest earned on
28 the investment of those monies. The Treasurer may invest the
29 moneys in the Fund in the same manner, in the same types of
30 investments, and subject to the same limitations provided in
31 the Illinois Pension Code for the investment of pension funds
32 other than those established under Article 3 or 4 of the

1 Code.

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

13 (c) The State Treasurer shall administer the Tobacco
14 Settlement Recovery Fund consistently with the Tobacco
15 Settlement Bond Act.

16 (Source: P.A. 91-646, eff. 11-19-99; 91-704, eff. 7-1-00;
17 91-797, eff. 6-9-00; 92-11, eff. 6-11-01; 92-16, eff.
18 6-28-01.)

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