



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3803

Introduced 10/5/2011, by Rep. Kent Gaffney

#### SYNOPSIS AS INTRODUCED:

30 ILCS 115/1	from Ch. 85, par. 611
35 ILCS 5/201.5	
35 ILCS 5/901	from Ch. 120, par. 9-901

Amends the State Revenue Sharing Act and the Illinois Income Tax Act. Provides that, from each income tax payment that the Department of Revenue receives, the Department must deposit certain amounts directly into the Local Government Distributive Fund (currently, the Department deposits the tax payment into the General Revenue Fund and the Treasurer then transfers a percentage of the net revenue to the Local Government Distributive Fund). In a Section concerning the State spending limitation, changes the definition of "State spending" to include amounts appropriated from the Local Government Distributive Fund under the State Revenue Sharing Act. Effective immediately.

LRB097 12879 PJG 57377 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The State Revenue Sharing Act is amended by  
5 changing Section 1 as follows:

6 (30 ILCS 115/1) (from Ch. 85, par. 611)

7 Sec. 1. Local Government Distributive Fund.

8 (a) Through June 30, 1994, as soon as may be after the  
9 first day of each month the Department of Revenue shall certify  
10 to the Treasurer an amount equal to 1/12 of the net revenue  
11 realized from the tax imposed by subsections (a) and (b) of  
12 Section 201 of the Illinois Income Tax Act during the preceding  
13 month.

14 Beginning July 1, 1994, and continuing through June 30,  
15 1995, as soon as may be after the first day of each month, the  
16 Department of Revenue shall certify to the Treasurer an amount  
17 equal to 1/11 of the net revenue realized from the tax imposed  
18 by subsections (a) and (b) of Section 201 of the Illinois  
19 Income Tax Act during the preceding month.

20 Beginning July 1, 1995 and continuing through December 31,  
21 2011, as soon as may be after the first day of each month, the  
22 Department of Revenue shall certify to the Treasurer an amount  
23 equal to 1/10 of the net revenue realized from the tax imposed

1 by subsections (a) and (b) of Section 201 of the Illinois  
2 Income Tax Act during the preceding month.

3 For the purpose of this subsection (a), net ~~Net~~ revenue  
4 realized for a month shall be defined as the revenue from the  
5 tax imposed by subsections (a) and (b) of Section 201 of the  
6 Illinois Income Tax Act which is deposited in the General  
7 Revenue Fund, the Education Assistance Fund and the Income Tax  
8 Surcharge Local Government Distributive Fund during the month  
9 minus the amount paid out of the General Revenue Fund in State  
10 warrants during that same month as refunds to taxpayers for  
11 overpayment of liability under the tax imposed by subsections  
12 (a) and (b) of Section 201 of the Illinois Income Tax Act.

13 Upon receipt of a ~~such~~ certification under this subsection  
14 (a), the Treasurer shall transfer from the General Revenue Fund  
15 to a special fund in the State treasury, to be known as the  
16 "Local Government Distributive Fund", the amount shown on such  
17 certification.

18 (b) Beginning January 1, 2012, for all payments collected  
19 on or after December 1, 2011, the Department of Revenue shall,  
20 immediately upon receipt, deposit into the Local Government  
21 Distributive Fund the amounts required to be deposited into the  
22 Local Government Distributive Fund under subsection (b) of  
23 Section 901 of the Illinois Income Tax Act.

24 (c) All amounts paid into the Local Government Distributive  
25 Fund in accordance with this Section and allocated pursuant to  
26 this Act are appropriated on a continuing basis.

1 (Source: P.A. 88-89.)

2 Section 10. The Illinois Income Tax Act is amended by  
3 changing Sections 201.5 and 901 as follows:

4 (35 ILCS 5/201.5)

5 Sec. 201.5. State spending limitation and tax reduction.

6 (a) If, beginning in State fiscal year 2012 and continuing  
7 through State fiscal year 2015, State spending for any fiscal  
8 year exceeds the State spending limitation set forth in  
9 subsection (b) of this Section, then the tax rates set forth in  
10 subsection (b) of Section 201 of this Act shall be reduced,  
11 according to the procedures set forth in this Section, to 3% of  
12 the taxpayer's net income for individuals, trusts, and estates  
13 and to 4.8% of the taxpayer's net income for corporations. For  
14 all taxable years following the taxable year in which the rate  
15 has been reduced pursuant to this Section, the tax rate set  
16 forth in subsection (b) of Section 201 of this Act shall be 3%  
17 of the taxpayer's net income for individuals, trusts, and  
18 estates and 4.8% of the taxpayer's net income for corporations.

19 (b) The State spending limitation for fiscal years 2012  
20 through 2015 shall be as follows: (i) for fiscal year 2012,  
21 \$36,818,000,000; (ii) for fiscal year 2013, \$37,554,000,000;  
22 (iii) for fiscal year 2014, \$38,305,000,000; and (iv) for  
23 fiscal year 2015, \$39,072,000,000.

24 (c) Notwithstanding any other provision of law to the

1 contrary, the Auditor General shall examine each Public Act  
2 authorizing State spending from State general funds and prepare  
3 a report no later than 30 days after receiving notification of  
4 the Public Act from the Secretary of State or 60 days after the  
5 effective date of the Public Act, whichever is earlier. The  
6 Auditor General shall file the report with the Secretary of  
7 State and copies with the Governor, the State Treasurer, the  
8 State Comptroller, the Senate, and the House of  
9 Representatives. The report shall indicate: (i) the amount of  
10 State spending set forth in the applicable Public Act; (ii) the  
11 total amount of State spending authorized by law for the  
12 applicable fiscal year as of the date of the report; and (iii)  
13 whether State spending exceeds the State spending limitation  
14 set forth in subsection (b). The Auditor General may examine  
15 multiple Public Acts in one consolidated report, provided that  
16 each Public Act is examined within the time period mandated by  
17 this subsection (c). The Auditor General shall issue reports in  
18 accordance with this Section through June 30, 2015 or the  
19 effective date of a reduction in the rate of tax imposed by  
20 subsections (a) and (b) of Section 201 of this Act pursuant to  
21 this Section, whichever is earlier.

22 At the request of the Auditor General, each State agency  
23 shall, without delay, make available to the Auditor General or  
24 his or her designated representative any record or information  
25 requested and shall provide for examination or copying all  
26 records, accounts, papers, reports, vouchers, correspondence,

1 books and other documentation in the custody of that agency,  
2 including information stored in electronic data processing  
3 systems, which is related to or within the scope of a report  
4 prepared under this Section. The Auditor General shall report  
5 to the Governor each instance in which a State agency fails to  
6 cooperate promptly and fully with his or her office as required  
7 by this Section.

8 The Auditor General's report shall not be in the nature of  
9 a post-audit or examination and shall not lead to the issuance  
10 of an opinion as that term is defined in generally accepted  
11 government auditing standards.

12 (d) If the Auditor General reports that State spending has  
13 exceeded the State spending limitation set forth in subsection  
14 (b) and if the Governor has not been presented with a bill or  
15 bills passed by the General Assembly to reduce State spending  
16 to a level that does not exceed the State spending limitation  
17 within 45 calendar days of receipt of the Auditor General's  
18 report, then the Governor may, for the purpose of reducing  
19 State spending to a level that does not exceed the State  
20 spending limitation set forth in subsection (b), designate  
21 amounts to be set aside as a reserve from the amounts  
22 appropriated from the State general funds for all boards,  
23 commissions, agencies, institutions, authorities, colleges,  
24 universities, and bodies politic and corporate of the State,  
25 but not other constitutional officers, the legislative or  
26 judicial branch, the office of the Executive Inspector General,

1 or the Executive Ethics Commission. Such a designation must be  
2 made within 15 calendar days after the end of that 45-day  
3 period. If the Governor designates amounts to be set aside as a  
4 reserve, the Governor shall give notice of the designation to  
5 the Auditor General, the State Treasurer, the State  
6 Comptroller, the Senate, and the House of Representatives. The  
7 amounts placed in reserves shall not be transferred, obligated,  
8 encumbered, expended, or otherwise committed unless so  
9 authorized by law. Any amount placed in reserves is not State  
10 spending and shall not be considered when calculating the total  
11 amount of State spending. Any Public Act authorizing the use of  
12 amounts placed in reserve by the Governor is considered State  
13 spending, unless such Public Act authorizes the use of amounts  
14 placed in reserves in response to a fiscal emergency under  
15 subsection (g).

16 (e) If the Auditor General reports under subsection (c)  
17 that State spending has exceeded the State spending limitation  
18 set forth in subsection (b), then the Auditor General shall  
19 issue a supplemental report no sooner than the 61st day and no  
20 later than the 65th day after issuing the report pursuant to  
21 subsection (c). The supplemental report shall: (i) summarize  
22 details of actions taken by the General Assembly and the  
23 Governor after the issuance of the initial report to reduce  
24 State spending, if any, (ii) indicate whether the level of  
25 State spending has changed since the initial report, and (iii)  
26 indicate whether State spending exceeds the State spending

1 limitation. The Auditor General shall file the report with the  
2 Secretary of State and copies with the Governor, the State  
3 Treasurer, the State Comptroller, the Senate, and the House of  
4 Representatives. If the supplemental report of the Auditor  
5 General provides that State spending exceeds the State spending  
6 limitation, then the rate of tax imposed by subsections (a) and  
7 (b) of Section 201 is reduced as provided in this Section  
8 beginning on the first day of the first month to occur not less  
9 than 30 days after issuance of the supplemental report.

10 (f) For any taxable year in which the rates of tax have  
11 been reduced under this Section, the tax imposed by subsections  
12 (a) and (b) of Section 201 shall be determined as follows:

13 (1) In the case of an individual, trust, or estate, the  
14 tax shall be imposed in an amount equal to the sum of (i)  
15 the rate applicable to the taxpayer under subsection (b) of  
16 Section 201 (without regard to the provisions of this  
17 Section) times the taxpayer's net income for any portion of  
18 the taxable year prior to the effective date of the  
19 reduction and (ii) 3% of the taxpayer's net income for any  
20 portion of the taxable year on or after the effective date  
21 of the reduction.

22 (2) In the case of a corporation, the tax shall be  
23 imposed in an amount equal to the sum of (i) the rate  
24 applicable to the taxpayer under subsection (b) of Section  
25 201 (without regard to the provisions of this Section)  
26 times the taxpayer's net income for any portion of the



1 taxable year prior to the effective date of the reduction  
2 and (ii) 4.8% of the taxpayer's net income for any portion  
3 of the taxable year on or after the effective date of the  
4 reduction.

5 (3) For any taxpayer for whom the rate has been reduced  
6 under this Section for a portion of a taxable year, the  
7 taxpayer shall determine the net income for each portion of  
8 the taxable year following the rules set forth in Section  
9 202.5 of this Act, using the effective date of the rate  
10 reduction rather than the January 1 dates found in that  
11 Section, and the day before the effective date of the rate  
12 reduction rather than the December 31 dates found in that  
13 Section.

14 (4) If the rate applicable to the taxpayer under  
15 subsection (b) of Section 201 (without regard to the  
16 provisions of this Section) changes during a portion of the  
17 taxable year to which that rate is applied under paragraphs  
18 (1) or (2) of this subsection (f), the tax for that portion  
19 of the taxable year for purposes of paragraph (1) or (2) of  
20 this subsection (f) shall be determined as if that portion  
21 of the taxable year were a separate taxable year, following  
22 the rules set forth in Section 202.5 of this Act. If the  
23 taxpayer elects to follow the rules set forth in subsection  
24 (b) of Section 202.5, the taxpayer shall follow the rules  
25 set forth in subsection (b) of Section 202.5 for all  
26 purposes of this Section for that taxable year.

1           (g) Notwithstanding the State spending limitation set  
2           forth in subsection (b) of this Section, the Governor may  
3           declare a fiscal emergency by filing a declaration with the  
4           Secretary of State and copies with the State Treasurer, the  
5           State Comptroller, the Senate, and the House of  
6           Representatives. The declaration must be limited to only one  
7           State fiscal year, set forth compelling reasons for declaring a  
8           fiscal emergency, and request a specific dollar amount. Unless,  
9           within 10 calendar days of receipt of the Governor's  
10          declaration, the State Comptroller or State Treasurer notifies  
11          the Senate and the House of Representatives that he or she does  
12          not concur in the Governor's declaration, State spending  
13          authorized by law to address the fiscal emergency in an amount  
14          no greater than the dollar amount specified in the declaration  
15          shall not be considered "State spending" for purposes of the  
16          State spending limitation.

17          (h) As used in this Section:

18          "State general funds" means the General Revenue Fund, the  
19          Common School Fund, the General Revenue Common School Special  
20          Account Fund, the Education Assistance Fund, and the Budget  
21          Stabilization Fund.

22          "State spending" means (i) the total amount authorized for  
23          spending by appropriation or statutory transfer from the State  
24          general funds in the applicable fiscal year, ~~and~~ (ii) any  
25          amounts the Governor places in reserves in accordance with  
26          subsection (d) that are subsequently released from reserves

1 following authorization by a Public Act, and (iii) any amount  
2 appropriated from the Local Government Distributive Fund under  
3 subsection (c) of Section 1 of the State Revenue Sharing Act.

4 For the purpose of this definition, "appropriation" means  
5 authority to spend money from a State general fund for a  
6 specific amount, purpose, and time period, including any  
7 supplemental appropriation or continuing appropriation, but  
8 does not include reappropriations from a previous fiscal year.

9 For the purpose of this definition, "statutory transfer" means  
10 authority to transfer funds from one State general fund to any  
11 other fund in the State treasury, but does not include  
12 transfers made from one State general fund to another State  
13 general fund.

14 "State spending limitation" means the amount described in  
15 subsection (b) of this Section for the applicable fiscal year.

16 (Source: P.A. 96-1496, eff. 1-13-11.)

17 (35 ILCS 5/901) (from Ch. 120, par. 9-901)

18 Sec. 901. Collection Authority.

19 (a) In general.

20 The Department shall collect the taxes imposed by this Act.  
21 The Department shall collect certified past due child support  
22 amounts under Section 2505-650 of the Department of Revenue Law  
23 (20 ILCS 2505/2505-650). Except as provided in subsections (c),  
24 (e), (f), and (g) of this Section, money collected pursuant to  
25 subsections (a) and (b) of Section 201 of this Act shall be

1 paid into the General Revenue Fund in the State treasury; money  
2 collected pursuant to subsections (c) and (d) of Section 201 of  
3 this Act shall be paid into the Personal Property Tax  
4 Replacement Fund, a special fund in the State Treasury; and  
5 money collected under Section 2505-650 of the Department of  
6 Revenue Law (20 ILCS 2505/2505-650) shall be paid into the  
7 Child Support Enforcement Trust Fund, a special fund outside  
8 the State Treasury, or to the State Disbursement Unit  
9 established under Section 10-26 of the Illinois Public Aid  
10 Code, as directed by the Department of Healthcare and Family  
11 Services.

12 (b) Local Government Distributive Fund.

13 Beginning August 1, 1969, and continuing through June 30,  
14 1994, the Treasurer shall transfer each month from the General  
15 Revenue Fund to a special fund in the State treasury, to be  
16 known as the "Local Government Distributive Fund", an amount  
17 equal to 1/12 of the net revenue realized from the tax imposed  
18 by subsections (a) and (b) of Section 201 of this Act during  
19 the preceding month. Beginning July 1, 1994, and continuing  
20 through June 30, 1995, the Treasurer shall transfer each month  
21 from the General Revenue Fund to the Local Government  
22 Distributive Fund an amount equal to 1/11 of the net revenue  
23 realized from the tax imposed by subsections (a) and (b) of  
24 Section 201 of this Act during the preceding month. Beginning  
25 July 1, 1995 and continuing through January 31, 2011, the  
26 Treasurer shall transfer each month from the General Revenue

1 Fund to the Local Government Distributive Fund an amount equal  
2 to the net of (i) 1/10 of the net revenue realized from the tax  
3 imposed by subsections (a) and (b) of Section 201 of the  
4 Illinois Income Tax Act during the preceding month (ii) minus,  
5 beginning July 1, 2003 and ending June 30, 2004, \$6,666,666,  
6 and beginning July 1, 2004, zero. Beginning February 1, 2011,  
7 and continuing through December 31, 2011 ~~January 31, 2015~~, the  
8 Treasurer shall transfer each month from the General Revenue  
9 Fund to the Local Government Distributive Fund an amount equal  
10 to the sum of (i) 6% (10% of the ratio of the 3% individual  
11 income tax rate prior to 2011 to the 5% individual income tax  
12 rate after 2010) of the net revenue realized from the tax  
13 imposed by subsections (a) and (b) of Section 201 of this Act  
14 upon individuals, trusts, and estates during the preceding  
15 month and (ii) 6.86% (10% of the ratio of the 4.8% corporate  
16 income tax rate prior to 2011 to the 7% corporate income tax  
17 rate after 2010) of the net revenue realized from the tax  
18 imposed by subsections (a) and (b) of Section 201 of this Act  
19 upon corporations during the preceding month. Beginning  
20 January 1, 2012 and continuing through December 31, 2014, for  
21 all payments collected on or after December 1, 2011, the  
22 Department of Revenue shall, immediately upon receipt, deposit  
23 into the Local Government Distributive Fund (i) 6% (10% of the  
24 ratio of the 3% individual income tax rate prior to 2011 to the  
25 5% individual income tax rate after 2010) of the amount  
26 collected from the tax imposed by subsections (a) and (b) of

1 Section 201 of this Act upon individuals, trusts, and estates,  
2 minus deposits into the Income Tax Refund Fund under subsection  
3 (c), and (ii) 6.86% (10% of the ratio of the 4.8% corporate  
4 income tax rate prior to 2011 to the 7% corporate income tax  
5 rate after 2010) of the amount collected from the tax imposed  
6 by subsections (a) and (b) of Section 201 of this Act upon  
7 corporations, minus deposits into the Income Tax Refund Fund  
8 under subsection (c). Beginning January 1, 2015, ~~February 1,~~  
9 ~~2015~~ and continuing through December 31, 2025 ~~January 31, 2025,~~  
10 the Treasurer shall, immediately upon receipt, deposit into  
11 ~~transfer each month from the General Revenue Fund to the Local~~  
12 ~~Government Distributive Fund an amount equal to the sum of (i)~~  
13 ~~8% (10% of the ratio of the 3% individual income tax rate prior~~  
14 ~~to 2011 to the 3.75% individual income tax rate after 2014) of~~  
15 ~~the amount collected net revenue realized~~ from the tax imposed  
16 by subsections (a) and (b) of Section 201 of this Act upon  
17 individuals, trusts, and estates, minus deposits into the  
18 Income Tax Refund Fund under subsection (c), ~~during the~~  
19 ~~preceding month~~ and (ii) 9.14% (10% of the ratio of the 4.8%  
20 corporate income tax rate prior to 2011 to the 5.25% corporate  
21 income tax rate after 2014) of the amount collected ~~net revenue~~  
22 ~~realized~~ from the tax imposed by subsections (a) and (b) of  
23 Section 201 of this Act upon corporations, minus deposits into  
24 the Income Tax Refund Fund under subsection (c) ~~during the~~  
25 ~~preceding month~~. Beginning January 1, 2025 ~~February 1, 2025,~~  
26 the Treasurer shall, immediately upon receipt, deposit into

1 ~~transfer each month from the General Revenue Fund to the Local~~  
2 ~~Government Distributive Fund an amount equal to the sum of (i)~~  
3 9.23% (10% of the ratio of the 3% individual income tax rate  
4 prior to 2011 to the 3.25% individual income tax rate after  
5 2024) of the amount collected ~~net revenue realized~~ from the tax  
6 imposed by subsections (a) and (b) of Section 201 of this Act  
7 upon individuals, trusts, and estates, minus deposits into the  
8 Income Tax Refund Fund under subsection (c), ~~during the~~  
9 ~~preceding month~~ and (ii) 10% of the amount collected ~~net~~  
10 ~~revenue realized~~ from the tax imposed by subsections (a) and  
11 (b) of Section 201 of this Act upon corporations, minus  
12 deposits into the Income Tax Refund Fund under subsection (c)  
13 ~~during the preceding month~~. Net revenue realized for a month  
14 shall be defined as the revenue from the tax imposed by  
15 subsections (a) and (b) of Section 201 of this Act which is  
16 deposited in the General Revenue Fund, the Education Assistance  
17 Fund, the Income Tax Surcharge Local Government Distributive  
18 Fund, the Fund for the Advancement of Education, and the  
19 Commitment to Human Services Fund during the month minus the  
20 amount paid out of the General Revenue Fund in State warrants  
21 during that same month as refunds to taxpayers for overpayment  
22 of liability under the tax imposed by subsections (a) and (b)  
23 of Section 201 of this Act.

24 (c) Deposits Into Income Tax Refund Fund.

25 (1) Beginning on January 1, 1989 and thereafter, the  
26 Department shall deposit a percentage of the amounts

1 collected pursuant to subsections (a) and (b) (1), (2), and  
2 (3), of Section 201 of this Act into a fund in the State  
3 treasury known as the Income Tax Refund Fund. The  
4 Department shall deposit 6% of such amounts during the  
5 period beginning January 1, 1989 and ending on June 30,  
6 1989. Beginning with State fiscal year 1990 and for each  
7 fiscal year thereafter, the percentage deposited into the  
8 Income Tax Refund Fund during a fiscal year shall be the  
9 Annual Percentage. For fiscal years 1999 through 2001, the  
10 Annual Percentage shall be 7.1%. For fiscal year 2003, the  
11 Annual Percentage shall be 8%. For fiscal year 2004, the  
12 Annual Percentage shall be 11.7%. Upon the effective date  
13 of this amendatory Act of the 93rd General Assembly, the  
14 Annual Percentage shall be 10% for fiscal year 2005. For  
15 fiscal year 2006, the Annual Percentage shall be 9.75%. For  
16 fiscal year 2007, the Annual Percentage shall be 9.75%. For  
17 fiscal year 2008, the Annual Percentage shall be 7.75%. For  
18 fiscal year 2009, the Annual Percentage shall be 9.75%. For  
19 fiscal year 2010, the Annual Percentage shall be 9.75%. For  
20 fiscal year 2011, the Annual Percentage shall be 8.75%. For  
21 fiscal year 2012, the Annual Percentage shall be 8.75%. For  
22 all other fiscal years, the Annual Percentage shall be  
23 calculated as a fraction, the numerator of which shall be  
24 the amount of refunds approved for payment by the  
25 Department during the preceding fiscal year as a result of  
26 overpayment of tax liability under subsections (a) and



1 (b) (1), (2), and (3) of Section 201 of this Act plus the  
2 amount of such refunds remaining approved but unpaid at the  
3 end of the preceding fiscal year, minus the amounts  
4 transferred into the Income Tax Refund Fund from the  
5 Tobacco Settlement Recovery Fund, and the denominator of  
6 which shall be the amounts which will be collected pursuant  
7 to subsections (a) and (b) (1), (2), and (3) of Section 201  
8 of this Act during the preceding fiscal year; except that  
9 in State fiscal year 2002, the Annual Percentage shall in  
10 no event exceed 7.6%. The Director of Revenue shall certify  
11 the Annual Percentage to the Comptroller on the last  
12 business day of the fiscal year immediately preceding the  
13 fiscal year for which it is to be effective.

14 (2) Beginning on January 1, 1989 and thereafter, the  
15 Department shall deposit a percentage of the amounts  
16 collected pursuant to subsections (a) and (b) (6), (7), and  
17 (8), (c) and (d) of Section 201 of this Act into a fund in  
18 the State treasury known as the Income Tax Refund Fund. The  
19 Department shall deposit 18% of such amounts during the  
20 period beginning January 1, 1989 and ending on June 30,  
21 1989. Beginning with State fiscal year 1990 and for each  
22 fiscal year thereafter, the percentage deposited into the  
23 Income Tax Refund Fund during a fiscal year shall be the  
24 Annual Percentage. For fiscal years 1999, 2000, and 2001,  
25 the Annual Percentage shall be 19%. For fiscal year 2003,  
26 the Annual Percentage shall be 27%. For fiscal year 2004,

1 the Annual Percentage shall be 32%. Upon the effective date  
2 of this amendatory Act of the 93rd General Assembly, the  
3 Annual Percentage shall be 24% for fiscal year 2005. For  
4 fiscal year 2006, the Annual Percentage shall be 20%. For  
5 fiscal year 2007, the Annual Percentage shall be 17.5%. For  
6 fiscal year 2008, the Annual Percentage shall be 15.5%. For  
7 fiscal year 2009, the Annual Percentage shall be 17.5%. For  
8 fiscal year 2010, the Annual Percentage shall be 17.5%. For  
9 fiscal year 2011, the Annual Percentage shall be 17.5%. For  
10 fiscal year 2012, the Annual Percentage shall be 17.5%. For  
11 all other fiscal years, the Annual Percentage shall be  
12 calculated as a fraction, the numerator of which shall be  
13 the amount of refunds approved for payment by the  
14 Department during the preceding fiscal year as a result of  
15 overpayment of tax liability under subsections (a) and  
16 (b) (6), (7), and (8), (c) and (d) of Section 201 of this  
17 Act plus the amount of such refunds remaining approved but  
18 unpaid at the end of the preceding fiscal year, and the  
19 denominator of which shall be the amounts which will be  
20 collected pursuant to subsections (a) and (b) (6), (7), and  
21 (8), (c) and (d) of Section 201 of this Act during the  
22 preceding fiscal year; except that in State fiscal year  
23 2002, the Annual Percentage shall in no event exceed 23%.  
24 The Director of Revenue shall certify the Annual Percentage  
25 to the Comptroller on the last business day of the fiscal  
26 year immediately preceding the fiscal year for which it is

1 to be effective.

2 (3) The Comptroller shall order transferred and the  
3 Treasurer shall transfer from the Tobacco Settlement  
4 Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000  
5 in January, 2001, (ii) \$35,000,000 in January, 2002, and  
6 (iii) \$35,000,000 in January, 2003.

7 (d) Expenditures from Income Tax Refund Fund.

8 (1) Beginning January 1, 1989, money in the Income Tax  
9 Refund Fund shall be expended exclusively for the purpose  
10 of paying refunds resulting from overpayment of tax  
11 liability under Section 201 of this Act, for paying rebates  
12 under Section 208.1 in the event that the amounts in the  
13 Homeowners' Tax Relief Fund are insufficient for that  
14 purpose, and for making transfers pursuant to this  
15 subsection (d).

16 (2) The Director shall order payment of refunds  
17 resulting from overpayment of tax liability under Section  
18 201 of this Act from the Income Tax Refund Fund only to the  
19 extent that amounts collected pursuant to Section 201 of  
20 this Act and transfers pursuant to this subsection (d) and  
21 item (3) of subsection (c) have been deposited and retained  
22 in the Fund.

23 (3) As soon as possible after the end of each fiscal  
24 year, the Director shall order transferred and the State  
25 Treasurer and State Comptroller shall transfer from the  
26 Income Tax Refund Fund to the Personal Property Tax

1 Replacement Fund an amount, certified by the Director to  
2 the Comptroller, equal to the excess of the amount  
3 collected pursuant to subsections (c) and (d) of Section  
4 201 of this Act deposited into the Income Tax Refund Fund  
5 during the fiscal year over the amount of refunds resulting  
6 from overpayment of tax liability under subsections (c) and  
7 (d) of Section 201 of this Act paid from the Income Tax  
8 Refund Fund during the fiscal year.

9 (4) As soon as possible after the end of each fiscal  
10 year, the Director shall order transferred and the State  
11 Treasurer and State Comptroller shall transfer from the  
12 Personal Property Tax Replacement Fund to the Income Tax  
13 Refund Fund an amount, certified by the Director to the  
14 Comptroller, equal to the excess of the amount of refunds  
15 resulting from overpayment of tax liability under  
16 subsections (c) and (d) of Section 201 of this Act paid  
17 from the Income Tax Refund Fund during the fiscal year over  
18 the amount collected pursuant to subsections (c) and (d) of  
19 Section 201 of this Act deposited into the Income Tax  
20 Refund Fund during the fiscal year.

21 (4.5) As soon as possible after the end of fiscal year  
22 1999 and of each fiscal year thereafter, the Director shall  
23 order transferred and the State Treasurer and State  
24 Comptroller shall transfer from the Income Tax Refund Fund  
25 to the General Revenue Fund any surplus remaining in the  
26 Income Tax Refund Fund as of the end of such fiscal year;

1 excluding for fiscal years 2000, 2001, and 2002 amounts  
2 attributable to transfers under item (3) of subsection (c)  
3 less refunds resulting from the earned income tax credit.

4 (5) This Act shall constitute an irrevocable and  
5 continuing appropriation from the Income Tax Refund Fund  
6 for the purpose of paying refunds upon the order of the  
7 Director in accordance with the provisions of this Section.

8 (e) Deposits into the Education Assistance Fund and the  
9 Income Tax Surcharge Local Government Distributive Fund.

10 On July 1, 1991, and thereafter, of the amounts collected  
11 pursuant to subsections (a) and (b) of Section 201 of this Act,  
12 minus deposits into the Income Tax Refund Fund, the Department  
13 shall deposit 7.3% into the Education Assistance Fund in the  
14 State Treasury. Beginning July 1, 1991, and continuing through  
15 January 31, 1993, of the amounts collected pursuant to  
16 subsections (a) and (b) of Section 201 of the Illinois Income  
17 Tax Act, minus deposits into the Income Tax Refund Fund, the  
18 Department shall deposit 3.0% into the Income Tax Surcharge  
19 Local Government Distributive Fund in the State Treasury.  
20 Beginning February 1, 1993 and continuing through June 30,  
21 1993, of the amounts collected pursuant to subsections (a) and  
22 (b) of Section 201 of the Illinois Income Tax Act, minus  
23 deposits into the Income Tax Refund Fund, the Department shall  
24 deposit 4.4% into the Income Tax Surcharge Local Government  
25 Distributive Fund in the State Treasury. Beginning July 1,  
26 1993, and continuing through June 30, 1994, of the amounts

1 collected under subsections (a) and (b) of Section 201 of this  
2 Act, minus deposits into the Income Tax Refund Fund, the  
3 Department shall deposit 1.475% into the Income Tax Surcharge  
4 Local Government Distributive Fund in the State Treasury.

5 (f) Deposits into the Fund for the Advancement of  
6 Education. Beginning February 1, 2015, the Department shall  
7 deposit the following portions of the revenue realized from the  
8 tax imposed upon individuals, trusts, and estates by  
9 subsections (a) and (b) of Section 201 of this Act during the  
10 preceding month, minus deposits into the Income Tax Refund  
11 Fund, into the Fund for the Advancement of Education:

12 (1) beginning February 1, 2015, and prior to February  
13 1, 2025, 1/30; and

14 (2) beginning February 1, 2025, 1/26.

15 If the rate of tax imposed by subsection (a) and (b) of  
16 Section 201 is reduced pursuant to Section 201.5 of this Act,  
17 the Department shall not make the deposits required by this  
18 subsection (f) on or after the effective date of the reduction.

19 (g) Deposits into the Commitment to Human Services Fund.  
20 Beginning February 1, 2015, the Department shall deposit the  
21 following portions of the revenue realized from the tax imposed  
22 upon individuals, trusts, and estates by subsections (a) and  
23 (b) of Section 201 of this Act during the preceding month,  
24 minus deposits into the Income Tax Refund Fund, into the  
25 Commitment to Human Services Fund:

26 (1) beginning February 1, 2015, and prior to February

1           1, 2025, 1/30; and

2           (2) beginning February 1, 2025, 1/26.

3           If the rate of tax imposed by subsection (a) and (b) of  
4           Section 201 is reduced pursuant to Section 201.5 of this Act,  
5           the Department shall not make the deposits required by this  
6           subsection (g) on or after the effective date of the reduction.

7           (Source: P.A. 96-45, eff. 7-15-09; 96-328, eff. 8-11-09;  
8           96-959, eff. 7-1-10; 96-1496, eff. 1-13-11; 97-72, eff.  
9           7-1-11.)

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