

97TH GENERAL ASSEMBLY**State of Illinois****2011 and 2012****SB3363**

Introduced 2/7/2012, by Sen. Toi W. Hutchinson

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). Amends the Illinois Income Tax Act to include appropriations from the Local Government Distributive Fund in the definition of "State spending". Effective immediately.

LRB097 16353 HLH 61509 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 2012, 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, 2013, for all payments collected
19 on or after December 1, 2012, 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~~ Notwithstanding any other provision

1 of law to the contrary, the Auditor General shall examine each
2 Public Act authorizing State spending from State general funds
3 and prepare a report no later than 30 days after receiving
4 notification of the Public Act from the Secretary of State or
5 60 days after the effective date of the Public Act, whichever
6 is earlier. The Auditor General shall file the report with the
7 Secretary of State and copies with the Governor, the State
8 Treasurer, the 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 amounts
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; revised 11-18-11.)

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, 2012 ~~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, 2013 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 during the preceding
8 month, minus deposits into the Income Tax Refund Fund under
9 subsection (c), 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.