



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB7294**

Introduced 4/23/2004, by Rep. William Davis

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/201	from Ch. 120, par. 2-201
35 ILCS 5/202.5 new	
35 ILCS 5/204	from Ch. 120, par. 2-204
35 ILCS 5/901	from Ch. 120, par. 9-901

Amends the Illinois Income Tax Act. Increases the rate of tax on individuals and on trusts and estates from 3% to 4%. Increases the amount of the standard exemption for individuals from \$2,000 to \$12,000. Effective immediately.

LRB093 21640 BDD 49186 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning taxes.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Sections 201, 204, and 901 and by adding Section 202.5  
6 as follows:

7 (35 ILCS 5/201) (from Ch. 120, par. 2-201)  
8 Sec. 201. Tax Imposed.

9 (a) In general. A tax measured by net income is hereby  
10 imposed on every individual, corporation, trust and estate for  
11 each taxable year ending after July 31, 1969 on the privilege  
12 of earning or receiving income in or as a resident of this  
13 State. Such tax shall be in addition to all other occupation or  
14 privilege taxes imposed by this State or by any municipal  
15 corporation or political subdivision thereof.

16 (b) Rates. The tax imposed by subsection (a) of this  
17 Section shall be determined as follows, except as adjusted by  
18 subsection (d-1):

19 (1) In the case of an individual, trust or estate, for  
20 taxable years ending prior to July 1, 1989, an amount equal  
21 to 2 1/2% of the taxpayer's net income for the taxable  
22 year.

23 (2) In the case of an individual, trust or estate, for  
24 taxable years beginning prior to July 1, 1989 and ending  
25 after June 30, 1989, an amount equal to the sum of (i) 2  
26 1/2% of the taxpayer's net income for the period prior to  
27 July 1, 1989, as calculated under Section 202.3, and (ii)  
28 3% of the taxpayer's net income for the period after June  
29 30, 1989, as calculated under Section 202.3.

30 (3) In the case of an individual, trust or estate, for  
31 taxable years beginning after June 30, 1989 and ending on  
32 or before December 31, 2003, an amount equal to 3% of the

1 taxpayer's net income for the taxable year.

2 (4) In the case of an individual, trust, or estate, for  
3 taxable years beginning prior to January 1, 2004 and ending  
4 after December 31, 2003, an amount equal to the sum of (i)  
5 3% of the taxpayer's net income for the period prior to  
6 January 1, 2004, as calculated under Section 202.5, and  
7 (ii) 4% of the taxpayer's net income for the period after  
8 December 31, 2004, as calculated under Section 202.5.

9 ~~(Blank)~~.

10 (5) In the case of an individual, trust or estate, for  
11 taxable years beginning after December 31, 2003, an amount  
12 equal to 4% of the taxpayer's net income for the taxable  
13 year. ~~(Blank)~~.

14 (6) In the case of a corporation, for taxable years  
15 ending prior to July 1, 1989, an amount equal to 4% of the  
16 taxpayer's net income for the taxable year.

17 (7) In the case of a corporation, for taxable years  
18 beginning prior to July 1, 1989 and ending after June 30,  
19 1989, an amount equal to the sum of (i) 4% of the  
20 taxpayer's net income for the period prior to July 1, 1989,  
21 as calculated under Section 202.3, and (ii) 4.8% of the  
22 taxpayer's net income for the period after June 30, 1989,  
23 as calculated under Section 202.3.

24 (8) In the case of a corporation, for taxable years  
25 beginning after June 30, 1989, an amount equal to 4.8% of  
26 the taxpayer's net income for the taxable year.

27 (c) Personal Property Tax Replacement Income Tax.  
28 Beginning on July 1, 1979 and thereafter, in addition to such  
29 income tax, there is also hereby imposed the Personal Property  
30 Tax Replacement Income Tax measured by net income on every  
31 corporation (including Subchapter S corporations), partnership  
32 and trust, for each taxable year ending after June 30, 1979.  
33 Such taxes are imposed on the privilege of earning or receiving  
34 income in or as a resident of this State. The Personal Property  
35 Tax Replacement Income Tax shall be in addition to the income  
36 tax imposed by subsections (a) and (b) of this Section and in

1 addition to all other occupation or privilege taxes imposed by  
2 this State or by any municipal corporation or political  
3 subdivision thereof.

4 (d) Additional Personal Property Tax Replacement Income  
5 Tax Rates. The personal property tax replacement income tax  
6 imposed by this subsection and subsection (c) of this Section  
7 in the case of a corporation, other than a Subchapter S  
8 corporation and except as adjusted by subsection (d-1), shall  
9 be an additional amount equal to 2.85% of such taxpayer's net  
10 income for the taxable year, except that beginning on January  
11 1, 1981, and thereafter, the rate of 2.85% specified in this  
12 subsection shall be reduced to 2.5%, and in the case of a  
13 partnership, trust or a Subchapter S corporation shall be an  
14 additional amount equal to 1.5% of such taxpayer's net income  
15 for the taxable year.

16 (d-1) Rate reduction for certain foreign insurers. In the  
17 case of a foreign insurer, as defined by Section 35A-5 of the  
18 Illinois Insurance Code, whose state or country of domicile  
19 imposes on insurers domiciled in Illinois a retaliatory tax  
20 (excluding any insurer whose premiums from reinsurance assumed  
21 are 50% or more of its total insurance premiums as determined  
22 under paragraph (2) of subsection (b) of Section 304, except  
23 that for purposes of this determination premiums from  
24 reinsurance do not include premiums from inter-affiliate  
25 reinsurance arrangements), beginning with taxable years ending  
26 on or after December 31, 1999, the sum of the rates of tax  
27 imposed by subsections (b) and (d) shall be reduced (but not  
28 increased) to the rate at which the total amount of tax imposed  
29 under this Act, net of all credits allowed under this Act,  
30 shall equal (i) the total amount of tax that would be imposed  
31 on the foreign insurer's net income allocable to Illinois for  
32 the taxable year by such foreign insurer's state or country of  
33 domicile if that net income were subject to all income taxes  
34 and taxes measured by net income imposed by such foreign  
35 insurer's state or country of domicile, net of all credits  
36 allowed or (ii) a rate of zero if no such tax is imposed on such

1 income by the foreign insurer's state of domicile. For the  
2 purposes of this subsection (d-1), an inter-affiliate includes  
3 a mutual insurer under common management.

4 (1) For the purposes of subsection (d-1), in no event  
5 shall the sum of the rates of tax imposed by subsections  
6 (b) and (d) be reduced below the rate at which the sum of:

7 (A) the total amount of tax imposed on such foreign  
8 insurer under this Act for a taxable year, net of all  
9 credits allowed under this Act, plus

10 (B) the privilege tax imposed by Section 409 of the  
11 Illinois Insurance Code, the fire insurance company  
12 tax imposed by Section 12 of the Fire Investigation  
13 Act, and the fire department taxes imposed under  
14 Section 11-10-1 of the Illinois Municipal Code,  
15 equals 1.25% for taxable years ending prior to December 31,  
16 2003, or 1.75% for taxable years ending on or after  
17 December 31, 2003, of the net taxable premiums written for  
18 the taxable year, as described by subsection (1) of Section  
19 409 of the Illinois Insurance Code. This paragraph will in  
20 no event increase the rates imposed under subsections (b)  
21 and (d).

22 (2) Any reduction in the rates of tax imposed by this  
23 subsection shall be applied first against the rates imposed  
24 by subsection (b) and only after the tax imposed by  
25 subsection (a) net of all credits allowed under this  
26 Section other than the credit allowed under subsection (i)  
27 has been reduced to zero, against the rates imposed by  
28 subsection (d).

29 This subsection (d-1) is exempt from the provisions of  
30 Section 250.

31 (e) Investment credit. A taxpayer shall be allowed a credit  
32 against the Personal Property Tax Replacement Income Tax for  
33 investment in qualified property.

34 (1) A taxpayer shall be allowed a credit equal to .5%  
35 of the basis of qualified property placed in service during  
36 the taxable year, provided such property is placed in

1 service on or after July 1, 1984. There shall be allowed an  
2 additional credit equal to .5% of the basis of qualified  
3 property placed in service during the taxable year,  
4 provided such property is placed in service on or after  
5 July 1, 1986, and the taxpayer's base employment within  
6 Illinois has increased by 1% or more over the preceding  
7 year as determined by the taxpayer's employment records  
8 filed with the Illinois Department of Employment Security.  
9 Taxpayers who are new to Illinois shall be deemed to have  
10 met the 1% growth in base employment for the first year in  
11 which they file employment records with the Illinois  
12 Department of Employment Security. The provisions added to  
13 this Section by Public Act 85-1200 (and restored by Public  
14 Act 87-895) shall be construed as declaratory of existing  
15 law and not as a new enactment. If, in any year, the  
16 increase in base employment within Illinois over the  
17 preceding year is less than 1%, the additional credit shall  
18 be limited to that percentage times a fraction, the  
19 numerator of which is .5% and the denominator of which is  
20 1%, but shall not exceed .5%. The investment credit shall  
21 not be allowed to the extent that it would reduce a  
22 taxpayer's liability in any tax year below zero, nor may  
23 any credit for qualified property be allowed for any year  
24 other than the year in which the property was placed in  
25 service in Illinois. For tax years ending on or after  
26 December 31, 1987, and on or before December 31, 1988, the  
27 credit shall be allowed for the tax year in which the  
28 property is placed in service, or, if the amount of the  
29 credit exceeds the tax liability for that year, whether it  
30 exceeds the original liability or the liability as later  
31 amended, such excess may be carried forward and applied to  
32 the tax liability of the 5 taxable years following the  
33 excess credit years if the taxpayer (i) makes investments  
34 which cause the creation of a minimum of 2,000 full-time  
35 equivalent jobs in Illinois, (ii) is located in an  
36 enterprise zone established pursuant to the Illinois

1 Enterprise Zone Act and (iii) is certified by the  
2 Department of Commerce and Community Affairs (now  
3 Department of Commerce and Economic Opportunity) as  
4 complying with the requirements specified in clause (i) and  
5 (ii) by July 1, 1986. The Department of Commerce and  
6 Community Affairs (now Department of Commerce and Economic  
7 Opportunity) shall notify the Department of Revenue of all  
8 such certifications immediately. For tax years ending  
9 after December 31, 1988, the credit shall be allowed for  
10 the tax year in which the property is placed in service,  
11 or, if the amount of the credit exceeds the tax liability  
12 for that year, whether it exceeds the original liability or  
13 the liability as later amended, such excess may be carried  
14 forward and applied to the tax liability of the 5 taxable  
15 years following the excess credit years. The credit shall  
16 be applied to the earliest year for which there is a  
17 liability. If there is credit from more than one tax year  
18 that is available to offset a liability, earlier credit  
19 shall be applied first.

20 (2) The term "qualified property" means property  
21 which:

22 (A) is tangible, whether new or used, including  
23 buildings and structural components of buildings and  
24 signs that are real property, but not including land or  
25 improvements to real property that are not a structural  
26 component of a building such as landscaping, sewer  
27 lines, local access roads, fencing, parking lots, and  
28 other appurtenances;

29 (B) is depreciable pursuant to Section 167 of the  
30 Internal Revenue Code, except that "3-year property"  
31 as defined in Section 168(c)(2)(A) of that Code is not  
32 eligible for the credit provided by this subsection  
33 (e);

34 (C) is acquired by purchase as defined in Section  
35 179(d) of the Internal Revenue Code;

36 (D) is used in Illinois by a taxpayer who is

1 primarily engaged in manufacturing, or in mining coal  
2 or fluorite, or in retailing; and

3 (E) has not previously been used in Illinois in  
4 such a manner and by such a person as would qualify for  
5 the credit provided by this subsection (e) or  
6 subsection (f).

7 (3) For purposes of this subsection (e),  
8 "manufacturing" means the material staging and production  
9 of tangible personal property by procedures commonly  
10 regarded as manufacturing, processing, fabrication, or  
11 assembling which changes some existing material into new  
12 shapes, new qualities, or new combinations. For purposes of  
13 this subsection (e) the term "mining" shall have the same  
14 meaning as the term "mining" in Section 613(c) of the  
15 Internal Revenue Code. For purposes of this subsection (e),  
16 the term "retailing" means the sale of tangible personal  
17 property or services rendered in conjunction with the sale  
18 of tangible consumer goods or commodities.

19 (4) The basis of qualified property shall be the basis  
20 used to compute the depreciation deduction for federal  
21 income tax purposes.

22 (5) If the basis of the property for federal income tax  
23 depreciation purposes is increased after it has been placed  
24 in service in Illinois by the taxpayer, the amount of such  
25 increase shall be deemed property placed in service on the  
26 date of such increase in basis.

27 (6) The term "placed in service" shall have the same  
28 meaning as under Section 46 of the Internal Revenue Code.

29 (7) If during any taxable year, any property ceases to  
30 be qualified property in the hands of the taxpayer within  
31 48 months after being placed in service, or the situs of  
32 any qualified property is moved outside Illinois within 48  
33 months after being placed in service, the Personal Property  
34 Tax Replacement Income Tax for such taxable year shall be  
35 increased. Such increase shall be determined by (i)  
36 recomputing the investment credit which would have been



1 allowed for the year in which credit for such property was  
2 originally allowed by eliminating such property from such  
3 computation and, (ii) subtracting such recomputed credit  
4 from the amount of credit previously allowed. For the  
5 purposes of this paragraph (7), a reduction of the basis of  
6 qualified property resulting from a redetermination of the  
7 purchase price shall be deemed a disposition of qualified  
8 property to the extent of such reduction.

9 (8) Unless the investment credit is extended by law,  
10 the basis of qualified property shall not include costs  
11 incurred after December 31, 2003, except for costs incurred  
12 pursuant to a binding contract entered into on or before  
13 December 31, 2003.

14 (9) Each taxable year ending before December 31, 2000,  
15 a partnership may elect to pass through to its partners the  
16 credits to which the partnership is entitled under this  
17 subsection (e) for the taxable year. A partner may use the  
18 credit allocated to him or her under this paragraph only  
19 against the tax imposed in subsections (c) and (d) of this  
20 Section. If the partnership makes that election, those  
21 credits shall be allocated among the partners in the  
22 partnership in accordance with the rules set forth in  
23 Section 704(b) of the Internal Revenue Code, and the rules  
24 promulgated under that Section, and the allocated amount of  
25 the credits shall be allowed to the partners for that  
26 taxable year. The partnership shall make this election on  
27 its Personal Property Tax Replacement Income Tax return for  
28 that taxable year. The election to pass through the credits  
29 shall be irrevocable.

30 For taxable years ending on or after December 31, 2000,  
31 a partner that qualifies its partnership for a subtraction  
32 under subparagraph (I) of paragraph (2) of subsection (d)  
33 of Section 203 or a shareholder that qualifies a Subchapter  
34 S corporation for a subtraction under subparagraph (S) of  
35 paragraph (2) of subsection (b) of Section 203 shall be  
36 allowed a credit under this subsection (e) equal to its

1 share of the credit earned under this subsection (e) during  
2 the taxable year by the partnership or Subchapter S  
3 corporation, determined in accordance with the  
4 determination of income and distributive share of income  
5 under Sections 702 and 704 and Subchapter S of the Internal  
6 Revenue Code. This paragraph is exempt from the provisions  
7 of Section 250.

8 (f) Investment credit; Enterprise Zone.

9 (1) A taxpayer shall be allowed a credit against the  
10 tax imposed by subsections (a) and (b) of this Section for  
11 investment in qualified property which is placed in service  
12 in an Enterprise Zone created pursuant to the Illinois  
13 Enterprise Zone Act. For partners, shareholders of  
14 Subchapter S corporations, and owners of limited liability  
15 companies, if the liability company is treated as a  
16 partnership for purposes of federal and State income  
17 taxation, there shall be allowed a credit under this  
18 subsection (f) to be determined in accordance with the  
19 determination of income and distributive share of income  
20 under Sections 702 and 704 and Subchapter S of the Internal  
21 Revenue Code. The credit shall be .5% of the basis for such  
22 property. The credit shall be available only in the taxable  
23 year in which the property is placed in service in the  
24 Enterprise Zone and shall not be allowed to the extent that  
25 it would reduce a taxpayer's liability for the tax imposed  
26 by subsections (a) and (b) of this Section to below zero.  
27 For tax years ending on or after December 31, 1985, the  
28 credit shall be allowed for the tax year in which the  
29 property is placed in service, or, if the amount of the  
30 credit exceeds the tax liability for that year, whether it  
31 exceeds the original liability or the liability as later  
32 amended, such excess may be carried forward and applied to  
33 the tax liability of the 5 taxable years following the  
34 excess credit year. The credit shall be applied to the  
35 earliest year for which there is a liability. If there is  
36 credit from more than one tax year that is available to

1 offset a liability, the credit accruing first in time shall  
2 be applied first.

3 (2) The term qualified property means property which:

4 (A) is tangible, whether new or used, including  
5 buildings and structural components of buildings;

6 (B) is depreciable pursuant to Section 167 of the  
7 Internal Revenue Code, except that "3-year property"  
8 as defined in Section 168(c)(2)(A) of that Code is not  
9 eligible for the credit provided by this subsection  
10 (f);

11 (C) is acquired by purchase as defined in Section  
12 179(d) of the Internal Revenue Code;

13 (D) is used in the Enterprise Zone by the taxpayer;  
14 and

15 (E) has not been previously used in Illinois in  
16 such a manner and by such a person as would qualify for  
17 the credit provided by this subsection (f) or  
18 subsection (e).

19 (3) The basis of qualified property shall be the basis  
20 used to compute the depreciation deduction for federal  
21 income tax purposes.

22 (4) If the basis of the property for federal income tax  
23 depreciation purposes is increased after it has been placed  
24 in service in the Enterprise Zone by the taxpayer, the  
25 amount of such increase shall be deemed property placed in  
26 service on the date of such increase in basis.

27 (5) The term "placed in service" shall have the same  
28 meaning as under Section 46 of the Internal Revenue Code.

29 (6) If during any taxable year, any property ceases to  
30 be qualified property in the hands of the taxpayer within  
31 48 months after being placed in service, or the situs of  
32 any qualified property is moved outside the Enterprise Zone  
33 within 48 months after being placed in service, the tax  
34 imposed under subsections (a) and (b) of this Section for  
35 such taxable year shall be increased. Such increase shall  
36 be determined by (i) recomputing the investment credit

1 which would have been allowed for the year in which credit  
2 for such property was originally allowed by eliminating  
3 such property from such computation, and (ii) subtracting  
4 such recomputed credit from the amount of credit previously  
5 allowed. For the purposes of this paragraph (6), a  
6 reduction of the basis of qualified property resulting from  
7 a redetermination of the purchase price shall be deemed a  
8 disposition of qualified property to the extent of such  
9 reduction.

10 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade  
11 Zone or Sub-Zone.

12 (1) A taxpayer conducting a trade or business in an  
13 enterprise zone or a High Impact Business designated by the  
14 Department of Commerce and Economic Opportunity Community  
15 ~~Affairs~~ conducting a trade or business in a federally  
16 designated Foreign Trade Zone or Sub-Zone shall be allowed  
17 a credit against the tax imposed by subsections (a) and (b)  
18 of this Section in the amount of \$500 per eligible employee  
19 hired to work in the zone during the taxable year.

20 (2) To qualify for the credit:

21 (A) the taxpayer must hire 5 or more eligible  
22 employees to work in an enterprise zone or federally  
23 designated Foreign Trade Zone or Sub-Zone during the  
24 taxable year;

25 (B) the taxpayer's total employment within the  
26 enterprise zone or federally designated Foreign Trade  
27 Zone or Sub-Zone must increase by 5 or more full-time  
28 employees beyond the total employed in that zone at the  
29 end of the previous tax year for which a jobs tax  
30 credit under this Section was taken, or beyond the  
31 total employed by the taxpayer as of December 31, 1985,  
32 whichever is later; and

33 (C) the eligible employees must be employed 180  
34 consecutive days in order to be deemed hired for  
35 purposes of this subsection.

36 (3) An "eligible employee" means an employee who is:

1 (A) Certified by the Department of Commerce and  
2 Economic Opportunity ~~Community Affairs~~ as "eligible  
3 for services" pursuant to regulations promulgated in  
4 accordance with Title II of the Job Training  
5 Partnership Act, Training Services for the  
6 Disadvantaged or Title III of the Job Training  
7 Partnership Act, Employment and Training Assistance  
8 for Dislocated Workers Program.

9 (B) Hired after the enterprise zone or federally  
10 designated Foreign Trade Zone or Sub-Zone was  
11 designated or the trade or business was located in that  
12 zone, whichever is later.

13 (C) Employed in the enterprise zone or Foreign  
14 Trade Zone or Sub-Zone. An employee is employed in an  
15 enterprise zone or federally designated Foreign Trade  
16 Zone or Sub-Zone if his services are rendered there or  
17 it is the base of operations for the services  
18 performed.

19 (D) A full-time employee working 30 or more hours  
20 per week.

21 (4) For tax years ending on or after December 31, 1985  
22 and prior to December 31, 1988, the credit shall be allowed  
23 for the tax year in which the eligible employees are hired.  
24 For tax years ending on or after December 31, 1988, the  
25 credit shall be allowed for the tax year immediately  
26 following the tax year in which the eligible employees are  
27 hired. If the amount of the credit exceeds the tax  
28 liability for that year, whether it exceeds the original  
29 liability or the liability as later amended, such excess  
30 may be carried forward and applied to the tax liability of  
31 the 5 taxable years following the excess credit year. The  
32 credit shall be applied to the earliest year for which  
33 there is a liability. If there is credit from more than one  
34 tax year that is available to offset a liability, earlier  
35 credit shall be applied first.

36 (5) The Department of Revenue shall promulgate such

1 rules and regulations as may be deemed necessary to carry  
2 out the purposes of this subsection (g).

3 (6) The credit shall be available for eligible  
4 employees hired on or after January 1, 1986.

5 (h) Investment credit; High Impact Business.

6 (1) Subject to subsections (b) and (b-5) of Section 5.5  
7 of the Illinois Enterprise Zone Act, a taxpayer shall be  
8 allowed a credit against the tax imposed by subsections (a)  
9 and (b) of this Section for investment in qualified  
10 property which is placed in service by a Department of  
11 Commerce and Economic Opportunity ~~Community Affairs~~  
12 designated High Impact Business. The credit shall be .5% of  
13 the basis for such property. The credit shall not be  
14 available (i) until the minimum investments in qualified  
15 property set forth in subdivision (a) (3) (A) of Section 5.5  
16 of the Illinois Enterprise Zone Act have been satisfied or  
17 (ii) until the time authorized in subsection (b-5) of the  
18 Illinois Enterprise Zone Act for entities designated as  
19 High Impact Businesses under subdivisions (a) (3) (B),  
20 (a) (3) (C), and (a) (3) (D) of Section 5.5 of the Illinois  
21 Enterprise Zone Act, and shall not be allowed to the extent  
22 that it would reduce a taxpayer's liability for the tax  
23 imposed by subsections (a) and (b) of this Section to below  
24 zero. The credit applicable to such investments shall be  
25 taken in the taxable year in which such investments have  
26 been completed. The credit for additional investments  
27 beyond the minimum investment by a designated high impact  
28 business authorized under subdivision (a) (3) (A) of Section  
29 5.5 of the Illinois Enterprise Zone Act shall be available  
30 only in the taxable year in which the property is placed in  
31 service and shall not be allowed to the extent that it  
32 would reduce a taxpayer's liability for the tax imposed by  
33 subsections (a) and (b) of this Section to below zero. For  
34 tax years ending on or after December 31, 1987, the credit  
35 shall be allowed for the tax year in which the property is  
36 placed in service, or, if the amount of the credit exceeds

1 the tax liability for that year, whether it exceeds the  
2 original liability or the liability as later amended, such  
3 excess may be carried forward and applied to the tax  
4 liability of the 5 taxable years following the excess  
5 credit year. The credit shall be applied to the earliest  
6 year for which there is a liability. If there is credit  
7 from more than one tax year that is available to offset a  
8 liability, the credit accruing first in time shall be  
9 applied first.

10 Changes made in this subdivision (h) (1) by Public Act  
11 88-670 restore changes made by Public Act 85-1182 and  
12 reflect existing law.

13 (2) The term qualified property means property which:

14 (A) is tangible, whether new or used, including  
15 buildings and structural components of buildings;

16 (B) is depreciable pursuant to Section 167 of the  
17 Internal Revenue Code, except that "3-year property"  
18 as defined in Section 168(c) (2) (A) of that Code is not  
19 eligible for the credit provided by this subsection  
20 (h);

21 (C) is acquired by purchase as defined in Section  
22 179(d) of the Internal Revenue Code; and

23 (D) is not eligible for the Enterprise Zone  
24 Investment Credit provided by subsection (f) of this  
25 Section.

26 (3) The basis of qualified property shall be the basis  
27 used to compute the depreciation deduction for federal  
28 income tax purposes.

29 (4) If the basis of the property for federal income tax  
30 depreciation purposes is increased after it has been placed  
31 in service in a federally designated Foreign Trade Zone or  
32 Sub-Zone located in Illinois by the taxpayer, the amount of  
33 such increase shall be deemed property placed in service on  
34 the date of such increase in basis.

35 (5) The term "placed in service" shall have the same  
36 meaning as under Section 46 of the Internal Revenue Code.

1           (6) If during any taxable year ending on or before  
2           December 31, 1996, any property ceases to be qualified  
3           property in the hands of the taxpayer within 48 months  
4           after being placed in service, or the situs of any  
5           qualified property is moved outside Illinois within 48  
6           months after being placed in service, the tax imposed under  
7           subsections (a) and (b) of this Section for such taxable  
8           year shall be increased. Such increase shall be determined  
9           by (i) recomputing the investment credit which would have  
10          been allowed for the year in which credit for such property  
11          was originally allowed by eliminating such property from  
12          such computation, and (ii) subtracting such recomputed  
13          credit from the amount of credit previously allowed. For  
14          the purposes of this paragraph (6), a reduction of the  
15          basis of qualified property resulting from a  
16          redetermination of the purchase price shall be deemed a  
17          disposition of qualified property to the extent of such  
18          reduction.

19          (7) Beginning with tax years ending after December 31,  
20          1996, if a taxpayer qualifies for the credit under this  
21          subsection (h) and thereby is granted a tax abatement and  
22          the taxpayer relocates its entire facility in violation of  
23          the explicit terms and length of the contract under Section  
24          18-183 of the Property Tax Code, the tax imposed under  
25          subsections (a) and (b) of this Section shall be increased  
26          for the taxable year in which the taxpayer relocated its  
27          facility by an amount equal to the amount of credit  
28          received by the taxpayer under this subsection (h).

29          (i) Credit for Personal Property Tax Replacement Income  
30          Tax. For tax years ending prior to December 31, 2003, a credit  
31          shall be allowed against the tax imposed by subsections (a) and  
32          (b) of this Section for the tax imposed by subsections (c) and  
33          (d) of this Section. This credit shall be computed by  
34          multiplying the tax imposed by subsections (c) and (d) of this  
35          Section by a fraction, the numerator of which is base income  
36          allocable to Illinois and the denominator of which is Illinois



1 base income, and further multiplying the product by the tax  
2 rate imposed by subsections (a) and (b) of this Section.

3 Any credit earned on or after December 31, 1986 under this  
4 subsection which is unused in the year the credit is computed  
5 because it exceeds the tax liability imposed by subsections (a)  
6 and (b) for that year (whether it exceeds the original  
7 liability or the liability as later amended) may be carried  
8 forward and applied to the tax liability imposed by subsections  
9 (a) and (b) of the 5 taxable years following the excess credit  
10 year, provided that no credit may be carried forward to any  
11 year ending on or after December 31, 2003. This credit shall be  
12 applied first to the earliest year for which there is a  
13 liability. If there is a credit under this subsection from more  
14 than one tax year that is available to offset a liability the  
15 earliest credit arising under this subsection shall be applied  
16 first.

17 If, during any taxable year ending on or after December 31,  
18 1986, the tax imposed by subsections (c) and (d) of this  
19 Section for which a taxpayer has claimed a credit under this  
20 subsection (i) is reduced, the amount of credit for such tax  
21 shall also be reduced. Such reduction shall be determined by  
22 recomputing the credit to take into account the reduced tax  
23 imposed by subsections (c) and (d). If any portion of the  
24 reduced amount of credit has been carried to a different  
25 taxable year, an amended return shall be filed for such taxable  
26 year to reduce the amount of credit claimed.

27 (j) Training expense credit. Beginning with tax years  
28 ending on or after December 31, 1986 and prior to December 31,  
29 2003, a taxpayer shall be allowed a credit against the tax  
30 imposed by subsections (a) and (b) under this Section for all  
31 amounts paid or accrued, on behalf of all persons employed by  
32 the taxpayer in Illinois or Illinois residents employed outside  
33 of Illinois by a taxpayer, for educational or vocational  
34 training in semi-technical or technical fields or semi-skilled  
35 or skilled fields, which were deducted from gross income in the  
36 computation of taxable income. The credit against the tax

1 imposed by subsections (a) and (b) shall be 1.6% of such  
2 training expenses. For partners, shareholders of subchapter S  
3 corporations, and owners of limited liability companies, if the  
4 liability company is treated as a partnership for purposes of  
5 federal and State income taxation, there shall be allowed a  
6 credit under this subsection (j) to be determined in accordance  
7 with the determination of income and distributive share of  
8 income under Sections 702 and 704 and subchapter S of the  
9 Internal Revenue Code.

10 Any credit allowed under this subsection which is unused in  
11 the year the credit is earned may be carried forward to each of  
12 the 5 taxable years following the year for which the credit is  
13 first computed until it is used. This credit shall be applied  
14 first to the earliest year for which there is a liability. If  
15 there is a credit under this subsection from more than one tax  
16 year that is available to offset a liability the earliest  
17 credit arising under this subsection shall be applied first. No  
18 carryforward credit may be claimed in any tax year ending on or  
19 after December 31, 2003.

20 (k) Research and development credit.

21 For tax years ending after July 1, 1990 and prior to  
22 December 31, 2003, a taxpayer shall be allowed a credit against  
23 the tax imposed by subsections (a) and (b) of this Section for  
24 increasing research activities in this State. The credit  
25 allowed against the tax imposed by subsections (a) and (b)  
26 shall be equal to 6 1/2% of the qualifying expenditures for  
27 increasing research activities in this State. For partners,  
28 shareholders of subchapter S corporations, and owners of  
29 limited liability companies, if the liability company is  
30 treated as a partnership for purposes of federal and State  
31 income taxation, there shall be allowed a credit under this  
32 subsection to be determined in accordance with the  
33 determination of income and distributive share of income under  
34 Sections 702 and 704 and subchapter S of the Internal Revenue  
35 Code.

36 For purposes of this subsection, "qualifying expenditures"

1 means the qualifying expenditures as defined for the federal  
2 credit for increasing research activities which would be  
3 allowable under Section 41 of the Internal Revenue Code and  
4 which are conducted in this State, "qualifying expenditures for  
5 increasing research activities in this State" means the excess  
6 of qualifying expenditures for the taxable year in which  
7 incurred over qualifying expenditures for the base period,  
8 "qualifying expenditures for the base period" means the average  
9 of the qualifying expenditures for each year in the base  
10 period, and "base period" means the 3 taxable years immediately  
11 preceding the taxable year for which the determination is being  
12 made.

13 Any credit in excess of the tax liability for the taxable  
14 year may be carried forward. A taxpayer may elect to have the  
15 unused credit shown on its final completed return carried over  
16 as a credit against the tax liability for the following 5  
17 taxable years or until it has been fully used, whichever occurs  
18 first; provided that no credit may be carried forward to any  
19 year ending on or after December 31, 2003.

20 If an unused credit is carried forward to a given year from  
21 2 or more earlier years, that credit arising in the earliest  
22 year will be applied first against the tax liability for the  
23 given year. If a tax liability for the given year still  
24 remains, the credit from the next earliest year will then be  
25 applied, and so on, until all credits have been used or no tax  
26 liability for the given year remains. Any remaining unused  
27 credit or credits then will be carried forward to the next  
28 following year in which a tax liability is incurred, except  
29 that no credit can be carried forward to a year which is more  
30 than 5 years after the year in which the expense for which the  
31 credit is given was incurred.

32 No inference shall be drawn from this amendatory Act of the  
33 91st General Assembly in construing this Section for taxable  
34 years beginning before January 1, 1999.

35 (1) Environmental Remediation Tax Credit.

36 (i) For tax years ending after December 31, 1997 and on

1 or before December 31, 2001, a taxpayer shall be allowed a  
2 credit against the tax imposed by subsections (a) and (b)  
3 of this Section for certain amounts paid for unreimbursed  
4 eligible remediation costs, as specified in this  
5 subsection. For purposes of this Section, "unreimbursed  
6 eligible remediation costs" means costs approved by the  
7 Illinois Environmental Protection Agency ("Agency") under  
8 Section 58.14 of the Environmental Protection Act that were  
9 paid in performing environmental remediation at a site for  
10 which a No Further Remediation Letter was issued by the  
11 Agency and recorded under Section 58.10 of the  
12 Environmental Protection Act. The credit must be claimed  
13 for the taxable year in which Agency approval of the  
14 eligible remediation costs is granted. The credit is not  
15 available to any taxpayer if the taxpayer or any related  
16 party caused or contributed to, in any material respect, a  
17 release of regulated substances on, in, or under the site  
18 that was identified and addressed by the remedial action  
19 pursuant to the Site Remediation Program of the  
20 Environmental Protection Act. After the Pollution Control  
21 Board rules are adopted pursuant to the Illinois  
22 Administrative Procedure Act for the administration and  
23 enforcement of Section 58.9 of the Environmental  
24 Protection Act, determinations as to credit availability  
25 for purposes of this Section shall be made consistent with  
26 those rules. For purposes of this Section, "taxpayer"  
27 includes a person whose tax attributes the taxpayer has  
28 succeeded to under Section 381 of the Internal Revenue Code  
29 and "related party" includes the persons disallowed a  
30 deduction for losses by paragraphs (b), (c), and (f)(1) of  
31 Section 267 of the Internal Revenue Code by virtue of being  
32 a related taxpayer, as well as any of its partners. The  
33 credit allowed against the tax imposed by subsections (a)  
34 and (b) shall be equal to 25% of the unreimbursed eligible  
35 remediation costs in excess of \$100,000 per site, except  
36 that the \$100,000 threshold shall not apply to any site

1 contained in an enterprise zone as determined by the  
2 Department of Commerce and Community Affairs (now  
3 Department of Commerce and Economic Opportunity). The  
4 total credit allowed shall not exceed \$40,000 per year with  
5 a maximum total of \$150,000 per site. For partners and  
6 shareholders of subchapter S corporations, there shall be  
7 allowed a credit under this subsection to be determined in  
8 accordance with the determination of income and  
9 distributive share of income under Sections 702 and 704 and  
10 subchapter S of the Internal Revenue Code.

11 (ii) A credit allowed under this subsection that is  
12 unused in the year the credit is earned may be carried  
13 forward to each of the 5 taxable years following the year  
14 for which the credit is first earned until it is used. The  
15 term "unused credit" does not include any amounts of  
16 unreimbursed eligible remediation costs in excess of the  
17 maximum credit per site authorized under paragraph (i).  
18 This credit shall be applied first to the earliest year for  
19 which there is a liability. If there is a credit under this  
20 subsection from more than one tax year that is available to  
21 offset a liability, the earliest credit arising under this  
22 subsection shall be applied first. A credit allowed under  
23 this subsection may be sold to a buyer as part of a sale of  
24 all or part of the remediation site for which the credit  
25 was granted. The purchaser of a remediation site and the  
26 tax credit shall succeed to the unused credit and remaining  
27 carry-forward period of the seller. To perfect the  
28 transfer, the assignor shall record the transfer in the  
29 chain of title for the site and provide written notice to  
30 the Director of the Illinois Department of Revenue of the  
31 assignor's intent to sell the remediation site and the  
32 amount of the tax credit to be transferred as a portion of  
33 the sale. In no event may a credit be transferred to any  
34 taxpayer if the taxpayer or a related party would not be  
35 eligible under the provisions of subsection (i).

36 (iii) For purposes of this Section, the term "site"

1 shall have the same meaning as under Section 58.2 of the  
2 Environmental Protection Act.

3 (m) Education expense credit. Beginning with tax years  
4 ending after December 31, 1999, a taxpayer who is the custodian  
5 of one or more qualifying pupils shall be allowed a credit  
6 against the tax imposed by subsections (a) and (b) of this  
7 Section for qualified education expenses incurred on behalf of  
8 the qualifying pupils. The credit shall be equal to 25% of  
9 qualified education expenses, but in no event may the total  
10 credit under this subsection claimed by a family that is the  
11 custodian of qualifying pupils exceed \$500. In no event shall a  
12 credit under this subsection reduce the taxpayer's liability  
13 under this Act to less than zero. This subsection is exempt  
14 from the provisions of Section 250 of this Act.

15 For purposes of this subsection:

16 "Qualifying pupils" means individuals who (i) are  
17 residents of the State of Illinois, (ii) are under the age of  
18 21 at the close of the school year for which a credit is  
19 sought, and (iii) during the school year for which a credit is  
20 sought were full-time pupils enrolled in a kindergarten through  
21 twelfth grade education program at any school, as defined in  
22 this subsection.

23 "Qualified education expense" means the amount incurred on  
24 behalf of a qualifying pupil in excess of \$250 for tuition,  
25 book fees, and lab fees at the school in which the pupil is  
26 enrolled during the regular school year.

27 "School" means any public or nonpublic elementary or  
28 secondary school in Illinois that is in compliance with Title  
29 VI of the Civil Rights Act of 1964 and attendance at which  
30 satisfies the requirements of Section 26-1 of the School Code,  
31 except that nothing shall be construed to require a child to  
32 attend any particular public or nonpublic school to qualify for  
33 the credit under this Section.

34 "Custodian" means, with respect to qualifying pupils, an  
35 Illinois resident who is a parent, the parents, a legal  
36 guardian, or the legal guardians of the qualifying pupils.

1 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-651,  
2 eff. 7-11-02; 92-846, eff. 8-23-02; 93-29, eff. 6-20-03;  
3 revised 12-6-03.)

4 (35 ILCS 5/202.5 new)

5 Sec. 202.5. Net income attributable to the period prior to  
6 January 1, 2004 and net income attributable to the period after  
7 December 31, 2003.

8 (a) In general. With respect to the taxable year of a  
9 taxpayer beginning prior to January 1, 2004 and ending after  
10 December 31, 2003, net income for the period after December 31,  
11 2003 shall be that amount that bears the same ratio to the  
12 taxpayer's net income for the entire taxable year as the number  
13 of days in that year after December 31, 2003 bears to the total  
14 number of days in that year, and the net income for the period  
15 prior to January 1, 2004 shall be that amount that bears the  
16 same ratio to the taxpayer's net income for the entire taxable  
17 year as the number of days in that year prior to January 1,  
18 2004 bears to the total number of days in that year.

19 (b) Election to attribute income and deduction items  
20 specifically to the respective portions of a taxable year prior  
21 to January 1, 2004 and after December 31, 2003. In the case of  
22 a taxpayer with a taxable year beginning prior to January 1,  
23 2004 and ending after December 31, 2003, the taxpayer may  
24 elect, instead of the procedure established in subsection (a)  
25 of this Section, to determine net income on a specific  
26 accounting basis for the 2 portions of his or her taxable year:

27 (i) from the beginning of the taxable year through  
28 December 31, 2003; and

29 (ii) from January 1, 2004 through the end of the  
30 taxable year.

31 If the taxpayer elects specific accounting under this  
32 subsection, there shall be taken into account in computing base  
33 income for each of the 2 portions of the taxable year only  
34 those items earned, received, paid, incurred or accrued in each  
35 such period. The standard exemption provided by Section 204

1 shall be divided between the respective periods in amounts that  
2 bear the same ratio to the total exemption allowable under  
3 Section 204 (determined without regard to this Section) as the  
4 total number of days in each such period bears to the total  
5 number of days in the taxable year. The election provided by  
6 this subsection must be made in such manner and at such time  
7 that the Department by forms or regulations prescribes, but  
8 must be made no later than the due date (including any  
9 extensions thereof) for the filing of the return for the  
10 taxable year, and shall be irrevocable.

11 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

12 Sec. 204. Standard Exemption.

13 (a) Allowance of exemption. In computing net income under  
14 this Act, there shall be allowed as an exemption the sum of the  
15 amounts determined under subsections (b), (c) and (d),  
16 multiplied by a fraction the numerator of which is the amount  
17 of the taxpayer's base income allocable to this State for the  
18 taxable year and the denominator of which is the taxpayer's  
19 total base income for the taxable year.

20 (b) Basic amount. For the purpose of subsection (a) of this  
21 Section, except as provided by subsection (a) of Section 205  
22 and in this subsection, each taxpayer shall be allowed a basic  
23 amount of \$1000, except that for corporations the basic amount  
24 shall be zero for tax years ending on or after December 31,  
25 2003, and for individuals the basic amount shall be:

26 (1) for taxable years ending on or after December 31,  
27 1998 and prior to December 31, 1999, \$1,300;

28 (2) for taxable years ending on or after December 31,  
29 1999 and prior to December 31, 2000, \$1,650;

30 (3) for taxable years ending on or after December 31,  
31 2000 and prior to January 1, 2004, \$2,000;

32 (4) for taxable years ending on or after January 1,  
33 2004, \$12,000.

34 For taxable years ending on or after December 31, 1992, a  
35 taxpayer whose Illinois base income exceeds the basic amount



1 and who is claimed as a dependent on another person's tax  
2 return under the Internal Revenue Code of 1986 shall not be  
3 allowed any basic amount under this subsection.

4 (c) Additional amount for individuals. In the case of an  
5 individual taxpayer, there shall be allowed for the purpose of  
6 subsection (a), in addition to the basic amount provided by  
7 subsection (b), an additional exemption equal to the basic  
8 amount for each exemption in excess of one allowable to such  
9 individual taxpayer for the taxable year under Section 151 of  
10 the Internal Revenue Code.

11 (d) Additional exemptions for an individual taxpayer and  
12 his or her spouse. In the case of an individual taxpayer and  
13 his or her spouse, he or she shall each be allowed additional  
14 exemptions as follows:

15 (1) Additional exemption for taxpayer or spouse 65  
16 years of age or older.

17 (A) For taxpayer. An additional exemption of  
18 \$1,000 for the taxpayer if he or she has attained the  
19 age of 65 before the end of the taxable year.

20 (B) For spouse when a joint return is not filed. An  
21 additional exemption of \$1,000 for the spouse of the  
22 taxpayer if a joint return is not made by the taxpayer  
23 and his spouse, and if the spouse has attained the age  
24 of 65 before the end of such taxable year, and, for the  
25 calendar year in which the taxable year of the taxpayer  
26 begins, has no gross income and is not the dependent of  
27 another taxpayer.

28 (2) Additional exemption for blindness of taxpayer or  
29 spouse.

30 (A) For taxpayer. An additional exemption of  
31 \$1,000 for the taxpayer if he or she is blind at the  
32 end of the taxable year.

33 (B) For spouse when a joint return is not filed. An  
34 additional exemption of \$1,000 for the spouse of the  
35 taxpayer if a separate return is made by the taxpayer,  
36 and if the spouse is blind and, for the calendar year

1 in which the taxable year of the taxpayer begins, has  
2 no gross income and is not the dependent of another  
3 taxpayer. For purposes of this paragraph, the  
4 determination of whether the spouse is blind shall be  
5 made as of the end of the taxable year of the taxpayer;  
6 except that if the spouse dies during such taxable year  
7 such determination shall be made as of the time of such  
8 death.

9 (C) Blindness defined. For purposes of this  
10 subsection, an individual is blind only if his or her  
11 central visual acuity does not exceed 20/200 in the  
12 better eye with correcting lenses, or if his or her  
13 visual acuity is greater than 20/200 but is accompanied  
14 by a limitation in the fields of vision such that the  
15 widest diameter of the visual fields subtends an angle  
16 no greater than 20 degrees.

17 (e) Cross reference. See Article 3 for the manner of  
18 determining base income allocable to this State.

19 (f) Application of Section 250. Section 250 does not apply  
20 to the amendments to this Section made by Public Act 90-613.

21 (Source: P.A. 93-29, eff. 6-20-03.)

22 (35 ILCS 5/901) (from Ch. 120, par. 9-901)

23 Sec. 901. Collection Authority.

24 (a) In general.

25 The Department shall collect the taxes imposed by this Act.  
26 The Department shall collect certified past due child support  
27 amounts under Section 2505-650 of the Department of Revenue Law  
28 (20 ILCS 2505/2505-650). Except as provided in subsections (c)  
29 and (e) of this Section, money collected pursuant to  
30 subsections (a) and (b) of Section 201 of this Act shall be  
31 paid into the General Revenue Fund in the State treasury; money  
32 collected pursuant to subsections (c) and (d) of Section 201 of  
33 this Act shall be paid into the Personal Property Tax  
34 Replacement Fund, a special fund in the State Treasury; and  
35 money collected under Section 2505-650 of the Department of

1 Revenue Law (20 ILCS 2505/2505-650) shall be paid into the  
2 Child Support Enforcement Trust Fund, a special fund outside  
3 the State Treasury, or to the State Disbursement Unit  
4 established under Section 10-26 of the Illinois Public Aid  
5 Code, as directed by the Department of Public Aid.

6 (b) Local Governmental Distributive Fund.

7 Beginning August 1, 1969, and continuing through June 30,  
8 1994, the Treasurer shall transfer each month from the General  
9 Revenue Fund to a special fund in the State treasury, to be  
10 known as the "Local Government Distributive Fund", an amount  
11 equal to 1/12 of the net revenue realized from the tax imposed  
12 by subsections (a) and (b) of Section 201 of this Act during  
13 the preceding month. Beginning July 1, 1994, and continuing  
14 through June 30, 1995, the Treasurer shall transfer each month  
15 from the General Revenue Fund to the Local Government  
16 Distributive Fund an amount equal to 1/11 of the net revenue  
17 realized from the tax imposed by subsections (a) and (b) of  
18 Section 201 of this Act during the preceding month. Beginning  
19 July 1, 1995, the Treasurer shall transfer each month from the  
20 General Revenue Fund to the Local Government Distributive Fund  
21 an amount equal to the net of (i) 1/10 of the net revenue  
22 realized from the tax imposed by subsections (a) and (b) of  
23 Section 201 of the Illinois Income Tax Act during the preceding  
24 month (ii) minus, beginning July 1, 2003 and ending June 30,  
25 2004, \$6,666,666, and beginning July 1, 2004, zero. Net revenue  
26 realized for a month shall be defined as the revenue from the  
27 tax imposed by subsections (a) and (b) of Section 201 of this  
28 Act which is deposited in the General Revenue Fund, the  
29 Educational Assistance Fund and the Income Tax Surcharge Local  
30 Government Distributive Fund during the month minus the amount  
31 paid out of the General Revenue Fund in State warrants during  
32 that same month as refunds to taxpayers for overpayment of  
33 liability under the tax imposed by subsections (a) and (b) of  
34 Section 201 of this Act.

35 (c) Deposits Into Income Tax Refund Fund.

36 (1) Beginning on January 1, 1989 and thereafter, the

1 Department shall deposit a percentage of the amounts  
2 collected pursuant to subsections (a) and (b) (1), (2), ~~and~~  
3 (3), (4), and (5) of Section 201 of this Act into a fund in  
4 the State treasury known as the Income Tax Refund Fund. The  
5 Department shall deposit 6% of such amounts during the  
6 period beginning January 1, 1989 and ending on June 30,  
7 1989. Beginning with State fiscal year 1990 and for each  
8 fiscal year thereafter, the percentage deposited into the  
9 Income Tax Refund Fund during a fiscal year shall be the  
10 Annual Percentage. For fiscal years 1999 through 2001, the  
11 Annual Percentage shall be 7.1%. For fiscal year 2003, the  
12 Annual Percentage shall be 8%. For fiscal year 2004, the  
13 Annual Percentage shall be 11.7%. For all other fiscal  
14 years, the Annual Percentage shall be calculated as a  
15 fraction, the numerator of which shall be the amount of  
16 refunds approved for payment by the Department during the  
17 preceding fiscal year as a result of overpayment of tax  
18 liability under subsections (a) and (b) (1), (2), ~~and~~ (3),  
19 (4), and (5) of Section 201 of this Act plus the amount of  
20 such refunds remaining approved but unpaid at the end of  
21 the preceding fiscal year, minus the amounts transferred  
22 into the Income Tax Refund Fund from the Tobacco Settlement  
23 Recovery Fund, and the denominator of which shall be the  
24 amounts which will be collected pursuant to subsections (a)  
25 and (b) (1), (2), ~~and~~ (3), (4), and (5) of Section 201 of  
26 this Act during the preceding fiscal year; except that in  
27 State fiscal year 2002, the Annual Percentage shall in no  
28 event exceed 7.6%. The Director of Revenue shall certify  
29 the Annual Percentage to the Comptroller on the last  
30 business day of the fiscal year immediately preceding the  
31 fiscal year for which it is to be effective.

32 (2) Beginning on January 1, 1989 and thereafter, the  
33 Department shall deposit a percentage of the amounts  
34 collected pursuant to subsections (a) and (b) (6), (7), and  
35 (8), (c) and (d) of Section 201 of this Act into a fund in  
36 the State treasury known as the Income Tax Refund Fund. The

1 Department shall deposit 18% of such amounts during the  
2 period beginning January 1, 1989 and ending on June 30,  
3 1989. Beginning with State fiscal year 1990 and for each  
4 fiscal year thereafter, the percentage deposited into the  
5 Income Tax Refund Fund during a fiscal year shall be the  
6 Annual Percentage. For fiscal years 1999, 2000, and 2001,  
7 the Annual Percentage shall be 19%. For fiscal year 2003,  
8 the Annual Percentage shall be 27%. For fiscal year 2004,  
9 the Annual Percentage shall be 32%. For all other fiscal  
10 years, the Annual Percentage shall be calculated as a  
11 fraction, the numerator of which shall be the amount of  
12 refunds approved for payment by the Department during the  
13 preceding fiscal year as a result of overpayment of tax  
14 liability under subsections (a) and (b) (6), (7), and (8),  
15 (c) and (d) of Section 201 of this Act plus the amount of  
16 such refunds remaining approved but unpaid at the end of  
17 the preceding fiscal year, and the denominator of which  
18 shall be the amounts which will be collected pursuant to  
19 subsections (a) and (b) (6), (7), and (8), (c) and (d) of  
20 Section 201 of this Act during the preceding fiscal year;  
21 except that in State fiscal year 2002, the Annual  
22 Percentage shall in no event exceed 23%. The Director of  
23 Revenue shall certify the Annual Percentage to the  
24 Comptroller on the last business day of the fiscal year  
25 immediately preceding the fiscal year for which it is to be  
26 effective.

27 (3) The Comptroller shall order transferred and the  
28 Treasurer shall transfer from the Tobacco Settlement  
29 Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000  
30 in January, 2001, (ii) \$35,000,000 in January, 2002, and  
31 (iii) \$35,000,000 in January, 2003.

32 (d) Expenditures from Income Tax Refund Fund.

33 (1) Beginning January 1, 1989, money in the Income Tax  
34 Refund Fund shall be expended exclusively for the purpose  
35 of paying refunds resulting from overpayment of tax  
36 liability under Section 201 of this Act, for paying rebates

1 under Section 208.1 in the event that the amounts in the  
2 Homeowners' Tax Relief Fund are insufficient for that  
3 purpose, and for making transfers pursuant to this  
4 subsection (d).

5 (2) The Director shall order payment of refunds  
6 resulting from overpayment of tax liability under Section  
7 201 of this Act from the Income Tax Refund Fund only to the  
8 extent that amounts collected pursuant to Section 201 of  
9 this Act and transfers pursuant to this subsection (d) and  
10 item (3) of subsection (c) have been deposited and retained  
11 in the Fund.

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

24 (4) As soon as possible after the end of each fiscal  
25 year, the Director shall order transferred and the State  
26 Treasurer and State Comptroller shall transfer from the  
27 Personal Property Tax Replacement Fund to the Income Tax  
28 Refund Fund an amount, certified by the Director to the  
29 Comptroller, equal to the excess of the amount of refunds  
30 resulting from overpayment of tax liability under  
31 subsections (c) and (d) of Section 201 of this Act paid  
32 from the Income Tax Refund Fund during the fiscal year over  
33 the amount collected pursuant to subsections (c) and (d) of  
34 Section 201 of this Act deposited into the Income Tax  
35 Refund Fund during the fiscal year.

36 (4.5) As soon as possible after the end of fiscal year

1 1999 and of each fiscal year thereafter, the Director shall  
2 order transferred and the State Treasurer and State  
3 Comptroller shall transfer from the Income Tax Refund Fund  
4 to the General Revenue Fund any surplus remaining in the  
5 Income Tax Refund Fund as of the end of such fiscal year;  
6 excluding for fiscal years 2000, 2001, and 2002 amounts  
7 attributable to transfers under item (3) of subsection (c)  
8 less refunds resulting from the earned income tax credit.

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

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

15 On July 1, 1991, and thereafter, of the amounts collected  
16 pursuant to subsections (a) and (b) of Section 201 of this Act,  
17 minus deposits into the Income Tax Refund Fund, the Department  
18 shall deposit 7.3% into the Education Assistance Fund in the  
19 State Treasury. Beginning July 1, 1991, and continuing through  
20 January 31, 1993, of the amounts collected pursuant to  
21 subsections (a) and (b) of Section 201 of the Illinois Income  
22 Tax Act, minus deposits into the Income Tax Refund Fund, the  
23 Department shall deposit 3.0% into the Income Tax Surcharge  
24 Local Government Distributive Fund in the State Treasury.  
25 Beginning February 1, 1993 and continuing through June 30,  
26 1993, of the amounts collected pursuant to subsections (a) and  
27 (b) of Section 201 of the Illinois Income Tax Act, minus  
28 deposits into the Income Tax Refund Fund, the Department shall  
29 deposit 4.4% into the Income Tax Surcharge Local Government  
30 Distributive Fund in the State Treasury. Beginning July 1,  
31 1993, and continuing through June 30, 1994, of the amounts  
32 collected under subsections (a) and (b) of Section 201 of this  
33 Act, minus deposits into the Income Tax Refund Fund, the  
34 Department shall deposit 1.475% into the Income Tax Surcharge  
35 Local Government Distributive Fund in the State Treasury.

36 (Source: P.A. 92-11, eff. 6-11-01; 92-16, eff. 6-28-01; 92-600,

1 eff. 6-28-02; 93-32, eff. 6-20-03.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.