



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0155

Introduced 1/11/2005, 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 5/212	
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. Provides that for each taxable year beginning on or after January 1, 2005, the amount of the earned income tax credit is 20% (now, 5%) of the federal tax credit. Effective immediately.

LRB094 05473 BDD 35518 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, 212, and 901 and by adding Section
6 202.5 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, 2004, 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, 2005 and ending
4 after December 31, 2004, an amount equal to the sum of (i)
5 3% of the taxpayer's net income for the period prior to
6 January 1, 2005, 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, 2004, 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, 2008, except for costs incurred
12 pursuant to a binding contract entered into on or before
13 December 31, 2008.

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 conducting
15 a trade or business in a federally designated Foreign Trade
16 Zone or Sub-Zone shall be allowed a credit against the tax
17 imposed by subsections (a) and (b) of this Section in the
18 amount of \$500 per eligible employee hired to work in the
19 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 as "eligible for services"
3 pursuant to regulations promulgated in accordance with
4 Title II of the Job Training Partnership Act, Training
5 Services for the Disadvantaged or Title III of the Job
6 Training Partnership Act, Employment and Training
7 Assistance for Dislocated Workers Program.

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

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

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

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

35 (5) The Department of Revenue shall promulgate such
36 rules and regulations as may be deemed necessary to carry

1 out the purposes of this subsection (g).

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

4 (h) Investment credit; High Impact Business.

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

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

8 Changes made in this subdivision (h) (1) by Public Act
9 88-670 restore changes made by Public Act 85-1182 and
10 reflect existing law.

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

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

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

19 (C) is acquired by purchase as defined in Section
20 179(d) of the Internal Revenue Code; and

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

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

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

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

35 (6) If during any taxable year ending on or before
36 December 31, 1996, any property ceases to be qualified

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

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

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

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

15 If, during any taxable year ending on or after December 31,
16 1986, the tax imposed by subsections (c) and (d) of this
17 Section for which a taxpayer has claimed a credit under this
18 subsection (i) is reduced, the amount of credit for such tax
19 shall also be reduced. Such reduction shall be determined by
20 recomputing the credit to take into account the reduced tax
21 imposed by subsections (c) and (d). If any portion of the
22 reduced amount of credit has been carried to a different
23 taxable year, an amended return shall be filed for such taxable
24 year to reduce the amount of credit claimed.

25 (j) Training expense credit. Beginning with tax years
26 ending on or after December 31, 1986 and prior to December 31,
27 2003, a taxpayer shall be allowed a credit against the tax
28 imposed by subsections (a) and (b) under this Section for all
29 amounts paid or accrued, on behalf of all persons employed by
30 the taxpayer in Illinois or Illinois residents employed outside
31 of Illinois by a taxpayer, for educational or vocational
32 training in semi-technical or technical fields or semi-skilled
33 or skilled fields, which were deducted from gross income in the
34 computation of taxable income. The credit against the tax
35 imposed by subsections (a) and (b) shall be 1.6% of such
36 training expenses. For partners, shareholders of subchapter S

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

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

18 (k) Research and development credit.

19 For tax years ending after July 1, 1990 and prior to
20 December 31, 2003, and beginning again for tax years ending on
21 or after December 31, 2004, a taxpayer shall be allowed a
22 credit against the tax imposed by subsections (a) and (b) of
23 this Section for increasing research activities in this State.
24 The credit allowed against the tax imposed by subsections (a)
25 and (b) shall be equal to 6 1/2% of the qualifying expenditures
26 for increasing research activities in this State. For partners,
27 shareholders of subchapter S corporations, and owners of
28 limited liability companies, if the liability company is
29 treated as a partnership for purposes of federal and State
30 income taxation, there shall be allowed a credit under this
31 subsection to be determined in accordance with the
32 determination of income and distributive share of income under
33 Sections 702 and 704 and subchapter S of the Internal Revenue
34 Code.

35 For purposes of this subsection, "qualifying expenditures"
36 means the qualifying expenditures as defined for the federal

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

12 Any credit in excess of the tax liability for the taxable
13 year may be carried forward. A taxpayer may elect to have the
14 unused credit shown on its final completed return carried over
15 as a credit against the tax liability for the following 5
16 taxable years or until it has been fully used, whichever occurs
17 first; provided that no credit earned in a tax year ending
18 prior to December 31, 2003 may be carried forward to any year
19 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; 93-840, eff. 7-30-04; 92-846, eff. 8-23-02;
3 93-29, eff. 6-20-03; 93-840, eff. 7-30-04; 93-871, eff. 8-6-04;
4 revised 10-25-04.)

5 (35 ILCS 5/202.5 new)

6 Sec. 202.5. Net income attributable to the period prior to
7 January 1, 2005 and net income attributable to the period after
8 December 31, 2004.

9 (a) In general. With respect to the taxable year of a
10 taxpayer beginning prior to January 1, 2005 and ending after
11 December 31, 2004, net income for the period after December 31,
12 2004 shall be that amount that bears the same ratio to the
13 taxpayer's net income for the entire taxable year as the number
14 of days in that year after December 31, 2004 bears to the total
15 number of days in that year, and the net income for the period
16 prior to January 1, 2005 shall be that amount that bears the
17 same ratio to the taxpayer's net income for the entire taxable
18 year as the number of days in that year prior to January 1,
19 2005 bears to the total number of days in that year.

20 (b) Election to attribute income and deduction items
21 specifically to the respective portions of a taxable year prior
22 to January 1, 2005 and after December 31, 2004. In the case of
23 a taxpayer with a taxable year beginning prior to January 1,
24 2005 and ending after December 31, 2004, the taxpayer may
25 elect, instead of the procedure established in subsection (a)
26 of this Section, to determine net income on a specific
27 accounting basis for the 2 portions of his or her taxable year:

28 (i) from the beginning of the taxable year through
29 December 31, 2004; and

30 (ii) from January 1, 2005 through the end of the
31 taxable year.

32 If the taxpayer elects specific accounting under this
33 subsection, there shall be taken into account in computing base
34 income for each of the 2 portions of the taxable year only
35 those items earned, received, paid, incurred or accrued in each

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

12 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

13 Sec. 204. Standard Exemption.

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

21 (b) Basic amount. For the purpose of subsection (a) of this
22 Section, except as provided by subsection (a) of Section 205
23 and in this subsection, each taxpayer shall be allowed a basic
24 amount of \$1000, except that for corporations the basic amount
25 shall be zero for tax years ending on or after December 31,
26 2003, and for individuals the basic amount shall be:

27 (1) for taxable years ending on or after December 31,
28 1998 and prior to December 31, 1999, \$1,300;

29 (2) for taxable years ending on or after December 31,
30 1999 and prior to December 31, 2000, \$1,650;

31 (3) for taxable years ending on or after December 31,
32 2000 and prior to January 1, 2005, \$2,000;

33 (4) for taxable years ending on or after January 1,
34 2005, \$12,000.

35 For taxable years ending on or after December 31, 1992, a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (35 ILCS 5/212)

24 Sec. 212. Earned income tax credit.

25 (a) With respect to the federal earned income tax credit
26 allowed for the taxable year under Section 32 of the federal
27 Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer
28 is entitled to a credit against the tax imposed by subsections
29 (a) and (b) of Section 201 in an amount equal to 5% of the
30 federal tax credit for each taxable year beginning on or after
31 January 1, 2000 and ending on or before December 31, 2004. For
32 each taxable year beginning on or after January 1, 2005, each
33 individual taxpayer is entitled to a credit against the tax
34 imposed by subsections (a) and (b) of Section 201 in an amount
35 equal to 20% of the federal tax credit.

1 For a non-resident or part-year resident, the amount of the
2 credit under this Section shall be in proportion to the amount
3 of income attributable to this State.

4 (b) For taxable years beginning before January 1, 2003, in
5 no event shall a credit under this Section reduce the
6 taxpayer's liability to less than zero. For each taxable year
7 beginning on or after January 1, 2003, if the amount of the
8 credit exceeds the income tax liability for the applicable tax
9 year, then the excess credit shall be refunded to the taxpayer.
10 The amount of a refund shall not be included in the taxpayer's
11 income or resources for the purposes of determining eligibility
12 or benefit level in any means-tested benefit program
13 administered by a governmental entity unless required by
14 federal law.

15 (b-5) Refunds authorized by subsection (b) are subject to
16 the availability of funds from the federal Temporary Assistance
17 for Needy Families Block Grant and the State's ability to meet
18 its required Maintenance of Effort.

19 (c) This Section is exempt from the provisions of Section
20 250.

21 (Source: P.A. 93-534, eff. 8-18-03; 93-653, eff. 1-8-04.)

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%. Upon the effective date
14 of this amendatory Act of the 93rd General Assembly, the
15 Annual Percentage shall be 10% for fiscal year 2005. For
16 all other fiscal years, the Annual Percentage shall be
17 calculated as a fraction, the numerator of which shall be
18 the amount of refunds approved for payment by the
19 Department during the preceding fiscal year as a result of
20 overpayment of tax liability under subsections (a) and
21 (b) (1), (2), ~~and~~ (3), (4), and (5) of Section 201 of this
22 Act plus the amount of such refunds remaining approved but
23 unpaid at the end of the preceding fiscal year, minus the
24 amounts transferred into the Income Tax Refund Fund from
25 the Tobacco Settlement Recovery Fund, and the denominator
26 of which shall be the amounts which will be collected
27 pursuant to subsections (a) and (b) (1), (2), ~~and~~ (3), (4),
28 and (5) of Section 201 of this Act during the preceding
29 fiscal year; except that in State fiscal year 2002, the
30 Annual Percentage shall in no event exceed 7.6%. The
31 Director of Revenue shall certify the Annual Percentage to
32 the Comptroller on the last business day of the fiscal year
33 immediately preceding the fiscal year for which it is to be
34 effective.

35 (2) Beginning on January 1, 1989 and thereafter, the
36 Department shall deposit a percentage of the amounts

1 collected pursuant to subsections (a) and (b) (6), (7), and
2 (8), (c) and (d) of Section 201 of this Act into a fund in
3 the State treasury known as the Income Tax Refund Fund. The
4 Department shall deposit 18% 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, 2000, and 2001,
10 the Annual Percentage shall be 19%. For fiscal year 2003,
11 the Annual Percentage shall be 27%. For fiscal year 2004,
12 the Annual Percentage shall be 32%. Upon the effective date
13 of this amendatory Act of the 93rd General Assembly, the
14 Annual Percentage shall be 24% for fiscal year 2005. For
15 all other fiscal years, the Annual Percentage shall be
16 calculated as a fraction, the numerator of which shall be
17 the amount of refunds approved for payment by the
18 Department during the preceding fiscal year as a result of
19 overpayment of tax liability under subsections (a) and
20 (b) (6), (7), and (8), (c) and (d) of Section 201 of this
21 Act plus the amount of such refunds remaining approved but
22 unpaid at the end of the preceding fiscal year, and the
23 denominator of which shall be the amounts which will be
24 collected pursuant to subsections (a) and (b) (6), (7), and
25 (8), (c) and (d) of Section 201 of this Act during the
26 preceding fiscal year; except that in State fiscal year
27 2002, the Annual Percentage shall in no event exceed 23%.
28 The Director of Revenue shall certify the Annual Percentage
29 to the Comptroller on the last business day of the fiscal
30 year immediately preceding the fiscal year for which it is
31 to be effective.

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

1 (d) Expenditures from Income Tax Refund Fund.

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

10 (2) The Director shall order payment of refunds
11 resulting from overpayment of tax liability under Section
12 201 of this Act from the Income Tax Refund Fund only to the
13 extent that amounts collected pursuant to Section 201 of
14 this Act and transfers pursuant to this subsection (d) and
15 item (3) of subsection (c) have been deposited and retained
16 in the Fund.

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

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

1 from the Income Tax Refund Fund during the fiscal year over
2 the amount collected pursuant to subsections (c) and (d) of
3 Section 201 of this Act deposited into the Income Tax
4 Refund Fund during the fiscal year.

5 (4.5) As soon as possible after the end of fiscal year
6 1999 and of each fiscal year thereafter, the Director shall
7 order transferred and the State Treasurer and State
8 Comptroller shall transfer from the Income Tax Refund Fund
9 to the General Revenue Fund any surplus remaining in the
10 Income Tax Refund Fund as of the end of such fiscal year;
11 excluding for fiscal years 2000, 2001, and 2002 amounts
12 attributable to transfers under item (3) of subsection (c)
13 less refunds resulting from the earned income tax credit.

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

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

20 On July 1, 1991, and thereafter, of the amounts collected
21 pursuant to subsections (a) and (b) of Section 201 of this Act,
22 minus deposits into the Income Tax Refund Fund, the Department
23 shall deposit 7.3% into the Education Assistance Fund in the
24 State Treasury. Beginning July 1, 1991, and continuing through
25 January 31, 1993, of the amounts collected pursuant to
26 subsections (a) and (b) of Section 201 of the Illinois Income
27 Tax Act, minus deposits into the Income Tax Refund Fund, the
28 Department shall deposit 3.0% into the Income Tax Surcharge
29 Local Government Distributive Fund in the State Treasury.
30 Beginning February 1, 1993 and continuing through June 30,
31 1993, of the amounts collected pursuant to subsections (a) and
32 (b) of Section 201 of the Illinois Income Tax Act, minus
33 deposits into the Income Tax Refund Fund, the Department shall
34 deposit 4.4% into the Income Tax Surcharge Local Government
35 Distributive Fund in the State Treasury. Beginning July 1,
36 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 (Source: P.A. 92-11, eff. 6-11-01; 92-16, eff. 6-28-01; 92-600,
6 eff. 6-28-02; 93-32, eff. 6-20-03; 93-839, eff. 7-30-04.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.