



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB5764**

Introduced 2/16/2012, by Rep. Sidney H. Mathias

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/901

from Ch. 120, par. 9-901

Amends the Illinois Income Tax Act. Provides that, if the rate of tax is reduced because the State has exceeded the State spending limit, then, beginning with the first distribution to occur after the effective date of the reduction, the State Comptroller shall order transferred and the State Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to 1/10 of the net revenue realized under the Act during the preceding month. Effective immediately.

LRB097 18676 HLH 63910 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 901 as follows:

6 (35 ILCS 5/901) (from Ch. 120, par. 9-901)

7 Sec. 901. Collection Authority.

8 (a) In general.

9 The Department shall collect the taxes imposed by this Act.  
10 The Department shall collect certified past due child support  
11 amounts under Section 2505-650 of the Department of Revenue Law  
12 (20 ILCS 2505/2505-650). Except as provided in subsections (c),  
13 (e), (f), and (g) of this Section, money collected pursuant to  
14 subsections (a) and (b) of Section 201 of this Act shall be  
15 paid into the General Revenue Fund in the State treasury; money  
16 collected pursuant to subsections (c) and (d) of Section 201 of  
17 this Act shall be paid into the Personal Property Tax  
18 Replacement Fund, a special fund in the State Treasury; and  
19 money collected under Section 2505-650 of the Department of  
20 Revenue Law (20 ILCS 2505/2505-650) shall be paid into the  
21 Child Support Enforcement Trust Fund, a special fund outside  
22 the State Treasury, or to the State Disbursement Unit  
23 established under Section 10-26 of the Illinois Public Aid

1 Code, as directed by the Department of Healthcare and Family  
2 Services.

3 (b) Local Government Distributive Fund.

4 Beginning August 1, 1969, and continuing through June 30,  
5 1994, the Treasurer shall transfer each month from the General  
6 Revenue Fund to a special fund in the State treasury, to be  
7 known as the "Local Government Distributive Fund", an amount  
8 equal to 1/12 of the net revenue realized from the tax imposed  
9 by subsections (a) and (b) of Section 201 of this Act during  
10 the preceding month. Beginning July 1, 1994, and continuing  
11 through June 30, 1995, the Treasurer shall transfer each month  
12 from the General Revenue Fund to the Local Government  
13 Distributive Fund an amount equal to 1/11 of the net revenue  
14 realized from the tax imposed by subsections (a) and (b) of  
15 Section 201 of this Act during the preceding month. Beginning  
16 July 1, 1995 and continuing through January 31, 2011, the  
17 Treasurer shall transfer each month from the General Revenue  
18 Fund to the Local Government Distributive Fund an amount equal  
19 to the net of (i) 1/10 of the net revenue realized from the tax  
20 imposed by subsections (a) and (b) of Section 201 of the  
21 Illinois Income Tax Act during the preceding month (ii) minus,  
22 beginning July 1, 2003 and ending June 30, 2004, \$6,666,666,  
23 and beginning July 1, 2004, zero. Beginning February 1, 2011,  
24 and continuing through January 31, 2015 (or until the first  
25 distribution to occur after the effective date of a rate  
26 reduction under Section 201.5 of this Act), the Treasurer shall

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

1 Local Government Distributive Fund an amount equal to the sum  
2 of (i) 9.23% (10% of the ratio of the 3% individual income tax  
3 rate prior to 2011 to the 3.25% individual income tax rate  
4 after 2024) of the net revenue realized from the tax imposed by  
5 subsections (a) and (b) of Section 201 of this Act upon  
6 individuals, trusts, and estates during the preceding month and  
7 (ii) 10% of the net revenue realized from the tax imposed by  
8 subsections (a) and (b) of Section 201 of this Act upon  
9 corporations during the preceding month. Notwithstanding any  
10 other provision of law, if the rate of tax is reduced pursuant  
11 to Section 201.5 of this Act, then, beginning with the first  
12 distribution to occur after the effective date of the  
13 reduction, the State Comptroller shall order transferred and  
14 the State Treasurer shall transfer each month from the General  
15 Revenue Fund to the Local Government Distributive Fund an  
16 amount equal to 1/10 of the net revenue realized from the tax  
17 imposed by subsections (a) and (b) of Section 201 of the  
18 Illinois Income Tax Act during the preceding month. Net revenue  
19 realized for a month shall be defined as the revenue from the  
20 tax imposed by subsections (a) and (b) of Section 201 of this  
21 Act which is deposited in the General Revenue Fund, the  
22 Education Assistance Fund, the Income Tax Surcharge Local  
23 Government Distributive Fund, the Fund for the Advancement of  
24 Education, and the Commitment to Human Services Fund during the  
25 month minus the amount paid out of the General Revenue Fund in  
26 State warrants during that same month as refunds to taxpayers

1 for overpayment of liability under the tax imposed by  
2 subsections (a) and (b) of Section 201 of this Act.

3 (c) Deposits Into Income Tax Refund Fund.

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

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

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

1 fiscal year thereafter, the percentage deposited into the  
2 Income Tax Refund Fund during a fiscal year shall be the  
3 Annual Percentage. For fiscal years 1999, 2000, and 2001,  
4 the Annual Percentage shall be 19%. For fiscal year 2003,  
5 the Annual Percentage shall be 27%. For fiscal year 2004,  
6 the Annual Percentage shall be 32%. Upon the effective date  
7 of this amendatory Act of the 93rd General Assembly, the  
8 Annual Percentage shall be 24% for fiscal year 2005. For  
9 fiscal year 2006, the Annual Percentage shall be 20%. For  
10 fiscal year 2007, the Annual Percentage shall be 17.5%. For  
11 fiscal year 2008, the Annual Percentage shall be 15.5%. For  
12 fiscal year 2009, the Annual Percentage shall be 17.5%. For  
13 fiscal year 2010, the Annual Percentage shall be 17.5%. For  
14 fiscal year 2011, the Annual Percentage shall be 17.5%. For  
15 fiscal year 2012, the Annual Percentage shall be 17.5%. 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) (6), (7), and (8), (c) and (d) 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, and the  
24 denominator of which shall be the amounts which will be  
25 collected pursuant to subsections (a) and (b) (6), (7), and  
26 (8), (c) and (d) of Section 201 of this Act during the



1 preceding fiscal year; except that in State fiscal year  
2 2002, the Annual Percentage shall in no event exceed 23%.  
3 The Director of Revenue shall certify the Annual Percentage  
4 to the Comptroller on the last business day of the fiscal  
5 year immediately preceding the fiscal year for which it is  
6 to be effective.

7 (3) The Comptroller shall order transferred and the  
8 Treasurer shall transfer from the Tobacco Settlement  
9 Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000  
10 in January, 2001, (ii) \$35,000,000 in January, 2002, and  
11 (iii) \$35,000,000 in January, 2003.

12 (d) Expenditures from Income Tax Refund Fund.

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

21 (2) The Director shall order payment of refunds  
22 resulting from overpayment of tax liability under Section  
23 201 of this Act from the Income Tax Refund Fund only to the  
24 extent that amounts collected pursuant to Section 201 of  
25 this Act and transfers pursuant to this subsection (d) and  
26 item (3) of subsection (c) have been deposited and retained

1 in the Fund.

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

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

26 (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

1 (b) of Section 201 of the Illinois Income Tax Act, minus  
2 deposits into the Income Tax Refund Fund, the Department shall  
3 deposit 4.4% into the Income Tax Surcharge Local Government  
4 Distributive Fund in the State Treasury. Beginning July 1,  
5 1993, and continuing through June 30, 1994, of the amounts  
6 collected under subsections (a) and (b) of Section 201 of this  
7 Act, minus deposits into the Income Tax Refund Fund, the  
8 Department shall deposit 1.475% into the Income Tax Surcharge  
9 Local Government Distributive Fund in the State Treasury.

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

17 (1) beginning February 1, 2015, and prior to February  
18 1, 2025, 1/30; and

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

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

24 (g) Deposits into the Commitment to Human Services Fund.  
25 Beginning February 1, 2015, the Department shall deposit the  
26 following portions of the revenue realized from the tax imposed

1 upon individuals, trusts, and estates by subsections (a) and  
2 (b) of Section 201 of this Act during the preceding month,  
3 minus deposits into the Income Tax Refund Fund, into the  
4 Commitment to Human Services Fund:

5 (1) beginning February 1, 2015, and prior to February  
6 1, 2025, 1/30; and

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

8 If the rate of tax imposed by subsection (a) and (b) of  
9 Section 201 is reduced pursuant to Section 201.5 of this Act,  
10 the Department shall not make the deposits required by this  
11 subsection (g) on or after the effective date of the reduction.  
12 (Source: P.A. 96-45, eff. 7-15-09; 96-328, eff. 8-11-09;  
13 96-959, eff. 7-1-10; 96-1496, eff. 1-13-11; 97-72, eff.  
14 7-1-11.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.