

1                                   AMENDMENT TO SENATE BILL 969

2            AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 969 by replacing  
3 everything after the enacting clause with the following:

4            "Section 1. Short title. This Act may be cited as the Tax  
5 Delinquency Amnesty Act.

6            Section 5. Definitions. As used in this Act:

7            "Department" means the Illinois Department of Revenue.

8            "Rules" means any rules adopted or forms prescribed by  
9 the Department.

10           "Taxable period" means any period of time for which any  
11 tax is imposed by and owed to the State of Illinois.

12           "Taxpayer" means any person, corporation, or other entity  
13 subject to any tax, except for the motor fuel use tax,  
14 imposed by any law of the State of Illinois and payable to  
15 the State of Illinois.

16           Section 10. Amnesty program. The Department shall  
17 establish an amnesty program for all taxpayers owing any tax  
18 imposed by reason of or pursuant to authorization by any law  
19 of the State of Illinois and collected by the Department.

20           The amnesty program shall be for a period from October 1,  
21 2003 through November 15, 2003.

1           The amnesty program shall provide that, upon payment by a  
2 taxpayer of all taxes due from that taxpayer to the State of  
3 Illinois for any taxable period ending after June 30, 1983  
4 and prior to July 1, 2002, the Department shall abate and not  
5 seek to collect any interest or penalties that may be  
6 applicable and the Department shall not seek civil or  
7 criminal prosecution for any taxpayer for the period of time  
8 for which amnesty has been granted to the taxpayer. Failure  
9 to pay all taxes due to the State for a taxable period shall  
10 invalidate any amnesty granted under this Act. Amnesty shall  
11 be granted only if all amnesty conditions are satisfied by  
12 the taxpayer.

13           Amnesty shall not be granted to taxpayers who are a party  
14 to any criminal investigation or to any civil or criminal  
15 litigation that is pending in any circuit court or appellate  
16 court or the Supreme Court of this State for nonpayment,  
17 delinquency, or fraud in relation to any State tax imposed by  
18 any law of the State of Illinois.

19           Voluntary payments made under this Act shall be made by  
20 cash, check, guaranteed remittance, or ACH debit.

21           The Department shall adopt rules as necessary to  
22 implement the provisions of this Act.

23           Except as otherwise provided in this Section, all money  
24 collected under this Act that would otherwise be deposited  
25 into the General Revenue Fund shall be deposited as follows:  
26 (i) one-half into the Common School Fund; (ii) one-half into  
27 the General Revenue Fund. Two percent of all money collected  
28 under this Act shall be deposited by the State Treasurer into  
29 the Tax Compliance and Administration Fund and, subject to  
30 appropriation, shall be used by the Department to cover costs  
31 associated with the administration of this Act.

32           Section 905. The Uniform Penalty and Interest Act is  
33 amended by changing Sections 3-2, 3-3, 3-4, 3-5, 3-6, and

1 3-7.5 as follows:

2 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

3 Sec. 3-2. Interest.

4 (a) Interest paid by the Department to taxpayers and  
5 interest charged to taxpayers by the Department shall be paid  
6 at the annual rate determined by the Department. That rate  
7 shall be the underpayment rate established under Section 6621  
8 of the Internal Revenue Code.

9 (b) The interest rate shall be adjusted on a semiannual  
10 basis, on January 1 and July 1, based upon the underpayment  
11 rate going into effect on that January 1 or July 1 under  
12 Section 6621 of the Internal Revenue Code.

13 (c) This subsection (c) is applicable to returns due on  
14 and before December 31, 2000. Interest shall be simple  
15 interest calculated on a daily basis. Interest shall accrue  
16 upon tax and penalty due. If notice and demand is made for  
17 the payment of any amount of tax due and if the amount due is  
18 paid within 30 days after the date of such notice and demand,  
19 interest under this Section on the amount so paid shall not  
20 be imposed for the period after the date of the notice and  
21 demand.

22 (c-5) This subsection (c-5) is applicable to returns due  
23 on and after January 1, 2001. Interest shall be simple  
24 interest calculated on a daily basis. Interest shall accrue  
25 upon tax due. If notice and demand is made for the payment  
26 of any amount of tax due and if the amount due is paid within  
27 30 days after the date of the notice and demand, interest  
28 under this Section on the amount so paid shall not be imposed  
29 for the period after the date of the notice and demand.

30 (d) No interest shall be paid upon any overpayment of  
31 tax if the overpayment is refunded or a credit approved  
32 within 90 days after the last date prescribed for filing the  
33 original return, or within 90 days of the receipt of the

1 processable return, or within 90 days after the date of  
2 overpayment, whichever date is latest, as determined without  
3 regard to processing time by the Comptroller or without  
4 regard to the date on which the credit is applied to the  
5 taxpayer's account. In order for an original return to be  
6 processable for purposes of this Section, it must be in the  
7 form prescribed or approved by the Department, signed by the  
8 person authorized by law, and contain all information,  
9 schedules, and support documents necessary to determine the  
10 tax due and to make allocations of tax as prescribed by law.  
11 For the purposes of computing interest, a return shall be  
12 deemed to be processable unless the Department notifies the  
13 taxpayer that the return is not processable within 90 days  
14 after the receipt of the return; however, interest shall not  
15 accumulate for the period following this date of notice.  
16 Interest on amounts refunded or credited pursuant to the  
17 filing of an amended return or claim for refund shall be  
18 determined from the due date of the original return or the  
19 date of overpayment, whichever is later, to the date of  
20 payment by the Department without regard to processing time  
21 by the Comptroller or the date of credit by the Department or  
22 without regard to the date on which the credit is applied to  
23 the taxpayer's account. If a claim for refund relates to an  
24 overpayment attributable to a net loss carryback as provided  
25 by Section 207 of the Illinois Income Tax Act, the date of  
26 overpayment shall be the last day of the taxable year in  
27 which the loss was incurred.

28 (e) Interest on erroneous refunds. Any portion of the  
29 tax imposed by an Act to which this Act is applicable or any  
30 interest or penalty which has been erroneously refunded and  
31 which is recoverable by the Department shall bear interest  
32 from the date of payment of the refund. However, no interest  
33 will be charged if the erroneous refund is for an amount less  
34 than \$500 and is due to a mistake of the Department.

1       (f) If a taxpayer has a tax liability that is eligible  
2       for amnesty under the Tax Delinquency Amnesty Act and the  
3       taxpayer fails to satisfy the tax liability during the  
4       amnesty period provided for in that Act, then the interest  
5       charged by the Department under this Section shall be imposed  
6       at a rate that is 200% of the rate that would otherwise be  
7       imposed under this Section.

8       (Source: P.A. 91-803, eff. 1-1-01.)

9           (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

10          Sec. 3-3. Penalty for failure to file or pay.

11          (a) This subsection (a) is applicable before January 1,  
12 1996. A penalty of 5% of the tax required to be shown due on  
13 a return shall be imposed for failure to file the tax return  
14 on or before the due date prescribed for filing determined  
15 with regard for any extension of time for filing (penalty for  
16 late filing or nonfiling). If any unprocessable return is  
17 corrected and filed within 21 days after notice by the  
18 Department, the late filing or nonfiling penalty shall not  
19 apply. If a penalty for late filing or nonfiling is imposed  
20 in addition to a penalty for late payment, the total penalty  
21 due shall be the sum of the late filing penalty and the  
22 applicable late payment penalty. Beginning on the effective  
23 date of this amendatory Act of 1995, in the case of any type  
24 of tax return required to be filed more frequently than  
25 annually, when the failure to file the tax return on or  
26 before the date prescribed for filing (including any  
27 extensions) is shown to be nonfraudulent and has not occurred  
28 in the 2 years immediately preceding the failure to file on  
29 the prescribed due date, the penalty imposed by Section  
30 3-3(a) shall be abated.

31          (a-5) This subsection (a-5) is applicable to returns due  
32 on and after January 1, 1996 and on or before December 31,  
33 2000. A penalty equal to 2% of the tax required to be shown

1 due on a return, up to a maximum amount of \$250, determined  
2 without regard to any part of the tax that is paid on time or  
3 by any credit that was properly allowable on the date the  
4 return was required to be filed, shall be imposed for failure  
5 to file the tax return on or before the due date prescribed  
6 for filing determined with regard for any extension of time  
7 for filing. However, if any return is not filed within 30  
8 days after notice of nonfiling mailed by the Department to  
9 the last known address of the taxpayer contained in  
10 Department records, an additional penalty amount shall be  
11 imposed equal to the greater of \$250 or 2% of the tax shown  
12 on the return. However, the additional penalty amount may  
13 not exceed \$5,000 and is determined without regard to any  
14 part of the tax that is paid on time or by any credit that  
15 was properly allowable on the date the return was required to  
16 be filed (penalty for late filing or nonfiling). If any  
17 unprocessable return is corrected and filed within 30 days  
18 after notice by the Department, the late filing or nonfiling  
19 penalty shall not apply. If a penalty for late filing or  
20 nonfiling is imposed in addition to a penalty for late  
21 payment, the total penalty due shall be the sum of the late  
22 filing penalty and the applicable late payment penalty. In  
23 the case of any type of tax return required to be filed more  
24 frequently than annually, when the failure to file the tax  
25 return on or before the date prescribed for filing (including  
26 any extensions) is shown to be nonfraudulent and has not  
27 occurred in the 2 years immediately preceding the failure to  
28 file on the prescribed due date, the penalty imposed by  
29 Section 3-3(a-5) shall be abated.

30 (a-10) This subsection (a-10) is applicable to returns  
31 due on and after January 1, 2001. A penalty equal to 2% of  
32 the tax required to be shown due on a return, up to a maximum  
33 amount of \$250, reduced by any tax that is paid on time or by  
34 any credit that was properly allowable on the date the return

1 was required to be filed, shall be imposed for failure to  
2 file the tax return on or before the due date prescribed for  
3 filing determined with regard for any extension of time for  
4 filing. However, if any return is not filed within 30 days  
5 after notice of nonfiling mailed by the Department to the  
6 last known address of the taxpayer contained in Department  
7 records, an additional penalty amount shall be imposed equal  
8 to the greater of \$250 or 2% of the tax shown on the return.  
9 However, the additional penalty amount may not exceed \$5,000  
10 and is determined without regard to any part of the tax that  
11 is paid on time or by any credit that was properly allowable  
12 on the date the return was required to be filed (penalty for  
13 late filing or nonfiling). If any unprocessable return is  
14 corrected and filed within 30 days after notice by the  
15 Department, the late filing or nonfiling penalty shall not  
16 apply. If a penalty for late filing or nonfiling is imposed  
17 in addition to a penalty for late payment, the total penalty  
18 due shall be the sum of the late filing penalty and the  
19 applicable late payment penalty. In the case of any type of  
20 tax return required to be filed more frequently than  
21 annually, when the failure to file the tax return on or  
22 before the date prescribed for filing (including any  
23 extensions) is shown to be nonfraudulent and has not occurred  
24 in the 2 years immediately preceding the failure to file on  
25 the prescribed due date, the penalty imposed by Section  
26 3-3(a-10) shall be abated.

27 (b) This subsection is applicable before January 1,  
28 1998. A penalty of 15% of the tax shown on the return or the  
29 tax required to be shown due on the return shall be imposed  
30 for failure to pay:

31 (1) the tax shown due on the return on or before  
32 the due date prescribed for payment of that tax, an  
33 amount of underpayment of estimated tax, or an amount  
34 that is reported in an amended return other than an

1 amended return timely filed as required by subsection (b)  
2 of Section 506 of the Illinois Income Tax Act (penalty  
3 for late payment or nonpayment of admitted liability); or

4 (2) the full amount of any tax required to be shown  
5 due on a return and which is not shown (penalty for late  
6 payment or nonpayment of additional liability), within 30  
7 days after a notice of arithmetic error, notice and  
8 demand, or a final assessment is issued by the  
9 Department. In the case of a final assessment arising  
10 following a protest and hearing, the 30-day period shall  
11 not begin until all proceedings in court for review of  
12 the final assessment have terminated or the period for  
13 obtaining a review has expired without proceedings for a  
14 review having been instituted. In the case of a notice  
15 of tax liability that becomes a final assessment without  
16 a protest and hearing, the penalty provided in this  
17 paragraph (2) shall be imposed at the expiration of the  
18 period provided for the filing of a protest.

19 (b-5) This subsection is applicable to returns due on  
20 and after January 1, 1998 and on or before December 31, 2000.  
21 A penalty of 20% of the tax shown on the return or the tax  
22 required to be shown due on the return shall be imposed for  
23 failure to pay:

24 (1) the tax shown due on the return on or before  
25 the due date prescribed for payment of that tax, an  
26 amount of underpayment of estimated tax, or an amount  
27 that is reported in an amended return other than an  
28 amended return timely filed as required by subsection (b)  
29 of Section 506 of the Illinois Income Tax Act (penalty  
30 for late payment or nonpayment of admitted liability); or

31 (2) the full amount of any tax required to be shown  
32 due on a return and which is not shown (penalty for late  
33 payment or nonpayment of additional liability), within 30  
34 days after a notice of arithmetic error, notice and



1 demand, or a final assessment is issued by the  
2 Department. In the case of a final assessment arising  
3 following a protest and hearing, the 30-day period shall  
4 not begin until all proceedings in court for review of  
5 the final assessment have terminated or the period for  
6 obtaining a review has expired without proceedings for a  
7 review having been instituted. In the case of a notice  
8 of tax liability that becomes a final assessment without  
9 a protest and hearing, the penalty provided in this  
10 paragraph (2) shall be imposed at the expiration of the  
11 period provided for the filing of a protest.

12 (b-10) This subsection (b-10) is applicable to returns  
13 due on and after January 1, 2001. A penalty shall be imposed  
14 for failure to pay:

15 (1) the tax shown due on a return on or before the  
16 due date prescribed for payment of that tax, an amount of  
17 underpayment of estimated tax, or an amount that is  
18 reported in an amended return other than an amended  
19 return timely filed as required by subsection (b) of  
20 Section 506 of the Illinois Income Tax Act (penalty for  
21 late payment or nonpayment of admitted liability). The  
22 amount of penalty imposed under this subsection (b-10)(1)  
23 shall be 2% of any amount that is paid no later than 30  
24 days after the due date, 5% of any amount that is paid  
25 later than 30 days after the due date and not later than  
26 90 days after the due date, 10% of any amount that is  
27 paid later than 90 days after the due date and not later  
28 than 180 days after the due date, and 15% of any amount  
29 that is paid later than 180 days after the due date. If  
30 notice and demand is made for the payment of any amount  
31 of tax due and if the amount due is paid within 30 days  
32 after the date of the notice and demand, then the penalty  
33 for late payment or nonpayment of admitted liability  
34 under this subsection (b-10)(1) on the amount so paid

1 shall not accrue for the period after the date of the  
2 notice and demand.

3 (2) the full amount of any tax required to be shown  
4 due on a return and that is not shown (penalty for late  
5 payment or nonpayment of additional liability), within 30  
6 days after a notice of arithmetic error, notice and  
7 demand, or a final assessment is issued by the  
8 Department. In the case of a final assessment arising  
9 following a protest and hearing, the 30-day period shall  
10 not begin until all proceedings in court for review of  
11 the final assessment have terminated or the period for  
12 obtaining a review has expired without proceedings for a  
13 review having been instituted. The amount of penalty  
14 imposed under this subsection (b-10)(2) shall be 20% of  
15 any amount that is not paid within the 30-day period. In  
16 the case of a notice of tax liability that becomes a  
17 final assessment without a protest and hearing, the  
18 penalty provided in this subsection (b-10)(2) shall be  
19 imposed at the expiration of the period provided for the  
20 filing of a protest.

21 (c) For purposes of the late payment penalties, the  
22 basis of the penalty shall be the tax shown or required to be  
23 shown on a return, whichever is applicable, reduced by any  
24 part of the tax which is paid on time and by any credit which  
25 was properly allowable on the date the return was required to  
26 be filed.

27 (d) A penalty shall be applied to the tax required to be  
28 shown even if that amount is less than the tax shown on the  
29 return.

30 (e) This subsection (e) is applicable to returns due  
31 before January 1, 2001. If both a subsection (b)(1) or  
32 (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty  
33 are assessed against the same return, the subsection (b)(2)  
34 or (b-5)(2) penalty shall be assessed against only the

1 additional tax found to be due.

2 (e-5) This subsection (e-5) is applicable to returns due  
3 on and after January 1, 2001. If both a subsection (b-10)(1)  
4 penalty and a subsection (b-10)(2) penalty are assessed  
5 against the same return, the subsection (b-10)(2) penalty  
6 shall be assessed against only the additional tax found to be  
7 due.

8 (f) If the taxpayer has failed to file the return, the  
9 Department shall determine the correct tax according to its  
10 best judgment and information, which amount shall be prima  
11 facie evidence of the correctness of the tax due.

12 (g) The time within which to file a return or pay an  
13 amount of tax due without imposition of a penalty does not  
14 extend the time within which to file a protest to a notice of  
15 tax liability or a notice of deficiency.

16 (h) No return shall be determined to be unprocessable  
17 because of the omission of any information requested on the  
18 return pursuant to Section 2505-575 of the Department of  
19 Revenue Law (20 ILCS 2505/2505-575).

20 (i) If a taxpayer has a tax liability that is eligible  
21 for amnesty under the Tax Delinquency Amnesty Act and the  
22 taxpayer fails to satisfy the tax liability during the  
23 amnesty period provided for in that Act, then the penalty  
24 imposed by the Department under this Section shall be imposed  
25 in an amount that is 200% of the amount that would otherwise  
26 be imposed under this Section.

27 (Source: P.A. 91-239, eff. 1-1-00; 91-803, eff. 1-1-01;  
28 92-742, eff. 7-25-02.)

29 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)  
30 Sec. 3-4. Penalty for failure to file correct  
31 information returns.

32 (a) Failure to file correct information returns -  
33 imposition of penalty.

1           (1) In general. Unless otherwise provided in a tax  
2 Act, in the case of a failure described in paragraph (2)  
3 of this subsection (a) by any person with respect to an  
4 information return, that person shall pay a penalty of \$5  
5 for each return or statement with respect to which the  
6 failure occurs, but the total amount imposed on that  
7 person for all such failures during any calendar year  
8 shall not exceed \$25,000.

9           (2) Failures subject to penalty. The following  
10 failures are subject to the penalty imposed in paragraph  
11 (1) of this subsection (a):

12                   (A) any failure to file an information return  
13 with the Department on or before the required filing  
14 date, or

15                   (B) any failure to include all of the  
16 information required to be shown on the return or  
17 the inclusion of incorrect information.

18 (b) Reduction where correction in specified period.

19           (1) Correction within 60 days. If any failure  
20 described in subsection (a) (2) is corrected within 60  
21 days after the required filing date:

22                   (A) the penalty imposed by subsection (a)  
23 shall be reduced by 50%; and

24                   (B) the total amount imposed on the person for  
25 all such failures during any calendar year which are  
26 so corrected shall not exceed 50% of the maximum  
27 prescribed in subsection (a) (1).

28 (c) Information return defined. An information return is  
29 any tax return required by a tax Act to be filed with the  
30 Department that does not, by law, require the payment of a  
31 tax liability.

32 (d) If a taxpayer has a tax liability that is eligible  
33 for amnesty under the Tax Delinquency Amnesty Act and the  
34 taxpayer fails to satisfy the tax liability during the

1 amnesty period provided for in that Act, then the penalty  
2 imposed by the Department under this Section shall be imposed  
3 in an amount that is 200% of the amount that would otherwise  
4 be imposed under this Section.

5 (Source: P.A. 87-205.)

6 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

7 Sec. 3-5. Penalty for negligence.

8 (a) If any return or amended return is prepared  
9 negligently, but without intent to defraud, and filed, in  
10 addition to any penalty imposed under Section 3-3 of this  
11 Act, a penalty shall be imposed in an amount equal to 20% of  
12 any resulting deficiency.

13 (b) Negligence includes any failure to make a reasonable  
14 attempt to comply with the provisions of any tax Act and  
15 includes careless, reckless, or intentional disregard of the  
16 law or regulations.

17 (c) No penalty shall be imposed under this Section if it  
18 is shown that failure to comply with the tax Act is due to  
19 reasonable cause. A taxpayer is not negligent if the  
20 taxpayer shows substantial authority to support the return as  
21 filed.

22 (d) If a taxpayer has a tax liability that is eligible  
23 for amnesty under the Tax Delinquency Amnesty Act and the  
24 taxpayer fails to satisfy the tax liability during the  
25 amnesty period provided for in that Act, then the penalty  
26 imposed by the Department shall be imposed in an amount that  
27 is 200% of the amount that would otherwise be imposed in  
28 accordance with this Section.

29 (Source: P.A. 87-205; 87-1189.)

30 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)

31 Sec. 3-6. Penalty for fraud.

32 (a) If any return or amended return is filed with intent

1 to defraud, in addition to any penalty imposed under Section  
2 3-3 of this Act, a penalty shall be imposed in an amount  
3 equal to 50% of any resulting deficiency.

4 (b) If any claim is filed with intent to defraud, a  
5 penalty shall be imposed in an amount equal to 50% of the  
6 amount fraudulently claimed for credit or refund.

7 (c) If a taxpayer has a tax liability that is eligible  
8 for amnesty under the Tax Delinquency Amnesty Act and the  
9 taxpayer fails to satisfy the tax liability during the  
10 amnesty period provided for in that Act, then the penalty  
11 imposed by the Department under this Section shall be imposed  
12 in an amount that is 200% of the amount that would otherwise  
13 be imposed under this Section.

14 (Source: P.A. 87-205.)

15 (35 ILCS 735/3-7.5)

16 Sec. 3-7.5. Bad check penalty.

17 (a) In addition to any other penalty provided in this  
18 Act, a penalty of \$25 shall be imposed on any person who  
19 issues a check or other draft to the Department that is not  
20 honored upon presentment. The penalty imposed under this  
21 Section shall be deemed assessed at the time of presentment  
22 of the check or other draft and shall be treated for all  
23 purposes, including collection and allocation, as part of the  
24 tax or other liability for which the check or other draft  
25 represented payment.

26 (b) If a taxpayer has a tax liability that is eligible  
27 for amnesty under the Tax Delinquency Amnesty Act and the  
28 taxpayer fails to satisfy the tax liability during the  
29 amnesty period provided for in that Act, then the penalty  
30 imposed by the Department under this Section shall be imposed  
31 in an amount that is 200% of the amount that would otherwise  
32 be imposed under this Section.

33 (Source: P.A. 91-803, eff. 1-1-01.)

1           Section 999. Effective date. This Act takes effect upon  
2    becoming law.".