



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4662

by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

35 ILCS 745/10	
35 ILCS 735/3-2	from Ch. 120, par. 2603-2
35 ILCS 735/3-3	from Ch. 120, par. 2603-3
35 ILCS 735/3-4	from Ch. 120, par. 2603-4
35 ILCS 735/3-5	from Ch. 120, par. 2603-5
35 ILCS 735/3-6	from Ch. 120, par. 2603-6
35 ILCS 735/3-7.5	
110 ILCS 947/35	

Amends the Tax Delinquency Amnesty Act. Provides for an amnesty period beginning on the effective date of the amendatory Act and ending 60 days thereafter. Provides that interest and penalties for taxes due after June 30, 2002 and prior to the effective date of the amendatory Act shall be abated and not collected if those taxes are paid during the amnesty period. Provides that money collected during the amnesty period that would otherwise be deposited into the General Revenue Fund shall be deposited into the Monetary Award Program Reserve Fund. Amends the Higher Education Student Assistance Act to provide that a limitation on the amount that may be on deposit in the Monetary Award Program Reserve Fund does not include moneys received as a result of the amnesty program. Amends the Uniform Penalty and Interest Act to provide that, if a taxpayer is eligible for amnesty and the taxpayer fails to satisfy his or her tax liability during the amnesty period, then penalties and interest shall be imposed in an amount that is 200% of the penalty and interest amount that would otherwise be imposed. Effective immediately.

LRB096 15131 HLH 30188 b

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 Tax Delinquency Amnesty Act is amended by  
5 changing Section 10 as follows:

6 (35 ILCS 745/10)

7 Sec. 10. Amnesty program. The Department shall establish an  
8 amnesty program for all taxpayers owing any tax imposed by  
9 reason of or pursuant to authorization by any law of the State  
10 of Illinois and collected by the Department.

11 The amnesty program shall be for a period from October 1,  
12 2003 through November 15, 2003 and for a period beginning on  
13 the effective date of this amendatory Act of the 96th General  
14 Assembly and ending 60 days after the effective date of this  
15 amendatory Act of the 96th General Assembly.

16 The amnesty program shall provide that, upon payment by a  
17 taxpayer of all taxes due from that taxpayer to the State of  
18 Illinois for any taxable period ending (i) after June 30, 1983  
19 and prior to July 1, 2002 for the tax amnesty period occurring  
20 from October 1, 2003 through November 15, 2003, and (ii) after  
21 June 30, 2002 and prior to the effective date of this  
22 amendatory Act of the 96th General Assembly for the tax amnesty  
23 period beginning on the effective date of this amendatory Act

1 of the 96th General Assembly, the Department shall abate and  
2 not seek to collect any interest or penalties that may be  
3 applicable and the Department shall not seek civil or criminal  
4 prosecution for any taxpayer for the period of time for which  
5 amnesty has been granted to the taxpayer. Failure to pay all  
6 taxes due to the State for a taxable period shall invalidate  
7 any amnesty granted under this Act. Amnesty shall be granted  
8 only if all amnesty conditions are satisfied by the taxpayer.

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

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

17 The Department shall adopt rules as necessary to implement  
18 the provisions of this Act.

19 Except as otherwise provided in this Section, all money  
20 collected under this Act for the amnesty period from October 1,  
21 2003 through November 15, 2003 that would otherwise be  
22 deposited into the General Revenue Fund shall be deposited as  
23 follows: (i) one-half into the Common School Fund; (ii)  
24 one-half into the General Revenue Fund. Except as otherwise  
25 provided in this Section, all money collected under this Act  
26 for the 60-day amnesty period beginning on the effective date

1 of this amendatory Act of the 96th General Assembly that would  
2 otherwise be deposited into the General Revenue Fund shall be  
3 deposited into the Monetary Award Program Reserve Fund. Two  
4 percent of all money collected under this Act shall be  
5 deposited by the State Treasurer into the Tax Compliance and  
6 Administration Fund and, subject to appropriation, shall be  
7 used by the Department to cover costs associated with the  
8 administration of this Act.

9 (Source: P.A. 93-26, eff. 6-20-03.)

10 Section 10. The Uniform Penalty and Interest Act is amended  
11 by changing Sections 3-2, 3-3, 3-4, 3-5, 3-6, and 3-7.5 as  
12 follows:

13 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

14 Sec. 3-2. Interest.

15 (a) Interest paid by the Department to taxpayers and  
16 interest charged to taxpayers by the Department shall be paid  
17 at the annual rate determined by the Department. For periods  
18 prior to January 1, 2004, that rate shall be the underpayment  
19 rate established under Section 6621 of the Internal Revenue  
20 Code. For periods after December 31, 2003, that rate shall be:

21 (1) for the one-year period beginning with the date of  
22 underpayment or overpayment, the short-term federal rate  
23 established under Section 6621 of the Internal Revenue  
24 Code.

1           (2) for any period beginning the day after the one-year  
2           period described in paragraph (1) of this subsection (a),  
3           the underpayment rate established under Section 6621 of the  
4           Internal Revenue Code.

5           (b) The interest rate shall be adjusted on a semiannual  
6           basis, on January 1 and July 1, based upon the underpayment  
7           rate or short-term federal rate going into effect on that  
8           January 1 or July 1 under Section 6621 of the Internal Revenue  
9           Code.

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

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

26          (d) No interest shall be paid upon any overpayment of tax

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

1 Section 207 of the Illinois Income Tax Act, the date of  
2 overpayment shall be the last day of the taxable year in which  
3 the loss was incurred.

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

11 (f) If a taxpayer has a tax liability for the taxable  
12 period ending after June 30, 1983 and prior to July 1, 2002  
13 that is eligible for amnesty under the Tax Delinquency Amnesty  
14 Act and the taxpayer fails to satisfy the tax liability during  
15 the amnesty period provided for in that Act for that taxable  
16 period, then the interest charged by the Department under this  
17 Section shall be imposed at a rate that is 200% of the rate  
18 that would otherwise be imposed under this Section.

19 (g) If a taxpayer has a tax liability for the taxable  
20 period ending after June 30, 2002 and prior to the effective  
21 date of this amendatory Act of the 96th General Assembly that  
22 is eligible for amnesty under the Tax Delinquency Amnesty Act  
23 and the taxpayer fails to satisfy the tax liability during the  
24 amnesty period provided for in that Act for that taxable  
25 period, then the interest charged by the Department under this  
26 Section shall be imposed in an amount that is 200% of the

1 amount that would otherwise be imposed under this Section.

2 (Source: P.A. 95-331, eff. 8-21-07.)

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

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

5 (a) This subsection (a) is applicable before January 1,  
6 1996. A penalty of 5% of the tax required to be shown due on a  
7 return shall be imposed for failure to file the tax return on  
8 or before the due date prescribed for filing determined with  
9 regard for any extension of time for filing (penalty for late  
10 filing or nonfiling). If any unprocessable return is corrected  
11 and filed within 21 days after notice by the Department, the  
12 late filing or nonfiling penalty shall not apply. If a penalty  
13 for late filing or nonfiling is imposed in addition to a  
14 penalty for late payment, the total penalty due shall be the  
15 sum of the late filing penalty and the applicable late payment  
16 penalty. Beginning on the effective date of this amendatory Act  
17 of 1995, in the case of any type of tax return required to be  
18 filed more frequently than annually, when the failure to file  
19 the tax return on or before the date prescribed for filing  
20 (including any extensions) is shown to be nonfraudulent and has  
21 not occurred in the 2 years immediately preceding the failure  
22 to file on the prescribed due date, the penalty imposed by  
23 Section 3-3(a) shall be abated.

24 (a-5) This subsection (a-5) is applicable to returns due on  
25 and after January 1, 1996 and on or before December 31, 2000. A



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

1 in the 2 years immediately preceding the failure to file on the  
2 prescribed due date, the penalty imposed by Section 3-3(a-5)  
3 shall be abated.

4 (a-10) This subsection (a-10) is applicable to returns due  
5 on and after January 1, 2001. A penalty equal to 2% of the tax  
6 required to be shown due on a return, up to a maximum amount of  
7 \$250, reduced by any tax that is paid on time or by any credit  
8 that was properly allowable on the date the return was required  
9 to be filed, shall be imposed for failure to file the tax  
10 return on or before the due date prescribed for filing  
11 determined with regard for any extension of time for filing.  
12 However, if any return is not filed within 30 days after notice  
13 of nonfiling mailed by the Department to the last known address  
14 of the taxpayer contained in Department records, an additional  
15 penalty amount shall be imposed equal to the greater of \$250 or  
16 2% of the tax shown on the return. However, the additional  
17 penalty amount may not exceed \$5,000 and is determined without  
18 regard to any part of the tax that is paid on time or by any  
19 credit that was properly allowable on the date the return was  
20 required to be filed (penalty for late filing or nonfiling). If  
21 any unprocessable return is corrected and filed within 30 days  
22 after notice by the Department, the late filing or nonfiling  
23 penalty shall not apply. If a penalty for late filing or  
24 nonfiling is imposed in addition to a penalty for late payment,  
25 the total penalty due shall be the sum of the late filing  
26 penalty and the applicable late payment penalty. In the case of

1 any type of tax return required to be filed more frequently  
2 than annually, when the failure to file the tax return on or  
3 before the date prescribed for filing (including any  
4 extensions) is shown to be nonfraudulent and has not occurred  
5 in the 2 years immediately preceding the failure to file on the  
6 prescribed due date, the penalty imposed by Section 3-3(a-10)  
7 shall be abated.

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

12 (1) the tax shown due on the return on or before the  
13 due date prescribed for payment of that tax, an amount of  
14 underpayment of estimated tax, or an amount that is  
15 reported in an amended return other than an amended return  
16 timely filed as required by subsection (b) of Section 506  
17 of the Illinois Income Tax Act (penalty for late payment or  
18 nonpayment of admitted liability); or

19 (2) the full amount of any tax required to be shown due  
20 on a return and which is not shown (penalty for late  
21 payment or nonpayment of additional liability), within 30  
22 days after a notice of arithmetic error, notice and demand,  
23 or a final assessment is issued by the Department. In the  
24 case of a final assessment arising following a protest and  
25 hearing, the 30-day period shall not begin until all  
26 proceedings in court for review of the final assessment

1           have terminated or the period for obtaining a review has  
2           expired without proceedings for a review having been  
3           instituted. In the case of a notice of tax liability that  
4           becomes a final assessment without a protest and hearing,  
5           the penalty provided in this paragraph (2) shall be imposed  
6           at the expiration of the period provided for the filing of  
7           a protest.

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

13                 (1) the tax shown due on the return on or before the  
14                 due date prescribed for payment of that tax, an amount of  
15                 underpayment of estimated tax, or an amount that is  
16                 reported in an amended return other than an amended return  
17                 timely filed as required by subsection (b) of Section 506  
18                 of the Illinois Income Tax Act (penalty for late payment or  
19                 nonpayment of admitted liability); or

20                 (2) the full amount of any tax required to be shown due  
21                 on a return and which is not shown (penalty for late  
22                 payment or nonpayment of additional liability), within 30  
23                 days after a notice of arithmetic error, notice and demand,  
24                 or a final assessment is issued by the Department. In the  
25                 case of a final assessment arising following a protest and  
26                 hearing, the 30-day period shall not begin until all

1 proceedings in court for review of the final assessment  
2 have terminated or the period for obtaining a review has  
3 expired without proceedings for a review having been  
4 instituted. In the case of a notice of tax liability that  
5 becomes a final assessment without a protest and hearing,  
6 the penalty provided in this paragraph (2) shall be imposed  
7 at the expiration of the period provided for the filing of  
8 a protest.

9 (b-10) This subsection (b-10) is applicable to returns due  
10 on and after January 1, 2001 and on or before December 31,  
11 2003. A penalty shall be imposed for failure to pay:

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

1 the payment of any amount of tax due and if the amount due  
2 is paid within 30 days after the date of the notice and  
3 demand, then the penalty for late payment or nonpayment of  
4 admitted liability under this subsection (b-10)(1) on the  
5 amount so paid shall not accrue for the period after the  
6 date of the notice and demand.

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

24 (b-15) This subsection (b-15) is applicable to returns due  
25 on and after January 1, 2004 and on or before December 31,  
26 2004. A penalty shall be imposed for failure to pay the tax

1 shown due or required to be shown due on a return on or before  
2 the due date prescribed for payment of that tax, an amount of  
3 underpayment of estimated tax, or an amount that is reported in  
4 an amended return other than an amended return timely filed as  
5 required by subsection (b) of Section 506 of the Illinois  
6 Income Tax Act (penalty for late payment or nonpayment of  
7 admitted liability). The amount of penalty imposed under this  
8 subsection (b-15)(1) shall be 2% of any amount that is paid no  
9 later than 30 days after the due date, 10% of any amount that  
10 is paid later than 30 days after the due date and not later  
11 than 90 days after the due date, 15% of any amount that is paid  
12 later than 90 days after the due date and not later than 180  
13 days after the due date, and 20% of any amount that is paid  
14 later than 180 days after the due date. If notice and demand is  
15 made for the payment of any amount of tax due and if the amount  
16 due is paid within 30 days after the date of this notice and  
17 demand, then the penalty for late payment or nonpayment of  
18 admitted liability under this subsection (b-15)(1) on the  
19 amount so paid shall not accrue for the period after the date  
20 of the notice and demand.

21 (b-20) This subsection (b-20) is applicable to returns due  
22 on and after January 1, 2005.

23 (1) A penalty shall be imposed for failure to pay,  
24 prior to the due date for payment, any amount of tax the  
25 payment of which is required to be made prior to the filing  
26 of a return or without a return (penalty for late payment

1 or nonpayment of estimated or accelerated tax). The amount  
2 of penalty imposed under this paragraph (1) shall be 2% of  
3 any amount that is paid no later than 30 days after the due  
4 date and 10% of any amount that is paid later than 30 days  
5 after the due date.

6 (2) A penalty shall be imposed for failure to pay the  
7 tax shown due or required to be shown due on a return on or  
8 before the due date prescribed for payment of that tax or  
9 an amount that is reported in an amended return other than  
10 an amended return timely filed as required by subsection  
11 (b) of Section 506 of the Illinois Income Tax Act (penalty  
12 for late payment or nonpayment of tax). The amount of  
13 penalty imposed under this paragraph (2) shall be 2% of any  
14 amount that is paid no later than 30 days after the due  
15 date, 10% of any amount that is paid later than 30 days  
16 after the due date and prior to the date the Department has  
17 initiated an audit or investigation of the taxpayer, and  
18 20% of any amount that is paid after the date the  
19 Department has initiated an audit or investigation of the  
20 taxpayer; provided that the penalty shall be reduced to 15%  
21 if the entire amount due is paid not later than 30 days  
22 after the Department has provided the taxpayer with an  
23 amended return (following completion of an occupation,  
24 use, or excise tax audit) or a form for waiver of  
25 restrictions on assessment (following completion of an  
26 income tax audit); provided further that the reduction to



1 15% shall be rescinded if the taxpayer makes any claim for  
2 refund or credit of the tax, penalties, or interest  
3 determined to be due upon audit, except in the case of a  
4 claim filed pursuant to subsection (b) of Section 506 of  
5 the Illinois Income Tax Act or to claim a carryover of a  
6 loss or credit, the availability of which was not  
7 determined in the audit. For purposes of this paragraph  
8 (2), any overpayment reported on an original return that  
9 has been allowed as a refund or credit to the taxpayer  
10 shall be deemed to have not been paid on or before the due  
11 date for payment and any amount paid under protest pursuant  
12 to the provisions of the State Officers and Employees Money  
13 Disposition Act shall be deemed to have been paid after the  
14 Department has initiated an audit and more than 30 days  
15 after the Department has provided the taxpayer with an  
16 amended return (following completion of an occupation,  
17 use, or excise tax audit) or a form for waiver of  
18 restrictions on assessment (following completion of an  
19 income tax audit).

20 (3) The penalty imposed under this subsection (b-20)  
21 shall be deemed assessed at the time the tax upon which the  
22 penalty is computed is assessed, except that, if the  
23 reduction of the penalty imposed under paragraph (2) of  
24 this subsection (b-20) to 15% is rescinded because a claim  
25 for refund or credit has been filed, the increase in  
26 penalty shall be deemed assessed at the time the claim for

1 refund or credit is filed.

2 (c) For purposes of the late payment penalties, the basis  
3 of the penalty shall be the tax shown or required to be shown  
4 on a return, whichever is applicable, reduced by any part of  
5 the tax which is paid on time and by any credit which was  
6 properly allowable on the date the return was required to be  
7 filed.

8 (d) A penalty shall be applied to the tax required to be  
9 shown even if that amount is less than the tax shown on the  
10 return.

11 (e) This subsection (e) is applicable to returns due before  
12 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)  
13 penalty and a subsection (b)(2) or (b-5)(2) penalty are  
14 assessed against the same return, the subsection (b)(2) or  
15 (b-5)(2) penalty shall be assessed against only the additional  
16 tax found to be due.

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

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

26 (g) The time within which to file a return or pay an amount

1 of tax due without imposition of a penalty does not extend the  
2 time within which to file a protest to a notice of tax  
3 liability or a notice of deficiency.

4 (h) No return shall be determined to be unprocessable  
5 because of the omission of any information requested on the  
6 return pursuant to Section 2505-575 of the Department of  
7 Revenue Law (20 ILCS 2505/2505-575).

8 (i) If a taxpayer has a tax liability for the taxable  
9 period ending after June 30, 1983 and prior to July 1, 2002  
10 that is eligible for amnesty under the Tax Delinquency Amnesty  
11 Act and the taxpayer fails to satisfy the tax liability during  
12 the amnesty period provided for in that Act for that taxable  
13 period, then the penalty imposed by the Department under this  
14 Section shall be imposed in an amount that is 200% of the  
15 amount that would otherwise be imposed under this Section.

16 (j) If a taxpayer has a tax liability for the taxable  
17 period ending after June 30, 2002 and prior to the effective  
18 date of this amendatory Act of the 96th General Assembly that  
19 is eligible for amnesty under the Tax Delinquency Amnesty Act  
20 and the taxpayer fails to satisfy the tax liability during the  
21 amnesty period provided for in that Act for that taxable  
22 period, then the penalty imposed by the Department under this  
23 Section shall be imposed in an amount that is 200% of the  
24 amount that would otherwise be imposed under this Section.

25 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,  
26 eff. 6-20-03; 93-1068, eff. 1-15-05.)

1 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)

2 Sec. 3-4. Penalty for failure to file correct information  
3 returns.

4 (a) Failure to file correct information returns -  
5 imposition of penalty.

6 (1) In general. Unless otherwise provided in a tax Act,  
7 in the case of a failure described in paragraph (2) of this  
8 subsection (a) by any person with respect to an information  
9 return, that person shall pay a penalty of \$5 for each  
10 return or statement with respect to which the failure  
11 occurs, but the total amount imposed on that person for all  
12 such failures during any calendar year shall not exceed  
13 \$25,000.

14 (2) Failures subject to penalty. The following  
15 failures are subject to the penalty imposed in paragraph  
16 (1) of this subsection (a):

17 (A) any failure to file an information return with  
18 the Department on or before the required filing date,  
19 or

20 (B) any failure to include all of the information  
21 required to be shown on the return or the inclusion of  
22 incorrect information.

23 (b) Reduction where correction in specified period.

24 (1) Correction within 60 days. If any failure described  
25 in subsection (a) (2) is corrected within 60 days after the

1 required filing date:

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

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

8 (c) Information return defined. An information return is  
9 any tax return required by a tax Act to be filed with the  
10 Department that does not, by law, require the payment of a tax  
11 liability.

12 (d) If a taxpayer has a tax liability for the taxable  
13 period ending after June 30, 1983 and prior to July 1, 2002  
14 that is eligible for amnesty under the Tax Delinquency Amnesty  
15 Act and the taxpayer fails to satisfy the tax liability during  
16 the amnesty period provided for in that Act for that taxable  
17 period, then the penalty imposed by the Department under this  
18 Section shall be imposed in an amount that is 200% of the  
19 amount that would otherwise be imposed under this Section.

20 (e) If a taxpayer has a tax liability for the taxable  
21 period ending after June 30, 2002 and prior to the effective  
22 date of this amendatory Act of the 96th General Assembly that  
23 is eligible for amnesty under the Tax Delinquency Amnesty Act  
24 and the taxpayer fails to satisfy the tax liability during the  
25 amnesty period provided for in that Act for that taxable  
26 period, then the penalty imposed by the Department under this

1 Section shall be imposed in an amount that is 200% of the  
2 amount that would otherwise be imposed under this Section.

3 (Source: P.A. 93-26, eff. 6-20-03.)

4 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

5 Sec. 3-5. Penalty for negligence.

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

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

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

19 (d) If a taxpayer has a tax liability for the taxable  
20 period ending after June 30, 1983 and prior to July 1, 2002  
21 that is eligible for amnesty under the Tax Delinquency Amnesty  
22 Act and the taxpayer fails to satisfy the tax liability during  
23 the amnesty period provided for in that Act for that taxable  
24 period, then the penalty imposed by the Department shall be  
25 imposed in an amount that is 200% of the amount that would

1 otherwise be imposed in accordance with this Section.

2 (e) If a taxpayer has a tax liability for the taxable  
3 period ending after June 30, 2002 and prior to the effective  
4 date of this amendatory Act of the 96th General Assembly that  
5 is eligible for amnesty under the Tax Delinquency Amnesty Act  
6 and the taxpayer fails to satisfy the tax liability during the  
7 amnesty period provided for in that Act for that taxable  
8 period, then the penalty imposed by the Department under this  
9 Section shall be imposed in an amount that is 200% of the  
10 amount that would otherwise be imposed under this Section.

11 (Source: P.A. 93-26, eff. 6-20-03.)

12 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)

13 Sec. 3-6. Penalty for fraud.

14 (a) If any return or amended return is filed with intent to  
15 defraud, in addition to any penalty imposed under Section 3-3  
16 of this Act, a penalty shall be imposed in an amount equal to  
17 50% of any resulting deficiency.

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

21 (c) If a taxpayer has a tax liability for the taxable  
22 period ending after June 30, 1983 and prior to July 1, 2002  
23 that is eligible for amnesty under the Tax Delinquency Amnesty  
24 Act and the taxpayer fails to satisfy the tax liability during  
25 the amnesty period provided for in that Act for that taxable

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

4 (d) If a taxpayer has a tax liability for the taxable  
5 period ending after June 30, 2002 and prior to the effective  
6 date of this amendatory Act of the 96th General Assembly that  
7 is eligible for amnesty under the Tax Delinquency Amnesty Act  
8 and the taxpayer fails to satisfy the tax liability during the  
9 amnesty period provided for in that Act for that taxable  
10 period, then the penalty imposed by the Department under this  
11 Section shall be imposed in an amount that is 200% of the  
12 amount that would otherwise be imposed under this Section.

13 (Source: P.A. 93-26, eff. 6-20-03.)

14 (35 ILCS 735/3-7.5)

15 Sec. 3-7.5. Bad check penalty.

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

25 (b) If a taxpayer has a tax liability for the taxable



1 period ending after June 30, 1983 and prior to July 1, 2002  
2 that is eligible for amnesty under the Tax Delinquency Amnesty  
3 Act and the taxpayer fails to satisfy the tax liability during  
4 the amnesty period provided for in that Act for that taxable  
5 period, then the penalty imposed by the Department under this  
6 Section shall be imposed in an amount that is 200% of the  
7 amount that would otherwise be imposed under this Section.

8 (c) If a taxpayer has a tax liability for the taxable  
9 period ending after June 30, 2002 and prior to the effective  
10 date of this amendatory Act of the 96th General Assembly that  
11 is eligible for amnesty under the Tax Delinquency Amnesty Act  
12 and the taxpayer fails to satisfy the tax liability during the  
13 amnesty period provided for in that Act for that taxable  
14 period, then the penalty imposed by the Department under this  
15 Section shall be imposed in an amount that is 200% of the  
16 amount that would otherwise be imposed under this Section.

17 (Source: P.A. 93-26, eff. 6-20-03.)

18 Section 15. The Higher Education Student Assistance Act is  
19 amended by changing Section 35 as follows:

20 (110 ILCS 947/35)

21 Sec. 35. Monetary award program.

22 (a) The Commission shall, each year, receive and consider  
23 applications for grant assistance under this Section. Subject  
24 to a separate appropriation for such purposes, an applicant is

1 eligible for a grant under this Section when the Commission  
2 finds that the applicant:

3 (1) is a resident of this State and a citizen or  
4 permanent resident of the United States; and

5 (2) in the absence of grant assistance, will be  
6 deterred by financial considerations from completing an  
7 educational program at the qualified institution of his or  
8 her choice.

9 (b) The Commission shall award renewals only upon the  
10 student's application and upon the Commission's finding that  
11 the applicant:

12 (1) has remained a student in good standing;

13 (2) remains a resident of this State; and

14 (3) is in a financial situation that continues to  
15 warrant assistance.

16 (c) All grants shall be applicable only to tuition and  
17 necessary fee costs. The Commission shall determine the grant  
18 amount for each student, which shall not exceed the smallest of  
19 the following amounts:

20 (1) subject to appropriation, \$5,468 for fiscal year  
21 2009, \$5,968 for fiscal year 2010, and \$6,468 for fiscal  
22 year 2011 and each fiscal year thereafter, or such lesser  
23 amount as the Commission finds to be available, during an  
24 academic year;

25 (2) the amount which equals 2 semesters or 3 quarters  
26 tuition and other necessary fees required generally by the

1 institution of all full-time undergraduate students; or

2 (3) such amount as the Commission finds to be  
3 appropriate in view of the applicant's financial  
4 resources.

5 Subject to appropriation, the maximum grant amount for  
6 students not subject to subdivision (1) of this subsection (c)  
7 must be increased by the same percentage as any increase made  
8 by law to the maximum grant amount under subdivision (1) of  
9 this subsection (c).

10 "Tuition and other necessary fees" as used in this Section  
11 include the customary charge for instruction and use of  
12 facilities in general, and the additional fixed fees charged  
13 for specified purposes, which are required generally of  
14 nongrant recipients for each academic period for which the  
15 grant applicant actually enrolls, but do not include fees  
16 payable only once or breakage fees and other contingent  
17 deposits which are refundable in whole or in part. The  
18 Commission may prescribe, by rule not inconsistent with this  
19 Section, detailed provisions concerning the computation of  
20 tuition and other necessary fees.

21 (d) No applicant, including those presently receiving  
22 scholarship assistance under this Act, is eligible for monetary  
23 award program consideration under this Act after receiving a  
24 baccalaureate degree or the equivalent of 135 semester credit  
25 hours of award payments.

26 (e) The Commission, in determining the number of grants to

1 be offered, shall take into consideration past experience with  
2 the rate of grant funds unclaimed by recipients. The Commission  
3 shall notify applicants that grant assistance is contingent  
4 upon the availability of appropriated funds.

5 (f) The Commission may request appropriations for deposit  
6 into the Monetary Award Program Reserve Fund. Monies deposited  
7 into the Monetary Award Program Reserve Fund may be expended  
8 exclusively for one purpose: to make Monetary Award Program  
9 grants to eligible students. Amounts on deposit in the Monetary  
10 Award Program Reserve Fund, other than amounts deposited as a  
11 result of the tax amnesty program established under Section 10  
12 of the Tax Delinquency Amnesty Act, may not exceed 2% of the  
13 current annual State appropriation for the Monetary Award  
14 Program.

15 The purpose of the Monetary Award Program Reserve Fund is  
16 to enable the Commission each year to assure as many students  
17 as possible of their eligibility for a Monetary Award Program  
18 grant and to do so before commencement of the academic year.  
19 Moneys deposited in this Reserve Fund are intended to enhance  
20 the Commission's management of the Monetary Award Program,  
21 minimizing the necessity, magnitude, and frequency of  
22 adjusting award amounts and ensuring that the annual Monetary  
23 Award Program appropriation can be fully utilized.

24 (g) The Commission shall determine the eligibility of and  
25 make grants to applicants enrolled at qualified for-profit  
26 institutions in accordance with the criteria set forth in this

1 Section. The eligibility of applicants enrolled at such  
2 for-profit institutions shall be limited as follows:

3 (1) Beginning with the academic year 1997, only to  
4 eligible first-time freshmen and first-time transfer  
5 students who have attained an associate degree.

6 (2) Beginning with the academic year 1998, only to  
7 eligible freshmen students, transfer students who have  
8 attained an associate degree, and students who receive a  
9 grant under paragraph (1) for the academic year 1997 and  
10 whose grants are being renewed for the academic year 1998.

11 (3) Beginning with the academic year 1999, to all  
12 eligible students.

13 (Source: P.A. 95-917, eff. 8-26-08.)

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