

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 Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-310 and by adding Section 2505-255 as follows:

7 (20 ILCS 2505/2505-255 new)

8 Sec. 2505-255. Payment by credit card. The Department may
9 adopt rules and regulations for payment by credit card of any
10 amount due under any Act administered by the Department only
11 when the Department is not required to pay a discount fee
12 charged by the credit card issuer.

13 (20 ILCS 2505/2505-310) (was 20 ILCS 2505/39b15.2)

14 Sec. 2505-310. Obtaining evidence. The Department has the
15 power to expend sums that the Director deems necessary from
16 contractual services appropriations for the purchase of
17 evidence and for the employment of persons to obtain evidence.
18 The sums shall be advanced to investigators authorized by the
19 Director to expend funds, on vouchers signed by the Director.

20 In addition, the Director is authorized to maintain one or
21 more commercial checking accounts with any State banking
22 corporation or corporations organized under or subject to the

1 Illinois Banking Act for the deposit and withdrawal of moneys
2 to be used solely for the purchase of evidence and for the
3 employment of persons to obtain evidence. No check may be
4 written on nor any withdrawal made from such an account except
5 on the written signature of 2 persons designated by the
6 Director to write those checks and make those withdrawals. The
7 balance of moneys on deposit in any such account shall not
8 exceed \$25,000 ~~\$5,000~~ at any time, nor shall any one check
9 written on or single withdrawal made from any such account
10 exceed \$25,000 ~~\$5,000~~.

11 (Source: P.A. 91-239, eff. 1-1-00.)

12 Section 15. The Uniform Penalty and Interest Act is amended
13 by changing Sections 3-2 and 3-3 as follows:

14 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

15 Sec. 3-2. Interest.

16 (a) Interest paid by the Department to taxpayers and
17 interest charged to taxpayers by the Department shall be paid
18 at the annual rate determined by the Department. For periods
19 prior to January 1, 2004, and after December 31, 2013, that
20 rate shall be the underpayment rate established under Section
21 6621 of the Internal Revenue Code. For periods after December
22 31, 2003, and prior to January 1, 2014, that rate shall be:

23 (1) for the one-year period beginning with the date of
24 underpayment or overpayment, the short-term federal rate

1 established under Section 6621 of the Internal Revenue
2 Code.

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

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

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

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

1 the date of the notice and demand.

2 (d) No interest shall be paid upon any overpayment of tax
3 if the overpayment is refunded or a credit approved within 90
4 days after the last date prescribed for filing the original
5 return, or within 90 days of the receipt of the processable
6 return, or within 90 days after the date of overpayment,
7 whichever date is latest, as determined without regard to
8 processing time by the Comptroller or without regard to the
9 date on which the credit is applied to the taxpayer's account.
10 In order for an original return to be processable for purposes
11 of this Section, it must be in the form prescribed or approved
12 by the Department, signed by the person authorized by law, and
13 contain all information, schedules, and support documents
14 necessary to determine the tax due and to make allocations of
15 tax as prescribed by law. For the purposes of computing
16 interest, a return shall be deemed to be processable unless the
17 Department notifies the taxpayer that the return is not
18 processable within 90 days after the receipt of the return;
19 however, interest shall not accumulate for the period following
20 this date of notice. Interest on amounts refunded or credited
21 pursuant to the filing of an amended return or claim for refund
22 shall be determined from the due date of the original return or
23 the date of overpayment, whichever is later, to the date of
24 payment by the Department without regard to processing time by
25 the Comptroller or the date of credit by the Department or
26 without regard to the date on which the credit is applied to

1 the taxpayer's account. If a claim for refund relates to an
2 overpayment attributable to a net loss carryback as provided by
3 Section 207 of the Illinois Income Tax Act, the date of
4 overpayment shall be the last day of the taxable year in which
5 the loss was incurred.

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

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

21 (g) If a taxpayer has a tax liability for the taxable
22 period ending after June 30, 2002 and prior to July 1, 2009
23 that is eligible for amnesty under the Tax Delinquency Amnesty
24 Act, except for any tax liability reported pursuant to Section
25 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
26 is not final, and the taxpayer fails to satisfy the tax

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

6 (h) No interest shall be paid to a taxpayer on any refund
7 allowed under the Tax Delinquency Amnesty Act.

8 (Source: P.A. 95-331, eff. 8-21-07; 96-1435, eff. 8-16-10.)

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 a
13 return shall be imposed for failure to file the tax return on
14 or before the due date prescribed for filing determined with
15 regard for any extension of time for filing (penalty for late
16 filing or nonfiling). If any unprocessable return is corrected
17 and filed within 21 days after notice by the Department, the
18 late filing or nonfiling penalty shall not apply. If a penalty
19 for late filing or nonfiling is imposed in addition to a
20 penalty for late payment, the total penalty due shall be the
21 sum of the late filing penalty and the applicable late payment
22 penalty. Beginning on the effective date of this amendatory Act
23 of 1995, in the case of any type of tax return required to be
24 filed more frequently than annually, when the failure to file
25 the tax return on or before the date prescribed for filing

1 (including any extensions) is shown to be nonfraudulent and has
2 not occurred in the 2 years immediately preceding the failure
3 to file on the prescribed due date, the penalty imposed by
4 Section 3-3(a) shall be abated.

5 (a-5) This subsection (a-5) is applicable to returns due on
6 and after January 1, 1996 and on or before December 31, 2000. A
7 penalty equal to 2% of the tax required to be shown due on a
8 return, up to a maximum amount of \$250, determined without
9 regard to any part of the tax that is paid on time or by any
10 credit that was properly allowable on the date the return was
11 required to be filed, shall be imposed for failure to file the
12 tax return on or before the due date prescribed for filing
13 determined with regard for any extension of time for filing.
14 However, if any return is not filed within 30 days after notice
15 of nonfiling mailed by the Department to the last known address
16 of the taxpayer contained in Department records, an additional
17 penalty amount shall be imposed equal to the greater of \$250 or
18 2% of the tax shown on the return. However, the additional
19 penalty amount may not exceed \$5,000 and is determined without
20 regard to any part of the tax that is paid on time or by any
21 credit that was properly allowable on the date the return was
22 required to be filed (penalty for late filing or nonfiling). If
23 any unprocessable return is corrected and filed within 30 days
24 after notice by the Department, the late filing or nonfiling
25 penalty shall not apply. If a penalty for late filing or
26 nonfiling is imposed in addition to a penalty for late payment,

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

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

1 any unprocessable return is corrected and filed within 30 days
2 after notice by the Department, the late filing or nonfiling
3 penalty shall not apply. If a penalty for late filing or
4 nonfiling is imposed in addition to a penalty for late payment,
5 the total penalty due shall be the sum of the late filing
6 penalty and the applicable late payment penalty. In the case of
7 any type of tax return required to be filed more frequently
8 than annually, when the failure to file the tax return on or
9 before the date prescribed for filing (including any
10 extensions) is shown to be nonfraudulent and has not occurred
11 in the 2 years immediately preceding the failure to file on the
12 prescribed due date, the penalty imposed by Section 3-3(a-10)
13 shall be abated.

14 (a-15) In addition to any other penalties imposed by law
15 for the failure to file a return, a penalty of \$100 shall be
16 imposed for failure to file a transaction reporting return
17 required by Section 3 of the Retailers' Occupation Tax Act and
18 Section 9 of the Use Tax Act on or before the date a return is
19 required to be filed. This penalty shall be imposed regardless
20 of whether the return when properly prepared and filed would
21 result in the imposition of a tax.

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

26 (1) the tax shown due on the return on or before the

1 due date prescribed for payment of that tax, an amount of
2 underpayment of estimated tax, or an amount that is
3 reported in an amended return other than an amended return
4 timely filed as required by subsection (b) of Section 506
5 of the Illinois Income Tax Act (penalty for late payment or
6 nonpayment of admitted liability); or

7 (2) the full amount of any tax required to be shown due
8 on a return and which is not shown (penalty for late
9 payment or nonpayment of additional liability), within 30
10 days after a notice of arithmetic error, notice and demand,
11 or a final assessment is issued by the Department. In the
12 case 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. In the case of a notice of tax liability that
18 becomes a final assessment without a protest and hearing,
19 the penalty provided in this paragraph (2) shall be imposed
20 at the expiration of the period provided for the filing of
21 a protest.

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

1 (1) the tax shown due on the return on or before the
2 due date prescribed for payment of that tax, an amount of
3 underpayment of estimated tax, or an amount that is
4 reported in an amended return other than an amended return
5 timely filed as required by subsection (b) of Section 506
6 of the Illinois Income Tax Act (penalty for late payment or
7 nonpayment of admitted liability); or

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

23 (b-10) This subsection (b-10) is applicable to returns due
24 on and after January 1, 2001 and on or before December 31,
25 2003. A penalty shall be imposed for failure to pay:

26 (1) the tax shown due on a return on or before the due

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

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

1 hearing, the 30-day period shall not begin until all
2 proceedings in court for review of the final assessment
3 have terminated or the period for obtaining a review has
4 expired without proceedings for a review having been
5 instituted. The amount of penalty imposed under this
6 subsection (b-10) (2) shall be 20% of any amount that is not
7 paid within the 30-day period. In the case of a notice of
8 tax liability that becomes a final assessment without a
9 protest and hearing, the penalty provided in this
10 subsection (b-10) (2) shall be imposed at the expiration of
11 the period provided for the filing of a protest.

12 (b-15) This subsection (b-15) is applicable to returns due
13 on and after January 1, 2004 and on or before December 31,
14 2004. A penalty shall be imposed for failure to pay the tax
15 shown due or required to be shown due on a return on or before
16 the due date prescribed for payment of that tax, an amount of
17 underpayment of estimated tax, or an amount that is reported in
18 an amended return other than an amended return timely filed as
19 required by subsection (b) of Section 506 of the Illinois
20 Income Tax Act (penalty for late payment or nonpayment of
21 admitted liability). The amount of penalty imposed under this
22 subsection (b-15) (1) shall be 2% of any amount that is paid no
23 later than 30 days after the due date, 10% of any amount that
24 is paid later than 30 days after the due date and not later
25 than 90 days after the due date, 15% of any amount that is paid
26 later than 90 days after the due date and not later than 180

1 days after the due date, and 20% of any amount that is paid
2 later than 180 days after the due date. If notice and demand is
3 made for the payment of any amount of tax due and if the amount
4 due is paid within 30 days after the date of this notice and
5 demand, then the penalty for late payment or nonpayment of
6 admitted liability under this subsection (b-15)(1) on the
7 amount so paid shall not accrue for the period after the date
8 of the notice and demand.

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

11 (1) A penalty shall be imposed for failure to pay,
12 prior to the due date for payment, any amount of tax the
13 payment of which is required to be made prior to the filing
14 of a return or without a return (penalty for late payment
15 or nonpayment of estimated or accelerated tax). The amount
16 of penalty imposed under this paragraph (1) shall be 2% of
17 any amount that is paid no later than 30 days after the due
18 date and 10% of any amount that is paid later than 30 days
19 after the due date.

20 (2) A penalty shall be imposed for failure to pay the
21 tax shown due or required to be shown due on a return on or
22 before the due date prescribed for payment of that tax or
23 an amount that is reported in an amended return other than
24 an amended return timely filed as required by subsection
25 (b) of Section 506 of the Illinois Income Tax Act (penalty
26 for late payment or nonpayment of tax). The amount of

1 penalty imposed under this paragraph (2) shall be 2% of any
2 amount that is paid no later than 30 days after the due
3 date, 10% of any amount that is paid later than 30 days
4 after the due date and prior to the date the Department has
5 initiated an audit or investigation of the taxpayer, and
6 20% of any amount that is paid after the date the
7 Department has initiated an audit or investigation of the
8 taxpayer; provided that the penalty shall be reduced to 15%
9 if the entire amount due is paid not later than 30 days
10 after the Department has provided the taxpayer with an
11 amended return (following completion of an occupation,
12 use, or excise tax audit) or a form for waiver of
13 restrictions on assessment (following completion of an
14 income tax audit); provided further that the reduction to
15 15% shall be rescinded if the taxpayer makes any claim for
16 refund or credit of the tax, penalties, or interest
17 determined to be due upon audit, except in the case of a
18 claim filed pursuant to subsection (b) of Section 506 of
19 the Illinois Income Tax Act or to claim a carryover of a
20 loss or credit, the availability of which was not
21 determined in the audit. For purposes of this paragraph
22 (2), any overpayment reported on an original return that
23 has been allowed as a refund or credit to the taxpayer
24 shall be deemed to have not been paid on or before the due
25 date for payment and any amount paid under protest pursuant
26 to the provisions of the State Officers and Employees Money

1 Disposition Act shall be deemed to have been paid after the
2 Department has initiated an audit and more than 30 days
3 after the Department has provided the taxpayer with an
4 amended return (following completion of an occupation,
5 use, or excise tax audit) or a form for waiver of
6 restrictions on assessment (following completion of an
7 income tax audit).

8 (3) The penalty imposed under this subsection (b-20)
9 shall be deemed assessed at the time the tax upon which the
10 penalty is computed is assessed, except that, if the
11 reduction of the penalty imposed under paragraph (2) of
12 this subsection (b-20) to 15% is rescinded because a claim
13 for refund or credit has been filed, the increase in
14 penalty shall be deemed assessed at the time the claim for
15 refund or credit is filed.

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

22 (d) A penalty shall be applied to the tax required to be
23 shown even if that amount is less than the tax shown on the
24 return.

25 (e) This subsection (e) is applicable to returns due before
26 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)

1 penalty and a subsection (b)(2) or (b-5)(2) penalty are
2 assessed against the same return, the subsection (b)(2) or
3 (b-5)(2) penalty shall be assessed against only the additional
4 tax found to be due.

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

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

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

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

22 (i) If a taxpayer has a tax liability for the taxable
23 period ending after June 30, 1983 and prior to July 1, 2002
24 that is eligible for amnesty under the Tax Delinquency Amnesty
25 Act and the taxpayer fails to satisfy the tax liability during
26 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 (j) If a taxpayer has a tax liability for the taxable
5 period ending after June 30, 2002 and prior to July 1, 2009
6 that is eligible for amnesty under the Tax Delinquency Amnesty
7 Act, except for any tax liability reported pursuant to Section
8 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
9 is not final, and the taxpayer fails to satisfy the tax
10 liability during the amnesty period provided for in that Act
11 for that taxable period, then the penalty imposed by the
12 Department under this Section shall be imposed in an amount
13 that is 200% of the amount that would otherwise be imposed
14 under this Section.

15 (Source: P.A. 96-1435, eff. 8-16-10.)

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