



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3411

Introduced 2/22/2021, by Rep. Blaine Wilhour

SYNOPSIS AS INTRODUCED:

35 ILCS 40/5
35 ILCS 40/7.5 new
35 ILCS 40/10
35 ILCS 40/40
35 ILCS 40/45
35 ILCS 40/65 rep.
35 ILCS 40/995 rep.

Amends the Invest in Kids Act. Provides that the amount of the credit shall be 100% (currently, 75%) of the total amount of qualified contributions made by the taxpayer during the taxable year. Provides that the annual aggregate credit cap shall be \$100,000,000 per calendar year (currently, \$75,000,000). Provides that the individual credit cap shall be \$1,333,333 per taxpayer (currently, \$1,000,000). Removes a limitation that prevent contributions from being directed to a particular subset of schools or a particular school. Provides that, in granting scholarships, first priority shall be given to eligible students who received a scholarship from a scholarship granting organization during the previous school year. Contains provisions concerning technical academies.

LRB102 14219 HLH 19571 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 105-10. The Invest in Kids Act is amended by
5 changing Sections 5, 10, 40, and 45 and by adding Section 7.5
6 as follows:

7 (35 ILCS 40/5)

8 (Section scheduled to be repealed on January 1, 2024)

9 Sec. 5. Definitions. As used in this Act:

10 "Authorized contribution" means the contribution amount
11 that is listed on the contribution authorization certificate
12 issued to the taxpayer.

13 "Board" means the State Board of Education.

14 "Contribution" means a donation made by the taxpayer
15 during the taxable year for providing scholarships as provided
16 in this Act.

17 "Custodian" means, with respect to eligible students, an
18 Illinois resident who is a parent or legal guardian of the
19 eligible student or students.

20 "Department" means the Department of Revenue.

21 "Eligible student" means a child who:

22 (1) is a member of a household whose federal adjusted
23 gross income the year before he or she initially receives

1 a scholarship under this program, as determined by the
2 Department, does not exceed 300% of the federal poverty
3 level and, once the child receives a scholarship, does not
4 exceed 400% of the federal poverty level;

5 (2) is eligible to attend a public elementary school
6 or high school in Illinois in the semester immediately
7 preceding the semester for which he or she first receives
8 a scholarship or is starting school in Illinois for the
9 first time when he or she first receives a scholarship;
10 and

11 (3) resides in Illinois while receiving a scholarship.

12 "Family member" means a parent, child, or sibling, whether
13 by whole blood, half blood, or adoption; spouse; or stepchild.

14 "Focus district" means a school district which has a
15 school that is either (i) a school that has one or more
16 subgroups in which the average student performance is at or
17 below the State average for the lowest 10% of student
18 performance in that subgroup or (ii) a school with an average
19 graduation rate of less than 60% and not identified for
20 priority.

21 "Jointly-administered CTE program" means a program or set
22 of programs within a non-public school located in Illinois, as
23 determined by the Department of Labor pursuant to Section 7.5
24 of this Act.

25 "Necessary costs and fees" includes the customary charge
26 for instruction and use of facilities in general and the

1 additional fixed fees charged for specified purposes that are
2 required generally of non-scholarship recipients for each
3 academic period for which the scholarship applicant actually
4 enrolls, including costs associated with student assessments,
5 but does not include fees payable only once and other
6 contingent deposits that are refundable in whole or in part.
7 The Board may prescribe, by rules consistent with this Act,
8 detailed provisions concerning the computation of necessary
9 costs and fees.

10 "Scholarship granting organization" means an entity that:

11 (1) is exempt from taxation under Section 501(c)(3) of
12 the Internal Revenue Code;

13 (2) uses at least 95% of the qualified contributions
14 received during a taxable year for scholarships;

15 (3) provides scholarships to students according to the
16 guidelines of this Act;

17 (4) deposits and holds qualified contributions and any
18 income derived from qualified contributions in an account
19 that is separate from the organization's operating fund or
20 other funds until such qualified contributions or income
21 are withdrawn for use; and

22 (5) is approved to issue certificates of receipt.

23 "Qualified contribution" means the authorized contribution
24 made by a taxpayer to a scholarship granting organization for
25 which the taxpayer has received a certificate of receipt from
26 such organization.

1 "Qualified school" means a non-public school located in
2 Illinois and recognized by the Board pursuant to Section
3 2-3.25o of the School Code.

4 "Scholarship" means an educational scholarship awarded to
5 an eligible student to attend a qualified school of their
6 custodians' choice in an amount not exceeding the necessary
7 costs and fees to attend that school.

8 "Taxpayer" means any individual, corporation, partnership,
9 trust, or other entity subject to the Illinois income tax. For
10 the purposes of this Act, 2 individuals filing a joint return
11 shall be considered one taxpayer.

12 "Technical academy" means a non-public school located in
13 Illinois that (i) registers with the Board pursuant to Section
14 2-3.25o of the School Code and (ii) operates or will operate a
15 jointly-administered CTE program as the primary focus of the
16 school. To maintain its status as a technical academy, the
17 non-public school must obtain recognition from the Board
18 pursuant to Section 2-3.25o of the School Code within 2
19 calendar years of its registration with the Board.

20 (Source: P.A. 100-465, eff. 8-31-17.)

21 (35 ILCS 40/7.5 new)

22 Sec. 7.5. Determination of jointly-administered CTE
23 programs.

24 (a) Upon its own motion, or petition from a qualified
25 school or technical academy, the Department of Labor shall

1 determine whether a program or set of programs offered or
2 proposed by a qualified school or technical academy provides
3 coursework and training in career and technical education
4 pathways aligned to industry-recognized certifications and
5 credentials. The Department of Labor shall make that
6 determination based upon whether the industry-recognized
7 certifications or credentials that are the focus of a
8 qualified school or technical academy's coursework and
9 training program or set of programs (i) are associated with an
10 occupation determined to fall under the LEADING or EMERGING
11 priority sectors as determined through Illinois' Workforce
12 Innovation and Opportunity Act Unified State Plan, and (ii)
13 provide wages that are at least 70% of the average annual wage
14 in the State as determined by the United States Bureau of Labor
15 Statistics.

16 The Department of Labor shall publish a list of approved
17 jointly-administered programs on its website and otherwise
18 make such list available to the public.

19 (b) A qualified school or technical academy may petition
20 the Department of Labor to obtain a determination that a
21 proposed program or set of programs that it seeks to offer
22 qualifies as a jointly-administered CTE program under
23 subsection (a) of this Section. A petitioner shall file one
24 original petition in the format provided by the Department of
25 Labor and in the manner specified by the Department of Labor.
26 The petitioner may withdraw his or her petition by submitting

1 a written statement to the Department indicating withdrawal.
2 The Department shall approve or deny a petition within 180
3 days of its submission, and, upon approval, shall proceed to
4 add the program or set of programs to the list of approved
5 jointly-administered CTE programs. The approval or denial of
6 any petition is a final decision of the Department, subject to
7 judicial review under the Administrative Review Law.
8 Jurisdiction and venue are vested in the circuit court.

9 (c) The Department of Labor shall evaluate the approved
10 jointly-administered CTE programs under this Section once
11 every 5 years. At this time, the Department shall determine
12 whether these programs continue to meet the requirements set
13 forth in subsection (a) of this Section.

14 (35 ILCS 40/10)

15 (Section scheduled to be repealed on January 1, 2024)

16 Sec. 10. Credit awards.

17 (a) The Department shall award credits against the tax
18 imposed under subsections (a) and (b) of Section 201 of the
19 Illinois Income Tax Act to taxpayers who make qualified
20 contributions. For contributions made under this Act, the
21 credit shall be equal to 100% ~~75%~~ of the total amount of
22 qualified contributions made by the taxpayer during a taxable
23 year, not to exceed a credit of \$1,333,333 ~~\$1,000,000~~ per
24 taxpayer.

25 (b) The aggregate amount of all credits the Department may

1 award under this Act in any calendar year may not exceed
2 \$100,000,000 ~~\$75,000,000~~. The aggregate credit cap under this
3 subsection (b) shall be increased by 20% beginning on the
4 first day of a calendar year if, in at least 2 of the previous
5 3 calendar years, the applicable aggregate credit cap was
6 reached.

7 (c) Contributions made by corporations (including
8 Subchapter S corporations), partnerships, and trusts under
9 this Act may ~~not~~ be directed to a particular subset of schools
10 ~~or~~ a particular school, but may not be directed to a
11 particular group of students, or a particular student.
12 Contributions made by individuals under this Act may be
13 directed to a particular subset of schools or a particular
14 school but may not be directed to a particular group of
15 students or a particular student.

16 (d) No credit shall be taken under this Act for any
17 qualified contribution for which the taxpayer claims a federal
18 income tax deduction.

19 (e) Credits shall be awarded in a manner, as determined by
20 the Department, that is geographically proportionate to
21 enrollment in recognized non-public schools in Illinois. If
22 the cap on the aggregate credits that may be awarded by the
23 Department is not reached by April 1 ~~June 1~~ of a given year,
24 the Department shall award remaining credits on a first-come,
25 first-served basis, without regard to the limitation of this
26 subsection.

1 (f) Credits awarded for donations made to a technical
2 academy shall be awarded without regard to subsection (e), but
3 shall not exceed 15% of the annual statewide program cap. For
4 the purposes of this subsection, "technical academy" means a
5 technical academy that is registered with the Board within 30
6 days after the effective date of this amendatory Act of the
7 102nd General Assembly.

8 (Source: P.A. 100-465, eff. 8-31-17.)

9 (35 ILCS 40/40)

10 (Section scheduled to be repealed on January 1, 2024)

11 Sec. 40. Scholarship granting organization
12 responsibilities.

13 (a) Before granting a scholarship for an academic year,
14 all scholarship granting organizations shall assess and
15 document each student's eligibility for the academic year.

16 (b) A scholarship granting organization shall grant
17 scholarships only to eligible students.

18 (c) A scholarship granting organization shall allow an
19 eligible student to attend any qualified school of the
20 student's choosing, subject to the availability of funds.

21 (d) In granting scholarships, beginning in the 2022-2023
22 school year and each school year thereafter, a scholarship
23 granting organization shall give first priority to eligible
24 students who received a scholarship from a scholarship
25 granting organization during the previous school year. Second

1 priority shall be given to the following priority groups:

2 (1) (blank); ~~eligible students who received a~~
3 ~~scholarship from a scholarship granting organization~~
4 ~~during the previous school year;~~

5 (2) eligible students who are members of a household
6 whose previous year's total annual income does not exceed
7 185% of the federal poverty level;

8 (3) eligible students who reside within a focus
9 district; and

10 (4) eligible students who are siblings of students
11 currently receiving a scholarship.

12 (d-5) A scholarship granting organization shall begin
13 granting scholarships no later than February 1 preceding the
14 school year for which the scholarship is sought. Each ~~The~~
15 priority group ~~groups~~ identified in subsection (d) of this
16 Section shall be eligible to receive scholarships on a
17 first-come, first-served basis until ~~the~~ April 1 immediately
18 preceding the school year for which the scholarship is sought
19 starting with the first priority group identified in
20 subsection (d) of this Section. Applications for scholarships
21 for eligible students meeting the qualifications of one or
22 more priority groups that are received before April 1 must be
23 either approved or denied within 10 business days after
24 receipt. Beginning April 1, all eligible students shall be
25 eligible to receive scholarships without regard to the
26 priority groups identified in subsection (d) of this Section.

1 (e) Except as provided in subsection (e-5) of this
2 Section, scholarships shall not exceed the lesser of (i) the
3 statewide average operational expense per student among public
4 schools or (ii) the necessary costs and fees for attendance at
5 the qualified school. Scholarships shall be prorated as
6 follows:

7 (1) for eligible students whose household income is
8 less than 185% of the federal poverty level, the
9 scholarship shall be 100% of the amount determined
10 pursuant to this subsection (e) and subsection (e-5) of
11 this Section;

12 (2) for eligible students whose household income is
13 185% or more of the federal poverty level but less than
14 250% of the federal poverty level, the average of
15 scholarships shall be 75% of the amount determined
16 pursuant to this subsection (e) and subsection (e-5) of
17 this Section; and

18 (3) for eligible students whose household income is
19 250% or more of the federal poverty level, the average of
20 scholarships shall be 50% of the amount determined
21 pursuant to this subsection (e) and subsection (e-5) of
22 this Section.

23 (e-5) The statewide average operational expense per
24 student among public schools shall be multiplied by the
25 following factors:

26 (1) for students determined eligible to receive

1 services under the federal Individuals with Disabilities
2 Education Act, 2;

3 (2) for students who are English learners, as defined
4 in subsection (d) of Section 14C-2 of the School Code,
5 1.2; ~~and~~

6 (3) for students who are gifted and talented children,
7 as defined in Section 14A-20 of the School Code, 1.1; ~~and~~

8 (4) for students enrolled in a jointly-administered
9 CTE program, 1.5.

10 (f) A scholarship granting organization shall distribute
11 scholarship payments to the participating school where the
12 student is enrolled.

13 (g) Beginning in ~~For~~ the 2018-2019 school year ~~through the~~
14 ~~2021-2022 school year~~, each scholarship granting organization
15 shall expend no less than 75% of the qualified contributions
16 received during the calendar year in which the qualified
17 contributions were received. No more than 25% of the qualified
18 contributions may be carried forward to the following calendar
19 year.

20 (h) In determining compliance with subsection (g), a
21 scholarship granting organization may exempt a portion of
22 donations directed to a technical academy operating in the
23 first two calendar years in which the school is eligible to
24 receive donations. For purposes of determining compliance with
25 subsection (g) the sum of exempted donations per technical
26 academy shall not exceed \$3,000,000 over the 2-calendar year

1 period. Not more than one scholarship granting organization
2 shall exempt a portion of directed donations per technical
3 academy. For the 2022-2023 school year, each scholarship
4 granting organization shall expend all qualified contributions
5 received during the calendar year in which the qualified
6 contributions were received. No qualified contributions may be
7 carried forward to the following calendar year.

8 (i) A scholarship granting organization shall allow an
9 eligible student to transfer a scholarship during a school
10 year to any other participating school of the custodian's
11 choice. Such scholarships shall be prorated.

12 (j) With the prior approval of the Department, a
13 scholarship granting organization may transfer funds to
14 another scholarship granting organization if additional funds
15 are required to meet scholarship demands at the receiving
16 scholarship granting organization. All transferred funds must
17 be deposited by the receiving scholarship granting
18 organization into its scholarship accounts. All transferred
19 amounts received by any scholarship granting organization must
20 be separately disclosed to the Department.

21 (k) If the approval of a scholarship granting organization
22 is revoked as provided in Section 20 of this Act or the
23 scholarship granting organization is dissolved, all remaining
24 qualified contributions of the scholarship granting
25 organization shall be transferred to another scholarship
26 granting organization. All transferred funds must be deposited

1 by the receiving scholarship granting organization into its
2 scholarship accounts.

3 (1) Scholarship granting organizations shall make
4 reasonable efforts to advertise the availability of
5 scholarships to eligible students.

6 (Source: P.A. 100-465, eff. 8-31-17.)

7 (35 ILCS 40/45)

8 (Section scheduled to be repealed on January 1, 2024)

9 Sec. 45. State Board responsibilities.

10 (a) Beginning in the 2019-2020 school year, students who
11 have been granted a scholarship under this Act shall be
12 annually assessed at the qualified school where the student
13 attends school in the same manner in which students that
14 attend public schools are annually assessed pursuant to
15 Section 2-3.64a-5 of the School Code. Such qualified school
16 shall pay costs associated with this requirement.

17 (b) The Board shall select an independent research
18 organization, which may be a public or private entity or
19 university, to which participating qualified schools must
20 report the scores of students who are receiving scholarships
21 and are assessed pursuant to subsection (a) of this Section.
22 Costs associated with the independent research organization
23 shall be paid by the scholarship granting organizations on a
24 per-pupil basis or by gifts, grants, or donations received by
25 the Board under subsection (d) of this Section, as determined

1 by the Board. The independent research organization must
2 annually report to the Board on the year-to-year learning
3 gains of students receiving scholarships on a statewide basis.
4 The report shall also include, to the extent possible, a
5 comparison of these learning gains to the statewide learning
6 gains of public school students with socioeconomic backgrounds
7 similar to those of students receiving scholarships. The
8 annual report shall be delivered to the Board and published on
9 its website.

10 (c) Beginning within 120 days after the Board first
11 receives the annual report by the independent research
12 organization as provided in subsection (b) of this Section and
13 on an annual basis thereafter, the Board shall submit a
14 written report to the Governor, the President of the Senate,
15 the Speaker of the House of Representatives, the Minority
16 Leader of the Senate, and the Minority Leader of the House of
17 Representatives regarding this Act. Such report shall include
18 an evaluation of the academic performance of students
19 receiving scholarships and recommendations for improving
20 student performance.

21 (d) Subject to the State Officials and Employees Ethics
22 Act, the Board may receive and expend gifts, grants, and
23 donations of any kind from any public or private entity to
24 carry out the purposes of this Section, subject to the terms
25 and conditions under which the gifts are given, provided that
26 all such terms and conditions are permissible under law.

1 (e) The sharing and reporting of student assessment
2 ~~learning gain~~ data under this Section must be in accordance
3 with requirements of the Family Educational Rights and Privacy
4 Act and the Illinois School Student Records Act. All parties
5 must preserve the confidentiality of such information as
6 required by law. The annual report must not disaggregate data
7 to a level that will disclose the academic level of individual
8 students.

9 (Source: P.A. 100-465, eff. 8-31-17.)

10 (35 ILCS 40/65 rep.)

11 (35 ILCS 40/995 rep.)

12 Section 105-15. The Invest in Kids Act is amended by
13 repealing Sections 65 and 995.