



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4765

Introduced 1/27/2022, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.21 new
35 ILCS 5/232 new

Amends the Illinois Income Tax Act. Creates an income tax credit to compensate custodians of qualifying pupils for a school district failing to offer in-person instruction to students during the regular school year calendar. Provides for an additional credit if the custodian is also an eligible teacher. Creates an income tax credit for employers of custodians of qualifying pupils for eligible expenditures paid by the employer on behalf of the custodian. Provides that the credit is exempt from the Act's automatic sunset provision. Amends the Illinois Administrative Procedure Act to provide for emergency rulemaking. Effective immediately.

LRB102 24022 HLH 33234 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 3. The Illinois Administrative Procedure Act is
5 amended by adding Section 5-45.21 as follows:

6 (5 ILCS 100/5-45.21 new)

7 Sec. 5-45.21. Emergency rulemaking. To provide for the
8 expeditious and timely implementation of Section 232 of the
9 Illinois Income Tax Act, emergency rules implementing that
10 Section may be adopted in accordance with Section 5-45 by the
11 Department of Revenue. The adoption of emergency rules
12 authorized by Section 5-45 and this Section is deemed to be
13 necessary for the public interest, safety, and welfare.

14 This Section is repealed on January 1, 2023.

15 Section 5. The Illinois Income Tax Act is amended by
16 adding Section 232 as follows:

17 (35 ILCS 5/232 new)

18 Sec. 232. Education expense credit to compensate for a
19 school district failing to offer in-person instruction to
20 students during the regular school year calendar.

21 (a) The COVID-19 pandemic has created challenges for

1 students and their families in the areas of child care, school
2 attendance, school access, and the like.

3 This Section is intended to (i) assist students and
4 families who are unable follow their normal school routine as
5 a consequence of orders of the Department of Public Health
6 relating to COVID-19, decisions by a school board or
7 administration to not offer full-time in-person instruction,
8 or staffing shortages at any time that interfere with offering
9 full-time instruction, (ii) additionally support classroom
10 instructors so that they can maximize time and opportunities
11 for in-person instruction, and (iii) incentivize employers to
12 accommodate working parents.

13 Because the nature and types of hardships experienced by
14 school districts, parents, and students are wide and varied,
15 the most efficient way to deliver relief that can be tailored
16 to the particular individuals' needs is through an income tax
17 credit.

18 The General Assembly finds that it will be costly and
19 burdensome to the State of Illinois if parents must choose to
20 become unemployed due to a lack of accommodation based on the
21 inability of students to attend school in person.

22 (b) As used in this Section, the following words shall
23 have the following meanings unless the context clearly
24 requires otherwise, and shall be construed expansively in
25 favor of the taxpayer for expenditures made in good faith
26 wherever possible:

1 "Custodian" means, with respect to qualifying pupils, an
2 Illinois resident who is a parent, the parents, a legal
3 guardian, or the legal guardians of the qualifying pupils.

4 "COVID-19" means the illness caused by the coronavirus
5 SARS-CoV-2.

6 "Educational activities" means any aspect of a qualifying
7 pupil's education, including, but not limited to classroom
8 instruction, remote learning and blended remote learning
9 instruction, special education support, and tutoring and
10 mentoring.

11 "Eligible expenditure" means costs by a custodian of a
12 qualifying pupil or an employer associated with:

13 (1) the purchase of materials to support online
14 learning, including but not limited to, a personal
15 computer with internet access; a router or hotspot;
16 monthly expenses for internet access; a printer and
17 supportive accessories (print cartridge, toner); textbooks
18 and other supplies needed for education, up to a maximum
19 of \$500 for the taxable year; and the costs of educational
20 activities;

21 (2) securing, for a qualifying pupil who is under the
22 age of 15, child care, independent tutoring, an
23 educational facilitator (whether individually or as part
24 of a learning pod, provided that the facilitator fee is
25 distributed pro rata per student), homeschool instruction,
26 alternative classroom instruction, or specialized services

1 relating to learning or behavioral issues identified in an
2 Individualized Education Program and the like, up to a
3 maximum of \$5,000 per taxable year per household or per
4 child, whichever is less; and

5 (3) compliance with a recommended quarantine period
6 associated with COVID-19, whether imposed by or resulting
7 as a consequence of a decision made by an employer, the
8 State of Illinois, a school board, school board
9 administration, or due to school staffing shortages, or a
10 county health department, including the costs of testing,
11 clinical support, and vaccination (if available), up to
12 \$3,000 per year.

13 "Eligible expenditure adjustment" means the eligible
14 expenditure reduced by 25%. The eligible expenditure
15 adjustment shall apply for any parent or household that had an
16 adjusted gross income for the taxable year of over \$150,000
17 for an individual and \$300,000 for spouses filing a joint
18 return.

19 "Eligible teacher" means an individual licensed under
20 Article 21B of the School Code who is teaching at the school
21 grade level of kindergarten through grade 12 and is also the
22 custodian of a qualifying pupil under the age of 14 who cannot
23 attend school anywhere within the custodian's school district
24 for in-person instruction on a regular school day.

25 "Qualifying pupil" means an individual who (i) is a
26 resident of the State of Illinois, (ii) is under the age of 21

1 at the close of the school year for which a credit is sought,
2 and (iii) during the school year for which a credit is sought,
3 was, or requested to be, registered as a full-time pupil
4 enrolled in a kindergarten through grade 12 education program
5 at any school, as defined in this Section.

6 "Regular school day" means the calendar days Monday
7 through Friday, from 8 a.m. to 4 p.m., which occur on the day
8 after Labor Day but before Memorial Day, but not any official
9 government holidays within that time period.

10 "School" means any public or nonpublic elementary or
11 secondary school in Illinois that is in compliance with Title
12 VI of the Civil Rights Act of 1964 and attendance at which
13 satisfies the requirements of Section 26-1 of the School Code,
14 except that nothing shall be construed to require a child to
15 attend any particular public or nonpublic school to qualify
16 for the credit under this Section.

17 (c) For taxable years beginning on or after January 1,
18 2022, a taxpayer who is a custodian of a qualifying pupil is
19 eligible to receive a nonrefundable credit against the taxes
20 imposed by subsections (a) and (b) of Section 201 in an amount
21 equal to 100% of the eligible expenditures (as adjusted by the
22 eligible expenditure adjustment, if applicable), subject to
23 the maximum allowable credits under this Section. Eligible
24 teachers are eligible for an additional \$75 credit per week,
25 not to exceed \$2,000 per year, if the eligible teacher's
26 qualifying pupil cannot attend in-person instruction because

1 of orders involving the Department of Public Health, a county
2 health department, or the State Board of Education relating to
3 COVID-19.

4 The credit under this Section shall not apply to
5 expenditures incurred after orders or staffing shortages
6 preventing or limiting in-person instruction for the
7 qualifying pupil are lifted, provided that this limitation
8 shall not apply if a student, to secure in-person instruction,
9 was required to pay expenses for alternative in-person school
10 instruction for a full semester or school year. No taxpayer
11 shall be entitled to claim a tax credit under this Section for
12 the same eligible expenditures claimed by another taxpayer. If
13 2 or more custodians claim tax credits for the same qualified
14 pupil, the total of which exceeds the amounts in this
15 subsection, then the total amount of the credit allowed shall
16 be allocated in amounts proportionate to each eligible
17 taxpayer's share of the total amount of the eligible
18 expenditures for the eligible qualifying pupil.

19 The employer of a custodian of a qualifying pupil is also
20 entitled to a credit against the taxes imposed by subsections
21 (a) and (b) of Section 201 in an amount equal to 100% of the
22 eligible expenditures paid by the employer on behalf of the
23 custodian of the qualifying pupil, but not to exceed a maximum
24 in each taxable year of \$2,000 for each employee on whose
25 behalf an expenditure is made, plus 50% of the maximum
26 unemployment insurance payment that the employer would

1 otherwise pay to the State under the Unemployment Insurance
2 Act for that employee.

3 (d) The Department of Revenue and the State Board of
4 Education shall jointly adopt rules, including emergency
5 rules, for the implementation of this Section.

6 (e) The Department of Revenue shall annually, no later
7 than November 1, file a report with the Governor and the
8 General Assembly and publish on the Department of Revenue's
9 website the total amount of tax credits claimed under this
10 Section and the total number of taxpayers who received the
11 credit for the preceding fiscal year.

12 (f) This Section is exempt from the provisions of Section
13 250.

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