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102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5124

Introduced 1/27/2022, by Rep. Amy Grant

SYNOPSIS AS INTRODUCED:

35 ILCS 5/224
35 ILCS 40/40
35 ILCS 40/65

Amends the Illinois Income Tax Act and the Invest in Kids Act. Provides that the Invest in Kids credit applies permanently (currently, the credit applies for taxable years ending before January 1, 2023). Effective immediately.

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A BILL FOR

AN ACT concerning revenue.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Income Tax Act is amended by changing Section 224 as follows:

(35 ILCS 5/224)

Sec. 224. Invest in Kids credit.

(a) For taxable years beginning on or after January 1, 2018 ~~and ending before January 1, 2023~~, each taxpayer for whom a tax credit has been awarded by the Department under the Invest in Kids Act is entitled to a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act in an amount equal to the amount awarded under the Invest in Kids Act.

(b) For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, the credit under this Section shall be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(c) The credit may not be carried back and may not reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset the liability, the earlier credit shall be applied first.

(d) A tax credit awarded by the Department under the Invest in Kids Act may not be claimed for any qualified contribution for which the taxpayer claims a federal income tax deduction.

<u>(e) This Section is exempt from the provisions of Section 250.</u>

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

Section 10. The Invest in Kids Act is amended by changing Sections 40 and 65 as follows:

(35 ILCS 40/40)

(Section scheduled to be repealed on January 1, 2025)

Sec. 40. Scholarship granting organization responsibilities.

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

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

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

(d) In granting scholarships, a scholarship granting organization shall give priority to the following priority groups:

(1) eligible students who received a scholarship from a scholarship granting organization during the previous school year;

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

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

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

(d-5) A scholarship granting organization shall begin granting scholarships no later than February 1 preceding the school year for which the scholarship is sought. The priority groups identified in subsection (d) of this Section shall be eligible to receive scholarships on a first-come, first-served basis until the April 1 immediately preceding the school year for which the scholarship is sought. Applications for scholarships for eligible students meeting the qualifications of one or more priority groups that are received before April 1 must be either approved or denied within 10 business days after receipt. Beginning April 1, all eligible students shall be eligible to receive scholarships without regard to the priority groups identified in subsection (d) of this Section.

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

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

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

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

this Section.

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

(1) for students determined eligible to receive services under the federal Individuals with Disabilities Education Act, 2;

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

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

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

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

(h) (Blank). ~~For the 2022-2023 school year, each scholarship granting organization shall expend all qualified contributions received during the calendar year in which the qualified contributions were received. No qualified~~

~~contributions may be carried forward to the following calendar year.~~

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

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

(k) If the approval of a scholarship granting organization is revoked as provided in Section 20 of this Act or the scholarship granting organization is dissolved, all remaining qualified contributions of the scholarship granting organization shall be transferred to another scholarship granting organization. All transferred funds must be deposited by the receiving scholarship granting organization into its scholarship accounts.

(l) Scholarship granting organizations shall make reasonable efforts to advertise the availability of scholarships to eligible students.

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

(35 ILCS 40/65)

(Section scheduled to be repealed on January 1, 2025)

Sec. 65. Credit period; repeal.

(a) A taxpayer may take a credit under this Act for tax years beginning on or after January 1, 2018 ~~and ending before January 1, 2024. A taxpayer may not take a credit pursuant to this Act for tax years beginning on or after January 1, 2024~~.

(b) This Act is exempt from the provisions of Section 250 of the Illinois Income Tax Act ~~repealed on January 1, 2025~~.

(Source: P.A. 102-16, eff. 6-17-21.)

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