



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB4194

Introduced 10/25/2023, by Rep. Angelica Guerrero-Cuellar - Elizabeth "Lisa" Hernandez - Kelly M. Burke and Martin J. Moylan

#### SYNOPSIS AS INTRODUCED:

35 ILCS 40/5  
35 ILCS 40/10  
35 ILCS 40/40  
35 ILCS 40/65  
35 ILCS 5/224

Amends the Invest in Kids Act. Provides that a taxpayer may take a credit under the Act for tax years ending before January 1, 2029 (currently January 1, 2024). Provides that, beginning in calendar year 2024, the aggregate amount of credits the Department of Revenue may award under the Act in any calendar year may not exceed \$50,000,000 (currently, \$75,000,000). Provides that contributions under the Act may be directed to students whose permanent address is located in an underserved area but may not be directed to a particular student. Provides that, for taxable years beginning on or after January 1, 2024, the amount of the credit under the Act shall be 100% of the first \$5,000 in contributions made by the taxpayer during the taxable year, plus (i) 55% of the portion of the qualified contributions made by the taxpayer that exceeds the first \$5,000 and is not directed to students whose permanent address is located in an underserved area and (ii) 65% of the of the portion of the qualified contributions made by the taxpayer that exceeds the first \$5,000 and is directed to students whose permanent address is located in an underserved area. Effective immediately.

LRB103 34921 HLH 64794 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 Invest in Kids Act is amended by changing  
5 Sections 5, 10, 40, and 65 as follows:

6 (35 ILCS 40/5)

7 (Section scheduled to be repealed on January 1, 2025)

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

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

12 "Board" means the State Board of Education.

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

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

19 "Department" means the Department of Revenue.

20 "Eligible student" means a child who:

21 (1) is a member of a household whose federal adjusted  
22 gross income the year before he or she initially receives  
23 a scholarship under this program, as determined by the

1 Department, does not exceed 300% of the federal poverty  
2 level and, once the child receives a scholarship, does not  
3 exceed 400% of the federal poverty level;

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

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

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

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

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

24 "Necessary costs and fees" includes the customary charge  
25 for instruction and use of facilities in general and the  
26 additional fixed fees charged for specified purposes that are

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

9 "Scholarship granting organization" means an entity that:

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

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

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

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

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

22 "Technical academy" means a non-public school located in  
23 Illinois that: (1) registers with the Board pursuant to  
24 Section 2-3.25 of the School Code; and (2) operates or will  
25 operate a jointly administered CTE program as the primary  
26 focus of the school. To maintain its status as a technical

1 academy, the non-public school must obtain recognition from  
2 the Board pursuant to Section 2-3.25o of the School Code  
3 within 2 calendar years of its registration with the Board.

4 "Qualified contribution" means the authorized contribution  
5 made by a taxpayer to a scholarship granting organization for  
6 which the taxpayer has received a certificate of receipt from  
7 such organization.

8 "Qualified school" means a non-public school located in  
9 Illinois and recognized by the Board pursuant to Section  
10 2-3.25o of the School Code.

11 "Scholarship" means an educational scholarship awarded to  
12 an eligible student to attend a qualified school of their  
13 custodians' choice in an amount not exceeding the necessary  
14 costs and fees to attend that school.

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

19 "Underserved area" has the meaning given to that term in  
20 Section 5-5 of the Economic Development for a Growing Economy  
21 Tax Credit Act.

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

23 (35 ILCS 40/10)

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

25 Sec. 10. Credit awards.

1 (a) The Department shall award credits against the tax  
2 imposed under subsections (a) and (b) of Section 201 of the  
3 Illinois Income Tax Act to taxpayers who make qualified  
4 contributions. For taxable years beginning before January 1,  
5 2024 ~~contributions made under this Act,~~ the credit shall be  
6 equal to 75% of the total amount of qualified contributions  
7 made by the taxpayer during a taxable year, not to exceed a  
8 credit of \$1,000,000 per taxpayer. For taxable years beginning  
9 on or after January 1, 2024, the credit shall be calculated as  
10 follows:

11 (1) If the total amount of qualified contributions  
12 made by the taxpayer during the taxable year does not  
13 exceed \$5,000, then the credit shall be equal to 100% of  
14 the total amount of qualified contributions made by the  
15 taxpayer during the taxable year.

16 (2) If the total amount of qualified contributions  
17 made by the taxpayer during the taxable year exceeds  
18 \$5,000, then the credit shall be equal to 100% of the first  
19 \$5,000 in contributions made by the taxpayer, plus (i) 55%  
20 of the portion of the qualified contributions made by the  
21 taxpayer that exceeds the first \$5,000 and is not directed  
22 to students whose permanent address is located in an  
23 underserved area and (ii) 65% of the of the portion of the  
24 qualified contributions made by the taxpayer that exceeds  
25 the first \$5,000 and is directed to students whose  
26 permanent address is located in an underserved area.

1       For taxable years ending on or after January 1, 2024, the  
2       total credit amount per taxpayer shall not exceed \$500,000 in  
3       any taxable year.

4       (b) Through calendar year 2023, the ~~The~~ aggregate amount  
5       of all credits the Department may award under this Act in any  
6       calendar year may not exceed \$75,000,000. Beginning in  
7       calendar year 2024, the aggregate amount of all credits the  
8       Department may award under this Act in any calendar year may  
9       not exceed \$50,000,000.

10       (c) Except as otherwise provided in this subsection,  
11       contributions ~~Contributions~~ made by corporations (including  
12       Subchapter S corporations), partnerships, and trusts under  
13       this Act may not be directed to a particular subset of schools,  
14       a particular school, a particular group of students, or a  
15       particular student. Except as otherwise provided in this  
16       Section, contributions ~~Contributions~~ made by individuals under  
17       this Act may be directed to a particular subset of schools or a  
18       particular school but may not be directed to a particular  
19       group of students or a particular student. Notwithstanding the  
20       provisions of this subsection, on and after January 1, 2024,  
21       contributions made by any taxpayer may be directed to students  
22       whose permanent address is located in an underserved area but  
23       may not be directed to a particular student.

24       (d) (Blank). ~~No credit shall be taken under this Act for~~  
25       ~~any qualified contribution for which the taxpayer claims a~~  
26       ~~federal income tax deduction.~~

1 (e) Credits shall be awarded in a manner, as determined by  
2 the Department, that is geographically proportionate to  
3 enrollment in recognized non-public schools in Illinois. If  
4 the cap on the aggregate credits that may be awarded by the  
5 Department is not reached by June 1 of a given year, the  
6 Department shall award remaining credits on a first-come,  
7 first-served basis, without regard to the limitation of this  
8 subsection. Credits awarded for qualified contributions that  
9 are directed to students whose permanent address is located in  
10 an underserved area shall be awarded without regard to this  
11 subsection but shall not exceed 15% of the annual statewide  
12 program cap.

13 (f) Credits awarded for donations made to a technical  
14 academy shall be awarded without regard to subsection (e), but  
15 shall not exceed 15% of the annual statewide program cap. For  
16 the purposes of this subsection, "technical academy" means a  
17 technical academy that is registered with the Board within 30  
18 days after the effective date of this amendatory Act of the  
19 102nd General Assembly.

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

21 (35 ILCS 40/40)

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

23 Sec. 40. Scholarship granting organization  
24 responsibilities.

25 (a) Before granting a scholarship for an academic year,



1 all scholarship granting organizations shall assess and  
2 document each student's eligibility for the academic year.

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

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

8 (d) In granting scholarships, beginning in the 2022-2023  
9 school year and for each school year thereafter, a scholarship  
10 granting organization shall give priority to eligible students  
11 who received a scholarship from a scholarship granting  
12 organization during the previous school year. Second priority  
13 shall be given to the following priority groups:

14 (1) (blank);

15 (2) eligible students who are members of a household  
16 whose previous year's total annual income does not exceed  
17 185% of the federal poverty level;

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

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

22 (d-5) A scholarship granting organization shall begin  
23 granting scholarships no later than February 1 preceding the  
24 school year for which the scholarship is sought. Each priority  
25 group identified in subsection (d) of this Section shall be  
26 eligible to receive scholarships on a first-come, first-served

1 basis until April 1 immediately preceding the school year for  
2 which the scholarship is sought, starting with the first  
3 priority group identified in subsection (d) of this Section.  
4 Applications for scholarships for eligible students meeting  
5 the qualifications of one or more priority groups that are  
6 received before April 1 must be either approved or denied  
7 within 10 business days after receipt. Beginning April 1, all  
8 eligible students shall be eligible to receive scholarships  
9 without regard to the priority groups identified in subsection  
10 (d) of this Section.

11 (e) Except as provided in subsection (e-5) of this  
12 Section, scholarships shall not exceed the lesser of (i) the  
13 statewide average operational expense per student among public  
14 schools or (ii) the necessary costs and fees for attendance at  
15 the qualified school. A qualified school may set a lower  
16 maximum scholarship amount for eligible students whose family  
17 income falls within paragraphs (2) and (3) of this subsection  
18 (e); that amount may not exceed the necessary costs and fees  
19 for attendance at the qualified school and is subject to the  
20 limitations on average scholarship amounts set forth in  
21 paragraphs (2) and (3) of this subsection, as applicable. The  
22 qualified school shall notify the scholarship granting  
23 organization of its necessary costs and fees as well as any  
24 maximum scholarship amount set by the school. Scholarships  
25 shall be prorated as follows:

26 (1) for eligible students whose household income is

1 less than 185% of the federal poverty level, the  
2 scholarship shall be 100% of the amount determined  
3 pursuant to this subsection (e) and subsection (e-5) of  
4 this Section;

5 (2) for eligible students whose household income is  
6 185% or more of the federal poverty level but less than  
7 250% of the federal poverty level, the average of  
8 scholarships shall be 75% of the amount determined  
9 pursuant to this subsection (e) and subsection (e-5) of  
10 this Section; and

11 (3) for eligible students whose household income is  
12 250% or more of the federal poverty level, the average of  
13 scholarships shall be 50% of the amount determined  
14 pursuant to this subsection (e) and subsection (e-5) of  
15 this Section.

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

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

22 (2) for students who are English learners, as defined  
23 in subsection (d) of Section 14C-2 of the School Code,  
24 1.2; and

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

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

4 (g) For the 2018-2019 school year through the 2027-2028  
5 ~~2022-2023~~ school year, each scholarship granting organization  
6 shall expend no less than 75% of the qualified contributions  
7 received during the calendar year in which the qualified  
8 contributions were received. No more than 25% of the qualified  
9 contributions may be carried forward to the following calendar  
10 year.

11 (h) For the 2028-2029 ~~2023-2024~~ school year, each  
12 scholarship granting organization shall expend all qualified  
13 contributions received during the calendar year in which the  
14 qualified contributions were received. No qualified  
15 contributions may be carried forward to the following calendar  
16 year.

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

21 (j) With the prior approval of the Department, a  
22 scholarship granting organization may transfer funds to  
23 another scholarship granting organization if additional funds  
24 are required to meet scholarship demands at the receiving  
25 scholarship granting organization. All transferred funds must  
26 be deposited by the receiving scholarship granting

1 organization into its scholarship accounts. All transferred  
2 amounts received by any scholarship granting organization must  
3 be separately disclosed to the Department.

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

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

15 (Source: P.A. 102-699, eff. 4-19-22; 102-1059, eff. 6-10-22;  
16 103-154, eff. 6-30-23.)

17 (35 ILCS 40/65)

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

19 Sec. 65. Credit period; repeal.

20 (a) A taxpayer may take a credit under this Act for tax  
21 years beginning on or after January 1, 2018 and ending before  
22 January 1, 2029 ~~January 1, 2024~~. A taxpayer may not take a  
23 credit pursuant to this Act for tax years beginning on or after  
24 January 1, 2029 ~~January 1, 2024~~.

25 (b) This Act is repealed on January 1, 2030 ~~January 1,~~

1 2025.

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

3 Section 10. The Illinois Income Tax Act is amended by  
4 changing Section 224 as follows:

5 (35 ILCS 5/224)

6 Sec. 224. Invest in Kids credit.

7 (a) For taxable years beginning on or after January 1,  
8 2018 and ending before January 1, 2029 ~~January 1, 2024~~, each  
9 taxpayer for whom a tax credit has been awarded by the  
10 Department under the Invest in Kids Act is entitled to a credit  
11 against the tax imposed under subsections (a) and (b) of  
12 Section 201 of this Act in an amount equal to the amount  
13 awarded under the Invest in Kids Act.

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

22 (c) The credit may not be carried back and may not reduce  
23 the taxpayer's liability to less than zero. If the amount of  
24 the credit exceeds the tax liability for the year, the excess

1 may be carried forward and applied to the tax liability of the  
2 5 taxable years following the excess credit year. The tax  
3 credit shall be applied to the earliest year for which there is  
4 a tax liability. If there are credits for more than one year  
5 that are available to offset the liability, the earlier credit  
6 shall be applied first.

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

11 (Source: P.A. 102-699, eff. 4-19-22.)

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