



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2149

Introduced 2/10/2023, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

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

Amends the Invest in Kids Act. Provides that the Invest in Kids credit applies on a permanent basis. Removes a limitation that the credit may not be taken for any qualified contribution for which the taxpayer claims a federal income tax deduction. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB103 26415 HLH 52778 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 Illinois Income Tax Act is amended by
5 changing Section 224 as follows:

6 (35 ILCS 5/224)

7 Sec. 224. Invest in Kids credit.

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

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

23 (c) The credit may not be carried back and may not reduce

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

9 (d) For tax years beginning prior to January 1, 2023, a ~~A~~
10 tax credit awarded by the Department under the Invest in Kids
11 Act may not be claimed for any qualified contribution for
12 which the taxpayer claims a federal income tax deduction.

13 (e) This Section is exempt from the provisions of Section
14 250.

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

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

18 (35 ILCS 40/10)

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

20 Sec. 10. Credit awards.

21 (a) The Department shall award credits against the tax
22 imposed under subsections (a) and (b) of Section 201 of the
23 Illinois Income Tax Act to taxpayers who make qualified
24 contributions. For contributions made under this Act, the

1 credit shall be equal to 75% of the total amount of qualified
2 contributions made by the taxpayer during a taxable year, not
3 to exceed a credit of \$1,000,000 per taxpayer.

4 (b) The aggregate amount of all credits the Department may
5 award under this Act in any calendar year may not exceed
6 \$75,000,000.

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 a particular school, a particular group of students, or a
11 particular student. Contributions made by individuals under
12 this Act may be directed to a particular subset of schools or a
13 particular school but may not be directed to a particular
14 group of students or a particular student.

15 (d) For tax years beginning prior to January 1, 2023, no ~~no~~
16 credit shall be taken under this Act for any qualified
17 contribution for which the taxpayer claims a federal income
18 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 June 1 of a given year, the
24 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. 102-16, eff. 6-17-21.)

9 (35 ILCS 40/40)

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

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 for each school year thereafter, a scholarship
23 granting organization shall give priority to eligible students
24 who received a scholarship from a scholarship granting
25 organization during the previous school year. Second priority

1 shall be given to the following priority groups:

2 (1) (blank);

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

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

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

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

25 (e) Except as provided in subsection (e-5) of this
26 Section, scholarships shall not exceed the lesser of (i) the

1 statewide average operational expense per student among public
2 schools or (ii) the necessary costs and fees for attendance at
3 the qualified school. A qualified school may set a lower
4 maximum scholarship amount for eligible students whose family
5 income falls within paragraphs (2) and (3) of this subsection
6 (e); that amount may not exceed the necessary costs and fees
7 for attendance at the qualified school and is subject to the
8 limitations on average scholarship amounts set forth in
9 paragraphs (2) and (3) of this subsection, as applicable. The
10 qualified school shall notify the scholarship granting
11 organization of its necessary costs and fees as well as any
12 maximum scholarship amount set by the school. Scholarships
13 shall be prorated as follows:

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

19 (2) for eligible students whose household income is
20 185% or more of the federal poverty level but less than
21 250% of the federal poverty level, the average of
22 scholarships shall be 75% of the amount determined
23 pursuant to this subsection (e) and subsection (e-5) of
24 this Section; and

25 (3) for eligible students whose household income is
26 250% or more of the federal poverty level, the average of

1 scholarships shall be 50% of the amount determined
2 pursuant to this subsection (e) and subsection (e-5) of
3 this Section.

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

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

10 (2) for students who are English learners, as defined
11 in subsection (d) of Section 14C-2 of the School Code,
12 1.2; and

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

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

18 (g) Each ~~For the 2018-2019 school year through the~~
19 ~~2022-2023 school year, each~~ scholarship granting organization
20 shall expend no less than 75% of the qualified contributions
21 received during the calendar year in which the qualified
22 contributions were received. No more than 25% of the qualified
23 contributions may be carried forward to the following calendar
24 year.

25 (h) (Blank). ~~For the 2023-2024 school year, each~~
26 ~~scholarship granting organization shall expend all qualified~~

1 ~~contributions received during the calendar year in which the~~
2 ~~qualified contributions were received. No qualified~~
3 ~~contributions may be carried forward to the following calendar~~
4 ~~year.~~

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

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

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

26 (l) Scholarship granting organizations shall make

1 reasonable efforts to advertise the availability of
2 scholarships to eligible students.

3 (Source: P.A. 102-699, eff. 4-19-22; 102-1059, eff. 6-10-22;
4 revised 8-3-22.)

5 (35 ILCS 40/65)

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

7 Sec. 65. Credit period; repeal.

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

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

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

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