

HB4105



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4105

by Rep. Martin McLaughlin

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.

LRB103 32944 DTM 62748 b

A BILL FOR

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) A tax credit awarded by the Department under the
10 Invest in Kids Act may not be claimed for any qualified
11 contribution for which the taxpayer claims a federal income
12 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 40 and 65 as follows:

18 (35 ILCS 40/40)

19 (Section scheduled to be repealed on January 1, 2025)

20 Sec. 40. Scholarship granting organization
21 responsibilities.

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

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

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

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

12 (1) (blank);

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

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

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

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

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

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

24 (1) for eligible students whose household income is
25 less than 185% of the federal poverty level, the
26 scholarship shall be 100% of the amount determined

1 pursuant to this subsection (e) and subsection (e-5) of
2 this Section;

3 (2) for eligible students whose household income is
4 185% or more of the federal poverty level but less than
5 250% of the federal poverty level, the average of
6 scholarships shall be 75% of the amount determined
7 pursuant to this subsection (e) and subsection (e-5) of
8 this Section; and

9 (3) for eligible students whose household income is
10 250% or more of the federal poverty level, the average of
11 scholarships shall be 50% of the amount determined
12 pursuant to this subsection (e) and subsection (e-5) of
13 this Section.

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

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

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

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

25 (f) A scholarship granting organization shall distribute
26 scholarship payments to the participating school where the

1 student is enrolled.

2 (g) Each ~~For the 2018-2019 school year through the~~
3 ~~2022-2023 school year, each~~ scholarship granting organization
4 shall expend no less than 75% of the qualified contributions
5 received during the calendar year in which the qualified
6 contributions were received. No more than 25% of the qualified
7 contributions may be carried forward to the following calendar
8 year.

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

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

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

1 be separately disclosed to the Department.

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

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

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

15 (35 ILCS 40/65)

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

17 Sec. 65. Credit period; repeal.

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

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

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.