



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3618

Introduced 1/19/2022, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

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

Amends the Invest in Kids Act. Provides that students who are eligible to attend a qualifying pre-kindergarten school are also considered eligible students under the Act. Provides that the credit shall be equal to 100% (currently, 75%) of the total amount of qualified contributions made by the taxpayer during a taxable year. Removes a limitation that contributions may not be directed to a particular subset of schools, a particular school, a particular group of students, or a particular student. Provides that applications for scholarships for eligible students who received a scholarship from a scholarship granting organization during the previous school year shall be considered for re-application for the current school year and shall be considered received on the first day that the scholarship granting organization begins granting scholarships. Provides that the Act applies on a permanent basis. Effective immediately.

LRB102 24247 HLH 33478 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7 (Section scheduled to be repealed on January 1, 2025)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 qualifying  
5 pre-kindergarten school, a public elementary school, or a  
6 high school in Illinois in the semester immediately  
7 preceding the semester for which he or she first receives  
8 a scholarship or is starting school in Illinois for the  
9 first time when he or she first receives a scholarship;  
10 and

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

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

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

21 "Jointly administered CTE program" means a program or set  
22 of programs within a non-public school located in Illinois, as  
23 determined by the State Board of Education pursuant to Section  
24 7.5 of this Act.

25 "Necessary costs and fees" includes the customary charge  
26 for instruction and use of facilities in general and the

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

10 "Scholarship granting organization" means an entity that:

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

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

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

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

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

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

1 focus of the school. To maintain its status as a technical  
2 academy, the non-public school must obtain recognition from  
3 the Board pursuant to Section 2-3.25o of the School Code  
4 within 2 calendar years of its registration with the Board.

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

9 "Qualified school" means a non-public school located in  
10 Illinois and recognized by the Board pursuant to Section  
11 2-3.25o of the School Code, or a state-recognized non-public  
12 pre-kindergarten school in Illinois.

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

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

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

22 (35 ILCS 40/10)

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

24 Sec. 10. Credit awards.

25 (a) The Department shall award credits against the tax

1 imposed under subsections (a) and (b) of Section 201 of the  
2 Illinois Income Tax Act to taxpayers who make qualified  
3 contributions. For contributions made under this Act, the  
4 credit shall be equal to 100% ~~75%~~ of the total amount of  
5 qualified contributions made by the taxpayer during a taxable  
6 year, not to exceed a credit of \$1,000,000 per taxpayer.

7 (b) The aggregate amount of all credits the Department may  
8 award under this Act in any calendar year may not exceed  
9 \$75,000,000.

10 (c) ~~Contributions made by corporations (including~~  
11 ~~Subchapter S corporations), partnerships, and trusts under~~  
12 ~~this Act may not be directed to a particular subset of schools,~~  
13 ~~a particular school, a particular group of students, or a~~  
14 ~~particular student.~~ Contributions made by individuals or  
15 corporations under this Act may be directed to a particular  
16 subset of schools or a particular school but may not be  
17 directed to a particular group of students or a particular  
18 student.

19 (d) No credit shall be taken under this Act for any  
20 qualified contribution for which the taxpayer claims a federal  
21 income tax deduction.

22 (e) Credits shall be awarded in a manner, as determined by  
23 the Department, that is geographically proportionate to  
24 enrollment in recognized non-public schools in Illinois. If  
25 the cap on the aggregate credits that may be awarded by the  
26 Department is not reached by June 1 of a given year, the

1 Department shall award remaining credits on a first-come,  
2 first-served basis, without regard to the limitation of this  
3 subsection.

4 (f) Credits awarded for donations made to a technical  
5 academy shall be awarded without regard to subsection (e), but  
6 shall not exceed 15% of the annual statewide program cap. For  
7 the purposes of this subsection, "technical academy" means a  
8 technical academy that is registered with the Board within 30  
9 days after the effective date of this amendatory Act of the  
10 102nd General Assembly.

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

12 (35 ILCS 40/40)

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

14 Sec. 40. Scholarship granting organization  
15 responsibilities.

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

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

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

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

1 groups:

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

5 (2) eligible students who are members of a household  
6 whose previous year's total annual income does not exceed  
7 185% of the federal poverty level;

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

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

12 (d-5) A scholarship granting organization shall begin  
13 granting scholarships no later than February 1 preceding the  
14 school year for which the scholarship is sought. Eligible  
15 students who received a scholarship from a scholarship  
16 granting organization during the previous school year shall  
17 take priority in receiving scholarships. The remaining  
18 priority groups identified in subsection (d) of this Section  
19 shall be eligible to receive scholarships on a first-come,  
20 first-served basis until the April 1 immediately preceding the  
21 school year for which the scholarship is sought. Applications  
22 for scholarships for eligible students meeting the  
23 qualifications of one or more priority groups that are  
24 received before April 1 must be either approved or denied  
25 within 10 business days after receipt. Unless the student's  
26 custodian withdraws the student's application or the student



1 no longer meets the qualifications of this Act, the  
2 applications for scholarships for eligible students who  
3 received a scholarship from a scholarship granting  
4 organization during the previous school year shall be  
5 considered for re-application for the current school year and  
6 shall be considered received on the first day that the  
7 scholarship granting organization begins granting  
8 scholarships. If the student no longer meets the  
9 qualifications of this Act or changes in circumstance cause  
10 the application to otherwise become defective under this Act,  
11 the scholarship granting organization shall notify the  
12 student's custodian of the defect no later than January 1.  
13 Beginning April 1, all eligible students shall be eligible to  
14 receive scholarships without regard to the priority groups  
15 identified in subsection (d) of this Section.

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

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

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

7           (3) for eligible students whose household income is  
8           250% or more of the federal poverty level, the average of  
9           scholarships shall be 50% of the amount determined  
10          pursuant to this subsection (e) and subsection (e-5) of  
11          this Section.

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

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

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

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

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

26          (g) For the 2018-2019 school year through the 2021-2022

1 school year, each scholarship granting organization shall  
2 expend no less than 75% of the qualified contributions  
3 received during the calendar year in which the qualified  
4 contributions were received. No more than 25% of the qualified  
5 contributions may be carried forward to the following calendar  
6 year.

7 (h) For the 2022-2023 school year, each scholarship  
8 granting organization shall expend all qualified contributions  
9 received during the calendar year in which the qualified  
10 contributions were received. No qualified contributions may be  
11 carried forward to the following calendar year.

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

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

25 (k) If the approval of a scholarship granting organization  
26 is revoked as provided in Section 20 of this Act or the

1 scholarship granting organization is dissolved, all remaining  
2 qualified contributions of the scholarship granting  
3 organization shall be transferred to another scholarship  
4 granting organization. All transferred funds must be deposited  
5 by the receiving scholarship granting organization into its  
6 scholarship accounts.

7 (1) Scholarship granting organizations shall make  
8 reasonable efforts to advertise the availability of  
9 scholarships to eligible students.

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

11 (35 ILCS 40/65)

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

13 Sec. 65. Credit period; repeal.

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

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

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

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