



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3398

Introduced 2/22/2021, by Rep. Deanne M. Mazzochi

#### SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.8 new  
35 ILCS 5/232 new

Amends the Illinois Income Tax Act. Creates an income tax credit for custodians of qualifying pupils for eligible education expenses related to online learning, including computers, printers, internet access, textbooks, tutors, and educational facilitators. Provides for an additional credit if the custodian is also an eligible teacher. Creates an income tax credit for employers of custodians of qualifying pupils for eligible expenditures paid by the employer on behalf of the custodian. Provides that the credit is exempt from the Act's automatic sunset provision. Amends the Illinois Administrative Procedure Act to provide for emergency rulemaking. Effective immediately.

LRB102 13581 HLH 18929 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 3. The Illinois Administrative Procedure Act is  
5 amended by adding Section 5-45.8 as follows:

6 (5 ILCS 100/5-45.8 new)

7 Sec. 5-45.8. Emergency rulemaking. To provide for the  
8 expeditious and timely implementation of Section 232 of the  
9 Illinois Income Tax Act, emergency rules implementing that  
10 Section may be adopted in accordance with Section 5-45 by the  
11 Department of Revenue. The adoption of emergency rules  
12 authorized by Section 5-45 and this Section is deemed to be  
13 necessary for the public interest, safety, and welfare.

14 This Section is repealed on January 1, 2027.

15 Section 5. The Illinois Income Tax Act is amended by  
16 adding Section 232 as follows:

17 (35 ILCS 5/232 new)

18 Sec. 232. Remote learning education expense credit.

19 (a) The COVID-19 pandemic has created challenges for  
20 students and their families in the areas of child care, school  
21 attendance, school access, and the like.

1       This Section is intended to (i) assist students and  
2       families who are unable follow their normal school routine as  
3       a consequence of orders of the Department of Public Health  
4       relating to COVID-19, (ii) additionally support classroom  
5       instructors so that they can maximize time and opportunities  
6       for in-person instruction, and (iii) incentivize employers to  
7       accommodate working parents.

8       Because the nature and types of hardships experienced by  
9       school districts, parents, and students are wide and varied,  
10       the most efficient way to deliver relief that can be tailored  
11       to the particular individuals' needs is through an income tax  
12       credit.

13       The General Assembly finds that it will be costly and  
14       burdensome to the State of Illinois if parents must choose to  
15       become unemployed due to a lack of accommodation based on the  
16       inability of students to attend school in person.

17       (b) As used in this Section, the following words shall  
18       have the following meanings unless the context clearly  
19       requires otherwise, and shall be construed expansively in  
20       favor of the taxpayer for expenditures made in good faith  
21       wherever possible:

22       "Custodian" means, with respect to qualifying pupils, an  
23       Illinois resident who is a parent, the parents, a legal  
24       guardian, or the legal guardians of the qualifying pupils.

25       "COVID-19" means the illness caused by the coronavirus  
26       SARS-CoV-2.

1       "Educational activities" means any aspect of a qualifying  
2 pupil's education, including, but not limited to classroom  
3 instruction, remote learning and blended remote learning  
4 instruction, special education support, and tutoring and  
5 mentoring.

6       "Eligible expenditure" means costs by a custodian of a  
7 qualifying pupil or an employer associated with:

8           (1) the purchase of materials to support online  
9 learning, including but not limited to, a personal  
10 computer with internet access; a router or hotspot;  
11 monthly expenses for internet access; a printer and  
12 supportive accessories (print cartridge, toner); textbooks  
13 and other supplies needed for education, up to a maximum  
14 of \$500 for the taxable year; and the costs of educational  
15 activities;

16           (2) securing, for a qualifying pupil who is under the  
17 age of 15, child care, independent tutoring, an  
18 educational facilitator (whether individually or as part  
19 of a learning pod, provided that the facilitator fee is  
20 distributed pro rata per student), homeschool instruction,  
21 alternative classroom instruction, or specialized services  
22 relating to learning or behavioral issues identified in an  
23 Individualized Education Program and the like, up to a  
24 maximum of \$5,000 per taxable year per household or per  
25 child, whichever is less; and

26           (3) compliance with a mandatory 2-week quarantine

1 period associated with COVID-19, whether imposed by an  
2 employer, the State of Illinois, or a county health  
3 department, including the costs of testing, clinical  
4 support, and vaccination (if available), up to \$3,000 per  
5 year.

6 "Eligible expenditure adjustment" means the eligible  
7 expenditure reduced by 25%. The eligible expenditure  
8 adjustment shall apply for any parent or household that had an  
9 adjusted gross income for the taxable year of over \$150,000  
10 for an individual and \$300,000 for spouses filing a joint  
11 return.

12 "Eligible teacher" means an individual licensed under  
13 Article 21B of the School Code who is teaching at the school  
14 grade level of kindergarten through grade 12 and is also the  
15 custodian of a qualifying pupil under the age of 14 who cannot  
16 attend school anywhere within the custodian's school district  
17 for in-person instruction on a regular school day.

18 "Qualifying pupil" means an individual who (i) is a  
19 resident of the State of Illinois, (ii) is under the age of 21  
20 at the close of the school year for which a credit is sought,  
21 and (iii) during the school year for which a credit is sought,  
22 was a full-time pupil enrolled in a kindergarten through grade  
23 12 education program at any school, as defined in this  
24 Section.

25 "Regular school day" means the calendar days Monday  
26 through Friday, from 8 a.m. to 4 p.m., which occur on the day

1 after Labor Day but before Memorial Day, but not any official  
2 government holidays within that time period.

3 "School" means any public or nonpublic elementary or  
4 secondary school in Illinois that is in compliance with Title  
5 VI of the Civil Rights Act of 1964 and attendance at which  
6 satisfies the requirements of Section 26-1 of the School Code,  
7 except that nothing shall be construed to require a child to  
8 attend any particular public or nonpublic school to qualify  
9 for the credit under this Section.

10 (c) For taxable years beginning on or after January 1,  
11 2021, a taxpayer who is a custodian of a qualifying pupil is  
12 eligible to receive a nonrefundable credit against the taxes  
13 imposed by subsections (a) and (b) of Section 201 in an amount  
14 equal to 100% of the eligible expenditures (as adjusted by the  
15 eligible expenditure adjustment, if applicable), subject to  
16 the maximum allowable credits under this Section. Eligible  
17 teachers are eligible for an additional \$75 credit per week,  
18 not to exceed \$2,000 per year, if the eligible teacher's  
19 qualifying pupil cannot attend in-person instruction because  
20 of orders involving the Department of Public Health, a county  
21 health department, or the State Board of Education relating to  
22 COVID-19.

23 The credit under this Section shall not apply to  
24 expenditures incurred after orders preventing in-person  
25 instruction for the qualifying pupil are lifted. No taxpayer  
26 shall be entitled to claim a tax credit under this Section for

1 the same eligible expenditures claimed by another taxpayer. If  
2 2 or more custodians claim tax credits for the same qualified  
3 pupil, the total of which exceeds the amounts in this  
4 subsection, then the total amount of the credit allowed shall  
5 be allocated in amounts proportionate to each eligible  
6 taxpayer's share of the total amount of the eligible  
7 expenditures for the eligible qualifying pupil.

8 The employer of a custodian of a qualifying pupil is also  
9 entitled to a credit against the taxes imposed by subsections  
10 (a) and (b) of Section 201 in an amount equal to 100% of the  
11 eligible expenditures paid by the employer on behalf of the  
12 custodian of the qualifying pupil, but not to exceed a maximum  
13 in each taxable year of \$2,000 for each employee on whose  
14 behalf an expenditure is made, plus 50% of the maximum  
15 unemployment insurance payment that the employer would  
16 otherwise pay to the State under the Unemployment Insurance  
17 Act for that employee.

18 (d) The Department of Revenue and the State Board of  
19 Education shall jointly adopt rules, including emergency  
20 rules, for the implementation of this Section.

21 (e) The Department of Revenue shall annually, no later  
22 than November 1, file a report with the Governor and the  
23 General Assembly and publish on the Department of Revenue's  
24 website the total amount of tax credits claimed under this  
25 Section and the total number of taxpayers who received the  
26 credit for the preceding fiscal year.

1           (f) This Section is exempt from the provisions of Section  
2           250.

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