



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5391

Introduced 1/31/2022, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

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

Amends the Invest in Kids Act. Provides that non-public pre-kindergarten schools are considered qualified schools. Provides that contributions made by individuals may be directed to a particular subset of schools or a particular school. Allows qualified schools to set a maximum scholarship amount, which may not exceed the necessary costs and fees for attendance at the qualified school. Effective immediately.

LRB102 26056 HLH 35509 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7 (Section scheduled to be repealed on January 1, 2025)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 pre-kindergarten school,
5 public elementary school, or high school in Illinois in
6 the semester immediately preceding the semester for which
7 he or she first receives a scholarship or is starting
8 school in Illinois for the first time when he or she first
9 receives a scholarship; 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, including a
9 non-public pre-kindergarten school, located in Illinois and
10 recognized by the Board pursuant to Section 2-3.25o of the
11 School Code.

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

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

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

21 (35 ILCS 40/10)

22 (Section scheduled to be repealed on January 1, 2025)

23 Sec. 10. Credit awards.

24 (a) The Department shall award credits against the tax
25 imposed under subsections (a) and (b) of Section 201 of the

1 Illinois Income Tax Act to taxpayers who make qualified
2 contributions. For contributions made under this Act, the
3 credit shall be equal to 75% of the total amount of qualified
4 contributions made by the taxpayer during a taxable year, not
5 to exceed a credit of \$1,000,000 per taxpayer.

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

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

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

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

1 first-served basis, without regard to the limitation of this
2 subsection.

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

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

11 (35 ILCS 40/40)

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

13 Sec. 40. Scholarship granting organization
14 responsibilities.

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

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

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

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

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

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

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

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

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

24 (e) Except as provided in subsection (e-5) of this
25 Section, scholarships shall not exceed the lesser of: (i) the
26 statewide average operational expense per student among public

1 schools; ~~or~~ (ii) the necessary costs and fees for attendance
2 at the qualified school; or (iii) the maximum scholarship
3 amount set by the qualified school, if the qualified school
4 chooses to set such an amount, which may not exceed the
5 necessary costs and fees for attendance at the qualified
6 school. The qualified school shall notify the scholarship
7 granting organization of its necessary costs and fees as well
8 as any maximum scholarship amount set by the school.

9 Scholarships shall be prorated as follows:

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

15 (2) for eligible students whose household income is
16 185% or more of the federal poverty level but less than
17 250% of the federal poverty level, the average of
18 scholarships shall be 75% of the amount determined
19 pursuant to this subsection (e) and subsection (e-5) of
20 this Section or in an amount set by the qualified school
21 pursuant to item (iii) of subsection (e) of this Section;

22 and

23 (3) for eligible students whose household income is
24 250% or more of the federal poverty level, the average of
25 scholarships shall be 50% of the amount determined
26 pursuant to this subsection (e) and subsection (e-5) of

1 this Section.

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

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

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

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

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

16 (g) For the 2018-2019 school year through the 2021-2022
17 school year, each scholarship granting organization shall
18 expend no less than 75% of the qualified contributions
19 received during the calendar year in which the qualified
20 contributions were received. No more than 25% of the qualified
21 contributions may be carried forward to the following calendar
22 year.

23 (h) For the 2022-2023 school year, each scholarship
24 granting organization shall expend all qualified contributions
25 received during the calendar year in which the qualified
26 contributions were received. No qualified contributions may be

1 carried forward to the following calendar year.

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

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

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

23 (l) Scholarship granting organizations shall make
24 reasonable efforts to advertise the availability of
25 scholarships to eligible students.

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.