



Rep. William Davis

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1 AMENDMENT TO SENATE BILL 1947

2 AMENDMENT NO. _____. Amend Senate Bill 1947 by inserting
3 immediately above the enacting clause the following:

4 "WHEREAS, This Act may be referred to as the Evidence-Based
5 Funding for Student Success Act; therefore"; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 1. Short title. This Act may be cited as the
9 Invest in Kids Act.

10 Section 5. Definitions. As used in this Act:

11 "Authorized contribution" means the contribution amount
12 that is listed on the contribution authorization certificate
13 issued to the taxpayer.

14 "Board" means the State Board of Education.

1 "Contribution" means a donation made by the taxpayer during
2 the taxable year for providing scholarships as provided in this
3 Act.

4 "Custodian" means, with respect to eligible students, an
5 Illinois resident who is a parent or legal guardian of the
6 eligible student or students.

7 "Department" means the Department of Revenue.

8 "Eligible student" means a child who:

9 (1) is a member of a household whose federal adjusted
10 gross income the year before he or she initially receives a
11 scholarship under this program, as determined by the
12 Department, does not exceed 300% of the federal poverty
13 level and, once the child receives a scholarship, does not
14 exceed 400% of the federal poverty level;

15 (2) is eligible to attend a public elementary school or
16 high school in Illinois in the semester immediately
17 preceding the semester for which he or she first receives a
18 scholarship or is starting school in Illinois for the first
19 time when he or she first receives a scholarship; and

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

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

23 "Focus district" means a school district which has a school
24 that is either (i) a school that has one or more subgroups in
25 which the average student performance is at or below the State
26 average for the lowest 10% of student performance in that

1 subgroup or (ii) a school with an average graduation rate of
2 less than 60% and not identified for priority.

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

14 "Scholarship granting organization" means an entity that:

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

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

19 (3) provides scholarships to students according to the
20 guidelines of this Act;

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

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

1 "Qualified contribution" means the authorized contribution
2 made by a taxpayer to a scholarship granting organization for
3 which the taxpayer has received a certificate of receipt from
4 such organization.

5 "Qualified school" means a non-public school located in
6 Illinois and recognized by the Board pursuant to Section
7 2-3.25o of the School Code.

8 "Scholarship" means an educational scholarship awarded to
9 an eligible student to attend a qualified school of their
10 custodians' choice in an amount not exceeding the necessary
11 costs and fees to attend that school.

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

16 Section 10. Credit awards.

17 (a) The Department shall award credits against the tax
18 imposed under subsections (a) and (b) of Section 201 of the
19 Illinois Income Tax Act to taxpayers who make qualified
20 contributions. For contributions made under this Act, the
21 credit shall be equal to 75% of the total amount of qualified
22 contributions made by the taxpayer during a taxable year, not
23 to exceed a credit of \$1,000,000 per taxpayer.

24 (b) The aggregate amount of all credits the Department may
25 award under this Act in any calendar year may not exceed

1 \$75,000,000.

2 (c) Contributions made by corporations (including
3 Subchapter S corporations), partnerships, and trusts under
4 this Act may not be directed to a particular subset of schools,
5 a particular school, a particular group of students, or a
6 particular student. Contributions made by individuals under
7 this Act may be directed to a particular subset of schools or a
8 particular school but may not be directed to a particular group
9 of students or a particular student.

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

21 Section 15. Approval to issue certificates of receipt.

22 (a) A scholarship granting organization shall submit an
23 application for approval to issue certificates of receipt in
24 the form and manner prescribed by the Department, provided that
25 each application shall include:

(1) documentary evidence that the scholarship granting organization has been granted an exemption from taxation under Section 501(c) (3) of the Internal Revenue Code;

(2) certification that all qualified contributions and any income derived from qualified contributions are deposited and held in an account that is separate from the scholarship granting organization's operating or other funds until such qualified contributions or income are withdrawn for use;

(3) certification that the scholarship granting organization will use at least 95% of its annual revenue from qualified contributions for scholarships;

(4) certification that the scholarship granting organization will provide scholarships to eligible students;

(5) a list of the names and addresses of all members of the governing board of the scholarship granting organization; and

(6) a copy of the most recent financial audit of the scholarship granting organization's accounts and records conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules adopted by the Department

(b) A scholarship granting organization whose owner or operator in the last 7 years has filed for personal bankruptcy

1 or corporate bankruptcy in a corporation of which he or she
2 owned more than 20% shall not be eligible to provide
3 scholarships.

4 (c) A scholarship granting organization must not have an
5 owner or operator who owns or operates a qualified school or
6 has a family member who is a paid staff or board member of a
7 participating qualified school.

8 (d) A scholarship granting organization shall comply with
9 the anti-discrimination provisions of 42 U.S.C. 2000d.

10 (e) The Department shall review and either approve or deny
11 each application to issue certificates of receipt pursuant to
12 this Act. Approval or denial of an application shall be made on
13 a periodic basis. Applicants shall be notified of the
14 Department's determination within 30 business days after the
15 application is received.

16 (f) No scholarship granting organization shall issue any
17 certificates of receipt without first being approved to issue
18 certificates of receipt.

19 Section 20. Annual review.

20 (a) Each scholarship granting organization that receives
21 approval to issue certificates of receipt shall file an
22 application for recertification on an annual basis. Such
23 application for recertification shall be in the form and manner
24 prescribed by the Department and shall include:

25 (1) certification from the Director or Chief Executive

Officer of the organization that the organization has complied with and continues to comply with the requirements of this Act, including evidence of that compliance; and

(2) a copy of the organization's current financial statements.

(b) The Department may revoke the approval of a scholarship granting organization to issue certificates of receipt upon a finding that the organization has violated this Act or any rules adopted under this Act. These violations shall include, but need not be limited to, any of the following:

(1) failure to meet the requirements of this Act;

(2) failure to maintain full and adequate records with respect to the receipt of qualified contributions;

(3) failure to supply such records to the Department;

or

(4) failure to provide notice to the Department of the issuance of certificates of receipt pursuant to Section 35 of this Act.

(c) Within 5 days after the determination to revoke approval, the Department shall provide notice of the determination to the scholarship granting organization and information regarding the process to request a hearing to appeal the determination.

Section 25. Contribution authorization certificates.

(a) A taxpayer shall not be allowed a credit pursuant to

1 this Act for any contribution to a scholarship granting
2 organization that was made prior to the Department's issuance
3 of a contribution authorization certificate for such
4 contribution to the taxpayer.

5 (b) Prior to making a contribution to a scholarship
6 granting organization, the taxpayer shall apply to the
7 Department for a contribution authorization certificate.

8 (c) A taxpayer who makes more than one contribution to a
9 scholarship granting organization must make a separate
10 application for each such contribution authorization
11 certificate. The application shall be in the form and manner
12 prescribed by the Department, provided that the application
13 includes:

14 (1) the taxpayer's name and address;
15 (2) the amount the taxpayer will contribute; and
16 (3) any other information the Department deems
17 necessary.

18 (d) The Department may allow taxpayers to make multiple
19 applications on the same form, provided that each application
20 shall be treated as a separate application.

21 (e) The Department shall issue credit authorization
22 certificates on a first-come, first-served basis based upon the
23 date that the Department received the taxpayer's application
24 for the certificate subject to the provisions of subsection (e)
25 of Section 10 of this Act.

26 (f) A taxpayer's aggregate authorized contribution amount

1 as listed on one or more authorized contribution certificates
2 issued to the taxpayer shall not exceed the aggregate of the
3 amounts listed on the taxpayer's applications submitted in
4 accordance with this Section.

5 (g) Each contribution authorization certificate shall
6 state:

7 (1) the date such certificate was issued;

8 (2) the date by which the authorized contributions
9 listed in the certificate must be made, which shall be 60
10 days from the date of the issuance of a credit
11 authorization certificate;

12 (3) the total amount of authorized contributions; and

13 (4) any other information the Department deems
14 necessary.

15 (h) Credit authorization certificates shall be mailed to
16 the appropriate taxpayers within 3 business days after their
17 issuance.

18 (i) A taxpayer may rescind all or part of an authorized
19 contribution approved under this Act by providing written
20 notice to the Department. Amounts rescinded shall no longer be
21 deducted from the cap prescribed in Section 10 of this Act.

22 (j) The Department shall maintain on its website a running
23 total of the amount of credits for which taxpayers may make
24 applications for contribution authorization certification. The
25 running total shall be updated every business day.

1 Section 30. Certificates of receipt.

2 (a) No scholarship granting organization shall issue a
3 certificate of receipt for any qualified contribution made by a
4 taxpayer under this Act unless that scholarship granting
5 organization has been approved to issue certificates of receipt
6 pursuant to Section 15 of this Act.

7 (b) No scholarship granting organization shall issue a
8 certificate of receipt for a contribution made by a taxpayer
9 unless the taxpayer has been issued a credit authorization
10 certificate by the Department.

11 (c) If a taxpayer makes a contribution to a scholarship
12 granting organization prior to the date by which the authorized
13 contribution shall be made, the scholarship granting
14 organization shall, within 30 days of receipt of the authorized
15 contribution, issue to the taxpayer a written certificate of
16 receipt.

17 (d) If a taxpayer fails to make all or a portion of a
18 contribution prior to the date by which such authorized
19 contribution is required to be made, the taxpayer shall not be
20 entitled to a certificate of receipt for that portion of the
21 authorized contribution not made.

22 (e) Each certificate of receipt shall state:

23 (1) the name and address of the issuing scholarship
24 granting organization;

25 (2) the taxpayer's name and address;

26 (3) the date for each qualified contribution;

- (4) the amount of each qualified contribution;
- (5) the total qualified contribution amount; and
- (6) any other information that the Department may deem necessary.

(f) Upon the issuance of a certificate of receipt, the issuing scholarship granting organization shall, within 10 days after issuing the certificate of receipt, provide the Department with notification of the issuance of such certificate in the form and manner prescribed by the Department, provided that such notification shall include:

(1) the taxpayer's name and address;

(2) the date of the issuance of a certificate of
receipt;

(3) the qualified contribution date or dates and the amounts contributed on such dates;

(4) the total qualified contribution listed on such certificates;

(5) the issuing scholarship granting organization's name and address; and

(6) any other information the Department may deem necessary.

(g) Any portion of a contribution that a taxpayer fails to make by the date indicated on the authorized contribution certificate shall no longer be deducted from the cap prescribed in Section 10 of this Act.

1 Section 35. Reports.

2 (a) Within 180 days after the end of its fiscal year, each
3 scholarship granting organization must provide to the
4 Department a copy of a financial audit of its accounts and
5 records conducted by an independent certified public
6 accountant in accordance with auditing standards generally
7 accepted in the United States, government auditing standards,
8 and rules adopted by the Department. The audit must include a
9 report on financial statements presented in accordance with
10 generally accepted accounting principles. The audit must
11 include evidence that no less than 95% of qualified
12 contributions received were used to provide scholarships to
13 eligible students. The Department shall review all audits
14 submitted pursuant to this subsection. The Department shall
15 request any significant items that were omitted in violation of
16 a rule adopted by the Department. The items must be provided
17 within 45 days after the date of request. If a scholarship
18 granting organization does not comply with the Department's
19 request, the Department may revoke the scholarship granting
20 organization's ability to issue certificates of receipt.

21 (b) A scholarship granting organization that is approved to
22 receive qualified contributions shall report to the
23 Department, on a form prescribed by the Department, by January
24 31 of each calendar year. The report shall include:

25 (1) the total number of certificates of receipt issued
26 during the immediately preceding calendar year;

(2) the total dollar amount of qualified contributions received, as set forth in the certificates of receipt issued during the immediately preceding calendar year;

(3) the total number of eligible students utilizing scholarships for the immediately preceding calendar year and the school year in progress and the total dollar value of the scholarships;

(4) the name and address of each qualified school for which scholarships using qualified contributions were issued during the immediately preceding calendar year, detailing the number, grade, race, gender, income level, and residency by Zip Code of eligible students and the total dollar value of scholarships being utilized at each qualified school by priority group, as identified in subsection (d) of Section 40 of this Act; and

(5) any additional information requested by the Department.

(c) On or before the last day of March for each calendar year, for the immediately preceding calendar year, the Department shall submit a written report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives regarding this Act. The report shall include, but not be limited to, the following information:

(1) the names and addresses of all scholarship granting

1 organizations approved to issue certificates of receipt;

2 (2) the number and aggregate total of certificates of
3 receipt issued by each scholarship granting organization;
4 and

5 (3) the information reported to the Department
6 required by subsection (b) of this Section.

7 (d) The sharing and reporting of student data under this
8 Section must be in accordance with the requirements of the
9 Family Educational Rights and Privacy Act and the Illinois
10 School Student Records Act. All parties must preserve the
11 confidentiality of such information as required by law. Data
12 reported by the Department under subsection (c) of this Section
13 must not disaggregate data to a level that will disclose
14 demographic data of individual students.

15 Section 40. Scholarship granting organization
16 responsibilities.

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

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

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

25 (d) In granting scholarships, a scholarship granting

1 organization shall give priority to the following priority
2 groups:

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

6 (2) eligible students who are members of a household
7 whose previous year's total annual income does not exceed
8 185% of the federal poverty level;

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

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

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

26 (e) Except as provided in subsection (e-5) of this Section,

1 scholarships shall not exceed the lesser of (i) the statewide
2 average operational expense per student among public schools or
3 (ii) the necessary costs and fees for attendance at the
4 qualified school. Scholarships shall be prorated as follows:

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

10 (2) for eligible students whose household income is
11 185% or more of the federal poverty level but less than
12 250% of the federal poverty level, the average of
13 scholarships shall be 75% of the amount determined pursuant
14 to this subsection (e) and subsection (e-5) of this
15 Section; and

16 (3) for eligible students whose household income is
17 250% or more of the federal poverty level, the average of
18 scholarships shall be 50% of the amount determined pursuant
19 to this subsection (e) and subsection (e-5) of this
20 Section.

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

24 (1) for students determined eligible to receive
25 services under the federal Individuals with Disabilities
26 Education Act, 2;

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

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

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

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

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

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

(j) With the prior approval of the Department, a scholarship granting organization may transfer funds to another scholarship granting organization if additional funds

1 are required to meet scholarship demands at the receiving
2 scholarship granting organization. All transferred funds must
3 be deposited by the receiving scholarship granting
4 organization into its scholarship accounts. All transferred
5 amounts received by any scholarship granting organization must
6 be separately disclosed to the Department.

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

15 (l) Scholarship granting organizations shall make
16 reasonable efforts to advertise the availability of
17 scholarships to eligible students.

18 Section 45. State Board responsibilities.

19 (a) Beginning in the 2019-2020 school year, students who
20 have been granted a scholarship under this Act shall be
21 annually assessed at the qualified school where the student
22 attends school in the same manner in which students that attend
23 public schools are annually assessed pursuant to Section
24 2-3.64a-5 of the School Code. Such qualified school shall pay
25 costs associated with this requirement.

(b) The Board shall select an independent research organization, which may be a public or private entity or university, to which participating qualified schools must report the scores of students who are receiving scholarships and are assessed pursuant to subsection (a) of this Section. Costs associated with the independent research organization shall be paid by the scholarship granting organizations on a per-pupil basis or by gifts, grants, or donations received by the Board under subsection (d) of this Section, as determined by the Board. The independent research organization must annually report to the Board on the year-to-year learning gains of students receiving scholarships on a statewide basis. The report shall also include, to the extent possible, a comparison of these learning gains to the statewide learning gains of public school students with socioeconomic backgrounds similar to those of students receiving scholarships. The annual report shall be delivered to the Board and published on its website.

(c) Beginning within 120 days after the Board first receives the annual report by the independent research organization as provided in subsection (b) of this Section and on an annual basis thereafter, the Board shall submit a written report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives regarding this Act. Such report shall include an evaluation of the academic performance of students receiving

1 scholarships and recommendations for improving student
2 performance.

3 (d) Subject to the State Officials and Employees Ethics
4 Act, the Board may receive and expend gifts, grants, and
5 donations of any kind from any public or private entity to
6 carry out the purposes of this Section, subject to the terms
7 and conditions under which the gifts are given, provided that
8 all such terms and conditions are permissible under law.

9 (e) The sharing and reporting of student learning gain data
10 under this Section must be in accordance with requirements of
11 the Family Educational Rights and Privacy Act and the Illinois
12 School Student Records Act. All parties must preserve the
13 confidentiality of such information as required by law. The
14 annual report must not disaggregate data to a level that will
15 disclose the academic level of individual students.

16 Section 50. Qualified school responsibilities. A qualified
17 school that accepts scholarship students must do all of the
18 following:

19 (1) provide to a scholarship granting organization,
20 upon request, all documentation required for the student's
21 participation, including the non-public school's cost and
22 student's fee schedules;

23 (2) be academically accountable to the custodian for
24 meeting the educational needs of the student by:

25 (A) at a minimum, annually providing to the

custodian a written explanation of the student's progress; and

(B) annually administering assessments required by subsection (a) of Section 45 of this Act in the same manner in which they are administered at public schools pursuant to Section 2-3.64a-5 of the School Code; the Board shall bill participating qualified schools for all costs associated with administering assessments required by this paragraph; the participating qualified schools shall ensure that all test security and assessment administration procedures are followed; participating qualified schools must report individual student scores to the custodians of the students; the independent research organization described in subsection (b) of Section 45 of this Act shall be provided all student score data in a secure manner by the participating qualified school.

The inability of a qualified school to meet the requirements of this Section shall constitute a basis for the ineligibility of the qualified school to participate in the scholarship program as determined by the Board.

Section 55. Custodian and student responsibilities.

(a) The custodian must select a qualified school and apply for the admission of his or her child.

(b) The custodian shall ensure that the student

1 participating in the scholarship program takes the assessment
2 required by subsection (a) of Section 45 of this Act.

3 (c) Each custodian and each student has an obligation to
4 comply with the qualified school's published policies.

5 (d) The custodian shall authorize the scholarship granting
6 organization to access information needed for income
7 eligibility determinations.

8 Section 60. Recordkeeping; rulemaking; violations.

9 (a) Each taxpayer shall, for each taxable year for which
10 the tax credit provided for under this Act is claimed, maintain
11 records of the following information: (i) contribution
12 authorization certificates obtained under Section 25 of this
13 Act and (ii) certificates of receipt obtained under Section 30
14 of this Act.

15 (b) The Board and the Department may adopt rules consistent
16 with and necessary for the implementation of this Act.

17 (c) Violations of State laws or rules and complaints
18 relating to program participation shall be referred to the
19 Attorney General.

20 Section 65. Credit period; repeal.

21 (a) A taxpayer may take a credit under this Act for tax
22 years beginning on or after January 1, 2018 and ending before
23 January 1, 2023. A taxpayer may not take a credit pursuant to
24 this Act for tax years beginning on or after January 1, 2023.

(b) This Act is repealed on January 1, 2024.

Section 900. The Open Meetings Act is amended by changing Section 2 as follows:

(5 ILCS 120/2) (from Ch. 102, par. 42)

Sec. 2. Open meetings.

(a) Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a.

(b) Construction of exceptions. The exceptions contained in subsection (c) are in derogation of the requirement that public bodies meet in the open, and therefore, the exceptions are to be strictly construed, extending only to subjects clearly within their scope. The exceptions authorize but do not require the holding of a closed meeting to discuss a subject included within an enumerated exception.

(c) Exceptions. A public body may hold closed meetings to consider the following subjects:

(1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity. However, a meeting to consider an increase in