



Rep. Lou Lang

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1 AMENDMENT TO HOUSE BILL 604

2 AMENDMENT NO. _____. Amend House Bill 604 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section
5 14-7.02 as follows:

6 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

7 Sec. 14-7.02. Children attending private schools, public
8 out-of-state schools, public school residential facilities or
9 private special education facilities. The General Assembly
10 recognizes that non-public schools or special education
11 facilities provide an important service in the educational
12 system in Illinois.

13 If because of his or her disability the special education
14 program of a district is unable to meet the needs of a child
15 and the child attends a non-public school or special education
16 facility, a public out-of-state school or a special education

1 facility owned and operated by a county government unit that
2 provides special educational services required by the child and
3 is in compliance with the appropriate rules and regulations of
4 the State Superintendent of Education, the school district in
5 which the child is a resident shall pay the actual cost of
6 tuition for special education and related services provided
7 during the regular school term and during the summer school
8 term if the child's educational needs so require, excluding
9 room, board and transportation costs charged the child by that
10 non-public school or special education facility, public
11 out-of-state school or county special education facility, or
12 \$4,500 per year, whichever is less, and shall provide him any
13 necessary transportation. "Nonpublic special education
14 facility" shall include a residential facility, within or
15 without the State of Illinois, which provides special education
16 and related services to meet the needs of the child by
17 utilizing private schools or public schools, whether located on
18 the site or off the site of the residential facility.

19 The State Board of Education shall promulgate rules and
20 regulations for determining when placement in a private special
21 education facility is appropriate. Such rules and regulations
22 shall take into account the various types of services needed by
23 a child and the availability of such services to the particular
24 child in the public school. In developing these rules and
25 regulations the State Board of Education shall consult with the
26 Advisory Council on Education of Children with Disabilities and

1 hold public hearings to secure recommendations from parents,
2 school personnel, and others concerned about this matter.

3 The State Board of Education shall also promulgate rules
4 and regulations for transportation to and from a residential
5 school. Transportation to and from home to a residential school
6 more than once each school term shall be subject to prior
7 approval by the State Superintendent in accordance with the
8 rules and regulations of the State Board.

9 A school district making tuition payments pursuant to this
10 Section is eligible for reimbursement from the State for the
11 amount of such payments actually made in excess of the district
12 per capita tuition charge for students not receiving special
13 education services. Such reimbursement shall be approved in
14 accordance with Section 14-12.01 and each district shall file
15 its claims, computed in accordance with rules prescribed by the
16 State Board of Education, on forms prescribed by the State
17 Superintendent of Education. Data used as a basis of
18 reimbursement claims shall be for the preceding regular school
19 term and summer school term. Each school district shall
20 transmit its claims to the State Board of Education on or
21 before August 15. The State Board of Education, before
22 approving any such claims, shall determine their accuracy and
23 whether they are based upon services and facilities provided
24 under approved programs. Upon approval the State Board shall
25 cause vouchers to be prepared showing the amount due for
26 payment of reimbursement claims to school districts, for

1 transmittal to the State Comptroller on the 30th day of
2 September, December, and March, respectively, and the final
3 voucher, no later than June 20. If the money appropriated by
4 the General Assembly for such purpose for any year is
5 insufficient, it shall be apportioned on the basis of the
6 claims approved.

7 No child shall be placed in a special education program
8 pursuant to this Section if the tuition cost for special
9 education and related services increases more than 10 percent
10 over the tuition cost for the previous school year or exceeds
11 \$4,500 per year unless such costs have been approved by the
12 Illinois Purchased Care Review Board. The Illinois Purchased
13 Care Review Board shall consist of the following persons, or
14 their designees: the Directors of Children and Family Services,
15 Public Health, Public Aid, and the Governor's Office of
16 Management and Budget; the Secretary of Human Services; the
17 State Superintendent of Education; and such other persons as
18 the Governor may designate. The Review Board shall establish
19 rules and regulations for its determination of allowable costs
20 and payments made by local school districts for special
21 education, room and board, and other related services provided
22 by non-public schools or special education facilities and shall
23 establish uniform standards and criteria which it shall follow.
24 Notwithstanding any other provision of this Section, the rates
25 for the 2010-2011 school year for a qualifying provider shall
26 be set at the levels previously approved by the Review Board

1 for the 2009-2010 school year. For purposes of this amendatory
2 Act of the 97th General Assembly, a qualifying provider is one
3 that meets all of the following conditions: (1) served no more
4 than 5 Illinois children at any one time during the school
5 years 2003-2004 through 2008-2009; (2) served more than 5 but
6 fewer 10 Illinois children at any one time during the 2010-2011
7 school year; (3) received Review Board approval for rates on a
8 negotiated basis by Board rule for school years 2003-2004
9 through 2009-2010; (4) provides educational and residential
10 services, including autism-spectrum disorder services, with
11 locked and open residential care and with an on-site school;
12 and (5) is a non-public provider located outside the State.

13 The Review Board shall establish uniform definitions and
14 criteria for accounting separately by special education, room
15 and board and other related services costs. The Board shall
16 also establish guidelines for the coordination of services and
17 financial assistance provided by all State agencies to assure
18 that no otherwise qualified disabled child receiving services
19 under Article 14 shall be excluded from participation in, be
20 denied the benefits of or be subjected to discrimination under
21 any program or activity provided by any State agency.

22 The Review Board shall review the costs for special
23 education and related services provided by non-public schools
24 or special education facilities and shall approve or disapprove
25 such facilities in accordance with the rules and regulations
26 established by it with respect to allowable costs.

1 The State Board of Education shall provide administrative
2 and staff support for the Review Board as deemed reasonable by
3 the State Superintendent of Education. This support shall not
4 include travel expenses or other compensation for any Review
5 Board member other than the State Superintendent of Education.

6 The Review Board shall seek the advice of the Advisory
7 Council on Education of Children with Disabilities on the rules
8 and regulations to be promulgated by it relative to providing
9 special education services.

10 If a child has been placed in a program in which the actual
11 per pupil costs of tuition for special education and related
12 services based on program enrollment, excluding room, board and
13 transportation costs, exceed \$4,500 and such costs have been
14 approved by the Review Board, the district shall pay such total
15 costs which exceed \$4,500. A district making such tuition
16 payments in excess of \$4,500 pursuant to this Section shall be
17 responsible for an amount in excess of \$4,500 equal to the
18 district per capita tuition charge and shall be eligible for
19 reimbursement from the State for the amount of such payments
20 actually made in excess of the districts per capita tuition
21 charge for students not receiving special education services.

22 If a child has been placed in an approved individual
23 program and the tuition costs including room and board costs
24 have been approved by the Review Board, then such room and
25 board costs shall be paid by the appropriate State agency
26 subject to the provisions of Section 14-8.01 of this Act. Room

1 and board costs not provided by a State agency other than the
2 State Board of Education shall be provided by the State Board
3 of Education on a current basis. In no event, however, shall
4 the State's liability for funding of these tuition costs begin
5 until after the legal obligations of third party payors have
6 been subtracted from such costs. If the money appropriated by
7 the General Assembly for such purpose for any year is
8 insufficient, it shall be apportioned on the basis of the
9 claims approved. Each district shall submit estimated claims to
10 the State Superintendent of Education. Upon approval of such
11 claims, the State Superintendent of Education shall direct the
12 State Comptroller to make payments on a monthly basis. The
13 frequency for submitting estimated claims and the method of
14 determining payment shall be prescribed in rules and
15 regulations adopted by the State Board of Education. Such
16 current state reimbursement shall be reduced by an amount equal
17 to the proceeds which the child or child's parents are eligible
18 to receive under any public or private insurance or assistance
19 program. Nothing in this Section shall be construed as
20 relieving an insurer or similar third party from an otherwise
21 valid obligation to provide or to pay for services provided to
22 a disabled child.

23 If it otherwise qualifies, a school district is eligible
24 for the transportation reimbursement under Section 14-13.01
25 and for the reimbursement of tuition payments under this
26 Section whether the non-public school or special education

1 facility, public out-of-state school or county special
2 education facility, attended by a child who resides in that
3 district and requires special educational services, is within
4 or outside of the State of Illinois. However, a district is not
5 eligible to claim transportation reimbursement under this
6 Section unless the district certifies to the State
7 Superintendent of Education that the district is unable to
8 provide special educational services required by the child for
9 the current school year.

10 Nothing in this Section authorizes the reimbursement of a
11 school district for the amount paid for tuition of a child
12 attending a non-public school or special education facility,
13 public out-of-state school or county special education
14 facility unless the school district certifies to the State
15 Superintendent of Education that the special education program
16 of that district is unable to meet the needs of that child
17 because of his disability and the State Superintendent of
18 Education finds that the school district is in substantial
19 compliance with Section 14-4.01. However, if a child is
20 unilaterally placed by a State agency or any court in a
21 non-public school or special education facility, public
22 out-of-state school, or county special education facility, a
23 school district shall not be required to certify to the State
24 Superintendent of Education, for the purpose of tuition
25 reimbursement, that the special education program of that
26 district is unable to meet the needs of a child because of his

1 or her disability.

2 Any educational or related services provided, pursuant to
3 this Section in a non-public school or special education
4 facility or a special education facility owned and operated by
5 a county government unit shall be at no cost to the parent or
6 guardian of the child. However, current law and practices
7 relative to contributions by parents or guardians for costs
8 other than educational or related services are not affected by
9 this amendatory Act of 1978.

10 Reimbursement for children attending public school
11 residential facilities shall be made in accordance with the
12 provisions of this Section.

13 Notwithstanding any other provision of law, any school
14 district receiving a payment under this Section or under
15 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify
16 all or a portion of the funds that it receives in a particular
17 fiscal year or from general State aid pursuant to Section
18 18-8.05 of this Code as funds received in connection with any
19 funding program for which it is entitled to receive funds from
20 the State in that fiscal year (including, without limitation,
21 any funding program referenced in this Section), regardless of
22 the source or timing of the receipt. The district may not
23 classify more funds as funds received in connection with the
24 funding program than the district is entitled to receive in
25 that fiscal year for that program. Any classification by a
26 district must be made by a resolution of its board of

1 education. The resolution must identify the amount of any
2 payments or general State aid to be classified under this
3 paragraph and must specify the funding program to which the
4 funds are to be treated as received in connection therewith.
5 This resolution is controlling as to the classification of
6 funds referenced therein. A certified copy of the resolution
7 must be sent to the State Superintendent of Education. The
8 resolution shall still take effect even though a copy of the
9 resolution has not been sent to the State Superintendent of
10 Education in a timely manner. No classification under this
11 paragraph by a district shall affect the total amount or timing
12 of money the district is entitled to receive under this Code.
13 No classification under this paragraph by a district shall in
14 any way relieve the district from or affect any requirements
15 that otherwise would apply with respect to that funding
16 program, including any accounting of funds by source, reporting
17 expenditures by original source and purpose, reporting
18 requirements, or requirements of providing services.

19 (Source: P.A. 93-1022, eff. 8-24-04; 94-177, eff. 7-12-05.)".