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1 AMENDMENT TO SENATE BILL 2202

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2202, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Academic Freedom of Expression Act.

7 Section 3. Findings and encouragement.

8 (a) The General Assembly finds that:

9 (1) Institutions of higher education are essential  
10 forums for the open exchange of ideas that foster the free  
11 search for truth, robust debate, and innovation, which  
12 benefits this State. Academic freedom is indispensable to  
13 this mission and therefore warrants statutory protection.

14 (2) Academic freedom serves not only individual  
15 interests but also the broader public interest by  
16 safeguarding the independence and integrity of teaching,

1 learning, and scholarship, which are vital to the economic  
2 and cultural well-being of the State.

3 (3) Students benefit when this State affirms core  
4 principles, including free inquiry, content-neutral and  
5 viewpoint-neutral access to programs and activities,  
6 safety, nondiscrimination, and academic excellence.  
7 Institutions of higher education benefit when this State  
8 provides clear, workable standards and when institutions  
9 are not subjected to expansive or uncertain liability due  
10 to their good-faith efforts at substantial compliance.

11 (4) This State has an interest in ensuring the  
12 exercise of academic freedom so that institutions of  
13 higher education are not threatened by external pressures,  
14 including actions by public officials or governmental  
15 bodies that seek to influence or restrict teaching,  
16 research, or expression. Such actions undermine the  
17 mission of higher education and are contrary to the public  
18 interest.

19 (b) The General Assembly encourages the governing board of  
20 each post-secondary educational institution, as defined in the  
21 Private College Act, to adopt or amend institutional policies  
22 that incorporate, at a minimum, the academic freedoms, rights,  
23 obligations, and goals for public institutions of higher  
24 education set forth in Sections 8 and 9 of the Public Higher  
25 Education Act. The General Assembly further encourages each  
26 private post-secondary educational institution to make the

1 institution's policies on academic freedom, if applicable,  
2 publicly available on the institution's website.

3 Section 5. The Public Higher Education Act is amended by  
4 adding Sections 8 and 9 as follows:

5 (110 ILCS 167/8 new)

6 Sec. 8. Academic freedom.

7 (a) As used in this Section:

8 "Harassment" means conduct directed at a particular  
9 individual or group that is so severe, pervasive, and  
10 objectively offensive that it effectively denies a person  
11 equal access to a public institution of higher education's  
12 educational programs or activities, consistent with applicable  
13 federal and State law.

14 "Hate crime" has the meaning given to that term in Section  
15 12-7.1 of the Criminal Code of 2012.

16 "Intimidation" means a course of conduct directed at a  
17 particular individual or group that would cause a reasonable  
18 person to fear for their physical safety or the physical  
19 safety of others and that is not protected by the First  
20 Amendment to the Constitution of the United States, consistent  
21 with applicable federal and State law.

22 "Threat" means a statement or course of conduct made with  
23 knowledge or reckless disregard that a reasonable person would  
24 interpret as a serious expression of intent to commit an act of

1 unlawful violence against a particular individual or group,  
2 consistent with applicable federal and State law.

3 (b) Every faculty member of a public institution of higher  
4 education has the right to all of the following, without fear  
5 of direct or indirect retaliation by the institution or  
6 discipline up to and including termination:

7 (1) Freedom in teaching, including the right to select  
8 pedagogical methods, course materials, and forms of  
9 assessment and to present and freely discuss the subject  
10 matter of course material, as long as such methods,  
11 materials, forms of assessment, and discussions are  
12 relevant to the course content and conducted consistent  
13 with lawful institutional policies and standards of the  
14 discipline.

15 (2) Freedom in research, including the right to  
16 pursue, produce, publish, and disseminate  
17 scholarship-related research, subject only to professional  
18 ethics standards, lawful institutional policies and  
19 responsibilities, contractual obligations, and applicable  
20 laws and regulatory requirements governing research  
21 activities.

22 (3) Freedom of expression, where the faculty member is  
23 acting in an individual capacity and does not purport to  
24 represent the views of the institution unless the faculty  
25 member is authorized to do so, on matters of public  
26 concern, including the right to comment on institutional,

1       local, State, or federal policies, practices, governance,  
2       or administration. This freedom shall be exercised in a  
3       manner consistent with applicable laws.

4           (4) Freedom to attend a political rally or public  
5       demonstration, as long as the faculty member is not absent  
6       from class or other official responsibilities, and to  
7       write or publicly comment on political issues or related  
8       topics, as long as the faculty member is acting in an  
9       individual capacity outside the scope of their assigned  
10       institutional duties and without the use of institutional  
11       resources, consistent with applicable law and lawful  
12       institutional policies.

13       Nothing in this Section shall be construed to create an  
14       inconsistent or unequal application of lawful institutional  
15       policies governing expressive activity among faculty, staff,  
16       or other employees of the public institution of higher  
17       education, except as necessary to account for differences in  
18       assigned institutional responsibilities.

19       (c) Every student of a public institution of higher  
20       education has the freedom or right to all of the following,  
21       without fear of direct or indirect retaliation by the  
22       institution or discipline:

23           (1) Freedom to freely discuss the subject matter of  
24       teaching material in the classroom, as long as such  
25       discussion is relevant to the course content, conducted  
26       consistent with lawful institutional policies, and in

1 conformity with the class management expectations  
2 established for the applicable class.

3 (2) Freedom in research, including the right to  
4 pursue, produce, publish, and disseminate  
5 scholarship-related research, subject only to applicable  
6 ethics standards, lawful institutional policies,  
7 contractual obligations, and laws and regulatory  
8 requirements governing research activities.

9 (3) Freedom of expression on matters of public  
10 concern, including the right to comment on institutional,  
11 local, State, or federal policies, practices, governance,  
12 or administration. This freedom shall be exercised in a  
13 manner consistent with lawful institutional policies and  
14 applicable laws.

15 (4) Freedom to attend a political rally or public  
16 demonstration and to write or publicly comment on  
17 political issues or related topics.

18 (5) Freedom to engage in lawful, peaceful protest in  
19 the generally accessible and open outdoor areas of campus,  
20 subject to any reasonable content-neutral and  
21 viewpoint-neutral time, place, and manner restrictions  
22 that are in furtherance of a significant institutional  
23 interest and that leave ample alternative means of  
24 expression, including restrictions that prevent conduct  
25 that is unlawful or that intentionally, materially, or  
26 substantially disrupts the functioning of the institution.

1           (6) Freedom of association and freedom to organize,  
2           subject to any reasonable content-neutral and  
3           viewpoint-neutral requirements for recognition and funding  
4           that are consistently enforced and in accordance with  
5           applicable law.

6           (7) The right to inspect, review, and request  
7           corrections to higher educational records, in accordance  
8           with applicable law.

9           (8) The right to due process and a fair disciplinary  
10           process appropriate to the nature of the applicable  
11           disciplinary charge, including notice of the charge,  
12           access to relevant evidence unless prohibited by law, and  
13           an opportunity to be heard, in accordance with applicable  
14           law.

15           (d) This Section may not be construed to:

16           (1) prevent this State or a public institution of  
17           higher education from enacting generally applicable  
18           academic standards, degree requirements, or governance  
19           structures developed through established  
20           shared-governance processes;

21           (2) limit compliance with federal or State civil  
22           rights, health and safety, or fiduciary laws;

23           (3) supersede any valid collective bargaining  
24           agreement provisions that afford equal or greater  
25           protection;

26           (4) limit the authority of an institution to regulate

1 the speech or expressive conduct of faculty, staff, or  
2 students to the extent permitted under federal or State  
3 law, including through any reasonable content-neutral and  
4 viewpoint-neutral time, place, and manner restrictions  
5 that are in furtherance of a significant institutional  
6 interest and that leave ample alternative means of  
7 expression, and the regulation of speech in nonpublic  
8 forums;

9 (5) restrict an institution's ability to clarify that  
10 speech or expression by faculty, staff, or students is  
11 undertaken in an individual capacity and does not  
12 represent the views of the institution unless the faculty,  
13 staff, or students were expressly authorized by the  
14 institution;

15 (6) prohibit an institution from adopting and  
16 enforcing policies addressing unlawful harassment,  
17 discrimination, threats, intimidation, hate crimes, or  
18 conduct that intentionally, materially, or substantially  
19 disrupts the functioning of the institution or that  
20 interferes with the rights of others to participate in or  
21 benefit from institutional programs or activities,  
22 consistent with federal and State law; or

23 (7) impose obligations that would cause an institution  
24 to violate applicable law, including any federal  
25 requirements, or risk the loss of federal or other funds.

26 (e) No State officer or employee, member of a State

1 governing or coordinating board, or institutional  
2 administrator may penalize any faculty member of a public  
3 institution of higher education concerning the specific  
4 content of, viewpoints presented in, or method of the faculty  
5 member's teaching or scholarship, except as necessary to  
6 ensure that a faculty member's teaching or scholarship is  
7 reasonably germane to the faculty member's field or fields of  
8 study or assigned instructional responsibilities and that  
9 non-germane speech does not comprise a substantial portion of  
10 classroom instruction or to comply with applicable law.

11 (f) The governing board of each public institution of  
12 higher education shall, by July 1, 2027, adopt or amend  
13 institutional policies to incorporate, at a minimum, the  
14 rights and obligations set forth in this amendatory Act of the  
15 104th General Assembly, in consultation with recognized  
16 faculty governing bodies and, if applicable, collective  
17 bargaining representatives.

18 Each public institution of higher education shall make the  
19 institution's policies on academic freedom publicly available  
20 on the institution's website by July 1, 2027 and within 60 days  
21 after any subsequent revisions to the policy.

22 Each public institution of higher education shall submit  
23 the institution's policies on academic freedom to the Illinois  
24 Community College Board or the Board of Higher Education,  
25 whichever is applicable, by July 1, 2027 and within 60 days  
26 after any subsequent revisions to the policy. The Illinois

1 Community College Board and the Board of Higher Education  
2 shall make the policies received from each institution under  
3 this subsection (f) publicly available on their respective  
4 websites by January 1, 2028 and within 60 days after any  
5 subsequent revisions to the policy. The Illinois Community  
6 College Board and the Board of Higher Education shall each  
7 submit to the General Assembly a report compiling the policies  
8 received from each institution under this subsection (f) by  
9 January 1, 2028.

10 (g) Alleged violations of this Section shall first be  
11 addressed through a public institution of higher education's  
12 established grievance or administrative review procedures or  
13 applicable collective bargaining agreements. A faculty member  
14 or student of an institution at the time that the institution  
15 has made or enforced any rule in violation of this Section may  
16 commence a civil action to obtain appropriate injunctive and  
17 declaratory relief as determined by a court if the faculty  
18 member or student has first exhausted applicable institutional  
19 grievance or administrative review procedures or remedies  
20 available under any applicable collective bargaining  
21 agreement. Upon motion, the court shall award reasonable  
22 attorney's fees and costs, including expert witness fees and  
23 other litigation expenses, to a prevailing plaintiff in a  
24 civil action brought under this Section.

25 Nothing in this Section shall be construed to create a  
26 private right of action for damages against an institution.

1       (h) This Section shall be construed in accordance with,  
2       and not in conflict with, applicable federal and State law,  
3       including, but not limited to, Title VI of the federal Civil  
4       Rights Act of 1964, Title IX of the federal Education  
5       Amendments of 1972, the federal Jeanne Clery Disclosure of  
6       Campus Security Policy and Campus Crime Statistics Act, the  
7       federal Family Educational Rights and Privacy Act of 1974, the  
8       federal Americans with Disabilities Act of 1990, Section 504  
9       of the federal Rehabilitation Act of 1973, and the Illinois  
10       Human Rights Act.

11           (110 ILCS 167/9 new)

12       Sec. 9. Student support and academic access charter.

13       (a) Inclusive and safe learning environment. A public  
14       institution of higher education shall strive to foster an  
15       environment that is free from unlawful discrimination or  
16       harassment based on any protected characteristic under  
17       applicable law.

18       (b) Safety and respect. A public institution of higher  
19       education shall strive to maintain clear, content-neutral and  
20       viewpoint-neutral conduct standards and reporting channels  
21       designed to address unlawful retaliation by the institution or  
22       the institution's agents, discrimination, harassment, and  
23       intimidation, in accordance with applicable law.

24       (c) Accessibility. A public institution of higher  
25       education shall strive to have clear policies describing how

1 students with disabilities can request and receive reasonable  
2 accommodations to enable equal academic and campus  
3 participation, in accordance with applicable law and  
4 educational standards.

5 (d) Academic transparency. A public institution of higher  
6 education shall strive to publish clear, accurate, and timely  
7 information regarding courses, degree pathways, credit  
8 evaluation and transferability, and graduation criteria.

9 (e) Fair evaluation. A public institution of higher  
10 education shall strive to assess academic performance based on  
11 demonstrated learning and achievement and pursuant to  
12 published standards, with due regard for the professional  
13 judgment of faculty.

14 (f) Career preparation. A public institution of higher  
15 education shall strive to provide students with information  
16 and opportunities in pertinent academic programs that promote  
17 workforce-relevant skills, career exploration, and stackable  
18 or recognized credentials of value.

19 (g) Educational quality. A public institution of higher  
20 education shall strive to provide independently accredited  
21 education that integrates broad learning, cultivates  
22 transferable skills, and prepares students for engaged  
23 citizenship.

24 (h) Financial transparency. A public institution of higher  
25 education shall strive to clearly disclose tuition, fees, and  
26 applicable, material financial obligations prior to and during

1 enrollment.

2 (i) Refunds and withdrawals. A public institution of  
3 higher education shall strive to publish transparent policies  
4 on tuition refunds, withdrawals, and cancellations.

5 (j) Transfer practices. A public institution of higher  
6 education shall strive to provide a timely, transparent, and  
7 consistent evaluation of transfer credits using published  
8 criteria. Nothing in this Section requires an acceptance of  
9 credits inconsistent with any legitimate academic standards  
10 the public institution of higher education deems appropriate.

11 (k) Construction. This Section shall be construed in  
12 accordance with, and not in conflict with, applicable federal  
13 and State law, including, but not limited to, Title VI of the  
14 federal Civil Rights Act of 1964, Title IX of the federal  
15 Education Amendments of 1972, the federal Jeanne Clery  
16 Disclosure of Campus Security Policy and Campus Crime  
17 Statistics Act, the federal Family Educational Rights and  
18 Privacy Act of 1974, the federal Americans with Disabilities  
19 Act of 1990, Section 504 of the federal Rehabilitation Act of  
20 1973, and the Illinois Human Rights Act.

21 Nothing in this Section imposes obligations that would  
22 cause a public institution of higher education to violate  
23 applicable law, including any federal requirements, or risk  
24 the loss of federal or other funds.

25 Nothing in this Section may be construed to create  
26 contractual rights or to convert institutional policies into

1 express or implied contracts.

2 Nothing in this Section may be construed to grant a  
3 private right of action to enforce the provisions of this  
4 Section.

5 Section 15. The Public Community College Act is amended by  
6 changing Section 2-15 as follows:

7 (110 ILCS 805/2-15) (from Ch. 122, par. 102-15)

8 Sec. 2-15. Recognition. The State Board shall grant  
9 recognition to community colleges which maintain equipment,  
10 courses of study, standards of scholarship and other  
11 requirements set by the State Board. Application for  
12 recognition shall be made to the State Board. The State Board  
13 shall set the criteria by which the community colleges shall  
14 be judged and through the executive officer of the State Board  
15 shall arrange for an official evaluation of the community  
16 colleges and shall grant recognition of such community  
17 colleges as may meet the required standards.

18 Recognition shall include a review of a community  
19 college's compliance with Section 8 of the Public Higher  
20 Education Act. Recognition shall also include a review of  
21 compliance with Section 3-65 of this Act and other applicable  
22 State and federal laws regarding employment contracts and  
23 compensation. Annually, the State Board shall convene an  
24 advisory committee to review the findings and make

1 recommendations for changes or additions to the laws or the  
2 review procedures.

3 If a community college district fails to meet the  
4 recognition standards set by the State Board, and if the  
5 district, in accordance with: (a) generally accepted  
6 Government Auditing Standards issued by the Comptroller  
7 General of the United States, (b) auditing standards  
8 established by the American Institute of Certified Public  
9 Accountants, or (c) other applicable State and federal  
10 standards, is found by the district's auditor or the State  
11 Board working in cooperation with the district's auditor to  
12 have material deficiencies in the design or operation of  
13 financial control structures that could adversely affect the  
14 district's financial integrity and stability, or is found to  
15 have misused State or federal funds and jeopardized its  
16 participation in State or federal programs, the State Board  
17 may, notwithstanding any laws to the contrary, implement one  
18 or more of the following emergency powers:

19 (1) To direct the district to develop and implement a  
20 plan that addresses the budgetary, programmatic, and other  
21 relevant factors contributing to the need to implement  
22 emergency measures. The State Board shall assist in the  
23 development and shall have final approval of the plan.

24 (2) To direct the district to contract for educational  
25 services in accordance with Section 3-40. The State Board  
26 shall assist in the development and shall have final

1 approval of any such contractual agreements.

2 (3) To approve and require revisions of the district's  
3 budget.

4 (4) To appoint a Financial Administrator to exercise  
5 oversight and control over the district's budget. The  
6 Financial Administrator shall serve at the pleasure of the  
7 State Board and may be an individual, partnership,  
8 corporation, including an accounting firm, or other entity  
9 determined by the State Board to be qualified to serve,  
10 and shall be entitled to compensation. Such compensation  
11 shall be provided through specific appropriations made to  
12 the State Board for that express purpose.

13 (5) To develop and implement a plan providing for the  
14 dissolution or reorganization of the district if in the  
15 judgment of the State Board the circumstances so require.  
16 All local funds under the control of the State Board as a  
17 result of the dissolution or reorganization of the  
18 district shall be expended by the State Board for purposes  
19 of providing educational services in the territory from  
20 which those local funds were acquired.

21 (Source: P.A. 103-940, eff. 8-9-24.)".