

1 AN ACT concerning education, which may be referred to as  
2 the Education Reform and Accountability Act of 2004.

3 **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5 Section 1. Short title. This Act may be cited as the School  
6 Employee Benefit Act.

7 Section 5. Purpose. The purpose of this Act is to require  
8 the Department of Central Management Services to establish and  
9 administer a prescription drug benefit program that will enable  
10 eligible school employees access to affordable prescription  
11 drugs.

12 Section 10. Definitions.

13 "Annuitant" means a retired school district employee  
14 entitled to receive retirement benefits, as defined by the  
15 school district.

16 "Department" means the Department of Central Management  
17 Services.

18 "Dependent" means a school district employee's dependent  
19 as defined by the school district.

20 "Director" means the Director of Central Management  
21 Services.

22 "Employee" means a school district employee who is entitled  
23 to benefits as defined by the school district.

24 "Rules" includes rules adopted and forms prescribed by the  
25 Department.

26 "School district" means a public school district in this  
27 State.

28 Section 15. Prescription drug benefits; contract.

29 (a) The Director shall, by contract, self-insurance, or  
30 otherwise, make available a voluntary program of prescription

1 drug benefits for school districts under Section 15 of this  
2 Act. The contract or other arrangement for the provision of the  
3 prescription drug benefits shall be on terms deemed by the  
4 Director to be in the best interest of the State of Illinois  
5 and school districts based on criteria set by the Department,  
6 which must include without limitation administrative cost,  
7 service capabilities of the carrier or other contractors, and  
8 premiums, fees, or charges as related to the costs of the  
9 benefits.

10 (b) The term of a contract under this Section may not  
11 extend beyond 5 fiscal years. The Director may exercise renewal  
12 options of the same contract for up to a period of 5 years. Any  
13 increases in premiums, fees, or charges requested by a  
14 contractor whose contract may be renewed pursuant to a renewal  
15 option contained in the contract must be justified on the basis  
16 of (1) audited experience data, (2) increases in the costs of  
17 prescription drug coverage provided under the contract, (3)  
18 contractor performance, (4) increases in contractor  
19 responsibilities, or (5) any combination of these bases.

20 (c) A contractor shall agree to abide by all requirements  
21 and rules of the prescription drug benefit program, to submit  
22 such information and data as may from time to time be deemed  
23 necessary by the Director for effective administration of the  
24 program, and to fully cooperate in any audit.

25 Section 20. Prescription drug benefits; program.

26 (a) Beginning July 1, 2005, the Department shall be  
27 responsible for administering the prescription drug benefit  
28 program established under this Act for employees, annuitants,  
29 and dependents on a non-insured basis.

30 (b) For each program year, the Department shall set a date  
31 by which school districts must notify the Department of their  
32 election to participate in the prescription drug benefit  
33 program. The Department shall provide notification of the  
34 election date to school districts at least 45 days prior to the  
35 election date.

1 (c) Any school district may apply to the Director to have  
2 employees, annuitants, and dependents be provided a  
3 prescription drug benefit program under this Act. To  
4 participate, a school district must agree to enroll all of its  
5 employees. A participating school district is not required to  
6 enroll a full-time employee who has waived coverage under the  
7 district's health plan.

8 (d) The Director shall determine the insurance rates and  
9 premiums for those employees, annuitants, and dependents  
10 participating in the prescription drug benefit program. Rates  
11 and premiums may be based in part on age and eligibility for  
12 federal Medicare coverage.

13 A school district must remit the entire cost of providing  
14 prescription drug coverage under this Section.

15 (e) All revenues arising from the administration of the  
16 prescription drug benefit program shall be deposited into  
17 general revenue funds.

18 (f) It is the intention of the General Assembly that the  
19 prescription drug benefit program be maintained on an ongoing,  
20 affordable basis. The prescription drug benefit program may be  
21 changed by the State and is not intended to be a pension or  
22 retirement benefit subject to protection under Section 5 of  
23 Article XIII of the Illinois Constitution.

24 Section 85. The State Finance Act is amended by changing  
25 Section 13.5 as follows:

26 (30 ILCS 105/13.5)

27 Sec. 13.5. Appropriations for ~~higher~~ education.

28 (a) State appropriations to the State Board of Education,  
29 the Board of Trustees of Southern Illinois University, the  
30 Board of Trustees of the University of Illinois, the Board of  
31 Trustees of Chicago State University, the Board of Trustees of  
32 Eastern Illinois University, the Board of Trustees of Illinois  
33 State University, the Board of Trustees of Governors State  
34 University, the Board of Trustees of Northeastern Illinois

1 University, the Board of Trustees of Northern Illinois  
2 University, and the Board of Trustees of Western Illinois  
3 University for operations shall identify the amounts  
4 appropriated for personal services, State contributions to  
5 social security for Medicare, contractual services, travel,  
6 commodities, equipment, operation of automotive equipment,  
7 telecommunications, awards and grants, and permanent  
8 improvements.

9 (b) Within 120 days after the conclusion of each fiscal  
10 year, each State-supported institution of higher learning must  
11 provide, through the Illinois Board of Higher Education, a  
12 financial report to the Governor and General Assembly  
13 documenting the institution's revenues and expenditures of  
14 funds for that fiscal year ending June 30 for all funds.

15 (Source: P.A. 93-229, eff. 7-22-03.)

16 Section 90. The School Code is amended by changing Sections  
17 1A-1, 1A-2.1, 1A-4, and 10-20.21 and adding Section 2-3.135 and  
18 Article 28A as follows:

19 (105 ILCS 5/1A-1) (from Ch. 122, par. 1A-1)

20 Sec. 1A-1. Members and terms.

21 (a) The term of each member of the State Board of Education  
22 who is in office on June 30, 2004 ~~the effective date of this~~  
23 ~~amendatory Act of 1996~~ shall terminate on July 1, 2004 ~~January~~  
24 ~~1, 1997~~ or when all of the new members initially to be  
25 appointed under this amendatory Act of the 93rd General  
26 Assembly of 1996 are appointed by the Governor as provided in  
27 subsection (b), whichever last occurs.

28 (b) Beginning on July 1, 2004 ~~January 1, 1997~~ or when all  
29 of the new members initially to be appointed under this  
30 subsection are appointed by the Governor, whichever last  
31 occurs, and thereafter, the State Board of Education shall  
32 consist of 9 members, who shall be appointed by the Governor  
33 with the advice and consent of the Senate from a pattern of  
34 regional representation as follows: 2 appointees shall be

1 selected from among those counties of the State other than Cook  
2 County and the 5 counties contiguous to Cook County; 2  
3 appointees shall be selected from Cook County, one of whom  
4 shall be a resident of the City of Chicago and one of whom  
5 shall be a resident of that part of Cook County which lies  
6 outside the city limits of Chicago; 2 appointees shall be  
7 selected from among the 5 counties of the State that are  
8 contiguous to Cook County; and 3 members shall be selected as  
9 members-at-large. At no time may more than 5 members of the  
10 Board be from one political party. Party membership is defined  
11 as having voted in the primary of the party in the last primary  
12 before appointment. Five of the ~~The~~ 9 members initially  
13 appointed pursuant to this amendatory Act of the 93rd General  
14 Assembly 1996 shall draw lots to determine 3 of their number  
15 ~~who~~ shall serve until the second Wednesday of January, 2007, as  
16 designated by the Governor, and the other 4 shall serve until  
17 the second Wednesday of January, 2009, as designated by the  
18 Governor 2003, 3 of their number who shall serve until the  
19 ~~second Wednesday of January, 2001, and 3 of their number who~~  
20 ~~shall serve until the second Wednesday of January, 1999.~~ Upon  
21 expiration of the terms of ~~the~~ members ~~initially appointed~~  
22 ~~under this amendatory Act of 1996,~~ their respective successors  
23 shall be appointed for terms of 4 ~~6~~ years, from the second  
24 Wednesday in January of each odd numbered year and until their  
25 respective successors are appointed and qualified. Vacancies  
26 in terms shall be filled by appointment by the Governor with  
27 the advice and consent of the Senate for the extent of the  
28 unexpired term. If a vacancy in membership occurs at a time  
29 when the Senate is not in session, the Governor shall make a  
30 temporary appointment until the next meeting of the Senate,  
31 when the Governor shall appoint a person to fill that  
32 membership for the remainder of its term. If the Senate is not  
33 in session when appointments for a full term are made, the  
34 appointments shall be made as in the case of vacancies.

35 (Source: P.A. 89-610, eff. 8-6-96.)

1 (105 ILCS 5/1A-2.1) (from Ch. 122, par. 1A-2.1)

2 Sec. 1A-2.1. Vacancies. A vacancy exists on the State Board  
3 of Education when one or more of the following events occur:

4 1. A ~~a~~ member dies.†

5 2. A ~~a~~ member files a written resignation with the  
6 Governor.†

7 3. A ~~a~~ member is adjudicated to be a person under legal  
8 disability under the Probate Act of 1975,~~as amended,~~ or a  
9 person subject to involuntary admission under the Mental Health  
10 and Developmental Disabilities Code.†

11 4. A ~~a~~ member ceases to be a resident of the region  
12 ~~judicial district~~ from which he or she was appointed.†

13 5. A ~~a~~ member is convicted of an infamous crime, ~~or of any~~  
14 offense involving a violation of his or her duties under this  
15 Code. ~~Act.~~

16 6. A ~~a~~ member fails to maintain the qualifications stated  
17 in Section 1A-2 of this Code ~~Act~~.

18 7. A member is removed at the discretion of the Governor  
19 for incompetence, neglect of duty, or malfeasance in office.

20 (Source: P.A. 83-706.)

21 (105 ILCS 5/1A-4) (from Ch. 122, par. 1A-4)

22 Sec. 1A-4. Powers and duties of the Board.

23 A. Upon the appointment of new State Board of Education  
24 ~~Board~~ members as provided in subsection (b) of Section 1A-1 and  
25 every 2 years thereafter, the chairperson of the Board shall be  
26 selected by the Governor, with the advice and consent of the  
27 Senate, from the membership of the Board to serve as  
28 chairperson for 2 years.

29 Five members of the State Board of Education shall  
30 constitute a quorum. A majority vote of appointed members is  
31 required to approve any action.

32 B. The State Board of Education ~~Board~~ shall determine the  
33 qualifications of and appoint a chief education officer, to be  
34 known as the State Superintendent of Education, who may be  
35 proposed by the Governor and who shall serve at the pleasure of

1 the Board and pursuant to a performance-based contract linked  
2 to statewide student performance and academic improvement  
3 within Illinois schools. No performance-based contract issued  
4 for the employment of the State Superintendent of Education  
5 shall be for a term longer than 2 3 years and no contract shall  
6 be extended or renewed prior to its scheduled expiration unless  
7 the performance and improvement goals contained in the contract  
8 have been met. The State Superintendent of Education shall not  
9 serve as a member of the State Board of Education, but. ~~The~~  
10 ~~Board shall set the compensation of the State Superintendent of~~  
11 ~~Education who~~ shall serve as the Board's chief executive  
12 officer. The State Superintendent of Education shall receive an  
13 annual salary as set by the State Board of Education from time  
14 to time or as set by the Compensation Review Board, whichever  
15 is greater. The State Board of Education shall ~~also~~ establish  
16 the duties, powers and responsibilities of the State  
17 Superintendent in accordance with this Code, which shall be  
18 included in the State Superintendent's performance-based  
19 contract along with the goals and indicators of student  
20 performance and academic improvement used to measure the  
21 performance and effectiveness of the State Superintendent. The  
22 State Board of Education may delegate to the State  
23 Superintendent of Education the authority to act on the Board's  
24 behalf, provided such delegation is made pursuant to adopted  
25 board policy or the powers delegated are ministerial in nature.  
26 The State Board may not delegate authority under this Section  
27 to the State Superintendent to (1) nonrecognize school  
28 districts, (2) withhold State payments as a penalty, or (3)  
29 make final decisions under the contested case provisions of the  
30 Illinois Administrative Procedure Act unless otherwise  
31 provided by law.

32 C. The powers and duties of the State Board of Education  
33 shall encompass all duties delegated to the Office of  
34 Superintendent of Public Instruction on January 12, 1975,  
35 except as the law providing for such powers and duties is  
36 thereafter amended, and such other powers and duties as the

1 General Assembly shall designate. The Board shall be  
2 responsible for the educational policies and guidelines for  
3 public schools, pre-school through grade 12 and Vocational  
4 Education in the State of Illinois. The Board shall analyze the  
5 present and future aims, needs, and requirements of education  
6 in the State of Illinois and recommend to the General Assembly  
7 the powers which should be exercised by the Board. The Board  
8 shall recommend the passage and the legislation necessary to  
9 determine the appropriate relationship between the Board and  
10 local boards of education and the various State agencies and  
11 shall recommend desirable modifications in the laws which  
12 affect schools.

13 D. Two members of the State Board of Education shall be  
14 appointed by the chairperson to serve on a standing joint  
15 Education Committee, 2 others shall be appointed from the Board  
16 of Higher Education, 2 others shall be appointed by the  
17 chairperson of the Illinois Community College Board, and 2  
18 others shall be appointed by the chairperson of the Human  
19 Resource Investment Council. The Committee shall be  
20 responsible for making recommendations concerning the  
21 submission of any workforce development plan or workforce  
22 training program required by federal law or under any block  
23 grant authority. The Committee will be responsible for  
24 developing policy on matters of mutual concern to elementary,  
25 secondary and higher education such as Occupational and Career  
26 Education, Teacher Preparation and Certification, Educational  
27 Finance, Articulation between Elementary, Secondary and Higher  
28 Education and Research and Planning. The joint Education  
29 Committee shall meet at least quarterly and submit an annual  
30 report of its findings, conclusions, and recommendations to the  
31 State Board of Education, the Board of Higher Education, the  
32 Illinois Community College Board, the Human Resource  
33 Investment Council, the Governor, and the General Assembly. All  
34 meetings of this Committee shall be official meetings for  
35 reimbursement under this Act.

36 E. ~~Five members of the Board shall constitute a quorum. A~~



1 ~~majority vote of the members appointed, confirmed and serving~~  
2 ~~on the Board is required to approve any action.~~ The State Board  
3 of Education shall prepare and submit to the General Assembly  
4 and the Governor on or before January 14, 1976 and annually  
5 thereafter a report or reports of its findings and  
6 recommendations. Such annual report shall contain a separate  
7 section which provides a critique and analysis of the status of  
8 education in Illinois and which identifies its specific  
9 problems and recommends express solutions therefor. Such  
10 annual report also shall contain the following information for  
11 the preceding year ending on June 30: each act or omission of a  
12 school district of which the State Board of Education has  
13 knowledge as a consequence of scheduled, approved visits and  
14 which constituted a failure by the district to comply with  
15 applicable State or federal laws or regulations relating to  
16 public education, the name of such district, the date or dates  
17 on which the State Board of Education notified the school  
18 district of such act or omission, and what action, if any, the  
19 school district took with respect thereto after being notified  
20 thereof by the State Board of Education. The report shall also  
21 include the statewide high school dropout rate by grade level,  
22 sex and race and the annual student dropout rate of and the  
23 number of students who graduate from, transfer from or  
24 otherwise leave bilingual programs. The Auditor General shall  
25 annually perform a compliance audit of the State Board of  
26 Education's performance of the reporting duty imposed by this  
27 amendatory Act of 1986. A regular system of communication with  
28 other directly related State agencies shall be implemented.

29 The requirement for reporting to the General Assembly shall  
30 be satisfied by filing copies of the report with the Speaker,  
31 the Minority Leader and the Clerk of the House of  
32 Representatives and the President, the Minority Leader and the  
33 Secretary of the Senate and the Legislative Council, as  
34 required by Section 3.1 of the General Assembly Organization  
35 Act, and filing such additional copies with the State  
36 Government Report Distribution Center for the General Assembly

1 as is required under paragraph (t) of Section 7 of the State  
2 Library Act.

3 (Source: P.A. 89-430, eff. 12-15-95; 89-610, eff. 8-6-96;  
4 89-698, eff. 1-14-97; 90-548, eff. 1-1-98.)

5 (105 ILCS 5/2-3.135 new)

6 Sec. 2-3.135. Shared service centers. The State Board of  
7 Education, in partnership with regional superintendents, may  
8 create shared service centers, providing optional shared  
9 services for districts.

10 (105 ILCS 5/10-20.21) (from Ch. 122, par. 10-20.21)

11 Sec. 10-20.21. Contracts.

12 (a) To award all contracts for purchase of supplies,  
13 materials or work or contracts with private carriers for  
14 transportation of pupils involving an expenditure in excess of  
15 \$10,000 to the lowest responsible bidder, considering  
16 conformity with specifications, terms of delivery, quality and  
17 serviceability, after due advertisement, except the following:  
18 (i) contracts for the services of individuals possessing a high  
19 degree of professional skill where the ability or fitness of  
20 the individual plays an important part; (ii) contracts for the  
21 printing of finance committee reports and departmental  
22 reports; (iii) contracts for the printing or engraving of  
23 bonds, tax warrants and other evidences of indebtedness; (iv)  
24 contracts for the purchase of perishable foods and perishable  
25 beverages; (v) contracts for materials and work which have been  
26 awarded to the lowest responsible bidder after due  
27 advertisement, but due to unforeseen revisions, not the fault  
28 of the contractor for materials and work, must be revised  
29 causing expenditures not in excess of 10% of the contract  
30 price; (vi) contracts for the maintenance or servicing of, or  
31 provision of repair parts for, equipment which are made with  
32 the manufacturer or authorized service agent of that equipment  
33 where the provision of parts, maintenance, or servicing can  
34 best be performed by the manufacturer or authorized service

1 agent; (vii) purchases and contracts for the use, purchase,  
2 delivery, movement, or installation of data processing  
3 equipment, software, or services and telecommunications and  
4 interconnect equipment, software, and services; (viii)  
5 contracts for duplicating machines and supplies; (ix)  
6 contracts for the purchase of natural gas when the cost is less  
7 than that offered by a public utility; (x) purchases of  
8 equipment previously owned by some entity other than the  
9 district itself; (xi) contracts for repair, maintenance,  
10 remodeling, renovation, or construction, or a single project  
11 involving an expenditure not to exceed \$20,000 and not  
12 involving a change or increase in the size, type, or extent of  
13 an existing facility; (xii) contracts for goods or services  
14 procured from another governmental agency; (xiii) contracts  
15 for goods or services which are economically procurable from  
16 only one source, such as for the purchase of magazines, books,  
17 periodicals, pamphlets and reports, and for utility services  
18 such as water, light, heat, telephone or telegraph; ~~and~~ (xiv)  
19 where funds are expended in an emergency and such emergency  
20 expenditure is approved by 3/4 of the members of the board; and  
21 (xv) State master contracts authorized under Article 28A of  
22 this Code.

23 All competitive bids for contracts involving an  
24 expenditure in excess of \$10,000 must be sealed by the bidder  
25 and must be opened by a member or employee of the school board  
26 at a public bid opening at which the contents of the bids must  
27 be announced. Each bidder must receive at least 3 days' notice  
28 of the time and place of the bid opening. For purposes of this  
29 Section due advertisement includes, but is not limited to, at  
30 least one public notice at least 10 days before the bid date in  
31 a newspaper published in the district, or if no newspaper is  
32 published in the district, in a newspaper of general  
33 circulation in the area of the district. State master contracts  
34 and certified education purchasing contracts, as defined in  
35 Article 28A of this Code, are not subject to the requirements  
36 of this paragraph.

1 (b) To require, as a condition of any contract for goods  
2 and services, that persons bidding for and awarded a contract  
3 and all affiliates of the person collect and remit Illinois Use  
4 Tax on all sales of tangible personal property into the State  
5 of Illinois in accordance with the provisions of the Illinois  
6 Use Tax Act regardless of whether the person or affiliate is a  
7 "retailer maintaining a place of business within this State" as  
8 defined in Section 2 of the Use Tax Act. For purposes of this  
9 Section, the term "affiliate" means any entity that (1)  
10 directly, indirectly, or constructively controls another  
11 entity, (2) is directly, indirectly, or constructively  
12 controlled by another entity, or (3) is subject to the control  
13 of a common entity. For purposes of this subsection (b), an  
14 entity controls another entity if it owns, directly or  
15 individually, more than 10% of the voting securities of that  
16 entity. As used in this subsection (b), the term "voting  
17 security" means a security that (1) confers upon the holder the  
18 right to vote for the election of members of the board of  
19 directors or similar governing body of the business or (2) is  
20 convertible into, or entitles the holder to receive upon its  
21 exercise, a security that confers such a right to vote. A  
22 general partnership interest is a voting security.

23 To require that bids and contracts include a certification  
24 by the bidder or contractor that the bidder or contractor is  
25 not barred from bidding for or entering into a contract under  
26 this Section and that the bidder or contractor acknowledges  
27 that the school board may declare the contract void if the  
28 certification completed pursuant to this subsection (b) is  
29 false.

30 (c) If the State education purchasing entity creates a  
31 master contract as defined in Article 28A of this Code, then  
32 the State education purchasing entity shall notify school  
33 districts of the existence of the master contract.

34 (d) In purchasing supplies, materials, equipment, or  
35 services that are not subject to subsection (c) of this  
36 Section, before a school district solicits bids or awards a

1 contract, the district may review and consider as a bid under  
2 subsection (a) of this Section certified education purchasing  
3 contracts that are already available through the State  
4 education purchasing entity.

5 (Source: P.A. 93-25, eff. 6-20-03.)

6 (105 ILCS 5/Art. 28A heading new)

7 ARTICLE 28A. Education Purchasing Program.

8 (105 ILCS 5/28A-5 new)

9 Sec. 28A-5. Definitions. In this Article:

10 "State Board" means the State Board of Education.

11 "Education purchasing contract" means a contract  
12 negotiated by the State Board, a local, State, or federal  
13 governmental entity, or a not-for-profit, for-profit, or  
14 cooperative entity that is certified under Section 28A-15 of  
15 this Code and made available to school districts.

16 "Master contract" means a contract designated as a  
17 statewide education master contract under Section 28A-15 of  
18 this Code.

19 "Program" means the education purchasing program created  
20 under this Article.

21 (105 ILCS 5/28A-10 new)

22 Sec. 28A-10. Program created. The State Board shall create  
23 an education purchasing program. Under the program, the State  
24 Board shall designate itself or another entity to act as a  
25 State education purchasing entity to form and designate  
26 statewide education master contracts and to certify education  
27 purchasing contracts for key categories identified and defined  
28 by the State Board. The State education purchasing entity shall  
29 provide master contract and education purchasing contract  
30 information and pricing to school districts.

31 (105 ILCS 5/28A-15 new)

32 Sec. 28A-15. Powers of State education purchasing entity.

1 The State education purchasing entity shall have all of the  
2 following powers:

3 (1) To select vendors and form contracts in accordance  
4 with the State's purchasing laws.

5 (2) To designate a contract as a statewide education  
6 master contract for purposes of subsection (c) of Section  
7 10-20.21 of this Code.

8 (3) To certify an education purchasing contract,  
9 provided that the contract was entered into according to  
10 procedures and conditions that conform to applicable State  
11 purchasing laws, for purposes of subsection (d) of Section  
12 10-20.21 of this Code.

13 (4) To facilitate the inter-district sale or transfer  
14 of excess inventory or equipment.

15 (5) To select and subsidize e-procurement tools to be  
16 implemented within school districts.

17 (105 ILCS 5/28A-20 new)

18 Sec. 28A-20. Rules. The State Board or other State agency  
19 designated by the State Board may adopt rules to implement the  
20 program.

21 Section 95. The State Mandates Act is amended by adding  
22 Section 8.28 as follows:

23 (30 ILCS 805/8.28 new)

24 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8  
25 of this Act, no reimbursement by the State is required for the  
26 implementation of any mandate created by this amendatory Act of  
27 the 93rd General Assembly.

28 Section 97. Severability. The provisions of this Act are  
29 severable under Section 1.31 of the Statute on Statutes.

30 Section 99. Effective date. This Act takes effect July 1,  
31 2004, except that the provisions changing Section 10-20.21 of

1 the School Code take effect on July 1, 2005.