

1

A BILL FOR

2

AN ACT concerning education.

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

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**Section 1. Short title.** This Act may be cited as the Performance Counts Act of 2010.

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**Section 5.** The School Code is amended by changing Section 10-17a as follows:

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(105 ILCS 5/10-17a) (from Ch. 122, par. 10-17a)

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Sec. 10-17a. Better schools accountability.

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(1) Policy and Purpose. It shall be the policy of the State of Illinois that each school district in this State, including special charter districts and districts subject to the provisions of Article 34, shall submit to parents, taxpayers of such district, the Governor, the General Assembly, and the State Board of Education a school report card assessing the performance of its schools and students. The report card shall be an index of school performance measured against statewide and local standards and will provide information to make prior year comparisons and to set future year targets through the school improvement plan.

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(2) Reporting Requirements. Each school district shall prepare a report card in accordance with the guidelines set forth in this Section which describes the performance of its students by school attendance centers and by district and the district's financial resources and use of financial resources. Such report card shall be presented at a regular school board meeting subject to applicable notice requirements, posted on the school district's Internet web site, if the district maintains an Internet web site, made available to a newspaper of general circulation serving the district, and, upon request, sent home to a parent (unless the district does not maintain an Internet

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1 web site, in which case the report card shall be sent home to  
2 parents without request). If the district posts the report card  
3 on its Internet web site, the district shall send a written  
4 notice home to parents stating (i) that the report card is  
5 available on the web site, (ii) the address of the web site,  
6 (iii) that a printed copy of the report card will be sent to  
7 parents upon request, and (iv) the telephone number that parents  
8 may call to request a printed copy of the report card. In  
9 addition, each school district shall submit the completed report  
10 card to the office of the district's Regional Superintendent  
11 which shall make copies available to any individuals requesting  
12 them.

13 The report card shall be completed and disseminated prior  
14 to October 31 in each school year. The report card shall  
15 contain, but not be limited to, actual local school attendance  
16 center, school district and statewide data indicating the  
17 present performance of the school, the State norms and the areas  
18 for planned improvement for the school and school district.

19 (3) (a) The report card shall include the following  
20 applicable indicators of attendance center, district, and  
21 statewide student performance: percent of students who exceed,  
22 meet, or do not meet standards established by the State Board of  
23 Education pursuant to Section 2-3.25a; composite and subtest  
24 means on nationally normed achievement tests for college bound  
25 students; student attendance rates; chronic truancy rate;  
26 dropout rate; graduation rate; and student mobility, turnover  
27 shown as a percent of transfers out and a percent of transfers  
28 in.

29 (b) The report card shall include the following  
30 descriptions for the school, district, and State: average class  
31 size; amount of time per day devoted to mathematics, science,  
32 English and social science at primary, middle and junior high  
33 school grade levels; number of students taking the Prairie State  
34 Achievement Examination under subsection (c) of Section 2-3.64,  
35 the number of those students who received a score of excellent,  
36 and the average score by school of students taking the  
37 examination; pupil-teacher ratio; pupil-administrator ratio;  
38 operating expenditure per pupil at the school level calculated  
39 using actual teacher salaries; district expenditure by fund;  
40 average administrator salary; and average teacher salary. The  
41 report card shall also specify the amount of money that the  
42 district receives from all sources, including without limitation  
43 subcategories specifying the amount from local property taxes,

1 the amount from general State aid, the amount from other State  
2 funding, and the amount from other income.

3 (c) The report card shall include applicable indicators of  
4 parental involvement in each attendance center. The parental  
5 involvement component of the report card shall include the  
6 percentage of students whose parents or guardians have had one  
7 or more personal contacts with the students' teachers during the  
8 school year concerning the students' education, and such other  
9 information, commentary, and suggestions as the school district  
10 desires. For the purposes of this paragraph, "personal contact"  
11 includes, but is not limited to, parent-teacher conferences,  
12 parental visits to school, school visits to home, telephone  
13 conversations, and written correspondence. The parental  
14 involvement component shall not single out or identify  
15 individual students, parents, or guardians by name.

16 (d) Commencing with the report card disseminated during the  
17 2012-13 school year, the report card shall include applicable  
18 indicators of student growth based on a growth model developed  
19 by the State Board of Education.

20 (e) Commencing with the report card disseminated during the  
21 2012-13 school year, the report card shall include applicable  
22 indicators of learning conditions. These indicators should be  
23 developed based on a standard survey of teachers and students  
24 adopted or developed by the state. This provision is subject to  
25 appropriation of funds for the development and deployment of a  
26 state learning conditions survey used at each school.

27 (f) The report card form shall be prepared by the State  
28 Board of Education and provided to school districts by the most  
29 efficient, economic, and appropriate means including a manner  
30 which aggregates all report card data for all schools and is  
31 machine readable.

32 (Source: P.A. 95-331, eff. 8-21-07.)

33 **Section 10.** The School Code is amended by changing Section  
34 10-22.4 as follows:

35 (105 ILCS 5/10-22.4) (from Ch. 122, par. 10-22.4)

36 Sec. 10-22.4. Dismissal of teachers. To dismiss a teacher  
37 for incompetency, cruelty, negligence, immorality or other  
38 sufficient cause, to dismiss any teacher ~~who fails to complete a~~

1 ~~1-year remediation plan with a "satisfactory" or better rating~~  
2 ~~on the basis of performance evaluation results pursuant to~~  
3 ~~Sections 24A-5(m) or 24A-5(n) of this Code~~ and to dismiss any  
4 teacher whenever, in its opinion, he is not qualified to teach,  
5 or whenever, in its opinion, the interests of the schools  
6 require it, subject, however, to the provisions of Sections 24-  
7 10 to 24-15, inclusive. Temporary mental or physical incapacity  
8 to perform teaching duties, as found by a medical examination,  
9 is not a cause for dismissal. Marriage is not a cause of  
10 removal.

11 (Source: P.A. 85-248.)

12 **Section 15.** The School Code is amended by adding Section  
13 21-23c as follows:

14 (105 ILCS 5/21-23c) (New)

15 Sec. 21-23c. Non-issuance, non-renewal, and revocation of  
16 certificates for performance evaluation outcomes.

17 (a) Notwithstanding anything to the contrary in this  
18 Article 21, any teacher or principal who receives an  
19 unsatisfactory PERA performance evaluation rating, as defined in  
20 subsection (b), for any three or more years during a ten year  
21 period shall (1) no longer be eligible for the issuance or  
22 renewal of any certificate by the State Board of Education, and  
23 (2) have the teacher's or principal's current certificate or  
24 certificates revoked by the State Superintendent. The State  
25 Superintendent's revocation authority set forth in this Section  
26 is in addition to, and not in limitation of, the State  
27 Superintendent's revocation authority in Sections 21-23 and 21-  
28 23a of this Code.

29 (b) An unsatisfactory PERA performance evaluation rating  
30 means an unsatisfactory performance evaluation rating resulting  
31 from a performance evaluation instrument and process that meets  
32 the minimum requirements for teacher or principal evaluation  
33 instruments and processes set forth in rules adopted by the  
34 State Board of Education to implement Public Act 96-861, the  
35 Performance Evaluation Reform Act.

36 (c) The State Board of Education's non-issuance or non-  
37 renewal of a certificate and the State Superintendent's  
38 revocation of a certificate pursuant to subsection (a) shall not  
39 be effective until the teacher or principal has an opportunity

1 for a hearing before the State Teacher Certification Board on  
2 the sole issue of whether the teacher's or principal's  
3 unsatisfactory performance evaluation ratings validly result  
4 from a performance evaluation instrument and process that meets  
5 the minimum requirements for teacher or principal evaluation  
6 instruments and processes set forth in rules adopted by the  
7 State Board of Education to implement Public Act 96-861. The  
8 hearing must be held within 120 days from the date the appeal is  
9 taken, unless the State Teacher Certification Board requests a  
10 delay. In such an instance, the stay of the State Board's or  
11 State Superintendent's action must be continued until the  
12 completion of the proceedings.

13 **Section 20.** The School Code is amended by changing Section  
14 24-1 as follows:

15 (105 ILCS 5/24-1) (from Ch. 122, par. 24-1)

16 Sec. 24-1. Appointment-Salaries-Payment-School month-School  
17 term. School boards shall appoint all teachers, determine  
18 qualifications of employment and fix the amount of their  
19 salaries subject to limitation set forth in this Act. They shall  
20 pay the wages of teachers monthly, subject, however, to the  
21 provisions of Section 24-21. The school month shall be the same  
22 as the calendar month but by resolution the school board may  
23 adopt for its use a month of 20 days, including holidays. The  
24 school term shall consist of at least the minimum number of  
25 pupil attendance days required by Section 10-19, any additional  
26 legal school holidays, days of teachers' institutes, or  
27 equivalent professional educational experiences, and one or two  
28 days at the beginning of the school term when used as a  
29 teachers' workshop.

30 The selection of teachers to fill new and vacant positions  
31 shall be made and based upon merit and ability to perform in  
32 that position without regard to seniority or length of service,  
33 and such decisions shall be made by either the principal or the  
34 superintendent in accordance with procedures adopted by the  
35 school board. Any provisions in a collective bargaining  
36 agreement that are contrary to this Section of this amendatory  
37 Act of the 96th General Assembly shall be null, void and  
38 considered contrary to law and public policy upon the effective  
39 date of this amendatory Act or upon the expiration of any  
40 collective bargaining agreement in effect on such date.

41 (Source: P.A. 80-249.)

1           **Section 25.** The School Code is amended by changing Section  
2 24-11 as follows:

3           (105 ILCS 5/24-11) (from Ch. 122, par. 24-11)

4           Sec. 24-11. Boards of Education—Boards of School Inspectors  
5 —Contractual continued service. As used in this and the  
6 succeeding Sections of this Article:

7           "Teacher" means any or all school district employees  
8 regularly required to be certified under laws relating to the  
9 certification of teachers.

10          "Board" means board of directors, board of education, or  
11 board of school inspectors, as the case may be.

12          "School term" means that portion of the school year, July 1  
13 to the following June 30, when school is in actual session.

14          This Section and Sections 24-12 through 24-16 of this  
15 Article apply only to school districts having less than 500,000  
16 inhabitants.

17          Any teacher who has been employed in any district as a  
18 full-time teacher for a probationary period of ~~2~~ 4 consecutive  
19 school terms shall enter upon contractual continued service  
20 unless given written notice of dismissal stating the specific  
21 reason therefor, by certified mail, return receipt requested by  
22 the employing board at least 45 days before the end of such  
23 period; ~~except that for a teacher who is first employed as a~~  
24 ~~full-time teacher by a school district on or after January 1,~~  
25 ~~1998 and who has not before that date already entered upon~~  
26 ~~contractual continued service in that district, the probationary~~  
27 ~~period shall be 4 consecutive school terms before the teacher~~  
28 ~~shall enter upon contractual continued service~~ after the  
29 implementation date of an evaluation system for teachers in a  
30 district as specified by Section 24A-2.5 of this Code, the  
31 probationary period shall be 4 school terms of "satisfactory",  
32 "proficient" or "excellent" service before the teacher shall  
33 enter upon contractual continued service. For the purpose of  
34 determining contractual continued service, the first  
35 probationary year shall be any full-time employment from a date  
36 before November 1 through the end of the school year. If,  
37 however, a teacher who was first employed prior to January 1,  
38 1998 has not had one school term of full-time teaching  
39 experience before the beginning of a probationary period of 2  
40 consecutive school terms, the employing board may at its option

1 extend the probationary period for one additional school term by  
2 giving the teacher written notice by certified mail, return  
3 receipt requested, at least 45 days before the end of the second  
4 school term of the period of 2 consecutive school terms referred  
5 to above. This notice must state the reasons for the one year  
6 extension and must outline the corrective actions that the  
7 teacher must take to satisfactorily complete probation. The  
8 changes made by this amendatory Act of 1998 are declaratory of  
9 existing law.

10 Any full-time teacher who is not completing the last year  
11 of the probationary period described in the preceding paragraph,  
12 or any teacher employed on a full-time basis not later than  
13 January 1 of the school term, shall receive written notice from  
14 the employing board at least 45 days before the end of any  
15 school term whether or not he will be re-employed for the  
16 following school term. If the board fails to give such notice,  
17 the employee shall be deemed reemployed, and not later than the  
18 close of the then current school term the board shall issue a  
19 regular contract to the employee as though the board had  
20 reemployed him in the usual manner.

21 Contractual continued service shall continue in effect the  
22 terms and provisions of the contract with the teacher during the  
23 last school term of the probationary period, subject to this  
24 Act, the right of the school board to return the teacher to  
25 probationary status and terminate contractual continued service  
26 pursuant to Section 24-12(b), and the lawful regulations of the  
27 employing board. This Section and succeeding Sections do not  
28 modify any existing power of the board except with respect to  
29 the procedure of the discharge of a teacher and reductions in  
30 salary as hereinafter provided. Contractual continued service  
31 status shall not restrict the power of the board to transfer a  
32 teacher to a position which the teacher is qualified to fill or  
33 to make such salary adjustments as it deems desirable, but  
34 unless reductions in salary are uniform or based upon some  
35 reasonable classification, any teacher whose salary is reduced  
36 shall be entitled to a notice and a hearing as hereinafter  
37 provided in the case of certain dismissals or removals.

38 The employment of any teacher in a program of a special  
39 education joint agreement established under Section 3-15.14, 10-  
40 22.31 or 10-22.31a shall be under this and succeeding Sections  
41 of this Article. For purposes of attaining and maintaining  
42 contractual continued service and computing length of continuing  
43 service as referred to in this Section and Section 24-12,

1 employment in a special educational joint program shall be  
2 deemed a continuation of all previous certificated employment of  
3 such teacher for such joint agreement whether the employer of  
4 the teacher was the joint agreement, the regional  
5 superintendent, or one of the participating districts in the  
6 joint agreement.

7 Any teacher employed after July 1, 1987 as a full-time  
8 teacher in a program of a special education joint agreement,  
9 whether the program is operated by the joint agreement or a  
10 member district on behalf of the joint agreement, for a  
11 probationary period of ~~two~~ 4 consecutive years shall enter upon  
12 contractual continued service in all of the programs conducted  
13 by such joint agreement which the teacher is legally qualified  
14 to hold; ~~except that for a teacher who is first employed on or~~  
15 ~~after January 1, 1998 in a program of a special education joint~~  
16 ~~agreement and who has not before that date already entered upon~~  
17 ~~contractual continued service in all of the programs conducted~~  
18 ~~by the joint agreement that the teacher is legally qualified to~~  
19 ~~hold, the probationary period shall be 4 consecutive years~~  
20 ~~before the teacher enters upon contractual continued service in~~  
21 ~~all of those programs~~ after the implementation date of an  
22 evaluation system for teachers in a joint program as specified  
23 by Section 24A-2.5 of this Code, the probationary period shall  
24 be 4 school terms of "satisfactory", "proficient" or "excellent"  
25 service before the teacher shall enter upon contractual  
26 continued service. ~~In the event of a reduction in the number of~~  
27 ~~programs or positions in the joint agreement, the teacher on~~  
28 ~~contractual continued service shall be eligible for employment~~  
29 ~~in the joint agreement programs for which the teacher is legally~~  
30 ~~qualified in order of greater length of continuing service in~~  
31 ~~the joint agreement unless an alternative method of determining~~  
32 ~~the sequence of dismissal is established in a collective~~  
33 ~~bargaining agreement. In the event of the dissolution of a joint~~  
34 ~~agreement, the teacher on contractual continued service who is~~  
35 ~~legally qualified shall be assigned to any comparable position~~  
36 ~~in a member district currently held by a teacher who has not~~  
37 ~~entered upon contractual continued service or held by a teacher~~  
38 ~~who has entered upon contractual continued service with shorter~~  
39 ~~length of contractual continued service.~~

40 The governing board of the joint agreement, or the  
41 administrative district, if so authorized by the articles of  
42 agreement of the joint agreement, rather than the board of  
43 education of a school district, may carry out employment and

1 termination actions including dismissals under this Section and  
2 Section 24-12.

3 For purposes of this and succeeding Sections of this  
4 Article, a program of a special educational joint agreement  
5 shall be defined as instructional, consultative, supervisory,  
6 administrative, diagnostic, and related services which are  
7 managed by the special educational joint agreement designed to  
8 service two or more districts which are members of the joint  
9 agreement.

10 Each joint agreement shall be required to post by February  
11 1, a list of all its employees in order of length of continuing  
12 service in the joint agreement, unless an alternative method of  
13 determining a sequence of dismissal is established in an  
14 applicable collective bargaining agreement.

15 The employment of any teacher in a special education  
16 program authorized by Section 14-1.01 through 14-14.01, or a  
17 joint educational program established under Section 10-22.31a,  
18 shall be under this and the succeeding Sections of this Article,  
19 and such employment shall be deemed a continuation of the  
20 previous employment of such teacher in any of the participating  
21 districts, regardless of the participation of other districts in  
22 the program. Any teacher employed as a full-time teacher in a  
23 special education program prior to September 23, 1987 in which 2  
24 or more school districts participate for a probationary period  
25 of 2 consecutive years shall enter upon contractual continued  
26 service in each of the participating districts, subject to this  
27 and the succeeding Sections of this Article, and in the event of  
28 the termination of the program shall be eligible for any vacant  
29 position in any of such districts for which such teacher is  
30 qualified.

31 (Source: P.A. 90-548, eff. 1-1-98; 90-653, eff. 7-29-98.)

32 **Section 30.** The School Code is amended by changing Section  
33 24-12 as follows:

34 (105 ILCS 5/24-12) (from Ch. 122, par. 24-12)

35 Sec. 24-12. Removal or dismissal of teachers in contractual  
36 continued service.

37 (a) Honorable dismissals. If a teacher in contractual  
38 continued service is removed or dismissed as a result of a

1 decision of ~~the~~ a school board to decrease the number of  
2 teachers employed by the board ~~or~~, a decision of a school board  
3 to discontinue some particular type of teaching service, or a  
4 reduction in the number of programs or positions in a special  
5 education joint agreement, written notice shall be mailed to the  
6 teacher and also given the teacher either by certified mail,  
7 return receipt requested or personal delivery with receipt at  
8 least 60 days before the end of the school term, together with a  
9 statement of honorable dismissal and the reason therefor, and in  
10 ~~all such cases the board shall first remove or dismiss all~~  
11 ~~teachers who have not entered upon contractual continued service~~  
12 ~~before removing or dismissing any teacher who has entered upon~~  
13 ~~contractual continued service and who is legally qualified to~~  
14 ~~hold a position currently held by a teacher who has not entered~~  
15 ~~upon contractual continued service. As between teachers who have~~  
16 ~~entered upon contractual continued service, the teacher or~~  
17 ~~teachers with the shorter length of continuing service with the~~  
18 ~~district shall be dismissed first unless an alternative method~~  
19 ~~of determining the sequence of dismissal is established in a~~  
20 ~~collective bargaining agreement or contract between the board~~  
21 ~~and a professional faculty members' organization and except that~~  
22 ~~this provision shall not impair the operation of any affirmative~~  
23 ~~action program in the district, regardless of whether it exists~~  
24 ~~by operation of law or is conducted on a voluntary basis by the~~  
25 ~~board. In all such cases, a school board or governing board of a~~  
26 joint agreement, as applicable, in consultation with the  
27 exclusive bargaining representative of its teachers if any,  
28 shall promulgate procedures governing the layoff or reduction in  
29 force of teachers, including, but not limited to, criteria for  
30 such layoffs or reductions in force of such teachers and the  
31 priority to be given to any particular criterion. Such criteria  
32 shall take into account factors including, but not be limited  
33 to, qualifications, certifications, experience, performance  
34 ratings or evaluations and any other factors relating to a  
35 teacher's job performance. Procedures must require the  
36 consideration of performance ratings or evaluations prior to  
37 experience. Any provision in a policy or collective bargaining  
38 agreement or any practice that is inconsistent with this  
39 provision of this amendatory Act of the 96th General Assembly  
40 shall be considered null, void and contrary to law and public  
41 policy upon the effective date of this amendatory Act or upon  
42 the expiration of any collective bargaining agreement in effect  
43 on such date. Any teacher dismissed as a result of such  
44 decrease or discontinuance shall be paid all earned compensation  
45 on or before the third business day following the last day of  
46 pupil attendance in the regular school term. If the board or

1 joint agreement has any vacancies for the following school term  
2 or within one calendar year from the beginning of the following  
3 school term, ~~the positions thereby becoming available shall be~~  
4 ~~tendered to the teachers so removed or dismissed who submit~~  
5 ~~applications for such positions shall be first considered for~~  
6 ~~such positions~~ so far as they are legally qualified to hold such  
7 positions; ~~provided, however, that if the number of honorable~~  
8 ~~dismissal notices based on economic necessity exceeds 15% of the~~  
9 ~~number of full time equivalent positions filled by certified~~  
10 ~~employees (excluding principals and administrative personnel)~~  
11 ~~during the preceding school year, then if the board has any~~  
12 ~~vacancies for the following school term or within 2 calendar~~  
13 ~~years from the beginning of the following school term, the~~  
14 ~~positions so becoming available shall be tendered to the~~  
15 ~~teachers who were so notified and removed or dismissed whenever~~  
16 ~~they are legally qualified to hold such positions. Each board~~  
17 ~~shall, in consultation with any exclusive employee~~  
18 ~~representatives, each year establish a list, categorized by~~  
19 ~~positions, showing the length of continuing service of each~~  
20 ~~teacher who is qualified to hold any such positions, unless an~~  
21 ~~alternative method of determining a sequence of dismissal is~~  
22 ~~established as provided for in this Section, in which case a~~  
23 ~~list shall be made in accordance with the alternative method.~~  
24 ~~Copies of the list shall be distributed to the exclusive~~  
25 ~~employee representative on or before February 1 of each year.~~  
26 Whenever the number of honorable dismissal notices based upon  
27 economic necessity exceeds 5, or 150% of the average number of  
28 teachers honorably dismissed in the preceding 3 years, whichever  
29 is more, then the school board or governing board of a joint  
30 agreement, as applicable, also shall hold a public hearing on  
31 the question of the dismissals. Following the hearing and board  
32 review the action to approve any such reduction shall require a  
33 majority vote of the board members.

34 (b) Dismissals on the basis of performance evaluation  
35 results. If dismissal of a teacher in contractual continued  
36 service is sought on the basis of performance evaluation results  
37 pursuant to Sections 24A-5(m) or 24A-5(n) of this Code, the  
38 school board must first provide written notice to the teacher  
39 within 90 days after the completion of the last performance  
40 evaluation used as a basis for such termination. The notice  
41 shall describe the basis for the termination and include a copy  
42 of each performance evaluation result used as a basis for the  
43 termination. Within 10 days of notice the teacher has an  
44 opportunity to appeal the dismissal to the superintendent or his  
45 or her designee, with the burden upon the teacher to demonstrate

1 that the performance evaluation result or results used as a  
2 basis for the termination are not valid or appropriate. The  
3 superintendent will convene a hearing in front of a panel that  
4 includes a designee from the superintendent, a designee  
5 appointed by its teachers or, where applicable, the exclusive  
6 bargaining representative of its teachers, and a designee  
7 appointed by the school board. The State Board of Education  
8 shall promulgate uniform standards and rules of procedures for  
9 such hearings. The teacher will have one day to provide  
10 evidence and testimony confined to the validity and  
11 appropriateness of the performance evaluation result or results  
12 used as a basis for the termination. The superintendent shall,  
13 within 30 days from the conclusion of the hearing, render to the  
14 school board the panel's findings and conclusions and, based on  
15 a majority vote of the panel, recommend to the school board one  
16 of the three following actions: the teacher be dismissed; the  
17 teacher be retained; or the teacher be returned to probationary  
18 status and contractual continued service status for that teacher  
19 be terminated. The school board shall review the panel's  
20 findings and conclusions and the recommendation of the  
21 superintendent and adopt, through written order, one of the  
22 three following actions: the teacher be dismissed; the teacher  
23 be retained; or the teacher be returned to probationary status  
24 and contractual continued service status for that teacher be  
25 terminated. If the school board dismisses the teacher over the  
26 superintendent's recommendation of retention, the school board  
27 shall make a conclusion, giving its reasons therefor, which must  
28 be supported by the panel's findings and conclusions, and such  
29 conclusion and reasons shall be included in its written order. A  
30 teacher returned to probationary status shall be provided full-  
31 time employment for at least one school term following the final  
32 decision of the school board, and the first school term  
33 following the teacher's return to probationary status shall be  
34 deemed the teacher's first probationary year. A decision by a  
35 school board to return a teacher to probationary status and  
36 terminate contractual continued service for that teacher shall  
37 be final and shall not be subject to judicial review. The  
38 provisions of the Administrative Review Law, and all amendments  
39 and modifications thereof and the rules adopted thereto, shall  
40 apply to and govern all proceedings instituted for the judicial  
41 review of a final decision by a school board to dismiss a  
42 teacher in contractual continued service pursuant to this  
43 subsection (b), except that the circuit court may only reverse  
44 the dismissal decision of the school board if it finds the  
45 decision to be arbitrary, capricious, an abuse of discretion, or  
46 otherwise not in accordance with law.

1        (c) Other dismissals. If a dismissal or removal is sought  
2 for any ~~other~~ reason or cause other than for the reasons and  
3 causes described in subsections (a) and (b) of this Section,  
4 including those under Section 10-22.4 other than on the basis of  
5 performance evaluation results, the board must first approve a  
6 motion containing specific charges by a majority vote of all its  
7 members. Written notice of such charges shall be served upon the  
8 teacher within 5 days of the adoption of the motion. Such notice  
9 shall contain a bill of particulars. No hearing upon the charges  
10 is required unless the teacher within 10 days after receiving  
11 notice requests in writing of the board that a hearing be  
12 scheduled, in which case the board shall schedule a hearing on  
13 those charges before a disinterested hearing officer on a date  
14 no less than 15 nor more than 30 days after the enactment of the  
15 motion. The secretary of the school board shall forward a copy  
16 of the notice to the State Board of Education. Within 5 days  
17 after receiving this notice of hearing, the State Board of  
18 Education shall provide a list of 5 prospective, impartial  
19 hearing officers. Each person on the list must be accredited by  
20 a national arbitration organization and have had a minimum of 5  
21 years of experience directly related to labor and employment  
22 relations matters between educational employers and educational  
23 employees or their exclusive bargaining representatives. No one  
24 on the list may be a resident of the school district. The Board  
25 and the teacher or their legal representatives within 3 days  
26 shall alternately strike one name from the list until only one  
27 name remains. Unless waived by the teacher, the teacher shall  
28 have the right to proceed first with the striking. Within 3 days  
29 of receipt of the first list provided by the State Board of  
30 Education, the board and the teacher or their legal  
31 representatives shall each have the right to reject all  
32 prospective hearing officers named on the first list and to  
33 require the State Board of Education to provide a second list of  
34 5 prospective, impartial hearing officers, none of whom were  
35 named on the first list. Within 5 days after receiving this  
36 request for a second list, the State Board of Education shall  
37 provide the second list of 5 prospective, impartial hearing  
38 officers. The procedure for selecting a hearing officer from the  
39 second list shall be the same as the procedure for the first  
40 list. In the alternative to selecting a hearing officer from the  
41 first or second list received from the State Board of Education,  
42 the board and the teacher or their legal representatives may  
43 mutually agree to select an impartial hearing officer who is not  
44 on a list received from the State Board of Education either by  
45 direct appointment by the parties or by using procedures for the  
46 appointment of an arbitrator established by the Federal

1 Mediation and Conciliation Service or the American Arbitration  
2 Association. The parties shall notify the State Board of  
3 Education of their intent to select a hearing officer using an  
4 alternative procedure within 3 days of receipt of a list of  
5 prospective hearing officers provided by the State Board of  
6 Education. Any person selected by the parties under this  
7 alternative procedure for the selection of a hearing officer  
8 shall not be a resident of the school district and shall have  
9 the same qualifications and authority as a hearing officer  
10 selected from a list provided by the State Board of Education.  
11 The State Board of Education shall promulgate uniform standards  
12 and rules of procedure for such hearings. As to prehearing  
13 discovery, such rules and regulations shall, at a minimum, allow  
14 for: (1) discovery of names and addresses of persons who may be  
15 called as expert witnesses at the hearing, the omission of any  
16 such name to result in a preclusion of the testimony of such  
17 witness in the absence of a showing of good cause and the  
18 express permission of the hearing officer; (2) bills of  
19 particulars; (3) written interrogatories; and (4) production of  
20 relevant documents. The per diem allowance for the hearing  
21 officer shall be determined and paid by the State Board of  
22 Education. The hearing officer shall hold a hearing and render a  
23 final decision. The teacher has the privilege of being present  
24 at the hearing with counsel and of cross-examining witnesses and  
25 may offer evidence and witnesses and present defenses to the  
26 charges. The hearing officer may issue subpoenas and subpoenas  
27 duces tecum requiring the attendance of witnesses and, at the  
28 request of the teacher against whom a charge is made or the  
29 board, shall issue such subpoenas, but the hearing officer may  
30 limit the number of witnesses to be subpoenaed in behalf of the  
31 teacher or the board to not more than 10. All testimony at the  
32 hearing shall be taken under oath administered by the hearing  
33 officer. The hearing officer shall cause a record of the  
34 proceedings to be kept and shall employ a competent reporter to  
35 take stenographic or stenotype notes of all the testimony. The  
36 costs of the reporter's attendance and services at the hearing  
37 shall be paid by the State Board of Education. Either party  
38 desiring a transcript of the hearing shall pay for the cost  
39 thereof. If in the opinion of the board the interests of the  
40 school require it, the board may suspend the teacher pending the  
41 hearing, but if acquitted the teacher shall not suffer the loss  
42 of any salary by reason of the suspension.

43 Before setting a hearing on charges stemming from causes  
44 that are considered remediable, a board must give the teacher  
45 reasonable warning in writing, stating specifically the causes

1 which, if not removed, may result in charges; however, no such  
2 written warning shall be required if the causes have been the  
3 subject of a remediation plan pursuant to Article 24A. The  
4 hearing officer shall consider and give weight to all of the  
5 teacher's evaluations written pursuant to Article 24A. The  
6 hearing officer shall, within 30 days from the conclusion of the  
7 hearing or closure of the record, whichever is later, make a  
8 decision as to whether or not the teacher shall be dismissed and  
9 shall give a copy of the decision to both the teacher and the  
10 school board. If the hearing officer fails to render a decision  
11 within 30 days, the State Board of Education shall communicate  
12 with the hearing officer to determine the date that the parties  
13 can reasonably expect to receive the decision. The State Board  
14 of Education shall provide copies of all such communications to  
15 the parties. In the event the hearing officer fails without good  
16 cause to make a decision within the 30 day period, the name of  
17 such hearing officer shall be struck for a period of not more  
18 than 24 months from the master list of hearing officers  
19 maintained by the State Board of Education. If a hearing officer  
20 fails without good cause to render a decision within 3 months  
21 after the hearing is concluded or the record is closed,  
22 whichever is later, the State Board of Education shall provide  
23 the parties with a new list of prospective, impartial hearing  
24 officers, with the same qualifications provided herein, one of  
25 whom shall be selected, as provided in this Section, to review  
26 the record and render a decision. The parties may mutually agree  
27 to select a hearing officer pursuant to the alternative  
28 procedure, as provided in this Section, to rehear the charges  
29 heard by the hearing officer who failed to render a decision. If  
30 the hearing officer fails without good cause to render a  
31 decision within 3 months after the hearing is concluded or the  
32 record is closed, whichever is later, the hearing officer shall  
33 be removed from the master list of hearing officers maintained  
34 by the State Board of Education. The board shall not lose  
35 jurisdiction to discharge a teacher if the hearing officer fails  
36 to render a decision within the time specified in this Section.  
37 The decision of the hearing officer is final unless reviewed as  
38 provided in Section 24-16 of this Act. In the event such review  
39 is instituted, any costs of preparing and filing the record of  
40 proceedings shall be paid by the board.

41 If a decision of the hearing officer is adjudicated upon  
42 review or appeal in favor of the teacher, then the trial court  
43 shall order reinstatement and shall determine the amount for  
44 which the board is liable including but not limited to loss of  
45 income and costs incurred therein.

1 Any teacher who is reinstated by any hearing or  
2 adjudication brought under this Section shall be assigned by the  
3 board to a position substantially similar to the one which that  
4 teacher held prior to that teacher's suspension or dismissal.

5 If, by reason of any change in the boundaries of school  
6 districts, or by reason of the creation of a new school  
7 district, the position held by any teacher having a contractual  
8 continued service status is transferred from one board to the  
9 control of a new or different board, the contractual continued  
10 service status of such teacher is not thereby lost, and such new  
11 or different board is subject to this Act with respect to such  
12 teacher in the same manner as if such teacher were its employee  
13 and had been its employee during the time such teacher was  
14 actually employed by the board from whose control the position  
15 was transferred.

16 (Source: P.A. 89-618, eff. 8-9-96; 90-224, eff. 7-25-97.)

17 **Section 35.** The School Code is amended by changing Section  
18 24-12.1 as follows:

19 (105 ILCS 5/24-12.1) (from Ch. 122, par. 24-12.1)

20 Sec. 24-12.1. Rights of recalled teachers. Any teacher on  
21 contractual continued service who is removed or dismissed as a  
22 result of a decision of the board to decrease the number of  
23 teachers employed by the board or to discontinue some particular  
24 type of teaching service and who ~~accepts the tender of a vacancy~~  
25 is rehired within one calendar year from the beginning of the  
26 following school term pursuant to Section 24-12 shall lose no  
27 rights which accrued while in contractual continued service.

28 (Source: P.A. 82-997.)

29 **Section 40.** The School Code is amended by changing Section  
30 24A-2.5 as follows:

31 (105 ILCS 5/24A-2.5)

32 Sec. 24A-2.5. Definitions. In this Article:

33 "Evaluator" means:

34 (1) an administrator qualified under Section 24A-3; or

1 (2) other individuals qualified under Section 24A-3,  
2 provided that, if such other individuals are in the bargaining  
3 unit of a district's teachers, the district and the exclusive  
4 bargaining representative of that unit must agree to those  
5 individuals evaluating other bargaining unit members.

6 Notwithstanding anything to the contrary in item (2) of  
7 this definition, a school district operating under Article 34 of  
8 this Code may require department chairs qualified under Section  
9 24A-3 to evaluate teachers in their department or departments,  
10 provided that the school district shall bargain with the  
11 bargaining representative of its teachers over the impact and  
12 effects on department chairs of such a requirement.

13 "Implementation date" means, unless otherwise specified and  
14 provided that the requirements set forth in subsection (d) of  
15 Section 24A-20 have been met:

16 (1) For school districts having 500,000 or more  
17 inhabitants, in at least 300 schools by September 1, 2012 and in  
18 the remaining schools by September 1, 2013.

19 (2) For school districts receiving funding from the State  
20 for the specific purpose of adopting a teacher evaluation system  
21 that meets the requirements of Public Act 96-861 (the  
22 Performance Evaluation Reform Act), September 1, 2013 if the  
23 district receives funding in State Fiscal Year 2012. The State  
24 Superintendent shall determine the amount of funding to be  
25 received by each district in consultation with the Performance  
26 Evaluation Advisory Council.

27 (~~23~~) For school districts having less than 500,000  
28 inhabitants and receiving a Race to the Top Grant or School  
29 Improvement Grant after the effective date of this amendatory  
30 Act of the 96th General Assembly, the date specified in those  
31 grants for implementing an evaluation system for teachers and  
32 principals incorporating student growth as a significant factor.

33 (~~34~~) For the lowest performing 20% percent of remaining  
34 school districts having less than 500,000 inhabitants (with the  
35 measure of and school year or years used for school district  
36 performance to be determined by the State Superintendent of  
37 Education at a time determined by the State Superintendent),  
38 September 1, 2015.

39 (~~45~~) For all other school districts having less than  
40 500,000 inhabitants, September 1, 2016.

1 "Race to the Top Grant" means a grant made by the Secretary  
2 of the U.S. Department of Education for the program first funded  
3 pursuant to paragraph (2) of Section 14006(a) of the American  
4 Recovery and Reinvestment Act of 2009.

5 "School Improvement Grant" means a grant made by the  
6 Secretary of the U.S. Department of Education pursuant to  
7 Section 1003(g) of the Elementary and Secondary Education Act.

8 (Source: P.A. 96-861, eff. 1-15-10.)

9 **Section 45.** The School Code is amended by changing Section  
10 24A-5 as follows:

11 (105 ILCS 5/24A-5) (from Ch. 122, par. 24A-5)

12 Sec. 24A-5. Content of evaluation plans. This Section does  
13 not apply to teachers assigned to schools identified in an  
14 agreement entered into between the board of a school district  
15 operating under Article 34 of this Code and the exclusive  
16 representative of the district's teachers in accordance with  
17 Section 34-85c of this Code. Each school district to which this  
18 Article applies shall establish a teacher evaluation plan which  
19 ensures that each teacher in contractual continued service is  
20 evaluated at least once in the course of every 2 school years.

21 By no later than September 1, 2012, each school district  
22 shall establish a teacher evaluation plan that ensures that:

23 (1) each teacher not in contractual continued service  
24 is evaluated at least once every school year; and

25 (2) each teacher in contractual continued service is  
26 evaluated at least once in the course of every 2 school  
27 years. However, any teacher in contractual continued  
28 service whose performance is rated as either "needs  
29 improvement" or "unsatisfactory" must be evaluated at least  
30 once in the school year following the receipt of such  
31 rating.

32 Notwithstanding anything to the contrary in this Section or  
33 any other Section of the School Code, a principal shall not be  
34 prohibited from evaluating any teachers within a school during  
35 his or her first year as principal of such school.

1 The evaluation plan shall comply with the requirements of  
2 this Section and of any rules adopted by the State Board of  
3 Education pursuant to this Section.

4 The plan shall include a description of each teacher's  
5 duties and responsibilities and of the standards to which that  
6 teacher is expected to conform, and shall include at least the  
7 following components:

8 (a) personal observation of the teacher in the  
9 classroom by the evaluator, unless the teacher has no  
10 classroom duties.

11 (b) consideration of the teacher's attendance,  
12 planning, instructional methods, classroom management,  
13 where relevant, and competency in the subject matter  
14 taught.

15 (c) by no later than the applicable implementation  
16 date, consideration of student growth as a significant  
17 factor in the rating of the teacher's performance.

18 (d) prior to September 1, 2012, rating of the  
19 performance of teachers in contractual continued service as  
20 either:

21 (i) "excellent", "satisfactory" or "unsatisfactory";  
22 or

23 (ii) "excellent", "proficient", "needs improvement" or  
24 "unsatisfactory".

25 (e) on and after September 1, 2012, rating of the  
26 performance of teachers in contractual continued service as  
27 "excellent", "proficient", "needs improvement" or  
28 "unsatisfactory".

29 (f) specification as to the teacher's strengths and  
30 weaknesses, with supporting reasons for the comments made.

31 (g) inclusion of a copy of the evaluation in the  
32 teacher's personnel file and provision of a copy to the  
33 teacher.

34 (h) within 30 school days after the completion of an  
35 evaluation rating a teacher in contractual continued  
36 service as "needs improvement", development by the

1 evaluator, in consultation with the teacher, and taking  
2 into account the teacher's on-going professional  
3 responsibilities including his or her regular teaching  
4 assignments, of a professional development plan directed to  
5 the areas that need improvement and any supports that the  
6 district will provide to address the areas identified as  
7 needing improvement.

8 (i) within 30 school days after completion of an  
9 evaluation rating a teacher in contractual continued  
10 service as "unsatisfactory", development and commencement  
11 by the district of a remediation plan designed to correct  
12 deficiencies cited, provided the deficiencies are deemed  
13 remediable. In all school districts the remediation plan  
14 for unsatisfactory, tenured teachers shall provide for 90  
15 school days of remediation within the classroom, unless an  
16 applicable collective bargaining agreement provides for a  
17 shorter duration. In all school districts evaluations  
18 issued pursuant to this Section shall be issued within 10  
19 days after the conclusion of the respective remediation  
20 plan. However, the school board or other governing  
21 authority of the district shall not lose jurisdiction to  
22 discharge a teacher in the event the evaluation is not  
23 issued within 10 days after the conclusion of the  
24 respective remediation plan.

25 (j) participation in the remediation plan by the  
26 teacher in contractual continued service rated  
27 "unsatisfactory", an evaluator and a consulting teacher  
28 selected by the evaluator of the teacher who was rated  
29 "unsatisfactory", which consulting teacher is an  
30 educational employee as defined in the Educational Labor  
31 Relations Act, has at least 5 years' teaching experience,  
32 and a reasonable familiarity with the assignment of the  
33 teacher being evaluated, and who received an "excellent"  
34 rating on his or her most recent evaluation. Where no  
35 teachers who meet these criteria are available within the  
36 district, the district shall request and the applicable  
37 regional office of education shall supply, to participate  
38 in the remediation process, an individual who meets these  
39 criteria.

40 In a district having a population of less than 500,000  
41 with an exclusive bargaining agent, the bargaining agent  
42 may, if it so chooses, supply a roster of qualified  
43 teachers from whom the consulting teacher is to be

1 selected. That roster shall, however, contain the names of  
2 at least 5 teachers, each of whom meets the criteria for  
3 consulting teacher with regard to the teacher being  
4 evaluated, or the names of all teachers so qualified if  
5 that number is less than 5. In the event of a dispute as to  
6 qualification, the State Board shall determine  
7 qualification.

8 (k) a mid-point and final evaluation by an evaluator  
9 during and at the end of the remediation period,  
10 immediately following receipt of a remediation plan  
11 provided for under subsections (i) and (j) of this Section.  
12 Each evaluation shall assess the teacher's performance  
13 during the time period since the prior evaluation; provided  
14 that the last evaluation shall also include an overall  
15 evaluation of the teacher's performance during the  
16 remediation period. A written copy of the evaluations and  
17 ratings, in which any deficiencies in performance and  
18 recommendations for correction are identified, shall be  
19 provided to and discussed with the teacher within 10 school  
20 days after the date of the evaluation, unless an applicable  
21 collective bargaining agreement provides to the contrary.  
22 These subsequent evaluations shall be conducted by an  
23 evaluator. The consulting teacher shall provide advice to  
24 the teacher rated "unsatisfactory" on how to improve  
25 teaching skills and to successfully complete the  
26 remediation plan. The consulting teacher shall participate  
27 in developing the remediation plan, but the final decision  
28 as to the evaluation shall be done solely by the evaluator,  
29 unless an applicable collective bargaining agreement  
30 provides to the contrary. Evaluations at the conclusion of  
31 the remediation process shall be separate and distinct from  
32 the required annual evaluations of teachers and shall not  
33 be subject to the guidelines and procedures relating to  
34 those annual evaluations. The evaluator may but is not  
35 required to use the forms provided for the annual  
36 evaluation of teachers in the district's evaluation plan.

37 (l) reinstatement to the evaluation schedule set forth  
38 in the district's evaluation plan for any teacher in  
39 contractual continued service who achieves a rating equal  
40 to or better than "satisfactory" or "proficient" in the  
41 school year following a rating of "needs improvement" or  
42 "unsatisfactory".

1 (m) dismissal in accordance with Section 24-12(b) or  
2 34-85(a) of the School Code of any teacher who fails to  
3 complete any applicable remediation plan with a rating  
4 equal to or better than a "satisfactory" or "proficient"  
5 rating. Districts and teachers subject to dismissal  
6 hearings are precluded from compelling the testimony of  
7 consulting teachers at such hearings under Section 24-12(b)  
8 or 34-85(a), either as to the rating process or for  
9 opinions of performances by teachers under remediation.

10 (n) After the implementation date of an evaluation  
11 system for teachers in a district as specified by Section  
12 24A-2.5, any teacher in contractual continued service who  
13 successfully completes a remediation plan following a  
14 rating of "unsatisfactory" and who receives a subsequent  
15 rating of "unsatisfactory" during the 5-year period  
16 following the initial rating of "unsatisfactory" in any  
17 district, may not be offered a subsequent remediation plan  
18 and, and if dismissal is sought, shall be subject to  
19 dismissal in accordance with Section 24-12(b) or 34-85(a)  
20 of the Code.

21 Nothing in this Section or Section 24A-4 shall be construed  
22 as preventing immediate dismissal of a teacher for deficiencies  
23 which are deemed irreparable or for actions which are injurious  
24 to or endanger the health or person of students in the classroom  
25 or school, or preventing the dismissal or non-renewal of  
26 teachers not in contractual continued service for any reason not  
27 prohibited by applicable employment, labor, and civil rights  
28 laws. Failure to strictly comply with the time requirements  
29 contained in Section 24A-5 shall not invalidate the results of  
30 the remediation plan.

31 (Source: P.A. 95-510, eff. 8-28-07; 96-861, eff. 1-15-10; 96-  
32 1423, eff. 8-3-10.)

33 **Section 50.** The School Code is amended by changing Section  
34 34-84 as follows:

35 (105 ILCS 5/34-84) (from Ch. 122, par. 34-84)

36 Sec. 34-84. Appointments and promotions of teachers.  
37 Appointments and promotions of teachers shall be made for merit  
38 only, and after satisfactory a probationary period of 4  
39 consecutive years of "satisfactory", "proficient" or "excellent"  
40 service for a probationary period of 3 years with respect to

1 ~~probationary employees employed as full-time teachers in the~~  
2 ~~public school system of the district before January 1, 1998 and~~  
3 ~~4 years with respect to probationary employees who are first~~  
4 ~~employed as full-time teachers in the public school system of~~  
5 ~~the district on or after January 1, 1998 (during which period~~  
6 ~~the board may dismiss or discharge any such probationary~~  
7 ~~employee upon the recommendation, accompanied by the written~~  
8 ~~reasons therefor, of the general superintendent of schools) and~~  
9 after which period appointments of teachers shall become  
10 permanent, subject to the right of the board to return the  
11 teacher to probationary status and terminate contractual  
12 continued service pursuant to Section 34-85(a) and removal for  
13 cause in the manner provided by Section 34-85.

14 As used in this Article, "teachers" means and includes all  
15 members of the teaching force excluding the general  
16 superintendent and principals.

17 There shall be no reduction in teachers because of a  
18 decrease in student membership or a change in subject  
19 requirements within the attendance center organization after the  
20 20th day following the first day of the school year, except  
21 that: (1) this provision shall not apply to desegregation  
22 positions, special education positions, or any other positions  
23 funded by State or federal categorical funds, and (2) at  
24 attendance centers maintaining any of grades 9 through 12, there  
25 may be a second reduction in teachers on the first day of the  
26 second semester of the regular school term because of a decrease  
27 in student membership or a change in subject requirements within  
28 the attendance center organization.

29 The school principal shall make the decision in selecting  
30 teachers to fill new and vacant positions consistent with  
31 Section 34-8.1.

32 (Source: P.A. 89-15, eff. 5-30-95; 90-548, eff. 1-1-98.)

33 **Section 55.** The School Code is amended by changing Section  
34 34-85 as follows:

35 (105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

36 Sec. 34-85. Removal for cause; Notice and hearing;  
37 Suspension.

1       (a) Dismissals on the basis of performance evaluation  
2 results. If dismissal of a teacher in contractual continued  
3 service is sought on the basis of performance evaluation results  
4 pursuant to Sections 24A-5(m) or 24A-5(n) of this Code, the  
5 board must first provide written notice to the teacher within 90  
6 days after the completion of the last performance evaluation  
7 used as a basis for such termination. The notice shall describe  
8 the basis for the termination and include a copy of each  
9 performance evaluation result used as a basis for the  
10 termination. Within 10 days of notice the teacher has an  
11 opportunity to appeal the dismissal to the general  
12 superintendent or his or her designee, with the burden upon the  
13 teacher to demonstrate that the performance evaluation result or  
14 results used as a basis for the termination are not valid or  
15 appropriate. The general superintendent will convene a hearing  
16 in front of a panel that includes a designee from the general  
17 superintendent, a designee appointed by the exclusive bargaining  
18 representative of its teachers, and a designee appointed by the  
19 board. The State Board of Education shall promulgate uniform  
20 standards and rules of procedures for such hearings. The  
21 teacher will have one day to provide evidence and testimony  
22 confined to the validity and appropriateness of the performance  
23 evaluation result or results used as a basis for the  
24 termination. The general superintendent shall, within 30 days  
25 from the conclusion of the hearing, render to the board the  
26 panel's findings and conclusions and, based on a majority vote  
27 of the panel, recommend to the board one of the three following  
28 actions: the teacher be dismissed; the teacher be retained; or  
29 the teacher be returned to probationary status and contractual  
30 continued service status for that teacher be terminated. The  
31 board shall review the panel's findings and conclusions and the  
32 recommendation of the general superintendent and adopt, through  
33 written order, one of the three following actions: the teacher  
34 be dismissed; the teacher be retained; or the teacher be  
35 returned to probationary status and contractual continued  
36 service status for that teacher be terminated. If the board  
37 dismisses the teacher over the superintendent's recommendation  
38 of retention, the board shall make a conclusion, giving its  
39 reasons therefor, which must be supported by the panel's  
40 findings and conclusions, and such conclusion and reasons shall  
41 be included in its written order. A teacher returned to  
42 probationary status shall be provided full-time employment for  
43 at least one school term following the final decision of the  
44 board, and the first school term following the teacher's return  
45 to probationary status shall be deemed the teacher's first  
46 probationary year. A decision by the board to return a teacher

1 to probationary status and terminate contractual continued  
2 service for that teacher shall be final and shall not be subject  
3 to judicial review. The provisions of the Administrative Review  
4 Law, and all amendments and modifications thereof and the rules  
5 adopted thereto, shall apply to and govern all proceedings  
6 instituted for the judicial review of a final decision by the  
7 board to dismiss a teacher in contractual continued service  
8 pursuant to this subsection (a), except that the circuit court  
9 may only reverse the dismissal decision of the board if it finds  
10 the decision to be arbitrary, capricious, an abuse of  
11 discretion, or otherwise not in accordance with law.

12 (b) Other dismissals and removals. This subsection (b)  
13 applies to dismissals and removals for cause, other than  
14 dismissals on the basis of performance evaluation results  
15 pursuant to subsection (a) of this Section. No teacher employed  
16 by the board of education shall (after serving the probationary  
17 period specified in Section 34-84) be removed except for cause.  
18 Teachers (who have completed the probationary period specified  
19 in Section 34-84 of this Code) shall be removed for cause in  
20 accordance with the procedures set forth in this ~~Section~~  
21 subsection or such other procedures established in an agreement  
22 entered into between the board and the exclusive representative  
23 of the district's teachers under Section 34-85c of this Code for  
24 teachers (who have completed the probationary period specified  
25 in Section 34-84 of this Code) assigned to schools identified in  
26 that agreement. No principal employed by the board of education  
27 shall be removed during the term of his or her performance  
28 contract except for cause, which may include but is not limited  
29 to the principal's repeated failure to implement the school  
30 improvement plan or to comply with the provisions of the Uniform  
31 Performance Contract, including additional criteria established  
32 by the Council for inclusion in the performance contract  
33 pursuant to Section 34-2.3.

34 The general superintendent must first approve written  
35 charges and specifications against the teacher or principal. A  
36 local school council may direct the general superintendent to  
37 approve written charges against its principal on behalf of the  
38 Council upon the vote of 7 members of the Council. The general  
39 superintendent must approve those charges within 45 days or  
40 provide a written reason for not approving those charges. A  
41 written notice of those charges shall be served upon the teacher  
42 or principal within 10 days of the approval of the charges. If  
43 the teacher or principal cannot be found upon diligent inquiry,  
44 such charges may be served upon him by mailing a copy thereof in

1 a sealed envelope by prepaid certified mail, return receipt  
2 requested, to the teacher's or principal's last known address. A  
3 return receipt showing delivery to such address within 20 days  
4 after the date of the approval of the charges shall constitute  
5 proof of service.

6 No hearing upon the charges is required unless the teacher  
7 or principal within 10 days after receiving notice requests in  
8 writing of the general superintendent that a hearing be  
9 scheduled, in which case the general superintendent shall  
10 schedule a hearing on those charges before a disinterested  
11 hearing officer on a date no less than 15 nor more than 30 days  
12 after the approval of the charges. The general superintendent  
13 shall forward a copy of the notice to the State Board of  
14 Education within 5 days from the date of the approval of the  
15 charges. Within 10 days after receiving the notice of hearing,  
16 the State Board of Education shall provide the teacher or  
17 principal and the general superintendent with a list of 5  
18 prospective, impartial hearing officers. Each person on the list  
19 must be accredited by a national arbitration organization and  
20 have had a minimum of 5 years of experience as an arbitrator in  
21 cases involving labor and employment relations matters between  
22 educational employers and educational employees or their  
23 exclusive bargaining representatives.

24 The general superintendent and the teacher or principal or  
25 their legal representatives within 3 days from receipt of the  
26 list shall alternately strike one name from the list until only  
27 one name remains. Unless waived by the teacher, the teacher or  
28 principal shall have the right to proceed first with the  
29 striking. Within 3 days of receipt of the first list provided by  
30 the State Board of Education, the general superintendent and the  
31 teacher or principal or their legal representatives shall each  
32 have the right to reject all prospective hearing officers named  
33 on the first list and to require the State Board of Education to  
34 provide a second list of 5 prospective, impartial hearing  
35 officers, none of whom were named on the first list. Within 5  
36 days after receiving this request for a second list, the State  
37 Board of Education shall provide the second list of 5  
38 prospective, impartial hearing officers. The procedure for  
39 selecting a hearing officer from the second list shall be the  
40 same as the procedure for the first list. Each party shall  
41 promptly serve written notice on the other of any name stricken  
42 from the list. If the teacher or principal fails to do so, the  
43 general superintendent may select the hearing officer from any  
44 name remaining on the list. The teacher or principal may waive

1 the hearing at any time prior to the appointment of the hearing  
2 officer. Notice of the selection of the hearing officer shall be  
3 given to the State Board of Education. The hearing officer shall  
4 be notified of his selection by the State Board of Education. A  
5 signed acceptance shall be filed with the State Board of  
6 Education within 5 days of receipt of notice of the selection.  
7 The State Board of Education shall notify the teacher or  
8 principal and the board of its appointment of the hearing  
9 officer. In the alternative to selecting a hearing officer from  
10 the first or second list received from the State Board of  
11 Education, the general superintendent and the teacher or  
12 principal or their legal representatives may mutually agree to  
13 select an impartial hearing officer who is not on a list  
14 received from the State Board of Education, either by direct  
15 appointment by the parties or by using procedures for the  
16 appointment of an arbitrator established by the Federal  
17 Mediation and Conciliation Service or the American Arbitration  
18 Association. The parties shall notify the State Board of  
19 Education of their intent to select a hearing officer using an  
20 alternative procedure within 3 days of receipt of a list of  
21 prospective hearing officers provided by the State Board of  
22 Education. Any person selected by the parties under this  
23 alternative procedure for the selection of a hearing officer  
24 shall have the same qualifications and authority as a hearing  
25 officer selected from a list provided by the State Board of  
26 Education. The teacher or principal may waive the hearing at any  
27 time prior to the appointment of the hearing officer. The State  
28 Board of Education shall promulgate uniform standards and rules  
29 of procedure for such hearings, including reasonable rules of  
30 discovery.

31 The per diem allowance for the hearing officer shall be  
32 paid by the State Board of Education. The hearing officer shall  
33 hold a hearing and render findings of fact and a recommendation  
34 to the general superintendent. The teacher or principal has the  
35 privilege of being present at the hearing with counsel and of  
36 cross-examining witnesses and may offer evidence and witnesses  
37 and present defenses to the charges. The hearing officer may  
38 issue subpoenas requiring the attendance of witnesses and, at  
39 the request of the teacher or principal against whom a charge is  
40 made or the general superintendent, shall issue such subpoenas,  
41 but the hearing officer may limit the number of witnesses to be  
42 subpoenaed in behalf of the teacher or principal or the general  
43 superintendent to not more than 10 each. All testimony at the  
44 hearing shall be taken under oath administered by the hearing  
45 officer. The hearing officer shall cause a record of the

1 proceedings to be kept and shall employ a competent reporter to  
2 take stenographic or stenotype notes of all the testimony. The  
3 costs of the reporter's attendance and services at the hearing  
4 shall be paid by the State Board of Education. Either party  
5 desiring a transcript of the hearing shall pay for the cost  
6 thereof.

7 Pending the hearing of the charges, the person charged may  
8 be suspended in accordance with rules prescribed by the board  
9 but such person, if acquitted, shall not suffer any loss of  
10 salary by reason of the suspension.

11 Before service of notice of charges on account of causes  
12 that may be deemed to be remediable, the teacher or principal  
13 shall be given reasonable warning in writing, stating  
14 specifically the causes which, if not removed, may result in  
15 charges; however, no such written warning shall be required if  
16 the causes have been the subject of a remediation plan pursuant  
17 to Article 24A or where the board of education and the exclusive  
18 representative of the district's teachers have entered into an  
19 agreement pursuant to Section 34-85c of this Code, pursuant to  
20 an alternative system of remediation. No written warning shall  
21 be required for conduct on the part of a teacher or principal  
22 which is cruel, immoral, negligent, or criminal or which in any  
23 way causes psychological or physical harm or injury to a student  
24 as that conduct is deemed to be irreparable. No written warning  
25 shall be required for a material breach of the uniform principal  
26 performance contract as that conduct is deemed to be  
27 irreparable; provided however, that not less than 30 days  
28 before the vote of the local school council to seek the  
29 dismissal of a principal for a material breach of a uniform  
30 principal performance contract, the local school council shall  
31 specify the nature of the alleged breach in writing and provide  
32 a copy of it to the principal.

33 The hearing officer shall consider and give weight to all  
34 of the teacher's evaluations written pursuant to Article 24A.

35 The hearing officer shall within 45 days from the  
36 conclusion of the hearing report to the general superintendent  
37 findings of fact and a recommendation as to whether or not the  
38 teacher or principal shall be dismissed and shall give a copy of  
39 the report to both the teacher or principal and the general  
40 superintendent. The board, within 45 days of receipt of the  
41 hearing officer's findings of fact and recommendation, shall  
42 make a decision as to whether the teacher or principal shall be  
43 dismissed from its employ. The failure of the board to strictly

1 adhere to the timeliness contained herein shall not render it  
2 without jurisdiction to dismiss the teacher or principal. If the  
3 hearing officer fails to render a decision within 45 days, the  
4 State Board of Education shall communicate with the hearing  
5 officer to determine the date that the parties can reasonably  
6 expect to receive the decision. The State Board of Education  
7 shall provide copies of all such communications to the parties.  
8 In the event the hearing officer fails without good cause to  
9 make a decision within the 45 day period, the name of such  
10 hearing officer shall be struck for a period not less than 24  
11 months from the master list of hearing officers maintained by  
12 the State Board of Education. The board shall not lose  
13 jurisdiction to discharge the teacher or principal if the  
14 hearing officer fails to render a decision within the time  
15 specified in this Section. If a hearing officer fails to render  
16 a decision within 3 months after the hearing is declared closed,  
17 the State Board of Education shall provide the parties with a  
18 new list of prospective, impartial hearing officers, with the  
19 same qualifications provided herein, one of whom shall be  
20 selected, as provided in this Section, to rehear the charges  
21 heard by the hearing officer who failed to render a decision.  
22 The parties may also select a hearing officer pursuant to the  
23 alternative procedure, as provided in this Section, to rehear  
24 the charges heard by the hearing officer who failed to render a  
25 decision. A violation of the professional standards set forth in  
26 "The Code of Professional Responsibility for Arbitrators of  
27 Labor-Management Disputes", of the National Academy of  
28 Arbitrators, the American Arbitration Association, and the  
29 Federal Mediation and Conciliation Service, or the failure of a  
30 hearing officer to render a decision within 3 months after the  
31 hearing is declared closed shall be grounds for removal of the  
32 hearing officer from the master list of hearing officers  
33 maintained by the State Board of Education. The decision of the  
34 board is final unless reviewed as provided in Section 34-85b of  
35 this Act.

36 In the event judicial review is instituted, any costs of  
37 preparing and filing the record of proceedings shall be paid by  
38 the party instituting the review. If a decision of the board is  
39 adjudicated upon review or appeal in favor of the teacher or  
40 principal, then the trial court shall order reinstatement and  
41 shall determine the amount for which the board is liable  
42 including but not limited to loss of income and costs incurred  
43 therein. Nothing in this Section affects the validity of removal  
44 for cause hearings commenced prior to the effective date of this  
45 amendatory Act of 1978.

1 (Source: P.A. 95-510, eff. 8-28-07.)

2 **Section 60.** The Educational Labor Relations Act is amended  
3 by changing Section 4.5 as follows:

4 (115 ILCS 5/4.5)

5 Sec. 4.5. Subjects of collective bargaining.

6 (a) Notwithstanding the existence of any other provision  
7 in this Act or other law, collective bargaining between an  
8 educational employer whose territorial boundaries are  
9 coterminous with those of a city having a population in excess  
10 of 500,000 and an exclusive representative of its employees ~~may~~  
11 shall not include any of the following subjects:

12 (1) ~~(Blank).~~ Decisions to implement performance-  
13 based, assignment-based and other differentiated or  
14 alternative teacher compensation plans as a supplement to  
15 the base salaries provided by a collective bargaining  
16 agreement, and the impact of these decisions on individual  
17 employees or the bargaining unit.

18 (2) Decisions to contract with a third party for one  
19 or more services otherwise performed by employees in a  
20 bargaining unit, and the procedures for obtaining such  
21 contract or the identity of the third party, and the impact  
22 of these decisions on individual employees or the  
23 bargaining unit.

24 (3) Decisions to layoff or reduce in force employees,  
25 including, but not limited to, layoffs or reductions in  
26 force resulting from a lack of work or funds, the closing  
27 of an attendance center or program, a decline in student  
28 enrollment, a change in the subject requirements within an  
29 attendance center or program and a change in the  
30 educational focus of an attendance center, and the impact  
31 of these decisions on individual employees or the  
32 bargaining unit.

33 (4) Decisions to determine class size, class staffing  
34 and assignment, class schedules, academic calendar, length  
35 of the school day or work day, hours and places of  
36 instruction, or pupil assessment policies, and the impact  
37 of these decisions on individual employees or the  
38 bargaining unit.

1 (5) Decisions concerning use and staffing of  
2 experimental or pilot programs and decisions concerning use  
3 of technology to deliver educational programs and services  
4 and staffing to provide the technology, and the impact of  
5 these decisions on individual employees or the bargaining  
6 unit.

7 (b) The subject or matters described in subsection (a) are  
8 ~~permissive~~ prohibited subjects of bargaining between an  
9 educational employer and an exclusive representative of its  
10 employees and, for the purpose of this Act, are within the sole  
11 ~~discretion~~ authority of the educational employer to decide ~~to~~  
12 ~~bargain, provided that the educational employer is required to~~  
13 ~~bargain over the impact of a decision concerning such subject or~~  
14 ~~matter on the bargaining unit upon request by the exclusive~~  
15 ~~representative. During this bargaining, the educational employer~~  
16 ~~shall not be precluded from implementing its decision. If, after~~  
17 ~~a reasonable period of bargaining, a dispute or impasse exists~~  
18 ~~between the educational employer and the exclusive~~  
19 ~~representative, the dispute or impasse shall be resolved~~  
20 ~~exclusively as set forth in subsection (b) of Section 12 of this~~  
21 ~~Act in lieu of a strike under Section 13 of this Act.~~

22 (c) ~~A provision in a collective bargaining agreement that~~  
23 ~~was rendered null and void because it involved a prohibited~~  
24 ~~subject of collective bargaining under this subsection (c) as~~  
25 ~~this subsection (c) existed before the effective date of this~~  
26 ~~amendatory Act of the 93rd General Assembly remains null and~~  
27 ~~void and shall not otherwise be reinstated in any successor~~  
28 ~~agreement unless the educational employer and exclusive~~  
29 ~~representative otherwise agree to include an agreement reached~~  
30 ~~on a subject or matter described in subsection (a) of this~~  
31 ~~Section as subsection (a) existed before this amendatory Act of~~  
32 ~~the 93rd General Assembly. Any provision in a policy or~~  
33 collective bargaining agreement or any practice that is  
34 inconsistent with this Section of this amendatory Act of the  
35 96th General Assembly shall be considered null, void and  
36 contrary to law and public policy upon the effective date of  
37 this amendatory Act or upon the expiration of any collective  
38 bargaining agreement in effect on such date.

39 (Source: P.A. 93-3, eff. 4-16-03.)

40 **Section 65.** The Educational Labor Relations Act is amended  
41 by changing Section 12 as follows:

1 (115 ILCS 5/12) (from Ch. 48, par. 1712)

2 Sec. 12. Impasse procedures.

3 (a) Negotiations period. If the parties engaged in  
4 collective bargaining have not reached an agreement by 90 days  
5 before the scheduled start of the forthcoming school year, the  
6 parties shall notify the Illinois Educational Labor Relations  
7 Board concerning the status of negotiations.

8 Upon demand of either party, collective bargaining between  
9 the employer and an exclusive bargaining representative must  
10 begin within 60 days of the date of certification of the  
11 representative by the Board, or in the case of an existing  
12 exclusive bargaining representative, within 60 days of the  
13 receipt by a party of a demand to bargain issued by the other  
14 party. Once commenced, collective bargaining must continue for  
15 at least a 60 day period, unless a contract is entered into.

16 (b) Mediation. ~~Except as otherwise provided in subsection~~  
17 ~~(b) of this Section, if~~ If after a reasonable period of  
18 negotiation and within 45 days of the scheduled start of the  
19 forth-coming school year, the parties engaged in collective  
20 bargaining have reached an impasse, either party may petition  
21 the Board to initiate mediation. Alternatively, the Board on  
22 its own motion may initiate mediation during this period.  
23 However, mediation shall be initiated by the Board at any time  
24 when jointly requested by the parties and the services of the  
25 mediators shall continuously be made available to the employer  
26 and to the exclusive bargaining representative for purposes of  
27 arbitration of grievances and mediation or arbitration of  
28 contract disputes. ~~If requested by the parties, the mediator~~  
29 ~~may perform fact-finding and in so doing conduct hearings and~~  
30 ~~make written findings and recommendations for resolution of the~~  
31 ~~dispute.~~ Such mediation shall be provided by the Board and  
32 shall be held before qualified impartial individuals. Nothing  
33 prohibits the use of other individuals or organizations such as  
34 the Federal Mediation and Conciliation Service or the American  
35 Arbitration Association selected by both the exclusive  
36 bargaining representative and the employer.

37 If the parties engaged in collective bargaining fail to  
38 reach an agreement within 15 days of the scheduled start of the  
39 forthcoming school year and have not requested mediation, the  
40 Illinois Educational Labor Relations Board shall invoke  
41 mediation.

1 ~~Whenever mediation is initiated or invoked under this~~  
2 ~~subsection (a), the parties may stipulate to defer selection of~~  
3 ~~a mediator in accordance with rules adopted by the Board.~~

4 (c) Fact-finding.

5 (1) For collective bargaining agreements that expire or  
6 are terminated on or after the effective date of this  
7 amendatory Act of the 96th General Assembly, if the  
8 parties fail to reach an agreement after a reasonable  
9 period of mediation, the Board shall order that the  
10 dispute be submitted to a three-member fact-finding  
11 panel. Within three days following the Board's order,  
12 each party shall appoint one member of the fact-  
13 finding panel. Within three days following these  
14 appointments, the parties shall select a qualified  
15 impartial member to serve as the chairperson of the  
16 fact-finding panel. If the parties are unable to  
17 agree upon a qualified impartial member, the parties  
18 shall request a panel of qualified impartial members  
19 from either the Federal Mediation and Conciliation  
20 Service or the American Arbitration Association and  
21 shall select the chairperson of the fact-finding panel  
22 from such panel in accordance with the procedures  
23 established by the organization providing the panel.  
24 The chairperson of the fact-finding panel shall not be  
25 the same individual who was appointed as a mediator.

26 (2) The fact-finding panel shall have the following duties  
27 and powers:

28 (A) To require the parties to submit a statement of  
29 disputed issues and their position regarding each  
30 issue either jointly or separately;

31 (B) To identify disputed issues that are economic in  
32 nature;

33 (C) To meet with the parties either separately or  
34 jointly;

35 (D) To conduct hearings and regulate the time, place,  
36 course and manner of such hearings;

37 (E) To request the Board to issue subpoenas requiring  
38 the attendance and testimony of witnesses or the  
39 production of evidence;

- 1           (F) To administer oaths and affirmations;
- 2           (G) To examine witnesses and documents;
- 3           (H) To create a full and complete written record of  
4           the hearings;
- 5           (I) To attempt mediation;
- 6           (J) To require the parties to submit final offers;  
7           and
- 8           (K) To employ any other measures deemed appropriate  
9           to resolve the impasse.
- 10        (3) If the dispute is not settled within 90 days of the  
11        appointment of the fact-finding panel, and after the  
12        fact-finding panel has conducted a hearing on the  
13        disputed issues, the fact-finding panel shall issue a  
14        private report to the parties that contains advisory  
15        findings of fact and recommended terms of settlement  
16        for all disputed issues and that sets forth a  
17        rationale for each recommendation. The fact-finding  
18        panel, acting by a majority of its members, shall base  
19        its findings and recommendations upon the following  
20        criteria as applicable:
- 21           (A) The lawful authority of the employer;
- 22           (B) The federal and state statutes or local  
23           ordinances applicable to the employer;
- 24           (C) Prior collective bargaining agreements and the  
25           bargaining history between the parties;
- 26           (D) Stipulations of the parties;
- 27           (E) The interests and welfare of the public and of  
28           the students and families served by the employer;
- 29           (F) The ability of the employer to finance and  
30           administer the proposals at issue, provided that  
31           such ability is not predicated on the premise  
32           that the employer will develop additional sources  
33           of revenue;

- 1           (G) The impact of any economic adjustments on the  
2           employer's ability to pursue its educational  
3           mission;
- 4           (H) The present and future general economic  
5           conditions in the locality and State;
- 6           (I) The average consumer prices for goods and  
7           services, which is commonly known as the cost of  
8           living;
- 9           (J) The overall compensation presently received by  
10           the employees involved in the dispute, including  
11           direct wage compensation; vacations, holidays and  
12           other excused time; insurance and pensions;  
13           medical and hospitalization benefits; the  
14           continuity and stability of employment and all  
15           other benefits received;
- 16           (K) Changes in any of the above circumstances during  
17           the fact-finding procedures; and
- 18           (L) Such other factors, not confined to the  
19           foregoing, that are normally or traditionally  
20           considered in the determination of wages, hours  
21           and conditions of employment through collective  
22           bargaining, mediation, fact-finding, arbitration  
23           or other impasse resolution procedures in public  
24           employment.
- 25        (4) The fact-finding panel's recommended terms of  
26        settlement shall be deemed agreed upon by the parties  
27        as the final resolution of the disputed issues and  
28        incorporated into the collective bargaining agreement  
29        executed by the parties, unless either party tenders  
30        to the other party and the chairperson of the fact-  
31        finding panel a notice of rejection of the recommended  
32        terms of settlement, with a rationale for the  
33        rejection, within ten days of the date of issuance of  
34        the fact-finding panel's report. If either party  
35        submits a notice of rejection, the chairperson of the  
36        fact-finding panel shall publish the fact-finding  
37        panel's report for public information by delivering a  
38        copy to all newspapers of general circulation in the  
39        community with simultaneous written notice to the  
40        parties.

1       (5) After the publication of the fact-finding panel's  
2       report, the fact-finding panel's recommended terms of  
3       settlement shall be deemed agreed upon by the parties  
4       as the final resolution of the disputed issues and  
5       incorporated into the collective bargaining agreement  
6       executed by the parties, unless either party tenders  
7       to the other party and the chairperson of the fact-  
8       finding panel a notice of rejection of the recommended  
9       terms of settlement, with a rationale for the  
10       rejection, within five days of the date on which the  
11       chairperson of the fact-finding panel delivers for  
12       publication the fact-finding panel's report. If  
13       either party submits a notice of rejection, the  
14       chairperson of the fact-finding panel shall publish  
15       such party's notice of rejection and the rationale for  
16       each rejection for public information by delivering a  
17       copy to all newspapers of general circulation in the  
18       community.

19       (6) If the dispute is not settled through fact-finding,  
20       within ten days of the date on which the chairperson  
21       of the fact-finding panel delivers for publication the  
22       fact-finding panel's report, the parties shall  
23       exchange final offers on each disputed issue.

24       (7) After the expiration of the ten-day period defined in  
25       paragraph (6), and upon the affirmative vote of two-  
26       thirds of its members, the governing body of the  
27       employer shall resolve each disputed issue by adopting  
28       one of the final offers submitted pursuant to  
29       paragraph (6) or the fact-finding panel's recommended  
30       terms of settlement for such disputed issue. The  
31       terms of settlement adopted by the governing body of  
32       the employer shall be incorporated into the collective  
33       bargaining agreement executed by the parties.

34       (8) If the governing body of the employer fails to adopt a  
35       resolution for each disputed issue within forty days  
36       of the date on which the chairperson of the fact-  
37       finding panel delivers for publication the fact-  
38       finding panel's report, the exclusive bargaining  
39       representative shall have the right to engage in a  
40       strike in accordance with Section 13 of this Act.

41       (b) Exception for Section 4.5 subjects of collective  
42       bargaining. If, after a period of bargaining of at least 60  
43       days, a dispute or impasse exists between an employer whose

1 territorial boundaries are coterminous with those of a city  
2 having a population in excess of 500,000 and the exclusive  
3 bargaining representative over a subject or matter set forth in  
4 Section 4.5 of this Act, the parties shall submit the dispute or  
5 impasse to the dispute resolution procedure agreed to between  
6 the parties. The procedure shall provide for mediation of  
7 disputes by a rotating mediation panel and may, at the request  
8 of either party, include the issuance of advisory findings of  
9 fact and recommendations. A dispute or impasse over a Section  
10 4.5 subject shall not be resolved through the impasse resolution  
11 procedure set forth in this Act, and the mediator and fact-  
12 finding panel has no jurisdiction over any Section 4.5 subject.  
13 The changes made to this Section by this amendatory Act of the  
14 96th General Assembly are declarative of existing law.

15 (ee) Costs. The costs of fact finding and mediation shall  
16 be shared equally between the employer and the exclusive  
17 bargaining agent, provided that, for purposes of mediation under  
18 this Act, if either party requests the use of mediation services  
19 from the Federal Mediation and Conciliation Service, the other  
20 party shall either join in such request or bear the additional  
21 cost of mediation services from another source. The costs and  
22 expenses of the mediator and the chairperson of the fact-finding  
23 panel shall be shared equally between the parties. All other  
24 costs and expenses of complying with this Section shall be borne  
25 by the party incurring them.

26 (f) Refusal to participate in mediation or fact-finding  
27 when required. If the representatives of either the employer or  
28 exclusive bargaining representative refuse to participate in the  
29 mediation or fact-finding procedures when required by this  
30 Section, such refusal shall be deemed a refusal to bargain in  
31 good faith. In the absence of an unfair labor practice charge  
32 filed by an aggrieved party, the Board on its own motion may  
33 issue an unfair labor practice complaint based on such refusal  
34 and conduct hearings and issue orders as provided for in Section  
35 15 of this Act.

36 (eg) Alternate impasse procedures. Nothing in this Act  
37 prevents an employer and an exclusive bargaining representative  
38 from mutually submitting to final and binding impartial  
39 arbitration unresolved issues concerning the terms of a new  
40 collective bargaining agreement.

41 (Source: P.A. 93-3, eff. 4-16-03.)

1           **Section 70.** The Educational Labor Relations Act is amended  
2 by changing Section 13 as follows:

3           (115 ILCS 5/13) (from Ch. 48, par. 1713)

4           Sec. 13. Strikes.

5           (a) Notwithstanding the existence of any other provision  
6 in this Act or other law, educational employees employed in  
7 ~~school districts organized under Article 34 of the School Code~~  
8 shall not engage in a strike at any time ~~during the 18 month~~  
9 ~~period that commences on the effective date of this amendatory~~  
10 ~~Act of 1995~~ except as permitted under subsection (b). An  
11 educational employee ~~employed in a school district organized~~  
12 ~~under Article 34 of the School Code~~ who participates in a strike  
13 in violation of this Section is subject to discipline by the  
14 employer. In addition, no educational employer ~~organized under~~  
15 ~~Article 34 of the School Code~~ may pay or cause to be paid to an  
16 educational employee who participates in a strike in violation  
17 of this ~~subsection~~ Section any wages or other compensation for  
18 any period during which an educational employee participates in  
19 the strike, except for wages or compensation earned before  
20 participation in the strike. Notwithstanding the existence of  
21 any other provision in this Act or other law, during the 18-  
22 month period that strikes are prohibited under this subsection  
23 nothing in this subsection Section shall be construed to require  
24 an educational employer to submit to a binding dispute  
25 resolution process. If any strike occurs in violation of this  
26 Section, the employer may initiate in the circuit court of the  
27 county in which such strike occurs an action for an injunction  
28 and other relief, and the circuit court shall impose at least  
29 one or more of the following penalties on the exclusive  
30 bargaining representative in addition to ordering other  
31 appropriate relief:

32           (1) Revoke the designation of the exclusive bargaining  
33 representative as the exclusive bargaining  
34 representative of the employees involved in the  
35 dispute and declare the exclusive bargaining  
36 representative to be ineligible for such designation  
37 for a period of two years; or

38           (2) Prohibit the employer from deducting dues on behalf of  
39 the exclusive bargaining representative for a period  
40 of two years; or

1        (3) Void the collective bargaining agreement and permit  
2        the employer to set initial terms and conditions of  
3        employment for bargaining unit members; or

4        (4) Impose fines on the exclusive bargaining  
5        representative and/or its officers.

6        (b) Notwithstanding the existence of any other provision  
7 in this Act or any other law, educational employees ~~other than~~  
8 ~~those employed in a school district organized under Article 34~~  
9 ~~of the School Code and, after the expiration of the 18 month~~  
10 ~~period that commences on the effective date of this amendatory~~  
11 ~~Act of 1995, educational employees in a school district~~  
12 ~~organized under Article 34 of the School Code shall not engage~~  
13 in a strike except under the following conditions:

14        (1) they are represented by an exclusive bargaining  
15        representative;

16        (2) ~~mediation has been used without success~~ the parties  
17        have in good faith fully and completely engaged in  
18        mediation and fact-finding as required by Section  
19        12(b) and (c) of this Act;

20        (3) the governing body of the employer has failed to adopt  
21        a resolution for each disputed issue within forty days  
22        of the date on which the chairperson of the fact-  
23        finding panel delivers for publication the fact-  
24        finding panel's report as set forth in Section  
25        12(c) (8) of this Act;

26        (34) at least 10 days have elapsed after a notice of intent  
27 to strike has been given by the exclusive bargaining  
28 representative to the educational employer, the  
29 regional superintendent and the Illinois Educational  
30 Labor Relations Board;

31        (45) the collective bargaining agreement between the  
32 educational employer and educational employees, if  
33 any, has expired or has been terminated; and

34        (56) the employer and the exclusive bargaining  
35 representative have not mutually submitted the  
36 unresolved issues to arbitration.

37        If, however, in the opinion of an employer the strike is or  
38 has become a clear and present danger to the health, ~~or~~ safety

1 or welfare of the public, the employer may initiate in the  
2 circuit court of the county in which such danger exists an  
3 action for relief which may include, but is not limited to,  
4 injunction. The court may grant appropriate relief upon the  
5 finding that such clear and present danger exists. An unfair  
6 practice or other evidence of lack of clean hands by the  
7 educational employer is a defense to such action. Except as  
8 provided for in this paragraph, the jurisdiction of the court  
9 under this Section is limited by the Labor Dispute Act.

10 (Source: P.A. 89-15, eff. 5-30-95; 90-548, eff. 1-1-98.)

11 **Section 99. Effective date.** This Act takes effect upon  
12 becoming law.

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