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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 27

SCHOOL ACT

THE MINISTER OF EDUCATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 27

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1988

SCHOOL ACT

(Assented to , 1988)

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Preamble WHEREAS the best educational interests of the student are the paramount considerations in the exercise of any authority under this Act; and

WHEREAS parents have a right and a responsibility to make decisions respecting the education of their children; and

WHEREAS there is one publicly funded system of education in Alberta whose primary mandate is to provide education programs to students through its two dimensions, the public schools and the separate schools; and

WHEREAS the education community in making decisions should consider the diverse nature and heritage of society in Alberta within the context of its common values and beliefs;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation **1(1) In this Act,**

(a) "Attendance Board" means an Attendance Board appointed under section 111;

(b) "board" means a board of trustees of a district or division or, subject to the *County Act*, a board of education of a county under that Act;

(c) "district" means a school district established pursuant to this Act or any predecessor Act or Ordinance;

(d) "division" means a school division established pursuant to this Act or any predecessor Act;

(e) "early childhood services program" means an education program provided pursuant to section 24;

(f) "elector" means an elector as defined in the *Local Authorities Election Act*;

(g) "home education program" means an education program provided pursuant to section 23;

- (h) “independent student” means a student who is
 - (i) 18 years of age or older, or
 - (ii) 16 or 17 years of age or older and
 - (A) living independently, or
 - (B) living pursuant to a support agreement under the *Child Welfare Act*;
- (i) “Indian” means an Indian as defined in the *Indian Act* (Canada);
- (j) “Minister” means the Minister of Education;
- (k) “municipality” means a city, town, village, municipal district, county, new town, improvement district, special area or summer village;
- (l) “parent” means, in respect of a student, the relevant individual under subsection (2) unless otherwise specified;
- (m) “principal” means a teacher designated as a principal or acting principal under this Act;
- (n) “private school” means a school registered under section 22;
- (o) “public school district” means a public school district established pursuant to this Act or any predecessor Act or Ordinance;
- (p) “resident student” means a resident student as determined in accordance with section 27;
- (q) “school” means a structured environment through which an education program is offered to a student by
 - (i) a board,
 - (ii) an operator of a private school,
 - (iii) an early childhood services program private operator,
 - (iv) a parent giving a home education program, or
 - (v) the Minister,
 but does not include a school operated under the authority of the Government of Canada;
- (r) “school building” means a building used for the instruction or accommodation of students that is owned or occupied by
 - (i) a school jurisdiction,
 - (ii) a school jurisdiction and a municipality, or
 - (iii) a school jurisdiction and another person;
- (s) “school building project” means
 - (i) the purchase, erection, relocation, renovation, furnishing or equipping of,
 - (ii) the making of structural changes in, or
 - (iii) the addition to or extension of,
 a school building;

- (t) “school jurisdiction” means a board, a county council, the Lloydminster Public School District, the Lloydminster Roman Catholic Separate School District or the council of a city or town operating under the *Municipal and School Administration Act*;
 - (u) “separate school district” means a separate school district established pursuant to this Act or any predecessor Act or Ordinance;
 - (v) “special education program” means an education program referred to in section 29;
 - (w) “student” means an individual who is
 - (i) enrolled in a school, or
 - (ii) required under section 8 to attend school;
 - (x) “teacher” means an individual who holds a certificate of qualification as a teacher issued under the *Department of Education Act*;
 - (y) “trustee” means a member of a board;
 - (z) “unorganized territory” means any area in Alberta that is not included within a district, a division or a county.
- (2) For the purposes of this Act, the parent of a student is
- (a) the biological parent or, if the child is an adopted child, the adoptive parent,
 - (b) notwithstanding clause (a), if the student’s biological or adoptive parent resided in Alberta and has changed his residence so that it is outside Alberta or unknown, the individual who has care and custody of the student as a result of the change,
 - (c) notwithstanding clauses (a) and (b), the individual who has custody of the student under
 - (i) a court order, or
 - (ii) a written agreement made pursuant to a statute governing custody of the student,
 if the individual notifies the board in writing of his custody,
 - (d) notwithstanding clauses (a) to (c), the guardian of the student appointed under
 - (i) a temporary or permanent guardianship order under the *Child Welfare Act*,
 - (ii) a written agreement made pursuant to the *Domestic Relations Act*, or
 - (iii) an order of a court,
 if the guardian notifies the board in writing of his appointment, or
 - (e) notwithstanding clauses (a) to (d), the Solicitor General if the student is in custody under the *Corrections Act*, the *Penitentiary Act* (Canada), the *Young Offenders Act* or the *Young Offenders Act* (Canada).

(3) An independent student is entitled to exercise all the rights and powers and receive all the benefits under this Act with respect to himself that his parent is otherwise entitled to exercise or receive and his parent shall not exercise those rights and powers or receive those benefits.

Limitations **2** The exercise of any right or the receipt of any benefit under this Act is subject to those limitations that are reasonable in each circumstance under which the right is being exercised or the benefit is being received.

PART 1 STUDENTS

Right of access to education **3(1)** Every individual

- (a) who at September 1 in a year is 6 years of age or older and younger than 19 years of age, and
- (b) who is
 - (i) a Canadian citizen,
 - (ii) lawfully admitted to Canada for permanent residence,
 - (iii) a child of a Canadian citizen, or
 - (iv) a child of an individual who is lawfully admitted to Canada for permanent or temporary residence

is entitled to have access in that year to an education program in accordance with this Act.

(2) A board may permit an individual

- (a) who at September 1 in a year is younger than 6 years of age or older than 18 years of age, and
- (b) who complies with subsection (1)(b),

to have access in that year to an education program in accordance with this Act.

Language of instruction – English **4** Every student is entitled to receive school instruction in English.

Language of instruction – French **5(1)** If an individual has rights under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive school instruction in French, his children are entitled to receive that instruction in accordance with those rights wherever in the Province those rights apply.

(2) The Lieutenant Governor in Council may make regulations respecting anything that may be required to give effect to subsection (1).

Other languages of instruction **6(1)** A board may authorize the use of French or any other language as a language of instruction.

(2) The Minister may make regulations governing the provision of instruction in any language authorized under subsection (1).

- Students **7** A student shall conduct himself so as to reasonably comply with the following code of conduct:
- (a) be diligent in pursuing his studies;
 - (b) attend school regularly and punctually;
 - (c) co-operate fully with everyone authorized by the board to provide education programs and other services;
 - (d) comply with the rules of the school;
 - (e) account to his teachers for his conduct;
 - (f) respect the rights of others.
- Compulsory education **8(1)** An individual who
- (a) is eligible to be enrolled in a school, and
 - (b) at September 1 in a year is 6 years of age or older and younger than 16 years of age,
- shall attend a school.
- (2) A resident student of a board, unless otherwise permitted under this Act or by the board, shall attend the school that the board directs the student to attend.
- (3) Notwithstanding subsection (1), a student is excused from attending school on a day on which the school is open if
- (a) the student is unable to attend by reason of sickness or other unavoidable cause,
 - (b) the day is recognized as a religious holiday by the religious denomination to which the student belongs,
 - (c) the principal of the school has suspended the student from school and the suspension is still in effect,
 - (d) the student has been expelled from a school and has not been given permission to enroll in another school, or
 - (e) the board or, if the student is enrolled in a private school or resides in an unorganized territory, the Minister
 - (i) determines that the parent of the student has shown sufficient cause as to why the student should not be required to attend school, and
 - (ii) excuses the student from attending school for a prescribed period of time.
- (4) Where a student is excused from attendance at school under subsection (3)(e), that student is excused from attendance at school only during the period of time prescribed by the board or the Minister, as the case may be.
- Enforcing school attendance **9(1)** In this section,
- (a) “attendance officer” means the superintendent or any other individual designated by the board as an attendance officer;
 - (b) “judge” means a judge of the Provincial Court;

(c) "order" means an order given under this section by a judge or a justice of the peace.

(2) If an attendance officer has reasonable and probable grounds to believe that a student is not attending school in accordance with section 8, the attendance officer may do any or all of the following:

- (a) enter, during school hours,
 - (i) any building or premises other than a dwelling place, and
 - (ii) if authorized by an order under subsection (3), a dwelling place,

where he has reason to believe the student may be found or employed;

(b) send the student he suspects of being truant home or to school and accompany the student for that purpose;

(c) deal with the student in accordance with the rules prescribed by the board.

(3) If

(a) an attendance officer has reasonable and probable grounds to believe that a student who is not attending school as required under this Act is located in a place or premises, including a dwelling place, or

(b) a student does not comply with a proper direction given by an attendance officer,

the attendance officer may make an ex parte application to a judge or, if a judge is not reasonably available, to a justice of the peace for either or both of the following orders:

(c) if the judge or justice of the peace is satisfied that the student may be found in the place or premises, an order authorizing the attendance officer named in the order to enter the place or premises without force and search for the student;

(d) an order requiring the student to comply with the directions of the attendance officer.

(4) On hearing an application under this section, the judge or justice of the peace, as the case may be, may grant the order applied for subject to any terms or conditions that the judge or justice of the peace considers appropriate in the circumstances.

Attendance
at school

10(1) Where

(a) a student who is required to attend a school under section 8 does not attend school, and

(b) attempts to enforce school attendance under section 9 have, in the opinion of the board, not been effective,

the board of which the student is a resident student or that operates or supervises the school in which the student is enrolled may refer the matter to the Attendance Board.

(2) Where a student who is required to attend a school under section 8

- (a) is enrolled in a private school, and
- (b) does not regularly attend that private school,

the person responsible for the operation of that private school shall refer the matter to the Attendance Board.

Liability for damage to property by student

11(1) If property of a board is destroyed, damaged, lost or converted by the intentional or negligent act

- (a) of 1 student, the student and his parent are jointly and severally liable to the board in respect of the act of the student, or
- (b) of 2 or more students acting together, the students and their parents are jointly and severally liable to the board in respect of the act of the students.

(2) Subsection (1) does not apply to the parent of an independent student.

PART 2 SCHOOLS

Division 1

Schools Operated by a Board

Application of Division

12 This Division applies only to schools operated by a board.

Teachers

13 A teacher while providing instruction or supervision must

- (a) provide instruction competently to students;
- (b) teach the courses of study and education programs that are prescribed, approved or authorized pursuant to this Act;
- (c) promote goals and standards applicable to the provision of education adopted or approved pursuant to this Act;
- (d) encourage and foster learning in students;
- (e) regularly evaluate students and periodically report the results of the evaluation to the students, the students' parents and the board;
- (f) maintain, under the direction of the principal, order and discipline among the students while they are in the school or on the school grounds and while they are attending or participating in activities sponsored or approved by the board;
- (g) subject to any applicable collective agreement and the teacher's contract of employment, carry out those duties that are assigned to the teacher by the principal or the board.

Principals designated

14(1) A board that operates 1 or more schools shall designate a number of teachers as principals.

(2) The board shall assign a principal to each school.

(3) The board may assign a principal to be a principal of more than 1 school.

Principals

15 A principal of a school must

- (a) provide instructional leadership in the school;
- (b) ensure that the instruction provided by the teachers employed in the school is consistent with the courses of study and education programs prescribed, approved or authorized pursuant to this Act;
- (c) evaluate or provide for the evaluation of programs offered in the school;
- (d) direct the management of the school;
- (e) maintain order and discipline in the school and on the school grounds and during activities sponsored or approved by the board;
- (f) promote co-operation between the school and the community that it serves;
- (g) supervise the evaluation and advancement of students;
- (h) evaluate or provide for the evaluation of the teachers employed in the school;
- (i) subject to any applicable collective agreement and the principal's contract of employment, carry out those duties that are assigned to the principal by the board.

Alternative programs

16(1) In this section, "alternative program" means an education program that

- (a) emphasizes a particular language, culture, religion or subject-matter, or
- (b) uses a particular teaching philosophy,

but that is not

- (c) a special education program,
- (d) a program referred to in section 5, or
- (e) a program of religious education offered by a separate school board.

(2) If a board determines that there is sufficient demand for a particular alternative program, the board may offer that program to those students whose parents enroll them in the program.

(3) A board that offers an alternative program shall continue to offer the regular education program to those students whose parents do not enroll them in the alternative program.

(4) If a parent enrolls a student in an alternative program, the board may charge that parent fees for the purpose of defraying all or a portion of any non-instructional costs that

- (a) may be incurred by the board in offering the alternative program, and

(b) are in addition to the costs incurred by the board in providing its regular education program.

School councils **17(1)** Parents of students attending a school may establish a school council for that school.

(2) The majority of the members of the school council of a school must be parents of students attending that school.

(3) A school council may

(a) advise the principal of the school and the board respecting any matter relating to the school, and

(b) perform any duty or function delegated to it by the board in accordance with the delegation.

(4) The parents of students attending a school may dissolve the school council of that school in accordance with rules made under this section respecting the dissolution of the school council.

(5) The board shall make rules respecting the establishment of a school council, the election of members and the dissolution of the school council.

(6) A school council may, subject to any rules made under this section, make by-laws governing its meetings and the business and conduct of its affairs.

Student records **18(1)** A board shall establish and maintain pursuant to the regulations a student record for each student registered in its schools.

(2) Subject to subsection (3),

(a) if a student is younger than 16 years of age, his parent,

(b) if a student is 16 years of age or older, his parent and the student, or

(c) if an individual has access to the student under an order made under the *Divorce Act* (Canada), that individual

may review the student record maintained in respect of that student.

(3) Where a student record contains

(a) a test, a test result or an evaluation of a student that is given by a person who has a recognized expertise or training in respect of that test or evaluation, or

(b) information relating to a test, test result or evaluation referred to in clause (a),

the individuals referred to in subsection (2) are entitled, subject to subsection (4),

(c) to review that test, test result, evaluation or information, and

(d) to receive from a person who is competent to explain and interpret it an explanation and interpretation of the test, test result, evaluation or information.

(4) An individual referred to in subsection (2) is entitled to review the test, test result, evaluation or information referred to in subsection (3) only at a time when a person who is competent to explain

and interpret the test, test result, evaluation or information is available to provide him with an explanation and interpretation of that test, test result, evaluation or information.

(5) A board, as soon as practicable after it receives a request from an individual referred to in subsection (2) for an opportunity to review a record to which subsection (3) applies, shall ensure that a person who is competent to explain and interpret the test, test result, evaluation or information is available to provide an explanation and interpretation of that test, test result, evaluation or information.

(6) A person who contributes information to a student record is exempt from any liability with respect to the provision of that information if that person, in providing that information,

- (a) acted in good faith,
- (b) acted within the scope of his duties and responsibilities, and
- (c) did not act in a negligent manner.

(7) If, on examining a student record, a person is of the opinion that the student record contains inaccurate or incomplete information, that person may request the board to rectify the matter.

(8) The Minister may make regulations respecting student records.

Suspension and
expulsion of
students

19(1) In this section, “suspend” has the meaning given to it in the rules made by the applicable board.

(2) Subject to the rules of a board,

- (a) a teacher may suspend a student from a class period,
- (b) a principal may suspend a student from
 - (i) 1 or more class periods,
 - (ii) 1 or more courses or school programs,
 - (iii) school,
 - (iv) riding on a school bus, or
 - (v) participating in an activity sponsored or approved by the board,

and

- (c) a principal may reinstate a student suspended by him or by a teacher.

(3) When a principal suspends a student, the principal shall

- (a) forthwith inform the student’s parent of the suspension, and
- (b) report in writing to the student’s parent all the circumstances respecting the suspension.

(4) If a student is not to be reinstated within 5 school days from the date of his suspension, the principal shall

- (a) forthwith inform the board of the suspension, and
- (b) report in writing to the board all the circumstances of the suspension together with the principal’s recommendations.

(5) On receiving a report from a principal pursuant to subsection (4), the board shall, within 10 school days from the first day of the suspension, reinstate or expel the student.

(6) Prior to a board's making a decision under subsection (5), the parent of the suspended student and the suspended student may make representations to the board with respect to the suspension.

(7) A board may re-enroll a student who has been expelled.

(8) If a student is expelled, the board shall notify, in writing, the parent and, in the case of a student who is 16 years of age or older, the student of their right to have the matter reviewed by the Minister.

Flags **20** The principal of a school shall ensure that the Canadian flag and the Alberta flag are displayed at the school.

Prohibited activities **21(1)** No person shall

- (a) disturb or interrupt the proceedings of a school,
- (b) disturb or interrupt the proceedings of a school meeting or board meeting, or
- (c) loiter or trespass in a school building or on property owned by a board.

(2) No person shall canvass, sell or offer to sell goods, services or merchandise to a teacher or a student in a school without the prior approval of the board.

Division 2 Other Schools

Private schools **22(1)** A school is entitled to be registered as a private school if the operator applies to the Minister and the Minister is satisfied that

- (a) the school will provide a program of studies that complies with any orders made under section 25(1)(d),
- (b) the school will meet the standards of student achievement and achievement testing acceptable to the Minister,
- (c) the operator agrees to regular evaluation and monitoring by the Minister, and
- (d) the school meets and will continue to meet all local and provincial health, safety and building standards.

(2) A private school is entitled to be accredited as an accredited private school if

- (a) the Minister approves the education program and any modification of it offered at the school, and
- (b) the Minister is satisfied that
 - (i) the operator of the private school continues to meet the requirements under subsection (1),
 - (ii) 7 or more students from 2 or more families are enrolled and continue to be enrolled in the school, and

(iii) individuals whose qualifications are approved by the Minister are employed to teach at the school.

(3) The Minister may cancel or suspend the registration or accreditation of a private school

(a) if the operator of the school does not comply, in the case of a private school, with subsection (1) and, in the case of an accredited private school, with subsections (1) and (2), or

(b) if in the opinion of the Minister, the students at the school are not achieving acceptable educational progress.

(4) No person shall operate a school as a private school unless it is registered under subsection (1).

(5) If a person operates as a private school a school that is not registered under subsection (1) or in respect of which the registration has been cancelled or suspended, the Minister may by originating notice apply to the Court of Queen's Bench for an order restraining that person from operating the school during the time that

(a) the school is not registered, or

(b) the registration of the school is suspended or cancelled,

as the case may be.

(6) The Minister may make regulations respecting private schools.

Home education
program

23(1) A parent of a student may provide, at home or elsewhere, a home education program for the student if the program

(a) meets the requirements of the regulations, and

(b) is under the supervision of a board.

(2) If a parent resides in unorganized territory, the Minister shall act as a board under this section.

(3) The Minister may make regulations respecting home education.

Early childhood
services program

24(1) A board or, with the approval of the Minister, a person may provide an early childhood services program to

(a) a child who is too young to be a student, if the parent of the child agrees, or

(b) a student, if the parent of the student and the board of which the student is a resident student are of the opinion that the program will benefit the student.

(2) Notwithstanding section 32, a person or board that provides early childhood services may charge the parent of a child attending the program fees in respect of the program.

(3) The Minister may make regulations respecting early childhood services programs.

Division 3

General

Courses,
programs, etc.

25(1) The Minister may by order do the following:

- (a) prescribe courses of study, including the amount of instruction time, and authorize education programs and instructional materials for use in schools;
- (b) approve any course, education program or instructional material that is submitted to the Minister by a board or another operator of a school for use in schools;
- (c) subject to the rights of a board to provide religious instruction, prohibit the use of a course, education program or instructional material in schools;
- (d) adopt or approve goals and standards applicable to the provision of education in Alberta.

(2) The *Regulations Act* does not apply to an order made under subsection (1).

(3) The Minister may make regulations

- (a) governing the evaluation and inspection of teachers;
- (b) governing the granting of credits, certificates and diplomas;
- (c) respecting the examination and evaluation of students by the Minister, including appeals, fees and the payment of remuneration.

Inspections

26(1) The Minister may authorize a person to inspect and evaluate teachers, schools, the operations of school districts and divisions, education programs, instructional materials or school buildings.

(2) A person authorized to make an inspection and evaluation under subsection (1) may include in his inspection an examination of the achievement of students and of the policies, procedures, books and records of a school jurisdiction.

(3) A person authorized to make an inspection and evaluation under subsection (1) may enter a school building and any part of a school building for the purpose of conducting the inspection and evaluation.

PART 3

SCHOOL BOARDS

Division 1

Provision of Educational and Associated Services

Resident student

27(1) Subject to this section, a student is a resident student of the board of the district or division, as the case may be, in which the student's parent resides.

(2) For the purposes of this section and section 34, a student who is the subject of a temporary or permanent guardianship order under the *Child Welfare Act* is deemed to be a resident student of the board of the district or division in which any foster parent in whose care the student is placed resides.

(3) Subject to this section, every individual is a resident of a public school district or division.

- (4) Where a separate school district is established, an individual residing within the boundaries of the separate school district who is of the same faith as those who established that district, whether Protestant or Roman Catholic,
- (a) is a resident of the separate school district, and
 - (b) is not a resident of the public school district.
- (5) A student who is not the subject of a guardianship order under the *Child Welfare Act* but who is placed in the care of a foster parent pursuant to that Act is a resident student of a separate school board if
- (a) the faith of the student, whether Protestant or Roman Catholic, differs from the faith of the foster parent,
 - (b) the foster parent resides in an area served by the separate school district, and
 - (c) a director under the *Child Welfare Act* determines that the student is of the same faith as those who established the separate school district.
- (6) The following students are resident students of the Government:
- (a) a student who resides in unorganized territory and who is not an Indian residing on a reserve pursuant to the *Indian Act* (Canada);
 - (b) a student in custody under the *Corrections Act*, the *Penitentiary Act* (Canada), the *Young Offenders Act* (Canada) or the *Young Offenders Act*;
 - (c) a student
 - (i) who
 - (A) is in the custody of a director, or
 - (B) has a guardian appointed,
 under the *Child Welfare Act*, and
 - (ii) who resides in an institution that is operated or approved by the Government;
 - (d) a student who is under long term medical care in an institution that is under the control, direction or administration of the Government.
- (7) If both parents have care and custody of a student and each parent is a resident of a different school district or division, as the case may be,
- (a) the parents shall choose one of those school districts or divisions,
 - (b) the student is a resident student of the board of the chosen district or division, and
 - (c) the student shall attend the school he is directed to attend by the board of the chosen district or division.

(8) If the parents referred to in subsection (7) do not choose a district or division under subsection (7), the Minister shall designate the board of a district or division of which one parent is a resident as the board of which the student is a resident student.

(9) Notwithstanding section 236(c), if the residence of a student changes after the commencement of a school year, the parent of that student shall designate the student to be a resident student of one of the following for the balance of that school year:

- (a) the board of the district or division in which the student resides after the change,
- (b) the board of the district or division in which the student resided immediately before the change, or
- (c) the Government if the student
 - (i) resides in unorganized territory after the change, or
 - (ii) resided in unorganized territory immediately before the change.

(10) If a parent of a student dies and, as a result of the death, the student no longer has a living parent who is a resident of the school district of whose board the student is a resident student, the student may remain a resident student of that board notwithstanding subsections (1) to (9).

(11) If there is a dispute as to the number of resident students of a board, the Minister may determine the number or the method to be used to calculate the number.

Responsibility to
resident students

28(1) A board shall provide to each of its resident students an education program consistent with the requirements of this Act and the regulations and, for the purposes of providing the education program to the student, the board shall

- (a) enroll the student in a school operated by the board, or
- (b) direct the student to attend
 - (i) a school operated by another board or the Government,
 - (ii) a school operated by a school board in or a government of another jurisdiction,
 - (iii) a private school accredited under section 22, or
 - (iv) a school or institution approved by the Minister

and pay the fees of and costs consequent to the student's attending that school or institution.

(2) Where

- (a) a board is willing to provide an education program to a resident student as required under subsection (1), and
- (b) the parent of that student wishes to send the student to a school other than a school
 - (i) operated by the board, or

(ii) that the board directed the student to attend under subsection (1)(b),

the board may, subject to subsection (7), provide all, part or none of the funds necessary for placing the student in a school chosen by the parent.

(3) Where a board directs a student under subsection (1)(b)(i) or (ii) to attend a school that is not operated by the board, the board shall ensure that the board or the school board in another jurisdiction that operates the school that the student is directed to attend is able to accept the student.

(4) Where

(a) a board directs a student under subsection (1)(b)(i) to attend a school, and

(b) the board that operates the school that the student is directed to attend has sufficient facilities and resources to accept that student,

the board that operates the school that the student is directed to attend shall accept that student in its school.

(5) If a student is a resident student of the Government, the Minister must make arrangements for that student to receive an education program.

(6) The Minister may enter into an agreement with a board or any other person operating a school to provide education programs to resident students of the Government.

(7) Subject to a decision of the Minister under section 105, a board is not required to provide any funds for the purpose of placing a student in a private school unless the board has given its approval to the student's being placed in the private school prior to the student's being registered in that private school.

Special education
program

29(1) A board may determine that a student is, by virtue of the student's behavioral, communicational, intellectual or physical characteristics, or a combination of those characteristics, a student in need of a special education program.

(2) A student who is determined by a board to be in need of a special education program is entitled to have access to a special education program.

(3) Before a board places a student in a special education program it shall

(a) consult with the parent of that student, and

(b) where appropriate, consult with the student.

Special Needs
Tribunal

30(1) A board may determine that a student has special needs that cannot be met in an education program that can be provided by the board under section 28.

(2) If a board makes a determination under subsection (1) in respect of a student, the board shall refer the matter to a Special Needs Tribunal, which shall confirm the board's determination or deter-

mine that the board is able to provide the student with an education program that is appropriate to the needs of the student.

(3) If a Special Needs Tribunal confirms the determination of a board under subsection (1), it shall develop or approve a special needs plan that is consistent with the needs of the student and, in accordance with that plan, shall

(a) determine the relationship between the student, the board and any other person or government that may provide the services required under the special needs plan, and

(b) apportion the cost of providing the services required under the special needs plan between the board and the Government.

(4) If a Special Needs Tribunal determines that a board is able to provide the student with an education program that is appropriate to the needs of the student, the board shall provide the student with that education program.

(5) A board and the parent of a student in respect of whom a determination has been made under subsection (1) shall comply with decisions and determinations made by a Special Needs Tribunal under this section.

(6) A decision made by a Special Needs Tribunal under subsection (3) or this subsection shall be reviewed by the same or any other Special Needs Tribunal at least every 3 years after the decision is made until the student is no longer entitled to have access to an education program under this Act.

(7) The Minister may establish 1 or more Special Needs Tribunals for the purposes of this section.

(8) For the purposes of carrying out its powers under this section, a Special Needs Tribunal and each of its members have the powers of a commissioner under the *Public Inquiries Act*.

School operated
by another board

31(1) A parent of a student may apply to a board of which the student is not a resident student for permission for the student to attend a school operated by the board.

(2) A board shall enroll a student whose parent applies under subsection (1) if

(a) the board has sufficient facilities and resources to accept the student in a school operated by the board, and

(b) it is agreed that

(i) the board of which the student is a resident student,

(ii) the student's parent,

(iii) the student, or

(iv) the Minister, in the case of a resident student of the Government,

will pay the fees authorized under this Act.

(3) Where

(a) an application is made under subsection (1) for the admission of a student to a school operated by a board of a district or division adjacent to the district or division of the board of which the student is a resident student, and

(b) the school was, prior to a change in a boundary made under section 197 or 210, operated by the board of which the student was a resident student prior to the boundary change,

the Minister may direct that the board of which the student is a resident student pay to the board to which the application is made all or some of the fees authorized by this Act with respect to that student in accordance with any terms or conditions that the Minister may prescribe.

Tuition fees

32(1) A board shall not charge any tuition fees in respect of the attendance of its resident students at a school operated by the board.

(2) A board may charge tuition fees in respect of any student who attends a school operated by the board and who is not a resident student of the board.

(3) A tuition fee charged under subsection (2) shall not exceed the amount of the net average local cost per student of maintaining the education program in which the student is enrolled.

Religious and patriotic instruction

33(1) A board may

(a) prescribe religious instruction to be offered to its students;

(b) prescribe religious exercises for its students;

(c) prescribe patriotic instruction to be offered to its students;

(d) prescribe patriotic exercises for its students;

(e) permit persons other than teachers to provide religious instruction to its students.

(2) Where a teacher or other person providing religious or patriotic instruction receives a written request signed by a parent of a student that the student be excluded from religious or patriotic instruction or exercises, or both, the teacher shall permit the student

(a) to leave the classroom or place where the instruction or exercises are taking place for the duration of the instruction or exercises, or

(b) to remain in the classroom or place without taking part in the instruction or exercise.

Transportation

34(1) A board shall provide for the transportation of a resident student of that board to and from the site of the school that the board has directed the student to attend if the parent of the student resides at a distance greater than 4.8 kilometres from the site of that school.

(2) The board shall be deemed to have complied with subsection (1) when transportation is provided on a route that is not more than 2.4 kilometres from the residence of the student's parent.

(3) A board may charge the parent of a student receiving transportation provided pursuant to subsection (1) any fee as determined by the board.

(4) In computing distances for the purposes of this section,

(a) the official survey made under any Act of Canada or the Legislature relating to surveys shall be accepted as final and conclusive and all sections shall be deemed to be 1.6 kilometres square and no more,

(b) the width of road allowances shall be excluded from the computation, and

(c) the distance of a residence from a school or from a bus route shall be the shortest distance measured along a travelled road or public right of way between the boundary of the school site or the bus route, as the case may be, and the nearest boundary of the quarter section or lot on which the student's parent resides.

Transport
by parent

35(1) A board may, instead of providing transportation under section 34, enter into an agreement with the parent of the student under which the parent will

(a) convey the student to and from school or the bus route, and

(b) receive, in accordance with the rules of the board, payment for providing that service.

(2) A board is not under any liability to the parent of a student or to a student for negligence arising out of the student's being conveyed to and from a school or bus route pursuant to an agreement made under this section.

Maintenance
allowance

36 If a student is directed by a board to attend a school and as a result of attending that school the student is unable to live in his parent's residence, the board shall pay a maintenance allowance in respect of that student in an amount prescribed by the board.

Work experience
programs

37(1) A board may approve a work experience program for its students to attend.

(2) Subject to the regulations, a board may enter into an agreement with a person to provide a place of work and facilities for students who are attending a work experience program.

(3) When a board directs a student to attend a work experience program, it shall obtain the consent of

(a) the student's parent or, in the case of a student who is 16 years of age or older, the student, and

(b) the Minister.

(4) For the purposes of section 8, a place of work or facility shall be deemed to be a school during the time the student is in the place or facility under the work experience program.

Continuing
education

38(1) A board, in addition to its obligation to provide courses and education programs to its resident students under this Act, may develop or provide courses to any person on any subject.

(2) A board shall employ teachers in accordance with section 74 to provide instruction in courses provided under this section that conform with the courses of study prescribed under section 25, and may employ any person to provide instruction in other courses provided under this section.

(3) When a board provides a course under this section, the board shall ensure that the course does not interfere with normal school operation.

(4) Notwithstanding section 32, a board may charge a student registered in a course provided by it under this section any fees it considers appropriate, but it may not require a resident student of the board to pay a fee for a course he is directed to take by the board.

(5) Any person may apply to a board to register in a course provided under this section and the board may in its discretion accept or refuse the applicant.

(6) Where

(a) a board provides a course under this section,

(b) a person registers in the course referred to in clause (a), and

(c) the person referred to in clause (b) is not otherwise a resident student of the board that provides the course,

that person is not, by reason of being registered in that course,

(d) a resident student of that board, or

(e) entitled to any of the rights or benefits given to a student under this Act.

Health services **39** A board shall provide the students attending its schools with those health services that the board considers necessary.

School day and year **40(1)** A board shall specify the following:

(a) the school opening date;

(b) the number and the days of school operation;

(c) the length of the school day;

(d) the number of minutes of school operation in a school day;

(e) the number and length of recesses;

(f) subject to section 25, the number of minutes of classroom instruction.

(2) A board shall specify the vacation periods in a school year, which shall include

(a) a winter vacation that extends at least from December 24 to January 2, and

(b) the opportunity for each student to take 1 school vacation of at least 4 consecutive weeks' duration in each calendar year.

(3) A board in its discretion may declare 1 day a month to be a school holiday.

(4) A holiday declared by a municipality does not apply to a school within the municipality unless the board declares it to be applicable.

(5) A board shall, before May 31 in each year, give notice to the Minister of

(a) the opening and closing dates of all schools under its jurisdiction for the 12-month period next following, and

(b) the dates of the vacation periods in the school year.

(6) A board may declare the 2nd Friday of June in any year to be a Farmer's Day holiday.

Emergency closure of school building

41(1) A board may temporarily close a school building if the health or safety of the students is endangered.

(2) If a board closes a school building under subsection (1), it shall forthwith remedy the situation causing the closure and reopen the school building.

Closure of schools, etc.

42 A board may, with the approval of the Minister, do the following:

(a) close a school permanently or for a specified period of time;

(b) close 3 consecutive grades in an elementary school;

(c) close a junior high school or senior high school program in any school;

(d) transfer all students from one school to one or more other schools.

Division 2

Operation and Management

Powers of separate school boards

43 Unless otherwise provided for in this Act, the board of a separate school district

(a) possesses and may exercise all the rights, powers and privileges of,

(b) is subject to duties and liabilities the same as those of, and

(c) has the same method of government as,

the board of a public school district.

Powers of boards

44(1) A board must

(a) establish policies respecting the provision of educational services and programs;

(b) in respect of its operations

(i) keep in force a policy or policies of insurance,

(ii) with the approval of the Minister, participate in an arrangement under Part 15 of the *Insurance Act*, or

(iii) with the approval of the Minister, participate in an alternative arrangement acceptable to the Minister,

for the purpose of indemnifying the board and its employees in respect of claims for

- (iv) damages for death or personal injury,
- (v) damages to property, and
- (vi) damages to property owned by the board in respect of which the board has an insurable interest
 - (A) that the board has agreed to insure, or
 - (B) for which the board otherwise has or may have assumed liability,

in an amount and form prescribed by the Minister;

(c) maintain, repair, furnish and keep in good order all its real and personal property;

(d) make copies of the rules made by it available to those of its employees who are affected by the rules.

(2) A board may

(a) subject to section 25, develop and offer courses, programs or instructional materials for use in programs or in schools;

(b) subject to section 17, provide for parental and community involvement in schools;

(c) invest only in investments authorized by section 5 of the *Trustee Act* or as otherwise permitted by the Minister;

(d) provide for the payment of travelling and other expenses and honoraria to

(i) trustees, and

(ii) persons appointed to committees of the board;

(e) make payments, other than loans, to another board;

(f) make grants or payments, other than loans, to an association of school trustees or to a person or organization engaged in educational activities;

(g) at its own expense or otherwise, arrange, undertake or sponsor for its students educational, cultural or recreational trips inside or outside its district or division;

(h) establish committees and specify the powers and duties of the committees;

(i) charge fees with respect to instructional supplies or materials;

(j) make any banking arrangements necessary for the carrying out of its duties and powers.

(3) A board may make rules

(a) respecting the suspension and expulsion of students;

(b) respecting the attendance of students at schools;

- (c) respecting the establishment, administration, management and operation of
 - (i) schools operated by the board, or
 - (ii) school buses used for the purposes of the board;
- (d) respecting any other matter under the jurisdiction of the board.

Delegation
of power

45 The board may authorize by resolution

- (a) any of its employees,
- (b) a committee of the board or that is established by the board,
- (c) a school council, or
- (d) a joint committee established under section 47,

to do any act or thing or exercise any power that the board may or is required to do or exercise subject to the directions and limitations set out in the resolution, except

- (e) the power to make a by-law under this Act,
- (f) the power to close a school or school building under section 42,
- (g) the power to requisition from a municipality, and
- (h) the power to suspend or terminate the services of a teacher.

Agreements

46(1) A board may, without the approval of the Minister,

- (a) enter into an agreement with
 - (i) a person, or
 - (ii) a joint committee established under section 47,

for the provision of educational, managerial or other services with respect to the operation of schools;

- (b) with respect to its resident students, enter into an agreement with another board or person to provide education programs;
- (c) enter into an agreement with a municipality concerning the promotion and development of recreation and community services.

(2) A board may, with the prior approval of the Minister,

- (a) enter into an agreement with
 - (i) the Government of Alberta or any agent of the Government of Alberta,
 - (ii) the Government of Canada or any agent of the Government of Canada, or
 - (iii) the government of any other jurisdiction or any agent of a government of any other jurisdiction,

respecting the provision of educational services;

(b) enter into an agreement with the Government of Canada or any agency of the Government of Canada with respect to the education of

(i) Indian children, or

(ii) the children of members of the Canadian Forces or of other persons employed by the Government of Canada,

in a school operated by a board;

(c) enter into an agreement with a council of a band as defined in the *Indian Act* (Canada) with respect to the education of Indian children;

(d) enter into an agreement with an organization representing the residents of an unorganized territory for the provision of educational services by the board.

(3) If an agreement under subsection (2)(c) or (d) provides for the appointment of 1 or more individuals resident in the unorganized territory to the board, those individuals are deemed on their appointment to be members of the board and to have all the rights and obligations of trustees as set out in the agreement.

(4) A board shall, on the request of an institution that has a program of teacher education authorized by the Minister, enter into an agreement with the institution permitting those individuals enrolled in the program of teacher education and their instructors to attend a classroom of a school operated by the board while the school is in session for the purpose of observing or student teaching.

Joint
committees, etc.

47(1) If an agreement is entered into pursuant to section 46(1)(a)(ii) or 184, the board may appoint 1 or more of its trustees to be members of a joint committee with persons appointed by another board and, if appropriate, by a person or municipality.

(2) A board, person or municipality may provide the committee established pursuant to subsection (1) with any money the board, person or municipality considers proper and the committee may expend any money received for the control, management, upkeep and operation of the undertaking.

(3) A committee established pursuant to subsection (1) shall in each year furnish to the board, person or municipality

(a) an audited statement of its receipts and payments for the preceding year, and

(b) any information regarding its management and operation that is considered necessary by the board, person or municipality.

(4) Notwithstanding anything in this Act, a board may, for the purposes of this Act and the regulations, appoint another board to act on its behalf or on behalf of a joint committee established pursuant to this section.

- Organizational meeting **48**(1) The organizational meeting of a board
- (a) subject to clause (b), shall be held annually, and
 - (b) in any year in which a general election takes place, shall be held within 4 weeks following the date of that election,
- at a time and place to be fixed by the secretary of the board.
- (2) The secretary of the board shall give notice of the organizational meeting to each trustee as if it were a special meeting.
- Chairman **49**(1) At the organizational meeting, and thereafter at any time as determined by the board, the board shall elect 1 of its members as chairman and another as vice-chairman to hold office during the pleasure of the board.
- (2) If the chairman through illness or other cause is unable to perform the duties of his office or is absent, the vice-chairman has all the powers and shall perform all the duties of the chairman during the chairman's inability to act or absence.
 - (3) If both the chairman and the vice-chairman through illness or other cause are unable to perform the duties of the office or are absent, the board shall appoint from among its members an acting chairman, who thereupon has all the powers and shall perform all the duties of the chairman during the chairman's and vice-chairman's inability to act or absence.
- Regular meetings **50**(1) The board shall hold as many regular meetings as it considers necessary to deal adequately with its business.
- (2) The resolution of the board establishing the regular meetings of the board shall state the date, time and place of the regular meeting.
 - (3) The board is not required to give notice of the regular meetings of the board.
- Special meetings **51**(1) A special meeting of a board may be called by
- (a) the chairman of the board,
 - (b) a majority of the trustees, or
 - (c) the Minister,
- after written notice has been given to each trustee in accordance with subsection (2).
- (2) A notice of a special meeting shall state
- (a) the date, time and place of the special meeting, and
 - (b) the nature of the business to be transacted at the special meeting.
- (3) The notice of the special meeting shall be
- (a) sent by registered mail to each trustee at least 7 days before the date of the meeting, or

(b) personally served at least 2 days before the date of the meeting on

(i) the trustee, or

(ii) a responsible person at the trustee's residence.

(4) Notwithstanding subsections (1) to (3), a special meeting may be held without notice being given under this section if every trustee agrees to waive the requirements of subsections (1) to (3).

(5) Unless all the trustees are present at the special meeting, no business other than that stated in the notice of the special meeting shall be transacted at the special meeting.

Procedure **52** The board may make rules governing its internal procedure and its meetings.

Readings of by-law **53(1)** Every by-law of a board shall have 3 distinct separate readings before the by-law is finally passed.

(2) Not more than 2 readings of a by-law shall be given at any 1 meeting unless the trustees present at the meeting unanimously agree to give the by-law a 3rd reading.

(3) The first reading of a by-law shall be in full and, if each board member has in his possession a written or printed copy of the by-law, the 2nd and 3rd readings may be by title and description only.

Open meetings **54(1)** The meetings of a board shall be held in public and no person shall be excluded from them except for improper conduct.

(2) The chairman of the board may cause to be excluded from a meeting any person who, in the opinion of the chairman, is guilty of improper conduct at that meeting.

(3) Notwithstanding subsection (1), when a majority of the trustees present at a meeting of the board are of the opinion that it is in the public interest to hold the meeting or a part of the meeting in private for the purpose of considering any matter, the board may by resolution exclude any person from the meeting.

(4) When a meeting is held in private, the board does not have the power to pass a by-law or resolution at that meeting apart from the resolution necessary to revert to an open meeting.

Quorum **55(1)** No act or proceeding of a board is binding unless it is adopted at a meeting at which a quorum of the board is present.

(2) The quorum of a board is a majority of the trustees that, as specified under section 218, are to be elected to the board.

(3) Notwithstanding subsection (1), the Minister may order that when the number of trustees has fallen below the quorum the remaining trustees shall be deemed to be a quorum until elections are held to fill the number of vacancies required to achieve a normal quorum.

Voting on question **56(1)** All resolutions shall be submitted to a board by the chairman or a trustee and no seconder is required.

(2) The chairman and every trustee present at a meeting of the board shall vote for or against every question unless

(a) in a specific case, the chairman or a trustee is excused by resolution of the board from voting, or

(b) the chairman or a trustee is otherwise excused by this Act.

(3) The secretary of the board shall, whenever a recorded vote is requested by a trustee, record in the minutes the name of each trustee present and whether the trustee voted for or against the matter.

(4) Notwithstanding subsection (3), the secretary of the board shall, immediately after a vote is taken and on the request of a trustee, record in the minutes the name of that trustee and whether that trustee voted for or against the matter or abstained.

Required votes **57** At a meeting of a board the following apply:

(a) each question shall be decided by a majority of the votes of those trustees present;

(b) in case of an equality of votes, the question shall be decided in the negative;

(c) a vote on a question shall be taken by open vote;

(d) notwithstanding clause (c), with respect to the election of a chairman or a vice-chairman, if 1 or more trustees request that the vote be by secret ballot, the vote shall be by secret ballot.

Records **58** The board shall maintain a record of all the proceedings of the board and committees of the board.

Inspection of documents **59(1)** At any reasonable time, an elector of a district or division may with respect to the board of that district or division inspect any 1 or more of the following items:

(a) the agenda of any public meeting or board meeting;

(b) the minutes of any public meeting or board meeting;

(c) a budget adopted by the board;

(d) a by-law of the board;

(e) an agreement entered into by the board;

(f) an account of the board;

(g) a financial statement prepared pursuant to a requirement of this Act.

(2) An elector of a district or division may request from the board of that district or division a copy of any item that he is entitled to inspect under subsection (1) and the secretary of the board shall provide or, on request, send the copy of the item to the elector on receiving payment for it at the rate prescribed by the board.

(3) Subsection (1) does not apply to a student record or to contracts with or records of an individual employee.

- Oath of office **60** Every trustee shall
- (a) take and subscribe to the official oath prescribed by the *Oaths of Office Act* before commencing his duties, and
 - (b) deposit the oath with the secretary of the board.

- Regulations **61** The Minister may make regulations
- (a) respecting the provision of information to the Minister by a board, a trustee or an employee of a board;
 - (b) governing the requirement of boards to
 - (i) acquire insurance, or
 - (ii) take part in schemes or arrangements to protect the board and its teachers and other employees with respect to loss or legal liability.

Division 3 Conflict of Interest

- Pecuniary interest **62(1)** In this Division,
- (a) “corporation”, “distributing corporation”, “shareholder”, “voting shares”, “voting rights”, “director” and “officer” have the meanings given to them in the *Business Corporations Act*;
 - (b) “parent” means the biological parent or, if the student is an adopted child, the adoptive parent;
 - (c) “pecuniary interest” means, with respect to a person, an interest in a matter that could monetarily affect
 - (i) the person,
 - (ii) a corporation, other than a distributing corporation, in which the person is a shareholder, director or officer,
 - (iii) a distributing corporation in which the person beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the person is a director or officer,
 - (iv) a partnership or firm of which the person is a member, or
 - (v) a corporation, partnership, firm, government or person that employs the person.
- (2) For the purposes of this Division except section 63(1), the pecuniary interests
- (a) of the spouse, children or parents of a person, or
 - (b) of the parents of the spouse of a person
- that are known to the person or of which the person reasonably should know shall be deemed to be the pecuniary interests of the person.

(3) For the purposes of this Division, a person does not have a pecuniary interest by reason only of any interest that he may have

(a) as an elector or taxpayer of the district or division,

(b) by reason of

(i) his appointment by the board as a director of a company incorporated for the purpose of carrying on business for and on behalf of the board, or

(ii) his being appointed as the representative of the board on any commission, committee or other body,

(c) with respect to any allowance, honorarium, remuneration or benefit to which he may be entitled by reason of being a trustee or an employee of a board or by reason of having been appointed by the board to a position described in clause (b),

(d) by reason of his employment by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which he is an employee,

(e) by reason of his being a member of

(i) a credit union, a co-operative or a non-profit organization formed under an Act of the Legislature or of the Parliament of Canada, or

(ii) a service club,

(f) by reason of his having an interest that is an interest in common with

(i) the majority of electors of the district or division, or

(ii) where the matter affects only part of the district or division, with the majority of electors in that part,

or

(g) by reason of an interest that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the person.

(4) Subsection (3)(e) does not apply to a person who is an employee or director of a credit union or co-operative or an employee of an organization or club referred to in that clause.

Disclosure of
information

63(1) Each trustee of a board shall file with the board's secretary a statement showing

(a) the names and employment of the trustee and the trustee's spouse and children,

(b) the names of the corporations, partnerships, firms, governments or persons in which the trustee has a pecuniary interest, and

(c) the names of the corporations, partnerships, firms, governments or persons in which the trustee's spouse or children under 18 years of age have a pecuniary interest.

- (2) The board's secretary shall
 - (a) compile a list of all the names reported on the statements filed with him, and
 - (b) provide a copy of the list to
 - (i) all the trustees of the board, and
 - (ii) the officials and employees of the board that the board directs shall receive a copy.

Disqualification
of trustees

64(1) A person is disqualified from remaining as a trustee of a board if that person

- (a) ceases to be qualified for nomination as a trustee under the *Local Authorities Election Act*;
- (b) is an auditor or employee of the board for which he is a trustee;
- (c) is a party to a subsisting contract for the construction, maintenance or repair of real property over which the board has administration other than a contract for the provision of goods or services in an emergency;
- (d) beneficially owns more than 10% of the issued shares of a corporation that has a pecuniary interest in a subsisting contract for the construction, maintenance or repair of real property over which the board has administration other than a contract for the provision of goods or services in an emergency;
- (e) has a pecuniary interest in a contract with the board, other than
 - (i) a contract for the provision of goods or services in an emergency,
 - (ii) a contract for the sale of goods or services to the board at competitive prices by a dealer in those goods or services incidental to and in the ordinary course of his business,
 - (iii) a contract of employment with the trustee's spouse, child or parent, or
 - (iv) a contract approved by the board pursuant to disclosure;
- (f) uses information gained through his position as a trustee of the board to gain a pecuniary benefit in respect of any matter in which he has a pecuniary interest;
- (g) is a judge of a court or a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta;
- (h) absents himself, without being authorized by a resolution of the board to do so, from 3 consecutive regular meetings of the board, unless his absence is due to illness and he provides evidence of that illness in the form of a medical certificate respecting the period of his absence;
- (i) is convicted of
 - (i) an indictable offence punishable by imprisonment for 5 or more years, or

(ii) an offence under section 112 of the *Criminal Code* (Canada)

for which an absolute discharge or pardon has not been granted.

(2) Notwithstanding section 24 of the *Local Authorities Election Act*, a trustee of the board who is disqualified under this section is eligible to be elected at the next general election of trustees to the board if that person is qualified for nomination under the *Local Authorities Election Act*.

Disclosure of
pecuniary interest

65(1) When a trustee has a pecuniary interest in a matter before the board, any committee of the board or any commission, committee or agency to which he is appointed as a representative of the board, the trustee shall, if present,

(a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,

(b) abstain from voting on any question relating to the matter,

(c) subject to subsection (3), abstain from discussing the matter, and

(d) subject to subsections (2) and (3), leave the room in which the meeting is being held until the discussion and voting on the matter are concluded.

(2) If the matter with respect to which the trustee has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the trustee to leave the room.

(3) If a trustee is temporarily absent from a meeting when a matter in which he has a pecuniary interest is introduced, he shall, immediately on his return to the meeting or as soon thereafter as he becomes aware that the matter has been considered, disclose the general nature of his pecuniary interest in the matter.

(4) The abstention of a trustee under subsection (1) and the disclosure of a trustee's pecuniary interest under subsection (3) shall be recorded in the minutes of the meeting.

(5) If a trustee

(a) has a pecuniary interest in a matter before the board, any committee of the board or any commission, committee or agency to which he is appointed as a representative of the board, and

(b) makes a disclosure of that pecuniary interest in accordance with this section,

that trustee is not disqualified from being a trustee by reason of having that pecuniary interest.

(6) Subsection (5) does not apply to an interest referred to in section 64(1)(c) or (d).

(7) A trustee who contravenes this section is disqualified from remaining as a trustee of the board.

Effect of interest on contract

66 No contract with a board under which a trustee of the board has an interest referred to in section 64(1)(c), (d) or (e) is binding on the board unless

- (a) the contract is for the provision of goods or services in the case of an emergency,
- (b) the contract is for the sale of goods or services to the board or to persons contracting with the board at competitive prices by a dealer in those goods or services incidental to and in the ordinary course of his business,
- (c) the contract has been approved by the board pursuant to disclosure, or
- (d) the contract is a contract of employment with the trustee's spouse, child or parent.

Resignation on disqualification

67 If a person is disqualified under section 64 or 65 from remaining as a trustee of the board he shall forthwith resign.

Refusal to resign on disqualification

68 If the person does not resign as required under section 67,

- (a) the board may by resolution declare that person to be disqualified from remaining as a trustee and the seat on the board to be vacant,
 - (b) the board may apply by originating notice to the Court of Queen's Bench for
 - (i) an order determining whether or not the person is qualified to remain as a trustee, or
 - (ii) an order declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant,
- or
- (c) an elector who
 - (i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a trustee of the board, and
 - (ii) pays into court the sum of \$250 as security for costs,

may apply by originating notice to the Court of Queen's Bench for an order declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant.

Appeal of board's resolution

69(1) Where a person is disqualified under section 68(a) from remaining as a trustee, that person may apply by originating notice to the Court of Queen's Bench for an order declaring him to be qualified to remain as a trustee.

(2) Where a person

- (a) is disqualified under section 68(a) from remaining as a trustee, and
- (b) makes an application to the Court under subsection (1),

that person remains disqualified unless the Court otherwise orders.

(3) An application under this section must be made within 30 days from the date that the resolution was passed under section 68(a).

(4) On hearing an application and any evidence, whether oral or by affidavit, that the Court requires, the Court may make an order, with or without costs,

- (a) declaring the person to be qualified to be a trustee, and
 - (i) reinstating the person as a trustee for any unexpired portion of the term of office for which he was elected,
 - (ii) requiring any person who has been elected to serve the balance of that term to vacate the office, and
 - (iii) requiring the repayment to the reinstated person of any honorarium, salary or entitlement that was not paid to him during the period of disqualification,

or

- (b) declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant.

Hearing of application

70(1) On hearing an application under section 68(b) or (c) and any evidence, whether oral or by affidavit, that the Court requires, the Court of Queen's Bench may make an order, with or without costs,

- (a) declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant,
- (b) declaring the person to be qualified to remain as a trustee, or
- (c) dismissing the application.

(2) If the Court declares a person disqualified for a contravention of section 64(1)(c), (d), (e) or (f), it may order the person to pay to the board the total amount of any profit so made.

(3) An application under this section

- (a) must be made within 3 years from the date on which the contravention is alleged to have occurred, and
- (b) may be commenced or continued notwithstanding that an election has been held between the time at which the disqualification is alleged to have arisen and the time at which the application is or was commenced and whether or not the person in respect of whom the application is being brought
 - (i) resigns before or after the election,
 - (ii) was re-elected in the election,
 - (iii) was not re-elected or did not run in the election, or
 - (iv) has completed a term of office.

Dismissal of application for disqualification

71 Where the Court of Queen's Bench hears an application under section 68(b) or (c) or 69 and finds that the person is disqualified, the Court may nevertheless declare the person to be qualified to be a trustee if it is of the opinion that the disqualification arose inadvertently or by reason of a bona fide error in judgment.

Appeal of
declaration of
disqualification

72(1) A person who is declared disqualified by the Court of Queen's Bench and appeals that declaration to the Court of Appeal remains disqualified until the final determination of the appeal.

(2) If on the final determination of the appeal the disqualification is set aside, the Court of Appeal

(a) shall

(i) reinstate the person as a trustee for any unexpired portion of the term of office for which he was elected,

(ii) require any person who has been elected to serve the balance of that term to vacate the office, and

(iii) require the repayment to the reinstated person of any honorarium, salary or entitlement that was not paid to him during the period of disqualification,

and

(b) may order that any money paid to the board pursuant to section 70(2) be paid back to the trustee together with any interest.

(3) If, on the final disposition of the appeal, the disqualification is set aside but the term of office for which the person was elected has expired, the person shall not be reinstated, but he is eligible to be elected at the next general election for the election of trustees to the board, if otherwise qualified.

Reimbursement

73(1) If

(a) an application made under section 68(b) or (c) is dismissed, or

(b) an order is made declaring that the person is qualified to remain as a trustee of the board,

the board may reimburse the person in respect of whom the application was made for any of his costs and expenses that the board considers reasonable other than costs that have already been awarded to the trustee by the Court.

(2) A board may contract for insurance in respect of payments under subsection (1).

PART 4 EMPLOYMENT

Division 1 Teachers

Qualifications re
employment

74(1) Unless otherwise authorized under this Act, a board shall employ as a teacher only an individual who holds a certificate of qualification as a teacher issued under the *Department of Education Act*.

(2) A board may employ a competent individual to teach a language or culture under the supervision of a teacher who holds a certificate referred to in subsection (1).

Qualifications re
supervisory
position

75 Unless a person holds a certificate of qualification as a teacher issued under the *Department of Education Act*, that person is not eligible to hold a supervisory position that directly relates to the teaching functions of a teacher.

- Acting principal **76(1)** Notwithstanding section 14, a board may
- (a) designate a teacher to be an acting principal for a period of not more than 1 year, and
 - (b) assign that acting principal to a school.
- (2) Where a board has assigned an acting principal under subsection (1), the board shall, within 1 year from the date of that assignment, assign a principal to that school.
- Supervisory, administrative and consultative positions **77(1)** A board may appoint or designate any person to an administrative, supervisory or consultative position.
- (2) When an organization representing teachers carries on collective bargaining on behalf of the teachers, a board and the organization, through negotiation, may include in or exclude from the teachers on whose behalf the organization is bargaining any teacher who has been designated by the board to an administrative, supervisory or consultative position.
- Contracts of employment **78(1)** In this Division, “day”, “day in a school year” or “teaching day” means
- (a) a day on which instruction is given by a teacher,
 - (b) a day on which a school is closed due to an emergency,
 - (c) a day on which a school is closed by order of the Minister,
 - (d) 2 days on which a teachers’ convention authorized by the Alberta Teachers’ Association is held,
 - (e) holidays declared by a board, and
 - (f) any other days that are approved by the Minister.
- (2) Unless the teacher agrees, a board may not require a teacher to instruct students
- (a) for more than 330 minutes during a day, or
 - (b) for less than 190 or more than 200 days in a school year.
- (3) Subject to subsection (2) and notwithstanding any other agreement to the contrary, the terms and conditions of a contract of employment between a board and a teacher shall comprise the following:
- (a) except in the case of a teacher excluded under section 77(2), the terms and conditions
 - (i) negotiated under the *Labour Relations Act*, and
 - (ii) agreed to between the board and an organization representing teachers;
 - (b) this section and sections 77 to 80 and 82 to 90;
 - (c) the terms and conditions agreed to between the board and the teacher.
- (4) Any contract of employment excluding or purporting to exclude the provisions of subsection (3)(a) and (b) is void.

(5) Every contract of employment between a board and a teacher shall

- (a) be in writing,
- (b) be offered to a teacher by a person acting on behalf of the board, and
- (c) be accepted by the teacher.

(6) For the purposes of this Division an offer, acceptance, confirmation, statement or notification shall be in writing and shall be

- (a) sent by registered or ordinary mail or by courier to,
- (b) personally served on, or
- (c) sent by telex, telegram or electronic mail to

the person to whom it is addressed.

Probationary
contract

79(1) A board may employ a teacher under a probationary contract of employment for a complete school year if that teacher

- (a) was not employed by that board as a teacher in the year prior to the year in which the contract was entered into, or
- (b) was employed by that board in the year prior to the year in which the contract was entered into under section 81 or under a contract referred to in section 82.

(2) For the purposes of subsection (1), a teacher employed under section 84 is deemed to have been employed by the board under a probationary contract of employment if at the conclusion of a school year the total amount of time that the teacher taught for the board is at least equal to the amount of time the teacher would have been required to teach in a complete school year if the teacher had been employed by the board to teach on a full-time basis.

(3) A probationary contract of employment shall terminate on the June 30 next following the commencement date specified in the contract.

(4) Notwithstanding subsection (3), if evaluations of the teacher indicate to the board that a further probationary period is required and the teacher agrees, the probationary contract of employment may be extended for a further period ending no later than the June 30 next following the date of the renewal of the contract.

Continuing
contract

80 Subject to this Act, a contract of employment between a board and a teacher continues in force from year to year.

Substitute
teachers

81(1) A teacher may teach without a contract of employment that is in accordance with section 78 only when the teacher is employed

- (a) on a day to day basis, or
- (b) to occupy a vacancy that is expected to be less than 20 consecutive teaching days in duration.

(2) Neither a teacher who teaches without a contract of employment that is in accordance with section 78 nor the board employing the teacher may appeal to the Board of Reference.

Temporary contract

82(1) A teacher may be employed by a board under a temporary contract of employment when that teacher is employed for the purpose of replacing a teacher who is absent from his duties for a period of 20 or more consecutive teaching days.

(2) A temporary contract of employment entered into under subsection (1) shall

(a) specify the date on which the teacher commences employment with the board, and

(b) terminate

(i) on the June 30 next following the commencement date specified in the contract, or

(ii) on a date provided for in the contract,

whichever is earlier.

(3) Notwithstanding anything contained in a temporary contract of employment, a party to a temporary contract of employment may terminate that contract by giving 30 days' written notice of the termination to the other party to the contract.

(4) Section 114 does not apply to the termination of a temporary contract of employment under this section.

Interim contract

83(1) A board may employ a teacher for a period of not more than 360 days under an interim contract of employment if that teacher

(a) was not employed by that board as a teacher in the school year immediately prior to the school year in which the interim contract of employment commences, or

(b) was employed under section 81 or under a contract referred to in section 82 by that board in the school year immediately prior to the school year in which the interim contract of employment commences.

(2) For the purposes of subsection (1), a teacher employed under section 84 is deemed to have been employed by the board under an interim contract of employment if at the conclusion of a school year the total amount of time that the teacher taught for the board is at least equal to the amount of time the teacher would have been required to teach in a complete school year if the teacher had been employed by the board to teach on a full-time basis.

(3) An interim contract of employment terminates on the June 30 next following the commencement date specified in the contract unless otherwise specified in the contract.

Part-time contract

84(1) A board may employ a teacher under a part-time contract of employment for a period that includes all the teaching days in a school year

(a) to teach on a part-time basis, and

(b) to be paid only for the time that the teacher teaches.

(2) When the board employs a teacher under a part-time contract of employment, the board may, unless that teacher's contract provides

otherwise, vary the amount of time that the teacher is required to teach in the subsequent semester or school year.

(3) If

(a) under subsection (2), a board varies the amount of time that a teacher is required to teach under a part-time contract of employment, and

(b) the teacher does not agree to teach for that amount of time as varied,

the board may terminate that teacher's contract.

(4) Section 114 does not apply to the termination of a contract under subsection (3).

Transfer of
teacher

85(1) A superintendent may, at any time during a school year, transfer a teacher from one school operated by the board to another of its schools.

(2) Subject to this section, if a teacher is transferred, that transfer becomes effective not less than 7 days from the day on which the notice of transfer and reasons for the transfer are received by the teacher.

(3) When a teacher is given a notice of transfer, the teacher may, within 7 days from the day on which he receives the notice of transfer, make a written request to the board to have a hearing before the board for the purpose of objecting to the transfer.

(4) The board may set a date and time for the hearing requested under subsection (3) that is not earlier than 14 days after the teacher receives notice of the transfer unless the teacher agrees in writing to an earlier date.

(5) Where a teacher makes a request to have a hearing before a board under subsection (3), that teacher shall not be transferred until after the hearing is held.

(6) Notwithstanding section 90, if a teacher has been given

(a) a notice of transfer and does not wish to transfer in accordance with the notice, or

(b) a hearing before the board under this section and does not wish to comply with the decision of the board,

that teacher may resign from his employment with the board on giving the board 30 days' written notice of his resignation.

(7) Notwithstanding that 30 days have not passed from the date that a teacher gave notice of his resignation under subsection (6), the contract of employment between that teacher and the board terminates on the board paying to the teacher the salary that the teacher would have been entitled to if the teacher had remained in the employ of the board for 30 days from the date of the giving of his notice of resignation.

Suspension
of teacher

86(1) When a board has reasonable grounds for believing that a teacher has been guilty of gross misconduct, neglecting his duty or

refusing or neglecting to obey a lawful order of the board, the board may suspend the teacher from the performance of his duties.

(2) The board shall

(a) give written notice of the suspension to the teacher specifying the reasons for the suspension, and

(b) forward a copy of the notice of suspension together with a written statement of the facts alleged to the Minister.

(3) If the Board of Reference under section 120 authorizes the board to terminate the contract of employment of a teacher, the board may terminate that contract and on so doing the board shall be deemed to have acted reasonably.

(4) If

(a) the suspension is appealed to the Board of Reference, and

(b) the Board of Reference confirms the suspension,

the board may

(c) reinstate the suspension of the teacher, or

(d) terminate the contract of employment of the teacher, and the board shall be deemed to have acted reasonably.

(5) If the teacher does not appeal the suspension to the Board of Reference, the board may make an investigation of the circumstances and may reinstate the teacher.

(6) A teacher who is suspended shall be paid his salary until the teacher's contract of employment is terminated in accordance with this Act.

(7) A board shall not employ a teacher who has been suspended by another board while the suspension is in effect.

Termination
of contract

87(1) A contract of employment between a board and a teacher automatically terminates at the time that

(a) the certificate of qualification of the teacher is suspended or cancelled by the Minister, or

(b) the certificate of qualification of the teacher expires.

(2) A contract of employment between a board and a teacher or a designation of a teacher made pursuant to section 14, 76 or 77 may be terminated by mutual consent.

Termination
by board

88(1) A board may terminate

(a) a contract of employment with a teacher, or

(b) a designation of a teacher made pursuant to section 14, 76 or 77,

after giving the teacher written notice of the termination not less than 30 days prior to the effective date of the termination.

(2) In terminating a contract of employment or a designation, the board shall act reasonably.

(3) A notice of termination of a contract of employment or a designation shall specify the reasons for the termination.

(4) Where a teacher has been served with a notice of termination of a contract or a designation, the board may suspend the teacher from the performance of his duties in accordance with the notice.

(5) A notice of termination of a designation or the termination of the designation does not terminate a contract of employment.

(6) A teacher who has been suspended under this section shall be paid his salary until the effective date of the termination of the teacher's contract or the designation.

Termination
by teacher

89(1) A teacher may terminate

- (a) a contract of employment with a board, or
- (b) a designation of the teacher made pursuant to section 14, 76 or 77,

by giving the board 30 days' written notice of his intention to terminate that contract or designation.

(2) If a teacher has terminated his contract of employment with a board before rendering any service under the contract, the teacher shall not be employed by another board unless the board with which the teacher's contract was terminated gives its prior approval to the teacher's employment with the other board.

Notice of
termination

90 Subject to section 87(2), a notice of termination of a contract of employment or of a designation shall not be given by a board or a teacher

- (a) in the 30 days preceding, or
- (b) during

a vacation period of 14 or more days' duration.

Termination of
designation

91(1) Notwithstanding section 87(2), a teacher, on receipt of a notice of termination of a designation made pursuant to section 14, 76 or 77, may terminate his contract of employment by giving 30 days' written notice to the board of his intention to terminate that contract.

(2) No appeal may be made from a termination of a contract to the Board of Reference if the contract of employment is terminated pursuant to subsection (1).

Salaries

92(1) Subject to section 78, a board

- (a) shall pay the annual salary of every teacher who teaches on all the days of a school year on which his school is in operation;
- (b) shall, except as provided in clause (c), pay to every teacher who

- (i) is under a contract of employment for a period that includes all the teaching days of a school year, and

(ii) does not teach on all the days on which the teacher's school is in operation,

that teacher's full annual salary less 0.5% of the salary for each teaching day on which the teacher does not teach;

(c) shall pay

(i) to every teacher who is under a contract of employment for a period that does not include all the teaching days of a school year, and

(ii) to every teacher who is under a contract of employment for a period that includes all the teaching days of a school year but who during that year teaches on fewer than 100 teaching days,

0.5% of the teacher's annual salary for each day on which the teacher teaches;

(d) shall not deduct any amount from a teacher's salary in respect of that teacher's absence if the absence

(i) is approved by the board or the Minister, or

(ii) is

(A) for the purpose of the teacher's receiving necessary medical or dental treatment, or

(B) on account of injury to or the illness or disability of the teacher,

when the total number of teaching days on which the teacher is absent in a school year does not exceed the total number of days of absence that the teacher is allowed under subsection (2);

(e) may authorize a teacher's absence without pay.

(2) For the purposes of subsection (1)(d)(ii), a teacher is allowed to be absent in a school year on not more than

(a) a total of 20 days, or

(b) the number of days determined by dividing by 9 the total number of days that the teacher taught for the board during the school year,

whichever is the lesser number of days.

(3) For the purposes of subsection (1)(d)(ii), a board may require the teacher to provide it with a certificate from a physician or a dentist.

(4) A board may allow a teacher to be absent and pay full or part salary to the teacher for a greater number of days than the 20 days referred to in subsection (2).

(5) A board may adopt a scheme whereby a teacher may earn, during the teacher's service with a board, an entitlement to salary applicable to periods of illness, the unused portion of which may be carried forward from year to year.

- (6) Notwithstanding any agreement to the contrary, a board shall,
- (a) on or before the last day of each month, or
 - (b) within 7 days from the date of the termination of a contract of employment,

pay to a teacher under a contract of employment the money due to the teacher.

- (7) Notwithstanding subsection (6), a board may withhold

- (a) at the end of each school year, or
- (b) at the termination of a teacher's contract of employment,

an amount not exceeding 1 month's pay for a period ending not later than 7 days after the submission by the teacher of any reports, returns or property of the board or the Government that are required to be returned to the board or the Government.

- (8) When a teacher's employment with a board terminates prior to

- (a) the conclusion of the school year, in the case of a teacher employed under a contract to teach during all the teaching days in a school year, or
- (b) the expiry date provided for in the contract or under this Act, in the case of a teacher employed under a contract to teach for part of a school year,

the board may deduct from the amounts payable to that teacher 0.5% of the teacher's annual salary for each day that the teacher was absent that exceeds

- (c) the number of days that the teacher is allowed under subsection (2)(a), or
- (d) the number of days determined by dividing by 9 the total number of days that the teacher taught for the board in the school year in which the teacher's employment was terminated,

whichever is the greater number of days.

Unqualified
teachers

93(1) Unless otherwise authorized under this Act, a board shall not knowingly employ a person as a teacher who does not hold a certificate of qualification as a teacher issued under the *Department of Education Act*.

(2) Unless otherwise authorized under this Act, a person shall not teach in a school operated by a board unless that person holds a certificate of qualification as a teacher issued under the *Department of Education Act*.

(3) A person who is not permitted to teach is not entitled to recover any remuneration for his services as a teacher.

Division 2
Non-teaching Employees

- Superintendent of schools **94**(1) Subject to the regulations, a board shall, unless exempted by the Minister, appoint a superintendent of schools, who shall be the chief executive officer of the board.
- (2) Notwithstanding subsection (1), on the request of a board, the Minister may appoint a superintendent of schools for the board, who shall be the chief executive officer of the board and shall be paid by the board.
- Regulations **95** The Minister may make regulations governing the qualifications of superintendents of schools.
- Secretary and treasurer **96** The board shall
- (a) appoint a secretary and a treasurer, or 1 person to act as secretary-treasurer,
 - (b) forthwith notify the Minister of the appointment, and
 - (c) arrange for the bonding of the treasurer or the secretary-treasurer, as the case may be, in an amount that is reasonable in the circumstances.
- Other non-teaching employees **97** In addition to the employees referred to in sections 94 and 96, the board may employ other non-teaching employees that the board considers necessary for its operation.

Division 3
General

- Medical examination **98** A board may require any person employed by it to undergo a medical examination by a physician named or approved by the board.
- Labour relations **99**(1) Notwithstanding anything in this Act, the *Labour Relations Act* applies to a board and the employees of the board.
- (2) A board may
- (a) be a member of an employers' organization, and
 - (b) delegate its power to bargain with any of its employees to the employers' organization.
- (3) When a delegation is made under subsection (2), the employers' organization may, subject to any limitation set out in the delegation, bargain collectively and make an agreement on the board's behalf in accordance with the *Labour Relations Act*.
- Trustees **100** For the purposes of the *Labour Relations Act* and the *Employment Standards Act*, neither
- (a) a trustee of a board, nor
 - (b) an official trustee appointed under the *Department of Education Act*,
- is an employee of the board.

Employee
contracts

101(1) Section 62 applies to an employee under this section.

(2) No employee of a board shall enter into an agreement, other than a contract of employment, either in his own name or in the name of another or alone or jointly with another,

- (a) with the board by which he is employed, or
- (b) with any person contracting with the board,

if he has a pecuniary interest in the agreement, unless

(c) other than in the case of the purchase of real property from or the sale of real property to the board, the employee

- (i) discloses his interest to the board, and
- (ii) obtains the board's approval of his entering into the agreement,

before entering into the agreement, and

(d) in the case of the purchase of real property from or the sale of real property to the board, the employee

- (i) declares his interest to the board, and
- (ii) obtains the board's and the Minister's approval of his entering into the agreement,

before entering into the agreement.

(3) A contract entered into in contravention of subsection (2) is void.

Return of
property on
ceasing to
hold office

102 Where a person

- (a) was a trustee or employee of a board,
- (b) has in his possession or has control over any money, book, paper, thing or other property that is the property of the board or the Government, and
- (c) after being given a written notice by the board or the Minister to deliver that property in accordance with the directions in the notice, refuses or fails to deliver that property to the board or the Minister in accordance with the notice,

that person is guilty of an offence and liable to a fine of not more than \$50 for each day that he does not deliver that property to the board or the Minister in accordance with the notice.

**PART 5
APPEALS**

Division 1

Appeals Concerning Student Matters

- Appeal to board **103**(1) The failure of a person to make a decision is deemed to be a decision that may be appealed under this Division.
- (2) Where a decision of an employee of a board significantly affects the education of a student,
- (a) the parent of the student, and
 - (b) in the case of a student who is 16 years of age or older, the student,
- or either of them may within a reasonable time from the date that the parent or student was informed of the decision appeal that decision to the board.
- (3) For the purposes of hearing appeals under this section a board shall establish an appeal procedure by resolution.
- (4) A board may establish 1 or more committees for the purpose of carrying out the board's responsibilities under this section.
- (5) A board may make any decision that it considers appropriate in respect of the matter that is appealed to it under this section.
- (6) A board shall make a decision under this section forthwith after receiving an appeal and shall report that decision to the person making the appeal forthwith.
- Review by the Minister **104**(1) A person who may appeal a decision under section 103 may request in writing that the Minister review the decision of the board under section 103 respecting
- (a) the placement of a student in a special education program,
 - (b) a matter referred to in section 5,
 - (c) a home education program,
 - (d) the expulsion of a student,
 - (e) access to and the accuracy or completeness of the student record, or
 - (f) the amount and payment of fees and costs.
- (2) Where a dispute arises
- (a) as to the amount of fees that are payable by a board under Part 3, or
 - (b) as to which board is responsible for a student,
- a board or other person that is a party to the dispute may request in writing that the Minister review the matter.
- (3) A parent may request in writing that the Minister review a decision of a Special Needs Tribunal made under section 30.

- Powers on review **105(1)** On reviewing a matter as requested under section 104, the Minister may
- (a) investigate the matter,
 - (b) advise the parties with respect to the dispute, and
 - (c) through mediation between the parties to the dispute attempt to settle the matter.
- (2) Where
- (a) the Minister reviews a matter as requested under section 104, and
 - (b) the parties to the dispute are unable to settle the matter,
- the Minister may, subject to this Act and the regulations, make whatever decision with respect to the matter in dispute that appears to him to be appropriate in the circumstances, and that decision is final.
- Committees, tribunals, etc. **106** The Minister may appoint a person, committee or tribunal to carry out, on behalf of the Minister, the Minister's functions under section 105 subject to the terms and conditions prescribed by the Minister.
- Assistance to the Minister **107** The Minister may appoint a person, committee or tribunal to assist the Minister in carrying out the Minister's functions under section 105.

Division 2

Attendance Board

- Duties of Board **108** An Attendance Board shall hear all matters referred to it under this Act with respect to the failure of a student to attend a school.
- Matters governing hearings **109** For the purpose of conducting a hearing before the Attendance Board, the following apply:
- (a) notice in writing of the date, time, place and purpose of the hearing shall be served on the parent, on the student who is the subject of the hearing, if the student is capable of understanding the situation, and on any other person the Attendance Board directs at least 10 days before the commencement of the hearing;
 - (b) the Attendance Board has, with respect to the holding of a hearing, the same power as is vested in the Court of Queen's Bench for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,
 - (ii) to compel witnesses to give evidence on oath or otherwise, and
 - (iii) to compel witnesses to produce documents, records and things;
 - (c) the Attendance Board may require a board to produce to the Attendance Board, prior to a hearing, copies of all reports, statements, correspondence or other documents or things relating to the matter being heard;

- (d) if a person fails to attend, to answer questions or to produce an item as required under clause (b) or (c), the Attendance Board may apply to the Court of Queen's Bench for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court;
- (e) the Attendance Board shall receive any evidence presented to it that is relevant to the matter being heard;
- (f) the rules of evidence applicable to judicial proceedings do not apply;
- (g) all oral evidence received shall be taken down in writing or recorded by electronic means;
- (h) all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at a hearing form the record of the proceeding;
- (i) a person on whom notice of the hearing is served and his counsel are entitled to examine the record;
- (j) the Attendance Board may from time to time adjourn matters that are before the Board;
- (k) a hearing shall be held in public;
- (l) notwithstanding clause (k), a hearing or any portion of it may be held in private if in the opinion of the Attendance Board it is in the public interest to do so;
- (m) a person who is likely to be affected by a hearing before the Attendance Board is entitled
 - (i) to appear before the Attendance Board,
 - (ii) to be represented by counsel, and
 - (iii) to make representations to the Attendance Board;
- (n) a witness attending a proceeding before the Attendance Board is entitled to the same fees and allowances as a witness summoned to attend at the Provincial Court unless otherwise prescribed in the regulations;
- (o) notice of every order together with a copy of the written reasons for it, if any, shall promptly be sent to
 - (i) a person on whom notice of the hearing was served, and
 - (ii) any person that the Attendance Board considers is substantially affected by it.

Order of Board

110(1) On hearing a matter referred to it, the Attendance Board may, subject to any terms or conditions that the Attendance Board considers proper in the circumstances, make an order doing one or more of the following:

- (a) directing the student to attend school;
- (b) directing the parents of a student to send the student to school;
- (c) subject to sections 23, 29 and 30, directing the student to take an education program, course or student program set out in the order;

(d) reporting the matter to a director under the *Child Welfare Act*;

(e) imposing on the student's parent a monetary penalty not exceeding \$100 per day up to a maximum of \$1000 to be paid to the Crown for each day that the student does not attend school;

(f) giving such other direction not referred to in clauses (a) to (e) as the Attendance Board considers appropriate in the circumstances.

(2) A copy of an order of the Attendance Board may be filed with the clerk of the Court of Queen's Bench in the judicial district in which the cause of the proceedings before the Attendance Board arose.

(3) On the filing of a copy of an order with the clerk of the Court of Queen's Bench pursuant to subsection (2), the order of the Attendance Board has the same force and effect as if the order were an order of that Court.

(4) A copy of the order as filed shall be sent to the Minister and any person to whom notice of the order is sent.

Establishment
of Board

111(1) The Minister may

(a) divide Alberta into attendance districts;

(b) appoint an Attendance Board consisting of as many members as the Minister considers necessary and designate from among the members a chairman and 1 or more vice-chairmen.

(2) The members of the Attendance Board shall be paid the remuneration and expenses the Minister determines.

Sitting in panels

112(1) At the request of the chairman or a vice-chairman, 3 or more members may sit as a panel of the Attendance Board.

(2) Two members constitutes a quorum at a sitting of a panel of the Attendance Board.

(3) A decision made or other action taken at a sitting of a panel of the Attendance Board at which a quorum is present

(a) is the decision or action of the Attendance Board, and

(b) binds all members of the Attendance Board.

(4) A panel of the Attendance Board has, with respect to its duties, the jurisdiction of the Attendance Board and may exercise and perform all the powers of the Attendance Board under this Act and the regulations.

(5) The chairman may designate a member of a panel of the Attendance Board to preside at any sitting of the panel at which the chairman is not present.

(6) A panel of the Attendance Board shall conduct its sittings separately from those of another panel of the Attendance Board being conducted at the same time.

(7) Where a hearing is conducted by a panel of the Attendance Board and 1 or more members of the panel do not for any reason attend

on any day or part of a day, the remaining members present may, if they constitute a quorum of the panel, continue with the hearing.

Division 3
Board of Reference

- Board **113**(1) The Lieutenant Governor in Council shall appoint a Board of Reference consisting of those persons that he considers necessary.
- (2) The members of the Board of Reference shall be paid the remuneration and expenses that the Lieutenant Governor in Council determines.
- (3) An appeal referred to the Board of Reference may be heard by 1 or more members of the Board.
- (4) Where an appeal referred to the Board of Reference is heard by 1 or more members of the Board,
- (a) that member or those members, as the case may be, have all the powers of and may carry out, in respect of that appeal, all the duties and functions of the Board of Reference, and
 - (b) the decision of that member or those members, as the case may be, is the decision of the Board of Reference.
- (5) For the purpose of carrying out its duties and functions under this Division the Board of Reference and each of its members have the powers of a commissioner under the *Public Inquiries Act*.
- Appeal **114** If a disagreement arises between a board and a teacher with respect to
- (a) a termination of a contract of employment,
 - (b) a suspension of the teacher,
 - (c) a termination of a designation of a teacher, or
 - (d) the refusal of a board to give an approval pursuant to section 89(2),
- the board or the teacher may appeal the matter by sending the Minister a notice of appeal in accordance with section 115.
- Notice of appeal **115**(1) A notice of appeal shall
- (a) be in writing, and
 - (b) set out the nature of the appeal.
- (2) The board or teacher appealing shall within 14 days from the date of receipt of the notice of
- (a) termination of contract or of designation,
 - (b) suspension, or
 - (c) refusal to give an approval,
- send by registered mail
- (d) to the Minister, the notice of appeal and a \$50 deposit, and
 - (e) to the other party to the appeal, a copy of the notice of appeal.

Appeal referred to Board	<p>116(1) On receiving a notice of appeal, the Minister shall refer the appeal to the Board of Reference.</p> <p>(2) The Board of Reference shall, on having an appeal referred to it,</p> <ul style="list-style-type: none"> (a) set the time, place and date for the hearing of the appeal, and (b) notify the parties to the appeal of the time, place and date of the appeal.
Investigation	<p>117 In considering the matter being appealed, the Board of Reference may make any investigation it considers necessary.</p>
Hearing	<p>118(1) After the hearing is set under section 116(2), the Board of Reference shall not make any decision in respect of the matter being appealed without giving the parties to the appeal an opportunity to be heard.</p> <p>(2) A person appearing at a hearing is entitled to be represented by counsel.</p>
Appeal from suspension	<p>119 If an appeal to the Board of Reference is from the suspension of a teacher, the Board of Reference shall inform the board and the teacher of its decision within 10 days from the conclusion of its investigation and hearing.</p>
Order of Board	<p>120 In deciding the matter being appealed, the Board of Reference may make an order doing one or more of the following:</p> <ul style="list-style-type: none"> (a) confirming the termination, suspension or refusal to give an approval; (b) changing the termination date of a contract of employment or of a designation; (c) directing the board <ul style="list-style-type: none"> (i) to reinstate the contract of employment or the designation of a teacher, or (ii) to give the approval; (d) removing the suspension; (e) directing a board to pay to the teacher an amount of money equivalent to his salary for a specified period; (f) authorizing a board not to pay salary to the teacher for a specified period; (g) providing for any matter not referred to in clauses (a) to (f) that the Board considers just in the circumstances.
Irregularities in notice of appeal	<p>121 The Board of Reference may proceed with an appeal under this Division notwithstanding any technical or procedural irregularity with respect to the appeal if the Board of Reference is of the opinion that none of the parties to the appeal were substantially affected by the technical or procedural irregularity.</p>
Costs	<p>122 Each party to the appeal shall pay his own costs unless the Board of Reference otherwise orders.</p>

Deposit

123(1) The Board of Reference may with respect to the deposit paid under section 115(2) make an order doing one or more of the following:

- (a) requiring that it be paid in whole or part to the person against whom the decision on the appeal is made in payment or part payment of costs;
- (b) requiring that it be retained in whole or part by the Minister and paid into the General Revenue Fund;
- (c) requiring that it be repaid in whole or part to the person who paid it to the Minister.

(2) If the Board of Reference does not make any order as to costs, the deposit paid under section 115(2) shall be repaid to the person who paid the deposit.

Enforcement of order

124(1) A copy of an order made by the Board of Reference under section 120, 122 or 123 shall be filed with the clerk of the Court of Queen's Bench in the judicial district in which the cause of the proceedings before the Board of Reference arose.

(2) On the filing of a copy of an order with the clerk of the Court of Queen's Bench pursuant to subsection (1), the order of the Board of Reference has the same force and effect as if the order were an order of that Court.

(3) A copy of the order as filed shall be sent to the Minister.

PART 6
FINANCE
Division 1
General

Auditor

125 The board shall appoint an auditor.

Financial reporting

126(1) The fiscal year of a board of a district or division is September 1 to the next following August 31.

(2) The board of a district or division shall do the following:

- (a) on or before November 15 in each year, prepare financial statements for the fiscal year ending on the previous August 31;
- (b) on or before April 30 in each year, prepare and submit to the Minister a budget for the fiscal year beginning on the next following September 1.

(3) The board of education of a county shall do the following:

- (a) on or before November 15 in each year, submit to the Minister a copy of a statement of revenues, expenditures and source and application of funds prepared by an authorized officer of the board for the year ending on the previous August 31;
- (b) on or before April 30 in each year, prepare and submit to the Minister a budget for the year beginning on the next following September 1.

(4) The Minister in his discretion may publish or otherwise disseminate all or part of the documents submitted to him pursuant to this section.

Auditor's report

127(1) An auditor shall perform his examination and prepare his report in accordance with generally accepted auditing standards on the financial statements prepared pursuant to this Act and submit the report to the board.

(2) The auditor shall at all times be given access to all records, documents, books of account and vouchers of the board by board employees, and the auditor is empowered to request and receive from the board and any employee of the board any information and explanations that in his opinion may be necessary to enable him to report as required by subsection (1).

(3) The Minister may prescribe procedures to be used under this section that differ from generally accepted auditing standards.

Examination of auditor's report

128 The chairman shall lay the auditor's report before the board at its next meeting and provide an opportunity to the members to discuss it at a meeting of the board.

Report to Minister

129(1) The auditor shall send the Minister, on or before November 30 in each year, in respect of a board of which he is auditor, copies of

(a) the financial statements,

(b) his report on the financial statements, and

(c) any written communication between himself and the board respecting the systems of internal control and accounting procedures of the board.

(2) The Minister in his discretion may publish or otherwise disseminate all or part of the documents submitted to him pursuant to subsection (1).

Application of funds

130(1) Subject to subsections (3) and (4), any money of a board that is accumulated by way of a reserve fund for capital expenditures shall be used only for capital expenditures.

(2) Subject to subsections (3) and (4), any money of a board that is acquired by borrowing or in any other manner shall be used only for the purpose for which it was acquired.

(3) The Minister may, on any conditions that the Minister prescribes, grant permission to a board to use money referred to in subsections (1) and (2) for a purpose other than that for which it was accumulated or acquired.

(4) Notwithstanding subsections (1) and (2), a board may effect a temporary transfer for a period of not more than 1 year of capital funds to an account for current expenses and, on the transfer of the capital funds, the funds may be applied during that period toward current expenses.

Division 2
Assessment of Property

Assessment

131(1) Except as otherwise provided for in this Division, all property is assessable for public school purposes.

(2) When a separate school district exists and the municipality has no information as to whether property of an individual is assessable for public or separate school purposes, the property is assessable for public and separate school purposes in accordance with an agreement between the boards of the relevant public school district or division and the relevant separate school district.

(3) If there is no agreement under subsection (2), the assessment shall be apportioned to the relevant public school district or division and the relevant separate school district in the same ratio as the number of resident students of the public school board is to the number of resident students of the separate school board.

Property owned
by individuals

132(1) When

- (a) a separate school district exists, and
- (b) the faith of an individual, whether Protestant or Roman Catholic, is the same as the faith of those who established the separate school district,

the property of that individual is assessable for separate school purposes.

(2) When

- (a) a separate school district exists, and
- (b) the property is held by 2 or more individuals as joint tenants or tenants in common,

each individual shall be assessed for the purposes of the district of which he is a resident, in proportion to his interest in the property.

(3) For the purposes of this section, when property is held by 2 or more individuals as joint tenants, they shall be deemed to hold that property in equal shares and shall be assessed accordingly.

(4) Notwithstanding subsections (2) and (3) of this section and section 131(1), if

- (a) Glen Avon Separate School District No. 5 and St. Paul School District No. 2228 each pass a resolution,
- (b) St. Albert Separate School District No. 6 and St. Albert School District No. 3 each pass a resolution, or
- (c) such other public and separate school districts with the same boundaries as the Lieutenant Governor in Council prescribes each pass a resolution,

that this subsection applies in that district, an individual who is not a resident of the separate school district may direct that his property be assessed for separate school purposes, and when the direction is made the individual is deemed to be a resident of the separate school

district and to have all the rights, duties and obligations of a resident of the separate school district.

(5) A resolution passed by a board for the purposes of subsection (4) remains in effect until rescinded and shall not be rescinded before the next following election of trustees in that district or division.

Interfaith marriages

133(1) In this Division, “interfaith marriage” means a marriage between a member of the minority faith, whether Protestant or Roman Catholic, and an individual who is not a member of the minority faith, both of whom reside within the boundaries of the same separate school district.

(2) If one of the parties to an interfaith marriage is eligible to be an elector in the relevant separate school district, the parties to the marriage may declare themselves to be a unit for the purposes of this Division, and, for as long as that eligibility continues, they may direct that their property be assessed for the purposes of either the public school district or the separate school district and both of them are deemed to be residents of and to have all the rights, duties and obligations of a resident of that school district.

List of separate school district residents

134(1) Where a separate school district is established, the board of the separate school district shall

(a) before the December 1 next following the establishment of the separate school district, and

(b) according to the information available to the board,

submit to each municipality within which the district lies a list of the names and addresses of all individuals whose property is liable to assessment for the support of the separate school district.

(2) Where a separate school district is established, the board of the separate school district shall submit a list of the names and addresses of all individuals who were separate school electors as defined in section 199 at the time the separate school district was established.

(3) A list submitted to a municipality under subsection (1) becomes effective on the December 31 following the date on which the list is submitted.

(4) The lists referred to in subsections (1) and (2) shall be accompanied by a statutory declaration of the chairman and secretary of the board stating

(a) the sources of information used in the preparation of the list, and

(b) that to the best of their knowledge and belief, the list is accurate according to that information.

(5) On receiving the lists referred to in subsections (1) and (2), the municipality shall mail to each individual named on a list at his address shown on it a notice stating

(a) that the board of a separate school district claims that

(i) he is a resident of that district, and

(ii) his property that is located in that district is assessable for the purposes of the separate school district by virtue of

his being Protestant or Roman Catholic, whichever is the faith of those who established the separate school district,

and

(b) that he will be recorded as a resident of the separate school district unless within 3 weeks from the date of the mailing of the notice he gives written notice to the municipality stating that he is not a member of the same faith as those who established the separate school district.

(6) When a written notice is given by an individual under subsection (5)(b), the municipality shall remove the name of the individual from the list.

(7) After the expiration of 3 weeks from the date of the mailing of the last of the notices by the municipality under subsection (5), the municipality shall with respect to all individuals whose names remain

(a) on the list referred to in subsection (1), record their properties as being assessable for separate school purposes, and

(b) on the list referred to in subsection (2), if any, record those individuals as being electors of the separate school district.

(8) The municipality shall furnish to the board of the separate school district and to the board of the relevant public school district or division a copy of the list following the removal of names, if any, pursuant to subsection (6).

Notice by
property owner

135(1) Any person may at any time give written notice to a municipality

(a) in the form set out in the Schedule that his property is assessable for public school or for separate school purposes,

(b) in the case of a corporation, that none of the shareholders are of the same faith as those who established the separate school district,

(c) that he is making a direction under section 132(4), or

(d) that he is a party to an interfaith marriage that is declared to be a unit under section 133,

and on receipt of the notice the municipality shall adjust its records to indicate that person's property as being assessable in accordance with the notice.

(2) The Lieutenant Governor in Council may amend the Schedule.

(3) When a municipality is notified that the ownership of property in the municipality has been transferred, the municipality shall require the transferee to submit a notice under subsection (1).

(4) When a person gives notice under subsection (1), any change in the assessment roll shall not be effective for assessment purposes until the year following the year in which the notice is given.

(5) Any person entitled to examine the assessment and tax roll may, at any time during office hours, examine a notice given under this section or section 136 by a corporation.

Assessment
notice re
corporation

136(1) When a separate school district exists, a corporation that has shareholders or members of the same faith as those who established the separate school district may, by giving notice to the proper officer of the municipality, require a portion of the property in respect of which it is assessable to be entered and assessed for separate school purposes.

(2) When the corporation has shareholders, the notice under subsection (1) shall designate to the separate school district the proportion of the property of the corporation in the district that is assessable for school purposes that the value of shares owned by shareholders who are separate school supporters bears to the total value of all shares of the corporation.

(3) If the corporation does not have shareholders or is a co-operative association the notice under subsection (1) shall designate to the separate school district the proportion of the property of the corporation in the district that is assessable for school purposes that the number of members who are separate school supporters bears to the total number of members of the corporation.

(4) The notice given by a corporation shall state that the proportion of the property of the corporation designated in the notice has been approved by a resolution of the corporation or the board of directors of the corporation.

Corporate
shareholder

137(1) In this section,

(a) "allotment of assessment" means that portion of the assessment of the property of a property-holding corporation that is in the same ratio to the total assessment of that property as the value of the shares held by the shareholder corporation is to the total value of all the shares of the property-holding corporation;

(b) "property-holding corporation" means a corporation that has property that

(i) is situated within a separate school district, and

(ii) is assessable for school purposes;

(c) "share" means a share issued by a property-holding corporation;

(d) "shareholder corporation" means a corporation that is a shareholder of a property-holding corporation.

(2) When a property-holding corporation has at least 1 shareholder who is a natural person, a shareholder corporation of that property-holding corporation may, by giving written notice to that property-holding corporation, designate all or any portion of its allotment of assessment for separate school purposes and thereupon the property-holding corporation shall, with respect to that portion of the allotment of assessment so designated for separate school purposes, treat the shareholder corporation as a separate school supporter for the purposes of section 136(2).

(3) When all the shareholders of a property-holding corporation are corporations, a shareholder corporation of that property-holding corporation may, by giving written notice to that property-holding cor-

poration, designate all or any portion of its allotment of assessment for separate school purposes and if such a notice is given

(a) the property-holding corporation may give a notice under section 136(1) as though that shareholder corporation were a natural person, and

(b) the property-holding corporation, if it gives a notice under section 136(1), shall, with respect to that portion of the allotment of assessment so designated for separate school purposes, treat the shareholder corporation as a separate school supporter for the purposes of section 136(2).

Corporate member

138(1) In this section,

(a) “member corporation” means a corporation that is a member of a property-holding corporation that

(i) does not have shareholders, or

(ii) is a co-operative association;

(b) “property-holding corporation” means a corporation that has property that

(i) is situated within a separate school district, and

(ii) is assessable for school purposes.

(2) When a property-holding corporation has at least 1 member who is a natural person, a member corporation of that property-holding corporation may, by giving written notice to that property-holding corporation, declare itself to be a separate school supporter and thereupon the property-holding corporation shall treat the member corporation as a separate school supporter for the purposes of section 136(3).

(3) When all the members of a property-holding corporation are corporations, a member corporation of that property-holding corporation may, by giving written notice to that property-holding corporation, declare itself to be a separate school supporter and if such a notice is given

(a) the property-holding corporation may give a notice under section 136(1) as though that member corporation were a natural person, and

(b) the property-holding corporation, if it gives a notice under section 136(1), shall treat the member corporation as a separate school supporter for the purposes of section 136(3).

Evidence

139 A notice given under section 135, 136, 137 or 138 is prima facie proof

(a) of the contents of that notice, and

(b) that a corporation that gave the notice was properly empowered to give the notice.

Effect of notice

140(1) A notice under section 136 shall be given to the proper officer of the municipality in which the property is situated and to the secretaries of the boards of the public and separate school districts or to

the secretary of the board of the division if the public school district is within a division.

(2) When a person gives notice under section 135 or 136, any change in the assessment roll shall not be effective for assessment purposes until the year following the year in which the notice is given.

(3) The proper officer shall retain on file in his office each notice given to him by a corporation.

(4) The notice continues in force and shall be acted on until it is withdrawn, varied or cancelled by a subsequent notice given pursuant to a resolution of the corporation.

Assessment of corporation

141 The proper officer of each municipality in each year shall, before the completion of the assessment and tax roll, examine each notice on file in his office and shall show in the assessment and tax roll the property of the corporation or the part of it that is designated by the notice as assessed for separate school purposes.

Property owned by corporations

142(1) When a separate school district is situated wholly or partly within a municipality, the proper officer of the municipality shall apportion the assessment of the property situated in the district of a corporation that has not given notice under section 135 or 136 to the relevant public school district or division and the relevant separate school district in accordance with an agreement between the boards.

(2) If there is no agreement under subsection (1), the assessment shall be apportioned to the relevant public school district or division and the relevant separate school district in the same ratio as the number of resident students of the public school board is to the number of resident students of the separate school board.

Property owned by municipality

143(1) When

(a) a separate school district is situated wholly or partly within a municipality, and

(b) there is property situated in that district that is

(i) owned or leased by the municipality, and

(ii) liable to assessment and taxation under the *Municipal and Provincial Properties Valuation Act*,

the proper officer of the municipality shall apportion the assessment of that property between the relevant public school district or division and the relevant separate school district in accordance with an agreement between the boards.

(2) If there is no agreement under subsection (1), the assessment shall be apportioned to the relevant public school district or division and the relevant separate school district in the same ratio as the number of resident students of the public school board is to the number of resident students of the separate school board.

Property owned by Province

144(1) When

(a) a separate school district is situated wholly or partly within a municipality,

- (b) there is property situated in that district that is
 - (i) owned by the Government of Alberta or an agency of the Government of Alberta, and
 - (ii) given a valuation under the *Municipal and Provincial Properties Valuation Act*,

and

- (c) in respect of that property, grants may be paid to that municipality under the *Crown Property Municipal Grants Act*, the *Alberta Mortgage and Housing Corporation Act*, the *Liquor Control Act*, the *Alberta Government Telephones Act* or the *Treasury Branches Act*,

the proper officer of the municipality shall apportion the valuation of that property between the relevant public school district or division and the relevant separate school district in accordance with an agreement between the boards.

- (2) If there is no agreement under subsection (1), the assessment shall be apportioned to the relevant public school district or division and the relevant separate school district in the same ratio as the number of resident students of the public school board is to the number of resident students of the separate school board.

Property owned by Canada

145(1) When

- (a) a separate school district is situated wholly or partly within a municipality,
- (b) there is federal property that is situated in that district, and
- (c) in respect of that property, grants may be paid to the municipality under the *Municipal Grants Act, 1980 (Canada)*,

the proper officer of the municipality shall apportion the assessed value of that property between the relevant public school district or division and the relevant separate school district in accordance with an agreement between the boards.

- (2) If there is no agreement under subsection (1), the assessment shall be apportioned to the relevant public school district or division and the relevant separate school district in the same ratio as the number of resident students of the public school board is to the number of resident students of the separate school board.

- (3) For the purposes of subsection (1), “federal property” and “assessed value” have the meanings given to them in the *Municipal Grants Act, 1980 (Canada)*.

Requirement to give notice

146 For the purposes of sections 131(3) and 142 to 145, a board shall, not later than December 31 of each year, give to the proper officer of the municipality a notice stating the total number of students residing in the district who are resident students of that board as of September 30 in that year.

Equalized assessment

147(1) The Alberta Assessment Equalization Board shall in each year apportion among the districts, whether public or separate, and the divisions lying in whole or in part within a municipality the equal-

ized assessment established in respect of the municipality for that year and thereafter the Alberta Assessment Equalization Board shall advise the municipality of the apportionment.

(2) On being advised by the Alberta Assessment Equalization Board of an apportionment under subsection (1), the proper officer of a municipality within which a district or division is situated in whole or in part shall provide a certificate to the secretary of the board showing the portion of the equalized assessment of the municipality as determined pursuant to subsection (1) that is applicable to that part of the municipality that is within the district or division.

(3) For the purposes of this section, when a separate school district lies in whole or in part within a municipality,

(a) the assessment of the property of an individual that is assessable for separate school purposes shall pertain to the separate school district,

(b) the assessment of property of an individual that is assessable for public school purposes shall pertain to the public school district,

(c) the assessment of property of an individual referred to in section 131(2) or (3) shall be apportioned between the separate school district and the public school district in the same manner as prescribed in section 131(2) or (3), as the case may be,

(d) the assessment of property of a corporation referred to in section 135(1)(b) shall pertain to the public school district,

(e) the assessment of property of a corporation referred to in section 136 shall be apportioned between the separate school district and the public school district in the same manner as prescribed in section 136,

(f) the assessment of property of a corporation referred to in section 142 shall be apportioned between the separate school district and the public school district in the same manner as prescribed in section 142,

(g) the assessment of property of a municipality referred to in section 143 that is liable to assessment and taxation under the *Municipal and Provincial Properties Valuation Act* shall be apportioned between the separate school district and the public school district in the same manner as prescribed in section 143,

(h) the valuations of properties referred to in section 144 lying within the boundaries of the district in respect of which grants are paid in lieu of taxes shall be apportioned between the separate school district and the public school district in the same manner as prescribed in section 144, and

(i) the assessed values of properties referred to in section 145 lying within the boundaries of the district in respect of which grants are paid in lieu of taxes shall be apportioned between the separate school district and the public school district in the same manner as prescribed in section 145,

and if the public school district has been included in a division the assessments and valuations pertaining to the district shall pertain to the division.

False statement re assessment **148** A false statement made in any notice respecting the assessment of property of a corporation that is given by a corporation does not relieve the corporation from taxes.

Offence **149(1)** A corporation that fraudulently gives notice or makes a false statement in a notice is guilty of an offence and liable to a fine of not more than \$10 000.

(2) Any person

(a) who gives a notice on behalf of a corporation, and

(b) who fraudulently or wilfully inserts in that notice a false statement,

is guilty of an offence and liable to a fine of not more than \$10 000.

Division 3 Requisitions

Calculation of requisition **150(1)** Subject to the regulations, a board, in computing its total basic requisition on each municipality included in whole or in part within the district or division, shall, in order to determine the total sum required to be raised by requisitions, deduct from its estimated total expenditures its estimated total revenues derived from all sources other than requisitions.

(2) A board of a division shall deduct the sum of any additional requisitions under section 152(2) from the total sum required to be raised by requisitions as determined under subsection (1).

(3) The board shall advise the municipal secretary or the Minister of Municipal Affairs, as the case may be, of

(a) the total amount that is to be raised by way of requisitions, and

(b) the total assessment of the district or division as shown on the various certificates received under section 147.

(4) On receipt of advice from the municipal secretary or the Minister of Municipal Affairs of any additional revenue that may be supplied by the municipality, the secretary shall adjust the amount of the total basic requisition for each municipality in proportion to the values as shown on the various certificates received under section 147.

(5) The board of a division shall add each additional requisition listed pursuant to subsection (2) to the basic requisition of the appropriate municipality.

(6) The resulting sums shall be the total requisition of the board of the district or division on the respective municipalities.

(7) The Minister may make regulations

(a) limiting the amount of money a board may requisition from a municipality;

(b) setting the limit referred to in clause (a) in an amount or as a percentage;

(c) providing 1 or more methods, whether by a vote of the electors or otherwise, by which a board may exceed the limits set under clause (a).

(8) The Minister may use any criteria the Minister considers appropriate in establishing limits under subsection (7).

Submission of
requisition

151(1) On or before April 30 in each year or within 30 days after the date on which the board is provided with the certificates under section 147, whichever is later, a board shall submit to each municipality and to the Minister its requisition that is required to be raised by the relevant municipality.

(2) If a municipality requests it, the board shall supply a copy of its estimates to the municipality to which it submits a requisition.

Hamlet

152(1) For the purpose of determining an additional requisition only, the Minister may by order declare any area to be a hamlet.

(2) If a board of a division determines that the educational requirements exclusive of capital requirements of a hamlet justify an additional requisition, the board, by resolution and subject to the prior approval of the Minister, may

(a) determine the amount of the additional requisition to be made, and

(b) designate the hamlet within which the levy will be made,

to produce that amount.

(3) When a board passes a resolution under subsection (2), that resolution does not take effect unless it is passed before the board submits its annual requisition under section 151 to the municipality within which the hamlet lies or partly lies.

(4) When an additional requisition has been approved by the Minister under this section it shall continue in effect from year to year until changed in accordance with this section.

(5) An additional requisition established by this section may be

(a) reduced by resolution of the board, or

(b) with the prior approval of the Minister, increased by resolution of the board.

Statement
to boards by
municipality

153 The proper officer of each municipality, when providing the certificate required by section 147, shall also send to each board a statement showing, both for public school purposes and for separate school purposes,

(a) the total assessment of all property assessed to individuals,

(b) the total assessment of all property assessed to corporations under sections 135 and 136,

(c) the total assessment of all property assessed to corporations under section 142,

(d) the total assessment of all property assessed under section 143,

(b) in the case of a county, be retained by the county to be applied towards the budget of the board of education of the county, and any sum paid under clause (a) or retained under clause (b) shall be deemed to be a payment into the School Foundation Program Fund.

(6) Notwithstanding anything in this Division, the Minister may by order suspend or defer in whole or in part the payment of any sum required to be paid under subsection (2) for the period of time and on the terms and conditions that the Minister prescribes.

(7) Notwithstanding anything in this section,

(a) property assessed for separate school purposes shall not be included in the equalized assessment referred to in subsection (2), and

(b) no payment shall be made out of the School Foundation Program Fund to any separate school district

unless the board of the separate school district, pursuant to a resolution of the board, certifies to the Minister under the seal of the district that this section is to apply to that separate school district.

Default

159 Where a municipality defaults in making a payment required under this Division, the Minister may require the Provincial Treasurer to pay into the School Foundation Program Fund to the credit of the municipality any grants payable to that municipality for that year or any succeeding year until the amount owing by the municipality has been received.

Payment from the Fund

160(1) The Minister may make grants from the School Foundation Program Fund if he is authorized to do so by regulations made under this section.

(2) The Lieutenant Governor in Council may make regulations

(a) authorizing the Minister to make grants;

(b) prescribing the purposes for which grants may be made;

(c) governing applications for grants;

(d) prescribing the boards eligible for grants;

(e) specifying the conditions required to be met by any board applying for a grant to render that board eligible for the grant;

(f) prescribing the conditions on which a grant is made and requiring the repayment of the grant to the School Foundation Program Fund if the conditions are not met;

(g) providing for the payment of any grant in a lump sum or by instalments and prescribing the time or times at which the lump sum or the instalments may be paid;

(h) limiting the amount of any grant or class of grant that may be made;

(i) authorizing the Minister to delegate in writing to any employee of the Government any duty, power or function respecting the payment of any grant;

- (j) authorizing the Minister
 - (i) to deduct from grants payable to a board any amounts owing by the board in the nature of
 - (A) fees payable to the Alberta School Trustees' Association, or
 - (B) unpaid payments of principal and interest under debentures,
 - and
 - (ii) to pay the amount deducted on behalf of the board in the manner the Minister directs;
 - (k) requiring any board receiving a grant to account for the way in which the grant is spent in whole or in part;
 - (l) authorizing the Minister to enter into an agreement with respect to any matter relating to the payment of a grant.
- (3) A regulation made under subsection (2) may be specific or general in its application.
- (4) Notwithstanding anything in this section,
 - (a) this section does not apply to, and
 - (b) no payment shall be made out of the School Foundation Program Fund to,

a board of a separate school district unless the board of the separate school district passes a resolution referred to in section 158(7) stating that section 158 applies to that separate school district.

Collecting boards **161** For the purpose of this Division, a board that levies its own taxes pursuant to Division 5 of this Part is deemed to be both a board and a municipality.

Effect of cessation of services **162** Notwithstanding anything in this Division or the regulations, in the event of a cessation of services by teachers or other employees of a board by reason of a strike or lockout, the Minister shall

- (a) pursuant to the regulations made under this Division, calculate the amount payable to the board for the period during which the cessation of services continued, and
- (b) reduce the amount payable to the board by any sum up to and including the amount calculated pursuant to clause (a) after considering the continuing operating costs incurred by the board.

Division 5

Levying and Collecting Taxes by a Board

Definition **163** In this Division, "collecting board" means a board that is authorized under section 164 to levy and collect taxes.

Authorization to levy and collect taxes **164(1)** Notwithstanding anything in this Part, the Minister may, by order, authorize a board to levy and collect taxes with respect to its whole area.

(2) An order made under subsection (1) shall be published in The Alberta Gazette.

- Collecting board **165(1)** A collecting board
- (a) has, for the purpose of imposing, collecting, compromising and refunding taxes, all the powers with respect to the imposition and collection of taxes that are vested in a municipality by the *Municipal Taxation Act* and the *Tax Recovery Act*, and
 - (b) has and may exercise all the powers and duties of a municipality under this Act and the *Municipal Government Act*, but only to the extent that the power is not being exercised in the district by the public authority.
- (2) A collecting board that exercises any of the powers given by subsection (1)(b) shall
- (a) prepare a separate budget in respect of those powers exercised,
 - (b) account separately for money received and expended for those purposes, and
 - (c) indicate in its tax notices the portion of its taxation, in mills, that is levied in respect of those powers exercised.
- Exemption **166** Division 3 as it relates to the making of requisitions on municipalities does not apply to a collecting board.

Division 6 Borrowing

- Borrowing other than by debenture **167(1)** A board may borrow to meet current expenditures if the borrowings are required to be repaid by August 31 of the fiscal year in which they are borrowed.
- (2) A board, with the prior approval of the Minister, may borrow to meet capital expenditures other than by way of debenture under section 168.
- (3) The amount of any borrowing by a board under this section may be secured
- (a) by a charge
 - (i) on taxes levied or to be levied by the board,
 - (ii) on requisitions made or to be made by the board, or
 - (iii) on other money due or accruing due to the board,
 - (b) by a promissory note, or
 - (c) in any other manner.
- (4) A charge secured by a board pursuant to subsection (3) is not effective against the Government, the municipality or any other person who is not a party to the charge.
- (5) The lender of any money under this Act is not required to establish the necessity of the purpose for which the money is borrowed.
- (6) Part 2 of the *Local Authorities Board Act* does not apply to borrowings under this section.

Debenture
borrowing

168(1) A board may borrow by debenture on the security of the board for the purpose of

- (a) securing, purchasing, adding to, extending or improving a site for a building,
- (b) providing construction, maintenance or utility services to school buildings, or
- (c) engaging in a school building project.

(2) If the board decides to borrow by debenture for any of the purposes mentioned in subsection (1), it shall pass, in a form approved by the Local Authorities Board, a by-law stating its intention.

(3) Within 30 days from the date of the passing of the by-law, the board shall give public notice of its intention to apply to the Local Authorities Board for authority to borrow the amount specified in the by-law on the conditions set out in the by-law.

Petition for poll

169(1) If a board

- (a) has received a petition meeting the requirements of section 231 within 15 days from the date of the last publication in a newspaper of the public notice of the proposed debenture borrowing, and
- (b) decides to proceed with the by-law,

the board shall submit the question to a vote of the electors.

(2) The board shall

- (a) send to the Minister a copy of each request contained in the petition, and
- (b) advise the Minister in writing within 14 days from the date of the vote of the outcome of each vote conducted under subsection (1).

(3) If the result of the vote is to defeat the proposal for debenture borrowing, the board is bound by the vote for a period of 12 months from the date of the vote and during that 12-month period the board shall not propose debenture borrowing for the same or a similar project.

Debenture
by-laws

170(1) In the case of a by-law passed before or after the coming into force of this Act, a board by by-law and without the assent of the electors, but subject to the approval of the Local Authorities Board, may authorize a change in any or all of the following:

- (a) the mode of issue of the debentures;
- (b) the place or places where they are payable;
- (c) the manner of repayment as authorized by the Local Authorities Board;
- (d) the rate or rates of interest, the period over which the indebtedness will be spread or the term at the end of which the indebtedness will be made payable, on all or any of the debentures and a corresponding change in the amount to be raised annually with respect to them.

- (2) The by-law may also
- (a) provide that the debentures shall be issued with interest coupons instead of amounts of combined principal and interest or vice versa,
 - (b) change the interest from annual to semi-annual or vice versa, or
 - (c) provide that the debentures may be issued in a different currency or may be in different amounts from those authorized by the original by-law.
- (3) A board, without the assent of the electors but subject to the approval of the Local Authorities Board, may pass a by-law for the issue and sale of new debentures for the purpose of purchasing or redeeming before maturity any or all outstanding debentures issued by it.

Authority for borrowing

171(1) The Local Authorities Board may, on

- (a) receipt of the documents and information it requires, and
- (b) being satisfied that the conditions prescribed by this Act and the regulations have been complied with,

authorize the board to borrow the sum or sums of money mentioned in the by-law, or any lesser sum.

(2) The Local Authorities Board shall, as soon as possible after giving an authorization under subsection (1), cause notice of the authorization of the loan to be published in The Alberta Gazette.

Defeated by-law

172 Notwithstanding that a by-law has not received a majority vote of the electors voting on it, the Local Authorities Board

- (a) may, on receipt of the certificate of the Minister certifying that the building, site, servicing or school building project mentioned in the defeated by-law is urgently required, authorize the board to borrow by debenture the sum or sums of money mentioned in the by-law or any lesser sum, and
- (b) shall, as soon as practicable after giving the authorization under clause (a), cause notice of the authorization to be published in The Alberta Gazette.

Issuing of debentures

173(1) On receiving authorization of the Local Authorities Board, a board shall issue a debenture to secure the amount of the principal and interest on the loan so authorized or of any lesser sum on the terms specified in the by-law.

(2) A debenture shall not be issued after the expiration of 3 years from the date on which the notice of authorization of the loan appears in The Alberta Gazette.

(3) A debenture shall

- (a) be in a form approved by the Local Authorities Board,
- (b) be sealed with the seal of the board, and

(c) be signed

(i) either by the chairman or by some person authorized to sign it in his stead, and

(ii) by the treasurer of the board.

(4) Debentures may be issued either all at one time or in instalments at any times the board considers expedient and may be dated accordingly.

(5) The signatures on debentures or on coupons attached to debentures may be reproduced by lithographing or printing or any other method of mechanical reproduction.

Countersigning of debentures

174(1) When a debenture is issued or authorized to be issued under the authority of the authorization referred to in section 173, the Local Authorities Board, on the application of a board, may countersign the debenture that is issued or that may be issued.

(2) Notwithstanding anything to the contrary in this Act, the countersigning by the Local Authorities Board is conclusive proof of the validity of the debenture and its validity is not open to question in any court.

(3) The countersigned debentures are valid and binding on the board.

Void borrowing

175(1) If, before borrowing has been authorized by the Local Authorities Board, a board purports to enter into any agreement the consideration for which is to be raised by debenture,

(a) the agreement is void, and

(b) any money paid under the agreement shall be repaid to the board.

(2) Any agreement made by the board for the sale, transfer or hypothecation of a debenture or any interest in the debenture before the board has been authorized under this Division to borrow the money represented by the debenture is void.

(3) This section does not apply to any expenditure

(a) for the services of an architect engaged to make preliminary plans or to obtain and compile information necessary in the opinion of the board to enable it to make application to the Local Authorities Board,

(b) certified at any time by the Minister to require immediate attention, or

(c) approved pursuant to section 72(2) of the *Local Authorities Board Act*.

Loan on debentures limited

176(1) The board may, by resolution, raise money by way of a loan on any debentures,

(a) pending the sale of the debenture authorized by a by-law, or

(b) in lieu of selling and disposing of the debentures referred to in clause (a).

(2) A loan referred to in subsection (1) shall not exceed 80% of the par value of the debentures.

(3) The board may hypothecate the debentures for the purposes of the loan referred to in subsection (1).

(4) The proceeds of every loan obtained under this section shall be applied to the purposes for which the debentures were issued and if the debenture is subsequently sold the proceeds shall first be applied in repayment of the loan.

Validity of
debentures

177 Any debenture issued under this Act is valid and binding on a board notwithstanding any insufficiency in form or substance or otherwise of the by-law or of the authority of the board in respect of it if

(a) the by-law has received the assent of the required number of electors voting on it, where their assent is required,

(b) no successful application has been made to quash the by-law within 2 months from the date of its final passing, and

(c) the by-law has received the approval of the Local Authorities Board.

Use of
unexpended
debenture
proceeds

178(1) If

(a) debentures have been issued for a capital expenditure, and

(b) on completion of the work or in consequence of its partial abandonment there remains a balance of funds remaining,

a board shall, by resolution reciting the facts, apply to the Minister for authority to use that balance for any purpose not authorized by the by-law under which the debentures were issued.

(2) Where the board makes an application under subsection (1), the Minister may, on the terms and conditions that the Minister considers proper, grant permission to a board to use the balance of funds remaining for the purpose set out in the application.

Improper
application of
money borrowed

179(1) If a board uses money that was borrowed for a capital expenditure for a purpose not authorized under section 130 or 178, the persons who were trustees of the board at the time that they approved the improper application of the capital money, whether or not they are still trustees, are jointly and severally liable for the payment to the board of the amount of money applied to the unauthorized use.

(2) A person is not liable under subsection (1)

(a) if, being a trustee when the improper application of capital money was approved and being present at the meeting of the trustees or a committee of the trustees at the time it was approved, he

(i) voted against the improper application of capital money at that meeting,

(ii) requested his name and vote to be recorded, and

(iii) notified the Minister in writing of his objection to the improper application of the capital money within 8 days from the date of that meeting,

or

(b) if, being a trustee when the improper application of capital money was approved but not being present at the meeting of the trustees or of a committee of the trustees at the time it was approved, he

(i) filed with the secretary of the board a written objection to the improper application of the capital money, and

(ii) notified the Minister in writing of his objection,

within 30 days from the date on which he first had notice that the improper application of capital money was so approved.

Liability of trustees

180 Where a trustee is liable to a board for funds under this Part, the amount for which the trustee is liable may be recovered by the board by legal action as a debt due from the trustee.

Enforcement of liability of trustees

181(1) On the application to the Court of Queen's Bench by means of an originating notice by any elector of the district or division, the Court may, if it is satisfied that

(a) the elector has reasonable grounds for believing that the board has a cause of action under section 130, 178 or 179, and

(b) either

(i) the board has refused or failed to commence an action to recover the funds within 60 days from the date of receipt of a written request from the elector to do so, or

(ii) the board has failed to prosecute diligently an action commenced by it to recover the funds,

make an order, on any terms as to security for costs and otherwise that the Court considers proper, requiring the Attorney General to commence or continue an action in the name and on behalf of the board to recover the funds.

(2) The board and the Attorney General shall

(a) be given notice of any application under subsection (1), and

(b) have the right to appear and be heard in respect of the application.

(3) Every order made under subsection (1) shall require that the board

(a) co-operate fully with the Attorney General in the institution and prosecution of the action, and

(b) make available to the Attorney General all books, records, documents and other material or information known to the board or reasonably ascertainable by the board that is relevant to the action.

**PART 7
PROPERTY**

**Division 1
General**

- Real and personal property **182** A board shall provide and maintain adequate real and personal property for its administrative and educational purposes.
- Acquisition of property **183(1)** A board may
- (a) acquire by gift, lease or purchase and hold any real or personal property or any interest in it;
 - (b) acquire land for buildings, whether the land is in or outside the district or division, and acquire additional land to add to land owned by it;
 - (c) acquire land or any rights in, on, over or under it and if necessary extending beyond the boundaries of building sites for sewage, water, gas, electric power or other services;
 - (d) enter into agreements for the acquisition of an option to lease or purchase any real or personal property;
 - (e) acquire, build, furnish or rent buildings or portions of buildings.
- (2) A board shall notify the Minister within 30 days from the date on which the board purchases or enters into an agreement to purchase any land or any interest in land pursuant to subsection (1)(a), (b) or (d) of that purchase or agreement.
- Joint property **184** Subject to the prior approval of the Minister, a board may enter into an agreement
- (a) with 1 or more other boards for the joint construction, ownership, control, management, maintenance, operation or use of a school building or a building to be used primarily by students of 1 or more districts or divisions, or
 - (b) with 1 or more other boards, persons or municipalities for the joint construction, ownership, control, management, maintenance, operation or use of a public work or building.
- Construction of buildings other than school buildings **185(1)** When a board proposes to construct, purchase or lease a building, other than a school building, the board shall give public notice of its intention to construct, purchase or lease the building if the estimated cost of construction, the purchase price or the leasehold costs over the term of the lease exceed
- (a) \$500 000, or
 - (b) 1.5% of the total assessed value of the property in that district or division,
- whichever is the lesser.
- (2) For purposes of this section, if a building is to be constructed the estimated cost of the construction of the building shall be the cost

estimated by the architect employed or consulted by the board and the estimate shall be incorporated in a minute of the board.

(3) If a board

(a) receives a petition meeting the requirements of section 231 within 15 days from the date of the last publication of the public notice in a newspaper, and

(b) decides to proceed with the construction or purchase of a building other than a school building,

the board shall submit the question to a vote of the electors.

(4) The board shall

(a) send to the Minister a copy of each request contained in the petition received under subsection (3) within 5 days from the date of receiving it, and

(b) advise the Minister in writing within 14 days from the date of the vote of the outcome of each vote conducted under subsection (3).

(5) If the result of the vote under subsection (3) is to defeat the proposal to construct or purchase a building, the board is bound by the vote for a period of 12 months from the date of the vote and during that 12-month period the board shall not propose to construct or purchase the same or a similar building.

Expropriation

186(1) If a board is unable to acquire land or any interest in land necessary for it to carry out its functions, the board may apply to the Minister in accordance with subsection (2) for authority to expropriate the land or the interest in land under the *Expropriation Act*.

(2) The application to the Minister by a board shall set out the facts and reasons for the request for authority to expropriate.

(3) The Minister may make any investigation he considers necessary into the application and, if he is satisfied that the expropriation is necessary, he shall issue an order authorizing the board to expropriate the land or the interest in land specified in the order.

(4) Until the Minister issues an order authorizing a board to expropriate, a board has no power to expropriate.

Disposition of property

187(1) Subject to the regulations, a board may sell, lease, rent or otherwise dispose of any of its personal property or any interest in it.

(2) Subject to this section, the regulations, the *Planning Act* and the *Public Lands Act*, a board may, with the written approval of the Minister, sell, lease, rent or otherwise dispose of any of its real property.

(3) Where a board no longer has a use for a school building, the Minister may in writing direct the board to dispose of that property at fair market value subject to those terms or conditions that the Minister prescribes.

(4) The Registrar of Land Titles shall not accept an instrument that has the effect of transferring from a board any real property of the board unless the instrument is accompanied by

(a) the approval, or a certified copy of it, given under subsection (2), or

(b) the direction, or a certified copy of it, given under subsection (3).

Regulations **188** The Minister may make regulations respecting the disposition of property by a board.

Division 2

School Buildings Board

Establishment of Board **189(1)** The Lieutenant Governor in Council may establish a board which shall be known as the "School Buildings Board" consisting of 5 members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may designate one of the members of the Board as chairman.

Approval **190(1)** No financial aid shall be given under the School Foundation Program Fund to a school jurisdiction for a school building project without the prior approval of the School Buildings Board.

(2) Where a school jurisdiction

(a) wishes to engage in a school building project that involves the construction of or the addition to a school building, and

(b) intends to use capital funds available under the School Foundation Program Fund for the purpose of paying the cost of that construction in whole or in part,

the board shall, before construction begins on the school building or addition, submit a copy of the plans respecting the area and capacity of the building or addition to the School Buildings Board.

(3) No structural alteration that has the effect of reducing the number of classrooms in the original design of the school building may be made to a school building unless a copy of the plan amended for area and capacity has been submitted to the School Buildings Board.

School building projects **191** Subject to section 192, a school jurisdiction may engage in a school building project.

Approval of project **192(1)** When a school jurisdiction intends to carry out a school building project

(a) the cost of which is to be paid for in whole or in part, or

(b) in respect of which capital borrowings are to be retired in whole or in part,

from funds available under the School Foundation Program Fund, that school jurisdiction must obtain the approvals required under the regulations from the School Buildings Board.

(2) A school jurisdiction shall give to the School Buildings Board any information concerning a school building project that the School Buildings Board requires in order for the School Buildings Board to determine

(a) the necessity for the proposed school building project, having regard to existing and available facilities, and

(b) the nature and suitability of the school building project.

Regulations **193** The Lieutenant Governor in Council may make regulations respecting school buildings or school building projects.

PART 8

CREATION, DISSOLUTION AND ALTERATION OF DISTRICTS, DIVISIONS AND BOARDS

Division 1

Establishment and Dissolution of Public School Districts and Divisions

Establishment of district **194(1)** The Minister may establish any portion of Alberta as a public school district.

(2) The order establishing a public school district shall describe the boundaries of the district and give it a name and number in the following form:

The _____ School District No. _____.

Establishment of division **195(1)** The Minister may establish a division consisting of any number of public school districts.

(2) The order establishing a division shall

(a) give the division a name and number in the following form:

The _____ School Division No. _____.

(b) divide the division into no fewer than 3 subdivisions,

(c) give each subdivision a number, and

(d) state which public school districts are included in each subdivision of the newly constituted division.

Effect of establishment **196** When a division is established,
(a) the boards of the public school districts included in the division are dissolved,
(b) all assets and liabilities of the boards of the public school districts are transferred to the board of the division, and
(c) all employees of the boards of the public school districts become employees of the board of the division.

Rearrangement **197** The Minister may, in respect of a division,
(a) include in an established division one or more public school districts;

- (b) transfer a public school district included in one division to another division;
- (c) transfer a public school district from one subdivision to another;
- (d) exclude from a division any public school district included in it;
- (e) re-subdivide a division.

Effect on town or village

198 Notwithstanding anything in this Act, the formation within any division of a town or village does not have the effect of removing from the division any public school district wholly or partially within the corporate limits of that town or village.

Division 2

Establishment and Dissolution of Separate School Districts

Definitions

199 In this Division,

- (a) “separate school elector” means an individual who,
 - (i) in the case where a separate school district is not established,
 - (A) is an elector of the public school district, and
 - (B) is either of the Protestant or Roman Catholic faith, whichever is the minority in the public school district,
 - and
 - (ii) in the case where a separate school district is established, is a Protestant or Roman Catholic, as the case may be, and is an elector of that separate school district;
- (b) “meeting” means a meeting called under section 202.

Right to establish separate schools

200 The separate school electors in any public school district where a separate school district is not established may establish a separate school district within that public school district in accordance with this Division.

Petition for establishment

201(1) Where no fewer than 3 of the separate school electors referred to in section 200 wish to establish a separate school district they shall prepare a petition in accordance with subsection (2).

(2) The petition for the establishment of a separate school district shall

- (a) be signed by at least 3 separate school electors, and
- (b) be in the form prescribed by the Minister.

Calling of meeting

202 When a petition meets the requirements of section 201(2), the petitioners, if they wish to proceed with the establishment of a separate school district, shall call a meeting of the separate school electors for the purpose of taking a vote to determine whether the separate school district should be established.

Notice of meeting

203(1) The notice calling a meeting shall be in the form prescribed by the Minister.

(2) The notice referred to in subsection (1) shall be

(a) posted in 5 or more conspicuous places in the proposed separate school district for a period of at least 2 weeks prior to the date set out in the notice for the public meeting,

(b) published in a newspaper circulating within the proposed separate school district once a week for at least 2 successive weeks prior to the date set out in the notice for the public meeting, and

(c) served on the board of the public school district or division within the boundaries of which the proposed separate school district would be established at least 10 days prior to the date set out in the notice for the public meeting.

Conduct of meeting

204(1) The quorum for a meeting is 25% of the separate school electors.

(2) The separate school electors present at the meeting shall elect 1 of their number as chairman of the meeting.

(3) The chairman shall appoint a secretary of the meeting, who shall

(a) record the minutes of the meeting, and

(b) perform any other duties required of him.

(4) The chairman, on his election, shall sign a declaration in the form prescribed by the Minister stating that he is a separate school elector.

(5) After the election of a chairman, a separate school elector wishing to take part in the meeting and the vote shall sign in the presence of the chairman and the secretary of the meeting a declaration in the form prescribed by the Minister stating that he is a separate school elector.

(6) A person who has not signed the declaration referred to in subsection (5) is not entitled to take part in the meeting or vote at it and the chairman may require him to leave.

(7) Notwithstanding subsection (6), an authorized representative of the Minister is entitled to take part in the meeting but is not entitled to vote.

(8) The chairman shall not vote on any question at the meeting whether decided by show of hands or a poll, except in the case of a tie, when he shall cast the deciding vote.

(9) At the meeting, the chairman, after the signing of the declarations referred to in subsections (4) and (5), shall provide a period of time for questions and discussion with respect to the proposed establishment of the separate school district.

(10) Immediately after the period for questions and discussion, but not later than 180 minutes after the opening of the meeting, the chairman shall, if there is a quorum present, proceed to take a poll of the votes of the separate school electors for and against the establishment of the separate school district.

(11) The poll referred to in subsection (10) shall be taken by secret ballot.

(12) The chairman shall preside over the taking of the poll and the secretary of the meeting shall act as the poll clerk.

(13) The poll shall remain open for 1 hour or such longer period as the chairman considers reasonable in the circumstances.

(14) At the end of the period referred to in subsection (13) the chairman shall

(a) declare the poll to be closed, and

(b) proceed to count the votes and to declare the result of the poll.

(15) If the majority of the separate school electors who voted at the meeting at which a quorum was present have voted against the establishment of a separate school district, no petition for a separate school district may be presented again until at least

(a) 1 year from the date of the meeting if less than 60% of the persons voting voted against the establishment of a separate school district, or

(b) 2 years from the date of the meeting if 60% or more of the persons voting voted against the establishment of a separate school district.

Notification
to Minister

205 The chairman of a meeting shall, within 10 days from the date of the meeting, send to the Minister the following:

(a) a copy of the notice calling the meeting;

(b) proof, in the forms the Minister may require, of the posting of the notices calling the meeting;

(c) a copy, in the form prescribed by the Minister, of the minutes of the meeting;

(d) the declarations of the chairman and the separate school electors;

(e) a certificate of the chairman stating

(i) the number of separate school electors present at the meeting, and

(ii) the number of separate school electors required for a quorum;

(f) the results of any poll taken at a meeting.

Establishment
of district

206(1) Where the majority of the separate school electors present at the meeting at which a quorum is present vote in favour of the establishment of a separate school district, the Minister shall by order establish the separate school district with the same boundaries as those of the public school district.

(2) Where a meeting is called under section 202 but a quorum is not present at the meeting, the petitioners may request the Minister to conduct a plebiscite to determine whether a separate school district should be established.

(3) If the Minister receives a request under subsection (2) and is of the opinion that the circumstances are extraordinary, the Minister may cause a plebiscite to be conducted.

(4) The question that the plebiscite shall determine is

Do you favour the establishment of a separate school district with the same boundaries as The _____
Public School District No. _____?

(5) If the majority of the separate school electors who voted in the plebiscite voted in favour of the establishment of a separate school district, the petitioners or the person conducting the plebiscite shall report that fact to the Minister.

(6) On receiving the report under subsection (5), the Minister shall, by order, establish a separate school district with the same boundaries as those of the public school district.

Effect of
establishment

207(1) The order establishing the separate school district shall give it a name and number in the following form:

The _____ Separate School District
No. _____.

(2) An order made under subsection (1) becomes effective on the date specified in the order.

(3) Notwithstanding section 27, when a separate school district is established during a school year, the board of the public school district within which the separate school district is established or the board of the division if the public school district is within a division shall, at the request of the board of the separate school district, continue until the end of the school year to accept in its school and on its school buses the resident students of the separate school board.

(4) A board of a public school district or division that accepts the resident students of a separate school board pursuant to subsection (3) is entitled to receive from or on behalf of the board of the separate school district, in proportion to the number of months in the school year that the resident students of the board of the separate school district are in the schools operated by the board of the public school district, the requisitions, grants or other revenues that the board of the public school district or division would have received if the separate school district had not been established.

(5) Any dispute respecting the application of subsections (3) and (4) shall be referred to the Minister, whose decision is final and binding on the parties to the dispute.

(6) After the establishment of a separate school district, a person residing within the boundaries of the separate school district who is of the same faith as those who established that district, whether Protestant or Roman Catholic, is a resident of the separate school district and is not a resident of the public school district.

Dissolution

208(1) A board of a separate school district

(a) may pass a resolution requesting the Minister to dissolve the separate school district, or

(b) may of its own volition or shall, if 25% of the separate school electors of the separate school district petition the board to dissolve the district, conduct a plebiscite to determine whether the separate school district should be dissolved.

(2) The question that the plebiscite shall determine is

Do you favour the dissolution of The _____
Separate School District No. _____?

(3) If the majority of the separate school electors who voted in the plebiscite have voted in favour of the dissolution of the separate school district, the board shall report that fact to the Minister.

(4) The Minister

(a) shall on receiving the report of a board made pursuant to subsection (3), or

(b) may if there are no separate school electors or he receives a resolution under subsection (1)(a),

dissolve both

(c) the board of the separate school district, and

(d) the separate school district,

and thereupon the former separate school district residents become residents of the public school district or division within which they reside.

Division 3

Boundaries and Alterations

Alteration of
name or number

209(1) The Minister may by order alter the name or number of a district or division or the number of a subdivision.

(2) If a name or number is altered under subsection (1), the seal previously used by the board shall continue to be its seal until it is changed by the board.

(3) Any change in the name or number, or both, of a district or division does not affect any obligations incurred, acts done or property acquired prior to the change.

Addition of land

210(1) The Minister may, by order,

(a) add land to or take land from a district or a division, and

(b) divide a district or division into 2 or more districts or divisions.

(2) If all the land included in a district or a division has been taken from it, the district shall be deemed to be dissolved.

Dissolution
by Minister

211 The Minister may by order declare that any district or division is dissolved and on his so ordering

(a) the board of the district or division is dissolved and ceases to have any of the rights, powers and privileges vested in it by this or any other Act, and

(b) the district or division ceases to exist.

Adjustment
of assets and
liabilities

212 On

- (a) any inclusion, exclusion, dissolution or transfer of land or districts, or
- (b) the formation of a district,

the Minister, if he considers any adjustment of assets and liabilities necessary, shall in the same or a subsequent order give directions with respect to the assets and liabilities of any board affected by the inclusion, exclusion, dissolution, transfer or formation, and those directions are binding on the board.

Transfer of
teachers

213(1) If, as a result of a transfer of land or of districts by an order of the Minister, resident students of a board come under the jurisdiction of another board, the board to which jurisdiction is given shall select the proportion of the teachers of the board from which jurisdiction is taken that the number of students transferred to the board to which jurisdiction is given bears to the total number of resident students of the board from which jurisdiction is taken.

(2) The teachers selected by the board under subsection (1) may choose to become employees of the board to which jurisdiction is given.

(3) Where a teacher chooses under subsection (2) to become an employee of the board to which jurisdiction is given, that teacher shall

(a) be paid by the board to which the teacher is transferred a salary in the same amount as the teacher was paid by the board from which the teacher was transferred, and

(b) continue to be paid that salary until

(i) the expiry date of the contract between the board formerly having jurisdiction and the teacher, or

(ii) the contract is terminated in accordance with this Act,

whichever occurs first.

Publication
of order

214 Every order of the Minister with respect to the establishment, boundaries, names, dissolution or disposal of assets and liabilities of a board or of a district or division shall be published in The Alberta Gazette.

Boundaries

215(1) When a district or division is described in whole or in part in an order establishing it as consisting of certain townships, parts of townships, sections or parts of sections, the boundary line of the district or division, unless it is otherwise expressly set out in the order, is

(a) subject to clause (b), the side of the road allowance between adjoining sections or townships on which the survey monuments or posts are placed, and

(b) in the case of correction lines, the south side of the road.

(2) Any road allowance between either an Indian reserve or a forest reserve and a district or division shall be deemed to be in the district or division, notwithstanding anything in this Act to the contrary.

(3) All road allowances within the boundaries of the district or division shall be deemed to be in the district or division.

(4) Unless otherwise stated in an order establishing a district or division, if a part of the boundary of a district or division is described as being a certain river or other waterway, the downstream right bank is the boundary.

Restriction re alteration of boundaries

216 When a district or division has debenture indebtedness outstanding, no alteration in its boundaries shall be made that prejudicially affects the right or security of the holders of the debentures without due provision being made for the protection of the holders of the debentures.

Division 4 Board of Trustees

Establishment

217(1) For each public school district not included in a division, the Minister shall by order establish a board and the members of the board are a corporation under the name of:

The Board of Trustees of _____ School District No. _____.

(2) For each separate school district established under this Act, there shall be a board and the members of the board are a corporation under the name of:

The Board of Trustees of _____ Separate School District No. _____.

(3) For each division, the Minister shall by order establish a board and the members of the board are a corporation under the name of:

The Board of Trustees of _____ School Division No. _____.

Number of trustees

218(1) The Minister shall specify for each board the number of trustees, being no fewer than 3, to be elected to the board.

(2) For each subdivision within a division, the Minister shall specify the number of trustees to be elected in the subdivision.

(3) The Minister may vary the number of trustees to be elected for each division, district or subdivision.

Change of name

219 A board of trustees may, by resolution, change its corporate name to another name that is approved by the Minister.

Failure to elect trustee, etc.

220(1) If

(a) a trustee is not elected, or

(b) an appointment that is required to be made by this Act is not made,

the Minister may

(c) appoint a person as a trustee or appoint a person to the position, or

(d) in the case of an elected position, direct that an election be held to fill the vacancy.

(2) A person appointed by the Minister under subsection (1) is in the same position as he would have been had he been elected or appointed under any other provision of this Act.

Resignations **221**(1) A trustee may resign by submitting his written resignation to the secretary of the board, and he ceases to hold office at the meeting of the board at which his resignation is submitted.

(2) If all the trustees of a board wish to resign at the same time, they may resign by transmitting to the Minister a notice in writing to that effect, and their resignation is effective on the date on which their successors are elected or appointed.

(3) The chairman of a board may resign his position as chairman while retaining his seat on the board.

Filling vacancies **222**(1) If a vacancy occurs on a board of 6 or more trustees, the board shall make provision to fill the vacancy by holding a by-election.

(2) Notwithstanding subsection (1),

(a) during the 2-year period immediately following a general election, a by-election need not be held if there is only 1 vacancy on the board, and

(b) during the 3rd year following a general election, a by-election need not be held unless the number of vacancies on the board reduces the board to a number that is less than the quorum of the board plus 1.

(3) When the Minister increases the number of trustees on a board, the board shall make provision to fill the new vacancies by holding a by-election unless the increase is made in the 3rd year following a general election.

(4) If a board is comprised of 5 trustees or fewer, the board shall provide for the filling of all vacancies that occur prior to the last 6 months of the term by holding a by-election.

Official trustee **223** When

(a) an official trustee has been appointed under the *Department of Education Act* to conduct the affairs and business of a board, and

(b) the Minister considers that the official trustee has completed his duties,

the Minister may direct the official trustee to hold a by-election to fill the vacancies on the board.

**PART 9
GENERAL**

Procedure for elections, etc.

224 All

- (a) general elections, by-elections, polls and plebiscites,
- (b) votes on by-laws or money by-laws, and
- (c) votes on any other matter or question

held pursuant to this Act shall be governed by this Act and the *Local Authorities Election Act*.

Election for trustees

225(1) A board, with the approval of the Minister, may by by-law

- (a) provide for the nomination and election of trustees by wards and determine the boundaries of the wards, or
- (b) provide for the election of trustees by the general vote of the electors.

(2) Where a municipality has a population of no fewer than 300 000 persons, the Minister may by order

- (a) direct that the nomination and election of trustees be by wards, and
- (b) determine the boundaries of the wards.

(3) A by-law or an order made under this section may be given effect at the next general election following the making of the by-law or order, as the case may be, if the by-law or order is made not later than 120 days prior to nomination day for that general election.

(4) If a by-law or an order is made under this section less than 90 days prior to nomination day for a general election, the by-law or order, as the case may be, does not take effect until the general election that is held next following the election held immediately after the making of the by-law or order.

(5) The Minister may make regulations

- (a) respecting the nomination and election of trustees by wards;
- (b) respecting the partition of a district or division into wards.

Petition

226(1) When

- (a) this Act provides for the doing of anything by petition, or
- (b) an elector desires to present a petition to a board or the Minister,

the petition shall comply with the following:

- (c) each page of the petition shall contain an accurate and identical statement of the purpose of the petition;
- (d) each signature on the petition shall be witnessed by an elector;
- (e) the postal address of each signatory to the petition shall be set out opposite the signatory's signature.

(2) The elector who acted as a witness referred to in subsection (1)(d) shall swear an affidavit that to the best of his knowledge and belief the persons whose signatures he has witnessed are eligible to vote at an election for trustees to the board.

(3) There shall be attached to every petition a statement signed by an elector stating that

(a) he represents the petitioners, and

(b) he is the person to whom a board may direct any inquiries with respect to the petition.

(4) In determining the number of petitioners on a petition there shall be excluded the names of the following persons:

(a) a person whose signature appears on a page of the petition that does not contain an accurate statement of the purpose of the petition identical to the statement contained on all the other pages of the petition;

(b) a person whose signature is not witnessed;

(c) a person whose address is not set out or is incorrectly set out;

(d) a person who is not an elector.

(5) No name shall be removed from a petition after it has been received by a board or the Minister.

Presentation of
petition to board

227 When the petitioners wish to present a petition to a board, they shall do so by filing the petition with the secretary of the board.

Determination of
a petition's
sufficiency

228 When a petition is filed with the secretary of the board, the secretary shall

(a) determine the number of petitioners that have signed the petition,

(b) determine whether the petition meets the requirements of section 226, and

(c) having made his determinations under clauses (a) and (b), declare the results of his determination.

Insufficiency of
a petition

229 If a petition is found under section 228 to be insufficient, the board shall proceed as if the petition had not been presented to the board.

Appeal re
insufficiency

230(1) Where it is determined that a petition is insufficient, the petitioners may appeal the determination to the Court of Queen's Bench by originating notice.

(2) An appeal under subsection (1) must be commenced within 14 days from the date that the secretary of the board made his declaration under section 228(c).

(3) If on hearing the appeal the Court considers that the petition is sufficient, the board shall proceed as if the petition had been declared sufficient by the secretary of the board.

Petition calling
for vote

231 For the purposes of requiring a question to be submitted to a vote referred to in section 169 or 185, the petition must be signed by at least

(a) the lesser of

(i) 5000 electors, and

(ii) the number of electors that is equal to 10% of the number of resident students of the board,

in a district or division having 5000 or more resident students,

(b) the lesser of

(i) 500 electors, and

(ii) the number of electors that is equal to 25% of the number of resident students of the board,

in a district or division having fewer than 5000 but 1000 or more resident students, or

(c) the lesser of

(i) 250 electors, and

(ii) the number of electors that is equal to 40% of the number of resident students of the board,

in a district or division having fewer than 1000 resident students.

Petition calling
for public
meeting

232(1) When a board of a district situated wholly or partly within the boundaries of a city receives a petition calling for a public meeting that is signed

(a) by 25% of the parents of the students in a school, or

(b) by the lesser of

(i) 2000 electors in the district, and

(ii) 25% of the electors in the district,

the board shall within 21 days from the date that it receives the petition publish notice of the public meeting to be held under this section in accordance with section 233.

(2) When a board, other than a board of a district referred to in subsection (1), receives a petition calling for a public meeting signed

(a) by 100 electors, or

(b) by a majority of electors in the district or division,

whichever is the lesser, the board shall within 21 days from the date that it receives the petition publish notice of the public meeting to be held under this section in accordance with section 233.

(3) A board shall direct 1 or more persons to attend the public meeting held pursuant to this section, as representatives of the board.

(4) The public meeting shall be held within 90 days from the day on which the board receives the petition.

- (5) At a public meeting held under this section, the electors present may
 - (a) elect 4 persons to a committee, and
 - (b) by resolution of the meeting, identify the areas of concern, related to the purpose stated in the petition, that are to be studied by the committee.
- (6) The board shall name 2 representatives to any committee established by a public meeting held under this section.
- (7) Within 30 days from the date of the establishment of a committee under this section, the committee shall make recommendations to the board respecting the areas of concern identified in the public meetings at which the committee was established.
- (8) Within 30 days from the date of receipt of the recommendations under subsection (7), the board shall
 - (a) hold a meeting of the board, and
 - (b) permit the committee to make representations with respect to its recommendations.

Notice of public meetings

233 Notice of a public meeting under section 232, including the time, place, date and purpose of the meeting, shall be given in at least 2 of the following ways:

- (a) by mailing to the electors of the district or division a notice in the form prescribed by the Minister at least 14 days prior to the date of the meeting;
- (b) by posting in 5 or more conspicuous places to which the public has normal and regular access, not later than the 8th day prior to the date of the meeting, a notice in the form prescribed by the Minister;
- (c) by publishing a notice in the form prescribed by the Minister in a newspaper circulating within the district or division at least once a week for 2 successive weeks, the last of which shall be no fewer than 8 days prior to the date of the meeting;
- (d) by an announcement on at least 3 consecutive days during the 8 days immediately preceding the date of the meeting that is broadcast
 - (i) by a radio station serving the district or division, between the hours of 7 a.m. and 9 a.m. or 5 p.m. and 11 p.m., or
 - (ii) by a television station serving the district or division, between the hours of 5 p.m. and 11 p.m.

Public notice

234(1) Subject to this Act, when public notice, other than notice of a public meeting under section 232, is required to be given under this Act, the notice shall be given

- (a) by posting it in 5 or more conspicuous places to which the public has normal and regular access, and
- (b) by publishing it, at the same time the notice is posted, in a newspaper circulating within the district or division at least once a week for 2 successive weeks.

(2) A notice given under this section shall be in a form prescribed by the Minister.

Alteration of
time limits

235(1) If anything

(a) is to be done by a board or employee of a board within a number of days or at a time fixed by or under this Act, and

(b) cannot be or is not so done,

the Minister may, by order, appoint a further or other time for doing the thing.

(2) An order may be made under subsection (1) notwithstanding that the time at or within which the thing ought to have been done has or has not arrived or expired, as the case may be.

(3) Anything done at or within the time specified in the order made under subsection (1) is as valid as if it had been done at or within the time fixed by or under this Act.

(4) When

(a) a certain day is fixed on or by which certain things are to be done or proceedings taken, and

(b) it appears that the date was fixed having regard to an earlier fixed date on or by which certain other things are to be done or proceedings taken,

then, notwithstanding anything in this Act, if default is made in respect of the earlier date, a like delay is allowed in respect of the later date.

(5) This section does not apply to

(a) the time limits mentioned in connection with a contract or the termination of a contract of employment between a board and its teacher, or

(b) the time limits mentioned in connection with an appeal to the Board of Reference.

Residence

236 For the purposes of this Act, the place of residence of a person is governed by the following:

(a) a person can have only 1 place of residence;

(b) a person's residence is the place where that person ordinarily lives and sleeps and to which, when absent from the residence, that person intends to return;

(c) when a person leaves a district, division or unorganized territory, as the case may be, with the intention of becoming resident somewhere other than in that district, division or territory, that person's residence in that district, division or unorganized territory ceases;

(d) when a person leaves Alberta with the intention of residing outside Alberta, that person's residence in Alberta ceases.

Delegation of
Minister's powers

237(1) The Minister may authorize in writing

- (a) an employee of the Government under the administration of the Minister,
- (b) a board or an employee of a board, or
- (c) any other person designated by the Minister,

to do any act or thing, perform any duties or exercise any power that the Minister may do, perform or exercise under this Act except the power to make regulations.

(2) A written authorization made under subsection (1) may be

- (a) of general application or applicable to a particular case, and
- (b) conditional or unconditional.

(3) A written authorization made under this section

- (a) purporting to be signed by the Minister, and
- (b) stating that the person or board named therein is authorized to do the act or thing, perform the duties or exercise the powers set forth in the written authorization,

or a copy thereof, shall be admitted in evidence as prima facie proof of that person's or board's authorization to do that act or thing, perform those duties and exercise those powers without proof of the signature or official character of the person appearing to have signed the written authorization.

Enforcement
of judgment

238(1) A judgment against or order for the payment of money by a board may be enforced by means of a writ of execution and not otherwise.

(2) The writ of execution shall specify the manner of satisfying the judgment on any terms that the court rendering the judgment determines.

Forms

239 The Minister may prescribe notices and forms to be used under this Act whether or not specifically required to do so by this Act.

Penalty

240 Any person who contravenes section 21, 63 or 93 is guilty of an offence and liable to a fine of not more than \$1000.

Penalty for
failure to give
information

241 A person who is required by this Act or the regulations

- (a) to furnish any information, or
- (b) to make a return or statement in writing,

and who refuses, neglects or fails to do so is guilty of an offence and liable to a fine of not more than \$1000.

Enforcement
by Court

242(1) Where a board or another operator of a school or a person employed by a board or by another operator of a school offers or provides a course, an education program or instructional material that is prohibited under section 25, the Minister may apply to the Court of Queen's Bench by originating notice for an order directing the board, the other operator of a school or the employee, as the case

may be, to cease or desist from offering or providing that course of study, education program or instructional material.

(2) Where under this Act or the regulations

(a) the Minister or a board is empowered to make an order or a direction to a person

(i) to do an act or thing, or

(ii) to cease doing an act or thing,

and that person does not comply with that order or direction, or

(b) the approval of the Minister or a board is required in order for a person to carry on an activity or do a thing and that person carries on that activity or does the thing without obtaining or after the withdrawal of that approval,

the Minister or the board that exercised that power or granted or withdrew that approval may apply to the Court of Queen's Bench by originating notice for either or both of the following orders:

(c) an order directing the person to whom the order or direction referred to in clause (a) was given to comply with the order or direction;

(d) an order directing the person that carried on the activity or thing referred to in clause (b) without the required approval to cease or desist from carrying on the activity or thing.

(3) The Court may grant an order under this section

(a) on the terms or conditions that the Court considers proper in the circumstances, and

(b) notwithstanding that the respondent to the application has or has not been prosecuted under this Act in respect of the matter that is the subject of the application.

Labour
Relations Act

243 Nothing in Part 1, 2 or 3 restricts or prohibits or shall be construed as restricting or prohibiting a board or any employee of a board from exercising any rights under the *Labour Relations Act*.

PART 10

TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Continuation
re boards,
trustees, etc.

244(1) *In this Part, "former Act" means the School Act, chapter S-3 of the Revised Statutes of Alberta 1980.*

(2) *The persons who were trustees of a board under the former Act immediately before the coming into force of this Act continue as trustees of the board under this Act.*

(3) *Any board, district or division that existed under the former Act immediately before the coming into force of this Act continues under this Act.*

(4) *Any notice given or procedure commenced under the former Act continues under this Act.*

- (5) *A resolution of a board made pursuant to*
- (a) *section 131 of the former Act is deemed to be a resolution made pursuant to section 152 of this Act, and*
 - (b) *section 137 of the former Act is deemed to be a resolution made pursuant to section 158 of this Act.*
- (6) *Notwithstanding Part 6, if property is liable to assessment*
- (a) *for public school purposes under the former Act, it remains liable to assessment for public school purposes under this Act, and*
 - (b) *for separate school purposes under the former Act, it remains liable to assessment for separate school purposes under this Act,*
- until such time as the municipality receives notice otherwise from a board or under this Act.*
- (7) *If a regional district under the former Act was operating immediately prior to the coming into force of this Act,*
- (a) *that regional district shall continue under this Act until dissolved, and*
 - (b) *section 23 of the former Act shall apply to that regional district in the same manner as if that section had not been repealed.*
- (8) *If*
- (a) *a consolidated school district was formed under the former Act or any predecessor of that Act,*
 - (b) *the consolidated school district was operating at the commencement of The School Act, 1970, and*
 - (c) *the consolidated school district continued to operate after the commencement of The School Act, 1970 and is operating at the commencement of this Act,*
- that consolidated school district is deemed to have always existed since its formation under the former Act or a predecessor Act and shall be considered to be a district for the purposes of this Act.*
- (9) *A private school operating under the approval of the Minister pursuant to section 10 of the Department of Education Act is deemed to be registered under section 22 of this Act.*
- (10) *A person who is licensed to offer or provide an early childhood services program under section 6 of the Department of Education Act is deemed to be approved under section 24 of this Act.*

tends
A 1980 cC-27 **245** *The County Act is amended in section 38 by striking out “Part 7” wherever it occurs and substituting “Part 6”.*

tends
A 1980 cD-17 **246** *The Department of Education Act is amended*

- (a) *by repealing section 6(1)(g), (h), (i) and (l);*
- (b) *by repealing section 10.*

Amends
SA 1983 cL-27.5

247 *The Local Authorities Election Act is amended*

(a) *in section 21 by adding the following after subsection (2):*

(2.1) Notwithstanding subsection (1), a candidate for trustee of a board of a school district or division is not required to be a resident of the ward in either a general election or a by-election, but must be a resident of the school district or division, as the case may be.

(b) *in section 22 by adding the following after subsection (1.1):*

(1.2) Subsection (1)(b), (c) and (f) to (j) do not apply to a candidate for election as a trustee of a school board.

(c) *by repealing section 48(2) and substituting the following:*

(2) A person who is a resident of a public school district or of a separate school district under the *School Act* is deemed to be a resident of the public school district or the separate school district, as the case may be, under this Act.

(3) Notwithstanding subsection (2), a person whose residence is assessable for public school purposes or for separate school purposes under the *School Act* is deemed to be a resident of the public school district or the separate school district, as the case may be, under this Act.

Amends
RSA 1980 cM-29

248 *The Municipal and School Administration Act is amended in section 13(6) by striking out “Part 7” and substituting “Part 6”.*

Amends
RSA 1980 cM-31

249 *The Municipal Taxation Act is amended*

(a) *in section 24(1)(b) by adding “and school buildings owned by the operator of a private school approved by the Minister of Education for that purpose” after “school division”;*

(b) *in section 45(1)(e) by adding “or elector” after “supporter” wherever it occurs;*

(c) *in section 68*

(i) *by repealing subsection (1) and substituting the following:*

68(1) When, in accordance with the *School Act*, property is to be assessed for either public school or separate school purposes, a municipal secretary or the assessor shall accept a notice under Part 6, Division 2 of the *School Act*.

(ii) *in subsection (2) by striking out “statement” and substituting “notice”;*

(d) *in section 148 by adding the following after subsection (2):*

(2.1) If a council has not received the requisition of the school district or division by March 15, the council shall make a payment on account to that school district or division based on the requisitions of the previous years.

(2.2) In the same manner and at the same time as it levies the amount of the basic requisition, each council shall levy the amount of any additional requisition referred to in section 152 of the *School Act* on the assessable property in the part

of the school district, division or hamlet that is within the municipality.

Amends
SA 1983 cN-10.1

250 *The Northland School Division Act is amended*

(a) *in section 6*

(i) *in subsection (1) by striking out “sections 31 and 32” and substituting “Division 3 of Part 3”;*

(ii) *in subsection (3) by striking out “sections 34 to 37 of the School Act apply” wherever it occurs and substituting “Division 3 of Part 3 of the School Act applies”;*

(b) *in section 14 by striking out “Sections 32, 38, 44 to 46 and 48 to 50” and substituting “Division 3 of Part 3 and sections 61, 63 to 65, 71, 221 and 222”.*

Amends
RSA 1980 cP-19

251 *The Property Tax Reduction Act is amended in section 3(1)(i) and (3)(b) by striking out “section 137” wherever it occurs and substituting “Division 4 of Part 6”.*

Amends
RSA 1980 cT-2

252 *The Teachers’ Retirement Fund Act is amended*

(a) *in section 1*

(i) *as to clause (d)(i) by striking out “section 10 of the Department of Education Act” and substituting “section 22 of the School Act”;*

(ii) *as to clause (h)(i) by striking out “Part 5” and substituting “Division 1 of Part 4”;*

(b) *in section 16(2) by striking out “section 100” and substituting “section 81”.*

Amends
SA 1984 cY-1

253 *The Young Offenders Act is amended in section 16(3) by striking out “an offence under sections 142(1) and 171” and substituting “a breach of section 8(1)”.*

Repeal

254(1) *The School Act, chapter S-3 of the Revised Statutes of Alberta 1980, is repealed on Proclamation.*

(2) *The School Buildings Act, chapter S-4 of the Revised Statutes of Alberta 1980, is repealed on Proclamation.*

Coming
into force

255 *This Act comes into force on Proclamation.*

