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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

EDUCATION ACT

THE MINISTER OF EDUCATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 18

2011

EDUCATION ACT

(Assented to , 2011)

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Preamble

WHEREAS the following visions, principles and values are the foundation of the education system in Alberta;

WHEREAS education lies at the core of individual and societal well-being;

WHEREAS the role of education is to develop ethical citizens who will be engaged in their communities and will strive for excellence and be able to face the challenges that arise in an increasingly complex world;

WHEREAS the collaboration and co-operation of all partners in the education system is necessary to ensure the educational success of all students;

WHEREAS the educational best interest of the child is the paramount consideration in making decisions about a child's education;

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

WHEREAS the Government of Alberta recognizes the importance of an inclusive education system that provides each student with

the learning opportunities and supports necessary to enable the student to achieve success;

WHEREAS the Government of Alberta recognizes the importance of enabling high quality and socially engaging learning opportunities with flexible timing and pacing through a range of learning environments to meet diverse student needs and to maximize student success;

WHEREAS the Government of Alberta believes in and is committed to one publicly funded education system that provides a choice of educational opportunities to students and that, through the dimensions of public, separate and Francophone schools, honours the rights guaranteed under the Constitution of Canada in respect of minority language and minority denominational education;

WHEREAS the Government of Alberta is committed to providing choice to students in education programs and methods of learning;

WHEREAS the Government of Alberta is committed to encouraging the collaboration of all partners in the education system to ensure the educational success of Alberta's First Nations, Metis and Inuit students;

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 established under section 42;
- (b) "attendance officer" means the superintendent or any other individual designated by a board as an attendance officer;
- (c) "board" means a board of trustees of a school division;
- (d) "charter school" means a school established under section 25;
- (e) "early childhood services program" means an education program provided pursuant to section 21;

- (f) “elector” means an elector as defined in the *Local Authorities Election Act*;
- (g) “expel” means to expel a student in accordance with section 36;
- (h) “Francophone” means a person who has rights under section 23 of the *Canadian Charter of Rights and Freedoms*;
- (i) “Francophone education program” means an education program offered by a Francophone regional authority that is intended for the children of Francophones, but does not include an alternative program established under section 19;
- (j) “Francophone education region” means a Francophone education region established under section 123;
- (k) “Francophone regional authority” means a blended Francophone regional authority established under section 126 or a public Francophone regional authority or separate Francophone regional authority established under section 128;
- (l) “home education program” means an education program provided pursuant to section 20;
- (m) “independent student” means a student who is
 - (i) 18 years of age or older, or
 - (ii) 16 years of age or older and
 - (A) living independently as determined by a board in accordance with section 6, or
 - (B) a party to an agreement under section 57.2 of the *Child, Youth and Family Enhancement Act*;
- (n) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (o) “municipality” means a municipality as defined in the *Municipal Government Act*;

- (p) “non-school building” means a building other than a school building owned or occupied by
 - (i) a school jurisdiction,
 - (ii) a school jurisdiction and a municipality, or
 - (iii) a school jurisdiction and another person;
- (q) “parent”, unless otherwise specified, means, in respect of a student or a child enrolled in an early childhood services program, the relevant individual referred to in subsection (2);
- (r) “principal” means a teacher designated as a principal or acting principal under this Act;
- (s) “private school” means a school registered under section 29;
- (t) “public school district” means an area of land established as a public school district pursuant to this Act or any predecessor Act or Ordinance;
- (u) “public school division” means a public school division established under section 95;
- (v) “resident student” means a person who is entitled to have access to an education program under section 3 and who meets the requirements of section 4;
- (w) “school” means a structured learning environment through which an education program is offered to a student by
 - (i) a board,
 - (ii) a person responsible for the operation of a private school,
 - (iii) a person providing an early childhood services program,
 - (iv) a parent providing a home education program, or
 - (v) the Minister;

- (x) “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;
- (y) “school building project” means
 - (i) the purchase, erection, relocation or renovation of,
 - (ii) the making of structural changes in,
 - (iii) the addition to or extension of, or
 - (iv) the building of access roads or site preparation for, a school building;
- (z) “school council” means a school council established under section 52;
- (aa) “school division” means a school division established under section 95;
- (bb) “school jurisdiction” means a board, the Lloydminster Public School Division or the Lloydminster Roman Catholic Separate School District;
- (cc) “separate school district” means an area of land established as a separate school district pursuant to this Act or any predecessor Act or Ordinance;
- (dd) “separate school division” means a separate school division established under section 95;
- (ee) “separate school region” means a separate school region established under section 120;
- (ff) “student” means a person who is
 - (i) enrolled in a school, or
 - (ii) required under section 7 to attend school,

but does not include a child younger than 6 years of age who is enrolled in an early childhood services program;

- (gg) “suspend” means to suspend a student in accordance with section 35;
- (hh) “teacher” means a person who holds a certificate of qualification as a teacher issued under this Act;
- (ii) “trustee” means a member of a board;
- (jj) “unorganized territory” means any area in Alberta that is not included within a public or separate school district or a school division.

(2) For the purposes of subsection (1)(q), the parent is

- (a) subject to subsection (3),
 - (i) the guardian as set out in section 20 of the *Family Law Act*,
 - (ii) the guardian appointed under Part 1, Division 5 of the *Child, Youth and Family Enhancement Act* if the guardian notifies the board in writing of the guardian’s appointment, or
 - (iii) the guardian appointed under section 22 or 23 of the *Family Law Act*, if the guardian notifies the board in writing of the guardian’s appointment,
- (b) notwithstanding clause (a), the guardian of a student appointed under a temporary or permanent guardianship order under section 31 or 34 of the *Child, Youth and Family Enhancement Act*, a permanent guardianship agreement under section 11 of the *Child, Youth and Family Enhancement Act* or a private guardianship order under section 56 of the *Child, Youth and Family Enhancement Act* if the guardian notifies the board in writing of the guardian’s appointment, or
- (c) notwithstanding clauses (a) and (b), the Minister of Justice and Attorney General if the student is in custody under the *Corrections Act*, the *Corrections and Conditional Release Act* (Canada), or the *Youth Criminal Justice Act* (Canada).

(3) The authority of a guardian to act under this Act is subject to any limitation imposed by law on the authority of the guardian, and where a person claims to be a parent or guardian or claims the existence of any limitation on the authority of a parent or guardian, the onus is on that person to provide proof of the claim.

(4) For the purposes of this Act,

(a) “resident of Alberta” means a person

(i) who is lawfully entitled to be or to remain in Canada, and

(ii) who makes the person’s residence, and is ordinarily present, in Alberta,

but does not include a tourist or visitor to Alberta;

(b) “resident of Canada” means a person

(i) who is lawfully entitled to be or to remain in Canada, and

(ii) who makes the person’s residence, and is ordinarily present, in Canada,

but does not include a tourist or visitor to Canada.

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 the circumstances under which the right is being exercised or the benefit is being received.

Part 1 Access to Education

Right of access to education

3 Every person

(a) who at September 1 in a year is 6 years of age or older and younger than 21 years of age, and

(b) who

- (i) is a resident of Alberta, and
- (ii) has a parent who is a resident of Canada,

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

Resident student

4(1) Subject to this section, a student is a resident student of the board of the school division in which the student resides.

(2) Subject to this section, every student is a resident student of a board of a public school division.

(3) Where a separate school district is established, a student residing within the boundaries of the separate school district is a resident student of the board of the separate school division if

- (a) the student's parent, if the student has only one parent, declares that the parent is of the same faith as those who established that district, whether Protestant or Roman Catholic, or
- (b) the student's parents, if the student has two parents, declare that they are both of the same faith as those who established that district, whether Protestant or Roman Catholic.

(4) If a student referred to in subsection (3) has two parents, one of whom declares that that parent is of the same faith as those who established the separate school district, whether Protestant or Roman Catholic, and one of whom has not made such a declaration, the parents shall choose whether the student is a resident student of the board of the separate school division or of the public school division, and

- (a) the student is a resident student of the board of the chosen school division,
- (b) the student shall attend the school the student is directed to attend by the board of the chosen school division in accordance with section 10, and

- (c) the board may require that the choice of the parents remain in effect during the school year in respect of which it is made.

(5) A director under the *Child, Youth and Family Enhancement Act* may deem a student to be a resident student of the board of a separate school division where the student indicates that the student is of the same faith as those who established the separate school district and if

- (a) the student is in the care of a foster parent under the *Child, Youth and Family Enhancement Act*,
- (b) the faith of the student, whether Protestant or Roman Catholic, differs from the faith of the foster parent,
- (c) the foster parent resides in an area where a separate school district has been established, and
- (d) the student is a child in respect of whom financial assistance is being provided under section 105.8 of the *Child, Youth and Family Enhancement Act*.

(6) The following students are resident students of the Government:

- (a) a student who resides in unorganized territory and who is not an Indian as defined in the *Indian Act* (Canada) residing on a reserve pursuant to the *Indian Act* (Canada);
- (b) a student in custody under the *Corrections Act*, the *Corrections and Conditional Release Act* (Canada), the *Youth Justice Act* or the *Youth Criminal Justice Act* (Canada) who resides in an institution or a group home prescribed by the Minister as an institution or a group home to which this clause applies;
- (c) a student
 - (i) who
 - (A) is in the custody of a director, or
 - (B) has a guardian appointed,under the *Child, Youth and Family Enhancement Act*, and

(ii) who resides in an institution or a group home prescribed by the Minister as an institution or a group home to which this clause applies that is operated or approved by the Government;

(d) a student who is under long-term medical care who resides or is placed in a program in an institution that is under the control, direction or administration of the Government.

(7) If the residence of a student changes after the commencement of a school year, the parent of the 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 school division in which the student resides after the change,

(b) the board of the school 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.

(8) If there is a dispute as to the residency of a student, the Minister may determine that the student is a resident student of a particular board.

Residence

5 For the purposes of this Act, the place of residence of a person is governed by the following:

(a) a person is deemed to have only one place of residence;

(b) a person's place of residence is the place where that person ordinarily lives and sleeps during the school year and to which, when absent from the residence, that person intends to return;

(c) when a person leaves Alberta or Canada with the intention of residing outside Alberta or Canada, that person's

residence in Alberta or Canada, as the case may be, ceases.

Independent student

6(1) In determining whether a student is living independently for the purposes of this section, a board may consider the following:

- (a) whether the student or the student's parent has made a statement in writing indicating that the student is living independently;
- (b) the student's living arrangements;
- (c) whether the student is financially independent or contributes financially to his or her maintenance;
- (d) whether the student is responsible for the making of significant decisions regarding matters such as health care;
- (e) any other factor the board considers relevant.

(2) An independent student is entitled to exercise all the rights and powers and receive all the benefits and is subject to all the obligations under this Act that the student's parent would be entitled to exercise or receive or would be subject to, and the student's parent shall not exercise those rights, receive those benefits or be subject to those obligations.

Compulsory education

7(1) A person who

- (a) is a resident of Alberta and has a parent who is a resident of Canada,
- (b) at September 1 in a year is 6 years of age or older, and
- (c) subject to subsection (2), is younger than 17 years of age,

shall attend school.

(2) Subsection (1)(c) does not apply to a person who is younger than 17 years of age who has attained high school completion in accordance with the requirements prescribed in an order of the Minister under section 18.

(3) A board shall make all reasonable efforts to ensure that a student who is a resident student of the board or who is enrolled in a school operated by the board attends school.

(4) 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 yet been enrolled in another education program, or
- (e) the board or, if the student is enrolled in a private school or resides in 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.

(5) Where a student is excused from attendance at school under subsection (4)(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

8(1) In this section,

- (a) “judge” means a judge of the Provincial Court;
- (b) “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 7, 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 (5), a dwelling place,where the attendance officer has reason to believe the student may be found or employed;
- (b) send the student the attendance officer suspects is not attending school 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 in accordance with section 7 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 act under subsection (4).

(4) If subsection (3) applies, 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:

- (a) 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;
- (b) an order requiring the student to comply with the directions of the attendance officer.

(5) 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

9(1) Where

- (a) a student who is required to attend a school under section 7 does not attend school, and
- (b) any attempts to enforce school attendance under section 8 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 7

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

and the person responsible for the operation of that private school has made all reasonable efforts to ensure that the student attends school, the person responsible for the operation of that private school shall refer the matter to the Attendance Board.

Enrolment in school operated by board

10(1) Subject to subsection (2), a board shall direct a resident student of the board to enrol in and attend a particular school operated by the board.

(2) A board shall enrol a resident student of the board in the school operated by the board that is requested by the parent of the student if, in the opinion of the board asked to enrol the student, there are sufficient resources and facilities available to accommodate the student.

(3) Where a board establishes an attendance area for a school, a resident student of a board who resides in the attendance area for the school must be given priority over a student who does not reside in the attendance area.

(4) A board shall, for that school year, enrol a resident student of another board in the school operated by the board that is requested by the parent of the student if, in the opinion of the board asked to enrol the student, there are sufficient resources and facilities available to accommodate the student.

(5) Notwithstanding subsections (2) and (4), a board may direct a student who requests enrolment in a senior high school program beyond a 3rd school year to attend a school designated by the board.

(6) A board shall enrol a resident student of the Government in a school operated by the board as requested by the Minister.

(7) A parent of a student enrolled in a school operated by a board shall not request that the student be enrolled in another school during a school year unless the board operating the other school consents.

Responsibility to students

11(1) A board shall ensure that each of its resident students is provided with an education program consistent with the requirements of this Act and the regulations.

(2) A board shall provide to each student enrolled in a school operated by the board an education program consistent with the requirements of this Act and the regulations that will give the student the opportunity to meet the standards of education set by the Minister.

(3) A board may determine that, where a student's behavioural, intellectual, learning, communication or physical characteristics, or a combination of any of them, impair the student's ability and opportunity to learn, the student is in need of specialized supports and services.

(4) Subject to section 37, a student who is determined by a board to be in need of specialized supports and services is entitled to have access to those supports and services in an education program provided in accordance with this Act that will give the student the opportunity to meet the standards of education set by the Minister.

(5) Before providing specialized supports and services to a student, a board shall

- (a) consult with the parent of the student, and
 - (b) where appropriate, consult with the student.
- (6) The Minister may make regulations respecting the delivery of specialized supports and services.

International students

12 A board shall enrol all individuals who are entitled under section 3 to have access to an education program in a school year before enrolling an individual who is not entitled under section 3 to have access to an education program in that school year.

Tuition fees

13(1) A board shall not charge any tuition fees with respect to the enrolment in a school operated by the board of its resident students or the resident student of any other board or the Government.

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

(3) Where a board may charge a tuition fee under subsection (2), the board may determine the amount of the tuition fee.

Francophone education

14(1) If a person has rights under section 23 of the *Canadian Charter of Rights and Freedoms* to have the individual's children receive school instruction in French, the individual's children are entitled to receive that instruction in accordance with those rights wherever in the Province those rights apply.

(2) The Minister may make regulations

- (a) respecting the education generally of students whose parents are Francophones, and
- (b) notwithstanding any other provision of this Act, respecting any matter required to give effect to subsection (1).

(3) A student who is enrolled in a school operated by a Francophone regional authority is entitled to receive school instruction in French.

Enrolment in Francophone school

15(1) If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a Francophone regional authority and the student resides in the Francophone education region within the distance from the school determined by the Francophone regional authority, the student is entitled to attend that school, and the Francophone regional authority shall

- (a) enrol the student in that school, and
- (b) ensure that the student is provided with an education program consistent with the requirements of this Act and the regulations that will give the student the opportunity to meet the standards of education set by the Minister.

(2) If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a Francophone regional authority and the student does not reside in the Francophone education region within the distance from the school determined by the Francophone regional authority, the Francophone regional authority

- (a) may enrol the student in that school under the terms set by the Francophone regional authority, and
- (b) if the student is enrolled under clause (a), shall ensure that the student is provided with an education program consistent with the requirements of this Act and the regulations that will give the student the opportunity to meet the standards of education set by the Minister.

(3) If a student is the child of a Francophone and is enrolled in a school operated by a Francophone regional authority, the student continues to be a resident student of a board of a school division or, if section 4(6) applies to the student, of the Government, but section 11(1) does not apply to that board or the Minister, as the case may be, with respect to that student while the student is enrolled in a school operated by a Francophone regional authority.

(4) Notwithstanding subsections (1) and (2), a Francophone regional authority that is requested to enrol a student in a senior

high school program beyond a 3rd school year may direct the student to attend a school designated by the Francophone regional authority.

(5) A Francophone regional authority shall enrol a resident student of the Government in a school operated by the Francophone regional authority as requested by the Minister.

Part 2 Opportunities for Learning

Division 1 Diverse and Flexible Learning

Diversity and respect

16 All courses or programs of study offered and instructional materials used in a school must reflect the diverse nature and heritage of society in Alberta, promote understanding and respect for others and honour and respect the *Canadian Charter of Rights and Freedoms* and the *Alberta Human Rights Act*.

Language of instruction

17(1) Every student is entitled to receive instruction in English.

(2) Notwithstanding subsection (1), a board may authorize the use of French or any other language as a language of instruction.

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

Courses, programs of study, etc.

18(1) The Minister may by order do the following:

- (a) prescribe courses or programs of study;
- (b) prescribe requirements for the granting of credits, certificates and diplomas, including requirements for high school completion;
- (c) prescribe requirements with respect to course sequencing or advancement;

- (d) subject to the right of a board to provide religious instruction, prohibit the use of a course, a program of study or a learning and teaching resource in schools;
 - (e) adopt or approve goals and standards applicable to the provision of education in Alberta.
- (2) The Minister may
- (a) authorize learning and teaching resources for use in schools, and
 - (b) approve any course, program of study or learning and teaching resource that may be submitted to the Minister by a board or another operator of a school for use in a school.
- (3) The *Regulations Act* does not apply to an order made under subsection (1).
- (4) The Minister may make regulations respecting the examination and evaluation of persons by the Minister, including appeals, fees and the payment of remuneration.

Alternative programs

19(1) In this section, “alternative program” means an education program offered by a board that

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

but that is neither a religious education program offered by a separate school board of that religious denomination nor a Francophone education program.

- (2) A board may offer an alternative program to a student whose parent requests it where, in the opinion of the board,
- (a) the board has sufficient resources and facilities to offer the alternative program, and
 - (b) the alternative program is appropriate to meet the student’s education needs.

(3) A board may offer an alternative program under subsection (2) that operates within the geographic boundaries of another board only if the other board has been requested to offer the alternative program and has refused.

(4) A board that offers an alternative program shall continue to offer an education program consistent with the requirements of this Act and the regulations to those students not enrolled in the alternative program.

(5) If a parent enrolls a student in an alternative program, the board may only charge that parent fees related to the alternative program 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,
- (b) are necessary for the delivery of the alternative program, and
- (c) are in addition to the costs incurred by the board in providing education programs other than the alternative program.

Home education programs

20(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 or the person responsible for the operation of a private school accredited under section 29(2).

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

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

Early childhood services programs

21(1) A board or, with the approval of the Minister, another person may provide an early childhood services program to a child

who, as of September 1, is younger than 6 years of age, if the parent of the child requests it.

(2) A board may provide an early childhood services program to a student who, as of September 1, is younger than 7 years of age if the parent of the student and the board are of the opinion that the program will benefit the student.

(3) An early childhood services program provided by a board or a person under this section must be consistent with the standards approved by the Minister under section 18(1)(e).

(4) Subject to the regulations, if a parent enrolls a child or a student in an early childhood services program, the board or other person that provides the early childhood services program may charge the parent fees in respect of the program.

(5) Unless otherwise stated, if a child referred to in subsection (1) attends a program under this section, the child is not, by reason of attending that program,

- (a) a resident student of the board, or
- (b) entitled to any of the rights or benefits given to a student under this Act.

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

Off-campus education programs

22(1) A board may provide off-campus education programs for its students.

(2) A board may enter into an agreement with a person to provide a workplace for students who are participating in an off-campus education program.

(3) When a student wishes to participate in an off-campus education program, the board shall obtain the consent of the student's parent or, if the student is 16 years of age or older, of the student.

(4) A student who is participating in an off-campus education program is considered to be attending school while at the workplace provided for the program.

Continuing education

23(1) A board, in addition to meeting its obligations under section 11(1), may develop or provide courses to any person on any subject.

(2) A board shall employ teachers in accordance with section 193 to provide instruction in courses provided under this section that conform with the courses prescribed or approved under section 18, and may employ any person to provide instruction in other courses provided under this section.

(3) When a board develops or provides a course under subsection (1), the board shall ensure that the course does not interfere with the ability of the board to meet its obligations under section 11(1).

(4) Notwithstanding section 13, a board may charge a student registered in a course developed or provided by it under subsection (1) any fees it considers appropriate, but it may not charge a student who is registered in a course prescribed or approved under section 18 a fee for a course prescribed or approved under that section.

(5) Any person may apply to a board to register in a course developed or provided under subsection (1) and the board may in its discretion accept or refuse the applicant.

(6) A person who registers in a course developed or provided by a board under subsection (1) who is not otherwise a student enrolled in a school operated by the board is not, by reason of being registered in that course,

- (a) a resident student of that board, or
- (b) entitled to any of the rights and benefits given to a student under this Act.

Division 2 Charter Schools

Application to establish charter school

24(1) A board, person or society may apply to the Minister for the establishment of a charter school.

(2) An application must be in the form and contain the information prescribed by the regulations.

Charter schools

25(1) The Minister may issue a charter to establish a charter school, in accordance with the regulations, if the Minister is of the opinion that the program to be offered by the charter school

- (a) focuses on a learning style or a teaching style, approach, philosophy or pedagogy that is not already being offered by the board of the school division in which the charter school will be located,
- (b) has the potential to improve student learning outcomes,
- (c) demonstrates collaboration or engagement with a post-secondary institution or a school jurisdiction, and
- (d) has the potential to provide improvements to the education system as a whole and to enhance education research and innovation in Alberta.

(2) The Minister may

- (a) determine the initial term of a charter,
- (b) renew the term of a charter, or
- (c) repeal a charter,

in accordance with the regulations.

(3) The Minister may by regulation establish criteria by which a charter may be issued to a charter school on a permanent basis.

Operation of charter schools

26(1) A charter school must be operated in accordance with the charter approved by the Minister.

(2) A charter must include those items as established by the Minister by regulation.

(3) The board, person, society or company that is named in the charter shall operate the charter school.

(4) A charter school shall not charge a fee that may not be charged by a board under this Act.

(5) A charter school shall not be affiliated with a religious faith or denomination.

Application of Act to charter schools

27(1) The following provisions and any regulations made under them apply to a charter school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the operator of a charter school or a member of the governing body of the operator of a charter school, as the case may be:

- (a) sections 1 and 2;
- (b) Part 1 except sections 4, 10, 11(1), 14 and 15;
- (c) Part 2 except sections 19, 20, 23, 29 and 30;
- (d) Part 3 except sections 33(1)(j) and 34;
- (e) Part 4 except sections 48 and 59, Division 4, section 84(1)(a) and (2), section 88(b) and (c) and 89 to 93;
- (f) in Part 6, Division 1, sections 167 and 176, and Division 8 except section 187;
- (g) Part 7;
- (h) Part 8.

(2) Notwithstanding subsection (1), the Lieutenant Governor in Council

- (a) may exempt a charter school from the operation of any provision of this Act, except sections 24, 25 and 26, or of the regulations under section 25(3) or 28, and
- (b) may make any provision of this Act or the regulations apply to a charter school.

Regulations

28(1) The Minister may make regulations with respect to charter schools.

(2) An order under section 27(2) or a regulation under subsection (1) may be general in its application or may apply to a particular charter school or a class of charter schools.

Division 3 Private Schools

Private schools

29(1) A school may be registered as a private school if the person who will be responsible for the operation of the proposed private school applies to the Minister and the Minister is satisfied that

- (a) the private school will provide education programs to its students that comply with any orders made under section 18,
- (b) the private school will meet standards of student achievement acceptable to the Minister,
- (c) the person who will be responsible for the operation of the private school agrees to regular evaluation and monitoring by the Minister, and
- (d) the building that is to be used for school purposes meets and will continue to meet all applicable local and provincial health, safety and building standards.

(2) A private school may be accredited as an accredited private school if the person responsible for the operation of the private school applies to the Minister and

- (a) the Minister approves the education programs offered to its students and its programs of study, and any modification of them, and
- (b) the Minister is satisfied that
 - (i) the person responsible for the operation of the private school continues to meet the requirements under subsection (1),
 - (ii) the person responsible for the operation of the private school has the capacity, in accordance with the regulations, to deliver an appropriate education program to its students, and

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

(3) An application under subsection (1) or (2) must be in the form and contain the information prescribed by the regulations.

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

- (a) if the person responsible for the operation 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),
- (b) if the evaluation or monitoring of a private school indicates that the private school does not have the capacity to deliver an appropriate education program to its students,
- (c) if, in the opinion of the Minister, the students at the private school are not achieving acceptable educational progress, or
- (d) if the person responsible for the operation of the private school permits courses, programs of study or instructional materials that do not comply with section 16.

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

(6) 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 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 cancelled or suspended,

as the case may be.

(7) The Minister may make regulations respecting private schools, including, without limiting the foregoing, regulations establishing eligibility criteria that must be met by a person who proposes to operate a private school.

Application of Act to private schools

30(1) The following provisions and any regulations made under them apply to a registered or accredited private school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the person responsible for the operation of a private school or a member of the governing body of the operator of a private school, as the case may be:

- (a) sections 1 and 2;
- (b) in Part 1, sections 3, 5, 6, 7 and 9(2);
- (c) in Part 2, sections 16, 17, 18, 29 and 30;
- (d) in Part 3, sections 31 and 32 and Division 5;
- (e) in Part 4, sections 53, 67 and 68;
- (f) in Part 7, sections 196 and 213;
- (g) in Part 8, sections 238, 239, 241, 249, 253 and 254.

(2) In addition to the provisions referred to in subsection (1), section 20 and section 21, except subsections (2) and (5), and any regulations made under them, apply to an accredited private school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the person responsible for the operation of an accredited private school or a member of the governing body of the operator of an accredited private school.

Part 3 Responsibilities and Dispute Resolution

Division 1 Responsibilities

Student responsibilities

31 A student has the responsibility to

- (a) attend school regularly and punctually,

- (b) be ready to learn and actively participate in and diligently pursue the student's education program,
- (c) ensure that the student's conduct contributes to a caring, respectful and safe environment,
- (d) respect the rights of others in the school,
- (e) refrain from, report and not tolerate bullying or bullying behaviour directed toward others in the school, whether or not it occurs within the school building, during the school day or by electronic means,
- (f) comply with the rules of the school and the policies of the board,
- (g) co-operate with everyone authorized by the board to provide education programs and other services, and
- (h) account to the student's teachers and other school staff for the student's conduct.

Parent responsibilities

32 A parent of a child who is a student or enrolled in an early childhood services program has the responsibility to

- (a) make decisions respecting the child's education,
- (b) take an active role in the child's educational success,
- (c) ensure that the child attends school regularly,
- (d) ensure that the parent's conduct contributes to a caring, respectful and safe environment,
- (e) co-operate and collaborate with school staff to support the delivery of specialized supports and services to the child,
- (f) respect the professional judgment of teachers, principals, other school staff and professionals providing supports and services in the school, and
- (g) engage in the child's school community.

Board responsibilities

33(1) A board has the responsibility to

- (a) deliver appropriate education programming to meet the needs of all students enrolled in a school operated by the board and to enable their success,
- (b) be accountable and provide assurances to students, parents, the community and the Minister for student achievement of learning outcomes,
- (c) provide, where appropriate, for the engagement of parents, students, staff and the community on board matters, including the board's plans and the achievement of goals and targets within those plans,
- (d) ensure that each student enrolled in a school operated by the board and each staff member employed by the board is provided with a caring, respectful and safe environment that fosters and maintains respectful and responsible behaviours,
- (e) provide a continuum of specialized supports and services to students that is consistent with the principles of inclusive education,
- (f) collaborate with municipalities, other boards and community-based service agencies in order to effectively address the needs of all students and manage the use of public resources,
- (g) establish and maintain governance and organizational structures that promote student well-being and success, and monitor and evaluate their effectiveness,
- (h) ensure effective stewardship of the board's resources,
- (i) recruit the superintendent and entrust the day-to-day management of the school division to the staff through the superintendent,
- (j) develop and implement a code of conduct that applies to trustees of the board, including definitions of breaches and sanctions, in accordance with principles set out by the Minister by order,

- (k) comply with all applicable Acts and regulations,
- (l) establish appropriate dispute resolution processes, and
- (m) carry out any other matters that the Minister prescribes.

(2) A board shall establish, implement and maintain a policy respecting the board's obligation under subsection (1)(d) to provide a caring, respectful and safe environment that

- (a) includes addressing bullying behaviour, and
- (b) is in accordance with any requirements established by the Minister by order.

(3) An order of the Minister under subsection (1)(j) or (2)(b) must be made publicly available.

Trustee responsibilities

34 A trustee of a board has the responsibility to

- (a) fulfil the responsibilities of the board, as set out in section 33,
- (b) be present and participate in meetings of the board and committees of the board,
- (c) comply with the board's code of conduct, and
- (d) engage parents, students and the community on matters related to education.

Division 2 Student Discipline

Suspension

35(1) A teacher or a principal may suspend a student in accordance with subsection (2) or (3) if in the opinion of the teacher or principal

- (a) the student has failed to comply with section 31, or
- (b) the student's conduct, whether or not the conduct occurs within the school building or during the school day, is

injurious to the physical or mental well-being of others in the school.

(2) A teacher may suspend a student from one class period.

(3) A principal may suspend a student

- (a) from school,
- (b) from one or more class periods or courses,
- (c) from transportation provided under section 56, or
- (d) from any school-related activity.

(4) When a student is suspended under subsection (3), the principal shall

- (a) immediately inform the student's parent of the suspension,
- (b) report in writing to the student's parent all the circumstances respecting the suspension, and
- (c) provide an opportunity to meet with the student's parent, and the student if the student is 16 years of age or older, to discuss the suspension.

(5) A suspension may not exceed 5 school days, except in accordance with a recommendation for expulsion made by the principal under section 36.

Expulsion

36(1) If a student is suspended in accordance with section 35, the principal may recommend, prior to the end of the student's suspension, that the board expel the student if

- (a) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with section 31, or
- (b) the student's conduct, whether or not the conduct occurs within the school building or during the school day, is injurious to the physical or mental well-being of others in the school.

(2) If the principal recommends expulsion under subsection (1), the principal shall

- (a) immediately inform the board of the recommendation for expulsion, and
- (b) report in writing to the board all the circumstances respecting the suspension and the principal's recommendation for expulsion,

and the student remains suspended until the board has made a decision under subsection (4).

(3) The student and the student's parent may make representations to the board with respect to the principal's recommendation to expel the student.

(4) The board shall, within 10 school days after the initial date of the suspension, make a decision

- (a) to return the student to school, class, a course or courses, transportation provided under section 56 or a school-related activity, or
- (b) to expel the student.

(5) A board may expel a student under subsection (4) only if

- (a) the principal has recommended that the board expel the student, and
- (b) the student has been offered another education program by the board.

(6) If a student is expelled under this section, the expulsion takes effect immediately following the board's decision under subsection (4)(b).

(7) The board may establish rules or conditions for an expelled student respecting the circumstances in which the student may be enrolled in the same or a different education program.

(8) An expulsion or any rule or condition under subsection (7) may apply to a student beyond the school year in which the student was expelled.

(9) When a student is expelled under this section, the board shall immediately notify, in writing, the student's parent, and the student if the student is 16 years of age or older,

- (a) of the expulsion and any rules or conditions that apply to the student, and
- (b) of the right to request a review under section 40.

Division 3 Complex Education Needs Tribunal

Complex Education Needs Tribunal

37(1) A board may determine that a student requires specialized supports and services that cannot be met in an education program that may be provided by the board under any other provision of this Act.

(2) If a board makes a determination under subsection (1) in respect of a student, the board shall refer the matter to a Complex Education Needs Tribunal, which shall confirm the board's determination or determine 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 Complex Education Needs Tribunal confirms the determination of a board under subsection (1), it shall develop or approve a 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 plan, and
- (b) apportion the cost of providing the services required under the plan between the board and the government.

(4) If a Complex Education 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 a plan developed or approved by a Complex Education Needs Tribunal under this section.

(6) A plan developed or approved by a Complex Education Needs Tribunal under subsection (3) or this subsection must be reviewed by the same or any other Complex Education Needs Tribunal at least every 3 years after the plan is developed or approved until the student is no longer entitled to have access to an education program under this Act.

(7) The Minister may establish one or more Complex Education Needs Tribunals for the purposes of this section.

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

(9) A parent or a board may request in writing that the Minister review a confirmation made under subsection (2) or a plan developed or approved under subsection (3) by a Complex Education Needs Tribunal.

Division 4 Dispute Resolution

School dispute resolution

38 A board shall establish a policy respecting the resolution of disputes or concerns at the school level between parents and school staff that supports a co-operative and collaborative learning environment for students.

Appeal to board

39(1) The failure of a person to make a decision is deemed to be a decision that may be appealed under this section.

(2) Where a decision that significantly affects the education of a student or of a child enrolled in an early childhood services program operated by the board is made by an employee of the board or an employee authorized by the board under section 49(1) to make a decision,

- (a) a parent of the student or child, and
- (b) in the case of a student who is 16 years of age or older, either a parent of the student or the student,

may appeal that decision to the board within a reasonable time from the date that the parent or student was informed of the decision.

(3) Prior to appealing a decision to the board under subsection (2), a parent of the student or child must have followed the school dispute resolution policy established by the board under section 38.

(4) A person who may review a student record under section 53 may appeal to a board a decision of an employee of the board respecting access to or the accuracy or completeness of the student record within a reasonable time from the date that the person was informed of the decision.

(5) For the purposes of hearing appeals under this section, a board shall establish an appeal procedure by resolution.

(6) A board may establish one or more committees for the purposes of carrying out the board's responsibilities under this section.

(7) A board may make any decision that it considers appropriate in respect of the matter that is appealed to it under this section.

(8) A board shall make a decision under this section forthwith after receiving a notice of an application for an appeal and shall report that decision, in writing, to the person making the appeal forthwith.

Request for review by the Minister

40(1) If a board makes a decision on an appeal to it or otherwise, with respect to

- (a) the provision of specialized supports and services to a student in accordance with section 11(4) or a child in accordance with section 21, or
- (b) the expulsion of a student,

a parent of a student or child affected by the decision, and the student if the student is 16 years of age or older, may request in writing that the Minister review the decision.

(2) A request under subsection (1) must be made within 60 days of the date on which the parent or the student, if the student is 16 years of age or older, is informed of the decision.

(3) Where a dispute arises as to which board is responsible for a student or child referred to in this section, a board or other person that is a party to the dispute may request in writing that the Minister review the matter.

(4) A person who may review a student record under section 53 may request in writing that the Minister review a decision of the board, whether made on an appeal to it or otherwise, respecting access to or the accuracy or completeness of the student record.

Review by the Minister

41(1) The Minister may review a matter as requested in accordance with this Act or the regulations and may review the matter in any manner the Minister considers appropriate in order to determine whether the decision of the board was reasonable in the circumstances.

(2) Where the Minister reviews a matter under subsection (1), the Minister may, subject to this Act and the regulations, make whatever decision with respect to the matter in dispute that appears to the Minister to be appropriate in the circumstances, and that decision is final.

(3) The Minister may, by regulation, set out the circumstances in which the Minister will review a matter and the manner in which reviews will be conducted.

Division 5 Attendance Board

Establishment of Attendance Board

42 The Minister may establish an Attendance Board consisting of as many members appointed by the Minister as the Minister considers necessary and designate from among the members a chair and one or more vice-chairs.

Referral to Attendance Board

43(1) An Attendance Board may hear a matter referred to it pursuant to section 9 respecting the failure of a student to attend school as required under this Act.

(2) Before referring a matter respecting the attendance of a student to the Attendance Board, a board shall ensure

- (a) that the student has been advised by the board or the attendance officer of the student's duty to attend school in accordance with section 7, and
- (b) that all reasonable efforts have been made by the board or the attendance officer to enforce the student's attendance at school.

(3) Before referring a matter respecting the attendance of a student to the Attendance Board, the person responsible for the operation of a private school shall ensure

- (a) that the student has been advised by that person of the student's duty to attend school in accordance with section 7, and
- (b) that all reasonable efforts have been made by that person to enforce the student's attendance at school.

Mediation by Attendance Board

44(1) Where a matter is referred to the Attendance Board by a board or the person responsible for the operation of a private school, the Attendance Board may attempt to mediate the matter by means of a case conference with the student, the student's parent and school staff.

(2) In the event that a case conference conducted pursuant to subsection (1) does not successfully resolve the matter, the Attendance Board may schedule a formal hearing of the Attendance Board in accordance with section 45.

(3) Notwithstanding subsection (1), where a matter is referred to the Attendance Board by a board or the person responsible for the operation of a private school, the Attendance Board may proceed directly to schedule a formal hearing of the Attendance Board in accordance with section 45.

Hearing before Attendance Board

45(1) For the purposes of conducting a hearing before the Attendance Board, the following applies:

- (a) notice in writing of the date, time, place and purpose of the hearing must be served at least 7 days before the commencement of the hearing on the parent of the

student, 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;

- (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 or a person responsible for the operation of a private school to produce to the Attendance Board, prior to a hearing, copies of all reports, statements, correspondence and 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) or subsection (2) or (3), 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 must 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 the person's counsel or agent 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 must 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 or an agent, and
 - (iii) to make representations to the Attendance Board;
- (n) a witness attending a proceeding before the Attendance Board may be paid the same fees and allowances as a witness summoned to attend at the Provincial Court;
- (o) notice of every order together with a copy of the written reasons for it, if any, must 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.

(2) The Attendance Board may require the student or a parent of the student, or both, to attend proceedings before the Attendance Board.

(3) Any person other than the student and a parent of the student who, in the opinion of the Attendance Board, has knowledge of the matter before the Attendance Board is a compellable witness in proceedings before the Attendance Board.

(4) Notice under this section may be served personally on the person required to be served or by being sent to that person by registered or certified mail.

Order of Attendance Board

46(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 a parent of the student to send the student to school;
- (c) subject to sections 11, 20 and 37, directing the student to take an education program set out in the order;
- (d) reporting the matter to a director under the *Child, Youth and Family Enhancement Act*;
- (e) imposing on a parent of the student a monetary penalty not exceeding \$100 per day to be paid to the Crown for each day that the student does not attend school, up to a maximum of \$1000;
- (f) giving any other direction not referred to in clauses (a) to (e) that the Attendance Board considers appropriate in the circumstances.

(2) Notwithstanding subsection (1), the Attendance Board may at any time during the proceedings

- (a) make an interim order giving any directions to the student, a parent of the student, the board or the person responsible for the operation of the private school that the Attendance Board considers appropriate in the circumstances,
- (b) adjourn the proceedings before it for a period set by the Attendance Board, and
- (c) reconvene the proceedings to hear further evidence, if the Attendance Board considers it necessary to do so, consider the interim order and make a final order under subsection (1).

(3) A copy of an order of the Attendance Board made under subsection (1) may be filed with the clerk of the Court of Queen's Bench at the judicial centre closest to the place where the cause of the proceedings before the Attendance Board arose.

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

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

Attendance Board panels

47(1) The chair or a vice-chair of the Attendance Board may designate a panel consisting of

- (a) one member, or
- (b) 3 or more members.

(2) Where a panel consists of 3 or more members, 2 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 all the powers of the Attendance Board under this Act and the regulations.

(5) The chair may designate a member of a panel of the Attendance Board to preside at any sitting of the panel at which the chair 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 one or more members of the panel for any reason do not 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.

Part 4 Board Powers and Elections

Division 1 Board Powers

Natural person powers

48(1) A board has the capacity and, subject to this Act and the regulations, the rights, powers and privileges of a natural person.

(2) With respect to any right, power or privilege exercisable by a board, the Minister may, by regulation,

- (a) prohibit or restrict the use of the right, power or privilege;
- (b) provide that the right, power or privilege is to be exercised subject to any terms or conditions prescribed in the regulations.

(3) Notwithstanding subsection (1), a board shall not engage in or carry on any activity that is not consistent with the responsibilities of a board as set out in section 33.

Delegation of power

49(1) Subject to subsections (3) and (4), a board may authorize

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

to do any act or thing or exercise any power that the board may do or exercise or is required to do or exercise.

(2) An authorization by a board under subsection (1) must be in the form of a resolution of the board.

(3) For the purposes of this Act, the doing of an act or thing or the exercise of a power by an employee of the board, a committee of the board or a school council authorized by a board under subsection (1) is deemed to be the doing of an act or thing or the exercise of a power by the board.

- (4) A board shall not delegate
 - (a) the power to make a bylaw under this Act,
 - (b) the power to close a school or school building under section 59,
 - (c) the power to requisition from a municipality that the board may have from time to time, and
 - (d) the power to hold a hearing under section 207.
- (5) A board shall not delegate, except to a superintendent employed by the board,
 - (a) the power to suspend the services of a teacher, or
 - (b) the power to terminate the services of a teacher.

General powers of boards

- 50(1)** A board shall
- (a) establish, maintain and implement policies necessary for fulfilling its responsibilities under section 33,
 - (b) ensure that all policies are available and accessible to students, parents, board employees and others affected by the policies,
 - (c) in co-operation with school councils, provide for parental and community engagement in schools, and
 - (d) maintain, repair, furnish and keep in good order all its real and personal property.
- (2)** A board may
- (a) subject to section 18 and the regulations, develop, acquire or offer courses or programs,
 - (b) subject to section 18 and the regulations, develop or acquire instructional materials for use in courses or programs or in schools, and

- (c) make policies, subject to the regulations, respecting the establishment, administration, management and operation of
 - (i) schools operated by the board, or
 - (ii) school buses and other vehicles used for the purposes of the board.

Insurance and investment

51(1) A board shall, in respect of its operations, keep in force adequate and appropriate policies of insurance, for the purpose of, at a minimum, indemnifying the board and its employees and school councils in respect of claims for

- (a) damages for death or personal injury,
- (b) damages to property, and
- (c) damages to property owned by the board in respect of which the board has an insurable interest
 - (i) that the board has agreed to insure, or
 - (ii) for which the board otherwise has or may have assumed liability.

(2) A board may invest only in accordance with the regulations made under subsection (3)(b).

(3) The Minister may make regulations

- (a) 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;
- (b) respecting the investment of money for the purpose of subsection (2).

School council

52(1) For each school operated by a board, a school council must be established in accordance with the regulations.

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

(3) A board of a separate school division may by resolution require that the parents of students enrolled in a school operated by the board who are members of the school council declare themselves to be of the same faith as the electors of the separate school division, whether Protestant or Roman Catholic.

(4) A school council may, at its discretion,

- (a) advise the principal and the board respecting any matter relating to the school,
- (b) perform any duty or function delegated to it by the board in accordance with the delegation,
- (c) consult with the principal so that the principal may ensure that students in the school have the opportunity to meet the standards of education set by the Minister,
- (d) consult with the principal so that the principal may ensure that the fiscal management of the school is in accordance with the requirements of the board and the superintendent, and
- (e) do anything it is authorized under the regulations to do.

(5) Subject to the regulations, a school council may establish and implement policies in the school that the school council considers necessary to carry out its functions.

(6) A school council may make bylaws governing its meetings and the conduct of its affairs.

(7) Subject to the regulations, a board may establish and implement policies respecting school councils.

(8) A board shall establish a dispute resolution process to address disputes between the principal and the school council with respect to policies proposed or adopted for a school.

(9) The Minister, on the request of the board, may dissolve a school council without notice at any time if the Minister is of the opinion that the school council is not carrying out its responsibilities in accordance with this Act and the regulations.

(10) The Minister may make regulations

- (a) respecting the election or appointment of the members of a school council and the term or other conditions of election or appointment and the dissolution of a school council;
- (b) respecting the roles of the principal and the school council of a school and their respective powers, duties and responsibilities;
- (c) respecting any other matter the Minister considers necessary respecting school councils;
- (d) exempting a school or class of schools from the application of this section.

Student records

53(1) A board shall establish and maintain in accordance with the regulations a student record for

- (a) each student enrolled in a school operated by the board, and
- (b) each child or student enrolled in an early childhood services program provided by the board.

(2) A person, other than a board, providing an early childhood services program to a child shall establish and maintain in accordance with the regulations a student record for each child enrolled in the early childhood services program.

(3) The following persons may review the student record maintained in respect of a student or a child enrolled in an early childhood services program:

- (a) the student;
- (b) the student's parent, except where the student is an independent student;

(c) the parent of a child enrolled in an early childhood services program.

(4) A person who is entitled to review a student record under subsection (3) may request a copy of the student record from the board, and the secretary of the board shall provide, or on request shall send, the copy to the person on receiving payment for it at the rate prescribed by the board.

(5) A person who provides 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 that person's duties and responsibilities, and

(c) did not act in a negligent manner.

(6) If, on reviewing a student record, a person who is entitled to review the student record is of the opinion that the student record contains inaccurate or incomplete information, that person may request that the board rectify the matter.

(7) Where in accordance with the regulations a board is required to transfer a student record, the board shall do so in a timely manner.

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

School fees

54(1) Notwithstanding section 13, a board may charge a parent of a student fees in accordance with the regulations.

(2) The Minister may make regulations respecting school fees.

Religious and patriotic instruction or exercises

55(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 or exercises to its students.

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

Transportation

56(1) Subject to the regulations, a board shall establish, maintain and implement a policy respecting the safe and appropriate transportation of students.

(2) Subject to the regulations, a board may charge the parent of a student receiving transportation provided by the board any fee determined by the board.

(3) Where a board enters into an agreement with a parent of a student under which the parent conveys the student to and from school or the bus route and the parent receives payment for conveying the student, the board is not under any liability to the parent or the student for any negligence arising out of the student's being conveyed pursuant to the agreement.

(4) The Minister may make regulations respecting the transportation of students.

School day and year

57 A board shall determine and make publicly available for each school year the days, dates and number of days of school operation.

Flags

58 A board shall ensure that the Canadian flag and the Alberta flag are displayed at each school operated by the board.

Closure of schools

59(1) A board may, only by resolution, permanently or temporarily

- (a) close a school, or
- (b) transfer students from one school building to another school building.

(2) A board shall establish, implement and make publicly available policies respecting the actions referred to in subsection (1).

(3) A policy established pursuant to subsection (2) must be consistent with any regulations made by the Minister under this section.

(4) Where a board is considering an action referred to in subsection (1), the board shall, in writing, notify

- (a) the parents of every student enrolled in the school, and
- (b) any other person, municipality or community organization who, in the opinion of the board, may be significantly affected.

(5) A policy established pursuant to subsection (2) related to the permanent closure of a school must provide for

- (a) adequate opportunity for the public to respond to the board's proposal to permanently close a school,
- (b) a process by which the board shall fairly consider responses provided under clause (a),
- (c) consideration of future growth in student enrolment, and
- (d) consideration of possible alternative educational or community uses for all or part of the school building.

(6) Where a board decides to close a school permanently, the board shall notify the Minister in writing forthwith and include

- (a) the name of the school, and
- (b) the effective date of the closure.

(7) This section does not apply where the Minister directs a board to dispose of a school building pursuant to section 188.

(8) The Minister may make regulations with respect to the permanent or temporary closure of schools by a board.

Education services agreements for First Nations students

60(1) In this section, “Indian” means Indian as defined in the *Indian Act* (Canada).

(2) The Minister may, by order, establish requirements or standards that apply to education services agreements between a board and

- (a) the Government of Canada or an agency of the Government of Canada, or
- (b) a council of a band as defined in the *Indian Act* (Canada),

for the education of Indian children.

(3) Where a board enters into an agreement with respect to the education of Indian children pursuant to subsection (1), the agreement must meet the requirements or standards established by the Minister.

Division 2 Board Procedures

Open meetings

61(1) The meetings of a board must be held in public and no person may be excluded from them except for improper conduct.

(2) The chair of the board may cause to be excluded from a meeting any person who, in the opinion of the chair, 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 bylaw or resolution at that meeting except the resolution necessary to revert to an open meeting.

Inspection of documents

62(1) At any reasonable time, an elector of a school division may with respect to the board of that school division inspect any one 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 bylaw 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 school division may request from the board of that school division a copy of any item that the elector 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) An elector may not inspect a student record or information respecting a particular employee unless that information is included in financial statements of the board prepared under this or any other Act.

Requests to provide information

63(1) A board shall provide the Minister in writing with any information the Minister requests.

(2) Subject to Part 2, Division 2 of the *Freedom of Information and Protection of Privacy Act*, the Minister may publish or

otherwise disseminate any information the Minister receives under subsection (1).

Accountability of board

64(1) A board shall develop and implement a reporting and accountability system on any matter the Minister prescribes.

(2) A board shall disseminate any information in the reports and accounts produced under the reporting and accountability system it develops under subsection (1) to students, parents, electors or the Minister in the manner the Minister prescribes.

(3) A board shall use any information in the reports and accounts produced under the reporting and accountability system it develops under subsection (1) in the manner the Minister prescribes.

Secretary and treasurer

65 A board shall

- (a) appoint a secretary and a treasurer, or one person to act as secretary-treasurer,
- (b) immediately 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.

Regulations

66 The Minister may make regulations

- (a) respecting board governance and administrative procedures;
- (b) respecting the reporting and accountability requirements for boards set out in section 64;
- (c) respecting the collection, use, disclosure, disposal and destruction of personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* by the Minister, a board or a person responsible for the operation of a charter school.

Division 3 Investigation and Inquiry

Investigation

67(1) Where the Minister considers it appropriate, the Minister may appoint a person to investigate into and report to the Minister on

- (a) the financial condition,
- (b) the administrative condition, or
- (c) any other matter connected with the management, administration or operation,

of a board, a private school or a person providing an early childhood services program.

(2) The Minister may, on receipt of a report under subsection (1), order an inquiry to be conducted in accordance with section 68.

Inquiry

68(1) Where, in the opinion of the Minister, there is reason to believe that a board is not fulfilling its responsibilities under section 33, the Minister may appoint a person to conduct an inquiry into the management, administration or operation of the board.

(2) Where, in the opinion of the Minister, there is reason to believe that

- (a) a private school is not being operated in compliance with this Act and the regulations,
- (b) a private school does not have the capacity to deliver an appropriate education program to its students,
- (c) students enrolled in a private school are not achieving acceptable educational progress, or
- (d) a private school permits education programs or instructional materials that do not comply with section 16 to be offered or used at the school,

the Minister may appoint a person to conduct an inquiry into the management, administration or operation of the private school.

(3) Where, in the opinion of the Minister, there is reason to believe that a person, other than a board, providing an early childhood services program is failing to comply with this Act and the regulations, the Minister may appoint a person to conduct an inquiry into the management, administration or operation of the early childhood services program.

(4) A person appointed under this section may examine and take copies of

- (a) all records and accounts,
- (b) all bank statements, and
- (c) any other documents or things,

including those in electronic form.

(5) If the Minister so provides, a person appointed under this section has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(6) The books, papers, documents and things referred to in subsection (4) must be made available to the person appointed by the Minister at the time the person requests them from the person who has custody of them.

(7) A person appointed under this section shall report to the Minister on the results of the inquiry and on receipt of the report the Minister may make any order that the Minister considers appropriate.

Official trustee

69(1) The Minister may appoint an official trustee to conduct the affairs of a board, subject to any terms and conditions the Minister considers necessary, when

- (a) a board fails to comply with an order made under section 68, or
- (b) the Minister considers it in the public interest to do so.

(2) An official trustee appointed under subsection (1)

- (a) has the powers and duties conferred by this Act on a board,

- (b) is to be remunerated out of the funds of the board or otherwise as the Lieutenant Governor in Council determines, and
- (c) with the prior approval of the Minister, has the power to borrow money and pass a bylaw.

(3) On the appointment of an official trustee to conduct the affairs of a board, the members of the board cease to hold office as members of that board.

(4) An official trustee holds office during the pleasure of the Minister.

Division 4 Elections and Trustees

Procedure for elections, etc.

70 All

- (a) general elections, by-elections, polls and plebiscites,
- (b) votes on bylaws or money bylaws, and
- (c) votes on any other matter or question

held pursuant to this Act are to be governed by this Act and the *Local Authorities Election Act*.

Eligibility

71(1) In addition to the provisions of section 5 respecting residence, this section applies to determine whether an individual is a resident of a public school division or a separate school division for the purposes of determining eligibility to vote or to be nominated as a candidate for election as a trustee of a school board under the *Local Authorities Election Act*.

(2) Subject to subsection (3), for the purposes of subsection (1), an individual is a resident of the school division in which the individual resides.

(3) Where a separate school district is established, an individual residing within the boundaries of the separate school district is a resident of the separate school division if the individual declares

that the individual is of the same faith as those who established the separate school district, whether Protestant or Roman Catholic.

(4) Notwithstanding the *Local Authorities Election Act*, a resident of a separate school division is eligible

- (a) to vote for, and
- (b) to be nominated as a candidate for election as,

a trustee of the board of either the public school division or the separate school division in which the person's residence is located, but not both.

Oath of office

72 Every trustee shall

- (a) take and subscribe to the official oath prescribed by the *Oaths of Office Act* before commencing the trustee's duties, and
- (b) deposit the oath with the secretary of the board.

Establishment of wards

73(1) The board of a school division may by bylaw

- (a) provide for the nomination and election of trustees by wards or electoral subdivisions and determine the boundaries of the wards or electoral subdivisions, or
- (b) provide for the election of trustees by the general vote of the electors.

(2) A bylaw passed under subsection (1) or any bylaw that amends, revokes or replaces it

- (a) does not apply to the general election next following the passing of the bylaw unless it is passed before March 1 in the year in which that general election is held, and
- (b) does not apply to or affect the composition of the board until the date of the next general election to which the bylaw applies.

(3) A bylaw passed under this section must, if practicable, provide that the number of trustees to be elected in each ward is in the same proportion to the total number of trustees of the board as the population of the ward is to the population of the school division.

(4) A board shall establish, implement and make publicly available a policy respecting the considerations and process used by the board to determine ward structures.

(5) The Minister may make regulations respecting

- (a) the nomination and election of trustees by wards or electoral subdivisions;
- (b) the partition of a school division into wards.

Board establishment

74(1) For each public school 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.

(2) For each separate school 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 _____ Separate School Division.

Number of trustees

75(1) The Minister shall specify for each board the number of trustees, being no fewer than 3, to be elected to the board.

(2) The Minister may vary the number of trustees to be elected for each school division.

Change of name

76 A board of trustees may, by resolution, change its corporate name to another name that is approved by the Minister.

Resignations

77(1) A trustee may resign by submitting the trustee's written resignation to the secretary of the board at the beginning of a meeting of the board, and the trustee ceases to hold office at that time.

(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.

Filling vacancies

78(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), where a vacancy occurs on a board of 6 or more trustees

- (a) during the 2-year period immediately following a general election, a by-election need not be held if there is only one 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 one.

(3) If a board consists 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.

(4) 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.

Failure to elect trustee, etc.

79(1) Where 2 attempts to fill a vacancy on a board have been made and no nominations have been put forward, whether as part of a general election or a by-election held in accordance with section 78, the Minister may, in consultation with the board, appoint a trustee to fill that vacancy.

(2) A person appointed by the Minister under subsection (1) is in the same position as the person would have been had the person been elected under any other provision of this Act.

Direction to official trustee to hold by-election

80 When

- (a) an official trustee has been appointed under this Act to conduct the affairs and business of a board, and
- (b) the Minister considers that the official trustee has completed the official trustee's duties,

the Minister may direct the official trustee to hold a by-election to fill the vacancies on the board.

Appointment of First Nations trustee

81(1) Where a board has entered into one or more education services agreements pursuant to section 60,

- (a) the board by resolution, or
- (b) the Minister, at the request of the board or in consultation with the board and the band,

may appoint a trustee to represent First Nations students and parents on the board.

(2) A person appointed by the board or the Minister under subsection (1) is in the same position as the person would have been had the person been elected under any other provision of this Act.

(3) Notwithstanding subsection (2), where a trustee appointed under this section resigns or is disqualified under section 84, the board is not required to comply with the obligations set out in section 78.

(4) A person appointed by the board or the Minister under subsection (1) is in addition to the number of trustees specified by the Minister under section 75.

(5) The number of trustees appointed to a board under this section may not exceed 1/3 of the number of trustees specified by the Minister under section 75 for that board.

Division 5

Conflict of Interest and Disqualification

Pecuniary interest

82(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) “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;
- (c) “spouse” means the husband or wife of a married person but does not include a spouse who is living separate and apart from the person if the person and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order.

(2) For the purposes of this Division except section 83(1), the pecuniary interests of the spouse or adult interdependent partner of a person that are known to the person or of which the person

reasonably should know are 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 the person may have

- (a) as an elector or taxpayer of the school division,
- (b) by reason of
 - (i) the person's 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) the person's appointment 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 the person 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 the person's 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 the person is an employee,
- (e) by reason of the person's being a member of a credit union, a cooperative or a non-profit organization formed under an Act of the Legislature or of the Parliament of Canada,
- (f) by reason of the person's having an interest that is an interest in common
 - (i) with the majority of electors of the school division, or
 - (ii) in respect of a matter that affects only part of the school 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 cooperative or an employee of an organization or club referred to in that clause.

Disclosure of information

83(1) Each trustee of a board shall file with the board's secretary a statement showing

- (a) the names and employment information of the trustee and the trustee's spouse or adult interdependent partner,
- (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 adult interdependent partner 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 the secretary, 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

84(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 the person is a trustee;

- (c) has breached the code of conduct of the board established under section 33, where the sanction for the breach under the code of conduct may be determined by the board to be disqualification;
- (d) 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;
- (e) 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;
- (f) 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 the dealer's business,
 - (iii) a contract of employment with the trustee's spouse or adult interdependent partner, child, parent or spouse's or adult interdependent partner's parent, or
 - (iv) a contract approved by the board pursuant to disclosure;
- (g) uses information gained through the person's position as a trustee of the board to gain a pecuniary benefit in respect of any matter in which the person has a pecuniary interest;
- (h) 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;
- (i) is absent without being authorized by a resolution of the board from 3 consecutive regular meetings of the board, unless the person's absence is due to illness and the

person provides evidence of that illness in the form of a medical certificate respecting the period of the person's absence;

- (j) is convicted of
 - (i) an indictable offence punishable by imprisonment for 5 or more years, or
 - (ii) an offence under section 123 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 as a trustee under the *Local Authorities Election Act*.

Disclosure of pecuniary interest

85(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 the trustee 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 the trustee has a pecuniary interest is introduced, the

trustee shall, immediately on the trustee's return to the meeting or as soon afterwards as the trustee becomes aware that the matter has been considered, disclose the general nature of the trustee's 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 (1) or (3) must 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 the trustee 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 84(1)(d) or (e).

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

Effect of interest on contract

86 No contract with a board under which a trustee of the board has an interest referred to in section 84(1)(d), (e) or (f) 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 the dealer's 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 or adult interdependent partner.

Resignation on disqualification

87 If a person is disqualified under section 84 or 85 from remaining as a trustee of the board, the person shall immediately resign.

Refusal to resign on disqualification

88 If the person does not resign as required under section 87,

- (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 to the Court of Queen's Bench for
 - (i) an order determining whether 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 of the school division in respect of which the person was elected may apply 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, by
 - (i) filing 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) paying into court the sum of \$250 as security for costs.

Appeal of board's resolution

89(1) Where a person is disqualified under section 88(a) from remaining as a trustee, that person may apply to the Court of

Queen's Bench for an order declaring the person to be qualified to remain as a trustee.

(2) Where a person

(a) is disqualified under section 88(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 88(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 the person 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 the person during the period of disqualification,

or

(b) declaring the person to be disqualified from remaining as a trustee and requiring the person to vacate the person's seat on the board.

Hearing of application

90(1) On hearing an application under section 88(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 84(1)(d), (e), (f) or (g), it may order the person to pay to the board the total amount of any profit attributable to the contravention.

(3) An application under section 88(b) or (c)

(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

91 Where the Court of Queen's Bench hears an application under section 88(b) or (c) or 89 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

92(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 the person 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 the person during the period of disqualification,

and

- (b) may order that any money paid to the board pursuant to section 90(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 the person is eligible to be elected at the next general election for the election of trustees to the board, if otherwise qualified.

Reimbursement

93(1) If

- (a) an application made under section 88(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 trustee in respect of whom the application was made for any of the trustee's 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 5
Structure of School
Authorities

Division 1
Creation, Alteration and
Dissolution of Public
School Districts and School
Divisions

Establishment of public school district

94(1) The Minister may establish any portion of Alberta as a public school district.

(2) The order establishing a public school district must describe the boundaries of the district and give it a name in the following form:

The _____ School District.

Establishment of school division

95(1) The Minister may establish a school division consisting of any number of public school districts, separate school districts and school divisions established under this Act.

(2) A school division may be a public school division or a separate school division.

(3) The order establishing a school division must give the school division a name in the following form:

The _____ School Division.

Effect of establishment

96 When a school division is established,

- (a) the boards of the public school districts, separate school districts and school divisions referred to in section 95 included in the area of the school division are dissolved,
- (b) all assets and liabilities of the boards of the public school districts, separate school districts and school divisions are transferred to the board of the school division, and

- (c) all employees of the boards of the public school districts, separate school districts and school divisions become employees of the board of the school division.

Addition and removal of land

97(1) The Minister may, by order,

- (a) add land to or take land from a public school district, separate school district or school division, and
- (b) divide a public school district, separate school district or school division into 2 or more public school districts, separate school districts or school divisions.

(2) If all the land included in a school division has been taken from it, the school district or school division is deemed to be dissolved.

Effect on town or village

98 Notwithstanding anything in this Act, the formation within any school division of a town or village does not have the effect of removing from the school division any public school district wholly or partially within the corporate limits of that town or village.

Alteration of name

99(1) The Minister may by order alter the name of a school division.

(2) If a name is altered under subsection (1), the seal previously used by the board continues to be its seal until it is changed by the board.

(3) Any alteration in the name of a school division does not affect any obligations incurred, acts done or property acquired prior to the alteration.

Dissolution by Minister

100(1) The Minister may by order declare that any school division is dissolved, and on the Minister so ordering

- (a) the board of the school 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 school division ceases to exist.

(2) If land in a dissolved school division is added to a school division under section 97, the Minister may

- (a) increase the number of trustees of the board of the school division to which the land is added, and
- (b) appoint one or more persons as trustees to the board.

(3) A trustee appointed to a board under subsection (2) holds office until the first organizational meeting of the board held after the first general election held after the appointment.

(4) A board of a school division referred to in subsection (2)(a) that has passed a bylaw under section 73 must amend the bylaw to provide for the representation of the area added to the school division.

Adjustment of assets and liabilities

101 On

- (a) any inclusion, exclusion, dissolution or transfer of land or school divisions, or
- (b) the formation of a school division,

if the Minister considers any adjustment of assets and liabilities necessary, the Minister 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

102(1) If, as a result of a transfer of land or school divisions by an order of the Minister, resident students of a board come under the jurisdiction of another board, the board to which the students are transferred must select teachers of the board from which the students are transferred in the same proportion as the number of

students transferred bears to the total number of resident students of the board from which the students are transferred.

(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 termination of the contract in accordance with this Act,

whichever occurs first.

Publication of order

103 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 school division must be published in The Alberta Gazette.

Boundaries

104(1) When a public school district, separate school district or school 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 public school district, separate school district or school 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 public school district, separate school district or school division is deemed to be in the public school district, separate school district or school division, notwithstanding anything in this Act to the contrary.

(3) All road allowances within the boundaries of the public school district, separate school district or school division are deemed to be in the public school district, separate school district or school division.

(4) Unless otherwise stated in an order establishing a public school district, separate school district or school division, if a part of the boundary of a public school district, separate school district or school division is described as being a certain river or other waterway, the downstream right bank is the boundary.

Restriction re alteration of boundaries

105 When a school division has debenture indebtedness outstanding, no alteration in its boundaries may 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 2 Establishment and Disestablishment of Separate School Districts

Definitions

106 In this Division,

- (a) “community information meeting” means a meeting referred to in section 111;
- (b) “initiating separate school electors” means the separate school electors referred to in section 108 who initiate the process to establish a separate school district;
- (c) “operating separate school division” means the separate school division operating in the separate school region in which the separate school district is to be located;
- (d) “separate school elector” means an individual who,
 - (i) where a separate school district is not established,

- (A) is an elector of the public school district, and
- (B) declares that the individual is of the same faith, whether Protestant or Roman Catholic, as those in the minority in the public school district,

and

- (ii) where a separate school district is established, declares that the individual is of the same faith as those who established the separate school district, whether Protestant or Roman Catholic, as the case may be, and is an elector of that separate school district;
- (e) “separate school establishment area” means the proposed separate school establishment area determined in accordance with section 109.

Right to establish separate school district

107 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.

Intention to establish

108 Where no fewer than 3 of the separate school electors referred to in section 107 wish to establish a separate school district, they must initiate the process by

- (a) notifying the Minister in writing of their intention to proceed with the establishment of a separate school district, and
- (b) providing a copy of the notification referred to in clause (a) to the operating separate school division, the public school division, and the municipality or municipalities in which the public school district is located.

Separate school establishment area

109(1) The initiating separate school electors, the operating separate school division and the public school division must meet to collectively determine the boundaries of the separate school

establishment area in accordance with the regulations and, if agreement is reached, notify the Minister in writing in a form acceptable to the Minister respecting the proposed separate school establishment area.

(2) If the proposed separate school establishment area meets the requirements of the regulations, the Minister must approve the proposed separate school establishment area as the area that will form the separate school district if it is established in accordance with this Division.

(3) If the initiating separate school electors, the operating separate school division and the public school division are not able to agree on the boundaries of a separate school establishment area within the time limits set out in the regulations, or if the proposed separate school establishment area does not meet the requirements of the regulations, the Minister may, subject to the regulations, declare the separate school establishment area to be

- (a) the public school district in which the initiating separate school electors reside, and
- (b) all the public school districts that are
 - (i) contiguous to the public school district in which the initiating separate school electors reside, and
 - (ii) located in the separate school region.

(4) The Minister may make regulations respecting the process and criteria for determining a separate school establishment area.

Petition for establishment

110(1) Where the Minister has approved or made a declaration respecting a proposed separate school establishment area under section 109, and the initiating separate school electors wish to proceed with the establishment of a separate school district, they shall, in accordance with subsection (2), prepare a petition for the establishment of a separate school district based on that proposed separate school establishment area.

(2) The petition for the establishment of the separate school district must

- (a) be signed by no fewer than 3 of the initiating separate school electors,
- (b) provide evidence satisfactory to the Minister that the separate school electors are of the same faith, whether Protestant or Roman Catholic, as those in the minority in the separate school establishment area, and
- (c) be in the form prescribed by the Minister.

(3) The petitioners must provide the petition for establishment to the Minister, the operating separate school division and the public school division.

Community information meeting

111(1) Where a petition has been prepared in accordance with section 110(2), the petitioners, the operating separate school division and the public school division shall arrange for a community information meeting to be held for the purpose of providing information with respect to the process and operational implications of the establishment of a separate school district.

(2) The date, time and location of the community information meeting must be published in accordance with the regulations.

(3) The community information meeting must be conducted in accordance with the regulations.

(4) No vote respecting the establishment of a separate school district may be conducted at the community information meeting.

(5) The Minister may make regulations respecting the community information meeting, including regulations respecting

- (a) the time period within which a meeting must be held,
- (b) the conduct of a meeting, including, without limitation, regulations respecting quorum, the election of a chair, the appointment and duties of a secretary, time for questions and discussion and time for voting, and
- (c) who may participate in a meeting.

Vote respecting establishment

112(1) After a community information meeting has been held, the petitioners may proceed with the establishment of a separate school district by requesting that the operating separate school division call a vote of the separate school electors who reside in the separate school establishment area for the purpose of determining whether the separate school district should be established.

(2) Only the separate school electors who reside in the separate school establishment area are eligible to vote on the establishment of the separate school district.

(3) The operating separate school division shall appoint an individual to act as returning officer for the purposes of the vote.

(4) The vote must

- (a) be held on a date separate from and subsequent to the date of the community information meeting, and
- (b) be conducted in accordance with the regulations.

Notice respecting the vote

113 Notice respecting a vote referred to in section 112 must

- (a) be in the form prescribed by the Minister,
- (b) be made public in accordance with the regulations, and
- (c) be served on the board of the public school 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 of the vote.

Minimum participation for binding vote

114(1) In order for the vote on establishment to be binding, a minimum of 25% of the separate school electors eligible to vote must cast a ballot on the question.

(2) The vote on establishment must be decided by a majority of the votes validly cast, and in the case of an equality of votes, the question is deemed to be decided in the negative.

(3) The Minister may make regulations respecting the vote on establishment, including, without limitation, regulations respecting who may vote, the method of voting, the wording of the question on the ballot, the hours of the poll and the duties of the returning officer.

Notification to Minister

115 The returning officer shall, within 10 days from the date of the vote, send to the Minister the following:

- (a) a copy of the notice calling the vote;
- (b) proof, in the form required by the Minister, of the posting, publication and service of the notice respecting the vote;
- (c) proof satisfactory to the Minister that those who participated in the vote are separate school electors;
- (d) the declaration of the returning officer with respect to the result of the vote.

Vote against establishment

116 If the majority of the separate school electors who voted in accordance with section 112 voted against the establishment of a separate school district, no further petition for a separate school district may be presented until at least

- (a) one year from the date of the vote on establishment 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 vote on establishment if 60% or more of the persons voting voted against the establishment of a separate school district.

Establishment of district

117 Where the majority of the separate school electors who voted in accordance with section 112 voted 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 separate school establishment area.

Effect of establishment

118(1) The order establishing the separate school district must give it a name in the following form:

The _____ Separate School District.

(2) The Minister shall add the established separate school district to the operating separate school division in accordance with section 97.

(3) Notwithstanding section 4, when a separate school district is established during a school year, the board of the public school division within which the separate school district is established shall, at the request of the board of the separate school division, continue until the end of the school year to accept in its school and on its school buses the resident students of the board of the separate school division who reside in the newly established separate school district.

(4) Any dispute respecting the application of subsection (3) must be referred to the Minister, whose decision is final and binding on the parties to the dispute.

(5) Subject to Part 6, Division 2, after a separate school district is established, a person residing within the boundaries of the separate school district who declares that the person is of the same faith as those who established that district, whether Protestant or Roman Catholic, is a resident of the separate school district.

Disestablishment of separate school district

119(1) A board of a separate school division

- (a) may pass a resolution requesting the Minister to disestablish a separate school district within the boundaries of the separate school division, or
- (b) may of its own volition or shall, if at least 25% of the separate school electors of the separate school district petition the board to disestablish the district, conduct a plebiscite to determine whether the separate school district should be disestablished.

(2) The board must conduct a plebiscite not more than 60 days after

- (a) the date on which it passes a resolution under subsection (1)(a), or
- (b) the date of receipt of a petition referred to in subsection (1)(b).

(3) If the majority of the separate school electors who voted in the plebiscite have voted in favour of the disestablishment 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 the Minister receives a resolution under subsection (1)(a),

disestablish the separate school district and, on that disestablishment, the former separate school district residents become residents of the public school division within which they reside.

(5) The Minister may make regulations respecting the conduct of a plebiscite including, without limitation, regulations respecting the wording of the question.

Division 3 Establishment of Separate School Regions

Establishment of separate school region

120(1) The Minister may do one or both of the following by order:

- (a) establish any portion of Alberta as a separate school region;
- (b) provide for services by a separate school board in a separate school region.

(2) The order establishing a separate school region must describe the boundaries of the separate school region and give it a name in the following form:

The _____ Separate School Region.

(3) A separate school region may have only one separate school board.

(4) The Minister may exclude any portion of Alberta from a separate school region.

Division 4

Establishment and Dissolution of Francophone Education Regions

Definitions

121 In this Division,

- (a) “public school” means a school designated as a public school by a Francophone regional authority under section 127;
- (b) “public school elector” means an individual described in section 132(1) other than a separate school elector;
- (c) “public school trustee” means an individual who is appointed or elected as a public school trustee of a Francophone regional authority;
- (d) “separate school” means a school designated as a separate school by a Francophone regional authority under section 127;
- (e) “separate school elector” means an individual described in section 132 who declares that the individual is of the same faith, whether Protestant or Roman Catholic, as the minority of all individuals living within the boundaries of a Francophone education region as determined by the Minister under section 125;
- (f) “separate school trustee” means an individual who is appointed or elected as a separate school trustee of a Francophone regional authority.

Application

122(1) The following provisions and any regulations made under them apply to a Francophone regional authority and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the Francophone regional

authority or a trustee of a Francophone regional authority, as the case may be:

- (a) sections 1 and 2;
- (b) Part 1, except sections 4, 10 and 11(1);
- (c) Part 2, except sections 29 and 30;
- (d) Part 3;
- (e) Part 4, except sections 71 and 74;
- (f) Part 5, Division 4;
- (g) in Part 6, Division 1, section 167, Division 7 and Division 8 except section 188(5);
- (h) Part 7;
- (i) Part 8.

(2) Sections 97, 99 to 105 and the provisions of Division 4 of Part 5 and any regulations made under them apply to a Francophone education region, and a reference in those provisions or those regulations to a school division is deemed to include a reference to the Francophone education region.

(3) If a provision of this Act applies to a Francophone regional authority, a reference to an elector in the provision is deemed to be a reference to an individual referred to in section 132.

(4) If in any other Act a reference is made

- (a) to a school division, the reference is deemed to include a Francophone education region, or
- (b) to a board of a school division or the trustees of a board of a school division, the reference is deemed to include a Francophone regional authority or the trustees of a Francophone regional authority, as the case may be.

(5) Subsection (4) does not apply to a reference in the following Acts:

- (a) *Condominium Property Act*;

- (b) *Drainage Districts Act*;
- (c) *Health Insurance Premiums Act*;
- (d) *Northland School Division Act*;
- (e) *Parks Towns Act*.

(5) Notwithstanding subsections (1), (2) and (4), the Minister may exempt a Francophone regional authority or a Francophone education region from the application of a provision of this or any other Act.

Establishment of Francophone education region

123(1) The Minister may establish any portion of Alberta as a Francophone education region.

(2) The order establishing a Francophone education region must describe the boundaries of the region and give it a name in the following form:

The _____ Francophone Education Region.

Effect of establishment

124 The establishment of a Francophone education region does not affect a public school division or a separate school division established in respect of all or part of the portion of Alberta in which the Francophone education region is established.

Minority in Francophone education region

125 For the purposes of this Division, the Minister may by order determine for each Francophone education region, on evidence satisfactory to the Minister, whether the Protestant or Roman Catholic faith is the faith of the minority of all individuals living within the boundaries of the Francophone education region.

Blended Francophone regional authority

126(1) For each Francophone education region, the Minister shall by order establish a blended Francophone regional authority, and the trustees of the blended Francophone regional authority are a corporation under the name of:

The Francophone Regional Authority of _____
Francophone Education Region.

(2) A blended Francophone regional authority must be composed of at least 3 trustees.

(3) Subject to subsection (4), the number of public school trustees of a blended Francophone regional authority must, if practicable, be in the same proportion to the total number of trustees of the blended Francophone regional authority as the total number of public school electors in the Francophone education region is to the combined total number of public school electors and separate school electors in the Francophone education region.

(4) A blended Francophone regional authority must have at least one public school trustee and at least one separate school trustee.

(5) The separate school trustees of a blended Francophone regional authority are a corporation under the name of:

The Separate School Trustees of the Francophone Regional Authority of _____.

Designation of schools

127 A blended Francophone regional authority must designate each school either as a public school or as a separate school.

Public and separate Francophone regional authorities

128(1) If, within a Francophone education region, the public school electors exceed 30% of all public school electors and separate school electors and there are at least 500 students registered in the public schools, the Minister may dissolve the existing blended Francophone regional authority and establish both a public Francophone regional authority and a separate Francophone regional authority.

(2) The trustees of the public Francophone regional authority established under subsection (1) are a corporation under the name of:

The Francophone Regional Authority of _____ Public
Francophone Education Region.

(3) The trustees of the separate Francophone regional authority established under subsection (1) are a corporation under the name of:

The Francophone Regional Authority of _____ Separate Francophone Education Region.

Appointment of trustees on establishment

129(1) The Minister may appoint the first trustees of a Francophone regional authority.

(2) Trustees of a Francophone regional authority appointed under subsection (1) hold office until the first organizational meeting of the Francophone regional authority held after the first general election held after the Francophone regional authority is established.

Agreements with school divisions

130(1) The board of a school division required by the Minister to do so must enter into an agreement with the Francophone regional authority respecting any matter the Minister considers necessary, including, but not limited to, dealing with assets and liabilities and the transfer of employees.

(2) If a board referred to in subsection (1) and the Francophone regional authority do not enter into an agreement under subsection (1) within a period that the Minister considers reasonable, the Minister may make an order respecting any matter the Minister considers necessary.

Responsibility and authority of Francophone regional authority

131(1) A Francophone regional authority has the responsibility and authority to ensure that minority language educational rights guaranteed under the Constitution of Canada are protected in the Francophone education region.

(2) The separate school trustees of a blended Francophone regional authority have the responsibility and authority to ensure that the rights and privileges with respect to separate schools guaranteed under the Constitution of Canada are protected in the Francophone education region.

(3) A separate Francophone regional authority has the responsibility and authority to ensure that both minority language educational rights and the rights and privileges with respect to separate schools guaranteed under the Constitution of Canada are protected in the Francophone education region.

Eligibility

132(1) For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to vote in an election of trustees of a Francophone regional authority if

- (a) the individual
 - (i) is a Francophone,
 - (ii) has a child who is enrolled in a school operated by the Francophone regional authority,
 - (iii) is 18 years of age or older,
 - (iv) is a Canadian citizen, and
 - (v) has been a resident of Alberta for the 6 consecutive months immediately preceding election day and resides in the Francophone education region on election day,

or

- (b) the individual is a member of a class of individuals prescribed by the Lieutenant Governor in Council as being eligible to vote.

(2) For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to be elected as a trustee of a Francophone regional authority if the individual

- (a) is eligible to vote, and
- (b) is not otherwise ineligible under the *Local Authorities Election Act*.

(3) An individual who is a public school elector is eligible only

- (a) to vote for, and

(b) to be nominated as a candidate for election as,
a public school trustee of a Francophone regional authority.

(4) For the purposes of this Act, an individual who is a separate school elector is eligible

(a) to vote for, and

(b) to be nominated as a candidate for election as,

either a public school trustee or a separate school trustee of a Francophone regional authority, but not both.

(5) A person who is eligible to vote in an election for a board other than a Francophone regional authority and in an election for a Francophone regional authority may exercise the right to vote in both elections.

(6) A person may not be a trustee of a Francophone regional authority and a board at the same time.

Dissolution of Francophone regional authority

133(1) A Francophone regional authority may pass a resolution requesting the Minister to dissolve the Francophone regional authority.

(2) The Minister, subject to any terms or conditions the Minister imposes, may dissolve a Francophone regional authority whether or not the Minister receives a resolution requesting the dissolution.

(3) If on the dissolution of a Francophone regional authority the Minister considers an adjustment of assets or liabilities to be necessary, the Minister shall, by order, give directions with respect to the assets or liabilities of the Francophone regional authority.

Part 6 Finance and Property

Division 1 Finance

Definition

134 In this Part, “auditor” means a person registered under the *Regulated Accounting Profession Act* or a firm or partnership of those persons.

Auditor

135 A board shall appoint an auditor.

Financial reporting to the Minister

136(1) The fiscal year of a board is September 1 to the following August 31, unless otherwise specified by the Minister.

(2) The board shall, in each year, do the following:

- (a) on or before May 31, or another date specified by the Minister, prepare and submit to the Minister a budget for the fiscal year beginning on the following September 1;
- (b) on or before November 30, or another date specified by the Minister, submit to the Minister, in the form prescribed by the Minister, copies of
 - (i) the board’s financial statements,
 - (ii) the auditor’s report on the board’s financial statements, and
 - (iii) any written communications between the auditor and the board respecting the systems of internal control and accounting procedures of the board.

(3) The Minister in the Minister’s discretion may publish or otherwise disseminate all or any of the items submitted to the Minister pursuant to subsection (2)(b).

Contents of financial statements and authority to disclose personal information

137(1) The financial statements referred to in section 136(2)(b) must include the following information in respect of the board:

- (a) the remuneration, the benefits, the allowances and the expenses paid to or on behalf of the members of the board, each shown as a separate figure and shown separately for each member;
- (b) the remuneration, the benefits, the allowances, the expenses and the performance bonuses and other monetary incentives paid to or on behalf of the superintendent of schools appointed by the board, each shown as a separate figure;
- (c) the remuneration, the benefits, the allowances, the expenses and the performance bonuses and other monetary incentives paid to or on behalf of the secretary-treasurer or the secretary and the treasurer appointed by the board, as the case may be, each shown as a separate figure;
- (d) the total of the remuneration, the total of the benefits and the total of the allowances paid to or on behalf of the persons in each of the following groups:
 - (i) teachers employed by the board;
 - (ii) non-teaching employees of the board.

(2) The board has the authority to disclose the information listed in subsection (1) notwithstanding any other Act or any provision of any agreement that purports to prohibit the disclosure of that information.

Auditor's report

138(1) An auditor shall, in accordance with the Canadian Auditing Standards, perform the auditor's examination of, and prepare the auditor's report on, the financial statements prepared pursuant to this Act and submit the report to the board.

(2) Board employees must give the auditor access to all records, documents, books of account and vouchers of the board at all times, and the auditor is empowered to request and receive from

the board and any employee of the board any information and explanations that in the auditor's opinion may be necessary to enable the auditor to report as required by subsection (1).

Application of funds

139(1) Subject to subsections (3) and (4), any money of a board that is accumulated or acquired for the purpose of capital expenditures must be used only for capital expenditures.

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

(3) The Minister, on any conditions that the Minister prescribes,

- (a) may permit a board, or
- (b) may require a board

to use money referred to in subsection (1) or (2) for a particular capital expenditure or a particular capital project or for any other expenditure or project whether or not the expenditure or project is one for which the money was accumulated or acquired.

(4) Notwithstanding subsections (1) and (2), a board may effect a temporary transfer of capital funds for a period of not more than 365 days to an account for operating expenses and, on the transfer of the capital funds, the funds may be applied during that period toward operating expenses.

Division 2 Assessment of Property

Definition

140 In this Division, "person" includes a cooperative within the meaning of the *Cooperatives Act*.

Assessment

141 All property is assessable in accordance with this Act for school purposes.

Property owned by individuals

142(1) Where

- (a) property owned by an individual is located in an area where a separate school district has been established, and
- (b) the individual who owns the property declares that the individual is of the same faith, whether Protestant or Roman Catholic, as the faith of those who established the separate school district,

the property owned by that individual is assessable for separate school purposes.

(2) Property owned by an individual who is not referred to in subsection (1) is assessable for public school purposes.

(3) Where

- (a) property is held by 2 or more individuals as joint tenants or tenants in common, and
- (b) that property is located in an area where a separate school district has been established,

that property must be assessed for separate or public school purposes, in accordance with subsections (1) and (2), in proportion to each individual's interest in the property.

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

Notice of assessability by an individual

143(1) Any individual who is a separate school elector as defined in section 106 may give written notice, in the form prescribed by the Minister, at any time to a municipality that the property of the individual is assessable for separate school purposes in accordance with section 142.

(2) An individual whose name is on a list given by a municipality to the board of a separate school division in accordance with the regulations is deemed to have given notice under subsection (1)

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

(3) Any individual who is not a separate school elector as defined in section 106 may give written notice at any time, in the form prescribed by the Minister, to the municipality that the property of the individual is assessable for public school purposes.

(4) Notwithstanding subsections (1) and (3), an individual may not give a written notice referred to in subsection (1) or (3) or withdraw a notice already given on or after the date on which the board of a school division passes a resolution authorizing a plebiscite under section 168(2) in respect of a school division that includes the part of the municipality in which the property of the individual is located unless

- (a) the resolution is withdrawn by the board,
- (b) the school electors do not agree in the plebiscite to a special school tax levy, or
- (c) the taxable period affected by the special school tax levy has ended or further public notice is subsequently given by the board under section 168(2), whichever occurs first.

(5) Subject to subsection (4), if a notice is given under this section, an individual may withdraw the notice only if it is replaced by a notice under this section that the property of the individual is assessable

- (a) for separate school purposes, if the original notice made the property assessable for public school purposes, or
- (b) for public school purposes, if the original notice made the property assessable for separate school purposes.

Notice of assessability by corporation or cooperative

144(1) A corporation or cooperative may give written notice, in the form prescribed by the Minister, to a municipality that all or a portion of its property located in the municipality is assessable for public or separate school purposes.

(2) A corporation or cooperative may by notice at any time require

- (a) that a portion of its property be entered and assessed for separate school purposes in accordance with this section if it has shareholders or members who declare themselves to be of the same faith as those who established a separate school district in which it has property, or
- (b) that all of the property it has in the municipality be entered and assessed for public school purposes.

(3) When a corporation has shareholders, the notice under subsection (2)(a) must designate for separate school purposes the same proportion of the property of the corporation in the separate school district that is assessable for school purposes as the value of shares owned by shareholders who declare themselves to be of the same faith as those who established the separate school district bears to the total value of all shares of the corporation.

(4) The notice under subsection (2)(a) of a corporation that does not have shareholders or a cooperative must designate for separate school purposes the same proportion of the property of the corporation or cooperative in the separate school district that is assessable for school purposes as the number of members who declare themselves to be of the same faith as those who established the separate school district bears to the total number of members.

(5) Notwithstanding subsection (1), a corporation or cooperative may not give a written notice or withdraw a notice already given on or after the date on which the board of a school division passes a resolution authorizing a plebiscite under section 168(2) in respect of a school division that includes the property referred to in the notice unless

- (a) the resolution is withdrawn by the board,
- (b) the school electors do not agree in the plebiscite to a special school tax levy, or
- (c) the taxable period affected by the special school tax levy has ended or further public notice is subsequently given by the board under section 168(2), whichever occurs first.

(6) Subject to subsection (5), if a notice is given under this section, a corporation or cooperative may withdraw the notice only if it is replaced by a notice under this section that the property of the corporation or cooperative is assessable

- (a) for separate school purposes, if the original notice made the property assessable for public school purposes, or
- (b) for public school purposes, if the original notice made the property assessable for separate school purposes.

(7) A notice given by a corporation or cooperative under this section must state that the information in the notice has been approved by a resolution of the shareholders, the members or the directors, as the case may be.

Notice on acquisition

145(1) If a person acquires ownership of a fee simple estate in land, the person shall complete the appropriate notice referred to in this Division and give it to the municipality in which the land referred to in the transfer is located.

(2) If a municipality does not receive a notice under subsection (1) within 60 days after it is advised that the ownership of a fee simple estate in land has been transferred, the municipality shall send the transferee

- (a) if the transferee is an individual, a form of notice under section 143(1) and (3), or
- (b) if the transferee is a corporation or cooperative, a form of notice under section 144.

Examination of notice

146 Any person entitled to examine the assessment roll may, in accordance with the *Municipal Government Act*, examine a notice given under this Division by a corporation or a cooperative.

Evidence

147 A notice given under this Division is proof, in the absence of evidence to the contrary,

- (a) of the contents of that notice, and
- (b) that a corporation or cooperative that gave the notice was properly empowered to give the notice.

Effect of notice

148(1) A notice given by a person under this Division must 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 school division and the separate school division.

(2) When a person gives notice under this Division, any change in the assessment roll is not 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 the officer's office each notice given to the officer under subsection (1).

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

Assessment of corporation

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

Equalized assessment

150(1) The Minister responsible for the *Municipal Government Act* shall in each year apportion among the school divisions, whether public or separate, situated in whole or in part within a municipality the equalized assessment established in respect of the municipality for that year and afterwards that Minister shall advise the municipality of the apportionment.

(2) On being advised by the Minister responsible for the *Municipal Government Act* of an apportionment under subsection (1), the chief administrative officer or a designated officer of a municipality within which a school 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 within which the school division is situated.

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

- (a) the assessment of property of an individual that is assessable for separate school purposes pertains to the separate school district in accordance with section 142 and any notice given under section 143,
- (b) the assessment of property of an individual that is assessable for public school purposes pertains to the public school division in accordance with section 142 and any notice given under section 143, and
- (c) the assessment of property of a corporation or a cooperative must be apportioned between the separate school district and the public school division in accordance with the notice given under section 144.

Statement to boards by municipality

151 The proper officer of each municipality, when providing the certificate required by section 150, 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 section 144, and
- (c) the totals of the assessments, valuations and assessed values under clauses (a) and (b).

Copy of assessment roll

152(1) Each municipality within which a school division is situated in whole or in part shall, at the request of and at the expense of the board, supply to the board a copy of the whole or any part of the assessment roll of the municipality.

(2) A board that receives a copy of the whole or any part of an assessment roll shall treat the information as being strictly confidential.

False statement re assessment

153 A false statement made in any notice respecting the assessment of property of an individual, corporation or cooperative that is given by the individual, the corporation or the cooperative does not relieve the individual, the corporation or the cooperative from taxes.

Offence

154(1) A corporation or cooperative 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 or cooperative, 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

Definition

155 In this Division, “Alberta School Foundation Fund” means the Alberta School Foundation Fund continued under Division 4.

Calculation of requisition by board

156(1) Subject to the regulations and subsection (2), a board shall requisition from a municipality included in whole or in part within the school division

- (a) in the case of a board of a separate school division to which Division 4 does not apply, the difference between its estimated total expenditures and its estimated total revenues derived from all sources, and
- (b) the amount required under a special school tax levy under section 171.

(2) For the purposes of this section, the requisition from a particular municipality referred to in subsection (1)(a) must not, in a year, be less than the requisition that would be determined using

- (a) the property tax rates established under section 163 for that year for the particular municipality, and
- (b) the equalized assessment of the particular class of property referred to in section 163(2) of that portion of the assessment base of the municipality in respect of which notice has been given in accordance with Division 2 that the property is assessable for separate school purposes.

(3) In subsection (2)(b), the reference to notice given in accordance with Division 2 is a reference to a notice effective as at December 31 of the year preceding the year for which the requisition is made.

(4) A municipality that has passed a supplementary assessment bylaw under the *Municipal Government Act* shall pay to a board that has requisitioned the municipality under subsection (1)(a) the amount raised as a result of the supplementary taxes levied on that portion of the assessment base of the municipality in respect of which notice has been given in accordance with Division 2 that the property is assessable for separate school purposes.

(5) The amount referred to in subsection (4) must be paid to the board on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

(6) A municipality shall advise the Minister of the amount paid to a board under subsection (4) on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

(7) The amount received by a board under subsection (4) must be used to lower the requisition under subsection (1)(a) by the board from the municipality in the subsequent year.

(8) 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) as an amount or as a percentage;

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

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

Submission of requisition

157(1) Subject to section 160(6), on or before April 30 in each year or within 30 days after the date on which a board is provided with the certificates under section 150, whichever is later, the 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.

Payment by council of a municipality

158(1) A municipality, in each year, shall pay to the board of each school division in which the area of the municipality is included the amount of the requisition transmitted by the board of the school division under this Part.

(2) In the same manner and at the same time as it levies the amount of the basic requisition made under section 156, a municipality shall levy on the assessable property in the part of the separate school district or school division that is within the municipality

- (a) the amount of any other requisition referred to in section 171, and
- (b) the amount required for the purposes of the Alberta School Foundation Fund under section 163.

(3) A municipality shall pay to a board or the Alberta School Foundation Fund the amount required under this Part in equal quarterly instalments on the last banking day of each of the months of March, June, September and December in that year.

(4) If a municipality has not received the requisition of the board of a school division or the mill rates under section 163 by March 15, the municipality shall make a payment on account to that board

or the Alberta School Foundation Fund, as the case may be, based on the requisitions or payments of the previous year.

(5) If a municipality fails to pay the amount required from time to time under this Part as required by this Part, the amount becomes a debt due, owing and payable to the school division or the Government, as the case may be.

(6) With the permission of the Minister, a debt referred to in subsection (5) may be recovered by an action in debt.

Interest

159 If a municipality is in default of payment of a requisition or payment into the Alberta School Foundation Fund, the amount unpaid bears interest at a rate determined by the Lieutenant Governor in Council.

Division 4 Alberta School Foundation Fund

Application of this Division

160(1) Subject to a resolution of a board under subsection (2), this Division applies to all boards.

(2) The board of a separate school division may, pursuant to a resolution, certify to the Minister under the seal of the separate school division that this Division does not apply to it.

(3) A resolution of a board under subsection (2) remains in effect until it is rescinded by the board by another resolution.

(4) A board may make or rescind a resolution referred to in subsection (2) only after the date of a general election under the *Local Authorities Election Act* and before December 31 of the same year.

(5) A resolution of a board under subsection (2) takes effect in the first taxation year beginning after the date of the resolution.

(6) A board of a school division to which this Division applies shall requisition a municipality under Division 3 only in accordance with a special school tax levy.

Alberta School Foundation Fund

161 The Alberta School Foundation Fund is continued by this section.

Taxing authority

162 The Government of Alberta is a taxing authority for the purpose of applying property tax rates against the equalized assessment of a municipality.

Payment into the Fund

163(1) The Lieutenant Governor in Council shall in each year establish one or more property tax rates expressed in mills.

(2) The property tax rate must be established under subsection (1) in accordance with the following:

- (a) there must be one property tax rate for the equalized assessment of residential and farm land property referred to in section 297(1) of the *Municipal Government Act*;
- (b) there must be one property tax rate for the equalized assessment of non-residential property referred to in section 297(1) of the *Municipal Government Act*;
- (c) there must be one property tax rate for the equalized assessment of machinery and equipment property referred to in section 297(1) of the *Municipal Government Act*.

(3) Notwithstanding subsection (2), the property tax rates established under subsection (1) may be varied by the Lieutenant Governor in Council among towns or townsites in national parks.

(4) Each municipality shall pay annually into the Alberta School Foundation Fund a sum equal to the amount that results from applying the property tax rates established under subsection (1) in accordance with the order that establishes them to the equalized assessment of the municipality as established for the year under the *Municipal Government Act*.

(5) A municipality that has passed a supplementary assessment bylaw under the *Municipal Government Act* shall pay into the Alberta School Foundation Fund the amount raised pursuant to the requisition as a result of the supplementary taxes levied on that

portion of the assessment base of the municipality in respect of which no payment is made under section 156(4).

(6) The amount referred to in subsection (5) must be paid into the Alberta School Foundation Fund on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

(7) The amount paid into the Alberta School Foundation Fund pursuant to subsection (5)

- (a) must be used to offset any under levy resulting from appeals from equalized assessments under the *Municipal Government Act*, and
- (b) if there is an amount remaining after all offsets under clause (a) are made, that amount must be used to lower the province-wide requisition under this section in the subsequent year.

(8) The Minister, or a person designated in writing by the Minister, shall advise each municipality as soon as possible in each year of the amount that the municipality is required to pay into the Alberta School Foundation Fund.

(9) Each municipality shall pay into the Alberta School Foundation Fund the amount calculated by applying the property tax rates established under subsection (1).

(10) Notwithstanding anything in this Division, the Minister may by order provide that the sum required to be paid into the Alberta School Foundation Fund by a municipality pursuant to subsection (4) be paid, in whole or in part, directly to one or more boards of school divisions situated in whole or in part within the municipality, and any sum paid under this section is deemed to be a payment into the Alberta School Foundation Fund.

(11) 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 (4) for the period of time and on the terms and conditions that the Minister prescribes.

(12) Notwithstanding anything in this section, that portion of the assessment base of a municipality that is assessable for separate school purposes pursuant to section 156(2)(b) is not to be included in the equalized assessment referred to in subsection (4).

(13) If it is determined on appeal under the *Municipal Government Act* that a municipality has paid an amount into the Alberta School Foundation Fund in excess of the sum that it is required to pay under subsection (4), the Minister may order the repayment of the excess to the municipality from the Alberta School Foundation Fund.

Default

164 Where a municipality defaults in making a payment required under this Division, the Minister may pay into the Alberta School Foundation 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

165(1) In this section,

- (a) “eligible student” means a student who is eligible in accordance with regulations made under subsection (8);
- (b) “amount per student” means the amount calculated in accordance with subsection (4).

(2) Subject to regulations made under subsection (8), the Minister shall make payments from the Alberta School Foundation Fund to all boards, whether or not the board has a subsisting resolution that this Division does not apply to it.

(3) The Minister shall not make a payment from the Alberta School Foundation Fund to any person other than a board except

- (a) when section 163(13) applies, or
- (b) when a payment to the General Revenue Fund is required to repay advances made from that Fund to the Alberta School Foundation Fund, and in that case, interest may also be paid from the Alberta School Foundation Fund to the General Revenue Fund.

(4) The amount per student with respect to a board is the amount obtained by dividing

- (a) the total amount received by the board pursuant to a payment from the Alberta School Foundation Fund and a

requisition under section 156, other than pursuant to a special school tax levy,

by

- (b) the number of eligible students enrolled in schools operated by the board.

(5) The Minister shall calculate the amount to be paid from the Alberta School Foundation Fund to all boards in such a way that the payment for a school year to each board is consistent with the principle that every board is entitled to receive the same amount per student for the school year.

(6) If a separate school division to which this Division does not apply receives from municipalities requisitioned by the board an amount per student for a school year that is greater than the amount per student for the school year used by the Minister to calculate payments from the Alberta School Foundation Fund under subsection (5) subject to the rights under the Constitution of Canada of separate school electors, the board of that school division shall pay the difference between the amounts into the Alberta School Foundation Fund.

(7) The receipt of money from the Alberta School Foundation Fund does not make this Division apply to a board of a separate school division that has a subsisting resolution certifying that this Division does not apply to it.

(8) The Lieutenant Governor in Council may make regulations

- (a) respecting payments to boards from the Alberta School Foundation Fund for the purposes of education under this Act;
- (b) establishing criteria for determining student eligibility.

Collecting boards

166 For the purpose of this Division, a collecting board under Division 6 is deemed to be both a board and a municipality.

Effect of cessation of services

167 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 Special School Tax Levy

Plebiscite

168(1) Subject to this section, a board may authorize the holding of a plebiscite to obtain the approval of the electors of the school division to impose a special school tax levy under this Division.

(2) A board that intends to hold a plebiscite referred to in subsection (1) shall

- (a) not less than 60 days before the board intends to consider the resolution authorizing the holding of a plebiscite referred to in subsection (1), give public notice, in accordance with the regulations, of its intention, and
- (b) at least 60 days before election day in a year in which a general election will be held under the *Local Authorities Election Act*, pass the resolution at a public meeting of the board.

(3) The resolution referred to in subsection (2) must include a statement respecting the purpose of the special school tax.

(4) The question that the plebiscite is to determine must be

- (a) in accordance with the regulations, and
- (b) included in the resolution referred to in subsection (2).

(5) A board, by resolution, may withdraw the authorization for the plebiscite under subsection (2) up to the date on which the plebiscite is to be held.

- (6) The Lieutenant Governor in Council may make regulations
 - (a) respecting the information to be given to the public by a board before a plebiscite is held under this Division;
 - (b) respecting the question, any information or any other matter to be included in a ballot in a plebiscite under this Division;
 - (c) respecting the holding and conduct of a plebiscite generally under this Division.

Conduct of plebiscite

169(1) A plebiscite under this Division must be conducted in conjunction with the next general election under the *Local Authorities Election Act* after the resolution is passed under section 168.

(2) The *Local Authorities Election Act* and the regulations under it apply to the plebiscite except as otherwise provided by this Act or the regulations under this Act.

(3) The persons eligible to vote in a plebiscite are the persons eligible to vote at the general election for members of the board that passed the resolution.

(4) The secretary of the school board shall report the results of the plebiscite to the board as soon as practicable after they are known.

Special school tax levy

170(1) No special school tax levy may be authorized by plebiscite if the amount to be raised by the special school tax levy in each year is more than 3% of the budget of the board for the year in which the resolution is passed.

(2) A special school tax levy may be approved by a plebiscite for a period of not more than the 3-year period ending on December 31 of the year of the next general election under the *Local Authorities Election Act* after the plebiscite.

(3) Money raised by a board by a special school tax levy must be used for the purpose referred to in the resolution.

Assessment and requisition

171(1) If a majority of the ballots cast at a plebiscite under this Division vote in favour of a special school tax levy, the board may requisition municipalities in accordance with Division 3.

(2) Subject to subsections (3) and (4), Divisions 2 and 3 apply to a special school tax levy.

(3) Only the property of an individual that is assessable for public school purposes under section 142 or of a corporation or cooperative that has given notice under section 144 that all or a portion of its property is assessable for public school purposes is assessable for a special school tax levy by a board of a public school division.

(4) Only the property of an individual that is assessable for separate school purposes under a notice under section 143 or of a corporation or cooperative that has given notice under section 144 that all or a portion of its property is assessable for separate school purposes is assessable for a special school tax levy by a board of a separate school division.

Division 6 Levying and Collection of Taxes by a Board

Definition

172 In this Division, “collecting board” means a board that is authorized under section 173 to levy and collect taxes.

Authorization to levy and collect taxes

173(1) The Minister may by order authorize a board to levy and collect taxes as a collecting board in accordance with section 174 with respect to its whole area.

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

Collecting board

174(1) A collecting board

- (a) has, for the purpose of imposing, collecting and refunding taxes, all the powers with respect to the imposition and

collection of taxes that are vested in a municipality by the *Municipal Government 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 any other public authority.

(2) A collecting board may exercise the powers given by subsection (1) only in accordance with a plebiscite conducted under Division 5 or as a municipality under Division 4.

Exemption

175 Division 3 as it relates to the making of requisitions on municipalities does not apply to a collecting board.

Division 7 Borrowing

Borrowing

176(1) Subject to subsection (2), a board may borrow to meet operating and capital expenditures only with the prior approval of the Minister.

(2) The Minister may make regulations respecting the circumstances in which a board is not required to obtain the prior approval of the Minister before borrowing to meet operating and capital expenditures, including qualifying conditions or requirements that the Minister considers appropriate.

(3) The Minister may approve all or a part of a request to borrow and may impose any conditions on the approval that the Minister considers appropriate.

(4) Where the amount of any borrowing by a board is secured, a charge secured by the board is not effective against the Government, the municipality or any other person who is not a party to the charge.

(5) The Minister may make regulations respecting borrowing by a board under this section.

Borrowing by debenture

177(1) Whenever a board intends to borrow by the issuance of a debenture, the board must

- (a) pass a bylaw authorizing the borrowing, and
- (b) notwithstanding section 176(2), obtain the prior approval of the Minister.

(2) If the Minister, under section 176, approves a request by a board to borrow by the issuance of a debenture, the Minister shall, as soon as possible after giving the approval, publish a notice of the approval in The Alberta Gazette.

(3) A debenture must not be issued after the expiration of 3 years from the date on which the notice of the approval was published in The Alberta Gazette under subsection (2).

Validity of debentures

178 Any debenture issued under this Act is valid and binding on a board notwithstanding any insufficiency in form or substance or otherwise of the bylaw or of the authority of the board in respect of it.

Use of unexpended debenture proceeds

179(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,

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 bylaw 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 for the purpose set out in the application.

Improper application of money borrowed

180(1) If a board uses money that was borrowed for a capital expenditure for a purpose not authorized under section 139 or 179, the persons who were trustees of the board when it 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 when it was approved, the person
 - (i) voted against the improper application of capital money at that meeting,
 - (ii) requested the person's name and vote to be recorded, and
 - (iii) notified the Minister in writing of the person's 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 when it was approved, the person
 - (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 the person's objection,

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

Liability of trustees

181 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

182(1) On the application to the Court of Queen's Bench by any elector of the school division, the Court, if it is satisfied that

- (a) the elector has reasonable grounds for believing that the board has a cause of action under section 139, 179 or 180, 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,

may make an order, on any terms as to security for costs and otherwise that the Court considers proper, requiring the Minister of Justice and 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 Minister of Justice and Attorney General

- (a) must be given notice of any application under subsection (1), and
- (b) must have the right to appear and be heard in respect of the application.

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

- (a) co-operate fully with the Minister of Justice and Attorney General in the institution and prosecution of the action, and
- (b) make available to the Minister of Justice and 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.

Division 8 Property

Real and personal property

183 A board shall provide and maintain adequate real and personal property for its administrative and educational purposes.

Acquisition of property

184 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 or any school building or any interest in a school building.

Joint property

185 A board shall not, without the prior approval of the Minister, enter into an agreement

- (a) with one 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 one or more districts or divisions, or
- (b) with one or more other boards, persons or municipalities for the joint construction, ownership, control, management, maintenance, operation or use of a public work or building.

Non-school buildings

186(1) When a board proposes to construct, purchase or lease a non-school building, the board shall give public notice in accordance with the regulations of its intention to construct, purchase or lease the building if the estimated cost of the construction, the purchase price or the leasehold costs over the term of the lease exceed \$500 000.

(2) For the purposes of this section, if a building is to be constructed, the estimated cost of the construction of the building is the cost estimated by the architect employed or consulted by the

board and the estimate must be incorporated in a minute of the board.

(3) If a board

- (a) receives a petition respecting the construction, purchase or leasing of a non-school building that, in accordance with the regulations, requires a vote, within 15 days from the end of the period of public notice set out in the regulations, and
- (b) decides to proceed with the construction, purchase or lease of a non-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, purchase or lease 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, purchase or lease the same or a similar building.

Expropriation

187(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) An application to the Minister by a board must set out the facts and reasons for the request for authority to expropriate.

(3) The Minister may make any investigation the Minister considers necessary into the application and, if the Minister is satisfied that the expropriation is necessary, the Minister 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

188(1) Subject to this section, the regulations, Part 17 of the *Municipal Government 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.

(2) Notwithstanding subsection (1), a board may, without the approval of the Minister,

- (a) lease any real property that is neither a school building nor a portion of a school building,
- (b) lease a school building or portion of it for less than 12 months, or
- (c) lease a school building or portion of it for 12 months or more if the lease contains a termination provision allowing the board to terminate the lease on 12 months' notice.

(3) When, in the opinion of the Minister, space is available in a school building, the Minister may direct the board operating the school building to make that space available to another board.

(4) Where a board has determined that it no longer has a use for a school building, it must notify the Minister in writing.

(5) Where a board provides notice to the Minister under subsection (4), the Minister may, in writing, direct the board to dispose of that property subject to the terms and conditions that the Minister prescribes.

(6) 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 with

- (a) the approval given under subsection (1), or a certified copy of it, or

- (b) the direction given under subsection (5), or a certified copy of it.

Regulations

189 The Minister may make regulations respecting the disposition of property by a board.

School building and non-school building projects

190(1) A school jurisdiction may not engage in a school building project without the prior written approval of the Minister.

(2) The Minister may establish terms and conditions under which a board may engage in a school building project.

(3) Subject to the regulations, a school jurisdiction may engage in a non-school building project without Ministerial approval.

(4) The Minister may make regulations respecting school building and non-school building projects.

Part 7 Education Professions and Occupations

Division 1 Responsibilities

Teachers

191(1) A teacher while providing instruction or supervision must

- (a) provide instruction competently to students;
- (b) teach the courses and programs of study 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 the duties that are assigned to the teacher by the principal or the board.

(2) At any time during the period of time that a teacher is under an obligation to a board to provide instruction or supervision or to carry out duties assigned to the teacher by a principal or the board, the teacher must, at the request of the board,

- (a) participate in curriculum development and field testing of new curriculum,
- (b) develop, field test and mark provincial achievement tests and diploma examinations, and
- (c) supervise student teachers.

Principals

192 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 and programs of study prescribed, approved or authorized pursuant to this Act,
- (c) evaluate or provide for the evaluation of programs offered in the school,
- (d) ensure that students in the school have the opportunity to meet the standards of education set by the Minister,
- (e) direct the management of the school,
- (f) maintain order and discipline in the school and on the school grounds and during activities sponsored or approved by the board,

- (g) promote co-operation between the school and the community that it serves,
- (h) supervise the evaluation and advancement of students,
- (i) evaluate the teachers employed in the school, and
- (j) subject to any applicable collective agreement and the principal's contract of employment, carry out the duties that are assigned to the principal by the board in accordance with the regulations and the requirements of the school council and the board.

Division 2 Teachers

Qualifications re employment

193(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 pursuant to this 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

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

Agreements

195 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 the 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.

Regulations

196(1) The Minister may make regulations

- (a) governing the issuing of certificates of qualification to teachers, including, without limitation, regulations
 - (i) providing for the issuance of different classes of certificates,
 - (ii) providing for the form and manner of application for a certificate and the information to be provided with or in support of an application,
 - (iii) respecting education, training and experience, character and other eligibility requirements of applicants for certificates,
 - (iv) authorizing the issuance of certificates subject to terms and conditions, and
 - (v) providing for procedural matters related to the issuance of certificates, including the appointment of advisory bodies;
- (b) governing appeals from a decision to refuse to issue a certificate, including, without limitation, regulations
 - (i) respecting the grounds on which an appeal may be made,
 - (ii) providing for the establishment of appeal panels and setting out their powers and duties,
 - (iii) providing for procedural and evidentiary matters related to the appeal process,
 - (iv) authorizing the Minister to accept, reject or vary the recommendations of an appeal panel and authorizing the Minister to take any action necessary to implement the Minister's decision, and
 - (v) respecting the responsibility of the parties to an appeal for costs in respect of the appeal;
- (c) providing for and governing the means of dealing with allegations that a teacher is unskilled or incompetent in teaching, whether or not the teacher is a teacher to whom the *Teaching Profession Act* applies, or for the means of dealing with complaints about alleged unprofessional conduct of a teacher, other than a teacher to whom the

Teaching Profession Act applies, including, without limitation, regulations

- (i) governing what constitutes unprofessional conduct or unskilled or incompetent teaching,
- (ii) respecting the form and manner in which a complaint or allegation is to be made,
- (iii) authorizing a complaint or allegation to be dealt with notwithstanding the fact that the individual who is the subject of the complaint or allegation may no longer hold a certificate under this Act, and respecting the circumstances under which that kind of complaint or allegation may be dealt with,
- (iv) respecting the investigation of complaints and allegations and the powers and duties of a person conducting an investigation or receiving the report of a person conducting an investigation,
- (v) respecting the establishment of panels to deal with complaints and allegations and respecting the powers and duties of those panels, and
- (vi) respecting procedural and evidentiary matters in respect of the investigation of complaints and allegations and in respect of the business of the panels, including, without limitation, regulations
 - (A) providing for the taking of evidence under oath,
 - (B) providing for the compellability of witnesses,
 - (C) requiring persons to produce records and documents relevant to the subject-matter of a complaint or allegation, and
 - (D) authorizing proceedings for civil contempt of court to be brought against a person who fails to comply with a notice to attend a proceeding before a panel as a witness or a notice to produce records or documents, or who refuses to be sworn or to answer questions at a proceeding before a panel,

- (vii) authorizing a person conducting an investigation of a complaint or allegation to investigate any other matter related to the conduct of the individual who is the subject of the complaint or allegation that arises in the course of the investigation,
- (viii) authorizing the Minister, on receipt of a panel's recommendation, to do one or more of the following, whether or not that is the panel's recommendation:
 - (A) dismiss the complaint or allegation;
 - (B) serve a letter of reprimand on the individual who is the subject of the complaint or allegation;
 - (C) suspend the certificate of qualification of the individual who is the subject of the complaint or allegation, with or without conditions;
 - (D) cancel the certificate of qualification of the individual who is the subject of the complaint or allegation, or cancel the certificate and issue a certificate of a different class;
 - (E) order that the individual who is the subject of the complaint or allegation be ineligible for a certificate of qualification for a definite or indefinite time, with or without conditions;
- (d) respecting the responsibility of the parties to a proceeding in respect of a complaint or allegation referred to in clause (c) for costs in respect of the proceeding;
- (e) authorizing the Minister to accept, reject or vary the recommendations of a hearing committee or Appeal Committee under the *Teaching Profession Act* to cancel or suspend a certificate, and authorizing the Minister to take any action necessary to implement the Minister's decision;
- (f) governing the publication of particulars regarding any recommendation or decision made in proceedings in respect of a complaint or allegation referred to in clause (c) or in proceedings under sections 17 to 65 of the *Teaching Profession Act*;

- (g) authorizing the Minister to appoint a Registrar and other officials for the purpose of carrying out powers and duties under the regulations;
- (h) requiring the Registrar to keep registers and records and respecting the information that is to be kept in the registers and records;
- (i) respecting, authorizing and prohibiting the release of information in the Registrar's registers and records;
- (j) authorizing the Registrar to delegate to any employee under the Minister's administration the powers or duties of the Registrar that are specified in the regulations;
- (k) requiring the payment of fees in respect of any matter provided for under the regulations, including prescribing the amount of the fee or the manner in which and by whom the amount is determined and who must pay it;
- (l) providing for the service of notices and documents in respect of matters and proceedings dealt with in the regulations.

(2) A regulation made under subsection (1) may be specific or general in its application.

Principals designated

197(1) A board that operates one 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 one school.

Acting principal

198(1) Notwithstanding section 197, a board may

- (a) designate a teacher to be an acting principal for a period of not more than one 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 one year from the date of that assignment, assign a principal to that school.

Administrative, supervisory and consultative positions

199(1) Subject to section 194, a board may appoint any person or designate a teacher 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,

- (a) may, through negotiation, include 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, and
- (b) must exclude from the teachers on whose behalf the organization is bargaining any teacher who as a result of making an election under section 5.1 of the *Teaching Profession Act* is not an active member of The Alberta Teachers' Association.

Contracts of employment

200(1) In this Division, “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 1100 hours in a school year, or

(b) for more than 200 teaching 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 199(2), the terms and conditions negotiated, agreed on or awarded under the *Labour Relations Code*;
- (b) this section and sections 199 to 202 and 204 to 214;
- (c) the terms and conditions agreed on by 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 must

- (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 must be in writing and must be

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

the person to whom it is addressed.

Probationary contract

201(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 school year immediately prior to the school year in which the contract is entered into, or
- (b) in the school year immediately prior to the school year in which the contract is entered into was employed by that board under section 203 or under a contract referred to in section 204.

(2) For the purposes of subsection (1), a teacher who was employed under section 206 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 terminates 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

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

Substitute teachers

203(1) A teacher may teach without a contract of employment that is in accordance with section 200 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 200 nor the board

employing the teacher may appeal to the Board of Reference in respect of that teacher's employment.

Temporary contract

204(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 the teacher's duties for a period of 20 or more consecutive teaching days.

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

- (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 226 does not apply to the termination of a temporary contract of employment under this section.

Interim contract

205(1) A board may employ a teacher for a period of not more than 360 teaching 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 203 or under a contract referred to in section 204 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 who was employed under section 206 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

206(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 226 does not apply to the termination of a contract under subsection (3).

Transfer of teacher

207(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 the teacher 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 must not be transferred until after the hearing is held.

(6) Notwithstanding section 212, 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 the teacher's employment with the board on giving the board 30 days' written notice of the teacher's resignation.

(7) Notwithstanding that 30 days has not passed from the date that a teacher gave notice of the teacher's 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 notice of the teacher's resignation.

Suspension of teacher

208(1) When a board has reasonable grounds for believing that a teacher has been guilty of gross misconduct, neglecting the teacher's duty or refusing or neglecting to obey a lawful order of the board, the board may suspend the teacher from the performance of the teacher's duties.

(2) If a superintendent is authorized in writing to do so by the board, the superintendent may suspend a teacher from the performance of the teacher's duties without prior notice if the superintendent is of the opinion that the welfare of students is threatened by the presence of the teacher.

(3) The superintendent shall advise the board forthwith of a suspension under subsection (2).

(4) The superintendent shall advise the teacher forthwith in writing of the reasons for the suspension of the teacher.

(5) A suspension by a superintendent under subsection (2) is deemed to be a suspension by the board under subsection (1) to which subsection (6)(a) does not apply.

(6) 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.

(7) If the Board of Reference under section 232 authorizes the board to terminate a teacher's contract of employment, the board may terminate that contract and on so doing the board is deemed to have acted reasonably.

(8) A board may reinstate a teacher who is suspended under subsection (1) or (2) notwithstanding an appeal of the suspension, and on reinstatement the teacher shall return to the performance of the teacher's duties.

(9) Reinstatement under subsection (8) does not affect an appeal of the suspension to the Board of Reference under section 226 or in the absence of an appeal the power of the Board of Reference to investigate or terminate the teacher's contract of employment in accordance with subsection (11).

(10) If the suspension is appealed to the Board of Reference and the Board of Reference confirms the suspension, the board may

- (a) reinstate the teacher, or
- (b) terminate the teacher's contract of employment, and the board is deemed to have acted reasonably.

(11) 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 or terminate the teacher's contract of employment in accordance with section 210.

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

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

Termination of contract

209(1) A contract of employment between a board and a teacher automatically terminates at the time that

- (a) the teacher's certificate of qualification is suspended or cancelled by the Minister, or
- (b) the teacher's certificate of qualification expires.

(2) A contract of employment between a board and a teacher or a designation of a teacher made pursuant to section 197, 198 or 199 may be terminated by mutual consent.

Termination by board

210(1) Whether or not the board has suspended a teacher under section 208 and whether or not the suspension, if any, has been appealed to the Board of Reference, a board may terminate

- (a) a contract of employment with a teacher, or
- (b) a designation of a teacher made pursuant to section 197, 198 or 199,

after serving the teacher with written notice of termination not less than 30 days prior to the effective date of 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 must specify the reasons for the termination.

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

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

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

(7) If a teacher is served with notice of termination under subsection (1) and the teacher has been suspended under section 208 before the notice is served, an appeal, if any, to the Board of Reference in respect of the suspension must not be proceeded with but is merged with the appeal, if any, to the Board of Reference in respect of the termination under this section.

Termination by teacher

211(1) A teacher may terminate

- (a) a contract of employment with a board, or
- (b) a designation of the teacher made pursuant to section 197, 198 or 199,

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

(2) If a teacher has terminated the teacher's contract of employment with a board before rendering any service under the contract, the teacher must 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

212(1) Subject to section 209(2), a notice of termination of a contract of employment or of a designation made pursuant to section 197, 198 or 199 must 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.

(2) Notwithstanding subsection (1), if a teacher or principal has been convicted of an indictable offence, a board may terminate the teacher's or principal's contract of employment or the designation made pursuant to section 197, 198 or 199 without prior notice

- (a) on the conclusion of an appeal from the conviction or a proceeding to quash the conviction, or
- (b) if no appeal is made and no proceeding is commenced, at the end of the period within which an appeal may be made or a proceeding commenced.

Duty to report

213(1) In this section,

- (a) "executive secretary" means the executive secretary as defined in the *Teaching Profession Act*,
- (b) "Registrar" means the Registrar appointed under the regulations.

(2) A superintendent of a school board or the operator of a private school or charter school shall make a report in writing to the Registrar regarding the suspension, termination, resignation or retirement from employment of a teacher if the suspension, termination, resignation or retirement, as the case may be, results from conduct that brings into question the suitability of the teacher to hold a certificate of qualification as a teacher.

(3) If a report made under subsection (2) is in respect of a teacher employed by a school board, the board shall make a complaint about the teacher's conduct pursuant to section 24 of the *Teaching Profession Act*.

(4) If a report made under subsection (2) is in respect of a teacher employed by the operator of a private school or charter school, the operator shall make a complaint about the teacher's conduct pursuant to section 9 of the *Practice Review of Teachers Regulation* (AR 11/2010).

(5) No action lies against any of the following in respect of any report made under subsection (2) in good faith when acting or purporting to act under this Act or the regulations:

- (a) a superintendent of a school board;
- (b) the operator of a private school or a charter school;
- (c) a person appointed as an official trustee;
- (d) the executive secretary;
- (e) a person who acts on the instruction of, or under the supervision of, a person referred to in clauses (a) to (d).

(6) No action for defamation may be founded on a report made under subsection (2) in good faith.

(7) If a complaint under subsection (3) or (4) is dismissed, the Registrar shall remove from the teacher's file the corresponding report made under subsection (2).

Termination of designation

214(1) Notwithstanding section 209(2), a teacher, on receipt of a notice of termination of a designation made pursuant to section 197, 198 or 199, may terminate the teacher's contract of employment by giving 30 days' written notice to the board of the teacher's 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

215(1) Subject to section 200, a board

- (a) shall pay the annual salary of every teacher who teaches on all the teaching days of a school year on which the school at which the teacher is employed 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 teaching days on which the school at which the teacher is employed 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 teaching days of absence that the teacher is allowed under subsection (2), and

(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 teaching days, or

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

whichever is the lesser number of teaching 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 teaching days than the number of teaching days calculated in accordance with 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 one 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 teaching day that the teacher was absent that exceeds

- (c) the number of teaching days that the teacher is allowed under subsection (2)(a), or
- (d) the number of teaching days determined by dividing by 9 the total number of teaching 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 teaching days.

Unqualified teachers

216(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 this 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 this Act.

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

Division 3 Non-teaching Employees

Superintendent of schools

- 217(1)** Subject to the regulations, a board shall appoint an individual as a superintendent of schools for a period of not more than 5 years.
- (2)** The board shall provide the Minister with notice, in writing, of the appointment of a superintendent.
- (3)** The superintendent is the chief executive officer of the board and the chief education officer of the school division.
- (4)** The superintendent shall carry out the duties assigned to the superintendent by the board.
- (5)** The superintendent shall supervise the operation of schools and the provision of education programs in the school division, including, but not limited to, the following:
- (a)** implementing education policies established by the Minister;
 - (b)** ensuring that students have the opportunity in the school division to meet the standards of education set by the Minister;
 - (c)** ensuring that the fiscal management of the school division by the treasurer or secretary-treasurer is in accordance with the terms or conditions of any grants received by the board under this Act or any other Act;
 - (d)** providing leadership in all matters relating to education in the school division.
- (6)** The superintendent shall report to the Minister with respect to the matters referred to in subsection (5)(a) to (d) at least once a year.
- (7)** A report required under subsection (6) must be in the form and contain the information required by the Minister.

Term of appointment

218(1) A board may enter into a contract of employment or a contract renewing a contract of employment with an individual who is appointed as a superintendent only if the contract includes a maximum term of not more than 5 years with no option to renew or extend the contract at the end of the term unless the individual is reappointed under this section.

(2) If a board reappoints a superintendent named in a contract referred to in subsection (1), the board shall provide the Minister with notice, in writing, of the reappointment.

(3) A reappointment of a superintendent must be for a period of not more than 5 years.

(4) This section applies to a contract renewing a contract of employment whether or not the original contract was entered into before this section comes into force.

Regulations

219 The Minister may make regulations governing the qualifications, appointment and conditions of employment and termination of employment of superintendents of schools.

Other non-teaching employees

220 In addition to the employees referred to in sections 65 and 217, the board may employ other non-teaching employees that the board considers necessary for its operation.

Division 4 General

Medical examination

221 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

222(1) Notwithstanding anything in this Act, the *Labour Relations Code* 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 bargain collectively and make an agreement on the board's behalf in accordance with the *Labour Relations Code*.

Trustees

223 For the purposes of the *Labour Relations Code* and the *Employment Standards Code*, neither

- (a) a trustee of a board, nor
- (b) an official trustee appointed under this Act,

is an employee of the board.

Employee contracts

224(1) Section 82 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 the employee's own name or in the name of another, alone or jointly with another, with the board by which the employee is employed or with any person contracting with the board, if the employee has a pecuniary interest in the agreement, unless

- (a) 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 the employee's interest to the board, and
 - (ii) obtains the board's approval of the employee's entering into the agreement,before entering into the agreement, and
- (b) in the case of the purchase of real property from or the sale of real property to the board, the employee
 - (i) declares the employee's interest to the board, and

- (ii) obtains the board's and the Minister's approval of the employee's entering into the agreement,

before entering into the agreement.

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

Division 5 Board of Reference

Board

225(1) The Lieutenant Governor in Council shall appoint a Board of Reference consisting of those persons that the Lieutenant Governor in Council considers necessary.

(2) An appeal referred to the Board of Reference may be heard by one or more members of the Board.

(3) Where an appeal referred to the Board of Reference is heard by one or more members of the Board of Reference,

- (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.

(4) 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

226(1) This section does not apply to

- (a) a superintendent, chief deputy superintendent, deputy superintendent, associate superintendent or assistant superintendent of a board, or
- (b) a teacher who, under section 199(2), is excluded from the teachers on whose behalf an organization is bargaining.

(2) Except where this Act prohibits an appeal, if a disagreement arises between a board and a teacher with respect to

- (a) the termination of a contract of employment,
- (b) the suspension of the teacher,
- (c) the termination of a designation of a teacher, or
- (d) the refusal of a board to give an approval pursuant to section 211(2),

the board or the teacher may appeal the matter by sending to the Minister a notice of appeal in accordance with section 227.

Notice of appeal

227(1) A notice of appeal must

- (a) be in writing, and
- (b) set out the nature of the appeal.

(2) The board or teacher appealing shall within the period specified in subsection (3) send by registered mail

- (a) to the Minister, the notice of appeal and a \$250 deposit, and
- (b) to the other party to the appeal, a copy of the notice of appeal.

(3) The period referred to in subsection (2) is 21 days from the date of receipt of the notice of

- (a) termination of a contract or of a designation,
- (b) suspension, or
- (c) refusal to give an approval.

(4) A notice of appeal must set out the grounds on which the appeal is being made.

Appeal referred to Board of Reference

228(1) On receiving a notice of appeal, the Minister shall refer the appeal to the Board of Reference.

(2) The Board of Reference shall, on having an appeal referred to it,

- (a) set the date, time and place for the hearing of the appeal, and
- (b) notify the parties to the appeal of the date, time and place of the hearing of the appeal.

Investigation

229 In considering the matter being appealed, the Board of Reference may make any investigation it considers necessary.

Hearing

230(1) After the date, time and place of the hearing are set under section 228(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.

(2) A person appearing at a hearing is entitled to be represented by counsel.

(3) Not less than 30 days before the date set for hearing the appeal, or a shorter time period as determined by the Board of Reference, each of the parties to the appeal shall provide to the Board of Reference and the other parties to the appeal any material and information and make any disclosures as set out, described, governed or otherwise provided for by regulation.

(4) Before conducting an appeal, the Board of Reference may determine any preliminary matter concerning the appeal, including, without limiting the generality of the foregoing, matters relating to process and jurisdiction.

(5) An appeal is considered to be abandoned if one year elapses from the day that a step in the appeal was last taken.

(6) Notwithstanding subsection (5), if the Board of Reference is satisfied that exceptional circumstances exist for doing so, the

Board of Reference may permit an appeal to proceed even though one year has elapsed since a step in the appeal was last taken.

(7) The Minister may make regulations

- (a) setting out or otherwise describing the material and information and any disclosure that a party to an appeal to the Board of Reference must provide or make to the Board of Reference and to the other parties to the appeal;
- (b) governing any matter respecting
 - (i) the provision of material and information, and
 - (ii) the making of disclosures,under subsection (3).

Appeal from suspension

231 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.

Order of Board of Reference

232(1) In deciding the matter being appealed, the Board of Reference may make an order doing one or more of the following:

- (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
 - (i) to reinstate the contract of employment or the designation of a teacher, or
 - (ii) to give the approval;
- (d) removing the suspension;
- (e) confirming the suspension and authorizing the board to terminate the teacher's contract of employment;

- (f) directing a board to pay to the teacher an amount of money equivalent to the teacher's salary for a specified period;
- (g) authorizing a board not to pay salary to the teacher for a specified period;
- (h) providing for any matter not referred to in clauses (a) to (g) that the Board of Reference considers just in the circumstances.

(2) In making an order under subsection (1)(c)(i) or (d), the Board of Reference may take into consideration any matter that the Board of Reference considers relevant, but in making that order the Board of Reference must consider at least the following:

- (a) whether the teacher is guilty of gross misconduct;
- (b) whether the teacher refused to obey a lawful order of the board without justification;
- (c) the risk to the safety of students, co-workers and the teacher;
- (d) the ability of the teacher to perform teaching duties effectively;
- (e) the effect of reinstatement on the future relationship between the board and the teacher;
- (f) the possibility of recidivism;
- (g) whether the reinstatement would have the effect of undermining the confidence of Albertans in general in the public education system;
- (h) fairness to the teacher.

(3) Notwithstanding subsection (1), the Board of Reference shall not make an order under subsection (1)(c)(i) or (d) if the Board of Reference determines that

- (a) the teacher should not be engaged in teaching for a board, or
- (b) there is just cause for terminating the contract of employment or designation.

(4) Subsection (3) applies notwithstanding any technical or procedural irregularity by any party to the appeal that may have taken place in relation to the matter being appealed.

(5) The Board of Reference, unless the Minister directs or gives permission to the Board of Reference to do otherwise, shall render its decision, including any reasons on which the decision is based, in respect of the matter being appealed within 45 days from the day that the Board of Reference concludes its hearing of the appeal.

(6) For the purpose of subsection (5), the direction or permission of the Minister may be given by the Minister before or after the end of the 45-day period.

Irregularities in notice of appeal

233 The Board of Reference may proceed with an appeal under this Division notwithstanding any technical or procedural irregularity in respect of matters dealt with under this Division 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.

Costs

234(1) Unless the Board of Reference orders otherwise, the parties to an appeal to the Board of Reference shall contribute equally in accordance with the regulations to the payment of the costs and expenses of the Board of Reference relating to the appeal.

(2) The parties to an appeal shall pay their own costs unless the Board of Reference orders otherwise.

(3) The Lieutenant Governor in Council may make regulations

- (a) respecting the remuneration and expenses payable to a member of the Board of Reference;
- (b) prescribing the classes of costs and expenses that are costs and expenses for the purposes of subsection (1);
- (c) respecting the amount or calculation of the amount of costs and expenses payable by the parties under subsection (1).

Deposit

235(1) The Board of Reference may with respect to the deposit paid under section 227(2) make an order doing one or more of the following:

- (a) requiring that it be paid in whole or in 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 in part by the Minister and paid into the General Revenue Fund;
- (c) requiring that it be repaid in whole or in 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 227(2) is to be repaid to the person who paid the deposit.

Enforcement of order

236(1) A copy of an order made by the Board of Reference under section 232, 234 or 235 must be filed with the clerk of the Court of Queen's Bench at the judicial centre closest to the place where 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 an order as filed must be sent to the Minister.

Appeal to Court of Appeal

237(1) A teacher or a board that is the subject of an order of the Board of Reference under section 232, 234 or 235 may appeal that order to the Court of Appeal.

(2) The appeal must be commenced not more than 30 days after the date on which the order is filed under section 236

- (a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and
- (b) by serving a copy of the notice of appeal

- (i) on the relevant board if the appellant is a teacher,
- (ii) on the relevant teacher if the appellant is a board, and
- (iii) on the Board of Reference.

(3) The appeal must be founded on the record, if any, of the evidence before the Board of Reference.

(4) The *Alberta Rules of Court* (AR 124/2010) for appeals from a judgment or order of the Court of Queen's Bench apply to an appeal to the Court of Appeal under this section.

(5) The Court of Appeal on hearing the appeal may

- (a) make any other finding that in its opinion ought to have been made on the evidence before it,
- (b) quash, confirm or vary any order made by the Board of Reference,
- (c) refer the matter to the Board of Reference for further consideration by it, or
- (d) direct that a new trial of any mixed questions of law and fact relating to a finding or order, or both, of the Board of Reference made under this Act be held before the Court of Queen's Bench.

Part 8 General

Delegation of Minister's powers

238 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.

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.

Labour Relations Code

240 Nothing in Part 1, 2, 3 or 4 restricts or prohibits or is to be construed as restricting or prohibiting a board or any employee of a board from exercising any rights under the *Labour Relations Code*.

Alteration of time limits

241(1) If anything

- (a) is to be done by a person, a board or an 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 similar 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 relating to an appeal to the Board of Reference.

Petition

242 When this Act provides for the doing of anything by petition or an elector wishes to present a petition to a board or the Minister, it must be done in accordance with the regulations.

Notice of public meeting

243 When notice of a public meeting is required under this Act, it must be given in accordance with the regulations.

Public notice

244 When public notice, other than notice of a public meeting, is required under this Act, it must be given in accordance with the regulations.

Regulations

245 The Minister may make regulations respecting

- (a) the form, requirements respecting validity, the process of presentation and requirements respecting sufficiency of a petition;
- (b) the form, contents and method of service of a notice of a public meeting or other public notice.

Protection from liability for trustees, employees, members and volunteers

246(1) Trustees, employees of a board and school council members are not liable for any loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers under this Act or any other enactment.

(2) Volunteers are not liable for any loss or damage caused by anything said or done or omitted to be done in good faith in the

provision of volunteer services for a board, or for any alleged neglect or default in the provision of volunteer services for the board by the volunteers.

(3) Subsections (1) and (2) do not provide a defence if the cause of action is defamation.

(4) This section does not affect the legal liability of a board.

Protection from liability for others

247(1) No action lies against a member of the Attendance Board, a member of the Board of Reference, a member of a Complex Education Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 41 on behalf of the Minister for anything done by that person in good faith and in purporting to act under this Act or the regulations.

(2) No action for defamation may be founded on a communication if the communication is published to or by an attendance officer, the Attendance Board, the Board of Reference, a member of a Complex Education Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 41 on behalf of the Minister in good faith in the course of any proceedings under this Act.

Enforcement of judgment

248(1) A judgment against or order for the payment of money by a board may be enforced by means of a writ of enforcement and not otherwise.

(2) The writ of enforcement must specify the manner of satisfying the judgment on any terms that the court rendering the judgment determines.

Enforcement by Court

249(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 18, the Minister may apply to the Court of Queen's Bench for an order directing the board, the other operator of a school or the employee, as the case may be, to 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 did not grant or withdrew that approval may apply to the Court of Queen's Bench for either or both of the orders referred to in subsection (3).

(3) If subsection (2) applies, the Court may make either or both of the following orders:

- (a) an order directing the person to whom the order or direction referred to in subsection (2)(a) was given to comply with the order or direction;
- (b) an order directing the person that carried on the activity or thing referred to in subsection (2)(b) without the required approval to desist from carrying on the activity or thing.

(4) 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.

Return of property on ceasing to hold office

250 Where a person

- (a) was a trustee or employee of a board,

- (b) has in the person's 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 the person does not deliver that property to the board or the Minister in accordance with the notice.

Prohibited activities

251 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.

Liability for damage to property by student

252(1) If property of a board is destroyed, damaged, lost or converted by the intentional or negligent act

- (a) of one student, the student and the student's 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.

Penalty

253 Any person who contravenes section 83, 216 or 251 is guilty of an offence and liable to a fine of not more than \$1000.

Penalty for failure to give information

254 A person who is required by this Act or the regulations

- (a) to furnish any information, or
- (b) to make a return, report 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.

**Part 9
Transitional Provisions,
Consequential Amendments,
Repeals and Coming
into Force**

Transitional Provisions

Transitional provisions

255(1) In this section, “former Act” means the *School Act*, RSA 2000 cS-3.

(2) A charter school established by the Minister under the former Act whose charter has not expired or been repealed and which is still in operation when this Act comes into force is deemed to be established by the Minister under this Act.

(3) A private school registered or accredited under the former Act and whose registration or accreditation has not been cancelled or suspended when this Act comes into force is deemed to be registered or accredited, as the case may be, under this Act.

(4) A ward or electoral subdivision established under the former Act is continued and deemed to be established as a ward or electoral subdivision under this Act until the board of the school division where the ward or electoral subdivision is located passes a bylaw pursuant to section 73 to confirm or amend its boundaries.

(5) A board referred to in subsection (4) shall confirm or amend the boundaries of its existing wards or electoral subdivisions by March 31 of the year following the coming into force of this Act.

(6) A separate school region established under the former Act is deemed to be a separate school region established under this Act.

(7) A Francophone Education Region established under the former Act is deemed to be a Francophone education region established under this Act.

(8) A board of trustees or a Francophone regional authority established under the former Act is deemed to be a board of trustees or a Francophone regional authority established under this Act.

(9) A person elected or appointed to a board of trustees or a Francophone regional authority under the former Act continues to serve in the same capacity under this Act until the person's term expires or is otherwise terminated in accordance with this Act.

(10) A school district, school division or regional division established or continued under the former Act is continued and deemed to be a school division established under this Act with the same boundaries and a name in the following form:

The _____ School Division.

(11) If property was liable to assessment

- (a) for public school purposes under the former Act, it is deemed to be liable to assessment for public school purposes under this Act, or
- (b) for separate school purposes under the former Act, it is deemed to be liable to assessment for separate school purposes under this Act,

until the municipality

- (c) receives notice under section 143 or 144 in respect of the property, or
- (d) is advised that ownership of the property has been transferred,

at which time the property is liable to assessment in accordance with Part 6.

Consequential Amendments

Amends RSA 2000 cA-14.5

256(1) The *Alberta Capital Finance Authority Act* is amended by this section.

(2) Section 1(1)(d)(i) is amended by striking out “a school district or school division under the *School Act*” and substituting “a school division under the *Education Act*”.

Amends RSA 2000 cA-18

257(1) The *Alberta Evidence Act* is amended by this section.

(2) Section 40(4)(e) is amended by striking out “a school district or school division under the *School Act*” and substituting “a school division under the *Education Act*”.

Amends RSA 2000 cA-25.5

258(1) The *Alberta Human Rights Act* is amended by this section.

(2) Section 11.1 is amended

(a) in subsection (1)

(i) by striking out “in the *School Act*” and substituting “in the *Education Act*”;

(ii) by striking out “courses of study, educational programs” and substituting “courses, programs of study”.

(b) in subsection (2)

Explanatory Notes

256 Amends chapter A-14.5 of the Revised Statutes of Alberta 2000. Section 1(1)(d) presently reads in part:

1(1) In this Act,

(d) “educational authority” means

(i) the board of trustees of a school district or school division under the School Act;

257 Amends chapter A-18 of the Revised Statutes of Alberta 2000. Section 40(4)(e) presently reads:

(4) Subsection (3) does not apply in any case where a photographic print is tendered by

(e) a board of a school district or school division under the School Act;

258 Amends chapter A-25.5 of the Revised Statutes of Alberta 2000. Section 11.1 presently reads:

11.1(1) A board as defined in the School Act shall provide notice to a parent or guardian of a student where courses of study, educational programs or instructional materials, or instruction or exercises, prescribed under that Act include subject matter that deals primarily and explicitly with religion, human sexuality or sexual orientation.

(2) Where a teacher or other person providing instruction, teaching a course of study or educational program or using the instructional materials referred to in subsection (1) receives a written request signed by a parent or guardian of a student that the student be excluded from the instruction, course of study, educational program

- (i) **by striking out** “course of study or educational program” **wherever it occurs and substituting** “course or program of study”;
- (ii) **by striking out** “course of study, educational program” **and substituting** “course, program of study”;
- (c) **in subsection (3) by striking out** “course of study, educational program” **and substituting** “course, program of study”.

Amends RSA 2000 cA-32

259(1) The *Alberta School Boards Association Act* is amended by this section.

(2) Section 3 is amended

- (a) **by striking out** “school districts and school divisions” **wherever it occurs and substituting** “school divisions”;
- (b) **by striking out** “school districts or school divisions” **wherever it occurs and substituting** “school divisions”.

(3) Section 6 is amended

- (a) **in subsection (1) by striking out** “a board of trustees of a non-divisional school district or of a school division is a member of the association if the district or division is in Alberta” **and substituting** “a board of trustees of a school division is a member of the association if the school division is in Alberta”;
- (b) **in subsection (3) by striking out** “The Minister of Learning” **and substituting** “The Minister of Education”.

or use of instructional materials, the teacher or other person shall in accordance with the request of the parent or guardian and without academic penalty permit the student

(a) to leave the classroom or place where the instruction, course of study or educational program is taking place or the instructional materials are being used for the duration of the part of the instruction, course of study or educational program, or the use of the instructional materials, that includes the subject-matter referred to in subsection (1), or

(b) to remain in the classroom or place without taking part in the instruction, course of study or educational program or using the instructional materials.

(3) This section does not apply to incidental or indirect references to religion, religious themes, human sexuality or sexual orientation in a course of study, educational program, instruction or exercises or in the use of instructional materials.

259 Amends chapter A-32 of the Revised Statutes of Alberta 2000. Sections 3 and 6 presently read in part:

3 The association has the following objects, powers and purposes:

(f) to promote the interests of school districts and school divisions throughout Alberta;

(g) to bring about, for the advancement and betterment of education in Alberta,

(i) the economical and efficient administration of the affairs of school districts and school divisions, and

(ii) the economical and efficient performance of all duties undertaken by or imposed on school districts or school divisions;

(h) to co operate for the promotion, guidance and improvement of legislation on educational and school questions;

(i) generally, to do all acts and things that appear to the association conducive to the good and welfare

(i) of education in Alberta, or

Amends RSA 2000 cC-20

260(1) The *Commissioners for Oaths Act* is amended by this section.

(2) Section 9 is amended by striking out “of a school district or school division” **and substituting** “of a school division”.

Amends RSA 2000 cE-1

261(1) The *Election Act* is amended by this section.

(2) Section 52(4) is amended by striking out “school district or”.

Amends RSA 2000 cE-2

262(1) The *Election Finances and Contributions Disclosure Act* is amended by this section.

(2) Section 1(1)(l)(iv) is repealed and the following is substituted:

(iv) a board of a school division under the *Education Act*,

(ii) *of any one or more school districts or school divisions;*

6(1) Subject to section 7, a board of trustees of a non-divisional school district or of a school division is a member of the association if the district or division is in Alberta and the board owns or operates a school building.

(3) The Minister of Learning and the Minister's Deputy are members of the association by virtue of their offices, but no fees are payable by them to the association.

260 Amends chapter C-20 of the Revised Statutes of Alberta 2000. Section 9 presently reads:

9 A member of the Legislative Assembly of Alberta, a member from Alberta of the House of Commons of Canada, a member of the Senate of Canada who at the time of the member's appointment as a senator is a resident of Alberta, a member of a municipal council in Alberta, a member of a Metis settlement council or a member of a board of trustees of a school district or school division in Alberta is by virtue of that membership a commissioner empowered to administer oaths and take and receive affidavits, declarations and affirmations in or outside Alberta for use in Alberta.

261 Amends chapter E-1 of the Revised Statutes of Alberta 2000. Section 52(4) presently reads:

(4) A returning officer may utilize as a polling place any public building or any school that is the property of any school district or school division organized under any Act if the building or school is suitable for the purpose.

262 Amends chapter E-2 of the Revised Statutes of Alberta 2000. Section 1(1)(iv) presently reads:

1(1) In this Act,

(l) "prohibited corporation" means

(iv) a school board under the School Act,

Amends SA 2009 cF-15.1

263(1) The *Fiscal Responsibility Act* is amended by this section.

(2) Section 1(a)(i)(D) is amended by striking out “school boards under the *School Act*” and substituting “boards of school divisions under the *Education Act*”.

Amends RSA 2000 cF-25

264(1) The *Freedom of Information and Protection of Privacy Act* is amended by this section.

(2) Section 1(d) is amended

(a) in subclauses (v) and (vi) by striking out “*School Act*” and substituting “*Education Act*”;

(b) by repealing subclause (vii) and substituting the following:

(vii) a Francophone regional authority as defined in the *Education Act*;

Amends RSA 2000 cG-10

265(1) The *Government Organization Act* is amended by this section.

(2) Schedule 11 is amended in section 3(3)(a) by striking out “a school district or school division” and substituting “a school division”.

263 Amends chapter F-15.1 of the Statutes of Alberta, 2009.
Section 1(a)(i)(D) presently reads:

1 In this Act,

- (a) “accumulated debt” means the aggregate amount of*
 - (i) unredeemed Government securities that have not matured and that are issued in respect of money raised under section 56(1) of the Financial Administration Act, excluding*
 - (D) any amounts raised on or after April 1, 2008 for the purpose of constructing, purchasing or extending the life of capital assets of school boards under the School Act, regional health authorities under the Regional Health Authorities Act and public post-secondary institutions under the Post-secondary Learning Act, and*

264 Amends chapter F-25 of the Revised Statutes of Alberta 2000. Section 1(d) presently reads in part:

1 In this Act,

- (d) “educational body” means*
 - (v) a board as defined in the School Act,*
 - (vi) a charter school as defined in the School Act, or*
 - (vii) a Regional authority as defined in the School Act;*

265 Amends chapter G-10 of the Revised Statutes of Alberta 2000. Schedule 11, section 3(3)(a) presently reads:

- (3) Property sold under subsection (1) may be sold at a price determined by the Minister that is less than its market or book value where the sale is made*

Amends RSA 2000 cH-6

266(1) The *Health Insurance Premiums Act* is amended by this section.

(2) Section 1(h)(iv) is amended by striking out “school district” and substituting “school division”.

Amends RSA 2000 cI-11

267(1) The *Irrigation Districts Act* is amended by this section.

(2) Section 1(aa)(iv) is amended by striking out “district or division as defined in the *School Act*” and substituting “school division as defined in the *Education Act*”.

Amends RSA 2000 cJ-3

268(1) The *Jury Act* is amended by this section.

(2) Section 4(c) is amended by striking out “a school district or school division” and substituting “a school division”.

Amends RSA 2000 cL-1

269(1) The *Labour Relations Code* is amended by this section.

(2) Section 48(1)(c) is amended by striking out “school district or division” and substituting “school division”.

- (a) *to a municipality, a Metis Settlement, the board of trustees of a school district or school division, an irrigation district or the board of trustees of a drainage district,*

266 Amends chapter H-6 of the Revised Statutes of Alberta 2000. Section 1(h)(iv) presently reads:

1 In this Act,

(h) *“local authority” means*

- (iv) *the board of trustees of a school district in a national park;*

267 Amends chapter I-11 of the Revised Statutes of Alberta 2000. Section 1(aa)(iv) presently reads:

1 In this Act,

(aa) *“local authority” means*

- (iv) *the board of trustees of a district or division as defined in the School Act, and*

268 Amends chapter J-3 of the Revised Statutes of Alberta 2000. Section 4(c) presently reads:

4 The following persons are excluded from serving as jurors:

- (c) *members of the council of a municipality or members of a board of trustees of a school district or school division;*

269 Amends chapter L-1 of the Revised Statutes of Alberta 2000. Section 48(1)(c) presently reads:

48(1) In this section, “governing body” means

- (c) *a board of trustees of a school district or division,*

Amends RSA 2000 cL-11

270(1) The *Libraries Act* is amended by this section.

(2) Section 1(o) is amended by striking out “school district, school division or regional division” **and substituting** “school division”.

(3) Section 10(3) is amended by striking out “*School Act*” **and substituting** “*Education Act*”.

Amends RSA 2000 cL-21

271(1) The *Local Authorities Election Act* is amended by this section.

(2) Section 1 is amended

(a) in clause (k)(ii) by striking out “*School Act*” **and substituting** “*Education Act*”;

(b) in clause (r) by striking out “district or division as defined in the *School Act*, as the case may be” **and substituting** “school division as defined in the *Education Act*”;

(c) in clause (v)(iii) by striking out “a district or division as defined in the *School Act*, the Minister responsible for Part 8 of the *School Act*” **and substituting** “a school division as defined in the *Education Act*, the Minister responsible for Part 5 of the *Education Act*”;

(d) in clause (ee)(iii) by striking out “*School Act*” **and substituting** “*Education Act*”.

(3) Section 8 is amended

(a) in subsection (3)

270 Amends chapter L-11 of the Revised Statutes of Alberta 2000. Sections 1(o) and 10(3) presently read:

1 In this Act,

(o) “school authority” means a school district, school division or regional division.

(3) *The provisions of the Municipal Government Act or the School Act, as the case may be, governing*

(a) *the passing of bylaws for borrowing money,*

(b) *the issue and form of debentures, and*

(c) *the assessment, levy and collection of money necessary to meet the indebtedness incurred by the issue of debentures,*

apply to the borrowing of money under subsection (2).

271 Amends chapter L-21 of the Statutes of Alberta 2000. Sections 1, 8, 21, 22, 24, 27, 48, 77.1, 118 and 147.1 presently read in part:

1 In this Act,

(k) “elected authority” means

(ii) *a board of trustees under the School Act;*

(r) “local jurisdiction” means a municipality or a district or division as defined in the School Act, as the case may be;

(v) “relevant Minister” means,

(iii) *in the case of a district or division as defined in the School Act, the Minister responsible for Part 8 of the School Act;*

(ee) “ward” means

(iii) *a ward or an electoral subdivision under the School Act.*

8(3) *Notwithstanding any other Act, if an Act or an order under an Act is passed to create a new municipality or a new district or*

- (i) **by striking out** “new district or division as defined in the *School Act*” **and substituting** “new school division as defined in the *Education Act*”;
 - (ii) **by striking out** “, district or division” **and substituting** “or school division”;
 - (b) **in subsection (4) by striking out** “, district or division” **and substituting** “or school division”.
- (4) Section 21(3) is amended by striking out** “school district” **wherever it occurs and substituting** “school division”.
- (5) Section 22 is amended**
- (a) **in subsection (1.1)**
 - (i) **by striking out** “school board” **and substituting** “board of a school division”;
 - (ii) **in clause (a) by striking out** “district or”;
 - (b) **in subsections (3) and (5.1) by striking out** “school board” **and substituting** “board of a school division”;
 - (c) **in subsection (6.1) by striking out** “school district or division” **and substituting** “school division”.
- (6) Section 24(1) is amended by striking out** “*School Act*” **and substituting** “*Education Act*”.
- (7) Section 27(2) is amended by striking out** “*School Act*” **and substituting** “*Education Act*”.
- (8) Section 48(2) and (3) are repealed and the following is substituted:**
- (2) A person who is a resident of a public school division or of a separate school division under the *Education Act* is deemed to be a resident of that public school division or that separate school division, as the case may be, under this Act.
- (9) Section 77.1(2.4)(c) is amended by striking out** “school board trustee” **and substituting** “trustee of a board of a school division”.

division as defined in the School Act, the first election for the municipality, district or division may be held on a date prior to the date on which the Act or order comes into force.

(4) A person elected at an election referred to in subsection (3) shall not be sworn into office before the effective date of the formation of the municipality, district or division, as the case may be.

21(3) Notwithstanding subsection (1), a candidate for trustee of a board of a school district that is wholly or partly within the boundaries of a city 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.

22(1.1) A person is not eligible to be nominated as a candidate for election as a trustee of a school board if on nomination day the person is employed by

- (a) a school district or division,*
- (b) a charter school, or*
- (c) a private school,*

in Alberta unless the person is on a leave of absence granted under this section.

(3) Subsection (1)(b) to (d) do not apply to a candidate for election as a trustee of a school board.

(5.1) An employee referred to in subsection (1.1) who wishes to be nominated as a candidate for election as a trustee of a school board may apply to his or her employer for a leave of absence without pay on or after July 1 in the year of an election but before the employee's last working day prior to nomination day.

(6.1) A school district or division, a charter school or a private school shall grant every application it receives under subsection (5.1).

24(1) A person who held office on a board of trustees under the School Act and

- (a) who resigned that office to avoid making restitution for money the person received that disqualified the person from*

(10) Section 118(2) is amended by striking out “school board trustee” and substituting “trustee of a board of a school division”.

(11) Section 147.1(1)(g)(vi) is repealed and the following is substituted:

(iv) a board as defined in the *Education Act*;

holding that office pursuant to this or any other Act and has been ordered by a judge to make restitution, or

- (b) who was declared by a judge to be disqualified to hold that office pursuant to this or any other Act,*

is not eligible to become a member of that board of trustees until after 2 general elections have occurred after the date on which the person was ordered to make restitution or was declared to be disqualified.

27(2) Notwithstanding subsection (1), a city that is a local jurisdiction with a population of at least 10 000 or a board of trustees under the School Act of a local jurisdiction with a population of at least 10 000 may, by a bylaw passed prior to June 30 of a year in which a general election is to be held, specify the minimum number of electors required to sign the nomination of a candidate for an office, but that number must be at least 5 and not more than 100.

48(2) A person who is a resident of a public school district, school division or regional division or of a separate school district, school division or regional division under the School Act is deemed to be a resident of the public school district, school division or regional division or the separate school district, school division or regional division, as the case may be, under this Act.

(3) Notwithstanding subsection (2), a person who owns and lives in the person's residence and 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, school division or regional division or the separate school district, school division or regional division, as the case may be, under this Act.

77.1(2.4) An application for a special ballot must include the following:

- (c) school elector status, if the elector is voting for a school board trustee;*

118(2) With respect to an election of a school board trustee under this Act, an elected authority may, by a bylaw passed prior to April 15 of a year in which a general election is held require that candidates prepare and disclose to the public statements of all their campaign contributions and campaign expenses and may prescribe

Amends RSA 2000 cM-14

272(1) The *Metis Settlements Act* is amended by this section.

(2) Section 1(2)(b) of Schedule 2 is amended by striking out “school district or school division” and substituting “school division”.

Amends RSA 2000 cM-25

273(1) The *Municipal Debentures Act* is amended by this section.

(2) Section 1(1) is amended by striking out “school district” and substituting “school division”.

how campaign contributions not used for campaign expenses must be used.

147.1(1) *In this Part,*

(g) *“prohibited organization” means*

(vi) *a school board under the School Act,*

272 Amends chapter M-14 of the Revised Statutes of Alberta 2000. Section 1(2)(b) of Schedule 2 presently reads:

(2) The General Council or a settlement council may, in accordance with this Act, invest money in all or any of the following:

(a) securities of a Provincial corporation;

(b) securities of a city, town, village, municipal district, drainage district, hospital district or health region under the Regional Health Authorities Act in Alberta or of the board of trustees of a school district or school division in Alberta;

273 Amends chapter M-25 of the Revised Statutes of Alberta 2000. Section 1(1) presently reads:

1(1) A municipality, school district, irrigation district or other public corporation of a similar nature having power

(a) to issue debentures, bonds or other obligations

(i) payable to bearer, or

(ii) payable to a person named in the debenture, bond or obligation or bearer,

and

(b) to borrow money on the security of debentures, bonds or other obligations,

may in its discretion sell, dispose of or negotiate any such debenture, bond or obligation at a price less than the amount expressed by the bylaw, resolution or other legislative authority as the amount of the proposed debt, loan or borrowing secured

Amends RSA 2000 cM-26

274(1) The *Municipal Government Act* is amended by this section.

(2) Section 1(1)(m)(iv) is amended by striking out “district or division as defined in the *School Act*” **and substituting** “school division as defined in the *Education Act*”.

(3) Section 55(1)(b) is repealed and the following is substituted:

(b) a collecting board as defined in section 172 of the *Education Act*,

(4) Section 250(2)(b) is amended by striking out “, school district”.

(5) Section 284(1) is amended

(a) in clause (e)(i) by striking out “a collecting board that is authorized under section 180 of the *School Act* to impose and collect taxes in a district as defined in that Act” **and substituting** “a collecting board that is authorized under section 173 of the *Education Act* to impose and collect taxes in a school division as defined in that Act”;

(b) in clause (o)(i) by striking out “a district, as defined in the *School Act*, in which a collecting board is authorized under section 180 of that Act to impose and collect taxes or, where the district” **and substituting** “a school division, as defined in the *Education Act*, in which a collecting board is authorized under section 173 of that Act to impose and collect taxes or, where the school division”.

(6) Section 303(g) is amended by striking out “section 156 of the *School Act*” **and substituting** “section 143 or 144 of the *Education Act*”.

(7) Section 326(a) is amended

(a) in subclause (ii) by striking out “section 174 of the *School Act* that is raised by imposing a rate referred to in

*by the debenture, bond or obligation, and is hereby declared
always to have had power in its discretion to do so.*

274 Amends chapter M-26 of the Revised Statutes of Alberta 2000, Replaces references to School Act with references to Education Act and updates terminology accordingly.

section 174 of the *School Act*” **and substituting** “section 163 of the *Education Act* that is raised by imposing a rate referred to in section 163 of the *Education Act*”;

(b) in subclause (iii) by striking out “Part 6, Division 3 of the *School Act*” **and substituting** “Part 6, Division 3 of the *Education Act*”.

(8) Section 362(1) is amended

(a) in clause (b)(v) by striking out “a school district that is authorized under the *School Act*” **and substituting** “a school division that is authorized under the *Education Act*”;

(b) in clause (c)

(i) in subclause (i) by striking out “school district, school division or regional division” **and substituting** “school division”;

(ii) by repealing subclause (i.1) and substituting the following:

(i.1) the Francophone regional authority of a Francophone education region established under the *Education Act*,

(iii) in subclauses (i.2) and (ii) by striking out “*School Act*” **and substituting** “*Education Act*”.

(9) Section 369(2.1) is amended by striking out “in sections 192 and 194 of the *School Act*” **and substituting** “in section 171 of the *Education Act*”.

(10) Section 392(4) is amended by striking out “, school district”.

(11) Section 596(1)(b) is amended by striking out “*School Act*” **and substituting** “*Education Act*”.

(12) Section 616(bb) is amended by striking out “a school district, school division or regional division” **and substituting** “a school division”.

Amends RSA 2000 cN-5

275(1) The *Northland School Division Act* is amended by this section.

(2) Section 1(2) is amended by striking out “*School Act*” and substituting “*Education Act*”.

(3) Section 2 is amended

(a) in subsection (1)

(i) by striking out “*School Act*” and substituting “*Education Act*”;

(ii) in clause (b) by adding “and” at the end of subclause (i) and repealing subclause (ii);

(b) in subsection (2)(b) by striking out “any school district or any other school division” and substituting “any school district within the Division or any other school division”.

(4) Section 4(1)(b) is amended by striking out “a district or division” and substituting “a school division”.

(5) Section 6 is amended

(a) in subsection (1) by striking out “Division 3 of Part 3 of the *School Act*” and substituting “Division 5 of Part 4 of the *Education Act*”;

(b) in subsection (3) by striking out “Division 3 of Part 3 of the *School Act*” and substituting “Division 5 of Part 4 of the *Education Act*”.

(6) Section 9(1)(a) is amended by striking out “*School Act*” and substituting “*Education Act*”.

(7) Section 11(1) is amended by striking out “*School Act*” and substituting “*Education Act*”.

(8) Section 14 is repealed and the following is substituted:

Application of provisions of the *Education Act*

14 Division 5 of Part 4 and sections 61, 72, 77 and 78 of the *Education Act* also apply to a local school board committee as if it were a board of trustees under the *Education Act*.

275 Amends chapter N-5 of the Revised Statutes of Alberta 2000. Sections 1, 2, 4, 6, 9, 11, 14 and 15 presently read in part:

1(2) Unless otherwise provided, words and expressions used in this Act have the same meaning as in the School Act and the Local Authorities Election Act.

2(1) Notwithstanding anything in the School Act, the Division shall consist of

- (b) all that part of Alberta lying north of the north boundary of township 55 excepting from that area any lands contained in
 - (i) any other school division,*
 - (ii) any district not included in a school division or school district in the Division, and*
 - (iii) any Indian reserve.**

(2) Nothing in this Act precludes the Minister from time to time

- (b) constituting, dissolving or altering any school district or any other school division.*

4(1) A local school board committee shall be elected in each subdivision in accordance with the Local Authorities Election Act as if

- (b) a subdivision were a district or division.*

6(1) A person is not qualified to be elected or to continue to hold office as a member of a local school board committee if the person would be disqualified from holding office as a trustee under Division 3 of Part 3 of the School Act or section 23 of the Local Authorities Election Act.

(3) If the person does not resign in accordance with subsection (2), the board may by resolution declare the person to be disqualified or may apply to the Court of Queen's Bench for an order declaring the person's seat on the local school board committee or on the board, or both, vacant, and Division 3 of Part 3 of the School Act applies to the application.

9(1) A local school board committee has the following powers:

(9) Section 15 is amended by striking out “*School Act*” wherever it occurs and substituting “*Education Act*”.

Amends RSA 2000 cP-2

276(1) The *Parks Towns Act* is amended by this section.

(2) Section 1 is amended

(a) in clause (g) by striking out “*School Act* that administers a school district” and substituting “*Education Act* that administers a school division”;

(b) by repealing clause (h) and substituting the following:

(h) “school division” means a school division as defined in the *Education Act*;

(3) Section 2(2)(b) is amended by striking out “school district” and substituting “school division”.

(4) Section 3(5)(a) is amended by striking out “pursuant to Division 5 of Part 6 of the *School Act*” and substituting “under Division 6 of Part 6 of the *Education Act*”.

(5) Section 5(1) is amended by striking out “*School Act*” and substituting “*Education Act*”.

(6) Section 6 is amended

- (a) *to request the board to institute religious instruction or instruction in a language other than English in accordance with the School Act;*

11(1) Subject to this Act, the board has all the powers and duties of a board of trustees under the School Act.

14 Division 3 of Part 3 and sections 70 to 73, 76, 250 and 251 of the School Act also apply to a local school board committee as if it were a board of trustees under the School Act.

15 The School Act and the Local Authorities Election Act apply to the Division unless the Minister by order exempts the Division, the board or the local school board committees from the whole or part of any provision of the School Act and the Local Authorities Election Act or a regulation under either Act, and on exemption that provision ceases to apply to the Division or any person, municipality or child resident in the Division or to the board or local school board committees to the extent specified in the order.

276 Amends chapter P-2 of the Revised Statutes of Alberta 2000. Sections 1, 2, 3, 5 and 6 presently read in part:

1 In this Act,

- (g) *“school board” means a board as defined in the School Act that administers a school district that is located in a national park;*

- (h) *“school district” means a district as defined in the School Act;*

2(2) For the purpose of subsection (1), “elector” means a person who

- (b) *is an elector of the school district within which the area is included.*

3(5) The Minister may make regulations

- (a) *governing the transfer from a school board to a town of any municipal function or service that is being provided by the school board pursuant to Division 5 of Part 6 of the School Act;*

- (a) **by striking out** “*School Act* or this Act” **and substituting** “*Education Act* or this Act”;
- (b) **in clause (a)**
 - (i) **by striking out** “Division 5 of Part 6 of the *School Act*” **and substituting** “Division 6 of Part 6 of the *Education Act*”;
 - (ii) **by striking out** “school district” **and substituting** “school division”;
- (c) **by repealing clause (b) and substituting the following:**
 - (b) enter into arrangements with a town that is located within the school division under which the town may exercise the powers referred to in section 174(1)(a) of the *Education Act* in any portion of the school division that is located outside the boundaries of the town in the same manner as if the town were the school board.

Amends RSA 2000 cP-37

277(1) The *Public Health Act* is amended by this section.

(2) Section 1(mm)(i) is amended by striking out “*School Act*” and substituting “*Education Act*”.

(3) Section 18.1 is amended

- (a) **in subsection (1)**
 - (i) **by striking out** “school board” **and substituting** “board”;
 - (ii) **by striking out** “*School Act*” **and substituting** “*Education Act*”;
- (b) **in subsections (2) and (3) by striking out** “school board” **and substituting** “board”.

5(1) Notwithstanding the School Act, the Minister may by order empower a school board, subject to any terms or conditions that the Minister considers appropriate in the circumstances,

- (a) to take any action or perform any function with respect to an area that the Minister considers necessary to prepare for the formation of a town, and*
- (b) to make any bylaw relating to the operation of a town or the conduct of a town's affairs that a council of a municipality may make under the laws of Alberta.*

6 Notwithstanding the School Act or this Act, a school board may

- (a) continue to act pursuant to Division 5 of Part 6 of the School Act within that portion of the school district that is located outside the boundaries of a town, and*
- (b) enter into arrangements with a town that is located within the school district under which the town may exercise those powers referred to in section 181(1)(a) of the School Act in any portion of the school district that is located outside the boundaries of the town in the same manner as if the town were the school board.*

277 Amends chapter P-37 of the Revised Statutes of Alberta 2000. Section 1(mm)(i) and 18.1 presently read:

1 In this Act,

(mm) "school" means

- (i) a school operating under the School Act,*

18.1(1) In this section, "early childhood services program", "private school" and "school board" have the meanings given to them in the School Act.

(2) A medical officer of health may by notice in writing require a school board, an operator of a private school or an operator of an early childhood services program to provide, in the form and manner and within the time specified in the notice,

- (a) a student's name, address, date of birth, sex and school,*

Amends RSA 2000 cP-40

278(1) The *Public Lands Act* is amended by this section.

(2) Section 19(1)(a) is amended by striking out “school district or”.

(3) Section 66(a) is amended by striking out “, school district”.

Amends RSA 2000 cP-45

279(1) The *Public Utilities Act* is amended by this section.

(2) Section 1(d) is amended by striking out “a school district not being a school district included in a school division,”.

(b) *the name, address and telephone number of the student's parent or guardian, and*

(c) *any other information prescribed in the regulations*

to the medical officer of health for the purpose of contacting the parent or guardian of the student regarding voluntary health programs offered by a regional health authority, including immunization, hearing, vision, speech and dental health programs, and for the purpose of communicable diseases control.

(3) *A school board, an operator of a private school or an operator of an early childhood services program who receives a notice under subsection (2) shall comply with it.*

278 Amends chapter P-40 of the Revised Statutes of Alberta 2000. Sections 19(1)(a) and 66 presently read:

19(1) The Minister may, if in the Minister's opinion doing so will not conflict or be inconsistent with any applicable ALSA regional plan, give public land

(a) *to the board of trustees of a school district or school division in a rural area, when the land is required as a site for school purposes,*

66 When the holder's interest under a disposition is liable to

(a) *assessment and taxation in a city, town, village, municipal district, improvement district, school district or school division, or*

(b) *assessment and the payment of irrigation charges in an irrigation district or rates in a drainage district,*

the holder's interest is not subject to any Act providing for the recovery of taxes, rates or charges to the extent that its provisions relate to the sale of land for the purpose of recovering taxes, rates or charges.

279 Amends chapter P-45 of the Revised Statutes of Alberta 2000. Section 1(d) presently reads:

1 In this Act,

Amends RSA 2000 cR-14

280(1) The *Regulations Act* is amended by this section.

(2) Section 1(1)(b) is amended by striking out “, school division or school district” and substituting “or school division”.

Amends RSA 2000 cT-2

281(1) The *Teaching Profession Act* is amended by this section.

(2) Section 1(h) to (j) are amended by striking out “*School Act*” and substituting “*Education Act*”.

(3) Section 5(1)(c)(ii) is amended by striking out “section 96(2) of the *School Act*” and substituting “section 199(2) of the *Education Act*”.

(4) Section 8(2)(a)(iii)(E) and (b) are amended by striking out “*School Act*” and substituting “*Education Act*”.

(5) Section 14 is amended by striking out “*School Act*” and substituting “*Education Act*”.

(6) Section 23 is amended

(a) in subsection (1)(a)(i) by striking out “*School Act*” and substituting “*Education Act*”;

(b) in subsection (3) by striking out “sections 96 to 104 or section 111(1) of the *School Act*” and substituting “sections 199 to 207 or section 215(1) of the *Education Act*”.

- (d) *“local authority” means a city, town, village, municipal district or Metis settlement, a school division, a school district not being a school district included in a school division, a public college, a health region under the Regional Health Authorities Act, an irrigation district and a drainage district;*

280 Amends chapter R-14 of the Revised Statutes of Alberta 2000. Section 1(1)(b) presently reads:

1(1) In this Act,

- (b) *“local authority” means a city, town, village, municipal district, improvement district, Metis settlement, health region under the Regional Health Authorities Act, irrigation district, drainage district, special area, school division or school district;*

281 Amends chapter T-2 of the Revised Statutes of Alberta 2000. Section 1(h) to (j), 5(1)(c)(ii), 8(2)(a)(iii)(E) and (b), 14 and 23(1) and (3) presently read:

1 In this Act,

- (h) *“school board” means a board as defined in the School Act;*
- (i) *“superintendent” means a superintendent appointed by a school board pursuant to the School Act and the teacher, if any, who is appointed by the school board to be the superintendent’s chief deputy;*
- (j) *“teacher” means a person holding a permanent or temporary certificate of qualification as a teacher issued by the Minister under the School Act.*

5(1) Subject to this section, the employment of a teacher by a school board is conditional on the teacher being and continuing to be an active member of the association except in the following cases:

- (c) *a teacher who*
- (ii) *under section 96(2) of the School Act, is excluded from the teachers on whose behalf the association is bargaining.*

8(2) Without restricting the generality of subsection (1)(g.1), a bylaw passed under subsection (1)(g.1) may

(a)(iii) with respect to matters before a committee referred to in this clause,

(E) the recommendations that may be made to the Minister respecting a teacher's certificate of qualification under the School Act;

(b) adopt in whole or in part, or with any modification, any regulation made under the School Act that deals with those matters referred to in subsection (1)(g.1) or clause (a);

14 Nothing in this Act shall be deemed to interfere with the rights of separate schools as provided in the School Act.

23(1) Any conduct of a member that, in the opinion of a hearing committee,

(a) is detrimental to the best interests of

(i) students as defined in the School Act,

(ii) the public, or

(iii) the teaching profession,

(b) contravenes sections 16 to 65 or a bylaw made under section 8(f) or (g), or

(c) harms or tends to harm the standing of teachers generally,

whether or not that conduct is disgraceful or dishonourable, may be found by a hearing committee to constitute unprofessional conduct.

(3) The association shall not use sections 16 to 65 to discipline a member for conduct that relates to

(a) collective bargaining,

(b) the administration of a collective agreement, or

(c) any matter under the jurisdiction of the Labour Relations Board

Amends various enactments

282 The following enactments are amended by striking out “*School Act*” and substituting “*Education Act*”:

Act	Section
Alberta Centennial Education Savings Plan Act	1(1)(f)
Alberta Housing Act	1(h)
Apprenticeship and Industry Training Act	1(m)(ii)(A) to (A.2)
Auditor General Act	16(1)
Child Care Licensing Act	1(c)(i)
Conflicts of Interest Act	14(4)(e)
Employment Standards Code	65(1) and 66
Government Accountability Act	16(1)(a)
Lobbyists Act	3(1)(k)
Personal Information Protection Act	56(1)(a)(iv)
Post-secondary Learning Act	48
Provincial Court Act	22(e)
Remembrance Day Act	1(1)
Teachers’ Pension Plans Act	1(1)(c.1)
Youth Justice Act	20(3)

Repeals

Repeals

283 The following enactments are repealed:

- (a) *School Act*, RSA 2000 cS-3;
- (b) *School Amendment Act*, RSA 2000 c30 (Supp);
- (c) *School (Compulsory Attendance) Amendment Act, 2003*, SA 2003 c9;
- (d) *Miscellaneous Statutes Amendment Act, 2005*, section 10.

or that arises under sections 96 to 104 or section 111(1) of the School Act.

282 Changes references to Act name.

283 Repeals.

Coming into Force

Coming into force

284 This Act comes into force on Proclamation.

284 Coming into force.

