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Our focus for the future

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Legislative Discussion Paper
on the
Draft of the New Education Act

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Northwest Territories Education, Culture and Employment
Hon. Richard Nerysoo, Minister

November 1994

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Introduction: Background and Direction For The Future

Over the past five years we have been developing a new *Education Act* for the Northwest Territories. In 1990 we developed a paper called *Help Improve the Education Act* and we held workshops across the north.

From March to April 1994 we talked to students, trustees, and school board officials in three focus groups to discuss strategic plans for the legislation and school program delivery. In May 1994 a discussion paper called, *Voices: Direction for Improving the Education Act*, and an accompanying questionnaire, was distributed widely to education agencies, municipal and band councils, cultural associations and other interest groups.

This discussion paper proposed many changes to the Act for people to consider and comment on. The changes proposed in *Voices* were based on the direction you gave us when we first asked you for comments in 1990. The directions we were proposing for the new Act in *Voices* were also forward-looking, and reflected the comments you made on our programs and services as we developed *A Strategy to 2010*.

As well, the changes we recommended were founded on current educational research, the directions of this Assembly in *Reshaping Northern Government*, the *Charter of Rights and Freedoms of Canada*, and the philosophy of education in the Northwest Territories today presented in *Our Students, Our Future: An Educational Framework (1991)*.

Consultation on the development of a new *Education Act* has really been on-going since the *Special Committee on Education* was established in 1980.

Like people in other parts of Canada, northerners want their children to do well in school and to develop the skills they need to be successful throughout their lives. They expect that schools in the north will provide quality education which meets the needs and strengths of all students. They want the *Education Act* to centre on students and enable the development of community schooling. They also want the Act to complement continued political and constitutional development in the Northwest Territories, and enable people to achieve their educational goals.

This *Legislative Discussion Paper on the Draft of the New Education Act* contains a preliminary draft of the legislation for comment. It also contains notes which summarize the purpose and content of each section of the draft legislation. It is a consultation paper. It is being distributed to people and agencies in the north to encourage discussion and provide further direction which will refine and improve the Act when it is introduced in 1995.

The preliminary draft of the new *Education Act* contained in this paper strives to:

- improve accountability in the education system;
- strengthen partnerships with students, parents, teachers and communities; and
- provide an enabling and flexible system of governance which strengthens decision making in communities while recognizing constitutional development and limited financial resources in the N.W.T.

We plan to introduce the new *Education Act* in the spring 1995 for debate.

The Draft *Education Act*

General Comments

The *Legislative Discussion Paper on the Draft of the New Education Act* is organized according to the proposed organization for the new *Education Act*. It is an organization which emphasizes that students are the focus of education, and also emphasizes the importance of the partners in the education process: students, parents, educators, communities, and government. The organization of the draft Act is proposed as follows:

- Preamble
- Interpretation
- Part I: Students and Parents
- Part II: Educators
- Part III: Communities: Cultural Diversity
Communities: Governance
- Part IV: Finance and Administration of the
Education System
- Part V: Regulations
- Part VI: General

The draft Act presented in this discussion paper is indeed a draft in progress, which will be changed with the comments and direction received in response to the paper, and refined after further review.

For the purpose of this discussion paper, the numbering of the sections in the draft Act are according to Part. The sections in Part I, Students and Parents, are numbered in the 100's, and the sections in Part II, Educators, are numbered in the 200's, and so on. Once the draft is prepared as a Bill, the numbering will be sequential.

All of the contemplated provisions for the new *Education Act* are included in the discussion paper, with the exception of the Preamble and the Interpretation section, which when drafted will contain explanations of some of the terms used in the Act. The regulations, except for the two sample regulations in Appendix I, are also not part of this discussion paper, and will not be drafted until the Bill is prepared.

In the discussion paper, we have provided comments for the main sections of the draft Act. These comments are provided to explain some of the proposed changes from the current *Education Act* and the purpose of these changes.

Preamble and Interpretation Sections

The Preamble of an Act sets out the principles and goals of the legislation, by which the Court will interpret the Act. In the draft of the new *Education Act*, the following principles and goals of education are being proposed to be included in the preamble:

- Through education the people of the Territories can acquire the knowledge, skills and attitudes needed to be responsible members of society, and provide leadership for the future.
- Education is of great importance to the individual and society, and therefore access to education must be considered to be an entitlement.
- The focus of the education system must be students, and the development of all aspects of their lives: physical, emotional, social, intellectual and spiritual.
- Education must be a partnership between students, parents, elders, communities, educators and government, each with a role to play, and responsibility to each other and to the achievement of quality and excellence in education.
- In the past, present and future, elders have made and will make an important contribution in the education of the people of the Territories.
- Education is affected by the language and culture in which it takes place, and school programs must be based on the cultures and languages of the Territories, and developed through contributions made by parents, elders, and the community.
- Communities need to have greater responsibility for the content and delivery of education.

The interpretation section, like the preamble, is not yet prepared. When it is written it will contain definitions to assist in the interpretation of the Act.

PART I

Students and Parents

1.1 Access to an Education Program

The draft legislation says that students from the age of 5 to 21, are entitled to access an education program. This entitlement is not included in the current *Education Act*, but it is recognized in education laws in all other Canadian jurisdictions.

The draft also says that the local authority responsible for education can allow a person over the age of 21 to enrol in an education program, under whatever conditions the authority thinks appropriate.

This means that if this section were to become law students from the age of 5 to 21 would have an entitlement to access education in law. It does not prevent students over 21 from receiving their education program in school, but it does not give them an entitlement to do so.

Access to an education program

100. (1) Every person is entitled to have access to an education program in accordance with this Act and the regulations who
- (a) at December 31 in a year is five years of age or older and younger than 21 years of age;
 - (b) is a resident of the Territories and, if the person has attained the age of majority, has been a resident of the Territories for the 12 months immediately preceding the date of enrolment in an education program; and
 - (c) is a Canadian citizen, lawfully admitted to Canada for temporary or permanent residence, a child of a Canadian citizen, or a child of a person who is lawfully admitted to Canada for temporary or permanent residence.

Student 21 during school year

- (2) If a student who is entitled to have access to an education program under subsection (1) attains the age of 21 years before the end of a school year, the student's entitlement to have access to an education program is extended to the end of the school year provided that the student continues to meet the requirements of paragraphs (1)(b) and (c).

Mature student

101. A District Education Authority may allow a person who is 21 years of age or older and meets the requirements of paragraphs 100(1)(b) and (c) to enrol in an education program offered in the education district on such terms and conditions as the District Education Authority may set.

Status of student over 21

102. A person described in subsection 100(2) or section 101 who is enrolled in an education program has the same powers, entitlements and responsibilities of a student who has attained the age of majority and is under 21 years of age.

1.2 Inclusive Schooling

The draft Act incorporates the current "inclusive schooling policy" of the Department of Education, Culture, and Employment. It gives all students, whenever possible, access to an education program in a regular classroom setting, and says that support services will be provided to assist students to be successful in their school program.

One of the supports which may be necessary, when the regular kindergarten to grade 12 curriculum, even with modification, is inappropriate for a student, is the development of an individual education plan. The principal, a school team, the parent, and where appropriate the student, work together to develop an education plan for the student.

Inclusive schooling

103. (1) Every student is entitled to have access to an education program offered in a public school or public denominational school in the community in which the student resides in a regular instructional setting.

Support services

- (2) A District Education Authority or Divisional Education Council shall provide a student with the support services necessary to give effect to subsection (1) in accordance with the direction of the Minister if
- (a) the support services and student's circumstances are among those determined by the Minister under subsection (3); and
 - (b) it is practicable, according to the direction of the Minister, for the District Education Authority or Divisional Education Council to provide the support services to the student.

Minister

- (3) The Minister shall determine the support services and the circumstances under which they shall be provided to a student to give effect to subsection (1).

Exceptions

- (4) Subsection (1) does not apply where
- (a) the support services the student requires to give effect to subsection (1) do not meet the requirements of subsection (2);
 - (b) the Chief Medical Health Officer advises the principal in writing that the student has a communicable disease and, for the health and safety of the student or the other students, should not receive an education program in a regular instructional setting;
 - (c) the parent and the District Education Authority agree that the educational needs of the student cannot be met in an education program offered in the community in which the student resides and the student should be educated outside the community or the Territories;

- (d) the student is receiving care or treatment in a medical long term care facility or a medical or treatment facility outside the community in which the student would otherwise reside;
- (e) the student is living in a secure custody facility;
- (f) the student is a senior secondary student and a senior secondary program is not offered in the education district in which the student resides; or
- (g) the student is enrolled in an education program offered in a private school or through a home schooling program.

Duty of District Education Authority

- (5) In the circumstances described in paragraphs (4)(a) to (d) and (f), the District Education Authority for the education district in which the student would otherwise be attending an education program shall provide and, in the circumstances described in paragraph (e), may provide, the student with an education program where the student is living or receiving care or treatment in or outside the Territories in accordance with the direction of the Minister.

Transitional

- (6) Any student attending a special school or institution outside the Territories under section 109 of the *Education Act*, R.S.N.W.T. 1988, c. E-1, on the coming into force of this Act, shall be deemed to be attending that school or institution under paragraph (4)(c) and subsection (5) of this Act.

Program modification

- 104. Education staff shall make modifications to the school program of a student where the education staff considers the modifications necessary to accommodate the needs or abilities of the student.

Initiation of Individual Education Plan

105. (1) If the objectives of the education program are too challenging for a student or do not challenge a student sufficiently, as determined by one or more persons designated by the District Education Authority to make that assessment on its behalf, the principal may recommend to the student's parent the development of an Individual Education Plan for the student, or the student's parent may in writing request the principal to develop an Individual Education Plan for the student.

Consultation with parent

- (2) The principal or a school team designated by the principal shall consult with the student's parent in making any decision concerning an Individual Education Plan for the student including the development, content, implementation, evaluation and alteration of the Individual Education Plan.

Approval of parent

- (3) The principal must obtain the approval of the student's parent of the Individual Education Plan for the student before the plan is implemented.

Involvement of student

- (4) The principal and the student's parent shall decide whether it is appropriate for the student to be involved in any or all decisions concerning the student's Individual Education Plan, and the nature and extent of that involvement.

Teacher

- (5) The student's teacher shall keep the student and the student's parent informed of the student's progress under the Individual Education Plan.

Disagreement over Individual Education Plan

- (6) If a student's parent disagrees with the principal's decision on whether an Individual Education Plan is necessary for the student or on the appropriateness of the Individual Education Plan for the student, the parent may lodge a written disagreement with the principal's decision under section 501.

1.3 Accommodation

The continuing development of grade extensions in communities has provided more opportunities to students to attend grades 10 to 12 closer to home. The draft Act says that accommodation for a student in another community will be provided, if grades 10 to 12 are not available in the student's home community. This allows the local authorities responsible for education to work together in their division/region to determine which community in their jurisdiction would be most appropriate to offer high school grades, and to develop a plan for schooling in their area.

The current Act says that the Minister may provide student accommodation. The draft Act gives the power to provide student accommodation, according to any directives from the Minister, to local authorities responsible for education.

Accommodation - senior secondary students

106. If a senior secondary program is not offered in the education district in which a student resides and the student registers with a school in another education district that offers a senior secondary program, the District Education Authority or the Divisional Education Council for the education district or education division in which the secondary school program is offered shall provide the student with accommodation in accordance with the direction of the Minister.

1.4 Choice of an Education Program

The draft Act recognizes that parents are entitled to choose an education program for the student. This means parents may choose to register their child in a public school, public denominational school, private school, or home schooling program. This is a new section proposed in the draft Act.

Choice of education program by parent

200. (1) The parent of a student is entitled to choose an education program for the student.

Choice of education program by student

- (2) A student is entitled to choose an education program if the student has achieved the age of majority.

Education program outside Territories

- (3) A parent or student referred to in subsections (1) and (2) are entitled to choose an education program outside the Territories if
- (a) the parent and the District Education Authority agree that the educational needs of the student cannot be met in an education program offered in the Territories and the student should be educated outside the Territories; or
 - (b) the student is receiving care or treatment in a medical long term care facility or a medical or treatment facility outside the Territories.

1.5 Registration, Enrolment and Tuition

A parent of a child from the age of 6 to 16, must register that child with either a school, or in the case of home schooling, with the local authority responsible for education.

The draft Act says that tuition will not be charged for a student attending a public or public denominational school program in the district (community) where his or her parents live. Agreements may be made between community or divisional authorities responsible for education for the payment of the costs of students attending a public or public denominational school program in another district (community) or division.

The draft Act says that a student registered in a home schooling program will not be charged tuition, and will be reimbursed for education program costs approved by the local authority responsible for education.

It says that a private school may charge tuition for a student registered there, and the parents of the student are responsible for paying the costs.

The parent of a student is responsible for all costs of a student enrolled in an education program outside the Territories. The only exceptions recognized are exceptional circumstances, such as where a student is receiving medical long term care or treatment in a facility in southern Canada.

Requiring all students to be registered, and providing for home schooling programs, are new provisions being recommended to be included in the Act. The current Act does allow boards of education to charge tuition for students living outside of the school district, but does not address tuition for private schools.

Duty to register student

201. A parent of a student who is six years of age or older and younger than 16 years of age shall register the student for the school year with a school or, if the student is enrolled in a home schooling program, with a District Education Authority.

Public and public denominational schools - tuition

202. (1) A District Education Authority or a Divisional Education Council shall not charge a tuition fee in respect of a student enrolled in an education program offered at a public school or public denominational school in the education district in which the parent of the student resides.

Mature student

- (2) A District Education Authority may charge a tuition fee established by the District Education Authority in respect of a student described in section 101 who is allowed to enrol in an education program offered at a public school or public denominational school in the education district.

Enrolment in another education district

203. (1) A District Education Authority or Divisional Education Council for an education district may allow a student whose parent does not reside in the education district to enrol in an education program offered in a public school or public denominational school in the education district.

Tuition

- (2) The District Education Authority or Divisional Education Council for the education district may charge a tuition fee established by the District Education Authority or Divisional Education Council in respect of a student enrolled in an education program under subsection (1) except where the student has lived for at least one school year with a person who resides in the education district.

Agreements

- (3) A student shall pay the tuition fee charged under subsection (2) unless the District Education Authority or Divisional Education Council for the education district in which the student's parent resides pays the tuition fee under an agreement with the District Education Authority or Divisional Education Council for the education district in which the student attends an education program.

Parent non-resident of Territories

204. (1) The District Education Authority or Divisional Education Council for an education district may allow a student whose parent does not reside in the Territories to enrol in an education program offered in a public school or public denominational school in the education district.

Tuition

- (2) The District Education Authority or Divisional Education Council for the education district may charge a tuition fee established by the Minister in respect of a student enrolled in an education program under subsection (1).

Private school - tuition

205. A private school may charge a tuition fee in respect of a student enrolled in an education program offered at the private school.

Home schooling - tuition and education program costs

206. The District Education Authority with which a student in a home schooling program is registered shall not charge a tuition fee in respect of the student and shall reimburse the student's parent for education program costs approved by the District Education Authority.

Schooling outside Territories

207. (1) A student's parent is responsible for all costs in respect of the student if the student is enrolled in an education program outside the Territories.

Exceptions

- (2) Despite subsection (1), tuition fees and costs as determined by the Minister in respect of a student enrolled in an education program outside the Territories may be paid by the District Education Authority for the education district in which the student's parent resides if
 - (a) the parent and the District Education Authority agree that the educational needs of the student cannot be met in an education program offered in the Territories and the student should be educated outside the Territories; or
 - (b) the student is receiving care or treatment in a medical long term care facility or a medical or treatment facility outside the Territories.

1.6 Kindergarten

The draft Act says that Kindergarten is a part of the education program in the Northwest Territories, however, attendance at Kindergarten is optional, not compulsory. It says that Kindergarten will be taught by a teacher, or a person holding an Early Childhood Education Certificate or equivalent, and registered as a Kindergarten teacher by the Registrar. In the current Act Kindergarten may be taught by someone who is not a qualified teacher.

Kindergarten

208. (1) The education program of the Territories shall include kindergarten.

Provision of kindergarten

- (2) Kindergarten shall be provided in every public elementary school and public denominational elementary school.

Enrolment

- (3) A child who is eligible may enrol in kindergarten.

Eligibility

- (4) A child is eligible to enrol in kindergarten if the child is a resident of the Territories and is five years of age or older at December 31.

Kindergarten teacher

- (5) Kindergarten must be taught by
- (a) a teacher; or
 - (b) a person who
 - (i) holds an Early Childhood Education Certificate issued by a public college established under the *Public Colleges Act* or an equivalent certificate or qualification as determined by the Registrar; and
 - (ii) is registered by the Registrar as a kindergarten teacher.

1.7 Home Schooling

The draft Act allows parents to teach their children at home, if the program they teach is approved by the responsible Superintendent, and if they register their children with the local authority responsible for education in the community in which they are living. The local authority responsible for education is responsible for evaluating the program and may assign the responsibility of monitoring the program and providing program support to the principal of a school in that district (community).

The current Act allows children to be exempted from compulsory school attendance if the Superintendent decides that the child is receiving adequate instruction elsewhere. This provision has been used to allow home schooling now in the N.W.T., but the current Act does not specifically address home schooling.

Home schooling program

209. (1) A parent of a student, under the supervision of a District Education Authority, may provide a home schooling program to the student at home or elsewhere in accordance with this Act and the regulations.

Approval of program

- (2) A home schooling program must be approved by the Superintendent.

Registration

- (3) The parent of a student who is enrolled in a home schooling program must register the student with the District Education Authority for the education district in which the parent resides or, if the parent resides outside an education district, with the nearest District Education Authority, on or before the first day of school in the school year for the education district.

Offence

- (4) Every person who contravenes subsection (3) is guilty of an offence and is liable on summary conviction to a fine not exceeding \$_____.

1.8 Private Schools

The draft Act enables the registration of private schools which meet the standards of program and student evaluation required by the Minister. Private schools must agree to regular monitoring and evaluation as determined by the Minister, and meet local and Territorial health, safety and building standards.

The current Act does allow private schools to be established in the N.W.T. The draft Act is recommending an expansion of the current provisions concerning private schools.

Definition of "private school"

210. (1) In this section, "private school" means a school, other than a school operated by a District Education Authority or Divisional Education Council, registered under subsection (2) where instruction in any of the subjects of the education program is provided for students between six and 16 years of age.

Registration of private school

- (2) A school is entitled to be registered as a private school if the operator of the school applies to the Minister and the Minister is satisfied that
 - (a) the school will provide a school program approved by the Minister;
 - (b) the school will meet the standards of student achievement acceptable to the Minister;
 - (c) the operator agrees to regular evaluation and monitoring as determined by the Minister; and
 - (d) the school meets and will continue to meet all local and Territorial health, safety and building standards.

Cancellation and suspension of registration

- (3) The Minister may cancel or suspend the registration of a private school if
 - (a) the operator of the school does not comply with subsection (2) or the regulations; or
 - (b) in the opinion of the Minister, the students at the school are not achieving acceptable educational progress.

Prohibition

- (4) No person shall operate a school as a private school unless it is registered under subsection (2).

Restraining order

- (5) If a person operates as a private school a school that is not registered under subsection (2) or in respect of which the registration has been cancelled or suspended, the Minister may apply to a judge for an order restraining the person from operating the school during the time that the school is not registered or the registration of the school is suspended or cancelled.

1.9 Student and Parent Participation in the Education Program

The draft Act sets out responsibilities of students, including:

- the duty to conduct themselves responsibly while on school property;
- comply with school rules;
- cooperate with the principal, teachers, and others authorized by the local authority responsible to provide school programs and related services;
- be respectful of others beliefs, person, and property; and
- participate in the education program and make their best effort to learn.

Students in the draft Act also have the opportunity to choose a student representative who will represent them at meetings of the local authority responsible for education. This section on students is new; it is not included in the current Act.

The draft Act also sets out responsibilities and entitlements of students' parents, recognizing that parents are critical partners in education. These responsibilities and entitlements include:

- being informed of the progress, behaviour, and attendance of their children in school;
- consulting with the teacher or principal on their children's progress;
- observing their children in the classroom, with the agreement of the principal;
- supporting and encouraging their children to learn by ensuring that they come to school ready to learn; and
- cooperating with education staff who are delivering their children's school program.

STUDENTS' PARTICIPATION

Definition of "on the school premises"

300. (1) In paragraphs (2) (a) and (d), "on the school premises" includes while on out-of-school activities that are part of the school program, and while travelling on a school bus that is owned by a District Education Authority or on a bus or school bus that is under contract to a District Education Authority.

Responsibilities of student

- (2) In addition to any other responsibilities under this Act and the regulations, a student has the responsibility
- (a) to conduct himself or herself responsibly while on the school premises;
 - (b) to comply with the school rules established by the District Education Authority;
 - (c) to co-operate fully with the principal, teachers and all persons authorized by the District Education Authority to provide school programs and other services;
 - (d) to be respectful of the cultural, spiritual or religious values or beliefs of others, of their person and of their property while on school premises; and
 - (e) to participate in an education program and make his or her best effort to learn.

Application

- (3) This section applies to public schools and public denominational schools.

Responsibility to receive an education

301. A person described in subsection 100(1) who is six years of age or older and under 16 years of age has a responsibility to enrol in an education program and to receive an education through an education program in accordance with this Act and the regulations.

Student representative

302. (1) Students at a public school or public denominational school may, in accordance with the guidelines established by the principal, select a student representative to attend and participate in meetings of the District Education Authority held in public on behalf of the student body.

Representation

- (2) A student representative shall represent the student body at such meetings in accordance with the guidelines established by the principal.

PARENTS' PARTICIPATION

Knowledge of student

303. (1) A parent of a student is entitled, and has the responsibility, to be informed of the progress, behaviour and attendance of the student.

Consultation

- (2) A parent of a student may, and at the request of a teacher or the principal shall, consult with the teacher or principal on the student's progress in the education program.

Observation by parent

- (3) A parent of a student may observe the student during instruction with the agreement of the principal.

Responsibilities of parent

304. In addition to any other responsibilities under this Act and the regulations, a parent of a student has the responsibility
- (a) to support and encourage the student to learn;
 - (b) to ensure that the student comes to school ready to learn; and

- (c) to co-operate fully with the education staff in the delivery of the education program to the student.

1.10 Attendance

The draft Act states that attendance at an education program is compulsory for students age 6 to 16. It also sets out the exceptions to compulsory attendance: illness, participation in traditional or other activities after consultation and agreement between the parent and the principal, participation in spiritual or religious observances, or where a student has been suspended or expelled.

The draft Act also states that failure of a parent to ensure the attendance of a student under this section is an offence, and subject to prosecution with the agreement of the local authority responsible for education. If this section becomes law regulations will be established regarding the enforcement of compulsory attendance.

There is a section on compulsory attendance in the current Act, but an education jurisdiction first has to request that the compulsory attendance section applies to their jurisdiction. The draft Act would make attendance compulsory across the N.W.T. The draft Act is also different from the current Act in that it does not include the detail on implementing compulsory attendance in the Act itself. Education authorities across the north told us that the procedures were too complex to implement, or to enforce. The draft Act is recommending that the procedures be simplified, be included in regulation and that the procedures give the local authority for education more flexibility in administering this section.

Attendance

305. (1) Every student who at December 31 in a year is six years of age or older and younger than 16 years of age shall attend an education program regularly and punctually during the school year as required by this Act and the regulations.

Responsibility of parent

- (2) A parent of a student shall ensure that the student attends an education program regularly and punctually during the school year as required by this Act and the regulations.

Exemptions

- (3) A student is not required to attend an education program where
 - (a) the student is unable to attend by reason of his or her own sickness or other unavoidable cause that has been reported to the principal;
 - (b) the principal, after consultation with the parent, has excused the student from attending for a period that the principal may direct in order to allow the student to participate in traditional activities on the land or other learning experiences away from the community;
 - (c) the student is enrolled in a senior secondary education program and is excused by the principal, after consultation with the parent, for a semester to work or participate in traditional activities on the land or other learning experiences away from the community; or
 - (d) the student has been suspended or expelled from school and the suspension or expulsion is still in effect.

Religious or spiritual observance

- (4) A student is entitled to be excused, and a principal shall excuse a student, from attending an education program to participate in a spiritual or religious observance recognized by the denomination or the religious or spiritual authority or teachings to which the student adheres.

Offence and punishment

- (5) Every person who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding \$_____.

Consent to prosecution

- (6) No prosecution for an offence referred to in subsection (2) shall be commenced without the consent, in writing, of the District Education Authority.

Access by education staff

- (2) Education staff who are responsible for the delivery of a student's education program are entitled to examine the student's record.

Access by others

- (3) A parent of a student may give written consent to other persons to examine the student's record.

Offence

- (4) Every person who discloses information from a student record or examines a student record except as provided in this section is guilty of an offence and liable on summary conviction to a fine not exceeding \$_____.

Request for correction to student record

309. (1) If, on examining a student's record, the student's parent or the student is of the opinion that the student record contains inaccurate or incomplete information, the parent or student may request the principal to correct the inaccurate or incomplete information.

Resolution and appeal

- (2) If the principal does not correct the information as requested by the student's parent or the student within the prescribed time, the parent or student may lodge a written disagreement under section 501 with the principal's decision not to correct the information as requested.

Counsellor's notes

310. (1) Notes taken by a counsellor about a student are confidential to the counsellor and shall not be included in the student record.

Access

- (2) No person shall have access to notes taken by a counsellor about a student except the counsellor or a person who has the permission of the counsellor.

Offence

- (3) Every person who contravenes this section is guilty of an offence and liable on summary conviction to a fine not exceeding \$ ____.

1.12 Student Discipline

The draft Act seeks to provide appropriate consequences for students who breach their responsibilities.

Where a student damages school property, the draft Act holds students and parents liable for damage, theft or loss of school property by the student. Parents may have to pay for the damage incurred, or alternatively, the local authority responsible for education may permit the student to work for the school or community up to the value of the property damaged.

The draft Act sets out provisions for the discipline, suspension, and expulsion of students. It requires that the local authority responsible for education develop a discipline policy, which promotes a positive learning environment. The draft Act does not allow schools to use corporal punishment. (The current Act is silent on the issue of corporal punishment).

In the draft a principal of a school may suspend a student for a maximum of five days for the following conduct:

- persistent truancy;
- persistent opposition to authority;
- continuing neglect of responsibilities under the Act;
- wilful destruction of school property;
- use of profane or improper language;
- conduct which interferes with the work of other students or staff;
- conduct which harms the physical or mental well being of other students or staff, or creates a seriously harmful influence on other students or staff.

The draft Act says that when a student is suspended, the principal will notify the student, the parent, the student's teachers, the school counsellor, the local authority responsible for education, and the Superintendent of the suspension. The draft also says that the principal will notify the student and parent of their right to formally disagree with or appeal the suspension.

In the case of expulsion, the draft Act says that the principal and Superintendent must both recommend to the local authority responsible for education, that the student be expelled for the remainder of the semester or school year. The draft Act says that a student may be expelled if the student's conduct harms the physical or mental well-being of other students or school staff, or creates a seriously harmful influence on other students or staff. The local authority responsible for education then, according to the draft, holds a hearing to determine if the student should be expelled. The parent, student, principal and Superintendent are parties to the hearing.

If the student expelled is under 16 years of age, the draft says that the local authority responsible for education must attempt to assist the student to continue his or her schooling through other options during the period for which the student is expelled.

The draft Act also allows the student or parent to appeal a decision to expel a student.

The current Act does not address discipline but it does provide for students to be suspended and expelled. The provisions on expelling students emphasize the Superintendent's role more than the role of the local authority responsible for education.

The current Act only provides for an appeal to the Minister for the decision to expel a student. Appeals are not available for suspension, and there are no provisions to try to resolve the disagreement or make an appeal first to the local authority responsible for education. Also the current Act does not refer to the need for counselling for the student nor does it require that the local authority attempt to enable the student to continue their education if the student is expelled and he or she is under sixteen years of age.

School property

400. (1) If a student intentionally or negligently damages, destroys, converts or loses property owned or used by a school, the student and his or her parents are jointly and severally liable for the damage, destruction, conversion or loss.

Student age of majority

- (2) The parents of a student are not jointly and severally liable with the student under subsection (1) if the student has achieved the age of majority.

School or community service work

- (3) A District Education Authority may allow a student to perform work in the student's school or, if there is no suitable work in the school, to perform community service work, that is equal in value to the property damaged, destroyed, converted or lost as determined by the District Education Authority in place of monetary compensation for or replacement of the property.

Discipline policy

401. (1) A District Education Authority shall develop, in accordance with the direction of the Minister and the Divisional Education Council, a discipline policy for the education district that promotes a positive learning environment and governs the breach by a student of the school rules, code of conduct, or the responsibilities of a student under this Act and the regulations.

Corporal punishment

- (2) Corporal punishment shall not be used in the discipline of students.

Suspension of student

402. (1) A principal may suspend a student from school for,
- (a) persistent truancy;
 - (b) persistent opposition to authority;
 - (c) habitual neglect of his or her responsibilities under this Act or the regulations;
 - (d) the wilful destruction of school property;
 - (e) the use of profane or improper language;
 - (f) conduct that, in the opinion of the principal,
 - (i) interferes with the work of other students or school staff;
 - (ii) is injurious to the physical or mental well-being of other students or school staff; or
 - (iii) creates a situation that constitutes a seriously harmful influence on other students or school staff.

Period of suspension

- (2) A suspension shall be for a period fixed by the principal not exceeding five consecutive school days or such shorter period as may be established by the District Education Authority as the maximum period for suspensions under subsection (1).

Notice

- (3) On suspending a student, the principal shall
 - (a) notify in writing, without delay, the student, the student's parent, the student's teachers, the District Education Authority, the appropriate counsellor and the Superintendent of the suspension and the reasons for the suspension; and
 - (b) notify in writing, without delay, the student and the student's parent of their right to lodge a written disagreement with or to appeal the suspension under sections 501 to 503.

Review of suspensions

- (4) If a student is suspended more than once during a school year, the District Education Authority shall ensure that a counsellor or other appropriate resource person,
 - (a) reviews the circumstances of the suspension or suspensions, as the case may be; and
 - (b) where appropriate, informs the student and the student's parent of services that are available from the District Education Authority or elsewhere in the community to assist the student.

Expulsion of student

- 403. (1) A District Education Authority may expel a student from its schools for a semester or the remainder of a semester or the school year on a ground listed in subparagraph 402(1)(f)(ii) or (iii), if,
 - (a) the principal and the Superintendent so recommend;
 - (b) the student and the student's parent have been notified in writing of,
 - (i) the recommendation of the principal and the Superintendent,

- (ii) the right of the student and of the student's parent to make representations at a hearing to be conducted by the District Education Authority;
- (iii) if the student is expelled, the right of the student and of the student's parent to appeal the expulsion under sections 503 and 505;
- (c) the teacher or teachers of the student have been notified;
- (d) a counsellor or other appropriate resource person, where appropriate, informs the student and the student's parent, of services that are available from the District Education Authority or elsewhere in the community to assist the student; and
- (e) the hearing referred to in subparagraph (b)(ii) has been conducted.

Procedure

- (2) A hearing shall be conducted in accordance with the procedure set out in the regulations.

Readmission of student

- (3) A District Education Authority may at its discretion readmit to school a student who has been expelled.

Education program during expulsion

- (4) A District Education Authority shall endeavour to provide a student who is under 16 years of age and is expelled from its schools with access to an education program in the education district during the period of the expulsion by any means it considers appropriate if the student does not register with a public school or a public denominational school, as the case may be, or a private school or enrol in a home schooling program.

Application

- 404. (1) Sections 400, 402 and 403 apply to public schools and public denominational schools.

Same

- (2) Section 401 applies to public schools, public denominational schools and private schools.

1.13 Resolution and Appeal of Decisions Affecting Students

The draft Act gives students and parents the ability to try to resolve and then to appeal, decisions with which they disagree (made by education staff or the local authority responsible for education) which significantly affect the education, health or safety of the student. The draft attempts to ensure that any decisions concerning the delivery of a school program are resolved locally.

First the draft says that if the disagreement cannot be resolved by the principal or the local authority responsible for education, the parent and/or student may request the establishment of an appeal committee by the local authority responsible for education. The structure and procedures of the appeal committee would be established in regulation to ensure that the committee reviews the decision objectively. The chair of the committee would first review the request to appeal, and determine whether or not the appeal should be heard before the committee is established. The draft Act states that the decision of the appeal committee will be final, except in the case of an appeal on the expulsion of a student.

If a parent and/or student is not satisfied with the decision of the appeal committee in the case of an expulsion appeal, the draft states that the parent and/or student may appeal that decision to the Minister, with the Minister's approval. Expelling a student prevents a student from accessing an education program. The draft Act gives students an entitlement to access an education program and, consequently, in the case of expulsion, parents and/or students may appeal a decision to expel the student to the Minister.

Decision

500. (1) In sections 501, 502 and subsections 504(1) and (2), the failure to make a decision is a decision.

Status of decision

- (2) A written disagreement with or an appeal from a decision under sections 501 to 504, or an appeal from a decision of an appeal committee under section 505, does not stay the decision.

PRINCIPAL

Disagreement with decision of education staff

501. (1) Where a decision of a member of an education staff significantly affects the education, health or safety of a student, the student's parent or the student, together or separately may, within a reasonable time from the date that the parent or student was informed of the decision, notify the principal in writing that he or she disagrees with the decision.

Resolution by principal

- (2) On receiving the written notice of the parent or student, the principal shall attempt to resolve the disagreement with the decision, and if the principal is unable to do so, the principal shall notify the parent and the student in writing that he or she may proceed under section 502 to have the disagreement resolved.

DISTRICT EDUCATION AUTHORITY

Notice for resolution by District Education Authority

502. (1) A student's parent or a student, together or separately may, within a reasonable time from the date of the notice by a principal under subsection 501(2), notify the District Education Authority in writing that he or she disagrees with the decision of a member of the education staff.

Disagreement with decision of District Education Authority

- (2) Where a decision of a District Education Authority significantly affects the education, health or safety of a student, the student's parent or the student, together or separately may, within a reasonable time from the date that the parent or student was informed of the decision, notify District Education Authority in writing that he or she disagrees with the decision.

Resolution by District Education Authority

- (3) On receiving the written notice of the parent or student under subsection (1) or (2), the District Education Authority shall attempt to resolve the disagreement with the decision and if it is unable to do so, it shall notify the parent and the student in writing that he or she may appeal the decision to the appeal committee in accordance with the procedure set out in the regulations.

Suspension

- (4) If the disagreement of the student's parent or the student is with a decision to suspend the student and the suspension has expired, the District Education Authority or, if the decision is appealed, the appeal committee established by the District Education Authority under subsection 503(1), shall determine whether the suspension should be confirmed or whether the record of the suspension should be removed or modified.

Establishment of appeal committee

503. (1) The District Education Authority may establish an appeal committee in accordance with the regulations.

Decision whether to hear appeal

- (2) Before convening the appeal committee, the chairperson of the appeal committee shall review the disagreement referred to the appeal committee and may refuse to hear the appeal if, in the opinion of the chairperson, there are insufficient grounds for the appeal or the appeal is frivolous or vexatious.

Refusal to hear appeal

- (3) A decision of the chairperson not to hear the appeal is final and the chairperson shall notify in writing, without delay, the student's parent and the student of the decision.

Investigation and hearing

- (4) Where the chairperson agrees to hear the appeal, the appeal committee shall investigate and hear the appeal in accordance with the procedure set out in the regulations.

Decision

- (5) An appeal committee shall make a decision as soon as practicable after receiving an appeal.

Same

- (6) An appeal committee may make any decision that it considers appropriate in respect of the decision that is appealed to it and may award costs.

Same

- (7) Subject to section 505, the decision of the appeal committee is final.

Notice to parent and student

- (8) An appeal committee shall promptly report its decision to the parent and the student making the appeal.

DIVISIONAL EDUCATION COUNCIL

Decision of Divisional Education Council

504. (1) Where a decision of a Divisional Education Council significantly affects the education, health or safety of a student, the student's parent or the student, together or separately may, within a reasonable time from the date that the parent or student was informed of the decision, notify the Divisional Education Council in writing that he or she disagrees with the decision.

Resolution by Divisional Education Council

- (2) On receiving the written notice of the parent or student, the Divisional Education Council shall attempt to resolve the disagreement with the decision and if it is unable to do so, it shall notify the parent and the student that he or she may appeal the decision to the appeal committee in accordance with the procedure set out in the regulations.

Establishment of appeal committee

- (3) The Divisional Education Council may establish an appeal committee in accordance with the regulations.

Procedure

- (4) Subsections 503(2) to (6) and (8) apply to an appeal under this section.

Decision of appeal committee

- (5) The decision of the appeal committee is final.

MINISTER

Appeal to Minister

505. (1) A student's parent or a student, together or separately, may appeal a decision of an appeal committee established by a District Education Authority under subsection 503(1) respecting the expulsion of the student to the Minister in accordance with the regulations if the Minister agrees to hear the appeal.

Procedure

- (2) The Minister shall investigate and hear the appeal in accordance with the procedure set out in the regulations.

Decision of Minister

- (3) The Minister may make any decision that the Minister considers appropriate in respect of the decision that is appealed to the Minister and may award costs.

Same

- (4) The decision of the Minister is final.

STUDENT RECORD

Power to expunge student record

- 506. A principal, a District Education Authority or an appeal committee established by it under subsection 503(1), or the Minister, in resolving a disagreement or determining an appeal concerning a suspension or expulsion in favour of a student may, where appropriate, direct that any record of the suspension or expulsion, or of the disagreement or appeal, be expunged from the student's record, and the principal shall do so without delay.

PART II

Educators

2.1 Teachers' Qualifications

The draft Act proposes to retain the provisions of the current Act regarding teachers' qualifications; no person shall be employed as a teacher unless he or she holds a teaching certificate.

Employment of teachers

600. (1) Subject to subsection (2), no person shall be employed as a teacher unless he or she holds a teaching certificate issued under this Act or the regulations.

Exemption

- (2) Subsection (1) does not apply to a person employed to teach for not more than 20 consecutive teaching days.

Same

- (3) This section does not apply to an adult educator, a person hired for local programs or a parent of a student instructing the student under a home schooling program.

2.2 Duties of Teachers

The Draft Act proposes that the duties of teachers will include:

- increased emphasis on the assessment of students and involvement of parents;
- the encouragement of student's efforts to learn;
- the encouragement of student's self esteem and respect for themselves and others; and
- the development and assessment of individual education plans.

Duties of teachers

601. (1) Every teacher shall

- (a) encourage the students under his or her care in the pursuit of learning;
- (b) diligently teach students in a manner that promotes their physical, emotional, social, intellectual and spiritual development;
- (c) implement the education program and Individual Education Plans in a way that encourages
 - (i) the development of students' self-respect, dignity and self esteem; and
 - (ii) the students to respect other students' cultural and spiritual or religious values and beliefs;
- (d) develop, implement and assess Individual Education Plans pursuant to section 105;
- (e) assess each student's progress in the education program and Individual Education Plans;
- (f) review, at least twice in the school year, with each student and, if the student is a minor, his or her parent, the student's progress and assessments and advise the student of what the student must do to advance in the education program or his or her Individual Education Plan;
- (g) ensure that students understand and encourage their compliance with the code of conduct governing their behaviour and the school rules;

- (h) recommend to the principal the suspension from school of any student who, in his or her opinion, constitutes a continuing and harmful influence on other students;
- (i) report suspected abuse of a child pursuant to the requirements of the *Child Welfare Act*;
- (j) attempt to develop and improve his or her professional skills;
- (k) provide the reports, records and statistics that may be required by this Act, the regulations, the Superintendent or the principal;
- (l) maintain all books, materials or equipment assigned to him or her or placed in his or her care in the best possible condition, and return them when leaving his or her position or when requested to do so;
- (m) provide assistance and support to the principal and other members of the staff of the school;
- (n) at the direction of the principal, attend the meetings, activities and exercises held in connection with the school program; and
- (o) perform any other tasks related to the implementation of the education program that are assigned to the teacher.

Assignment to teacher intern

- (2) A teacher may assign duties to a teacher intern and shall supervise the performance of those duties.

Assignment to education assistant

- (3) A teacher may assign duties to an education assistant that are consistent with that person's contract of employment and shall supervise the performance of those duties.

Disturbances on school premises, bus

602. (1) A teacher may exclude from the school premises or from a school bus that is owned by a District Education Authority or a bus or school bus that is under contract to a District Education Authority any person who creates or attempts to create a disturbance on the school premises while the premises are being used for school purposes or on such a school bus or bus.

Offence and punishment

- (2) If a teacher attempts to exclude a person from the school premises or school bus or bus and that person refuses to leave the school premises, school bus or bus, that person is guilty of an offence and is liable on summary conviction to a fine not exceeding \$_____.

Application

- (3) This section applies to public schools and public denominational schools.

2.3 Teacher Interns

The current *Education Act* says that local authorities responsible for education may authorize teacher interns to access schools for the purpose of practice teaching, but does not address the duties of teacher interns. The draft Act says that a teacher intern will be assigned duties by a teacher, and supervised by a teacher in the performance of those duties.

Role of teacher interns

603. A teacher intern shall perform the duties assigned to him or her under subsection 601(2).

Access to schools

604. Every education body shall authorize each teacher intern to have access to the schools in the area within their jurisdiction for the purpose of practice teaching, observation and performing the duties assigned to him or her.

2.4 Teacher Certification and Employment Matters

The draft Act, like the current Act provides for the registration and certification of teachers. However, the draft states that the Registrar appointed by the Minister, rather than the Minister, will register and certify teachers, in accordance with the regulations. The draft Act also continues the direction of the current Act by allowing a teacher to appeal a decision to cancel or suspend a certificate to the Minister.

The draft increases the period of suspension of a teacher for investigation of alleged misconduct from a maximum of 10 days in the current Act to a maximum of 30 days, with one extension of another 30 days. This increase in time is being proposed to allow adequate time for investigation and decision, and to make the provisions in the draft *Education Act* comparable to the provisions of the *Public Service Act*.

The draft Act is also introducing progressive discipline for teachers in cases of misconduct or incompetence. It says that a Superintendent may give the teacher an oral reprimand, a written reprimand, suspend the teacher for a period of 10 days, or dismiss the teacher. While retaining the right to have dismissal reviewed by a Board of Reference, the draft says that teachers will be responsible for paying part of the costs of the Board of Reference. Alternatively, the draft gives teachers the option to have the dispute arbitrated according to the *Arbitration Act*.

Registrar

605. The Minister shall appoint a Registrar to perform the prescribed duties respecting the registration and certification of teachers.

Application

606. A person may apply to the Registrar for a teaching certificate.

Registrar's powers

607. The Registrar may issue, suspend and cancel teaching certificates in accordance with the regulations.

Right to appeal

608. (1) A teacher whose certificate of qualification is cancelled or suspended under the regulations may appeal the decision to the Minister in accordance with the regulations.

Evidence

- (2) On receipt of a notice of appeal of the cancellation or suspension of a teaching certificate, the Minister shall review the record of the committee that heard the complaint and the Minister may require additional evidence before making a decision on the appeal.

Decision of Minister

- (3) The Minister shall confirm, vary or set aside the decision under appeal.

Written reasons

- (4) The Minister shall give written reasons for the decision and give the appellant a copy of the decision.

Decision final

- (5) The decision of the Minister is final.

**TEACHERS' CONTRACTS, SUSPENSION, TERMINATION AND
DISMISSAL**

Contracts

609. (1) Subject to section 610, a contract of employment of a teacher continues in force from school year to school year and may be terminated by mutual consent, by dismissal for cause or by dismissal for incompetence, or at the end of a school year by notice in writing.

Delivery of notice

- (2) Notice of termination of a teacher's contract of employment at the end of a school year shall be delivered by one party to the other or sent by registered mail at least 60 days before the day set as the closing day of the school in which the teacher is employed.

Dismissal

610. (1) A teacher may be dismissed for cause or for incompetence at any time in the prescribed manner.

Employed less than two years

- (2) Where a teacher has been employed as a teacher for less than two consecutive years, the employer of the teacher may terminate the contract of the teacher at the end of a school year in accordance with subsection 609(2).

Termination for cause, incompetence

- (3) Where a teacher has been employed as a teacher by one employer for two or more consecutive years, that employer shall not terminate the contract of that teacher except for cause or for incompetence.

Termination where requirements decreased

- (4) Notwithstanding any contract of employment or provision of this Act, where the number of teachers required in an education district is decreased, the employer may terminate the contract of any teacher at the end of a school year by giving notice in writing as required by subsection 609(2).

Written reasons for dismissal

- (5) Where a teacher is dismissed or his or her contract is terminated, the employer shall give the teacher written reasons for the dismissal or termination.

Other employment

- (6) The Superintendent shall attempt to locate a teaching position in the area within the jurisdiction of the Superintendent for a teacher teaching in that jurisdiction whose contract is terminated under subsection (4).

Suspension where allegation of misconduct or incompetence

611. (1) In any case where it is alleged that a teacher has been guilty of misconduct or is incompetent and the Superintendent considers it desirable to investigate the allegation, the Superintendent may investigate the allegation and may, by notice in writing, suspend the teacher from teaching for a period of up to 30 days.

Extension of period of suspension

- (2) Subject to subsection (3), the Superintendent may extend the period of suspension of a teacher for an additional period of up to 30 days.

Maximum period of suspension from teaching

- (3) The maximum period for which a teacher may be suspended under this section is 60 days.

Powers of Superintendent

612. (1) Whether or not there has been an investigation, where the Superintendent is satisfied that a teacher is guilty of misconduct or is incompetent, the Superintendent may
 - (a) give the teacher an oral reprimand;
 - (b) give the teacher a written reprimand;
 - (c) suspend the teacher for a period of up to 10 days; and
 - (d) dismiss the teacher.

Exercise of powers

- (2) The Superintendent may take any or all of the actions set out in subsection (1).

Arbitration

613. Where a dispute arises concerning a contract of employment between a teacher and the education body employing the teacher, the dispute may be determined by means of arbitration pursuant to the *Arbitration Act*.

BOARD OF REFERENCE

Board of reference

614. (1) Subject to subsection (2), a teacher who is dismissed for cause or for incompetence may, in the prescribed manner and within the prescribed time, appeal the dismissal to a board of reference.

Members

- (2) A board of reference shall be composed of
 - (a) a person selected by the teacher;
 - (b) a person selected by the employer; and
 - (c) a chairperson selected by the persons selected by the teacher and the employer.

Honoraria and expenses

- (3) The members of a board of reference shall be paid the prescribed honoraria and expenses.

Costs

- (4) The parties to an investigation by a board of reference shall each pay
 - (a) their own expenses and costs;
 - (b) the fees and expenses of the members of the board of reference selected by them;
 - (c) an equal share of the fees and expenses of the chairperson; and
 - (d) an equal share of the expenses of the board of reference.

Powers of board of reference

615. (1) A board of reference shall conduct its hearings in accordance with the regulations and may
- (a) compel the attendance of witnesses and require that evidence be given on oath;
 - (b) compel the production of books, documents and papers; and
 - (c) do all things necessary to provide a full and proper investigation into any matter before it.

Offence and punishment

- (2) Every person is guilty of an offence punishable on summary conviction who is served, in accordance with the regulations, with a notice to attend before a board of reference and
 - (a) fails, without valid excuse, to attend the hearing;
 - (b) fails to produce any book, paper or document in his or her possession or under his or her control when required to produce it under subsection (1); or
 - (c) refuses to answer any questions put to him or her by the board of reference.

Determination

616. (1) On hearing an appeal by a teacher who has been dismissed, the board of reference shall
- (a) uphold the dismissal of the teacher; or
 - (b) grant the appeal and order the employer to reinstate the teacher to his or her position and may include in the order instructions to the employer in respect of the teacher's record, salary and any other matters that it considers just and fair in the circumstances.

Decision

- (2) The decision of the board of reference is final.

TRANSFERS OF TEACHERS

Transfers

617. (1) A teacher who is employed by a District Education Authority may be transferred from one education district to another education district if notice of the transfer is provided in writing to the teacher at least 60 days before the day set as the closing day of the school for the education district in which the teacher is employed.

Resignation

- (2) A teacher has the option of resigning from his or her position within 30 days after being served with notice of the transfer.

2.5 Education Assistants and Classroom Assistants

The draft Act states that education assistants will follow the directions of a teacher. It recognizes that there are a variety of responsibilities that such assistants perform, from providing support services to students to providing administrative support to the teacher.

The current *Education Act* provides for classroom assistants. Classroom assistants were established to provide language and cultural services in the classroom because teachers in the past were largely non-aboriginal teachers. This situation is changing. Many former classroom assistants have become certified as Aboriginal Language Specialist Teachers and the number of aboriginal teachers are increasing.

The draft is proposing that, if this section becomes law, classroom assistants will retain their current positions and salaries for five years after the Act comes into force. During that period they may choose to continue their training or become education assistants.

Duties of education assistant

618. (1) An education assistant employed in a school shall follow the directions of a teacher.

Classroom assistant, transitional

- (2) A person employed as a classroom assistant under the *Education Act, R.S.N.W.T.1988,c.E-1*, shall be deemed to be an education assistant from the coming into force of this Act.

Remuneration

- (3) For five years from the coming into force of this Act a person to which subsection (2) applies shall receive remuneration equivalent to that of classroom assistant.

2.6 Principals and Duties of Principals

The draft Act is proposing that the duties of principals will include:

- encouraging consultation and participation of parents, community elders, community members, government and community organizations in the development and implementation of school programs and activities;
- ensuring the curriculum is taught;
- supporting and monitoring home schooling programs;
- ensuring the safety of students and staff;
- ensuring high standards and consistency in assessment of students' progress;
- ensuring a high standard of teaching;
- ensuring that Territorial standards for education are met;
- evaluating and assigning duties to school staff;
- reporting to and following the direction of the local authority responsible for education; and
- working cooperatively with public colleges and regional administrators of education.

Principal

619. (1) Subject to sections 622 to 625, a District Education Authority shall, for every school with more than one teacher, employ a teacher to be the principal of the school for a specified term not exceeding five years.

Acting principal

- (2) A District Education Authority may designate a teacher to be acting principal but where an acting principal has been designated, the District Education Authority shall employ a principal within 12 months of the designation.

Divisional Education Council

- (3) The District Education Authority shall inform the Divisional Education Council of the hiring of a principal or the designation of an acting principal.

Assistant principal

620. (1) Where a school has more than 10 teachers, the education body responsible for that school may employ a teacher as the assistant principal of that school.

Duties of assistant principal

- (2) An assistant principal shall perform the duties assigned by the principal.

Termination of contract

- (3) A contract of employment of an assistant principal may be terminated by giving notice in writing to the assistant principal at least 60 days before the day set as the closing day of the school.

Contract as teacher

- (4) The termination of a contract of employment of an assistant principal does not terminate a contract of employment as a teacher if the person held a teaching position before being hired as assistant principal.

Principals

621. (1) A principal, an acting principal and an assistant principal have all the rights and duties of a teacher under this Act.

Delegation

- (2) A principal may delegate duties to an assistant principal.

Other duties of principal

- (3) In addition to the duties of a teacher, a principal and an acting principal shall
- (a) promote the cooperative development of school goals, plans and policies by students, parents, school staff, community elders and other community members in order to facilitate partnership and excellence in education;
 - (b) provide direction and leadership in the development of the education program and in educational activities of the school;
 - (c) develop and implement programs and procedures for parental and community involvement in the education program;
 - (d) ensure that the curriculum is taught;
 - (e) perform the prescribed duties relating to the support and monitoring of home schooling programs;
 - (f) be responsible for the organization, administration and discipline of the school;
 - (g) coordinate, on the advice of students, parents and school staff, the development and implementation of a school code of conduct;
 - (h) in accordance with the directions of the Minister, establish guidelines for the selection of student representatives;
 - (i) develop a positive learning environment;
 - (j) ensure the safety of the students and school staff;
 - (k) ensure that all Territorial standards for the education program are met;
 - (l) ensure consistency and fairness in the assessment of students' progress;
 - (m) monitor and encourage a standard of teaching consistent with the goals of education as expressed in this Act;
 - (n) evaluate school staff in accordance with the regulations;

- (o) subject to direction from the Superintendent, the District Education Authority and the Divisional Education Council, assign duties to school staff;
- (p) report to the District Education Authority, at the request of the authority, and the Divisional Education Council, at the request of the council, on the effectiveness of the delivery of the education program and Individual Education Plans;
- (q) prepare and submit a report to the District Education Authority setting out future plans for school programs;
- (r) attend all public meetings of the District Education Authority and, where requested by the authority, attend *in camera* meetings;
- (s) follow the directions of the District Education Authority and the Divisional Education Council regarding future plans for school programs;
- (t) incorporate into the education program the content, practices and procedures that represent the wishes of the District Education Authority and the Divisional Education Council;
- (u) prepare and submit the reports required under this Act or the regulations;
- (v) prepare and submit to the appropriate education body a budget for the fiscal year for the school;
- (w) supervise all expenditures made from the school budget;
- (x) work cooperatively with public colleges, established under the *Public Colleges Act*, to meet the education needs of the education district;
- (y) work cooperatively with the persons responsible for the regional administration of education, culture and employment for the education district to meet the education needs of the district; and
- (z) follow the directions of the Superintendent.

Termination of employment

- (4) The employment of a teacher as a principal may be terminated by giving notice in writing to the principal at least 60 days before the day set as the closing day of the school.

Contract as teacher

- (5) The termination of the employment of a principal does not terminate a contract of employment as a teacher if the person held a teaching position before being hired as a principal.

Transitional

622. For two years after the day on which this Act comes into force, section 624 does not apply to teachers hired as principals before the coming into force of this Act.

2.7 Principals' Certificate of Eligibility

The draft Act is proposing that the time for a teacher, who has been employed as a principal to become qualified to be issued a certificate of eligibility as principal, be reduced to two years (from three years under the current Act) with a possible one year extension.

Certificate of eligibility

623. A certificate of eligibility as principal may be issued to a teacher who has the prescribed qualifications and who successfully completes the prescribed program for the training of teachers as principals.

Eligibility of teachers as principals

624. (1) Subject to subsection (2), no teacher is eligible to be employed or to continue to be employed as principal of a school under subsection 619(1) unless the teacher holds a certificate of eligibility as principal issued in accordance with the regulations.

Exception

- (2) A teacher who does not hold a certificate of eligibility as principal may, with the approval of the Minister, be employed as principal of a school where the Minister is satisfied that the prescribed conditions governing that employment are satisfied.

Limitation of time

- (3) A teacher referred to in subsection (2) who does not obtain a certificate of eligibility as principal within two years after the day that the teacher is employed as principal is not eligible to be principal of any school until he or she obtains a certificate of eligibility.

Extension of time

625. The Minister may, on written application by a teacher, grant a teacher referred to in section 622 or subsection 624(3) a single extension of one year to enable the teacher to obtain a certificate of eligibility as principal, where the Minister is satisfied that circumstances exist that justify the extension.

PART III

Communities: Cultural Diversity

3.1 Language of Instruction and Language Taught

The draft Act establishes the ability of the local authority responsible for education to choose the language of instruction for the education district (community). The language of instruction must be an official language of the Territories, there must be a significant demand for the language in the district, and there must be sufficient teachers available to teach and school program materials available in the language.

The draft also proposes that there may be more than one language of instruction used in a school or in the schools in the district (community). If the language of instruction is not English, the draft says that English must be taught as a language as part of the education program.

The draft Act affirms the right of parents who have a right under section 23 of the *Canadian Charter of Rights and Freedoms* to have their children receive instruction in French. It states that their children will receive that instruction in accordance with the regulations, wherever in the Territories that right applies.

In addition the draft says that the Minister may allow the operators of private schools or parents providing a home schooling program to determine the language of instruction of the education program they offer.

These proposals in the draft differ from the current Act. The current Act says that the local authority determines the language of instruction from kindergarten to grade two and, after that, the Minister in consultation will determine the language of instruction. It does not address rights under section 23 of the Charter, nor does it refer to the official languages of the Northwest Territories.

Language of instruction

700. (1) The language of instruction of an education program must be an Official Language.

Number of languages of instruction

- (2) There may be more than one language of instruction in an education district and more than one language of instruction in a school.

Determining language of instruction

701. (1) Subject to the approval of the Minister, a District Education Authority shall determine the language of instruction to be used in the education district.

Prior consultation

- (2) If there is more than one education district in an education division, the District Education Authorities shall consult through the Divisional Education Council on the development and use of school program materials and the supply of teachers who are fluent in a language and their availability to teach in that language before determining the language of instruction to be used in their respective education districts.

Choice of language of instruction

- (3) A District Education Authority may choose a language as the language of instruction if the Minister determines that
 - (a) there is a significant demand for the language in the education district;
 - (b) there are a sufficient number of teachers who are fluent in the language available to teach in the language in the education district; and
 - (c) there are sufficient and suitable school program materials available in the language.

French: section 23 Charter

702. Students whose parents have a right under section 23 of the *Canadian Charter of Rights and Freedoms* to have their children receive instruction in French are entitled to receive that instruction in accordance with the regulations wherever in the Territories that right applies.

Language taught - optional

703. (1) Subject to subsection (2), a District Education Authority may determine the language to be taught as part of the education program in the education district or in any school in the education district.

Language taught - mandatory

- (2) If English is not the language of instruction, English must be taught as a language as part of the education program.

Teaching language

- (3) The language taught as part of an education program must be an Official Language and taught in accordance with the direction of the Minister.

Private school and home schooling

704. (1) An operator of a private school or a parent of a student in a home schooling program may apply in writing to the Minister for an exemption from using or teaching the language determined by the District Education Authority as the language of instruction or the language to be taught as part of the education program.

Exemption

- (2) The Minister may allow the operator of a private school or the parent to determine the language of instruction of the education program offered in the private school or through the home schooling program, subject to the approval of the Minister, and the language to be taught as part of the education program.

Determining language

- (3) Subsections 700(1) and 703(2) and (3) apply to an operator of a private school or a parent in determining the language of instruction or language to be taught as part of the education program offered in the private school or through the home schooling program.

3.2 Cultural Variation

The draft Act requires the Superintendent and principals in an education district (community) to plan the delivery of the education program to provide culture-based schooling, in accordance with the direction of the local or divisional authority responsible for education. It also requires the local or divisional authority to achieve and maintain in the school staff a representation of cultural backgrounds that reflects the cultural variations of the population of the district, to the extent that qualified persons are available.

The wording in these sections is similar to the current Act, but it gives the decision making clearly to the local or divisional authority.

Culture-based school programs

705. The Superintendent and the principals of the schools in an education district shall plan the delivery of the education program for the education district in accordance with the direction of the District Education Authority or the Divisional Education Council respecting culture-based school programs.

School staff - cultural variation

706. A District Education Authority or Divisional Education Council shall, in accordance with the direction of the Minister, achieve and maintain in the school staff for an education district a representation of cultural backgrounds that reflect the cultural variations of the population of the education district, to the extent that qualified persons are available.

3.3 Religion and Spirituality

The current Act provides that the school day may begin with the Lord's Prayer and provides for the delivery of religious instruction in public schools. These provisions were enacted before the *Canadian Charter of Rights and Freedoms* became law in 1982, and should be considered now in light of the Charter.

The draft Act is proposing that teachers may make statements about spiritual or religious values or beliefs, if required to explain an aspect of a subject or a world view. The draft says teachers can make such statements providing that the statement is made in a manner that is respectful of the spiritual or religious values or beliefs of all the students.

The draft Act also says that a public denominational school may provide religious instruction up to 150 minutes a week, and may conduct religious exercises. It says that the religious instruction and exercises shall be provided in a manner that is respectful of the spiritual or religious values or beliefs of all the students.

Statements: spiritual or religious values or beliefs

707. (1) A teacher may make a statement about spiritual or religious values or beliefs if the statement is required to explain an aspect of a subject or a world view and is made in a manner that is respectful of the spiritual or religious values or beliefs of all the students.

Public denominational schools

- (2) A public denominational school may provide religious instruction during periods not exceeding 150 minutes in any week and may conduct religious exercises, and the religious instruction and exercises shall be provided or conducted in a manner that is respectful of the spiritual or religious values or beliefs of all the students.

PART III

Communities: Governance

3.4 General Comments

The draft Act is proposing changes to the governance of the education system to:

- recognize the Minister's overall responsibility for the administration of the education system and to maintain high standards of education throughout the Territories;
- increase the control over education exercised by communities;
- increase cooperation and coordination between educators, and community members and organizations; and
- establish structures governing the delivery of education which are flexible enough to allow for a progressive increase in both community control and cooperation.

The current *Education Act* provides for several district or community governance bodies for education, some of which, Community Education Committees and Community Education Societies, no longer exist. These community governance structures are not mentioned in the draft Act, as well as the Board of Secondary Education, which also no longer exists.

In addition the current Act provides for Boards of Education and Community Education Councils for education districts (communities). It also provides for Divisional Boards of Education for divisions, which include a number of Community Education Councils.

In the proposed draft of the Act, the governance structures for education are simplified to two: District Education Authorities for the education district or community, and Divisional Education Councils for a number of District Education Authorities working together in a division. The Divisional Education Council takes the place of the Divisional Board of Education under the current Act. The District Education Authority takes the place of both the Board of Education, and the Community Education Council under the current Act.

Education districts

709. (1) The Minister shall divide the Territories into education districts.

Education district for each community

(2) The Minister may establish an education district for every community in the Territories in which there is at least one school in operation and every school shall be in an education district.

Size of education districts

(3) The limits of an education district must coincide with the boundaries of the community it serves but the Minister may alter the limits of the education district to meet the education needs of the community.

Transitional

710. Every school district and separate school district erected by order of the Commissioner before July 1, 1977, under section 28 of the *School Ordinance*, R.S.N.W.T. 1974,c.S-3, and section 8 of the *Education Act*, R.S.N.W.T. 1988,c.E-1, is continued under this Act as an education district.

DISTRICT EDUCATION AUTHORITIES

Establishment of District Education Authorities

711. (1) A District Education Authority is established for each education district.

Governance

(2) Each education district shall be governed by a District Education Authority.

Duties of District Education Authorities

- (3) The Minister shall, by regulation, allocate any or all of the duties set out in section 747 to each District Education Authority where the Minister considers that the duties are necessary for the delivery of the education program and the management of the education district.

Powers of District Education Authority

- (4) The Minister shall, by regulation, allocate any or all of the powers set out in section 748 to each District Education Authority where the Minister considers that the powers are necessary for the delivery of the education program and the management of the education district.

Powers to go to Divisional Education Council

- (5) Where the Minister does not allocate a power or duty under subsections (3) and (4) to a District Education Authority, that power or duty shall be the responsibility of the Divisional Education Council responsible for that education district.

Where no Divisional Education Council

- (6) Where no Divisional Education Council exists, and the Minister does not allocate a power or duty under subsections (3) and (4) to a District Education Authority, that power or duty shall vest in the Deputy Minister.

Additional powers

- (7) The Minister may, by regulation, allocate any or all of the powers set out in section 749 to a District Education Authority where the Minister considers that the powers are necessary for the delivery of the education program and the management of the education division.

Petition to leave division

712. (1) A District Education Authority may petition the Minister to have the education district for which they are responsible
- (a) removed from an education division;
 - (b) added to an education division; or
 - (c) moved to a different education division.

Changing education division

- (2) The Minister shall amend the order establishing an education division where,
- (a) after consultation with the Divisional Education Council and all District Education Authorities in the education division in question, the Minister is of the opinion that the education district referred to in subsection (1) should be removed from or added to the education division;
 - (b) where the District Education Authority referred to in subsection (1) has complied with any other criteria determined by the Minister for removal from or addition to the education division; and
 - (c) an education district is moved to another education division.
- (3) Where an education district is added to or moved to an education division, the District Education Authority for that district shall not petition the Minister for removal from that education division for five years.

Request to establish commission scolaire francophone de division

713. (1) Where there exists 2 or more *conseils scolaires francophones*, the *conseils* may, together, request the Minister to establish a *commission scolaire francophone de division*.

Minister may establish commission scolaire francophone de division

- (2) Upon receipt of a request under subsection (1), the Minister may, by regulation, establish a *commission scolaire francophone de division* and may set out the area within its jurisdiction.

Powers, duties and liabilities

- (3) Where the Minister establishes a *commission scolaire francophone de division*, the *commission* may exercise all powers and privileges and is subject to the same liabilities and method of government provided in respect of Divisional Education Councils.

Elections

714. The Minister may make regulations respecting the election of members of a *commission scolaire francophone de division*.

Body corporate

715. Each District Education Authority is a body corporate.

3.5 Establishing District Education Authorities

The Minister establishes education districts for all N.W.T. communities in the current Act, and in the draft Act. The draft Act says that every education district will be governed by a District Education Authority. Also, any or all of the duties and powers listed in the draft Act (see section 3.10 below) shall be allocated to District Education Authorities by regulations.

In addition to the flexibility provided by the specific allocation of duties and powers to District Education Authorities, the draft *Education Act* proposes that the manner of forming the District Education Authority can also vary, by means of the community petitioning the Minister to form their District Education Authority in a different way from the election as set out in the *Local Authorities Elections Act*. The specifics of the form and procedures of the petition will be set out in regulation, and policy guidelines will be developed to assist communities in considering different possible options.

Petition for power to establish education district

716. (1) The residents of an education district may petition the Minister in the prescribed manner for the power to establish a District Education Authority in a manner other than that set out in this Act.

Minister may accept or reject

- (2) The Minister may accept or reject the petition.

Rejection of petition

- (3) Where the Minister rejects the petition, the Minister shall provide written reasons for the rejection.

Minister accepts petition

- (4) Where the Minister accepts the petition, the Minister may, by regulation, set out the steps required for the establishment of the District Education Authority that is the subject of petition.

District Education Authorities have same status

- (5) A District Education Authority established under to subsection (4) has the same status as a District Education Authority established under subsection 711(1).

Powers, duties and liabilities

- (6) Where the Minister establishes a District Education Authority under subsection (4), the authority has and may exercise all the powers and the privileges and is subject to the same liabilities and method of government provided in respect of District Education Authorities established under subsection 711(1).

Continuation of community education council as District Education Authority

717. A community education council established under the *Education Act, R.S.N.W.T. 1988, c. E-1*, is continued as a District Education Authority with the powers given to it under that Act until the next municipal election in the education district that the community education council represents.

Continuation of board of education as District Education Authority

718. (1) A board of education for a district established under the *Education Act, R.S.N.W.T. 1988, c.E.-1*, is continued as a District Education Authority until the next municipal election in the education district which the board of education represents.

Duties and powers

- (2) A District Education Authority continued under this section has all of the powers and duties set out in sections 747, 748 and 749.

3.6 District Education Authority: Membership and Terms

The draft Act proposes that a local education authority for a district be called a District Education Authority. It then proposes some changes in the membership of the District Education Authority. A District Education Authority will consist of seven elected members, and the member elected with the most votes is proposed to become the Chair of the District Education Authority. The Chair of the District Education Authority of a district in a division serves as the representative to the Divisional Education Council. It is hoped that this manner of electing a Chair will give the community greater say in determining the representative to the Divisional Council, and will also provide for more continuity on Divisional Councils.

The draft says that the term of office of members of a District Education Authority will be three years, except where the term of the municipal council of the district is two years, in which case the term of the members of the District Education Authority will be two years.

Election of members

719. (1) The *Local Authorities Elections Act* applies to all matters respecting the election of the members and the chairperson of a District Education Authority.

Six members to District Education Authority

- (2) The residents of an education district shall elect six members and one chairperson to the District Education Authority.

Term of office

- (3) The term of office of a member and the chairperson of a District Education Authority is
- (a) two years, where the term of the members of the municipal council that the District Education Authority represents is two years; or
 - (b) three years, where the term of the members of the municipal council that the District Education Authority represents is other than two years.

Holidays

- (4) Where the term of office of a member and the chairperson of a District Education Authority begins or ends on a Monday that is a holiday, the term begins or ends on the next day that is not a holiday.

Member of District Education Authority not liable

- (5) A member of a District Education Authority is not liable for loss or damage caused by anything done or not done by him or her in good faith in the performance of his or her duties or in the exercise of his or her duties.

Chairperson

720. (1) The person who receives the most votes in the election of the District Education Authority is the chairperson of the District Education Authority.

Vice-chairperson

- (2) The person who receives the second highest number of votes in the election of the District Education Authority is the vice-chairperson of the District Education Authority.

Chairperson is representative to Divisional Education Council

- (3) The chairperson of a District Education Authority is, by virtue of being chairperson, a member of the Divisional Education Council.

Resignation

721. (1) A member of a District Education Authority may resign by submitting his or her written resignation to the secretary of the authority, and the member ceases to hold office at the meeting of the authority when his or her resignation is received.

Resignation of all members

- (2) If all the members of a District Education Authority 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.

Resignation of chairperson

- (3) The chairperson of a District Education Authority may resign the position of chairperson while retaining a seat on the council.

Replacement of chairperson

- (4) Where the chairperson of the District Education Authority resigns, the vice-chairperson becomes the chairperson and the council shall select a new vice-chairperson from their membership.

Replacement of chairperson and vice-chairperson

- (5) Where the chairperson and vice-chairperson resign the District Education Authority shall select a new chairperson and vice-chairperson from their membership.

Member shall vacate seat

722. A member of a District Education Authority shall vacate his or her seat and cease to be a member where that person
- (a) is convicted of an offence under this Act;
 - (b) would, subsequent to his or her election, not be eligible to be a candidate at an election as a member;
 - (c) absents himself or herself from meetings of the District Education Authority for three consecutive months without being authorized to do so by a resolution entered in the minutes of the District Education Authority; or
 - (d) violates the code of conduct established by the District Education Authority.

Election to replace resigning members

723. (1) Where the number of members of a District Education Authority falls below the quorum required by this Act, the District Education Authority shall hold an election, in accordance with the requirements of this Act, to fill the vacant seats on the authority.

Term of replacement members

- (2) The members of the District Education Authority elected pursuant to subsection (1) shall hold office for the balance of the term of the members whom they are elected to replace.

Eligibility to vote

- (2) The residents of the education district who have chosen to support the public denominational education district are the persons qualified to vote for the public denominational District Education Authority pursuant to section 719.

Person may vote only once

- (3) Where a resident has stated that he or she supports both the education district and the public denominational education district, the resident may vote for either the District Education Authority or the public denominational District Education Authority but not both.

Procedure for dissolution

730. (1) A public denominational District Education Authority may conduct a referendum to determine whether the public denominational education district should be dissolved, and shall conduct the referendum if 25% of the persons eligible to vote for the public denominational District Education Authority the authority to have the public denominational education district dissolved.

Dissolution

- (2) Where a referendum under subsection (1) indicates that a majority of persons favour dissolution of the public denominational education district, the public denominational District Education Authority shall report this to the Minister and the Minister shall dissolve the public denominational education district and the public denominational District Education Authority.

3.8 Education Divisions and Divisional Education Councils

Like the current Act the draft Act establishes divisions by regulation and it says that Divisional Education Councils will be established for every division.

All chairs of District Education Authorities who are members of the education division are members of the Divisional Education Council.

The current Act gives more authority directly to Divisional Boards of Education and Community Education Councils are established only after a division is established.

Education divisions

731. (1) The Minister shall, by regulation, establish education divisions.

Membership in division

(2) Each education district shall be a member of the education division that includes that education district.

DIVISIONAL EDUCATION COUNCILS

Establishment of Divisional Education Council

732. (1) A Divisional Education Council is established for each education division.

Goverance

(2) Each education division shall be governed by a Divisional Education Council.

Duties of council

- (3) The Minister shall, by regulation, allocate any or all of the duties set out in section 747 to each Divisional Education Council where the Minister considers that the duties are necessary for the delivery of the education program and the management of the education division.

Powers of council

- (4) The Minister shall, by regulation, allocate any or all of the powers set out in section 748 to each Divisional Education Council where the Minister considers that the powers are necessary for the delivery of the education program and the management of the education division.

Additional powers

- (5) The Minister may, by regulation, allocate any or all of the powers set out in section 749 to a Divisional Education Council where the Minister considers that the powers are necessary for the delivery of the education program and the management of the education division.

Composition of council

733. (1) Divisional Education Council shall be composed of the chairpersons of the District Education Authorities, of the education districts in the education division and any members appointed under this section.

Term of office

- (2) A member of a Divisional Education Council holds office for the term of his or her term as chairperson of a District Education Authority.

Additional Members

- (3) The Minister may, at the request of a Divisional Education Council, appoint additional members to the council for the term requested, up to three years.

Member of Divisional Education Council not liable

- (4) A member of a Divisional Education Council is not liable for loss or damage caused by anything done or not done by him or her in good faith in the performance or exercise of his or her duties.

Resignation

734. (1) A member of a Divisional Education Council may resign by submitting his or her written resignation to the secretary of the council, and the member ceases to hold office at the meeting of the council when his or her resignation is received.

Resignation of all members

- (2) If all the members of Divisional Education Council 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 take office.

Member resigning

735. Where a member of a Divisional Education Council resigns from the council, that person is also deemed to have resigned from the chair of their District Education Authority.

Selection of chairperson

736. (1) The members of a Divisional Education Council shall select a chairperson and vice-chairperson from their members.

Resignation of chairperson

- (2) The chairperson of a Divisional Education Council may resign the position of chairperson while retaining a seat on the council.

Replacement of chairperson

- (3) Where the chairperson of the Divisional Education Council resigns, the vice-chairperson becomes the chairperson and the council shall select a new vice-chairperson from their membership.

Replacement of chairperson and vice-chairperson

- (4) Where the chairperson and the vice-chairperson resign, the council shall select a new chairperson and vice-chairperson from their membership.

Member vacating seat

737. Any member of a Divisional Education Council shall vacate his or her seat and cease to be a member where that person

- (a) is convicted of an offence under this Act;
- (b) would, subsequent to his or her election, not be eligible to be a candidate at an election as a member;
- (c) absents himself or herself from meetings of the Divisional Education Council for three consecutive months without being authorized to do so by a resolution entered in the minutes of the Divisional Education Council; or
- (d) violates the code of conduct established by the Divisional Education Council.

Conduct of business

738. (1) The Divisional Education Council shall conduct its business in the prescribed manner.

Rules

- (2) Every Divisional Education Council shall make rules governing the procedure to be followed in transacting the business of the council.

Meetings

- 739. A Divisional Education Council shall meet at least three times a year and at any other times that the council may decide.

Quorum

- 740. (1) A majority of the Divisional Education Council constitutes a quorum.

Validity of proceeding

- (2) No act or proceeding of a Divisional Education Council is binding unless it is adopted at a meeting at which a quorum is present.

Council includes committees

- 741. (1) In this section, "Divisional Education Council" includes committees established by that council.

Public meetings

- (2) Subject to this section, a Divisional Education Council shall hold its meetings in public.

Exclusion from meetings

- (3) No person shall be excluded from a meeting of a Divisional Education Council except for improper conduct.

Private meetings

- (4) A Divisional Education Council may, by resolution, authorize its meeting to be closed to the public where
 - (a) it is of the opinion that to do so is in the public interest; and
 - (b) the resolution is made by at least 2/3 of the members present.

Limitation of power

- (5) No Divisional Education Council has the power, at a meeting that is closed to the public, to make a resolution, other than a resolution to revert to a public meeting.

Transitional

- 742. (1) Subject to subsection (2), a divisional board of education established under the *Education Act, R.S.N.W.T. 1988, c. E-1*, is continued as a Divisional Education Council until the next municipal election in the education districts which are represented on the Divisional Education Council, at which time the newly elected chairperson of each District Education Authority shall replace a member of the Divisional Education Council.

Members cease to hold office

- (2) When all the districts within the division have held an election, any member of the Divisional Education Council continued under subsection (1) who has not been replaced shall cease to hold office.

3.9 Dissolution and Trusteeship

Under the current Act, the Minister can dissolve a Community Education Council (CEC), when it is not adequately fulfilling its duties, and the powers of the CEC are then vested in the Divisional Board of Education. The Minister can also dissolve a Divisional Board of Education for the same reason, and the powers of the Divisional Board vest in the Minister, or in an interim trustee.

Although there may indeed be circumstances which warrant dissolution of a district or divisional education body to ensure the adequate delivery of the education program, it would be useful to have a range of actions which could be taken, to address problems before dissolution becomes necessary.

In the draft of the Act, such a range of actions is proposed as follows:

- the ability to investigate the concern;
- requiring more detailed reporting by the education body;
- direction from the Minister regarding the administration and delivery of the education program; and, finally
- appointing an interim trustee, which may function with the education body, vested with some or all of its powers and duties as necessary, or in place of the dissolved education body, until another election is held.

This range of actions provides much more flexibility, and makes it much more likely that district and divisional education bodies will receive assistance and will improve their operation before serious difficulties occur.

Power to investigate council or authority

743. (1) Where the Minister is of the opinion that a District Education Authority established or continued under this Act or a Divisional Education Council established or continued under this Act is not adequately exercising its powers and duties or fulfilling its responsibilities under this Act, the Minister may, by order,
- (a) appoint a person to investigate the situation and report to the Minister in the form and manner directed by the Minister;
 - (b) request reports from the District Education Authority and the Divisional Education Council; and
 - (c) provide direction regarding the administration and delivery of the education program.

Results of investigation

- (2) Where, as the result of an investigation, the Minister determines that a District Education Authority established or continued under this Act or a Divisional Education Council established or continued under this Act is not adequately exercising its powers and duties or fulfilling its responsibilities under this Act, the Minister may, with the approval of the Executive Council, by order,
- (a) appoint an interim trustee;
 - (b) suspend any or all of the powers or duties of the authority or council; and
 - (c) dissolve the authority or council.

Order appointing trustee and setting election for District Education Authority

744. (1) Where the Minister dissolves a District Education Authority, the Minister may, with the approval of the Executive Council, by order,
- (a) appoint an interim trustee;
 - (b) set a date for the election of a new authority; and
 - (c) state whether the trustee is to hold office at the same time as the council or authority in question and for how long.

Powers and duties to interim trustee

- (2) Where the Minister appoints an interim trustee, that trustee shall perform the duties and may exercise the powers of the District Education Authority in question.

Order appointing trustee and setting election

745. (1) Where the Minister dissolves a Divisional Education Council, the Minister may, with the approval of the Executive Council, by order,
 - (a) appoint an interim trustee;
 - (b) state when the new council is to take office; and
 - (c) state whether the trustee is to hold office at the same time as the council and for how long.

Deemed resignation of members

- (2) Where the Minister dissolves a Divisional Education Council, the members shall be deemed to have resigned from the council.

Powers and duties to interim trustee

- (3) Where the Minister appoints an interim trustee, that trustee shall perform the duties and may exercise the powers of the Divisional Education Council in question.

Trustee not liable

- (4) An interim trustee appointed under this Act is not liable for loss or damage caused by anything done or not done by him or her in good faith in the performance of his or her duties or in the exercise of his or her powers.

Order to dissolve education division or district

746. (1) Subject to subsection (2), the Minister may, by order, declare that on and after a day specified in the order an education division established or continued under this Act or an education district established or continued under this Act be dissolved.

Restriction on making order

- (2) No order shall be made under subsection (1) until the Minister has approved arrangements to satisfy the existing financial obligations of the education division or education district to be dissolved.

Arrangements

- (3) On the dissolution of an education division or education district, the Minister shall, by order, make the arrangements that to the Minister seem proper and expedient with respect to the transfer of the assets and liabilities of the education division or education district and any other adjustments and settlements that may be necessary to wind up the affairs of the education division or education district.

3.10 Duties and Powers of District Education Authorities and Divisional Education Councils

Under the current Act Boards of Education for an education district and Community Education Councils have quite different powers and duties. The powers and duties of Boards of Education and Divisional Boards of Education are very similar except for their relationship to staff, their responsibilities for capital facilities, their borrowing powers and their powers regarding assessment and taxation.

The draft Act sets out the duties which the Minister shall allocate to either the district or divisional education bodies, as well as the powers which the Minister shall allocate. It also sets out powers which the Minister may allocate to either the district or divisional education bodies. (The powers which the Minister may allocate are largely noted above in the description of the differences in powers between Boards of Education and Divisional Boards of Education.) The powers and duties of a specific District Education Authority or Divisional Education Council will be detailed through regulation. A sample regulation is attached in Appendix 1 for a District Education Authority in a division and the Divisional Education Council for that authority.

- (k) employ outside the Public Service staff, other than teachers, whom the education body considers necessary for the effective operation of the education program or for individual education plans;
- (l) provide for the payment of a pension to those persons employed outside the Public Service, on retirement on account of age or disability;
- (m) allow an employee to take a leave of absence for educational purposes;
- (n) arrange and pay for the bonding of one or more secretary-treasurers;
- (o) provide interpreter and translator services to assist in the conduct of the business of the education body;
- (p) join and pay the fees of educational associations;
- (q) pay an honorarium and expenses to each of its members in accordance with the regulations;
- (r) acquire personal property by gift, devise, lease, purchase or otherwise;
- (s) enter into contracts for the provision of services to support the school program or Individual Education Plans; and
- (t) develop and deliver local programs and hire persons for those programs.

Employee not liable

- (2) A person employed outside the Public Service under paragraph (1)(k) is not liable for loss or damage caused by anything done or not done by him or her in good faith in the performance of his or her duties or in the exercise of his or her duties.

Extra powers of an education body

749. Subject to section 711(7) and 732(5), an education body may, for the area within its jurisdiction,

- (a) maintain and insure buildings and property used for the delivery of education;
- (b) acquire lands and buildings, construct additional buildings and replace existing buildings where required;

- (c) receive annually from the council of the municipal taxing authority for the district the sum of money collected from property taxes for education purposes;
- (d) borrow money on a short term basis according to the terms of this Act;
- (e) make a resolution to borrow money for projects according to the terms of this Act;
- (f) make a by-law to borrow money on the security of a mortgage or debenture according to the terms of this Act; and
- (g) employ teachers outside the public service.

750. Where a District Education Authority within an education division and a Divisional Education Council for the education division are allocated the same duty or power under section 711 or 732, they shall consult with one another and determine how the duty or power will be performed or exercised.

3.11 Conflict of Interest

The draft Act contains proposed new provisions requiring members of education bodies to disclose any pecuniary interest they have in any matter the education body is considering, and to refrain from taking part in the discussion of the matter, voting on the matter, or influencing the discussion or vote on the matter. The draft Act also sets out the penalty for failure to disclose a pecuniary interest.

Definitions

751. In this Part

"member" means

- (a) a person on a District Education Authority;
- (b) a person on a Divisional Education Council;
- (c) an interim trustee;
- (d) a Superintendent;
- (e) a financial officer of a District Education Authority; and

- (f) a financial officer of a Divisional Education Council.

"pecuniary interest" means

- (a) an interest in a matter that could monetarily affect the member;
- (b) the interest of a family member shall, if known to the member;
- (c) an interest in any matter concerning an education body if
 - (i) a member or a member's designate
 - (A) As a shareholder in or a director or a senior officer of a corporation that does not offer its shares to the public and that has a pecuniary interest in that matter, or
 - (B) has a controlling interest in or is a director or senior officer of a corporation that offers its shares to the public, and that has a pecuniary interest in that matter,
 - (ii) member is a partner of a person, is part of a firm or is in the employment of a person or firm that has a pecuniary interest in that matter.

Duty of member

752. (1) If a member has a pecuniary interest in any matter and is present at a meeting at which an education body is considering that matter, the member shall
- (a) at the meeting, disclose his or her pecuniary interest and the general nature of that interest;
 - (b) not take part in the discussion of or the vote on the matter; and
 - (c) not attempt in any way, before, during or after the meeting to influence the discussion or vote on the matter.

Pecuniary interest of another member

- (2) Where a member is aware of a pecuniary interest of another member, and that other member does not disclose the pecuniary interest, the member with the knowledge shall disclose that interest in the manner set out in the Act.

Where meeting not public

- (3) If the meeting referred to in subsection (1) is not open to the public, the member with a pecuniary interest in the matter being discussed shall immediately leave the meeting during the discussion of the matter and the vote on the matter in question.

Where member not in attendance

- (4) Where the member does not attend the meeting referred to in subsection (1) where the discussion and vote took place, the member shall disclose his or her pecuniary interest at the next meeting that the member attends.

Common interest

- (5) This section does not apply to a member who
 - (a) has a pecuniary interest in common, generally, with the residents of the area within the jurisdiction of the education body; or
 - (b) has an pecuniary interest that is so remote or insignificant in its nature that it would not reasonably be regarded likely to influence the trustee.

Record of disclosure at open meeting

753. (1) Where a meeting is open to the public, the chairperson of the education body shall ensure that the disclosure of a pecuniary interest by a member is recorded in the minutes of the meeting.

Record of disclosure at closed meeting

- (2) Where a meeting is not open to the public, the chairperson of the education body shall ensure that the disclosure of the fact that a disclosure was made but not the details of that disclosure is recorded in the minutes of the next meeting that is open to the public.

Penalty

754. A member who fails to disclose a pecuniary interest pursuant to this Act is disqualified from his or her office held under this Act and shall resign immediately.

Effect of failure to disclose

755. No contract entered into by an education body, in which a member has an undisclosed pecuniary interest is binding on that education body unless the contract is for

- (a) goods or services in the case of an emergency;
- (b) the sale of goods or services to the education body by a dealer in those goods and services in the ordinary course of business; or
- (c) the contract is a contract of employment with the family member.

3.12 Duties of Superintendents of Education

The duties of the Superintendent in the draft Act are expanded to include:

- encouraging a partnership between educators, students, community elders and community members in developing educational goals and plans;
- working cooperatively with representatives from public colleges, persons responsible for the regional administration of education, culture and employment, and as a liaison to local representatives for justice, social service, health and community organizations;
- evaluating school programs and ensuring standards are consistent with District, Divisional and Territorial standards;
- ensuring evaluations of school staff, and student assessments are consistent with District, Divisional and Territorial standards; and
- reviewing, approving, and monitoring home schooling programs.

The duties of a Superintendent in the current Act are largely the duties of a regional Superintendent of schools reporting to the Department, a position which no longer exists in the N.W.T.

Superintendents

708. (1) On the recommendation of a District Education Authority or a Divisional Education Council, as the case may be, Minister may appoint a Superintendent to one or more district or division.

Deputy head

- (2) A Superintendent employed for a division shall have the powers and duties of a Deputy Head under the *Public Service Act* and shall have general supervision of the education staff of the district or districts within his or her jurisdiction.

Duties

- (3) A Superintendent shall
- (a) perform the duties assigned by this Act, the regulations and the Minister;
 - (b) supervise the administration and delivery of the education program and individual education plans in accordance with the directions of the Minister, the District Education Authority and the Divisional Education Council;
 - (c) advise the District Education Authorities and the Divisional Education Council in the area within his or her jurisdiction in the exercise of its powers;
 - (d) perform the duties assigned by the District Education Authorities and the Divisional Education Council in the area within his or her jurisdiction;
 - (e) encourage a partnership between education staff, students, community elders and community members in the development of educational goals and plans in the area within his or her jurisdiction;
 - (f) work cooperatively with representatives from public colleges, established under the *Public Colleges Act*, to meet the education needs of the education district;
 - (g) work cooperatively with the persons responsible for the regional administration of education, culture and employment to meet the education needs of the education district;
 - (h) act as liaison between District Education Authorities in the area within his or her jurisdiction and local representatives for justice, social service, health and community organisations;

- (i) review and evaluate school programs as required to ensure they are consistent with Territorial, education division and education district standards;
- (j) report the results of a review carried out under paragraph (i) to a District Education Authority or a Divisional Education Council, as the circumstances require;
- (k) ensure all evaluations of school staff are consistent with Territorial, education division and education district standards;
- (l) ensure all evaluations of students are consistent with Territorial, education division and education district standards;
- (m) follow the direction of the Minister and the education bodies in the area within his or her jurisdiction; and
- (n) review, approve, reject, monitor and terminate programs to be used for home schooling.

Delegation

- (4) A Superintendent may, in writing, delegate his or her duties and powers to a person approved by the education body responsible for the hiring of the Superintendent.

PART IV

Finance and Administration of The Education System

4.1 Role of the Minister

In the current *Education Act*, the Minister is given a long list of duties. The proposed draft Act assigns many of these duties to district or divisional education bodies, while retaining for the Minister the duty to establish the curriculum, maintain the standards of the education program at the highest possible level, and establish standards for teacher education programs.

Minister responsible

800. (1) The Minister shall administer this Act.

Deputy Minister

(2) The Deputy Minister shall manage the education system in the Territories.

Standards

(3) The Minister shall

- (a) establish the curriculum;
- (b) take such steps as he or she considers necessary to maintain the standards in the education program at the highest level possible; and
- (c) establish standards for teacher education programs.

4.2 General Financial Matters

The draft Act includes provisions enabling the Minister to pay grants and contributions to education bodies for operation and maintenance funds, and capital expenditures, as well as the circumstances in which these payments may be reduced or suspended by the Minister. This section of the draft Act contains largely new provisions.

Fiscal year

801. (1) The fiscal year of an education body is the period beginning on July 1 in one year and ending on June 30 in the following year.

Transitional

- (2) Where this Act comes into force on a day other than July 1 or June 30, the existing fiscal year for an education body shall continue until July 1.

Grants and contributions for operation

802. (1) The Minister may, in each fiscal year, provide to an education body by means of a grant or contribution, or a combination of them, and in accordance with the *Financial Administration Act*, operation and maintenance funds required for the delivery of the education program.

Grants and contributions for capital

- (2) The Minister may, in each fiscal year, provide to an education body by means of a contribution, and in accordance with the *Financial Administration Act*, funds for capital expenditures of the education body required for the delivery of the education program.

Reduction or suspension of payment

- (3) The Minister may reduce or suspend the payment of a grant or contribution payable to an education body where, in the opinion of the Minister,
 - (a) the education body has not transmitted, in a timely fashion, the reports and statements required under this Act;
 - (b) the school property in the area within the jurisdiction of the education body has not been maintained satisfactorily;
 - (c) the education body has not conducted its affairs in accordance with this Act and the regulations; or
 - (d) the duties of the financial officer of the education body are not being discharged satisfactorily.

Bank Accounts

803. (1) An education body shall hold all funds under its control in an account or accounts in a chartered bank and may withdraw those funds according to the procedures set out in the regulations.

Directives

- (2) In consultation with the Minister of Finance, the Minister may issue directives concerning the financial procedures and activities of an education body.

4.3 Audit

The draft Act sets out provisions guiding the conduct of an audit, both of financial and non-financial procedures and activities of the education body. It allows the Minister to request additional examinations or reports of the education body when necessary, and ensures the auditor has a right of access to the information required to carry out the audit.

The draft sets out the procedures for the education body's review and signing of the audit, as well as the steps that can be taken if the education body refuses to do so.

Appointment of auditor

804. Each education body shall appoint an auditor in accordance with the regulations.

Audit

805. (1) Every education body shall conduct an audit annually in accordance with Part IX of the *Financial Administration Act*.

Scope of audit

- (2) An auditor shall conduct the audit of
 - (a) non-financial procedures and activities of the education body;
and
 - (b) accounts, transactions and financial procedures according to the prescribed principles.

Minister may request reports

- (3) In addition to the examinations and reports required by this Act, the Minister may, at any time, require such additional examinations and reports of an education body as the Minister considers necessary.

Auditor's power to obtain information

806. (1) An auditor has the right of access, at any time, to every record of the education body except student records.

Sources of information

- (2) An auditor may request information related to the completion of an audit from members of the education body, employees of the education body and any other person with knowledge of the education body.

Failure or refusal to provide information

- (3) Where a person fails or refuses to provide information requested under subsection (2), the auditor shall provide a written request for the information sought.

Report to Minister

- (4) Where a person fails or refuses to respond to a written request made under subsection (3), the auditor shall report the failure or refusal to the Minister.

Minister's powers

- (5) On receipt of a report from an auditor under subsection (4), the Minister may
 - (a) investigate the failure or refusal to respond;
 - (b) make a written request for the information; and
 - (c) any other steps that in the opinion of the Minister are necessary in the circumstances.

Auditor to submit reports

807. (1) The auditor shall submit a report in two parts to the chairperson of the education body and the Superintendent that contains
- (a) a report of the non-financial procedures and activities of the education body and whether, in the opinion of the auditor, the education body is operating in an efficient and effective manner; and
 - (b) the audited financial statements of the education body and states the principles applied and
 - (i) whether, in the opinion of the auditor, the education body has managed its operations in an efficient and effective manner,
 - (ii) whether, in the opinion of the auditor, the financial statements fairly represent the financial position of the education body at the end of the fiscal year,

- (iii) the changes in the financial position of the education body for the fiscal year compared to the financial position of the previous fiscal year,
- (iv) whether, in the opinion of the auditor, proper books and accounts have been kept and the financial statements agree with the books of account, and
- (v) whether, in the opinion of the auditor, the transactions audited comply with
 - (A) the *Financial Administration Act* and regulations made under that Act,
 - (B) this Act and the regulations made under this Act,
 - (C) the by-laws of the education body, and
 - (D) any directives issued to the education body pursuant to the *Financial Administration Act* and this Act.

Signing of report

- (2) The financial officer of the education body and the Superintendent shall review the financial portion of the auditor's report and shall sign a declaration stating that they have no knowledge of any information that contradicts the contents of the report and have withheld nothing from the scrutiny of the auditors.

Chairperson to present report to education body

- (3) The chairperson of the education body shall present the auditor's report to the education body at the next meeting held after the completion of the report.

Review of financial portion of audit report

- (4) The education body shall review the financial portion of the auditor's report and may approve it and, where approved, the chairperson and another member of the education body shall sign it and forward it to the Minister within 90 days of the end of the fiscal year.

Where no approval

- (5) Where the education body does not approve the report under subsection (4), the Minister may
 - (a) request a copy of the report;
 - (b) appoint an auditor to prepare another report; and
 - (c) take the steps he or she considers necessary in the circumstances including but not limited to the steps set out in section 743.

Review of management portion of audit report

- (6) The education body shall review the management portion of the auditor's report and may provide comments and the chairperson shall forward the report and comments to the Minister within 120 days of the end of the fiscal year.

Report of unauthorized action

808. (1) An auditor shall report to the Minister, the Superintendent, and the chairperson of the education body any disbursement, expenditure, liability, transaction or action taken that exceeds the powers given to the education body.

Report of irregularities

- (2) The auditor shall report to the Minister, the Superintendent, and the chairperson of the education body any irregularity respecting the assets, liabilities, accounts, funds, financial transactions and financial obligations of the education body and shall report any sum that ought to have been but was not brought into account by any person.

4.4 Assessment and Taxation

The draft Act proposes to maintain similar provisions concerning property assessment and taxation as are currently included in the Act regarding Boards of Education for an education district. The Government of the Northwest Territories is currently reviewing the collection of revenue from residents of the Northwest Territories for municipal services and education purposes, and the effectiveness of this system. The review will provide recommendations on options for the future.

Assessment and taxation

809. (1) Where an education body has been given the power to acquire funds for education purposes through taxation of property, all assessable property, as defined in the *Property Assessment and Taxation Act*, within the jurisdiction of the education body that is liable to assessment and taxation for Territorial, municipal or local purposes under that Act, is liable to assessment and taxation for education purposes.

Budget meeting

- (2) Every District Education Authority shall, as soon as practicable after the assessment roll, first revision, has been prepared by the Director of Assessment under the *Property Assessment and Taxation Act*, call a meeting of the ratepayers of the education district to discuss the amount required to be raised by the education district for education purposes for the next academic year and other financial matters of interest and, when the meeting has been held, the District Education Authority shall determine the amount required and request it of
- (a) the council of a municipal taxing authority, where the education district is in a municipal taxation area; or
 - (b) the Minister of Finance, where the education district is in the general taxation area.

Definition of "property taxes"

810. (1) In this section, "property taxes" includes payments accepted in lieu of property taxes under section 73.1 of the *Property Assessment and Taxation Act*.

Payment of property taxes

- (2) A municipal taxing authority under the *Property Assessment and Taxation Act* shall pay those property taxes collected by the municipal taxing authority that are attributable to the levy of the education mill rate under the *Property Assessment and Taxation Act*
- (a) to a District Education Authority in a municipal taxation area; or
 - (b) where the District Education Authority is in the general taxation area, to the Collector of Taxes appointed under section 110 of the *Property Assessment and Taxation Act*.

Payment to education body

- (3) The Collector of Taxes shall pay to an education body those property taxes collected by him or her that are attributable to a levy of the education mill rate established pursuant to a requisition of the education body under subsection 809(2).

Instalments

- (4) Property taxes
- (a) referred to in paragraph (2)(a) and subsection (3) must be paid in accordance with regulations made under the *Property Assessment and Taxation Act*.
 - (b) referred to in subsection (2)(b) must be paid in four equal instalments on the first day of the months of June, September and December, in the year in which they are collected, and March in the following year; and

4.5 Borrowing Powers

The draft Act makes it possible for the borrowing powers now exercised by Boards of Education for education districts to be allocated to Divisional Education Councils or District Education Authorities. (This is dependent on the review results noted above concerning assessment and taxation). The draft Act also adds an ability of education bodies to be allocated a new borrowing power, allowing them to borrow money for projects supporting the education program. In particular, this provision will enable education bodies to borrow from land claim settlement groups or others on a short term basis, for a particular educational project.

Limit on ability to borrow

811. The ability of an education body to borrow under this Act is subject to Part IX of the *Financial Administration Act*.

Loan for current expenditures

812. (1) An education body in a municipal taxation area may, by resolution, authorize the chairperson and financial officer to seek approval from the Minister of Finance, the Financial Management Board and the Minister, to borrow to meet current expenditures.

Short term borrowing powers

- (2) Where an education body receives approval under subsection (1), the education body may, by resolution, authorize its chairperson and financial officer to
- (a) borrow the sum of money that may be required to meet the expenditures of the education districts within its jurisdiction until such time as the taxes levied for the current year are available; and
 - (b) secure a loan by promissory note signed by the chairperson and financial officer on behalf of the education body.

Charge on loan

- (3) A loan made under subsection (1) must be paid out of and is a first charge on the taxes that are collected for the year in which the loan was made.

Conditions

- (4) Where a loan is taken under this section, the education body shall
 - (a) agree to repay the funds by the end of the fiscal year, and
 - (b) submit the loan documentation to the Minister for approval before signing the documents.

Diversion of loan money

- (5) The members of an education body who vote for any diversion of loan moneys shall be jointly and severally liable for the amount so diverted, whether or not they are still members of the education body, which shall be deemed to be a debt due and owing to the education body and may be recovered by action at the suit of the education body or any ratepayer on behalf of an education district affected by the diversion.

Debentures

813. (1) An education body may pass a by-law to borrow money on the security of a debenture
- (a) for acquiring, extending or improving a school site or a site for staff housing or a building to be used for the purposes of school administration;
 - (b) for acquiring, erecting, repairing, furnishing, equipping, moving or adding to a school building or staff housing or a building to be used for the purposes of school administration;
 - or
 - (c) for purchasing busses for the conveyance of students.

Diversion of debenture money

- (2) The members of an education body who vote for any diversion of debenture moneys shall be jointly and severally liable for the amount so diverted, whether or not they are still members of the education body, which shall be deemed to be a debt due and owing to the education body and may be recovered by action at the suit of the education body or any ratepayer on behalf of an education district affected by the diversion.

Mortgage

814. (1) An education body may pass a by-law to borrow money on the security of a mortgage for capital expenditures to acquire land or to construct improvements to land or both for the purpose of providing living accommodation for employees of the education body.

Diversion of mortgage money

- (2) The members of an education body who vote for any diversion of mortgage moneys shall be jointly and severally liable for the amount so diverted, whether or not they are still members of the education body, which shall be deemed to be a debt due and owing to the education body and may be recovered by action at the suit of the education body or any ratepayer on behalf of an education district affected by the diversion.

Loan for projects

815. (1) An education body may, with the approval of the Minister, the Financial Management Board and the Minister of Finance make a special resolution to borrow money for projects supporting the education program.

Diversion of loan money

- (2) The members of an education body who vote for any diversion of loan moneys shall be jointly and severally liable for the amount so diverted, whether or not they are still members of the education body, which shall be deemed to be a debt due and owing to the education body and may be recovered by action at the suit of the education body or any ratepayer on behalf of an education district affected by the diversion.

Money borrowed

816. No moneys borrowed under the authority of a by-law, resolution or special resolution shall be used for any purpose other than that stated in the by-law except
- (a) where on completion of the work stated in the by-law, resolution or special resolution there remains an unexpended balance, the education body may use the balance for the purposes and on the terms and conditions that may be considered expedient; or
 - (b) where on completion of the work stated in the by-law, resolution or special resolution there remains an unexpended balance, the education body may use the balance towards payment of the debenture coupons next maturing where a debenture was issued for that loan.

Submission of by-law, resolution or special resolution to ratepayers

817. An education body shall, in accordance with the regulations, submit a by-law, resolution or special resolution to borrow money to a vote of the ratepayers of the education district who are affected by the by-law, resolution or special resolution.

Issue of debenture

818. (1) If a majority of the ratepayers of the education district voting on a by-law vote for the by-law, resolution or special resolution, the education body may issue a debenture to secure the amount of the principal sum borrowed and the interest on it.

Seal and signature

- (2) The debenture and coupons shall be signed by the chairperson and the financial officer and sealed with the seal of the education body.

Form of debenture

- (3) A debenture issued under this Act must
 - (a) have a term not exceeding 20 years;
 - (b) interest at the same rate after as before maturity on the debenture and the coupons;
 - (c) be dated within 12 months after the date on which the Minister authorizes the loan, and the first instalment of principal and interest may be made payable at any time within 18 months after the date of the debenture; and
 - (d) be made payable at any place in Canada.

Record of debenture

819. (1) The issuer of a debenture shall send the debenture to the Minister before issuing it.

Minister to countersign

- (2) On receiving a debenture under subsection (1), the Minister shall countersign the debenture where the Minister is satisfied that the requirements of this Act have been substantially complied with and the countersigning shall be conclusive evidence that
 - (a) all the formalities in respect of the issue of the debenture have been complied with;
 - (b) the legality of the issue of the debenture is by that countersignature conclusively established;
 - (c) its validity shall not be questioned by any court; and
 - (d) the debenture is to the extent of the revenues of the education body issuing it, a good and indefeasible security in the hands of any *bona fide* holder of the debenture.

Record of debenture

820. The issuer of a debenture shall send the debenture to the Minister before issuing it.

Issue of mortgage

821. If a majority of the ratepayers of the education district voting on a by-law vote for the by-law, the education body may issue a mortgage to secure the amount of the principal sum borrowed and the interest on it.

4.6 Public Denominational Education District Financial Matters

The draft Act clarifies that only those supporting the Public Denominational Education District through property taxes will be eligible to vote on an issue dealing with the expenditure of money by a Public Denominational District Education Authority. It also provides for all residents to declare their support for either the Public, or Public Denominational Districts. Their taxes, if they are ratepayers, and their eligibility to elect the District Education Authority, will follow their declaration of support.

Taxes

822. The ratepayers of a public denominational education district are liable only to assessments of the rates that they impose on themselves in respect of the public denominational schools.

Restriction on voting

823. (1) No person shall vote on an issue dealing with the expenditure of money by a public denominational District Education Authority unless that person supports the public denominational district through property taxes.

List of eligible voters

- (2) The municipal taxing authority shall forward a list of all ratepayers who support the public denominational District Education Authority in the district to the person supervising the vote pursuant to the *Local Authorities Election Act*.

Declarations

- (3) Where a public denominational education district has been established,
 - (a) every assessed owner of taxable property, as defined in the *Property Assessment and Taxation Act*, shall file with the Director of Assessment a written statement setting out whether he or she supports the education district, the public denominational education district or both districts in the ratio indicated, and the assessor shall direct that all levies for education purposes be directed to the District Education Authority or the public denominational District Education Authority according to the declarations of the owners; and
 - (b) every voter who is not a ratepayer shall record with the returning officer a declaration setting out whether he or she is a supporter of the education district or the public denominational education district.

Joint tenants

- (4) Where property is held by two or more persons as joint tenants or tenants in common, those persons shall be assessed in proportion to their interest in the property and the levies shall be directed to the District Education Authority or the public denominational District Education Authority according to their declarations.

Corporate property

- (5) A corporation may record with the Director of Assessment a declaration that it is a supporter of the education district or the public denominational education district, or may declare that all levies on its property for education purposes be directed in a stated proportion to both education districts.

Where no declaration

- (6) Where no declaration is recorded by a corporation under subsection (4), the property taxes attributable to the levy of the education mill rate payable by a corporation shall be divided between the education district and the public denominational education district in shares proportional to the number of students enrolled in each district.

Declaration to remain in force

- (7) Every declaration recorded under this section shall continue in force and be acted upon until it is withdrawn, varied or cancelled.

PART V AND VI

Regulations and General Sections

5.1 General Comments

The regulations for the draft Act are not prepared, except for the two sample regulations contained in Appendix I.

The general section of the Act will contain provisions regarding offences, transitional provisions and consequential amendments and the establishment of universities. (The consequential amendments are not yet completed and, as a result, are not included in this draft Act for discussion.)

APPENDIX I

SAMPLE REGULATIONS FOR A DISTRICT EDUCATION AUTHORITY AND A DIVISIONAL EDUCATION COUNCIL

EDUCATION DISTRICT OF NORTHTOWN and DISTRICT OF NORTHTOWN ESTABLISHMENT REGULATIONS

The Commissioner, on the recommendation of the Minister, under section XXX of the *Education Act* and every enabling power, makes the *Education District of Northtown and District Education Authority of Northtown Establishment Regulations*.

1. In these regulations,
"Act" means the *Education Act*;
"regulations" means the regulations made under the *Education Act*.
2. The Education District of Northtown is established by these regulations.
3. The boundaries of the Education District of Northtown are set out in Schedule A.
4. The District Education Authority of Northtown is established by these regulations.
5. The District Education Authority of Northtown shall
 - (a) provide education to all students in accordance with the Act and the regulations;
 - (b) ensure that all students in the area within their jurisdiction are registered in a school;
 - (c) administer and manage the educational affairs of the authority in accordance with the Act and the regulations;
 - (d) consider any comments and recommendations, with regard to a school, that are provided by the students, parents and school staff who have an interest in that school;
 - (e) consult with health, justice, social services and other community agencies for the provision of student support services where, in the opinion of the authority, the services are necessary for the effective delivery of the education program and individual education plans;

- (f) provide students with text books and other supplies and, where in the opinion of the authority it is necessary, fix prices for those books and supplies;
- (g) provide library, audio-visual and other resource materials;
- (h) provide equipment and facilities for school programs for physical education, athletics and recreation;
- (i) attempt to settle all disputes, relating to the education program and individual education plans, arising between education staff and a student or his or her parent;
- (j) in consultation with education staff and community elders, develop and deliver culture-based school programs in accordance with the requirements of the curriculum;
- (k) at the direction of the Minister, enter into agreements that provide for the maximum possible use of education facilities for purposes outside the education program;
- (l) have custody and safekeeping of all the education facilities that are used for the education program and maintain the education facilities in good condition;
- (m) hold a public meeting annually to consult with community elders and other members of the community regarding the goals and plans for the school program for the next school year;
- (n) at the beginning of each school year, through each principal, invite the student representatives to attend and participate in its meetings that are held in public;
- (o) monitor and evaluate the delivery of school programs to achieve the highest possible education standards in the schools in the area within their jurisdiction;
- (p) evaluate school program plans and provide direction with regard to those plans;
- (q) evaluate and support home schooling programs in accordance with the regulations;
- (r) advise the Minister with respect to the opening and closing dates, dates for vacations and observance of holidays for schools;
- (s) procure a seal;
- (t) employ and bond a financial officer or officers as the authority considers necessary;
- (u) receive the moneys that are provided by grant or contribution by the Minister for the use of the authority for the delivery of the education program;
- (v) make expenditures to meet the requirements of the education program and shall supervise and be accountable for all expenditures;
- (w) keep a full and accurate record of its proceedings and financial transactions and affairs;

- (x) maintain insurance in the form and manner directed by the Minister;
- (y) prepare for the approval of the Minister, in the form and manner directed by the Minister, an annual estimate of revenue and expenditures for the operation and maintenance of the education program in the area within their jurisdiction for the next fiscal year;
- (z) prepare for the approval of the Minister, in the form and manner directed by the Minister, an annual estimate of revenue and expenditures for all capital items for the education program in the area within their jurisdiction for the next fiscal year;
- (aa) prepare for the approval of the Minister, in the prescribed form and manner, an operational plan for the education program in the area within their jurisdiction;
- (bb) prepare and submit to the Minister the report and evaluations required by the Act and the regulations;
- (cc) follow Ministerial directives; and
- (dd) where numbers warrant and at the direction of the Minister, establish *comités de parents francophones* and *conseils scolaire francophone*.

6. The District Education Authority of Northtown may

- (a) develop and produce learning resources and materials to support the delivery of culture-based school programs;
- (b) authorize, supervise and evaluate the use of distance learning programs in the provision of the education program;
- (c) charge fees for goods and services that are provided but are not required for the instruction of the education program;
- (d) at the direction of the Minister, provide transportation to students to enable them to attend an education program and, where in the opinion of the authority it is necessary, fix fees to be charged for that transportation;
- (e) at the direction of the Minister, operate student residences and home boarding programs for students to enable them to attend an education program and, where in the opinion of the authority it is necessary, fix fees to be charged for that residence or program;
- (f) establish committees of the authority and assign duties to those committees;
- (g) establish committees, whose members are not members of the authority, to advise the authority regarding education issues;
- (h) at the direction of the Minister, enter into agreements with public colleges, established by the *Public Colleges Act* to support the development and delivery of a teacher education program;
- (i) enter into agreements with other education bodies to deliver the education program;

- (j) in consultation with the student, or where that student is a minor, his or her parent, enter into an agreement in the manner directed by the Minister with another education body to enable a student to attend school in an education district other than the one in which the student resides where
- (i) the student has reached an education level beyond that offered in the education district in which the student resides, or
- (ii) the education needs of the student would be better served at another school;
- (k) employ, outside the Public Service, staff, other than teachers, whom the authority considers necessary for the effective operation of the education program or for individual education plans;
- (l) provide for the payment of a pension to those persons employed outside the Public Service, on retirement on account of age or disability;
- (m) allow an employee to take a leave of absence for educational purposes;
- (n) arrange and pay for the bonding of one or more secretary-treasurers;
- (o) provide interpreter and translator services to assist in the conduct of the business of the authority;
- (p) join and pay the fees of educational associations;
- (q) pay an honorarium and expenses to each of its members in accordance with the regulations;
- (r) acquire personal property by gift, devise, lease, purchase or otherwise;
- (s) enter into contracts for the provision of services to support the school program or individual education plans;
- (t) develop and deliver local programs and hire persons for those programs;
- (u) request that principals encourage the selection and participation of student representatives; and
- (v) make a resolution to borrow money for projects according to the terms of the Act.

(section 3)

SCHEDULE A

The boundaries of the Education District of Northtown are as follows....

EDUCATION ACT

TUNDRA EDUCATION DIVISION and TUNDRA DIVISIONAL EDUCATION COUNCIL ESTABLISHMENT REGULATIONS

The Commissioner, on the recommendation of the Minister, under section XXX of the *Education Act* and every enabling power, makes the *Tundra Education Division and Tundra Divisional Education Council Establishment Regulations*.

1. In these regulations,
 - "Act" means the *Education Act*;
 - "regulations" means the regulations made under the *Education Act*.
2. The Tundra Education Division is established by these regulations.
3. The boundaries of the Tundra Education Division are set out in Schedule A.
4. The Tundra Divisional Education Council is established by these regulations.
5. The East Slave Divisional Education Council shall
 - (a) provide education to all students in accordance with the Act and the regulations;
 - (b) administer and manage the educational affairs of the council in accordance with the Act and the regulations;
 - (c) consult with health, justice, social services and other community agencies for the provision of student support services where, in the opinion of the council, the services are necessary for the effective delivery of the education program and individual education plans;
 - (d) provide library, audio-visual and other resource materials;
 - (e) in consultation with education staff and community elders, develop and deliver culture-based school programs in accordance with the requirements of the curriculum;
 - (f) provide direction and supervise the Superintendent in the recruitment, hiring, discipline and dismissal of education staff and school staff for the education program in accordance with the Act, the regulations and the *Public Service Act*;

- (g) recommend to the Minister the appointment of a Superintendent;
- (h) set out powers and duties of the Superintendent, in addition to those set out in the Act;
- (i) monitor and evaluate the delivery of school programs to achieve the highest possible education standards in the schools in the area within their jurisdiction;
- (j) evaluate school program plans and provide direction with regard to those plans;
- (k) advise the Minister with respect to the opening and closing dates, dates for vacations and observance of holidays for schools;
- (l) procure a seal;
- (m) employ and bond a financial officer or officers as the council considers necessary;
- (n) receive the moneys that are provided by grant or contribution by the Minister for the use of the education body for the delivery of the education program;
- (o) make expenditures to meet the requirements of the education program and shall supervise and be accountable for all expenditures;
- (p) keep a full and accurate record of its proceedings and financial transactions and affairs;
- (q) maintain insurance in the form and manner directed by the Minister;
- (r) prepare for the approval of the Minister, in the form and manner directed by the Minister, an annual estimate of revenue and expenditures for the operation and maintenance of the education program in the area within their jurisdiction for the next fiscal year;
- (s) prepare for the approval of the Minister, in the form and manner directed by the Minister, an annual estimate of revenue and expenditures for all capital items for the education program in the area within their jurisdiction for the next fiscal year;
- (t) prepare for the approval of the Minister, in the prescribed form and manner, an operational plan for the education program in the area within their jurisdiction;
- (u) prepare and submit to the Minister the report and evaluations required by the Act and the regulations; and
- (v) follow Ministerial directives.

6. The Tundra Divisional Education Council may
- (a) develop and produce learning resources and materials to support the delivery of culture-based school programs;
 - (b) authorize, supervise and evaluate the use of distance learning programs in the provision of the education program;
 - (c) charge fees for goods and services that are provided but are not required for the instruction of the education program;
 - (d) at the direction of the Minister, provide transportation to students to enable them to attend an education program and, where in the opinion of the council it is necessary, fix fees to be charged for that transportation;
 - (e) at the direction of the Minister, operate student residences and home boarding programs for students to enable them to attend an education program and, where in the opinion of the council it is necessary, fix fees to be charged for that residence or program;
 - (f) establish committees of the council and assign duties to those committees;
 - (g) establish committees, whose members are not members of the council, to advise the council regarding education issues;
 - (h) at the direction of the Minister, enter into agreements with public colleges established by the *Public Colleges Act* to support the development and delivery of a teacher education program;
 - (i) enter into agreements with other education bodies to deliver the education program;
 - (j) in consultation with the student, or where that student is a minor, his or her parent, enter into an agreement in the manner directed by the Minister with another education body to enable a student to attend school in an education district other than the one in which the student resides where
 - (i) the student has reached an education level beyond that offered in the education district in which the student resides, or
 - (ii) the education needs of the student would be better served at another school;
 - (k) employ, outside the Public Service, staff, other than teachers, whom the council considers necessary for the effective operation of the education program or for individual education plans;
 - (l) provide for the payment of a pension to those persons employed outside the Public Service, on retirement on account of age or disability;
 - (m) allow an employee to take a leave of absence for educational purposes;
 - (n) provide interpreter and translator services to assist in the conduct of the business of the council;
 - (o) join and pay the fees of educational associations;
 - (p) pay an honorarium and expenses to each of its members in accordance with the regulations;

- (q) acquire personal property by gift, devise, lease, purchase or otherwise;
- (r) enter into contracts for the provision of services to support the school program or individual education plans; and
- (s) make a resolution to borrow money for projects according to the terms of this Act.

(section 3)

SCHEDULE A

The boundaries of the Tundra Education Division are as follows....

APPENDIX II

SUMMARY OF RESPONSES TO VOICES: DIRECTION FOR IMPROVING THE EDUCATION ACT AND ACKNOWLEDGEMENTS

Summary

In general people agreed with the changes being proposed in *Voices: Direction for Improving the Education Act*. The vast majority of respondents agreed that the new *Education Act* should begin with a preamble. Most believed that the preamble should be concise and emphasize the continuum of learning from early childhood to adult education, as described in the Education, Culture and Employment *Strategic Plan to 2010*. Most individuals and organizations believed that the Minister should continue to be responsible for Territorial standards of education, including curricula, and for acting as the final level of appeal.

People strongly agreed that students and learning should be the focus of education, and that families, parents and guardians should participate in, support and direct their children's education. Most respondents emphasized the importance of Kindergarten, and believed that Kindergarten should be taught by certified teachers. People said that attendance in Kindergarten was critical to student success.

Generally people wanted all official languages of the Northwest Territories to be recognized as languages of instruction in N.W.T. schools. However, people cautioned that numbers of students should be considered before a language of instruction was introduced. People also said that if English is not the language of instruction, English should be offered as a second language.

There was also general consensus on the *Education Act* proposals to recognize the duties and responsibilities of all partners involved in education: parents, students, teachers, community members and government. In addition respondents often noted the need for greater flexibility for community education councils duties and powers, such as more flexible procedures to enforce student compulsory attendance and more flexible procedures to elect members in small communities. The models for community education authorities being proposed by individuals and organizations differed based on their experience and the community in which they were located.

Regarding the provisions on religion in the Act, many people disagreed with the removal of the Lord's prayer from the legislation, despite the provisions of the *Charter of Rights and Freedoms* and subsequent court decisions regarding religion in schools. Most people agreed, however, that there should be 195 instructional days in an academic year and that students between the ages of 5 and 19 as of December 31 should have an entitlement to access an education program. There was much discussion in the responses regarding the age of children entering Kindergarten and some people wanted children to be able to start Kindergarten earlier than the year in which they were five years of age as of December 31. Generally people agreed that students should be compelled to attend school until at least Grade 10, and a number of people suggested that compulsory attendance should in fact be extended to Grade 12.

Individuals and organizations also said that we must ensure that a student's records can be transferred from one school to another with the student, and that the language of both parents should be included in the record. Respondents agreed that access to student records should be limited to parents/guardians, the student and school personnel. Also, one organization noted that parents and guardians should have access to a student's record even if the student is twenty-one years of age or older, and two organizations said that citizenship should not be included in the student record.

Generally organizations and individuals agreed that there should be age and distance criteria determining funding for transportation services. Most respondents agreed that only those programs which are available in the community where parents reside will be provided for their children through public funds except if the child is referred elsewhere because of medical problems, etc.

People, however, did not think that the need for classroom assistants was decreasing. Also, most respondents believed that home schooling and private schooling should not be funded out of public funds, and some respondents emphasized that education for aboriginal students should be free.

French organizations and individuals pressed for changes regarding the recognition of constitutional rights under Section 23 of the *Charter of Rights and Freedoms*, and the need to include these rights in the preamble or in the *Education Act* itself.

Finally, respondents also agreed with the proposed direction in *Voices* that future legislation should be developed to enable the colleges in the Nunavut and the Western Arctic to grant university degrees and to allow the regulation of private vocational institutions.

Acknowledgements

Written submissions in response to *Direction for Improving the Education Act* are gratefully acknowledged here:

Arctic Jewish Community Association
Association de parents francophones de Yellowknife
Community Education Council, Beaufort-Delta Divisional Board of Education
Beaufort-Delta Divisional Board of Education Staff
Chief Jimmy Bruneau School, Dogrib Divisional Board of Education
Cominco Limited, Polaris Mine
Comité de parents francophones de Iqaluit
Conseil scolaire francophone de Yellowknife
Fédération Franco-TéNOise
Fort Liard Community Education Council
Fort Simpson Community Education Council
Fort Smith Community Daycare
Gwich'in Tribal Council
Hay River Chamber of Commerce
Home Schooling Association of Yellowknife
Inuvik Education Society
Inuvialuit Social Development Program
Inuvik Native Band
Northwest Territories Association for Supervision and Curriculum Development
Northwest Territories Teachers' Association
Nunavut Teachers Association
Seventh Day Adventist Church
Spiritual Assembly of the Baha'is of Yellowknife
Status of Women Council of the Northwest Territories
Tsiigehtchic Community Education Council
Yellowknife Catholic Schools District #2
Yellowknife Education District #1

In addition the Department received over 30 written submissions from individuals, submissions from the focus groups on schooling for the development of the strategic plan and other general and specific comments from individuals and organizations in meetings, conferences, workshops, etc. All comments were appreciated and considered in the development of this *Legislative Discussion Paper on the Draft of the New Education Act*.

