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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 131  
(2002, chapter 75)

**An Act to amend the Education Act as regards the school tax on the island of Montréal and amending other legislative provisions**

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Introduced 5 November 2002  
Passage in principle 10 December 2002  
Passage 18 December 2002  
Assented to 19 December 2002

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## EXPLANATORY NOTES

*This bill amends the Education Act in order to replace the Conseil scolaire de l'île de Montréal with an administrative body named "Comité de gestion de la taxe scolaire de l'île de Montréal". The mandate of the Comité is to impose and collect the school tax on taxable immovables located on the territory of the school boards on the island of Montréal. The Comité is also responsible for borrowing money for the purposes of school boards on the island of Montréal and for managing the debt of the Conseil scolaire de l'île de Montréal.*

*This bill also specifies the rules for the establishment of the rate of the school tax and for the apportionment of its proceeds between the school boards on the island of Montréal.*

*Lastly, this bill includes transitional provisions and consequential amendments.*

## LEGISLATION AMENDED BY THIS BILL :

- Act respecting equal access to employment in public bodies (R.S.Q., chapter A-2.01);
- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- Act respecting the Cree Regional Authority (R.S.Q., chapter A-6.1);
- Archives Act (R.S.Q., chapter A-21.1);
- Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001);
- Act respecting insurance (R.S.Q., chapter A-32);
- Building Act (R.S.Q., chapter B-1.1);
- Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);
- Savings and Credit Unions Act (R.S.Q., chapter C-4);

- Savings and Credit Unions Act (R.S.Q., chapter C-4.1);
- Charter of the French language (R.S.Q., chapter C-11);
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Forestry Credit Act (R.S.Q., chapter C-78);
- Act to promote forest credit by private institutions (R.S.Q., chapter C-78.1);
- Act respecting municipal debts and loans (R.S.Q., chapter D-7);
- Act to foster the development of manpower training (R.S.Q., chapter D-7.1);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Act respecting Financement-Québec (R.S.Q., chapter F-2.01);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Act respecting security funds (R.S.Q., chapter F-3.2.0.4);
- Education Act (R.S.Q., chapter I-13.3);
- Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11);
- Act respecting the Naskapi Development Corporation (R.S.Q., chapter S-10.1);

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- Act respecting the Makivik Corporation (R.S.Q., chapter S-18.1);
  - Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);
  - Securities Act (R.S.Q., chapter V-1.1).

## Bill 131

### AN ACT TO AMEND THE EDUCATION ACT AS REGARDS THE SCHOOL TAX ON THE ISLAND OF MONTRÉAL AND AMENDING OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

**1.** The heading of Chapter VI of the Education Act (R.S.Q., chapter I-13.3) is replaced by the following heading :

“COMITÉ DE GESTION DE LA TAXE SCOLAIRE DE L' ÎLE DE MONTRÉAL”.

**2.** Section 399 of the said Act is amended by replacing the first paragraph by the following paragraph :

“**399.** The Comité de gestion de la taxe scolaire de l'île de Montréal replaces the Conseil scolaire de l'île de Montréal. The Comité shall acquire the rights and assume the obligations of the Council.”

**3.** Section 402 of the said Act is replaced by the following section :

“**402.** The Comité shall consist of members designated in the following manner :

(1) each school board on the island of Montréal shall designate one person from among its elected commissioners ;

(2) the Minister shall designate two persons, one person chosen from among the managerial staff of the Ministère de l'Éducation and another person domiciled on the island of Montréal, chosen after consultation with the parents' committees of the school boards on the island of Montréal.

If a school board fails to make the designation as provided in subparagraph 1 of the first paragraph, the Minister shall, within 30 days of the vacancy, designate a person from among the commissioners of that school board.”

**4.** Section 403 of the said Act is replaced by the following section :

“**403.** A school board may designate another of its commissioners as a substitute to sit and vote in the commissioner's stead when that commissioner is unable to take part in a sitting of the Comité.”

**5.** Section 405 of the said Act is repealed.

**6.** Section 406 of the said Act is repealed.

**7.** Section 407 of the said Act is replaced by the following section :

“**407.** No officer or employee of the Comité or of a school board on the island of Montréal may be designated or appointed as a member of the Comité.”

**8.** Section 408 of the said Act is repealed.

**9.** Section 409 of the said Act is replaced by the following section :

“**409.** The members of the Comité shall designate a president from among themselves.

The president must be a person referred to in subparagraph 1 of the first paragraph of section 402.

**10.** Section 410 of the said Act is repealed.

**11.** Section 412 of the said Act is replaced by the following section :

“**412.** The Comité may delegate certain of its functions and powers to the secretary or to another member of the personnel of the Comité.”

**12.** Sections 413 and 414 of the said Act are repealed.

**13.** Section 415 of the said Act is replaced by the following sections :

“**415.** Sections 159, 160, the first paragraph of section 161, the first and second paragraphs of section 163, sections 164 to 166, 169 to 173 and 175 to 178 apply to the Comité or to its members. For that purpose, “commissioner” means a member of the Comité.

“**415.1.** The Comité shall fix the date, time and place of its regular sittings. It shall hold at least one regular sitting each school year.”

**14.** Division III of Chapter VI of the said Act, comprising sections 416 to 419, is repealed.

**15.** Section 421 of the said Act is replaced by the following section :

“**421.** The secretary is responsible for the day-to-day management of the activities and resources of the Comité.

The secretary shall see that the decisions of the Comité are carried out, and perform the tasks that are assigned to the secretary by the Comité.”

**16.** Section 423 of the said Act is amended

(1) by replacing “the Council” in the first and second paragraphs by “the Comité”;

(2) by adding the following paragraph after the second paragraph:

“The second paragraph of section 288 also applies to the school boards on the island of Montréal.”

**17.** The said Act is amended by inserting the following section after section 424:

**“424.1.** The funds required for the amortization of the principal and the payment of interest on bonds or other evidences of indebtedness or securities issued by the Comité on or after 28 February 2003 shall be derived from the general revenue of the Comité and of the school boards on the island of Montréal.

The funds required for the amortization of the principal and the payment of interest on bonds or other evidences of indebtedness or securities forming part of the debt of the Comité on 28 February 2003 shall be derived from the general revenue of the Comité and of the school boards on the island of Montréal.”

**18.** The said Act is amended by inserting the following section after section 425:

**“425.1.** The bonds or other evidences of indebtedness or securities issued by the Comité on or after 28 February 2003 constitute a direct, general and unconditional undertaking of the Comité and of the school boards on the island of Montréal and rank *pari passu* with all other undertakings of the Comité and of the school boards on the island of Montréal in respect of loans not secured by hypothec or other encumbrance.

The same applies to bonds or other evidences of indebtedness or securities forming part of the debt of the Comité on 28 February 2003.”

**19.** Section 430 of the said Act is amended by replacing “The Council” in the first line by “Each school board on the island of Montréal”.

**20.** Sections 432 to 434 of the said Act are repealed.

**21.** Section 434.4 of the said Act is amended

(1) by replacing “of sections 434 and” in the first line of the first paragraph by “of section”;

(2) by replacing the word “Council” in the third line of the first paragraph by the word “Comité”.

**22.** Section 434.5 of the said Act is replaced by the following section :

**“434.5.** Every year, each school board on the island of Montréal shall require from the Comité, by resolution of its Council, the payment of an amount that may not, however exceed the maximum proceeds of school tax established by the school board by effecting the calculations as provided in the second and third paragraphs of section 308. At the meeting at which the resolution is adopted, the Council shall present the tax rate projected by the Comité, in accordance with the second paragraph of section 435.

The school boards on the island of Montréal shall prepare and transmit to the Comité the documents and information it requests for the purposes of school taxation.”

**23.** Section 435 of the said Act is replaced by the following section :

**“435.** The Comité shall, each year, fix the rate of the school tax.

In addition, the Comité shall provide the school boards, before the adoption of the resolution referred to in the first paragraph of section 434.5, with a projection of the property tax rate that could result if the school boards require the maximum proceeds of school tax established for each school board by effecting the calculations as provided in the second and third paragraphs of section 308.”

**24.** Section 439 of the said Act is replaced by the following section :

**“439.** The Comité shall apportion, for every school year, the proceeds of school tax and the investment income of all or part of the proceeds according to the following rules :

(1) each school board on the island of Montréal shall receive, not later than 3 January of each year, that part of the proceeds of the school tax that corresponds to the proportion that the amount required by the school board is of the total amount obtained by effecting for each school board on the island of Montréal the calculations set out in the second and third paragraphs of section 308; a school board may not receive any amount in excess of the maximum proceeds of school tax resulting from the calculations set out in the second and third paragraphs of section 308;

(2) the remainder, after deducting the amount determined by the Comité for its purposes, shall be apportioned among the school boards to ensure the upgrading of education in economically disadvantaged areas served by those



school boards, at such periods and according to such allocation rules as determined by a resolution adopted by the vote of at least two-thirds of the members of the Comité.

The remainder referred to in subparagraph 2 of the first paragraph must be apportioned in a fair and non-discriminatory manner.”

**25.** Section 440 of the said Act is amended

(1) by replacing “either of the limits contemplated” in the first and second lines of the first paragraph by “the limit referred to”;

(2) by striking out the words “the rate or” in the second line of the third paragraph.

**26.** Section 444 of the said Act is repealed.

**27.** Section 446 of the said Act is replaced by the following section :

“**446.** Sections 266, 270, 272, 274, 279 to 285, the first paragraph of section 286 and the second paragraph of section 287 apply to the Comité, with the necessary modifications.”

**28.** Section 451 of the said Act is amended by inserting “and for the Comité de gestion de la taxe scolaire de l’île de Montréal” after “boards” in the second line of the first paragraph.

**29.** Section 472 of the said Act is amended

(1) by replacing “Conseil scolaire de l’île de Montréal” in the first and third paragraphs by “Comité de gestion de la taxe scolaire de l’île de Montréal”;

(2) by striking out “The budgetary rules must also provide for the allocation of subsidies to the Conseil scolaire de l’île de Montréal in the case contemplated in section 432.” in the fifth, sixth and seventh lines of the second paragraph.

**30.** The said Act is amended by inserting the following section after section 475

“**475.1.** The Minister shall also provide, in the budgetary rules referred to in section 472, for the payment of equalization grants to a school board on the island of Montréal equal to the amount obtained by subtracting the amount paid to the school board by the Comité de gestion de la taxe scolaire de l’île de Montréal under subparagraph 1 of the first paragraph of section 439 from the maximum yield of the school tax obtained, for the school board, by effecting the calculations set out in the second and third paragraphs of section 308.

For the purposes of this section, any amount that exceeds the amount per student referred to in section 308 that has been approved by a referendum or

that a school board must submit to its electors for approval shall not be taken into account.”

**31.** Sections 400, 401, 404, 407, 420, 422, 426 to 429, 431, 434.1 to 434.4, 435, 436, 445, 452, 473.1, 474, 476, 477, 478, 478.3, 479, 480 and 491 of the said Act are amended by replacing the words “Conseil scolaire de l’île de Montréal” and “Conseil” wherever they appear by the words “Comité de gestion de la taxe scolaire de l’île de Montréal” and “Comité”, respectively.

**32.** Section 505 of the said Act is repealed.

**33.** The words “Conseil scolaire de l’île de Montréal” and “Conseil” are replaced by the words “Comité de gestion de la taxe scolaire de l’île de Montréal” and “Comité”, respectively, in the following legislative provisions :

(1) subparagraph 3 of the first paragraph of section 2 of the Act respecting equal access to employment in public bodies (R.S.Q., chapter A-2.01);

(2) the first paragraph of section 6 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);

(3) paragraph 1 of the schedule to the Act respecting the Cree Regional Authority (R.S.Q., chapter A-6.1);

(4) paragraph 6 of the schedule to the Archives Act (R.S.Q., chapter A-21.1)

(5) the second paragraph of section 26 of the Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001);

(6) paragraph 3 of section 93.247 and section 225 of the Act respecting insurance (R.S.Q., chapter A-32);

(7) paragraph 2 of section 65.4 of the Building Act (R.S.Q., chapter B-1.1);

(8) section 20.4 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);

(9) subparagraph *a* of the first paragraph of section 83 of the Savings and Credit Unions Act (R.S.Q., chapter C-4);

(10) paragraph 1 of section 256 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1);

(11) the schedule to the Charter of the French language (R.S.Q., chapter C-11);

(12) the second paragraph of article 696 of the Code of Civil Procedure (R.S.Q., chapter C-25);

- (13) the first paragraph of section 330 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- (14) paragraph 2 of section 151 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- (15) the first paragraph of section 46.2 of the Forestry Credit Act (R.S.Q., chapter C-78);
- (16) the first paragraph of section 55 of the Act to promote forest credit by private institutions (R.S.Q., chapter C-78.1);
- (17) section 39 of the Act respecting municipal debts and loans (R.S.Q., chapter D-7);
- (18) paragraph 1 of section 7 of the Act to foster the development of manpower training (R.S.Q., chapter D-7.1);
- (19) the third paragraph of section 21 of the Act respecting school elections (R.S.Q., chapter E-2.3);
- (20) paragraph 2 of section 4 of the Act respecting Financement-Québec (R.S.Q., chapter F-2.01);
- (21) the second paragraph of section 1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- (22) paragraph 3 of section 36 and section 38 of the Act respecting security funds (R.S.Q., chapter F-3.2.0.4);
- (23) section 3.6.2 of the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30);
- (24) the first paragraph of section 31.1.4 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- (25) paragraph 5 of the definition of “employer subject to contribution” in section 39.0.1 of the Act respecting labour standards (R.S.Q., chapter N-1.1);
- (26) Schedule II to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- (27) paragraph 1 of Schedule I to the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11);
- (28) paragraph 1 of Schedule I to the Act respecting the Naskapi Development Corporation (R.S.Q., chapter S-10.1);
- (29) the schedule to the Act respecting the Makivik Corporation (R.S.Q., chapter S-18.1);

(30) subparagraph 4 of the first paragraph of section 203 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);

(31) paragraph 2 of section 41 and section 44 of the Securities Act (R.S.Q., chapter V-1.1).

#### TRANSITIONAL AND FINAL PROVISIONS

**34.** Not later than 28 February 2004, the Comité de gestion de la taxe scolaire de l'île de Montréal must make a report to the Minister of Education and to the school boards on the island of Montréal on the comparative costs of the various options concerning the collection of the school tax, in particular, the case where Ville de Montréal would be collecting the school tax, taking into account the special situation of the part of the territory of the Lester-B.-Pearson School Board situated off the island of Montréal.

**35.** The members of the Conseil scolaire de l'île de Montréal in office on 27 February 2003 cease on that date to exercise their functions. The Comité de gestion de la taxe scolaire de l'île de Montréal shall, however, pay to them the remuneration to which they would have been entitled if they had remained in office until the date of the first school election that follows 28 February 2003.

**36.** A labour contract entered into between the Conseil scolaire de l'île de Montréal and an employee in force on 5 November 2002 cannot be modified and no other labour contract may be entered into after that date by the Conseil scolaire de l'île de Montréal, except for the hiring of employees on a temporary basis.

**37.** The employees of the Conseil scolaire de l'île de Montréal in office on 27 February 2003 become employees of the Comité de gestion de la taxe scolaire de l'île de Montréal.

**38.** The conditions of employment of the members of the personnel of the Conseil scolaire de l'île de Montréal who are not employees within the meaning of the Labour Code (R.S.Q., chapter C-27), applicable on 5 November 2002, continue to apply until the Minister makes a regulation under section 451 of the Education Act (R.S.Q., chapter I-13.3).

**39.** The conditions of employment of employees within the meaning of the Labour Code in the employ of the Conseil scolaire de l'île de Montréal, applicable on 5 November 2002, continue to apply until a collective agreement is entered into between the Comité de gestion de la taxe scolaire de l'île de Montréal and its groups of employees.

**40.** Sections 38 and 39 apply only to the personnel in the employ of the Conseil scolaire de l'île de Montréal on 5 November 2002, except employees hired on a temporary basis.

**41.** The Comité de gestion de la taxe scolaire de l'île de Montréal may not lay off an employee, other than an employee hired on a temporary basis, in its employ on 5 November 2002, until 1 January 2004.

**42.** Before 1 January 2004, the Comité de gestion de la taxe scolaire de l'île de Montréal must negotiate with the representatives of its employees the terms and conditions applicable in the case of a personnel reduction in relation to the granting of severance allowances or to retirement.

**43.** The Comité de gestion de la taxe scolaire de l'île de Montréal shall analyze its staffing needs having regard to the scope of its mandate and after consulting the members of the personnel of the Comité.

**44.** The records and other documents of the Conseil scolaire de l'île de Montréal become the records and documents of the Comité de gestion de la taxe scolaire de l'île de Montréal.

**45.** The Comité de gestion de la taxe scolaire de l'île de Montréal becomes a party to any proceeding to which the Conseil scolaire de l'île de Montréal was a party, without continuance of suit.

**46.** Unless the context indicates otherwise, for the purposes of any regulation, by-law, ordinance, order in council, order, contract or other document, the words "Conseil scolaire de l'île de Montréal" or "Conseil" refer to the "Comité de gestion de la taxe scolaire de l'île de Montréal".

**47.** The by-laws, resolutions or ordinances of the Conseil scolaire de l'île de Montréal in force on 28 February 2003 remain in force, to the extent that they are compatible with this Act, insofar as their object has not been attained or until they are replaced or repealed. However, By-law No. 43 concerning the Council's policy in respect of economically disadvantaged areas, adopted on 27 April 2002 by the Conseil scolaire de l'île de Montréal applies until 30 June 2003.

All acts performed before 28 February 2003 by the Conseil scolaire de l'île de Montréal under a provision that is replaced or repealed by this Act retain their effects while expedient. Where that is the case, they are deemed to have been performed under the equivalent provision of this Act.

**48.** On or before 27 February 2003, the Minister of Education and the school boards on the island of Montréal shall designate the members of the Comité de gestion de la taxe scolaire de l'île de Montréal.

**49.** The person who exercises the functions of director general of the Conseil scolaire de l'île de Montréal on 27 February 2003 is deemed to be the director general of the Comité until the Comité appoints a director general; that person shall convene the members of the Comité de gestion de la taxe scolaire de l'île de Montréal to the first sitting of the Comité which shall be held within 30 days after 28 February 2003.

**50.** This Act comes into force on 28 February 2003, except section 48, which comes into force on 19 December 2002.