



Memorandum

Date: June 19, 2020
To: Board of Education
From: Ryan Stierman, Secretary-Treasurer/CFO

Information Item: Impact of Bill 8: Education Statutes Amendment Act

1.0 BACKGROUND

Bill 8: *Education Statutes Amendment Act*, which is attached as Appendix A, passed third reading on March 4, 2020 and is awaiting royal assent.

Bill 8, once it has been proclaimed, makes the following changes to the School Act:

- Replaces references of Distributed Learning throughout the School Act to Online Learning.
- A board must establish a policy that promotes the use of board property by licensees, between the hours of 7 a.m. and 6 p.m. on business days, for the purpose of providing a child care program, and addresses the matters set out in any orders of the Minister.
- A board may provide a child care program on board property to students enrolled with the board if the board is a licensee and the child care program is provided only on school days before or after school hours.
- If a board provides a child care program, rates charges must be based on cost recovery.
- If a board leases space to a childcare provider, lease charges must be based on cost recovery.
- Provides the Minister the ability to issue orders on limits of use and size of operating reserves. The Minister will be able to set classes of districts and apply different rules to different classes.

2.0 NEXT STEPS

It is unknown how the COVID-19 pandemic will impact the timelines for proclamation of the Act and Ministerial orders.

Policy 161 - Accumulated Surplus should be reviewed to ensure it is in compliance with the amendments and Ministerial orders on operating reserves when they are issued.

Policy 650 – Public Use of School Facilities should be reviewed to ensure it is in compliance with the amendments and Ministerial orders on the operation of childcare programs on District property when they are issued.

3.0 SECRETARY-TREASURER/CFO'S COMMENTS

Staff is awaiting further action on Bill 8 from the Ministry of Education and will bring forward proposed amendments to policies once further direction is received.

4.0 APPENDIX

A. Bill 8: Education Statutes Amendment Act

2020 Legislative Session: 5th Session, 41st Parliament
FIRST READING

The following electronic version is for informational purposes only.
The printed version remains the official version.

HONOURABLE ROB FLEMING
MINISTER OF EDUCATION

BILL 8 – 2020
EDUCATION STATUTES AMENDMENT ACT, 2020

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Education Statutes Amendment Act, 2015

Explanatory Note

1 Section 4 of the Education Statutes Amendment Act, 2015, S.B.C. 2015, c. 24, is repealed.

Independent School Act

Explanatory Note

2 Section 1 (1) of the Independent School Act, R.S.B.C. 1996, c. 216, is amended

(a) by repealing the definitions of "distributed learning" and "distributed learning independent school" and substituting the following:

"online learning" means a method of instruction that relies primarily on communication between students and teachers by means of the internet;

"online learning independent school" means an independent school that offers instruction to its students through online learning only; , **and**

(b) in the definition of "independent school" by striking out "a distributed learning independent school" and substituting "an online learning independent school".

Explanatory Note

3 Section 6.1 (2) is amended by striking out "distributed learning" wherever it appears and substituting "online learning".

Explanatory Note

4 Section 8.1 is repealed and the following substituted:

Provision of online learning

8.1 (1) Subject to subsection (2) and the regulations, an authority may deliver all or part of an educational program through online learning.

(2) An authority of an independent school may deliver an educational program, or part of an educational program, through online learning to the following persons only if the authority has approval to provide the educational program under an agreement with the minister:

(a) a student who is enrolled in an educational program provided by another independent school;

(b) a student or francophone student, as defined in the *School Act*;

(c) a child who is registered under section 13 of the *School Act* with a school or a francophone school, as defined in that Act, or another independent school.

(3) Subsection (2) does not apply in respect of an educational program that is

(a) offered through an independent school for which an authority holds a certificate of group 3 classification, or

(b) not intended to meet educational standards established by the minister.

Explanatory Note

5 Section 18 is amended

(a) by repealing subsection (2) (f) and substituting the following:

(f) respecting online learning independent schools, online learning and educational programs delivered through online learning; , **and**

(b) in subsection (3) (b) (ii) by striking out "distributed learning independent schools" and substituting "online learning independent schools".

Explanatory Note

6 Section 3 (2) (b) and (c) of the Schedule is amended by striking out "distributed learning" and substituting "online learning".

School Act

Explanatory Note

7 Section 1 (1) of the School Act, R.S.B.C. 1996, c. 412, is amended

(a) in paragraphs (a) and (b) of the definition of "attend" by striking out "distributed learning" and substituting "online learning",

(b) by repealing the definitions of "distributed learning" and "distributed learning school" and substituting the following:

"online learning" means a method of instruction that relies primarily on communication between students and teachers by means of the internet;

"online learning school" means a school or francophone school that offers instruction to its students through online learning only; ,

(c) in the definitions of "francophone school" and "school" by striking out "a distributed learning school" and substituting "an online learning school", and

(d) in the definition of "supervise" by striking out "distributed learning" and substituting "online learning".

Explanatory Note

8 Section 1 (1) is amended

(a) by adding the following definition:

"child care program" means a program that is prescribed for the purposes of paragraph (a) of the definition of "care" in section 1 of the *Community Care and Assisted Living Act*; , **and**

(b) by repealing the definition of "First Nation land".

Explanatory Note

9 Section 1 (3) is amended by striking out "a distributed learning school" and substituting "an online learning school".

Explanatory Note

10 Section 3.1 (1) is amended by striking out "at least one of the educational programs or francophone educational programs, as applicable, is delivered, in whole or in part, through distributed learning" and substituting "the other educational programs or francophone educational programs, as applicable, are delivered, in whole or in part, through online learning".

Explanatory Note

11 Section 75 (4.1) is repealed and the following substituted:

(4.01) Subject to subsection (4.1) and the orders of the minister, a board may deliver all or part of an educational program through online learning.

(4.1) A board may deliver an educational program, or part of an educational program, through online learning to the following persons only if the board has approval to provide the educational program under an agreement with the minister:

- (a) a student, as defined in the *Independent School Act*;
- (b) a student who is enrolled in an educational program provided by another board, or a francophone student;
- (c) a student who is not resident in the board's school district;
- (d) a child who is registered under section 13 with a school operated by another board, a francophone school or an independent school.

Explanatory Note

12 Section 79.1 (3) is amended by striking out "distributed learning" wherever it appears and substituting "online learning".

Explanatory Note

13 Section 83 (2) is amended by striking out "distributed learning" and substituting "online learning".

Explanatory Note

14 Section 85.1 is repealed and the following substituted:

Policies respecting child care programs

85.1 (1) In this section and in sections 85.2, 85.3 and 85.4:

"board property", in relation to a board, means land or improvements

- (a) that are owned or leased by the board,
- (b) that are within the board's school district, and
- (c) that are, have been or are intended to be used for educational activities;

"business day" means a day other than Saturday or a holiday;

"educational activities" means the provision of educational programs, early learning programs and extracurricular school activities;

"licensee", in relation to a child care program, means the person licensed under the *Community Care and Assisted Living Act* to provide the child care program.

(2) A board must establish a policy that

- (a) promotes the use of board property by licensees, between the hours of 7 a.m. and 6 p.m. on business days, for the purpose of providing a child care program, and
- (b) addresses the matters set out in any orders of the minister.

Explanatory Note

15 The following sections are added:

Boards may provide child care programs

85.2 (1) A board may provide a child care program on board property to students enrolled with the board if both of the following apply:

- (a) the board is a licensee;

(b) the child care program is provided only on school days before or after school hours.

(2) If a board provides a child care program referred to in subsection (1), the board may charge fees to a student to whom the child care program is provided if the fees are not more than the direct costs incurred and to be incurred by the board in providing that child care program.

Child care programs provided by others

85.3 (1) A board may permit a licensee to use board property for the purpose of providing a child care program.

(2) If a board permits a licensee to use board property for the purpose of providing a child care program, the board must ensure that any revenue obtained by the board from that use is not more than the direct and indirect costs incurred and to be incurred by the board in making the board property available to the licensee for that use.

Use of board property for child care programs

85.4 If a child care program is provided on board property by the board or by a licensee other than the board, the board must ensure

(a) that the child care program is provided in accordance with the board's policy established under section 85.1 (2) and any orders of the minister, and

(b) that the provision of the child care program does not disrupt or otherwise interfere with educational activities.

Explanatory Note

16 Section 115.2 is repealed.

Explanatory Note

17 Section 156 is amended by adding the following subsections:

(6.1) An amount retained as an operating reserve, unless appropriated for the purposes of section 111, may be spent or transferred by the board to another reserve only in accordance with the orders of the minister.

(6.2) The amount retained by a board as an unappropriated operating reserve of the board may not exceed the amount determined by order of the minister.

Explanatory Note

18 Section 166.4 (2) is repealed and the following substituted:

(2) Sections 85.1 to 86, other than section 86 (1.1), apply for the purposes of this Part.

Explanatory Note

19 Section 166.4 (4) is repealed and the following substituted:

(4) Subject to subsection (5) and the orders of the minister, a francophone education authority may deliver all or part of a francophone educational program through online learning.

(5) A francophone education authority may deliver a francophone educational program, or part of a francophone educational program, through online learning to the following persons only if the francophone education authority has approval to provide the francophone educational program under an agreement with the minister:

(a) a student, as defined in the *Independent School Act*;

(b) a francophone student who is enrolled in a francophone educational program provided by another francophone education authority, or a student;

(c) a child who is registered under section 13 with a school, another francophone school or an independent school.

Explanatory Note**20 Section 168 (2) (h) is repealed and the following substituted:**

(h) respecting online learning schools, online learning and educational programs delivered through online learning, .

Explanatory Note**21 Section 168 is amended****(a) in subsection (2) by adding the following paragraphs:**

(o.1) respecting the spending or transfer of an amount from an operating reserve under section 156 (6.1),

(o.2) determining the amount a board may retain as an unappropriated operating reserve under section 156 (6.2), , **and**

(b) by adding the following subsections:

(2.11) An order made under subsection (2) (o.1) may

(a) establish different classes of boards, and

(b) make different provisions for a board or a class established under paragraph (a).

(2.12) An order made under subsection (2) (o.2) may do one or more of the following:

(a) establish different classes of boards;

(b) make different provisions for a board or a class established under paragraph (a);

(c) determine the amount by establishing a formula, ratio, percentage or other method of determining the amount.

Explanatory Note

22 Section 168 (6) (c) is amended by striking out "on First Nation land by a participating First Nation" and substituting "by a first nation".

Explanatory Note

23 The following section is added:

Orders respecting child care programs

168.001 The minister may make orders as follows:

- (a) respecting board policies established under section 85.1 (2) or francophone education authority policies established under section 166.4 (2);
- (b) respecting the provision of a child care program on board property as defined in section 85.1 (1).

Explanatory Note

24 Section 168.01 (f) is repealed.

Explanatory Note

25 Section 168.02 is amended

(a) in subsection (1) (f) by striking out "a distributed learning school" and substituting "an online learning school" and by striking out "through distributed learning" and substituting "through online learning", and

(b) in subsection (2) (b) by striking out "a distributed learning school" and substituting "an online learning school" and by striking out "by means of distributed learning" and substituting "through online learning".

Explanatory Note

26 The following heading is added after section 169:

Division 1.1 – Personal Education Numbers and Personal Information .**Explanatory Note**

27 The following section is added to Division 1.1 of Part 9:

Definition

169.1 In this Division, "**personal information**" means recorded information about an identifiable individual.

Explanatory Note

28 Section 170.1 (2) is amended by adding the following paragraph:

(i) a child who is resident in British Columbia.

Explanatory Note**29 Section 171 (5) is amended by striking out "Lieutenant Governor" and substituting "Lieutenant Governor in Council".****Explanatory Note****30 Section 175 (2) (q) is amended by striking out "distributed learning" in both places and substituting "online learning".****Consequential Amendments****Community Care and Assisted Living Act****Explanatory Note****31 Section 2 of the Community Care and Assisted Living Act, S.B.C. 2002, c. 75, is amended by repealing paragraphs (a) and (c) and substituting the following:**

(a) a school under the *School Act*, other than the facilities of the school that are used for the provision of a child care program as defined in that Act;

(c) a francophone school under the *School Act*, other than the facilities of the francophone school that are used for the provision of a child care program as defined in that Act; .

Explanatory Note**32 Section 11 is amended by adding the following subsection:**

(0.1) In this section, "**director**", in relation to a corporation that is a board of education as defined in the *School Act*, includes a secrétaire trésorier as defined in section 1 (1) of that Act or an individual appointed as a secretary treasurer under section 23 of that Act.

Commencement

33 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 2 to 7	July 1, 2021
3	Sections 9 to 13	July 1, 2021
4	Sections 16 and 17	July 1, 2020

5	Sections 19 and 20	July 1, 2021
6	Section 21	July 1, 2020
7	Section 24	July 1, 2020
8	Section 25	July 1, 2021
9	Section 30	July 1, 2021

Explanatory Notes

SECTION 1: **[Education Statutes Amendment Act, 2015, section 4]** is consequential to an amendment to the *School Act* made by this Bill.

SECTION 2: **[Independent School Act, section 1]** replaces definitions with new definitions defining or referencing online learning and amends existing definitions to reference online learning.

SECTION 3: **[Independent School Act, section 6.1]** is consequential to the amendments to section 1 of the Act made by this Bill.

SECTION 4: **[Independent School Act, section 8.1]** provides for an authority to deliver an educational program through online learning, subject to the regulations and, in specified circumstances, under an agreement with the minister.

SECTION 5: **[Independent School Act, section 18]**

- authorizes the Lieutenant Governor in Council to make regulations respecting online learning independent schools, online learning and educational programs delivered through online learning;
- makes an amendment consequential to the amendments to section 1 of the Act made by this Bill.

SECTION 6: **[Independent School Act, Schedule]** is consequential to the amendments to section 1 of the Act made by this Bill.

SECTION 7: **[School Act, section 1]** replaces definitions with new definitions defining or referencing online learning and amends existing definitions to reference online learning.

SECTION 8: **[School Act, section 1]** adds a definition of "child care program" and repeals the definition of "First Nation land".

SECTION 9: **[School Act, section 1]** is consequential to the amendments to section 1 (1) of the Act made by this Bill.

SECTION 10: **[School Act, section 3.1]** provides for student enrolment in educational programs delivered through online learning.

SECTION 11: **[School Act, section 75]** provides for a board to deliver an educational program through online learning, subject to the orders of the minister and, in specified circumstances, under an agreement with the minister.

SECTION 12: **[School Act, section 79.1]** is consequential to the amendments to section 1 (1) of the Act made by this Bill.

SECTION 13: **[School Act, section 83]** is consequential to the amendments to section 1 (1) of the Act made by this Bill.

SECTION 14: **[School Act, section 85.1]**

- adds definitions for the purposes of sections 85.1, 85.2, 85.3 and 85.4;
- requires a board of education to establish a policy respecting the use of board property for the provision of child care programs.

SECTION 15: **[School Act, sections 85.2 to 85.4]**

- authorizes a board of education to provide a child care program on board property and to charge fees for that purpose;
- clarifies that a board of education may permit another person to use board property to provide a child care program and limits the revenue the board of education may obtain from that use;
- provides requirements that must be met if board property is used to provide a child care program.

SECTION 16: **[School Act, section 115.2]** repeals a provision respecting a learning improvement fund.

SECTION 17: **[School Act, section 156]**

- provides for the spending or transfer of an amount retained as an operating reserve in accordance with the orders of the minister;
- provides for a maximum amount that may be retained as an unappropriated operating reserve.

SECTION 18: **[School Act, section 166.4]** adds new provisions, as added to the Act by this Bill, to the list of provisions that apply to francophone education authorities.

SECTION 19: **[School Act, section 166.4]** provides for a francophone education authority to deliver a francophone educational program through online learning, subject to the orders of the minister and, in specified circumstances, under an agreement with the minister.

SECTION 20: **[School Act, section 168]** authorizes the minister to make orders respecting online learning schools, online learning and educational programs delivered through online learning.

SECTION 21: **[School Act, section 168]** authorizes the minister to make orders respecting operating reserves.

SECTION 22: **[School Act, section 168]**

- provides express authority for the minister to issue a British Columbia Certificate of Graduation or a British Columbia Adult Graduation Diploma to a person attending an educational institution operated by a first nation (including a participating First Nation) or a Community Education Authority established under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

- removes the requirement that the educational institution must be located on First Nation land.

SECTION 23: **[School Act, section 168.001]** provides that the minister may make orders respecting policies for the provision of child care programs and respecting the provision of child care programs on board property.

SECTION 24: **[School Act, section 168.01]** is consequential to the repeal of section 115.2 of the Act by this Bill.

SECTION 25: **[School Act, section 168.02]** is consequential to the amendments to section 1 (1) of the Act made by this Bill.

SECTION 26: **[School Act, heading to Division 1.1 of Part 9]** adds a Division heading.

SECTION 27: **[School Act, section 169.1]** adds a definition for the purposes of the Division.

SECTION 28: **[School Act, section 170.1]** authorizes the minister to assign a personal education number to any child who is resident in British Columbia.

SECTION 29: **[School Act, section 171]** makes a housekeeping amendment.

SECTION 30: **[School Act, section 175]** is consequential to the amendments to section 1 (1) of the Act made by this Bill.

SECTION 31: **[Community Care and Assisted Living Act, section 2]** provides that the facilities of a school or a francophone school that are in use for the provision of a child care program are subject to the Act.

SECTION 32: **[Community Care and Assisted Living Act, section 11]** adds a definition of "director" consequential to amendments to the *School Act* made by this Bill.