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MINISTER OF EDUCATION AND DEPUTY PREMIER
AND MINISTER RESPONSIBLE FOR
EARLY LEARNING AND LITERACY

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FIRST NATIONS EDUCATION ACT

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Preamble

WHEREAS the Province entered into the Education Jurisdiction Framework Agreement with the government of Canada and the First Nations Education Steering Committee on July 5, 2006;

AND WHEREAS the Province also entered into the British Columbia First Nation Education Agreement with the First Nations Education Steering Committee on July 5, 2006;

AND WHEREAS the government of Canada has enacted the *First Nations Jurisdiction over Education in British Columbia Act*, S.C. 2006, c. 10;

AND WHEREAS section 9 (1) of the *First Nations Jurisdiction over Education in British Columbia Act* (Canada) authorizes, to the extent provided by an individual agreement between the government of Canada and a participating First Nation, the participating First Nation to enact laws respecting education on First Nation land;

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

Definitions

- 1 In this Act:

“British Columbia First Nation Education Agreement” means the agreement entered into between the Province and the First Nations Education Steering Committee, dated July 5, 2006;

“education” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“Education Jurisdiction Framework Agreement” means the agreement entered into by the Province, the government of Canada and the First Nations Education Steering Committee, dated July 5, 2006;

“First Nation land” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“First Nation law” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“First Nations Education Authority” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“individual agreement” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“participating First Nation” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).

Jurisdiction over education on First Nation land

- 2 In accordance with the British Columbia First Nation Education Agreement, the Province recognizes that a participating First Nation may enact First Nation laws with respect to education provided by the participating First Nation on First Nation land, to the extent authorized by an individual agreement between the government of Canada and that participating First Nation brought into effect by the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).

Consultation

- 3 British Columbia will consult with the First Nations Education Authority in any general consultations respecting a proposed change to education policy, legislation or standards that may materially affect any of the following:
- (a) an education program offered by a participating First Nation;
 - (b) assessments, teacher certification, graduation requirements or curriculum;
 - (c) any matter related to assessments, teacher certification, graduation requirements or curriculum.

This Act prevails

- 4 If a provision of this Act is inconsistent or in conflict with a provision of another Act, the provision of this Act prevails.

Consequential Amendments

Final Agreement Consequential Amendments Act, 2007

- 5 *Section 100 of the Final Agreement Consequential Amendments Act, 2007, is repealed and the following substituted:*

100 *Section 1 (1) of the Independent School Act, R.S.B.C. 1996, c. 216, is amended in the definition of “independent school” by striking out “or” at the end of paragraph (d) and by adding the following paragraph:*

- (d.1) a school, other than a school operated by a treaty first nation under and in accordance with this Act, operated by a treaty first nation under its own laws, or .

- 6 *Section 101 is repealed and the following substituted:*

101 *Section 19 (1) (d) is amended by striking out “or” at the end of subparagraph (ii), by adding “or” at the end of subparagraph (iii) and by adding the following subparagraph:*

- (iv) a school operated by a treaty first nation under its own laws, .

- 7 *Section 176 is repealed and the following substituted:*

176 *Section 25.1 (1) of the Teaching Profession Act, R.S.B.C. 1996, c. 449, is amended by repealing the definition of “aboriginal educator” and substituting the following:*

“aboriginal educator” means any of the following:

- (a) a first nation, as defined in the *School Act*, that is operating an educational institution;
- (b) a Community Education Authority, established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), that is operating an educational institution;
- (c) a treaty first nation that is operating a school under its own laws; .

- 8 *Section 177 is repealed and the following substituted:*

177 *Section 27.1 (1) is amended by striking out “or” at the end of paragraph (c), by adding “or” at the end of paragraph (d) (ii) and by adding the following paragraph:*

- (e) a child participating in a kindergarten to grade 12 program of studies provided by a treaty first nation under its own laws.

Independent School Act

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

(a) by adding the following definitions:

“**First Nations Education Authority**” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“**participating First Nation**” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);, **and**

(b) in the definition of “independent school” by repealing paragraph (d) and substituting the following:

- (d) a public school, a Provincial school or a school operated by a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), or .

10 The following section is added:

Agreements with participating First Nations

10.1 (1) In this section, “**education**” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).

(2) An authority may enter into an agreement, with respect to matters relating to education, with

- (a) a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), or
- (b) the First Nations Education Authority.

11 Section 19 (1) (d) is repealed and the following substituted:

- (d) a school operated by
 - (i) the government of Canada,
 - (ii) a first nation, as defined in the *School Act*, or
 - (iii) a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), .

School Act

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

(a) by repealing the definition of “first nation” and substituting the following:

“first nation” means a band, as defined under the *Indian Act* (Canada), including a participating First Nation, located in British Columbia; , **and**

(b) **by adding the following definitions:**

“First Nation land” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“First Nations Education Authority” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

“participating First Nation” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada); .

13 Section 3 (3) is repealed and the following substituted:

(3) This section does not apply if the person

(a) is attending one of the following:

- (i) an independent school;
- (ii) a Provincial school;
- (iii) an educational institution operated by the government of Canada or by a first nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), or

(b) is registered under section 13.

14 Section 86 (3) is repealed and the following substituted:

(3) A board may enter into an agreement,

(a) with respect to the education of Indian children, with

- (i) a council of a band as defined in the *Indian Act* (Canada), or
- (ii) the council of an Indian band established by another Act of the government of Canada, and

(b) with respect to matters relating to education, with

- (i) a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), or
- (ii) the First Nations Education Authority.

(3.01) In subsection (3) (b), **“education”** has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).

15 Section 168 (6) is amended by adding the following paragraph:

(c) a British Columbia Certificate of Graduation or a British Columbia Adult Graduation Diploma to a person who is engaged in a program of studies at

an educational institution operated on First Nation land by a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), if the minister is satisfied that the person

- (i) has completed a program of studies at the grade 12 level at the educational institution, and
- (ii) has achieved learning outcomes substantially similar to the learning outcomes necessary to meet the general requirements for graduation established by order of the minister.

16 Section 170.1 (2) (f) is repealed and the following substituted:

- (f) at the request of a first nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), a person who is engaged in a program of studies at an educational institution operated by the first nation or Community Education Authority; .

Teaching Profession Act

17 Section 25.1 of the Teaching Profession Act, R.S.B.C. 1996, c. 449, is amended

(a) in subsection (1) by adding the following definitions:

“aboriginal educator” means either of the following:

- (a) a first nation, as defined in the *School Act*, that is operating an educational institution;
- (b) a Community Education Authority, established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), that is operating an educational institution;

“participating First Nation” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada); ,

(b) in subsection (1) by repealing the definition of “prospective employer” and substituting the following:

“prospective employer” means either of the following that is considering becoming an employer:

- (a) a board;
- (b) an authority. ,

(c) in subsection (3) by striking out “and a prospective employer of a member may inspect that list.” and substituting “and a prospective employer of a member or an aboriginal educator that is considering hiring a member may inspect that list.”, and

(d) *in subsection (4) by striking out “A prospective employer that inspects” and substituting “A prospective employer or an aboriginal educator that inspects”.*

18 Section 27.1 (1) is repealed and the following substituted:

- (1) In this section, “**student**” means
 - (a) a student as defined in the *School Act*,
 - (b) a student as defined in the *Independent School Act*,
 - (c) a child registered under section 13 of the *School Act*, or
 - (d) a child engaged in a program of studies at an educational institution operated by
 - (i) a first nation, as defined in the *School Act*, or
 - (ii) a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).

Commencement

- 19** This Act comes into force by regulation of the Lieutenant Governor in Council.