

Standing Committee on
Social Development



Report on Bill 68: *An Act to Amend the Child Day Care Act*

19th Northwest Territories Legislative Assembly

Chair: Ms. Caitlin Cleveland

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SOCIAL DEVELOPMENT**

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MLA Hay River South

Rylund Johnson
MLA Yellowknife North

Frieda Martselos
MLA Thebacha



March 9, 2023

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Social Development is pleased to provide its *Report on Bill 68: An Act to Amend the Child Day Care Act* and commends it to the House.

Ms. Caitlin Cleveland
Chair
Standing Committee on Social Development

STANDING COMMITTEE ON SOCIAL DEVELOPMENT REPORT ON BILL 68: AN ACT TO AMEND THE CHILD DAY CARE ACT

EXECUTIVE SUMMARY

Bill 68: *An Act to Amend the Child Day Care Act* (Bill 68), sponsored by the Department of Education, Culture and Employment (ECE) was referred to the Standing Committee on Social Development (Committee) for review on November 3, 2022.

Committee thanks everyone who came forward in person and in written submissions for their time and candid comments. Committee appreciated the favourable response to a number of the motions and the willingness of ECE to work with us. Committee Members believe the motions passed during the Committee's clause by clause improved the Bill. Committee accepted the new legislation with some proposed changes; one Motion moved by Committee was not concurred with, therefore, that amendment was not made and Committee may address this concern during deliberations in Committee of the Whole or at third Reading of Bill 68.

Bill 68 does not address the existing challenges of the NWT's early learning and child care sector or fix the damaged relationship between the sector and government. It does, however, put in place necessary basic rules, such as a certification process for educators, and allows the NWT to catch up with the other jurisdictions in this sector.

The Narrow Scope of Bill 68

Committee was disappointed when seeing Bill 68. This Bill presents a missed opportunity to renew the NWT's early learning and child care system and provide guidance toward a system that considers the diverse needs of the NWT environment and includes all parties. Bill 68 offers a narrow scope for amendment, with the areas open for change being limited and dispersed throughout the Act. The Bill changes small sections here and there in the Act, and Committee was not able to propose any whole-scale amendments. Committee finds this narrow approach another missed opportunity.

A Crisis in Trust and Relationship

Committee sees serious issues with the confidence in ECE rolling out this program. Many people think that making day care more affordable is a good thing. But how ECE has done it has created more problems. Committee did review Bill 68. This Bill will not fix the damaged relationships.

It appears that the GNWT left child care operators exasperated and feeling cornered after lacking to show the intent to collaborate with child care operators from the beginning and insufficiently communicating the GNWT's larger vision of child care.

Committee finds that the GNWT showed a lack of comprehension regarding the seriousness and comprehensiveness of the issues created by forcing a fast start to the transition of the Territories' child care system.

Members heard from child care providers that they have lost trust in the GNWT to responsibly guide the transition, providers sense a misjudgment in the real issues and perceive a bias in looking at provider-client relationships.

Recommendation 1:

The Standing Committee on Social Development recommends that the GNWT:

1. Form an advisory group including representation from all parties.
2. Review the 2030 Early Learning and Child Care Strategy on the inclusion of child care operators in goals and vision.
3. Establish and share an NWT vision and mission of early learning and child care sector, including principles and explaining where the federal child care agreements fit, requiring five-year reviews to check if NWT is fulfilling its vision.
4. Conduct an independent review of the roll-out of the Early Learning and Child Day Care agreement.
5. Conduct an independent review of the *Child Day Care Act*.
6. Address the crisis of confidence by reconciling with the NWT ELCC sector and starting with:
 - Improving communication by increasing responsiveness to clients and establishing client service standards.
 - Committing to explaining processes to the public before implementation, providing plain language materials and designating communication channels for operators to access ECE specialists and information.

On Complaints and Appeals

Bill 68 introduces a new section on complaints giving parents the right to file a complaint and enabling the Director to investigate the complaint. Committee understands that ECE's policy intent is to allow complaints to protect the rights of families.

Committee deliberated on the circumstances where the Director may refuse to investigate, and on allowing disclosure of the complainant, termination of a contract, and the right to appeal.

Currently, the Director has no guidance on when to refuse to investigate a complaint. Committee thought that it was important to clarify when the Director may refuse to investigate.

Committee proposed adding clarity to the complaints process by way of **Motion 1**, adding a paragraph allowing the Director to refuse to investigate a complaint if the complaint is trivial, frivolous, vexatious or made in bad faith.

Recommendation 2:

The Standing Committee on Social Development recommends that ECE improve and provide clarity on how a person may complain about an organization's service to the public by:

1. Providing guidance material for the complaints process to support parents and staff.
2. Developing a policy on the complaints process.

Recommendation 3:

The Standing Committee on Social Development recommends that the GNWT:

- Provide investigative training to all staff involved in the complaints and appeals processes.
- Make this training obligatory for all staff involved.
- Build competence by ensuring that investigations are not vexatious and are appropriately carried out.

Complaints and Retaliation

Committee heard about cases where the relationships between child care operators and parents progressed to disrepair. In such situations of a bad fit, prolonging such an unproductive relationship would be undesirable. To prohibit that in such case contract termination is interpreted as retaliation, Committee found it necessary to clarify that to prohibit retaliation does not prevent contract termination.

Committee proposed **Motion 3**, expressing that nothing can prevent an operator from terminating a contract under the terms of that contract. Should the operator do that, it would not constitute retaliation for the purposes of the Act. The Minister concurred with the Motion.

Recommendation 4:

The Standing Committee on Social Development recommends that the GNWT ensures that administrative decisions are reasonable by considering the outcome of decisions and the process to come to the decisions.

Appeals Process

Committee has reservations about the appeals process as it is designed in the Act, as appeals are currently limited to the licencing processes. Members were generally of the view that the complaints process, and the appeal process, could use a review, given the expanded scope of the GNWT's role in early child education as a result of the agreement with Canada. Given that this task is partially outside the scope of Bill 68 and would require significant policy work to see how these issues are handled in other jurisdictions, Committee makes the following recommendation:

Recommendation 5:

The Standing Committee on Social Development recommends that the GNWT review the appeals process in the *Child Day Care Act*,

a) in the short term with the view to:

1. Identify and make improvements to make sure that the Act clearly outlines how appeals can be requested and considered.
2. Clarify how complaints and appeal processes are distinguished in the Act.
3. Recommend how administrative decisions are made fairly, consistently, and in accordance with the legislation.

b) In the long term, with the view to:

1. Fully review the appeals section.
2. Include comparison with other jurisdictions.
3. Result in a modernized appeal section.

Considering the Costs of Child Care

While the GNWT does not provide child care services, it is even more critical that policy development considers the supply and cost of child care and addresses the provision of child care to make it sustainable.

The Committee determined that it would be paramount for the Minister to commit to supporting the sustainability of child care and put forward the obligation for the Minister to consider costs in **Motion 4**. The Minister of ECE concurred.

Recommendation 6:

The Standing Committee on Social Development recommends the GNWT include in its vision of a sustainable child care system information on the following:

- How to support the ELCC sector in its transition.

- How to embrace NWT realities without disadvantaging any of the existing parts of the child care sector.
- Considerations for licencing and supporting that proportion of the child care sector constituted by for-profit day homes.

Understanding the Needs of the Child Care Sector

Repeatedly, Committee heard that the funding provided by the GNWT for child care is insufficient. In communication with Committee, ECE expressed it is committed to working with licensed programs to support sustainability and growth throughout the system. However, Committee sees a pressing need for the GNWT and ECE to act to prevent losing child care spaces in the NWT, and makes the following recommendation:

Recommendation 7:

The Standing Committee on Social Development recommends the GNWT

- Recognize that the actions started under the federal agreement have initiated systems change in the NWT Early Learning and Child Care sector and require immediate action by the GNWT to reduce the volatility that may unfold;

And further,

- Identify shortfalls in funding targets outside of the federal agreement, focused on NWT needs, including but not limited to:
 - Capital and operating funding allocations;
 - Incentive loans for new buildings and retrofits;
 - Campaign action attracting potential child care educators;
 - Bonus for child care certificate completions; and
 - Strategies to support professional development for ELCC workers to allow training without impacting existing work schedules.

Getting Regulations Right

Bill 68 adds many regulations to the existing legislation. Committee wanted to see a duty on the Minister to engage the child care operators in developing the regulations, specifically on fees and wages. Committee welcomed the Department's intent to consult and prepared a motion placing an obligation on ECE to consult on all regulations, not just those that the Committee had identified as having a financial impact.

Motion 5 obliges the Minister to provide a copy of the proposed regulations to child care operators to ensure reasonable time for feedback and consider the feedback in the regulations. The Minister concurred with this motion.

Committee sees the review requirement of regulations as a solid opportunity for ECE to be inclusive and show flexibility when considering the feedback received.

Recommendation 8:

The Standing Committee on Social Development recommends the GNWT view the obligation to consult on regulations as an opportunity for innovation, inclusiveness, flexibility and reconciliation and be open to considering detailed feedback.

Privacy

Committee took the position that it is necessary to create an environment of certainty and clarity, and ensure privacy protection for parents and children. The determination was made that ECE should have a privacy impact assessment conducted after drafting the regulations and before the regulations go into the public review phase.

Committee proposed **Motion 6**, requiring the Minister to ensure compliance with section 42.1 of the *Access to Information and Privacy Act* before recommending regulations. The Minister concurred with this motion.

Measures Increasing the Number of Child Care Places

All submissions pointed to insufficient child care spaces in the NWT. Presenters spoke about 300 and 400 children being on waitlists in licensed child care centres in Yellowknife. The need for spaces outnumbers licensed space in the regional centres. In the NWT overall, thirteen communities are without licensed child care facilities.

Committee finds the situation alarming and urges the GNWT to respond to the need and investigate innovative options for creating child care spots without additional costs.

Recommendation 9:

The Standing Committee on Social Development urges the GNWT to be innovative and identify options for increasing child day care spots at no or little costs, including, but not limited to:

- Changing the ratio of educators to children under two years of age by reducing the age of the infant category to children under 18 months of age. This would create additional spaces for children 18 months and older.
- Completing negotiations with NWT Housing to allow licensed child care to operate in public housing.
- Creating subgroups or sublicences to allow child care centres, school-based child care and child care offered in homes to offer licensed spaces.
- Create substitute lists or licencing to back-fill so that if one educator gets sick, not all six kids must stay home.

- Create additional lists or licencing to enable before and after school day care, including evening care, so that educators who have time can take additional hours.

Conclusion

Recommendation 10:

The Standing Committee on Social Development recommends that the GNWT provide a response to the recommendations contained in this report within 120 days.

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

REPORT ON BILL 68: AN ACT TO AMEND THE CHILD DAY CARE ACT

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT REPORT ON

BILL 68: AN ACT TO AMEND THE CHILD DAY CARE ACT

INTRODUCTION

Bill 68: *An Act to Amend the Child Day Care Act* (Bill 68), sponsored by the Department of Education, Culture and Employment (ECE) was referred to the Standing Committee on Social Development (Committee) for review on November 3, 2022.ⁱ A Plain Language Summary for Bill 68 was tabled on the same day.ⁱⁱ

Child day care legislation aims to establish rules for licencing and operating a child care facility and set minimum standards on quality, care, instruction and supervision of children in facilities outside of their homes.

Bill 68 proposes to change the Northwest Territories (NWT) *Child Day Care Act* to ensure compliance with the Canada-Northwest Territories Canada-Wide Early Learning and Child Care Agreement (Canada-NWT ELCC Agreement).ⁱⁱⁱ In this agreement, the NWT agreed to transform the early learning and child care system to make child care more affordable for families, develop a qualified early childhood workforce, and establish a solid basis for accountability.^{iv}

Committee held a public engagement period from December 1, 2022, to January 6, 2023, and granted an extension to January 27, where requested. A public hearing took place in Yellowknife on January 12, 2023.

The Committee received nine written submissions and six verbal presentations on Bill 68.^v The Office of the Information and Privacy Commissioner of the Northwest Territories informed Committee that file 23-537-4 has been opened and passed to Commissioner Fox for his attention.

Committee thanks everyone who came forward in person and in written submissions for their time and candid comments. Committee appreciated the favourable response to a number of the motions and the willingness of ECE to work with us. Committee Members believe the motions passed during the Committee's clause by clause improved the Bill. Committee accepted the new legislation with some proposed changes; one Motion moved by Committee was not concurred with, therefore, that amendment was not made and Committee may address this concern during deliberations in Committee of the Whole or at third Reading of Bill 68.

Bill 68 does not address the existing challenges of the NWT's early learning and child care sector or fix the damaged relationship between the sector and government. It does, however, put in place necessary basic rules, such as a certification process for educators, and allows the NWT to catch up with the other jurisdictions in this sector.

BILL 68: An Act to Amend the Child Day Care Act

Bill 68 is tied to Canada's vision of early learning and child care, articulated in the 2017 *Multilateral Early Learning and Child Care Framework* that was developed with provinces and territories.^{vi} The federal government's Budget 2021 built on this framework and provided all jurisdictions with investments to transform the early learning and child care system across Canada over five years (2021-2026).^{vii}

Over the past years, provinces and territories have signed bilateral agreements with Canada to establish a community-based system of quality child care aiming to achieve a fifty percent reduction in average child care fees for regulated early learning and child care by the end of 2022 and reaching an average of \$10 a day by fiscal year 2025 to 2026 for all regulated child care spaces.^{viii}

Bill 68 proposes updates to the language of the Child Day Care Act to ensure compliance with the Canada-NWT ELCC Agreement and defines what types of programs are required to comply with the Act and which programs are exempt.

Bill 68 proposes to:

- Establish an NWT certification process for early childhood educators.
- Establish, through regulations, maximum amounts of fees that can be charged
- Authorize regulations setting the minimum amount child care workers should be paid, and that there will be a pay grid determined in regulations.
- Allow ECE to collect information from licensed operators, including personal information of children and families, with the purpose that this information will help realize parents' and children's rights to access and equal opportunities in early childhood education and learning.
- Provides a process for parents to make complaints about operators.
- Define what constitutes early learning and childcare facilities, clarify application of who needs a licence, add a new licensing section explaining when a licence is required.
- Require annual reports from care operators.
- Make the language gender-neutral.

COMMITTEE CONSIDERATIONS

Committee was disappointed when seeing Bill 68. This Bill presents a missed opportunity to renew the NWT's early learning and child care system and provide guidance toward a system that considers the diverse needs of the NWT environment and includes all parties.

The Narrow Scope of Bill 68

The scope of a Bill refers to the purpose of the change in legislation proposed. A Bill may have one or two purposes, and amendments must address the matters connected to the purpose. Amendments that do not address elements by which the principles of a Bill are achieved may be considered out of scope.

In the case of Bill 68, the purpose is to comply with requirements under the Canada-NWT ELCC agreement and enable NWT to receive federal child care funding. The proposed changes are brought forward in sixteen clauses and make changes to thirty sections.

Bill 68 offers a narrow scope for amendment, with the areas open for change being limited and dispersed throughout the Act. The Bill changes small sections here and there in the Act, and Committee was not able to propose any whole-scale amendments.

Committee finds this narrow approach another missed opportunity.

A Crisis in Trust and Relationship

Committee sees serious issues with the confidence in ECE rolling out this program. Many people think that making day care more affordable is a good thing. But how ECE has done it has created more problems. Committee did review this Bill. Unfortunately, this Bill will not fix the damaged relationships.

It appears that the GNWT left child care operators exasperated and feeling cornered after lacking to show the intent to collaborate with child care operators from the beginning and insufficiently communicating the GNWT's larger vision of child care:

"In the Summer of 2022, the Society sent an email to [...] ECE asking questions that pertain to these amendments. A response was not received" (*NWT Montessori Society*)

"I recognize these proposed changes are towards aligning with the requirements of the federal funding. But I would urge against just forging ahead without working out the implications of these specific sections that in our understanding would have serious and irreparable implications to the delivery of early learning and child care services in the NWT." (*Yellowknife Daycare Association*)

"The NWTMN is concerned about the lack of government-to-government engagement to co-develop the proposed amendments to the An Act to Amend the Child Day Care Act. The GNWT should have met with the NWTMN leadership to review the amendments An Act to Amend the Child Day Care Act." (*NWT Métis Nation*)

"As we have seen in the rollout of the daycare subsidy, simply providing more funding is insufficient, as childcare programs may need time to recruit and train staff to collect and report the data." (YWCA NWT)

"The Government is not equipped by design to respond in a timely and appropriate manner to address changing needs and circumstances of individual programs, which is why this is best left to programs. Anything that the government would like to see in contracts should be developed with meaningful industry consultation, informed by people who work in the field and with the flexible needs of programs as a priority." (NWT Early Childhood Association)

Child care centres say ECE does not understand the costs of operating child care programs:

"The GNWT demonstrates its lack of understanding related to the daily costs of operating a childcare program through the funding they offer. The most recent is the Staff Retention Incentive fund. This funding is based on the "number of full-time equivalent (FTE) educators required to meet staff-to-child ratios as legislated.

As a preschool aged program, our staff to child ratio is 1:8. As a program we have to abide by the Daycare Act and Regulations and the Employment Standards Act. Considering that staff will require breaks, have duties outside the classroom, and are limited to the number of hours worked in a day, we will need to employ 1 full time and 1 part time staff for ever 8 children in our program. The Retention Incentive Funding supports the minimum staff required to meet Daycare Regulations, without considering other standards we need to meet and the true daily responsibilities on staff." (Fort Smith Métis Day Care Centre)

Child day care facilities feel restricted and challenged:

"The cost control measures restrict the ability of a not-for-profit board to manage its own finances and liability of child day care facilities. It will be a challenge for childcare operators to increase reporting measures and pay higher wages while fees charged for child care are capped. The NWTMN is concerned that there is insufficient funding provided by the GNWT for child care." (NWT Métis Nation)

"The Government is not equipped by design to respond in a timely and appropriate manner to address changing needs and circumstances of individual programs, which is why this is best left to programs. Anything that the government would like to see in contracts should be developed with meaningful industry consultation, informed by people who work in the field and with the flexible needs of programs as a priority." (Nicole Loubert)

Child care operators worry the NWT child care sector may not be able to continue functioning in the current environment:

"As the front-line workers who will be deeply impacted by these changes we are very concerned that there are a lot of unresolved issues and we would like to see these issues resolved before the act is passed. We are worried that the proposed changes will have further negative impacts on childcare in the NWT, a sector that is already struggling and extremely fragile." (Nicole Loubert)

"I'm scared for my kids, my friends who have young kids, the numerous instances of people moving out of the Territory because they cannot find child care, and the 300 people (data as of today) on the Yellowknife Day Care Association's waiting list who I can only assume are losing hope. Please....listen, and help us - both so these essential services can continue to be delivered and so we can work together to strengthen the sector because without early learning and child care communities comes to a halt." (Yellowknife Daycare Association)

"We are also curious about the proposed wage grid. It presents a particular challenge, as both non-profit and private businesses run most of the early childhood programs affected by these proposed changes. We need to ensure that territorial childcare programs are sustainable." (*YWCA NWT*)

Not-for-profit licensed centre-based programs say the future of their organizations is at risk:

I believe the proposed legislative changes are incongruent with, and unacceptable for, the current not for profit governance structure that currently exists and is how centre-based child care services are being delivered. [...] I would not participate on a board, nor would I recommend anyone step up to volunteer, where a Board is responsible for the risks associated with human resources, facilities and operations management, and most importantly the safety of children without the necessary financial decision making ability to manage that liability." (*Yellowknife Daycare Association*)

Not-for-profit and for-profit daycare operators may have taken offence to be told they are making a profit without cost control measures:

"The continued efforts of the Ministry and ECE to characterise us as profiteers in the sector and in opposition to daycares (who are required to function as non-profits) is both unbecoming and in direct opposition to developing a positive rapport and working relationship. The wording in the proposed changes of the act that "...without cost control measures, funding might be used for profit, instead of creating sustainable and accessible ELCC programming" builds on this false narrative. (*Nicole Loubert*; the quoted text appears in the Plain Language Summary of Bill 68)

"ECE requires submission of annual financial, and in some cases, audited statements from all licensed service operators. Such a statement does not reflect the way day care centres operate towards a revenue-neutral outcome each fiscal year." (*Yellowknife Daycare Centre*; referring to the wording in the Plain Language Summary)

"Programs face a constant unknown and threat of emergency that directly impact our daily operations. Appliances break, buildings require repairs, staff need trained the list goes on and on. These are costs that a program must absorb. Cost control measures will restrict programs from passing these costs onto the end user. As non-profits, with limited annual surplus, this could be detrimental to programs." (*Fort Smith Métis Daycare*)

Committee finds that the GNWT showed a lack of comprehension regarding the seriousness and comprehensiveness of the issues created by forcing a fast start to the transition of the Territories' child care system. Members heard from child care operators that they have lost trust in the GNWT to guide the transition responsibly. Operators sense a misjudgment in the real issues and perceive a bias in looking at operator-client relationships.

Committee makes the following recommendation:

Recommendation 1

Recommendation 1:

The Standing Committee on Social Development recommends that the GNWT:

1. Form an advisory group including representation from all parties.
2. Review the 2030 Early Learning and Child Care Strategy on the inclusion of child care operators in goals and vision.
3. Establish and share an NWT vision and mission of early learning and child care sector, including principles and explaining where the federal child care agreements fit, requiring five-year reviews to check if NWT is fulfilling its vision.
4. Conduct an independent review of the roll-out of the Early Learning and Child Day Care agreement.
5. Conduct an independent review of the *Child Day Care Act*.
6. Address the crisis of confidence by reconciling with the NWT ELCC sector and starting with
 - Improving communication by increasing responsiveness to clients and establishing client service standards.
 - Committing to explaining processes to the public before implementation, providing plain language materials and designating communication channels for operators to access ECE specialists and information.

On Complaints and Appeals

Clause 13 introduces a new section on complaints. The added section 19.1 explains the rules around a new process allowing complaints by parents. This section:

- Gives parents the right to file a complaint.
- Enables the Director to investigate the complaint.
- Directs the Director to provide written reasons if the complaint is not investigated.

Committee understands that ECE's policy intent is to allow complaints to protect the rights of families. The department reasoned that during the rollout of the CCFR, ECE became aware that many families felt they did not have control over the choice of day care program and that they must do whatever the operator wanted or be left without child care. In their submissions, operators asked for the support of child care operators in the complaints process and the protection of professionals. ELCC professionals are not protected through professional associations. Committee heard that early learning and child care operators perceive an imbalance in the system, favouring the parent.

Committee was informed that child care operators perceive that the ECE Director has too much power and ask for an independent person to investigate in complaints processes.

The Director of Child Day Care Services is appointed by the Minister and is responsible for ensuring that licensed ELCC programs operate in compliance with the Act.

The Committee deliberated four themes in the context of the new complaints section:

- circumstances where the Director may refuse to investigate,
- allowing disclosure of the complainant,
- allowing the termination of a contract, and
- allowing the right to appeal.

Clarifying the Complaints Process

Committee confirmed with ECE that during the complaints process, the department supports to licensed program operators through phone calls, email correspondence and in-person meetings, if needed. Support is generally provided through staff within the department (including program managers and directors), with additional support from the department on a case-by-case basis.

Child care operators expressed concern about not feeling protected and seeing an imbalance in the complaints process. Committee received submissions requesting the implementation of a process for protecting the rights of ELCC professionals so that both families and professionals are protected.

Currently, the Director has no guidance on when to refuse to investigate a complaint. Committee thought that it was important to clarify when the Director may refuse to investigate.

Committee proposed adding clarity to the complaints process by way of **Motion 1**, adding a paragraph allowing the Director to refuse to investigate a complaint if the complaint is trivial, frivolous, vexatious or made in bad faith.

In general, a complaints process responds to concerns from a parent about service quality issues, complaints about staff conduct, delays in the process, or other matters. Considering the new powers of the Director, Committee determined a need for ECE to provide clarity in the process of complaints and consequently recommends:

Recommendation 2 – Clarifying the complaints process

Recommendation 2:

The Standing Committee on Social Development recommends that ECE improve and provide clarity on how a person may complain about an organization's service to the public by

1. Providing guidance material for the complaints process to support parents and staff.
2. Developing a policy on the complaints process.

Competency in the Complaints Process

Committee discussed that one should know how to resolve a complaint and that the departmental staff should help day care operators who have complaints made against to understand the process. Being involved in a complaints process may put ECE staff in a difficult position to choose one over the other person. Consequently, Committee recommends that ECE ensure competencies in the complaints process:

Recommendation 3 – Competency in the complaints process

Recommendation 3:

The Standing Committee on Social Development recommends that the GNWT:

- Provide investigative training to all staff involved in the complaints and appeals processes.
- Make this training obligatory for all staff involved.
- Build competence by ensuring that investigations are not vexatious and are appropriately carried out.

Retaliation and disclosure of identity

The current section 19.2 prevents an operator from disclosing the identity of the person who made a complaint. The provision is very broad, and Committee understands that the intent is to protect the complainant. A key concern brought forward was retaliation and the thought that if a complainant is identified, this person could be retaliated against.

However, in the case where a operator wishes to seek support from legal counsel, for example, it would be necessary for the legal counsel to know the complainant's identity. As it is written, the current provision would preclude an operator from seeking legal advice because no lawyer could advise an operator on a complaint without conducting conflicts search to ensure they adhere to their ethical rules around conflicts. This is problematic from a procedural fairness perspective.

Committee found it important that operators be permitted to disclose the identity of the complainant if necessary to properly respond to a complaint.

To this effect, Committee proposed **Motion 2** permitting an operator to identify a complainant when it is reasonably required to respond to the complaint. The Minister did not agree with this Motion.

Retaliation and contract termination

Committee heard about cases where the relationships between child care operators and parents progressed to disrepair. In such situations of a bad fit, prolonging such an

unproductive relationship would be undesirable. To prohibit that in such case contract termination is interpreted as retaliation, Committee found it necessary to clarify that to prohibit retaliation does not prevent contract termination.

Committee proposed **Motion 3**, expressing that nothing can prevent an operator from terminating a contract under the terms of that contract. Should the operator do that, it would not constitute retaliation for the purposes of the Act.

The Minister concurred with the Motion.

Recommendation 4 – Complaints and retaliation

Recommendation 4:

The Standing Committee on Social Development recommends that the GNWT ensures that administrative decisions are reasonable by considering the outcome of decisions and the process to come to the decisions.

The Appeals Process in the *Child Day Care Act*

Committee has reservations about the appeals process as it is designed in the Act, as appeals are currently limited to the licencing processes (sections 20 to 26 in the *Child Day Care Act*). For example, it is currently not appealable if the Director will not disclose the identity of a complainant, even if the operator wants it disclosed. The issue of the appeal process involves larger policy issues as to who should have the right to appeal, and how the appeal should be structured.

Committee intended to propose extending the appeal right to parents. We originally contemplated a motion dealing with the right of a parent to appeal a refusal of the Director to investigate a complaint as well as to allow an operator to appeal an order made by the Director in response to a parent's complaint. Because the Director now has new powers to investigate, there is currently no appeal opportunity on refusal to investigate.

However, ECE brought forward several reasons speaking against the efficiency of Committee's original motion:

- The entire appeal process set up in the main Act (not the Bill) is an appeal process which an operator invokes. If we were to expand the appeal process to include the right to appeal, for example, a refusal to investigate a parent's complaint, that would entail opening up an appeal process currently designed just for operators and the need to consider revising that process – something which may well be outside the scope of this Bill.
- The Director has order-making authority under other sections of the Act. To add the authority to appeal an order of the Director in this one instance only would not be consistent with how other orders are dealt with.

- Suppose an operator disagreed with an order of the Director and decided not to comply with it. In that case, the Director could suspend the licence, and that suspension would then engage the existing appeal process.

Committee decided to not to proceed with the motion because of how the appeal of orders is structured in the Act. Members understand that ECE doesn't want to add a right to appeal to every order in the Act because order-making power is under several sections. By giving a special appeal right to this specific section of the Bill, Committee agreed it would be consistent with how decisions are generally dealt with under the Act.

In addition, as designed in the Act, the appeal process would engage a third party with timelines to follow, which could take several months. This may not support a fast resolution to a complaint and may risk leaving parents without child care.

Committee was generally of the view that the complaints process, and the appeal process, could use a review, given the expanded scope of the GNWT's role in early child education as a result of the agreement. This task is partially outside the scope of Bill 68 and would require significant policy work to see how these issues are handled in other jurisdictions.

Committee makes the following recommendation:

Recommendation 5 – Appeals

Recommendation 5:

The Standing Committee on Social Development recommends that the GNWT review the appeals process in the *Child Day Care Act*,

- a) in the short term with the view to
 1. Identify and make improvements to make sure that the Act clearly outlines how appeals can be requested and considered.
 2. Clarify how complaints and appeal processes are distinguished in the Act.
 3. Recommend how administrative decisions are made fairly, consistently, and in accordance with the legislation.
- b) In the long term, with the view to
 1. Fully review the appeals section.
 2. Include comparison with other jurisdictions.
 3. Result in a modernized appeal section.

The costs of reporting requirements

Bill 68 proposes to update reporting requirements for child care operators and increase inclusion and reporting measures. In the NWT-Canada ELCC agreement action plan,

ECE commits to creating an annual census of child care operators that would provide the data to be shared with the federal government under this agreement. Clause 16 adds sections 35 to section 37, requiring licensed day care operators to collect and report information to ECE.

Committee heard that the additional reporting requirements require extra efforts and other costs for daycares to comply. Witnesses explained to Committee that day cares already report on demographics and numbers of clients; the limited resources at hand in child care facilities would be much stretched to implement the increased reporting requirements.

A big concern expressed by witnesses is that the funding for child care is already limited or insufficient, and any additional pressure, such as increased reporting requirements, would present a challenge for operators. Not knowing the level of human resource demands a childcare centre faces for additional reporting creates uncertainty among the operators.

ECE confirmed to Committee that all amendments proposed in Bill 68 are required for NWT to comply with the ELCC agreement with Canada, directly or indirectly. If a child care operator should not provide the required information, this would present a failure to comply and the child care operator would risk losing the licence.

Committee wanted to ensure that if ECE requires additional data collection and reporting, child care operators are compensated for the extra effort. Committee Members considered a Motion that would ask the Minister to turn his mind to compliance and that it may cost the child care operators.

In the meantime, the Department confirmed with Committee that the Child Care Fee Reduction Subsidy currently provides operators monthly administrative funding between \$150 and \$1500, depending on the number of children. The Committee was satisfied with the response.^{ix}

Considering the costs of child care

Committee recognizes that compliance costs are only one challenge for child care facility operators. Attention to and awareness of costs is necessary to create the path for a well-functioning child care sector. While the GNWT does not provide child care services, it is even more critical that policy development considers the supply and cost of child care and addresses the provision of child care to make it sustainable.

The Committee determined that it would be paramount for the Minister to commit to supporting the sustainability of child care and put forward the obligation for the Minister to consider costs in **Motion 4**. The Minister of ECE concurred.

Recommendation 6 – Cost of child care**Recommendation 6:**

The Standing Committee on Social Development recommends the GNWT include in its vision of a sustainable child care system information on the following:

- How to support the ELCC sector in its transition.
- How to embrace NWT realities without disadvantaging any of the existing parts of the child care sector.
- Considerations for licencing and supporting that proportion of the child care sector constituted by for-profit day homes.

Understanding the needs of the child care sector

Witnesses indicated that the new sections 29(2) and 32(2) are the biggest concern for child care operators. Section 29(2) introduces that an operator is prohibited from charging fees beyond the maximum amount the GNWT prescribes. Section 32(2) introduces that an operator of a centre-based facility must pay employees a minimum rate of pay according to the employee's qualifications.

The two sections together, Committee heard, challenge the ability to make decisions in the best interest of a not-for-profit organization and may make a board member's job more challenging as some of the financial tools (fee increase/wage decrease) are removed. Witnesses expressed that the ECE should be informed that this increased difficulty in responsibly running day care facilities will make it more difficult to recruit board members, therefore challenging the organization's future and its service. Child care operators feel pushed into a crisis by being pressed between cost control regulations on the one side and minimum wage payment requirements on the other, both being determined by the GNWT.

Child care facility operators expressed that ECE did not involve the sector when determining amounts and timing and asked if ECE will increase funds for not-for-profit daycares to avoid the revenue gap that is being created. So far, Committee heard, the operators have not seen any indication from ECE to fill the gap.

Repeatedly, Committee heard that the funding provided by the GNWT for child care is insufficient. In communication with Committee, ECE expressed it is committed to working with licensed programs to support sustainability and growth throughout the system.

Committee sees a need for the GNWT and ECE to act to prevent losing child care spaces in the NWT.

Committee makes the following recommendation:

Recommendation 7 - Needs of sector

Recommendation 7:

The Standing Committee on Social Development recommends the GNWT

- Recognize that the actions started under the federal agreement have initiated systems change in the NWT Early Learning and Child Care sector and require immediate action by the GNWT to reduce the volatility that may unfold,

And further,

- Identify shortfalls in funding targets outside of the federal agreement, focused on NWT needs, including but not limited to:
 - Capital and operating funding allocations;
 - Incentive loans for new buildings and retrofits;
 - Campaign action attracting potential child care educators;
 - Bonus for child care certificate completions; and
 - Strategies to support professional development for ELCC workers to allow training without impacting existing work schedules.

Getting regulations right

Bill 68 adds a large number of regulations to the existing legislation. ECE explains that it is taking a two-phased approach to bringing the regulations into force:

- Phase One has a target date of April 1, 2023 and would bring into force simultaneously with Bill 68 a priority group of regulations dealing with cost control measures, annual report requirements, and demographic information.
- Phase Two will bring into force during 2023-2024, and involves, additional regulations concerning the code of conduct, procedures for disclosing information, qualification levels for staff, wage grid and minimum wages, and funding categories for licensed programs.

Regulations are developed by the person or bodies the legislature has given authority to do so in the Act. Bill 68 provides the Minister with the authority to create the regulations that the Canada-NWT ELCC agreement requires. The Bill lists under section 47 over twenty instances where the Minister is allowed to make detailed regulations so as to carry out the purpose of the Act.

Committee wanted to see a duty on the Minister to engage the child care operators in developing the regulations, specifically on fees and wages. Committee had previously created such an amendment when reviewing the *Medical Profession Act* and adding an engagement requirement.

All submissions included comments on the challenges created by limiting fees that can be charged and requiring higher wages. Operators expressed that being financially sandwiched like this may risk compromising their ability to continue providing child care services.

Originally, Committee had prepared two motions dealing with the obligation to consult on the fee/wage grid regulations. One had the requirement to consult and one contained the consultation on fees to come into effect on July 1, given that the regulations on fees will be proclaimed after the passage of this legislation. In communication with Committee, ECE explained the intent to consult on regulations, even before Bill 68 comes into force, and that there would be no difficulty meeting the spirit of a motion requiring to consult on all regulations.

Committee welcomed the Department's position and prepared a new motion placing an obligation on ECE to consult on all regulations, not just those that the Committee had identified as having a financial impact.

Motion 5 obliges the Minister to provide a copy of the proposed regulations to child care operators to ensure reasonable time for feedback and consider the feedback in the regulations. The Minister concurred with this motion.

Committee sees the review requirement of regulations as a solid opportunity for ECE to be inclusive and show flexibility when considering the feedback received. Committee suggests the Department prepare for increased flexibility in all areas, and for example, consider clarifying how certification requirements could be flexible to accommodate regional and local needs and approaches.

Recommendation 8 - Consulting on regulations as an opportunity

Recommendation 8:

The Standing Committee on Social Development recommends the GNWT view the obligation to consult on regulations as an opportunity for innovation, inclusiveness, flexibility and reconciliation and be open to considering detailed feedback.

Privacy

Clause 16 of Bill 68 concerns inclusion and reporting and adds four new sections. In more detail, this clause

- Allows the Director to examine records the care operator is required to keep under regulations (s.34(2));
- Allows the Director to require disclosure of information from the operator (s.35);
- Requires annual reports from child care operators (s.36); and

- Authorizes the Director to assign identifiers for reporting purposes (s.37).

Committee was concerned that the new data to be collected to comply with the inclusion section of the NWT agreement with Canada may create concerns about the privacy of parents and children. In particular, section 37, authorizing the Director to assign identifiers for reporting purposes, may create a challenge.

Responding to Committee's inquiries, ECE explained that it did not consider the reference to the *Access to Information and Privacy Protection Act* because, for now, the data collected is already part of licensing. Once ECE starts developing the annual census required under the Canada-NWT ELCC agreement action plan, the Department would look at privacy. ECE, at this point, has not conducted a Privacy Impact Assessment.

Several submissions expressed concern with the collection of data under inclusion. Under the annual census, ECE would collect information from licensed early learning and child care operators, such as number of First Nations, Inuit or Metis child care spaces supported and the number of children from birth to age five who present with vulnerabilities or specific developmental needs.

Child care operators explained in submissions that parents might have privacy concerns, particularly those identifying special needs under inclusion. Others expressed the concern that counting and identifying special needs may be too sensitive a task in an early time of reconciliation and might conflict with Indigenous rights.

The submission from the Fort Smith Métis Daycare explains these concerns:

"The Fort Smith Métis Daycare has a strict confidentiality policy to protect the children, families, and staff of our program.

Through current reporting to ECE we share generalized, non identifying statistics. These statistics outline the ages and special needs of the children in our program. Providing information above this would be a breach of privacy for our program.

37(b) assign a unique identifier to each child that attends an early learning and childcare facility.

Replacing the child's name with a government issued identifier is repeating the history of indigenous persons in Canada. This policy is dehumanizing to our children."

Concern also spoke to the lack of capacity to provide individual care or specialized education. Training that meets the needs of disabled children would require training beyond a standard ELCC certificate. Several child care operators clarified that currently, they could not take on programs to support the additional needs of a child with diverse abilities.

Committee took the position that creating an environment of certainty and clarity and ensuring privacy protection for parents and children is necessary. The determination was made that ECE should have a privacy impact assessment conducted after drafting the regulations and before the regulations go into the public review phase.

Committee proposed **Motion 6**, requiring the Minister to ensure compliance with section 42.1 of the *Access to Information and Privacy Act* before recommending regulations. The Minister concurred with this motion.

Measures to increase the number of child care places

All submissions pointed to insufficient child care spaces in the NWT. Presenters spoke about 300 and 400 children being on waitlists in licensed child care centres in Yellowknife. The need for spaces outnumbers licensed space in the regional centres. In the NWT overall, thirteen communities are without licensed child care facilities.

Committee finds the situation alarming and urges the GNWT to respond to the need and investigate innovative options for creating child care spots without additional costs. Increasing efficiencies and removing barriers for day homes should be included in the options, as well as showing flexibility in addressing the need for spaces. For example, an operator suggested that changing the ratio of educators to children for infants would help families to secure child care for their child between eighteen months and two years of age.

The educator-to-children ratio is set in the *Child Day Care Standards Regulations* (Schedule, section 73) and is out of scope for amendments to Bill 68. Consequently, Committee is bringing forward the following recommendation:

Recommendation 9 - Increasing child care places

Recommendation 9:

The Standing Committee on Social Development urges the GNWT to be innovative and identify options for increasing child day care spots at no or little costs, including, but not limited to:

- Changing the ratio of educators to children under two years of age by reducing the age of the infant category to children under 18 months of age. This would create additional spaces for children 18 months and older.
- Completing negotiations with NWT Housing to allow licensed child care to operate in public housing.
- Creating subgroups or sublicences to allow child care centres, school-based child care and child care offered in homes to offer licensed spaces.
- Create substitute lists or licencing to back-fill so that if one educator gets sick, not all six kids must stay home.
- Create additional lists or licencing to enable before and after school day care, including evening care, so that educators who have time can take additional hours.

Recommendation 10 - Response to recommendations

Recommendation 10:

The Standing Committee on Social Development recommends that the GNWT provide a response to the recommendations contained in this report within 120 days.

CLAUSE BY CLAUSE REVIEW

The clause-by-clause review of Bill 68 was held on March 1, 2023. Committee proposed seven Motions. The Minister of ECE concurred with six of the seven proposed Motions. (Refer to Appendix 2)

CONCLUSION

Following the clause-by-clause review, a motion was carried to report Bill 68: *An Act to Amend the Child Day Care Act* as ready for consideration in the Committee of the Whole.

This concludes the Standing Committee on Social Development's review of Bill 68.

APPENDIX 1 - Witnesses and written submissions

Witnesses

Date	Witnesses appearing in front of Committee
2023-01-12	Ryan Fequet, Yellowknife Day Care Association
2023-01-12	Angela Daniel, YWCA NWT
2023-01-12	Amanda Grobbecker, NWT Montessori Society
2023-01-12	Nicole Loubert, A Treasure Chest Day Home
2023-01-12	Patricia Davison, NWT Early Childhood Association, Inuvik
2023-02-15	Garry Bailey, NWT Metis Nation

Written Submissions

Date	Submitters
2023-01-12	Yellowknife Day Care Association (includes a letter to the Premier from October 2022 on review of funding agreements with not-for-profit organizations)
2023-01-12	YWCA NWT
2023-01-16	NWT Montessori Society
2023-01-16	A Treasure Chest Day Home
2023-01-16	NWT Early Childhood Association
2023-01-18	NWT Metis Nation
2023-02-17	Fort Smith Métis Day Care
2023-02-20	A Treasure Chest Day Home
2023-02-15	NWT Metis Nation presentation to Committee

APPENDIX 2 - Motions

List of Motions prepared by Committee and concurred with by the Minister:

- Motion 1 – clause 13, ss.19.1(2)(b) - Reason for refusing investigation.
- Motion 3 – clause 16, s. 30(3) - Allow contract termination.
- Motion 4 – clause 16, ss. 41(1) - Obligation to consider costs.
- Motion 5 – clause 16, ss. 47(1.1) - Regulations review by operator and public.
- Motion 6 – clause 16, ss 47(5) - Privacy impact assessment (must ensure compliance with ATIPPA).
- Motion 7 – clause 8, ss. 9.1(2) - Correction of error in French translation.

Motion prepared by Committee to which the Minister did not agree:

- Motion 2 – clause 13, ss. 19.2(2) - Allow disclosure of complainant.

ENDNOTES

ⁱ [Bill 68: *An Act to Amend the Child Day Care Act*](#).

ⁱⁱ [Plain Language Summary for Bill 68: *An Act to Amend the Child Day Care Act*](#). Tabled Document TD 795-19(2), November 3, 2023.

ⁱⁱⁱ [Canada-Northwest Territories Canada-Wide Early Learning and Child Care Agreement 2021-2026](#).

^{iv}

^v Recordings of the [Bill 68 public hearing](#) held on January 6, 2023, the [Bill 68 public hearing](#) with the NWT Métis Nation on February 15, 2023, and the [Bill 68 public clause-by-clause review](#) held on March 1, 2023, are available on the NWT Legislative Assembly YouTube channel.

^{vi} [Multilateral Early Learning and Child Care Framework](#). 2017.

^{vii} [Budget 2021](#).

^{viii} [The Northwest Territories' Canada-wide fiscal year 2021 to 2022 to fiscal year 2022 to 2023 action plan](#).

^{ix} Child Care Fee Reduction Subsidy.

Angela Daniel, YWCA NWT - Speaking Notes, January 16, 2023

Madam Chair, thank you for the opportunity to comment on the proposed changes to the Child Day Care Act. YWCA NWT is encouraged by the GNWT's commitment to improving daycare affordability, availability, quality, and inclusivity across the territory. As a dedicated stakeholder and deliverer of childcare programs, YWCA NWT looks forward to continued engagement on these and all future proposals for improvement of early childcare in the NWT.

YWCA NWT notes that the proposed changes include a certification process for early childhood educators, a wage grid, and a more robust reporting system.

YWCA NWT sincerely hopes that creating a more rigorous certification process will also involve increased training and educational support for workers in the field. This will allow early childhood educators and support staff to obtain relevant education that is flexible to their needs. Considerable focus should be placed on training of existing staff to ensure retention in a new certification process regime. These staff may need time and flexibility to attain required training to make certification standards.

Please note that many people working in the field are in full-time jobs, which means that it will be hard for them to leave jobs to attend full or part-time schooling. Any training required to meet future certification requirements should be flexible and allow individuals to work without interruption to their existing work schedules. A daunting certification process will likely only cause further staff shortages and the closure of more childcare spaces in the NWT.

Part-time and afterschool childcare providers often have other jobs or roles and should not have a need to attend certification or training courses. Implementing mandatory certification for all types of childcare workers is unrealistic and will cause many part time workers to leave the field, creating further staffing problems.

YWCA NWT believes that full-time daycare facilities should be considered apart from part time or afterschool childcare programs as these programs fulfill different needs. Applying the same standards is unrealistic for an afterschool program model.

We agree that inclusion for children with disabilities or exceptionalities is important to their equity in childcare programs. However, our afterschool childcare programs do not have the capacity to provide individualized care. Often, children with exceptionalities require one on one care by providers with specialized training that we cannot support within our part-time work model. This is another reason to separate afterschool childcare from full-time childcare, and consider regulations or policies that support both types of programming.

We are encouraged by the proposal of increased reporting requirements, however, with the caveat that increasing requirements must also account for increased work for organizations and staff with limited capacity.

As we have seen in the rollout of the daycare subsidy, simply providing more funding is insufficient, as childcare programs may need time to recruit and train staff to collect and report the data. Smaller day homes without the capacity to hire are at a disadvantage, as they may have to work increased hours in addition to providing care. Expanding the administrative burden on

small programs can cause these programs to become unsustainable. YWCA NWT hopes that expanding reporting requirements be made with consultation of the organizations affected directly. We look forward to reviewing a draft census and new funding application, as mentioned, in due course.

Increased reporting raises concerns over privacy for children and their parents. Parents have concerns with sharing their children's personal information already. Additional requirements to share this type of information raises concerns over how this information will be stored and who will have access to it. We would like further clarification on how the territorial ATIPP Act will apply to childcare organizations. Additionally, we would hope that this information, without personal identifiers, would be appropriately used by professionals that have first-hand knowledge of what working in childcare looks like to make informed policies.

YWCA NWT asks for more clarity around the investigation of complaints by parents in the proposed amendments. We wish to be consulted on these regulations once they are drafted.

We are also curious about the proposed wage grid. It presents a particular challenge, as both non-profit and private businesses run most of the early childhood programs affected by these proposed changes. We need to ensure that territorial childcare programs are sustainable.

We are concerned about the simultaneous implementation of a wage grid and mandatory training for employees who have been working in childcare for a long time. Subsidies need to be available to support their training so they can maintain the same level of pay within the wage grid so as not to create pay inequity in our organization.

Further, setting a limit on childcare fees will make it harder on childcare facilities to sustain their business with higher pay and increased administration, even with government subsidies. We agree that childcare needs to be more affordable; however, YWCA NWT would like to note that taking financial pressure off of parents in other areas, such as with a rent cap to make housing more affordable, would offset other financial pressures parents feel, and help with overall cost of living pressures on families in the territory.

The demand for our programs considerably outstrips our capacity. Though running childcare programs is challenging, our staff and board recognize that early childhood education is a crucial social investment in the NWT. YWCA NWT continues our dedication to children and families, including seeing their best possible outcomes in life, and we look forward to a continued engagement process.

Madam Chair, thank you once again.

From: [Ryan Fequet](#)
To: [DST LEG Committees](#)
Subject: Speaking Notes

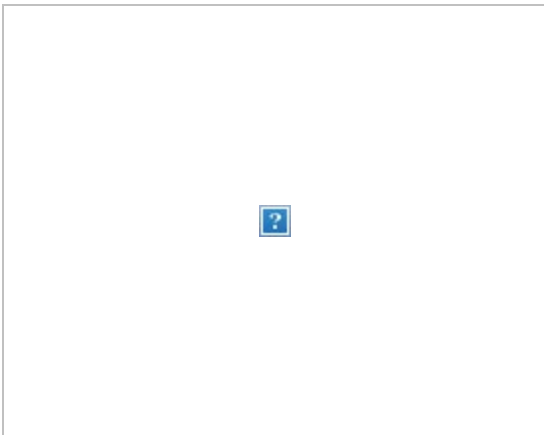
K'omqòdqò hojzj (Good morning!),

Thank you for allowing me to present last night. Below is the majority of my speaking notes for the information of SCOSD members only. Please reach out if you have any questions and please provide the hyperlink to where the meeting can be viewed when it's available.

Masì,

Ryan Fequet, M.Sc., PMP. ([he/him](#))
President, Yellowknife Daycare Association
5121 52nd St. | Yellowknife, NT | X1A 1T7
Ph: 867.873.6369 | Fax: 867.873.8991
ykdaboard@gmail.com | www.ykdaycare.com

Privileged to live, work, and play on Tłchq and Akaitcho Territory.



Subject: Speaking Notes

Intro

- I have been involved in the childcare sector during the last seven years, but have been involved with not for profits for more than 2 decades. I've served on more than 50 local, territorial, and national boards and committees in director or chair roles. Wearing both hats as a parent with children in early learning and child care and as a volunteer Director with the Yellowknife Day Care Association, it's great to see the recent attention, recognition, and funding that's come to the sector through the federal bilateral agreements. We share the government's goal of having a strong child care sector, where our kids have safe and high-quality early learning experiences, families feel confident about their childcare, and early childhood educators have a valued role in our communities.

Comments

- I want to draw attention to, and share our serious concerns with, the implications of section 29 (1), (2), and section 32 (2).
- When I serve as a volunteer board member or when I provide orientation and consulting services working with boards, I reiterate that their main role as a board is to make decisions in the best interest of the organization. Some of you may recognize that this is actually the legal test for volunteer Directors when their decisions are challenged in the courts.
- For some additional context, prior to the rollout of the federal subsidy, one third of the YKDA's total annual revenue of ~\$2.5M was provided through core funding from ECE, and two thirds came from monthly fees from the member families.
- With the proposed changes in these respective sections, a centre's revenues would be fixed and entirely determined by the GNWT, as they would restrict the ability of an organization to charge any additional fees to parents other than child care fees determined by the GNWT, restrict operators from charging fees above maximum amounts prescribed by the GNWT, and require operators to pay employees a minimum amount, again set by the GNWT.
- The small number of centres that provide child care service are all governed as registered Societies, and in some cases they are also registered charities, who have Boards who have legal responsibilities related to the oversight of the organization. Taken together, these sections of the proposed changes to the Child Care Act restrict a board's ability to make decisions about how to manage their organization's finances, to such a degree that I believe not for profit board of directors would be unable to effectively perform their fiduciary duty to the organization they're serving. A recent example of this challenge just took place with the roll out of the subsidy where ECE introduced a cap on the amount that organizations could increase staff wages. Only a couple of years ago you could make more driving a Zamboni than being an early learning and child care worker. Adjustments to align with the Alternatives North suggested cost of living that is now a few years' old, the universal challenges of the labour shortage, and the pay inequity were required and there is still much work to do in this space but unfortunately GNWT has included a cap as part of the subsidy agreements so moving forward we are limited in addressing challenges specifically in the area of staff wages.
- I understand and support efforts to reduce child care fees for families. I also understand and support efforts to improve early childhood educator staff salaries. I don't think there is any not for profit organization involved in the service delivery of child care that doesn't strive to achieve both of these goals at all times in everything they do. The following statement in the plain language summary for bill 68 reads as follows:
 - *To meet the goal of making child care more affordable throughout the NWT, additional regulation-making authorities are necessary within the Act to give the Minister permission to establish and implement cost control measures for licensed programs. This is to ensure that government funding is being used for its intended purpose, which is to increase the affordability and accessibility of quality ELCC programming for families. Without such a mechanism, government subsidies may be used for profit rather than to create sustainable and accessible ELCC programming. Without such a mechanism, government subsidies may be used for profit rather than to create sustainable and accessible ELCC programming.*
- ECE requires submission of annual financial, and in some cases, audited statements from all licensed service providers. Such a statement does not reflect the way day care centres

operate towards a revenue-neutral outcome each fiscal year.

- I believe the proposed legislative changes are incongruent with, and unacceptable for, the current not for profit governance structure that currently exists and is how centre-based child care services are being delivered. From my perspective as a not for profit director, thinking about my governance role and the associated legal obligations and duties, these sections of the proposed changes prevent me from fulfilling my fiduciary duty to my organization. These proposed changes restrict a board of directors' ability to perform their governance duties while simultaneously asking them to manage all of the risk associated with service delivery. I would not participate on a board, nor would I recommend anyone step up to volunteer, where a Board is responsible for the risks associated with human resources, facilities and operations management, and most importantly the safety of children without the necessary financial decision making ability to manage that liability. These specific proposed changes are moving the sector towards a situation where those organizations may cease to exist under legislative constraints the likes of which are typically only seen when the government provides service delivery such as in health and education. There may be liability implications for the GNWT as well – could not for profit boards transfer liability for service delivery issues to the GNWT in the event of a lawsuit, given that board decision making is being constrained by the GNWT? Perhaps the GNWT has explored and is comfortable with that potential risk.

Wrap up

- I think every jurisdiction in Canada will be grappling with this, and NWT doesn't have to come up with a solution independently. I recognize these proposed changes are towards aligning with the requirements of the federal funding. But I would urge against just forging ahead without working out the implications of these specific sections that in our understanding would have serious and irreparable implications to the delivery of early learning and child care services in the NWT.
- I think part of working it out means that the GNWT has to work closely with not for profits delivering child care in the NWT to establish and re-establish trust. There aren't many of us. I believe it's reasonable to think that we could come up with a shared plan in short order to avert adding to the existing staffing crisis this sector is currently grappling with.
- If the ultimate vision is to have early learning centres operated by the GNWT as part of a national childcare system, personally I could support that if it results in amazing wages and benefits for those folk on the front lines since one of the root causes is appropriate compensation for what the pandemic has demonstrated to us is arguably the most essential service that exists within a community. Recognizing Minister Simpson's response to MLA Nokleby, that doesn't appear to be the plan. The proposed changes that I referenced will extinguish the ability of a not for profit child care centre to govern and ultimately effectively operate the provision of early child care and education, creating further challenges to an already struggling sector.
- I'm scared for my kids, my friends who have young kids, the numerous instances of people moving out of the Territory because they cannot find child care, and the 300 people (data as of today) on the Yellowknife Day Care Association's waiting list who I can only assume are losing hope. Please...listen, and help us - both so these essential services can continue to be delivered and so we can work together to strengthen the sector because without early learning and child care communities comes to a halt.

October 20, 2022

Honourable Premier Caroline Cochrane
Government of the Northwest Territories
4517 48 Street Yellowknife, NT X1A 2L9

Honourable Minister Caroline Wawzonek
Minister of Finance
Government of the Northwest Territories
4570, 48th Street, Yellowknife, NT X1A 2L9

Honourable Premier Cochrane and Minister Wawzonek,

This letter is being sent on behalf of several not-for-profit organizations that deliver essential services to our community and territory. Our organizations are at significant risk of not being able to continue delivering the essential services the community has come to rely on. These services include: shelters, addictions programming, child care and early learning including after-school programming, mental health and wellness outreach, and long-term care for seniors.

The current approach to funding agreements, typically through a Contribution Agreement, are short-term in nature and creating significant budgeting, planning, and staffing challenges. Year-to-year funding with no guarantee of renewal until the last minute is increasingly difficult for the not-for-profit sector to manage considering cross-sectoral staffing shortages and inflation. These agreements also place undue liability on the not-for-profit organizations and fail to address life-cycle costing for capital infrastructure until an emergency arises. Two recent examples include the Yellowknife Women's Society's concern with repeated last minute and short term (six months or less) contribution agreements for the Spruce Bough supported living program, creating staffing and operational uncertainty. YWCA NWT afterschool care at one Yellowknife school was suspended due to staffing retention issues as well as other factors; and is now continuing at reduced capacity.

As not-for-profits we are concerned that GNWT funding mechanisms are resulting in cross-sectoral funding that threaten our ability to recruit and retain staff, effectively train and support staff, programming decisions and daily operations, and undertake the long-term planning necessary to ensure the successes of these essential services. We are seeking your support in coming to mutually beneficial funding arrangements that include:

- Multi-year funding (of 3 years or more);
- An effective dispute resolution process that isn't overly burdensome on the NFP organizations;
- Evergreening – funding that addresses maintenance and repair of capital infrastructure at a rate that accounts for life-cycle costs to avoid interrupted service;
- Financial support that adjusts for reasonable annual cost of living increases, such as the ~8% inflation rate being experienced in the current year; and
- For applicable organizations, a mechanism to transfer the delivery of essential services and infrastructure to the GNWT in the event that adequate funding is not available for service delivery.

We recognize some of these elements, such as multi-year funding, are already provided for under GNWT's financial policies but are not regularly applied to contribution agreements. Other elements may require some work to develop an appropriate policy approach. We are collectively requesting that the GNWT

strike a working group comprised of representative individuals from these organizations to review the delivery of funding to organizations that deliver these essential services and identify a more efficient and effective means to ensure these essential services can continue. We look forward to your response.

Yours in Service,



Ryan Fequet, President
Yellowknife Day Care Association



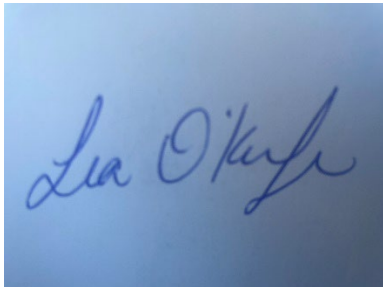
Matt Spence, Chair
Avens Seniors Centre



Kate Reid, President
YWCA NWT



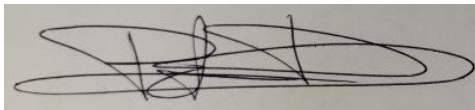
Katy Pollock, President
Yellowknife Women's Society



Lea O'Keefe, Chair
Side Door Youth Center



Lenora McLeod, Co-Chair
Children First Society



Patricia Davison, Chair
NWT Early Childhood Association

January 16, 2023

Dear committee,

Now it is the opportunity to make valuable changes to our children ratio.

I suggest that the ratio changes to no more than 2 under 18 months old for all day homes including unlicensed ones who can already only care for 4 children.

This would be similar to some other part of Canada and may be a solution for the lack of childcare spaces in the NWT.

Parents can manage to wait until their child is 18 months old to return to work but to wait for longer often means to have no childcare options and to lose their job.

Starting 18 months of age, children walk, start talking and develop independence. With 27 years of experience as a licensed day home and a degree in education, I know that the children would still be safe with this suggested change in ratio.

Many caregivers including myself had vacant spots that could have help families to secure childcare for their child between 18 months and 2 years of age.

We have at the moment some vacancy spots in Yellowknife that parents could benefit from if the ratio was no more than 2 under 18 months instead of no more than 2 under 2 years of age.

Thanks for your consideration,

Nicole Loubert

A treasure chest day home/Garderie Le coffre aux trésors



**Caitlin Cleveland, Chair &
Committee Members
Standing Committee of Social Development
Northwest Territories Legislative Assembly**

January 16, 2023

Re: Bill 68 - An Act to Amend the Child Day Care Act

Dear Madame Chair and Committee Members

The NWT Montessori Society's Board of Directors has been meeting and discussing the amendments to the *Child Day Care Act*. In the summer of 2022, the Society sent an email to the Department of Education, Culture and Employment (ECE) asking questions that pertain to these amendments. A response was not received, and as such we feel it is important to send our questions to the Standing Committee for consideration during this consultation period.

The first section, Establishing an NWT Certification Process and Wage Grid Regulation:

- Would childcare centres be required to follow the wage grid, if the childcare centres wage grid is higher than what GNWT establishes?
- If ECE decides on what centres should be paying employees, is ECE going to take some of the legal responsibility of an employer?
- How will the certification process work for those that are trained in other jurisdictions or countries? Will there be a process for grandfathering staff and/or determining equivalencies?
- Are various types of certifications being considered? Ex. Staff that are specifically trained in Montessori?
- Who is responsible for the cost of the certification?

The second section, Increasing inclusion and reporting measures Regulation:

- What additional reporting would the GNWT be requiring that they don't already ask for?
- What will the human resource demands be on a childcare centre for the additional reporting?

The third section, Authorizing cost control regulations Regulation:

- When an increase in fees is required (ie. Ensure we are able to pay employees better wages, etc.), how can this be done?
- Will this be done at a set dollar amount or a percentage?
- Would expenses be taken into consideration when making the cost control measures?
Ex) Different childcare centres may have different expenses based on their rent/mortgage, maintenance fees, etc.

The fourth section, Protecting the rights of families Regulation:

- Currently, childcare contracts are between the provider and family. Is this amendment suggesting that ECE would be regulating or overseeing a contract between a family and a childcare centre?

The childcare sector is one that has large demands, between labour market shortages and limited spaces to allow more children to attend. We need to find a balance moving forward to address these shortages. We want this to be a strong sector, while ensuring these regulations have a positive impact on the sector.

Respectfully,



Amanda Grobbecker
Executive Director
NWT Montessori Society



NORTHWEST TERRITORY MÉTIS NATION

January 18, 2023

Attention: Caitlin Cleveland, Chair of Standing Committee on Social Development
By email: committees@ntassembly.ca

Dear Standing Committee on Government Operations:

RE: *Bill 68: An Act to Amend the Child Day Care Act*

The Northwest Territory Métis Nation appreciates the opportunity to comment on the Government of the Northwest Territories' proposed amendments to the *Bill 68: An Act to Amend the Child Day Care Act*. The NWTMN supports taking measures to ensure child day care facilities in the NWT are high quality and affordable for families and working conditions are improved for child day care facility workers.

Many families are finding there is an insufficient amount of child day care facility spaces and the cost for child day care is unaffordable for families. We would like to see changes to the legislation that will result in an increase in the number of child day care facility spaces.

The amendments to the legislation impact our Métis Councils as our Métis Councils operate child day care facilities in Fort Resolution, Fort Smith and Hay River. The Métis Councils have opened the child day care facilities to ensure children receive early learning and child care with Métis culture and language programming.

Certification and Wage Grid for Employees

One of the amendments to the legislation is to introduce a minimum wage for employees of certain early learning and child care facilities as well as certification requirements for operators and staff. In addition, we would like to ensure certification includes Indigenous knowledge components.

The increase in certification requirements may lessen the number of qualified early childhood educators. Many early childhood educators are leaving the industry due to insufficient staffing levels, low wages and long hours of work. We hope the minimum wage requirements for child care providers will encourage the child care staff to obtain the certification that is now required.

Maximum Fees for Child Care Services

The cost control measures restrict the ability of a not-for-profit board to manage its own finances and liability of child day care facilities. It will be a challenge for childcare providers to increase reporting measures and pay higher wages while fees charged for child care are capped. The NWTMN is concerned that there is insufficient funding provided by the GNWT for child care.

Meeting to Discuss the Amendments

Operating an early learning and child care facility is a significant liability, but the NWTMN and the Métis Councils consider early learning and child care to be extremely important to the success and health of Indigenous Métis children.

I would appreciate an opportunity to meet with you to discuss this matter further. Please contact Ursula Vogt, Executive Director at 867-621-0577 to schedule a virtual or in-person meeting.

Yours truly,

A handwritten signature in black ink, appearing to read "Garry Bailey". The signature is written in a cursive, flowing style.

Garry Bailey, President

c.c. Arthur Beck, President, Fort Resolution Métis Government
 Allan Heron, President, Fort Smith Métis Council
 Trevor Beck, President, Hay River Métis Government Council



NWT Early Childhood Association
Box 2525
Inuvik, NT
X0E 0T0

Caitlin Cleveland, Chair &
Committee Members
Standing Committee of Social Development
Northwest Territories Legislative Assembly

January 16, 2023

Re: Bill 68 - An Act to Amend the Child Day Care Act

Dear Madame Chair and Committee Members

The NWT Early Childhood Association (NWTECA) have been working closely with the Department of Education, Culture and Employment (ECE) Deputy Minister and Department Staff on enhancing the Early Childhood Sector.

We appreciate the work the department and staff have put into the GNWT - Federal Government bilateral Early Care and Learning agreement (Agreement).

The NWTECA has been engaged in discussion with ECE over the course of the roll out of the Agreement, including the amendment to the Child Day Care Act. Presenters at the public meeting on January 12 were asked what types of engagement they preferred and hoped for moving forward. We think engagement is strengthening, our hope is follow up on the engagement and consideration of the issues brought forward would be strengthened. Engagement is one thing but follow-up on the concerns is important, there have been discussions that came to a halt, such as the staff retention incentive, due to the plan GNWT already had prepared to put in place.

We have some questions about the implementation and follow up actions of the amendment. These questions have been brought forward to ECE, we wanted the standing committee to have an understanding of them as well.

Early childhood is a complicated sector, we do not expect the GNWT to understand all the details of the day-to-day operations. That is why we have board members, administrative staff and operators. Addressing the five amendment topics we have the following comments and questions.

The first section, Establishing an NWT Certification Process and Wage Grid Regulation 47. (J)-(M):

Certification is important in the sector to have qualified staff to implement quality programs. Having a process by which staff with higher qualifications receive a higher wage is a great retention initiative. It shows we value the people working in the sector. Our question is, where will the funds come from? On the one hand the sectors revenue is being limited on the other hand we are told we need to pay staff a certain wage. The larger licensed programs already have staff wage grids that fit their budget, that take into consideration staff experience and education. At this point operators are struggling to find money to train staff and to pay staff a comparable community wage. How will we ensure programs can still operate with these expenditures. With



NWT Early Childhood Association
Box 2525
Inuvik, NT
XOE 0T0

the current labor market shortage how will we ensure the ECE sector has staff moving forward to provide quality programs. Retention is a large issue; how do we find and keep staff without more resources. How do we open more spaces without resources to increase and maintain staff. If we expect to increase spaces by 300, where will those staff come from?

At this point training is paid by individuals or their organizations, what type of support will be implemented so staff can take courses, paid time to work on courses, having the courses paid for, extra staff to cover when staff are working on courses are all important supports and resources that are needed to make this successful. Staff also need benefits; how do we implement and maintain all of this with a mandatory fixed revenue.

The second section, Increasing inclusion and reporting measures Regulation 36 (A), (b) & (C):

Inclusion is important. Working in partnership to ensure children have the best support available is a great starting process. It takes resources and support to ensure inclusivity. With the current labor market shortage how will professional support for the children such as Speech, occupational and physio therapists be implemented to partner with the ELCC staff. What additional funds will be available to ensure this is not simply a regulation, but ensure an action plan can be implemented. More regulations to follow and implement without resources may limit inclusivity, if it is identified a child needs a personal plan implemented, how do we implement with limited resources.

The Privacy act comes into play with all the reporting of the children's personal information, what will this reporting be used for, how will it benefit the child/sector, what are the anticipated actions. Families are already reluctant to have their information shared unnecessarily, if there is no benefit families may not consent.

Regulation 37 (B) is also a concern. An elder stated, "The Government is numbering our children again"

The third section, Authorizing cost control regulations Regulation 29 (2):

This is the amendment that concerns us the most. As I mentioned earlier, we do not expect the GNWT to understand all the details of the day-to-day operation of the programs in the ECE sector, that is the responsibility of the Parent Board/committees/operators. We have seen some gaps in understanding day to day operations, with the roll out of the GNWT-Federal agreement. The most current one is the staff retention initiative which based the funding on Full time Equivalencies staff, which is a simple math that only considered the ratio required at one moment in time, not the reality. In reality it takes more people to cover the full operational shifts, training time and breaks for full day of programs.

Authorizing cost control is detrimental to the sector. Each program is different and have specific ever-changing needs. Ceilings collapsing, mass staff exodus from the program, dyers breaking down, Boiler issues, frozen pipes, renovations going over budget, hot water tanks blowing up, and the list goes on, we need flexible resources to manage this. Maintaining quality programs, field trips, elders' visits, on the land trips, everything that makes quality successful programs in the NWT takes resources.



NWT Early Childhood Association
Box 2525
Inuvik, NT
XOE 0T0

How do we Level playing field, so all programs have the funds they need to offer quality programming. What about family day home operators, where is their support? Family Day Home providers are a huge part of increasing spaces in the NWT. What supports will be implemented to ensure this remains a viable option. With wait lists as high as 300 and programs that have stopped taking registration due to capacity issues the sector is very fragile. More resources are needed, we can't limit programs revenues and expect quality accessible programs. We know the cost of this is not cheap, how can we work together to ensure the sector survives and we are able to offer quality accessible programming in all the communities?

Section 4 Protecting the rights of families Regulation 19 (1) – (4):

Rights of the families are important to ensure families are being treated respectfully. Protecting the rights of ELCC professionals is also important. Can we implement a process for both.

Section 5 Updating language in the Act all Regulations:

This update makes total sense and is an important amendment.

The NWT Early Childhood Sector is fragile. Overwhelming wait lists from lack of spaces, limited resources, labor market shortages, lack of solid benefit packages and comparable community wages all have an impact. We need to move forward wisely and cautiously. The NWTECA hopes to work with the GNWT to ensure the sector comes out stronger with better support for families. It is our hope that these regulations have the actions and resources to make a positive impact on the sector.

Respectfully,

Patricia Davison

Chair

NWT Early Childhood Association



**Speaking Notes of President, Garry Bailey, Northwest Territory Métis Nation
Public Meeting with the Standing Committee on Government Operations
Wednesday, February 8, 2023 at 10:30 a.m. Virtual**

RE: *Bill 68: An Act to Amend the Child Day Care Act*

The Northwest Territory Métis Nation appreciates the opportunity to comment on the Government of the Northwest Territories' proposed amendments to the *Bill 68: An Act to Amend the Child Day Care Act*.

- The NWTMN supports taking measures to ensure child day care facilities in the NWT are high quality and affordable for families and working conditions are improved for child day care facility workers.
- Many families are finding there is an insufficient amount of child day care facility spaces and the cost for child day care is unaffordable for families.
- We would like to see changes to the legislation that will result in an increase in the number of child day care facility spaces. These proposed changes do not address additional spaces.
- The amendments to the legislation impact our Métis Councils as our Métis Councils operate child day care facilities in Fort Resolution, Fort Smith and Hay River.
- The Métis Councils have opened the child day care facilities to ensure children receive early learning and child care with Métis culture and language programming.
- The proposed amendments do not address the implementation of *United Nations Declaration on the Rights of Indigenous Peoples* as it provides a lot of authority to the Director (e.g. approve licences, handles complaints, power to suspend a licence), and the Director only reports to the Minister. The Director should also provide reports to and receive input from the Indigenous governments.

Certification and Wage Grid for Employees

- One of the amendments to the legislation is to introduce a minimum wage for employees of certain early learning and child care facilities.



- Another amendment is to set in place certification requirements for operators and staff.
- We would like to ensure certification includes Indigenous knowledge components.
- The increase in certification requirements may lessen the number of qualified early childhood educators.
- Many early childhood educators are leaving the industry due to insufficient staffing levels, low wages and long hours of work.
- We hope the minimum wage requirements for child care providers will encourage the child care staff to obtain the certification that is now required.
- The proposed amendment includes provision that the child care facility must follow the Director “approved form of contract” for staff (see section 30(1)). The facility needs flexibility to negotiate its own contracts for local requirements.

Maximum Fees for Child Care Services

- The cost control measures restrict the ability of a not-for-profit board to manage its own finances and liability of child day care facilities.
- It will be a challenge for childcare providers to increase reporting measures and pay higher wages while fees charged for child care are capped.
- The NWTMN is concerned that there is insufficient funding provided by the GNWT for child care.

Meeting to Discuss the Amendments

Operating an early learning and child care facility is a significant liability, but the NWTMN and the Métis Councils consider early learning and child care to be extremely important to the success and health of Indigenous Métis children.

Fast-Tracked and Lack of Consultation

The Standing Committee on Government Operations will be presenting their final report at the upcoming February / March 2023 sitting. The fast-tracked timeframe to provide input was not sufficient, particularly because there was two-week holiday.

The NWTMN is concerned about the lack of government-to-government engagement to co-develop the proposed amendments to the *An Act to Amend the Child Day Care Act*. The GNWT should have met with the NWTMN leadership to review the amendments *An Act to Amend the Child Day Care Act*.

We look forward to your consideration of our comments.



Fort Smith Métis Daycare

132 Simpson Street – Fort Smith, NT – X0E 0P0 – 867-872-2391

February 17, 2023

NWT Métis Nation
President Garry Baily
83 Breynat Street
PO Box 720
Fort Smith, NT X0E 0P0
Garry.Bailey@NWTMetis.ca

Caitlin Cleveland, Chair & Committee Members
Standing Committee of Social Development
Northwest Territories Legislative Assembly
4570-48th Street
PO Box 1320
Yellowknife, NT X1A 2L9
Caitlin_Cleveland@ntassembly.ca

Dear Mr. Garry Baily
CC: Caitlin Cleveland

Re: Bill 68 -An Act to Amend the Child Day Care Act

I am writing you in reply to the Public Briefing with NWT Métis Nation on Bill 68: An Act to Amend the Child Day Care Act. (*February 15, 2023*)

As the Program Coordinator for the Fort Smith Métis Daycare, I will outline the direct impact Bill 68 will have on our program.

1. Establishing an NWT certification process and wage grid 47. (j)-(m)

The Fort Smith Métis Daycare appreciates the GNWT and the NWT Métis Nation acknowledging the essential role of Early Childcare Educators.

Certification Requirements:

The Fort Smith Métis Daycare supports staff meeting levels of certification, based on their role within the daycare. Creating a standard level of certification will strengthen the childcare industry, bringing professional respect to those who have obtained certification. Certification is a building block to creating high-quality childcare programs in our communities.

The Fort Smith Métis Daycare believes that the certification standard should include a strong focus on indigenous and Métis culture. We support the NWT Métis Nations' inclusion in the creation and implementation of culture education for the certification process.

As a program, we encourage our staff to complete training, professional development and meet or exceed certification level set by ECE. However, there are cost associated with continued education.

Currently the Early Learning and Child Care Certificate and Diploma courses are offered through Aurora College. In person learning is offered at the Yellowknife campus, and distance is available for those unable to move. Distance learning comes with its own unique set of challenges and is not an option for all students.

What are the expected costs related to staff certification?

How will the GNWT support programs and individuals during the certification process?

Will the Early Learning and Child Care Certificate and Diploma courses be offered as in person learning at additional Aurora College campuses?

Wage Grid:

The Fort Smith Métis Daycare believes that wages should reflect experience and credentials. As the certification requirements increase, so will wages. As a professional industry, staff must be earning a livable wage.

In general, the early childcare industry is short staffed, with concerns of low wages and high turn over. Implementing a standard wage grid will open the industry for recruitment and encourage staff retention.

As a program, our ability to increase our rates has been restricted by the Child Care Fee Reduction (CCFR) subsidy. The CCFR 2023/2024¹ rate increase would allow our program to increase our rates by 2%. As wages increase our program will have to absorb that cost, we would need added financial support to meet these wage increases.

Has the GNWT and ECE developed a wage grid with ranges and certification levels?

When will the GNWT supply the wage grid to programs?

How will the GNWT and ECE assist in the additional wage costs to programs?

2. Increasing inclusions and reporting measures 36 (a), (b), and (c)

Inclusion:

The Fort Smith Métis Daycare is proud to be an inclusive program with staff and families from multiple cultures and backgrounds.

As a new program, we are working to ensure all children are supported in our program. This includes developing a program for the inclusion of children with disabilities. Creating a program to support the additional needs of a disabled child will require trained staff and specialized supplies.

¹ [CCFR Increases 2023-2024 GNWT](#)

Staff trained to meet the needs of disabled children will have completed training beyond the standard ELCC certificate.

Will the GNWT be providing training, supplies and funding to assist in meeting the needs of disabled children?

How will the GNWT support programs in the inclusion of disabled children?

Reporting:

The Fort Smith Métis Daycare has a strict confidentiality policy to protect the children, families, and staff of our program.

Through current reporting to ECE we share generalized, non identifying statistics. These statistics outline the ages and special needs of the children in our program. Providing information above this would be a breach of privacy for our program.

37(b) assign a unique identifier to each child that attends an early learning and childcare facility.

Replacing the child's name with a government issued identifier is repeating the history of indigenous persons in Canada. This policy is dehumanizing to our children.

What additional information will the GNWT be collecting?

How will the GNWT use and store this information?

3. Authorizing cost control regulations 29 (2)

This amendment is of great concern to the Fort Smith Métis Daycare. As a private business, this amendment will remove our ability to set rates and places it in the hands of the government. The GNWT will be regulating the rates charged, without assuming any of the day-to-day operational costs associated with running a childcare program.

Programs face a constant unknown and threat of emergency that directly impact our daily operations. Appliances break, buildings require repairs, staff need trained the list goes on and on. These are costs that a program must absorb. Cost control measures will restrict programs from passing these costs onto the end user. As non-profits, with limited annual surplus, this could be detrimental to programs.

The GNWT demonstrates its lack of understanding related to the daily costs of operating a childcare program through the funding they offer. The most recent is the Staff Retention Incentive fund. This funding is based on the "number of full-time equivalent (FTE) educators required to meet staff-to-child ratios as legislated."²

As a preschool aged program, our staff to child ratio is 1:8. As a program we have to abide by the Daycare Act and Regulations and the Employment Standards Act. Considering that staff will require breaks, have duties outside the classroom, and are limited to the number of hours worked in a day, we will need to employ 1 full time and 1 part time staff for ever 8 children in our program. The Retention Incentive Funding supports the minimum staff required to meet Daycare Regulations, without considering other standards we need to meet and the true daily responsibilities on staff.

² [Retention incentive funding | Education, Culture and Employment \(gov.nt.ca\)](#)

*Will the GNWT adjust funding to meet the daily needs of a program?
How will the GNWT handle emergency situations for programs?
Will the GNWT remove funding for specifics and replace it with an annual discretionary fund to each program, allowing programs to use the funds to meet their individual needs?*

4. Protecting the rights of families 19 (1), (2) and (3)

The Fort Smith Métis Daycare is held accountable by various government standards. As a program, we have a contract with our clients that outlines the responsibilities on both parties.

Creating a system to ensure that children and families are being treated respectfully is important, and holds the industry accountable. This system should include the right of programs and workers.

*Will the GNWT and ECE be protecting the rights of licensed programs and workers?
What steps will protect programs/workers against fictitious or slanderous claims?*

5. Updating the language in the Act (all regulations)

The Fort Smith Métis Daycare has no opposition to this amendment.

Respectfully,

Kristie Vyse
Program Coordinator
Fort Smith Métis Daycare

From: [Katrina Nokleby](#)
To: [Caitlin Cleveland](#)
Cc: [Taylor Maxwell](#); [Glen Rutland](#); [Cathleen Knotsch](#)
Subject: Fw: Letter of concerns
Date: February 20, 2023 6:11:29 PM

Please see this letter (as I'm sure you have) from the dayhome providers for tomorrow's meeting. Can we please add it to the agenda?

Cheers,
Katrina

Mársı | Kinanāskomitin | Thank you | Merci | Hąj' | Quana | Qujannamiik | Quyanainni | Máhsı | Máhsı | Mahsi

Katrina Nokleby, P.Eng. (Non-practicing)
[MLA Great Slave](#)

Northwest Territories Legislative Assembly
L'Assemblée Législative des Territoires du Nord-Ouest
PO Box 1320 | Yellowknife, NT | X1A 2L9
Phone: (867) 767-9130 ext. 12155
Fax: (867) 920-4735

www.assembly.gov.nt.ca
www.assembly.gov.nt.ca/FR

From: Katrina Nokleby
Sent: Monday, February 20, 2023 6:09 PM
To: Nicole Loubert
Cc: Maggie Mercredi
Subject: Re: Letter of concerns

Thank you Nicole,

I will ensure this is seen by the Social Development Committee members ASAP as we consider the bill. I've been hearing from the dayhome providers about their concerns and will do my best to ensure the Minister and Department are aware

Talk to you soon,
Katrina

Mársı | Kinanāskomitin | Thank you | Merci | Hąj' | Quana | Qujannamiik | Quyanainni | Máhsı | Máhsı | Mahsi

Katrina Nokleby, P.Eng. (Non-practicing)

MLA Great Slave

Northwest Territories Legislative Assembly
L'Assemblée Législative des Territoires du Nord-Ouest
PO Box 1320 | Yellowknife, NT | X1A 2L9
Phone: (867) 767-9130 ext. 12155
Fax: (867) 920-4735

www.assembly.gov.nt.ca
www.assembly.gov.nt.ca/FR

From: Nicole Loubert <nicoleloubert@hotmail.com>
Sent: Monday, February 20, 2023 3:49:19 PM
To: Katrina Nokleby
Subject: Letter of concerns

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender's name and email address and know the content is safe.

Letter from dayhomes to our MLA's

As the Minister of Education, Culture and Employment has sponsored Bill 68: An Act to Amend the Child Day Care Act (the bill) we are imploring our MLA's to hear and understand our concerns. As the front-line workers who will be deeply impacted by these changes we are very concerned that there are a lot of unresolved issues and we would like to see these issues resolved before the act is passed. We are worried that the proposed changes will have further negative impacts on childcare in the NWT, a sector that is already struggling and extremely fragile.

Protection for Families:

Dayhomes provide childcare in their personal homes and as such are extremely vulnerable to all forms of abuse. We support a process for families to pursue and resolve complaints and we want an equal process for all providers, including those that work in daycares. This process must be equal in power to the parent's process and conducted by a separate person from the parental complaints to prevent biases. We want to be represented by someone who is well versed and qualified to deal with these issues. We want a process that is fully developed, transparent, and equitable. There should be clear guidelines about the information and how it is shared. The process should not be arbitrary. We are entitled to safe workplaces that are free from abuse of any kind.

The way ECE currently applies the act ensures that this is not what happens. The changes proposed to the act will further this imbalance.

Furthermore, we want to see a parental complaint process that protects providers from malicious reporting and unnecessary shutdowns. Anything that is a child protection concern should be investigated by professionals trained in this area (Appointed Child Protection Workers) and is beyond the scope of ECE consultants. This is necessary, not only, to protect the provider and to provide stability for families of other children in a Dayhome that might be investigated, but to protect the complainant and their child as well.

When dayhomes are shut down without proper substantiation, everyone loses.

Whenever possible, the focus of ECE should be to take every step to work with a provider to increase education and skills, resorting to suspension of services or closing a Dayhome, only as a last resort. This, not only, protects providers from arbitrary decision-making but families from losing essential, childcare spaces in a sector where they are extremely limited.

Not including strong measures to protect Providers, as well as, Parents set up a lopsided power dynamic, making providers vulnerable to abuse and exploitation

Mandatory Provisions:

The proposed bill gives the director the authority to make mandatory provisions to all contracts for all childcare programs. Again, we ask where are the protections for providers? The autonomy to make contracts that meet the needs of our individual programs is essential for programs to continue their viability.

The Government is not equipped by design to respond in a timely and appropriate manner to address changing needs and circumstances of individual programs, which is why this is best left to programs. Anything that the government would like to see in contracts should be developed with meaningful industry consultation, informed by people who work in the field and with the flexible needs of programs as a priority.

Events, Decisions made and Actions taken by ECE over the past 2 years have made it clear that, either the Ministry or the Senior Leadership at ECE is more interested in dictating policy and exerting coercive control than the actual best interests of Children, Families and Providers. (i.e. CCFR Rollout – 2022/2023) again we ask how will providers be protected?

Examples of this include, but are not limited to, backtracking after multiple memos, Public Statements and, also, Comments in Legislature by the Minister and ECE Senior Leadership that demeaned, vilified, derided and threatened providers prove the point previously stated again we ask how will providers be protected?

Training Requirements:

We support the further education and training for providers and see this as an important step in supporting program quality. Training offered by ECE needs to be considerate of providers time, for example, not conflicting with the 2nd jobs many of us work. We want to see options offered during the weekday (like a teacher's PD day). We want to see options that are meaningful (for example centered around child development and behaviors) that moves us towards professional certification.

It is the duty of the Ministry to support the best quality care and development of children. Dictating educational and training requirements while not, actively, supporting operators to

enhance their skills by providing training and funding opportunities for professional development shows that ECE and the ministry does not value high quality care for children, as much as they say and are instead focused on coercive control.

Reporting:

The proposed increases to reporting place additional undue burden on operators who are already working upwards of 50 hours a week providing childcare to families, working to accommodate families' schedules. Any reporting should be streamlined to be as minimally time consuming as possible. We are already reporting attendance, family and child information, including email addresses, phone numbers and home addresses, as well as annual budgets, and other reporting measures. Increasing the administrative burden on our small programs has the potential to cause more programs to close.

We are also concerned about the privacy of the families and children in our care. Not all families want to share all their private information with ECE (Indigenous families worried about colonial practices for example) and should have a right to make decisions about their privacy without undue pressure from ECE. If families refuse to provide information to dayhomes, dayhomes should be protected from penalization from ECE. ECE should not be asking dayhomes to violate the rights of families.

In comparison to ECE Information Practices: Healthcare providers in the Northwest Territories are bound by the Health Information Act – they are only allowed to ask for as much information from someone accessing services as they would Minimally need in order to provide the Service.

Inclusion:

We believe that inclusion is an important part of equity in childcare, Dayhomes currently offer care to many children with a wide range of exceptionalities when they can safely do so, supporting these children with programming that meets their individual needs. However, due to the restrictions dayhomes operate under regarding being unable to hire, operate group dayhomes, or access services like OT, speech, and one to one support workers (with specialized training) within the dayhome setting means that we can't provide a child with high needs the environmental support they would require. We are concerned about ECE's intentions in this area.

Cost Control Measures:

Dayhomes are required under the act to function as businesses, we have no choice. The ministry and ECE are aware that we have no pension, or benefits and, after we deduct necessary expenses from gross income, what is left is our wages.

The continued efforts of the Ministry and ECE to characterise us as profiteers in the sector and in opposition to daycares (who are *required* to function as non-profits) is both unbecoming and in direct opposition to developing a positive rapport and working relationship. The wording in the proposed changes of the act that "...without cost control measures, funding might be used for profit, instead of creating sustainable and accessible ELCC

programming...” builds on this false narrative.

This MUST be changed.

Cost control measures that completely control how much money dayhomes can make does not take into account personal circumstance, differences in programing, or differences in education and experience. Restricting the ability of programs to direct their own fees makes them unable to respond to their program’s individual needs and as such destabilizes their ability to remain open.

ECE, families, and most importantly children need programs that are sustainable. Government bodies are ill prepared to make quick adjustments in order to respond to the needs of programs or society (for example inflation) and should therefore allow programs to make decisions that will permit them to continue functioning.

Dayhomes recognize that ECE and the ministry is under obligation to report to the federal government and try to meet the benchmarks set out in the agreement. We also recognize that the agreement did not take into account inflation or the real cost of childcare in the NWT (this due to ECE’s neglect around collecting this information BEFORE negotiations). We are looking for ways to collaborate with the ministry and ECE that can meet both sets of needs, however, ECE has shown they are unwilling to work with us. All consultation thus far has proven to be in name only and has not resulted in positive changes. We want this to change.

We again state that introducing the Cost Control Measures as they stand will achieve the opposite of the goal of increasing childcare spaces

We recognize that the ministry and ECE is facing many challenges regarding childcare. To this end dayhomes can be scaled fairly quickly and it don’t require the same level of capital investment as you would for a centre-based setting. Licensed dayhomes are also well-equipped to offer care outside of traditional hours. With the proper support Dayhomes are equipped to meet the more immediate needs for childcare and to continue providing the options that families deserve in conjunction with larger center-based programs. Dayhomes are an essential piece to the unique challenges faced by the north. However, we are unable to provide care when our programs are under threat of no longer being viable to run.

Dayhomes are the canary in the coal mine. We are the first to be pushed to close, but make no mistake, the daycares are right behind us. The entire sector has been communicating this fact for the last year.

Childcare is an essential investment for the present and future of the NWT. Quality Childcare is for the social good of everyone. We continue our dedication to childcare for and in our communities and hope that future engagement and consultation will result in a positive outcome for all the NWT.

Please don’t pass the act as it stands and demand that it be adjusted to adequately support childcare in the NWT.

Nicole Loubert

Day home orperator
867 873-2148

MOTION

AN ACT TO AMEND THE
CHILD DAY CARE ACT

That clause 13 of Bill 68 be amended by deleting proposed paragraph 19.1(2)(b) and substituting the following:

- (b) refuse to investigate the complaint, if the Director is satisfied that the complaint is trivial, frivolous, vexatious or made in bad faith.

MOTION

LOI MODIFIANT LA
LOI SUR LES GARDERIES

Il est proposé que l'article 13 du projet de loi 68 soit modifié par suppression de l'alinéa 19.1(2)b proposé et par substitution de ce qui suit :

- b) refuser d'enquêter la plainte s'il est convaincu que la plainte est futile, frivole, vexatoire, ou a été faite de mauvaise foi.

MOTION

AN ACT TO AMEND THE
CHILD DAY CARE ACT

That clause 13 of Bill 68 be amended by deleting proposed subclause 19.2(2) and substituting the following:

Complainant
protected

- (2) An operator shall not
 - (a) retaliate against a complainant under section 19.1; or
 - (b) disclose the identity of a complainant under section 19.1, except as is reasonably required to respond to the complaint.

MOTION

LOI MODIFIANT LA
LOI SUR LES GARDERIES

Il est proposé que l'article 13 du projet de loi 68 soit modifié par suppression du paragraphe 19.2(2) proposé et par substitution de ce qui suit :

Protection du
plaignant

- (2) L'exploitant ne peut :
 - a) faire des représailles envers un plaignant en application de l'article 19.1;
 - b) communiquer l'identité du plaignant en application de l'article 19.1, sauf dans la mesure où il est raisonnablement nécessaire de le faire pour répondre à la plainte.

MOTION

AN ACT TO AMEND THE
CHILD DAY CARE ACT

That clause 16 of Bill 68 be amended by adding the following after proposed subclause 30(2):

Termination
of contract

(3) Nothing in this Act prevents an operator from terminating a contract for the provision of care, instruction or supervision of a child in accordance with the terms of that contract.

MOTION

LOI MODIFIANT LA
LOI SUR LES GARDERIES

Il est proposé que l'article 16 du projet de loi 68 soit modifié par adjonction, après le paragraphe 30(2) proposé, de ce qui suit :

(3) La présente loi n'a pas pour effet d'empêcher un exploitant à résilier un contrat de prestation de services de soins, d'instruction ou de surveillance d'un enfant conformément avec les modalités de ce contrat.

Résiliation de
contrat

MOTION

AN ACT TO AMEND THE
CHILD DAY CARE ACT

That clause 16 of Bill 68 be amended by adding the following after proposed subclause 41(1):

Consideration

(1.1) In establishing programs under subsection (1), the Minister shall consider

- (a) the cost to operators of complying with this Act; and
- (b) the importance of ensuring the sustainability and growth of the early learning and child care sector.

MOTION

LOI MODIFIANT LA
LOI SUR LES GARDERIES

Il est proposé que l'article 16 du projet de loi 68 soit modifié par insertion, après le paragraphe 41(1) proposé, de ce qui suit :

Considération

(1.1) Dans la mise en œuvre des programmes en application du paragraphe (1), le ministre prend en considération les éléments suivants :

- a) les coûts payés par les exploitants pour respecter la présente loi;
- b) l'importance d'assurer la durabilité et la croissance du secteur des garderies éducatives.

MOTION

AN ACT TO AMEND THE
CHILD DAY CARE ACT

That clause 16 of Bill 68 be amended by adding the following after proposed subclause 47(1):

Review by
operators

- (1.1) Before recommending regulations to the Commissioner under subsection (1), the Minister shall
- (a) provide a copy of the proposed regulations to operators and make the proposed regulations available to the public;
 - (b) ensure that a reasonable period of time has been allotted for receiving feedback; and
 - (c) consider any feedback provided in respect of the proposed regulations.

MOTION

LOI MODIFIANT LA
LOI SUR LES GARDERIES

Il est proposé que l'article 16 du projet de loi 68 soit modifié par insertion, après le paragraphe 47(1) proposé, de ce qui suit :

(1.1) Avant de recommander l'adoption d'un règlement au commissaire en vertu du paragraphe (1), le ministre, à la fois : Examen par
les exploitants

- a) remet une copie du règlement proposé aux exploitants et le rend disponible au public;
- b) s'assure qu'un délai raisonnable a été alloué pour recevoir une rétroaction;
- c) prend en considération la rétroaction reçue à l'égard du règlement proposé.

MOTION

AN ACT TO AMEND THE
CHILD DAY CARE ACT

That clause 16 of Bill 68 be amended by adding the following after proposed subclause 47(4):

Privacy impact
assessment

(5) Before recommending regulations to the Commissioner under paragraphs (1)(p) to (t), the Minister shall ensure that section 42.1 of the *Access to Information and Protection of Privacy Act* has been complied with.

MOTION

LOI MODIFIANT LA
LOI SUR LES GARDERIES

Il est proposé que l'article 16 du projet de loi 68 soit modifié par adjonction, après le paragraphe 47(4) proposé, de ce qui suit :

(5) Avant de recommander l'adoption d'un règlement au commissaire en vertu des alinéas (1)p à t), le ministre s'assure que l'article 42.1 de la *Loi sur l'accès à l'information et la protection de la vie privée* a été observé.

Évaluation des
facteurs relatifs
à la vie privée

MOTION

AN ACT TO AMEND THE
CHILD DAY CARE ACT

That clause 8 of Bill 68 be amended by deleting the French version of proposed subclause 9.1(2) and substituting the following:

Exception

(2) N'est pas tenue en vertu du paragraphe (1) de posséder un permis, la personne qui, gratuitement, fournit des soins ou de l'instruction aux enfants, ou qui les surveille, si elle est une personne apparentée à chacun d'entre eux.

MOTION

LOI MODIFIANT LA
LOI SUR LES GARDERIES

Il est proposé que l'article 8 du projet de loi 68 soit modifié par suppression de la version française du paragraphe 9.1(2) proposé et par substitution de ce qui suit :

Exception

(2) N'est pas tenue en vertu du paragraphe (1) de posséder un permis, la personne qui, gratuitement, fournit des soins ou de l'instruction aux enfants, ou qui les surveille, si elle est une personne apparentée à chacun d'entre eux.