



Tom Sammurtok
Chairperson
Standing Committee on Legislation
Legislative Assembly of Nunavut

August 18, 2017

Dear Mr. Sammurtok:

RE: Proposal for Concessions With Respect to Bill 37

The members of the Standing Committee have indicated that public opposition to Bill 37 was instrumental to the decision to abandon the legislative study of the proposed amendments.

I have reviewed the submissions for the public and stakeholder organizations, including, in particular, those of the district education authorities (DEAs). Although it is clear that there is disagreement with respect to approach, in my view there is clear indication in those submissions of where and how compromise can be found within Bill 37.

The submissions concentrated on a series of very specific themes, rather than Bill 37 as a whole. I believe strongly that by removing certain clauses, subclauses and paragraphs of the Bill, we can, as law-makers, come to a compromise on the direction to take with respect to improving how our education system operates, while at the same time respecting the concerns found within the submissions.

With the support of my Cabinet colleagues, I have prepared this letter to propose compromises to the members of the Standing Committee. **I have identified a number of clauses, subclauses and paragraphs of Bill 37 that I will concede to remove from the Bill.**

Overview of Proposals to Remove Amendments from Bill 37

1. It is clear from the submissions that there is significant disagreement with respect to the proposed extension of bilingual education deadlines within the *Education Act* and the *Inuit Language Protection Act* (ILPA), despite the recommendation from the Special Committee to Review the Education Act to move forward with extension. In reflection of the disagreement on this issue, I propose dropping all

amendments with respect to the extension of bilingual education deadlines, as well as to drop the proposed amendment to the parental right to instruction in Inuktitut within the *Inuit Language Protection Act*.

2. There has been a great deal of discussion of the role of local control and priorities within the education system. Although increasing consistency within the education system was a priority of the Special Committee to review the Education Act, concerns have been raised by DEAs that their roles and responsibilities are overly impacted by Bill 37. As such, I propose: 1. to remove the clauses, subclauses and paragraphs that would have increased the standardization of school calendars at the expense of independent DEA control over calendar development; 2. to remove the amendment that shifts the control of principal/vice-principal hiring panels from DEAs to the Minister.
3. Although the government does not agree with the assessments of the DEAs and their representative coalition that the proposed DEA Council would be insufficiently independent, I concede that there is insufficient support for this proposal to move forward. As such, I propose removing all clauses, subclauses and paragraphs that relate to the proposed DEA Council.

Aspects of Bill 37 to Move Forward With

I am proposing to maintain the remaining clauses, subclauses and paragraphs of Bill 37. These amendments are rooted in the operational concerns that have been documented and reviewed since the *Education Act* came into force in 2009. The 2014-2015 review of the *Education Act* by the special committee of the Legislative Assembly, as well as the review by the Office of the Auditor General of Canada in 2013, raised significant issues that should be addressed and it is possible to do so.

What I propose keeping in Bill 37 will move our education system substantially towards better operations and better student outcomes. If invited, my staff and I would be pleased to provide further information on those particular clauses, subclauses and paragraphs.

As you know, the urgent need to review and improve the *Education Act* within the life of this government was identified as a top priority in Sivumut Abluqta, as well as the 2015 report of the Special Committee to Review the *Education Act*. To this end, my hope is that by removing contentious clauses, subclauses and paragraphs of Bill 37, we can still move forward to make other positive improvements.

The Value of Dialogue in Moving Forward as Policy Makers

Regardless of whether the members of the Standing Committee agree to any compromises with respect to Bill 37 itself, it would be helpful to have a better understanding of the concerns of the members with respect to Bill 37 and the educational issues it addresses. This will help in determining next steps when the new government inevitably looks to the education system for solutions on how to improve the social and economic future of Nunavut.

Conclusion

One consequence of the abandonment of the study of Bill 37 is that valuable dialogue has been lost. The government cannot act in the best interests of Nunavummiut if their elected representatives do not engage in discussion of important issues. As such, I urge the members of Standing Committee to, at a minimum, agree to a discussion of the principles and objectives of Bill 37, even if compromise is not on the table.

I look forward to your response and any opportunity you and your colleagues on Standing Committee may provide to work together towards common objectives.

Sincerely,



Hon. Paul Quassa
Minister of Education

Cc. Hon. Peter Taptuna, Premier
Hon. George Kuksuk, Minister of Languages
Kathy Okpik, Deputy Minister of Education
Pauloosie Suvega, Deputy Minister, Culture and Heritage
Members of the Legislative Assembly of Nunavut

Appendix 1

Breakdown of Proposed Changes

Please note: section numbers in [blue](#) refer to sections within Bill 37, not the *Education Act* itself.

Part 1, Subpart 1 – Inuit Qaujimagatuqangit

- No amendments dropped
KEEP
- [Sections 2 to 21](#)

Part 1, Subpart 2 – Education Program and Local Community Program

DROP

- [Section 29](#) – New Early Childhood Education (ECE) Program provisions, including the requirement for DEAs to choose every 5 years to deliver, or not deliver, those programs (section 17).
- [Section 30](#) – Limits the application of section 18 to only adult programming (currently it also permits ECE programs other than for language).
- [Section 38](#) – Amends CSFN provision (section 168) to reflect changes with respect to ECE provision
 - **Note:** Legislature would need to keep the part of [Section 38](#) that changes the reference in section 168 to the school improvements plan.
- [Section 39](#) – Amends the provision on tuition fees to reflect the amendments to the ECE provisions (subsection 204(4)).

KEEP

- [Section 22](#) – Amends the preamble to replace ‘school program’ with ‘education program and local community program’.
- [Section 23](#) – Replaces definitions in section 3 of ‘education program’, ‘local program’ (local education program enhancements), ‘school program’ (‘local community program’); adds definition of ‘curriculum’.
- [Section 24](#) – Makes the heading of Part 3 “Programs in Schools”.
- [Section 25](#) – New provisions for local community program (section 7), education program (adds the Ministerial authority to make directions for time allocations)(section 8), local education program enhancements (section 9), teaching materials (section 10) – this section creates the clear separation of duties between the education program (Minister) and local community program (DEAs).

- [Section 26](#) – Substitution of ‘local community program’ for ‘school program’ in the provision that mandates the principal to work with community organizations (section 13).
- [Section 27](#) – Establishes the Principal’s quarterly report to DEA (section 14).
- [Section 28](#) – DEA monitors, evaluates and directs local community program and local education program (but no longer the education program) (section 16).
- [Section 31](#) – Replaces ‘School Program Plan’ with the ‘School Improvements Plan’; establishes the Education Program Plan in the legislation.
- [Section 32](#) – Adds optional authority for the Minister to create territory-wide assessments on learning outcomes other than literacy and numeracy (which is mandatory).
- [Section 33](#) – Substitutes ‘local community program’ for ‘school program’ with respect to additional responsibilities assigned to DEAs by the Minister (section 138).
- [Section 34](#) – Amends section 141 – school facilities provision – to reflect redefined education program and local community program.
- [Section 35](#) – Amends section 144, which allows DEAs to hire employees, to reflect redefined education program and local community program.
- [Section 36](#) – Amends DEA miscellaneous powers provision to reflect redefined education program and local community program.
- [Section 37](#) – Amends Trusteeship of DEAs provision to reflect redefined education program and local community program.
- [Section 38](#) – Amends CSFN provision (section 168) to reflect changes with respect to Local Community Program (**note**: would drop the part of [Section 38](#) that changes reference to ECE).

Part 1, Subpart 3 – Language of Instruction

DROP

- [Section 41\(b\)](#) – Adds authority for the Minister to make directions with respect to language of instruction, including assignment within each model of language of instruction by grade, program of study, and course;
 - **Note:** [Section 41\(c\)](#) – Adds the enhanced Ministerial reporting requirements for implementation of bilingual education should be kept.
- [Section 42](#) – Bilingual education implementation deadline extensions and the particular monitoring/certification requirements for Gr 10-12 (section 28).
- [Section 43](#) – Changes the regulation making power to allow greater flexibility for the application of Part 4 and regulations to a grade (subsection 29(f)).

KEEP

- [Section 40](#) – DEA choice of bilingual education model, Ministers ability to limit DEA choice to only the models for which there is capacity, requirement on Minister to provide reasons for limits.
- [Section 41](#) – Enhanced Ministerial reporting requirements for implementation of bilingual education.

Part 1, Subpart 4 – Inclusive Education

DROP

- [Section 49](#) – Shift of the responsibility for oversight of inclusive education from the DEA to the principal (section 42);
 - **Note:** [Section 49](#) in Bill 37 repeals sections 42 and 43 in the *Education Act*, replaces them and adding in section 43.1 (new). Of these constituent parts, only the repeal and replacement of section 42 in the *Education Act* is being recommended for removal from Bill 37. The other amendments would stay (as noted below).

KEEP

- [Section 44](#) – Correction of French term for inclusion (preamble).
- [Section 45](#) – Adds Student Support Teacher definition (section 3).
- [Section 46](#) – Correction of French term for inclusion (Part 6).
- [Section 47](#) – Establishes (in a new section, 40.1) the role of the ‘main teacher’ for the purposes of development of ISSPs. Allows principal to designate a teacher as main teacher for students in grades 10 to 12.
- [Section 48](#) – Establishes that the adjustments and support that a student is entitled to must be permitted by the regulations and ‘be reasonable and practical’ and not simply what is ‘reasonable and practical’ as the Act currently reads; amends the French version of this provision for consistency of terminology (section 41).
- [Section 49](#) – Establishes replacement provisions for the identification of student needs and the development of ISSPs, including setting out clear timelines at different stages (Section 43).
 - **Note:** the new subsection 43(2) establishes the role of the DEA to inform the teacher of information relevant to a student’s inclusion needs. It would need to be removed from the larger amendment as it would no longer be necessary.
- [Section 50](#) – Updates numbering in the provision that Ministerial directions to school staff for the education program can also relate to the implementation ISSPs (section 44).
- [Section 51](#) – Establishes that Minister holds ultimate decision on exclusions from classroom provision, on the advice of the Principal; clearly requires school team to develop ISSPs for excluded students (section 45).

- **Section 52** – Replaces the provision (section 46) addressing the periodic review of ISSPs by teachers and 1. clarifies that the Minister can provide direction to increase the number of reviews per year and 2. Gives guidance on how the main teacher should conduct periodic reviews, including mandatorily informing the parent of the results of any assessment or review.
- **Section 53** – Clarifies that parents can request specialized services and assessments (section 47).
 - **Note:** However, the new provision allowing to DEAs to make requests on behalf of parents should be removed.
- **Section 54** – Adjusts notice of decisions provision with respect to new ISSP development process (section 48).
- **Section 55** – Repeals mediation role of DEAs (section 49).
- **Section 56** – Sets out the process for the independent, third party review of a disagreement between the school and the parent/adult student (sets out the reasons for review—which is needed if the mediation provision is removed). This provision includes role of DEA to request review on behalf of parents, sets out the parties to review, stays of interim implementation, right to be heard, decision making powers of the review board (section 50).
- **Section 57** – New provision for review board formation and composition (section 51).
- **Section 58** – Adds principal’s report to the DEA (section 51.1, new); Minister’s annual report requirements (section 51.2, new); consultation with Coalition on directions for this Part, requirement to respond to Coalition recommendations (section 51.3, new).
- **Section 59** – Amendment of regulation making power to add in option to make regulations with respect to specialized services or assessments (section 53).
- **Section 60** – Provides an exemption to the consultation obligations (section 203.1) for regulations made under Part 6.

Part 1, Subpart 5 – Education Staff

- No amendments dropped

KEEP

- **Section 61** – Change to modify list of education staff members to reflect expansion of skilled cultural expert role, and to remove teaching assistants (non-existent role) from same list (section 89).
- **Section 62** – Adds clarification of content of teacher orientation programs (introduction to Inuktitut and instruction in Inuit culture/history) (section 96).
- **Section 63** – Expansion of skilled cultural expert role and addition of definition of “expertise” (102).

- [Section 64](#) – Removes references to teaching assistants from provisions allowing teachers to assign duties and give directions to teacher trainees and teaching assistants (section 104).
- [Section 65](#) – extends tenure of principals to five from three years (section 106).
- [Section 66](#) – extends deadline for principals to finish getting their qualification (after being hired) from three to five years (section 112).

Part 1, Subpart 6 – DEAs

DROP

- [Section 67](#) – Adds Ministerial role to establish a choice of standardized school calendars (section 83.1, new).
- [Section 68](#) – Mandates DEAs to choose from Minister’s selection of school calendars (section 84).
- [Section 69](#) – Shifts control of principal/VP appointment and reappointment panels from DEA to Minister (section 107).

KEEP

- [Section 70](#) – Limits Elder DEA representative appointments to 2 years and expands their participation role on DEAs (section 133).
- [Section 71](#) – Expanded participation of student representatives on DEAs; protects right to participate at meetings (section 134).
- [Section 72](#) – Requirement for vulnerable sector checks/CRCs and obligation for DEA members to self-disclose any occurrences that arise after the CRC is completed (section 136).
- [Section 73](#) – General duty of DEAs (relates to dropped Education Program amendments) (section 137).

Part 1, Subpart 7 – CSFN

- No amendments dropped.

KEEP

- [Section 74](#) – Establishes that the Minister has control over CSFN registrations for non-rights holders; allows the Minister to delegate that role to the CSFN itself (new subsection in section 32).
- [Section 75\(a\)](#) – Updates terms for consistency (section 168).
- [Section 75\(b\)](#) – Updates numbering in relation to education program amendments; removes the provision that substitutes ‘CSFN’ for ‘Minister’ with respect to curriculum development, meaning CSFN no longer has that role (section 168).

- [Section 75\(c\)](#) – Repeal of the requirement for the CSFN to obtain Ministerial approval for curriculum (because the CSFN role to develop curriculum is removed by [section 75\(b\)](#)) (section 168).
- [Section 75\(d\)](#) – Clarification that section 74(2) applies to CSFN (territorial assessments) (section 168).
- [Section 75\(e\)](#) – Makes corrections related to new education program amendments and numbering (section 168).
- [Section 75\(f\)](#) – Clarifies that CSFN teachers are public servants (new subsection in section 168).
- [Section 76](#) – Removes CSFN authority to exclude students from regular classroom setting (therefore reassigns that role to Minister as it the case for all Nunavut schools) (section 170).
- [Section 77](#) – Adds requirement that the CSFN’s communication to the public about CSFN delivery of their public education is subject to regulatory requirements (section 172).
- [Section 78](#) – Ministerial mandate to request reports from CSFN regarding a variety of operational matters (section 172.1, new).
- [Section 79](#) – Additions to regulation-making power (section 181) regarding 1. CSFN communications to public on education program delivery, and 2. with respect to agreements between the CSFN and other DEAs for shared use of space.

Part 1, Subpart 8 – DEA Council

- No amendments kept.

DROP

- [Section 80](#) – Adds definitions under subsection 3(1) for DEA Council, Executive Director (of DEA Council), Inuuqatigiitsiarniq policy.
- [Section 81](#) – Substitutes “DEA Council” for “DEA Coalition” wherever it appears in the Act.
- [Section 82](#) – Amends provision for registration and attendance policies (section 37) to require DEAs to consult with principals in creating the policy, as well as to give the DEA Council the authority to mandate such a policy when a DEA does not already have one.
- [Section 83](#) – Amends provision for Inuuqatigiitsiarniq policies (section 58) to require DEAs to consult with principals in creating the policy, as well as to give the DEA Council the authority to mandate such a policy when a DEA does not already have one.
- [Section 84](#) – Shifts the responsibility to assist DEAs in developing programming to support DEA Inuuqatigiitsiarniq policies from the Minister to the DEA Council (subsection 59(4)).
- [Section 85](#) – Requires the minister to consult DEA council when developing teacher orientation programming (subsection 96(1)).

- **Section 86** – Reassigns the DEA Coalition’s ability to request a structured dialogue with the Minister to the DEA Council (section 149).
- **Section 87** – Rewords provision (subsection 183(5)) requiring consideration of the long-term planning with the DEA Coalition when the Minister recommends regulations on DEA funding to reflect the establishment of DEA Council and repeal/replacement of section 190.
- **Section 88** – Changes the heading of Part 15 – DEA Coalition to Part 15 – DEA Council.
- **Section 89** – Adds new provisions establishing the DEA Council; setting out its membership (regional representation, plus Iqaluit and CSFN), terms, candidates, by-elections.
- **Section 90** – Sets out duties of DEA Council (section 190), including to provide training to DEAs, support DEAs in development of school improvements plans and teacher orientation programming, assign a DEA Council representative to hiring panels for EDU senior regional staff, redefined (and significantly expanded) agendas for long-term planning meetings with department; requires Minister to ensure that long-term planning meetings happen twice annually and that DEA Council is given a seat on EDU senior regional hiring panels; establishes position of Executive Director; gives DEA Council oversight of the ED; sets out that DEA Council must hold competitions for staff but can appoint casual and relief employees and internal transfers; clarifies that DEA Council staff are not members of the public service, except for with respect to pension and benefits; requires that DEA Council staff salaries be similar to public service salaries.
- **Section 91** – Sets out that funding for the DEA Council will be for 6 staff positions, plus office space (section 191). Adds a new subsection that if the DEA Council is non-compliant with its responsibilities that the Minister may reduce or suspend funding.
- **Section 92** – Requires the DEA Council to report annually on the use of its funding, operations and activities, as well as to report on the state of education in Nunavut from the perspective of DEAs; requires the DEAs to provide the DEA Council with information needed for the report and mandates the Minister to table the report.

Part 1, Subpart 9 – Other substantive amendments

- No amendments dropped

KEEP

- **Section 93** – Commitment to United Nations *Convention on the Rights of the Child* (preamble).
- **Section 94** – Adds definition of ‘community’ (section 3).

- [Section 95](#) – Clarified wording of DEA discretionary authority on registrations (section 32); adds a subsection to make clear the rights of adult students to request discretionary registration.
- [Section 96](#) – Adds that the regulations made by the Commissioner in Executive Council under section 138(1) adding duties and responsibilities to DEAs should be on the Minister of Education’s recommendation.
- [Section 97](#) – Adds that the regulations made by the Commissioner in Executive Council under section 183(4)) with respect to DEA funding should be on the Minister of Education’s recommendation.
- [Section 98](#) – Amends section 200(3) [tuition fees] to reflect updated wording for DEA discretionary admissions.
- [Section 99](#) – Clarifies that when a teacher excludes someone from the school premises for creating or attempting to create a disturbance while the school is being used for ‘school purposes’ that it cannot be a student who is excluded. Further, the term ‘school purposes’ is replaced by ‘delivery of the education or local community programs, or other related activities’ (section201).
- [Section 100](#) – Amends the transitional regulation making power in section paragraph 203(2)(b) to add the power to also make interim regulations.

Part 1, Subpart 10 – Non-substantive corrections and clarifications

- Note: none of these amendments have a legal impact; they are purely to make the Act read more clearly and consistently).
- No amendments dropped

KEEP

- [Sections 101 to 123](#)

Part 2 – ILPA

DROP

- [Section 125\(a\)](#) – Amends subsection 8(1) to set the parental right of Inuit language instruction as a majority of instructional time.
- [Section 126](#) – Extends the coming into force dates (deadlines) for section 8 of ILPA.

KEEP

- [Section 124](#) – Introduces that Part II of Bill 37 amends provisions within ILPA.
- [Section 125 \(b\)](#) – Change to French text of subsection 8(2)(d)(i) to address inconsistency of use of French terms.

Part 3 – Saving and Transitional

DROP

- [Section 127](#) – Relates to dropped ECE amendment (DEA decision to provide or not provide ECE programs).

- [Section 129](#) – Relates to dropped school calendar clause (exemption Minister must make set calendars 3 years in advance of school year).
- [Section 133](#) – Relates to dropped change to s8(1) of ILPA.

KEEP

- [Section 128](#) –DEAs must choose a new bilingual education model the year when the new subsection 24(1) comes into force.
- [Section 130](#) – Current certifications of skilled elder experts continue.
- [Section 131](#) – All current appointments of elders to DEAs are ended.
- [Section 132](#) – Grandfathers in current DEA Criminal Record Checks.

Coming into Force

DROP

- [Section 134](#) -
 - (1) – All sections come into force on assent, with the exception of those in (2) and (3):
 - (2) – language of instruction – [section 40](#) (DEA choice of bilingual model, Ministerial capacity determinations, DEA requests for reasons, DEA review of model choice) and [paragraph 41\(b\)](#) (directions respecting assigning languages of instruction) – by order of the Commissioner, no later than July 1, 2019.
 - (3) – inclusive education – [section 47](#) (main teacher), [paragraph 48\(a\)](#) (entitlements), [section 49](#) (ISSP development process), [paragraph 51\(d\)](#) (ISSP for students excluded from classroom), [sections 52 to 57](#) (periodic reviews, specialized assessments, notifications to parents, repeal of DEA mediations, review board changes), [section 59](#) (regulation making powers) – by order of the Commissioner, no later than July 1, 2019.

KEEP

- [Section 134](#) –
 - (4) – Relates to DEA Council (therefore would no longer be necessary).