



## Legislative Summary

# BILL C-35: AN ACT RESPECTING EARLY LEARNING AND CHILD CARE IN CANADA

Publication No. 44-1-C35-E

**5 April 2024**

Sara Fryer, Mayra Perez-Leclerc and Vanessa Preston

Research and Education

## AUTHORSHIP

5 April 2024	Sara Fryer	Legal, Social and Indigenous Affairs
	Mayra Perez-Leclerc	Legal, Social and Indigenous Affairs
	Vanessa Preston	Legal, Social and Indigenous Affairs

## ABOUT THIS PUBLICATION

Library of Parliament legislative summaries summarize bills currently before Parliament and provide background information about them in an objective and impartial manner. They are prepared by Research and Education, which carries out research for and provides information and analysis to parliamentarians, Senate and House of Commons committees and parliamentary associations. Legislative summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

For clarity of exposition, the legislative proposals set out in the bill described in this legislative summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the Senate and House of Commons and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent and come into force.

Any substantive changes to this Library of Parliament legislative summary that have been made since the preceding issue are indicated in **bold print**.

© Library of Parliament, Ottawa, Canada, 2024

*Legislative Summary of Bill C-35*  
(Legislative Summary)

Publication No. 44-1-C35-E

Ce document est également publié en français.

# CONTENTS

1	BACKGROUND .....	1
1.1	Early Learning and Child Care in Canada .....	3
1.1.1	Impacts of Affordable Early Learning and Child Care .....	3
1.1.2	Recent Federal Government Initiatives .....	4
1.1.3	Canada's International Commitments .....	6
2	DESCRIPTION AND ANALYSIS.....	6
2.1	General Matters Relating to the Bill.....	6
2.1.1	Preamble.....	6
2.1.2	Short Title and Interpretation (Clauses 1 to 4).....	7
2.2	Purpose and Declaration (Clauses 5 and 6).....	7
2.3	Funding (Clauses 7 and 8).....	8
2.4	National Advisory Council on Early Learning and Child Care (Clauses 9 to 15).....	9
2.5	Annual Report (Clause 16) .....	10
2.6	Coming into Force (Clause 17) .....	11

# LEGISLATIVE SUMMARY OF BILL C-35: AN ACT RESPECTING EARLY LEARNING AND CHILD CARE IN CANADA

---

## 1 BACKGROUND

Bill C-35, An Act respecting early learning and child care in Canada (short title: Canada Early Learning and Child Care Act),<sup>1</sup> was introduced in the House of Commons on 8 December 2022 by the Honourable Karina Gould, then Minister of Families, Children and Social Development, and it was given first reading the same day.

Bill C-35 provides guiding principles for federal investments meant to establish and maintain a Canada-wide early learning and child care (ELCC) system that is accessible, affordable, inclusive and of high quality, in collaboration with the provinces and Indigenous peoples. In its preamble, the bill indicates the federal government's commitment to continuing to implement the Multilateral Early Learning and Child Care Framework<sup>2</sup> and the Indigenous Early Learning and Child Care Framework,<sup>3</sup> as well as to meeting various international obligations undertaken by Canada in the areas of human rights and development, as discussed below. The bill also establishes a National Advisory Council on Early Learning and Child Care (the Council) to provide advice to the minister designated for the purposes of this bill and to conduct other activities on matters related to the ELCC system. Finally, the bill requires the minister to prepare an annual report containing information about the progress being made regarding the ELCC system and about related federal investments, among other aspects.<sup>4</sup>

With respect to Indigenous early childhood education, the bill's preamble highlights Call to Action 12 made by the Truth and Reconciliation Commission of Canada (TRC), calling "upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families."<sup>5</sup> The bill is also intended to contribute to the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (the Declaration),<sup>6</sup> the application of which is affirmed in Canadian law under the *United Nations Declaration on the Rights of Indigenous Peoples Act*.<sup>7</sup>

Bill C-35 was referred to the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) on 1 February 2023. HUMA reported the bill with amendments on 4 May 2023, and the House concurred in that report on 12 June 2023.<sup>8</sup>

HUMA amended both the preamble and the declaration provision of the bill to acknowledge the right of Indigenous peoples to be consulted in order to obtain their "free, prior and informed consent" in matters that relate to Indigenous children.

HUMA amended the guiding principles provision of Bill C-35 to include language related to:

- equitable access to high-quality ELCC programs and services;
- access to affordable ELCC programs and services by families of all income levels;
- the provision, including in rural and remote communities, of ELCC programs and services that are inclusive of children from systematically marginalized groups and from English and French linguistic minority communities; and
- the recruitment and retention of the early childhood education workforce, including an acknowledgement that working conditions affect the provision of ELCC programs and services.

HUMA also amended the bill to indicate that federal investments related to ELCC programs and services must also be guided by the commitments set out in the *Official Languages Act*.

In addition, HUMA amended the provisions in Bill C-35 that relate to establishing and operating the Council to:

- indicate that Indigenous peoples and official language minority communities are among the groups to be considered when making appointments to the Council;
- allow the Council to conduct consultations; and
- allow the minister to share information with the Council.

Finally, HUMA amended the bill to include additional responsibilities for the minister under the annual report provision, and to require the minister to table the annual report before each house of Parliament.

On 28 September 2023, Bill C-35 was referred to the Standing Senate Committee on Social Affairs, Science and Technology (SOCI). SOCI reported the bill on 21 November 2023 without amendment, but with the observations summarized below:

- SOCI acknowledged the significance of effective data collection and the impact that a lack of data can have on ELCC programs and services for children from equity-deserving groups. SOCI urged the Government of Canada to develop a national ELCC data strategy and to ensure that related information is made available to the public in easily accessible formats.
- SOCI acknowledged the importance of applying the principles set out in the *United Nations Convention on the Rights of Persons with Disabilities*, particularly article 24, noting that inclusion occurs when children with disabilities



can learn and develop alongside their peers without disabilities when given the appropriate supports.

- SOCI emphasized the importance of supporting the educational continuum in a linguistic minority setting, from early childhood to post-secondary education. The committee noted its expectation that the Government of Canada will advance opportunities for official language minority communities (including New Brunswick’s francophone community whose language rights are constitutionally protected) to pursue quality learning in their own language, in keeping with the *Official Languages Act*.
- SOCI noted the inconsistency in terminology between clause 7(1)(c) of the bill (which refers to “English and French linguistic minority communities”) and clause 11(1) (which refers to “official language minority communities”), but maintained that the two terms respect the spirit of the *Official Languages Act*.
- SOCI noted that clause 8, in which the funding commitments are set out, as it read in the third reading version of the bill, needed the addition of an explicit reference to official language minority communities. The committee indicated its expectation that the Government of Canada will maintain long-term funding for ELCC programs and services for official language minority communities.
- SOCI expressed concern about the growing influence of private equity firms – whose primary focus is to generate profits – on the child care sector in other jurisdictions (such as New Zealand, Australia and the United Kingdom). The committee recommended that agreements with provinces and territories instead focus on providing funding to create a high quality public ELCC system.<sup>9</sup>

While SOCI reported the bill without amendment, the Senate adopted one amendment at third reading on 6 December 2023. This amendment modified clause 8 to add a commitment from the federal government to maintain long-term funding for ELCC programs and services for official language minority communities. This Senate amendment responds to one of SOCI’s observations discussed above.<sup>10</sup>

The House of Commons concurred in the motion respecting the Senate amendment on 29 February 2024. Bill C-35 received Royal Assent on 19 March 2024.

## 1.1 EARLY LEARNING AND CHILD CARE IN CANADA

### 1.1.1 Impacts of Affordable Early Learning and Child Care

In Canada, in keeping with section 93 of the *Constitution Act, 1867*,<sup>11</sup> constitutional authority to make “laws in relation to [e]ducation,” with some limited exceptions, rests with the provincial governments. Accordingly, the establishment and administration of ELCC has traditionally fallen under provincial and territorial jurisdiction. The federal government can nevertheless fund areas of provincial jurisdiction, including education, through its federal spending power.<sup>12</sup>

Throughout Canada, various types of child care spaces are available, including private, public and not-for-profit. Costs vary across the country. In 2023, median child care fees for toddlers were as low as \$192 per month on average in cities across Quebec, in the mid-range of \$514 per month in Yellowknife, and as high as \$905 per month in Richmond, British Columbia.<sup>13</sup>

Access to affordable child care enables parents to participate in the workforce or gain access to education. Parents, particularly mothers, are the least likely to work, and are most likely to work part-time. This is especially the case for women with younger children; in 2023, a total of 78.8% of women 25 years old and older with one or more children under the age of 3 were in the labour force, compared to 96.3% of men of the same age with one or more children under the age of 3, and 87.5% of women of the same age whose youngest child was between 13 and 17 years old.<sup>14</sup> When Quebec introduced its childcare program in 1997, a marked increase in the labour force participation of mothers in that province was recorded. Notably, the largest increase in labour force participation was among single mothers with preschool-aged children, which accompanied a decrease in the relative poverty rate of single-mother families.<sup>15</sup>

#### 1.1.2 Recent Federal Government Initiatives

In 2017, the Multilateral Early Learning and Child Care Framework (the multilateral framework) was established. The multilateral framework's objective was to set the foundation for federal, provincial and territorial governments to work toward a shared, long-term vision for ELCC. The multilateral framework includes five principles to guide the work on child care; that child care should be of high quality, accessible, affordable, flexible and inclusive. This framework was accompanied by bilateral agreements with provinces and territories targeting the principles.<sup>16</sup>

In 2018, the Government of Canada indicated that it co-developed with Indigenous peoples the Indigenous Early Learning and Child Care Framework (the Indigenous framework)<sup>17</sup> which included separate sections for First Nations, Inuit and the Métis Nation. Overall, the Indigenous framework situates ELCC as a component of Indigenous self-determination. The document provides guidance to communities and individuals that deliver services and develop policy related to Indigenous ELCC. Implementation of the Indigenous framework should be based on the rights, unique contexts and circumstances of First Nations, Inuit and the Métis Nation. This framework includes nine cross-cutting and shared principles that:

- realize the importance of Indigenous languages, knowledge and cultures;
- acknowledge that First Nations, Inuit and the Métis have rights to self-determination including the right to design and deliver an Indigenous ELCC system;

- give rise to quality programs and services grounded in Indigenous cultures;
- prioritize child- and family-centred involvement with supports to heal from trauma;
- include and take into account diverse abilities, geographic locations and socio-economic circumstances;
- support flexible and adaptable ELCC programs and services;
- support access to affordable ELCC programs and services;
- support the delivery of an ELCC and funding in accountable and transparent ways; and
- recognize respectful and collaborative partnerships.<sup>18</sup>

Federal funding commitments for ELCC have increased notably over the last number of years, beginning in 2017. Budget 2017 announced \$7.5 billion over 11 years, starting in 2017–2018, with \$1.7 billion of this total for Indigenous children and families.<sup>19</sup> More recently, budget 2021 committed up to \$30 billion over five years, most of which is being delivered through bilateral agreements with provinces and territories. Among other things, these funds are intended to achieve an average of \$10-a-day fees by 2026 for all regulated child care spaces in Canada, a larger number of quality affordable child care spaces and a growing, qualified ELCC workforce.<sup>20</sup> This funding included allocations for Indigenous ELCC, divided between First Nations (\$1.02 billion), Inuit (up to \$111 million) and the Métis Nation (up to \$450 million).<sup>21</sup> Budget 2022 committed an additional \$625 million over four years for an Early Learning and Child Care Infrastructure Fund to build new child care facilities.<sup>22</sup>

Finally, in 2022, a 16-member National Advisory Council on Early Learning and Child Care was established, with a three-year mandate to provide third-party advice and a forum for consultation on issues and challenges the ELCC sector faces.<sup>23</sup>

The Government of Canada also administers three programs related to Indigenous childhood development and education: the First Nations and Inuit Child Care Initiative through Employment and Social Development Canada; Aboriginal Head Start On Reserve (for First Nations children living on reserve) via Indigenous Services Canada; and Aboriginal Head Start in Urban and Northern Communities (for Indigenous preschool children) via the Public Health Agency of Canada.



### 1.1.3 Canada's International Commitments

Canada has undertaken several international commitments and obligations for ELCC. In particular:

- the Sustainable Development Goals of the United Nations, which aim to improve the lives of all people while protecting the planet and creating a more inclusive society;<sup>24</sup>
- the *United Nations Declaration on the Rights of Indigenous Peoples*. Canada subsequently enacted legislation which affirms the Declaration's application in Canadian law and sets out a framework for the Government of Canada to ensure federal laws are consistent with the Declaration;<sup>25</sup>
- the *Convention on the Rights of the Child*, which protects the civil, political, economic, social and cultural rights of children under international law;<sup>26</sup>
- the *Convention on the Elimination of All Forms of Discrimination against Women*, which defines and prohibits all forms of discrimination against women and sets an agenda for ending it;<sup>27</sup> and
- the *Convention on the Rights of Persons with Disabilities*, which protects rights to equality and non-discrimination for persons with disabilities.<sup>28</sup>

## 2 DESCRIPTION AND ANALYSIS

### 2.1 GENERAL MATTERS RELATING TO THE BILL

#### 2.1.1 Preamble

The preamble of the bill sets out the rationale for the legislation. It highlights the federal government's commitment to supporting the establishment and maintenance of a Canada-wide ELCC system, including before- and after-school care, in collaboration with the provinces and Indigenous peoples.

The preamble acknowledges the beneficial impact that ELCC can have on child development, the well-being of children and families, gender equality, the economic participation and prosperity of women, as well as Canada's economy and social infrastructure. It also recognizes that Indigenous knowledge, cultures and languages are foundational to a culturally appropriate Indigenous ELCC system, as described in the Truth and Reconciliation Commission's *Calls to Action*.

The preamble also emphasizes the federal government's commitment to continue working on a Canada-wide ELCC system that helps meet the Sustainable Development Goals of the United Nations, implement the *United Nations Declaration on the Rights of Indigenous Peoples* and meet international human rights obligations, such as those set out under the *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Discrimination against Women* and the *Convention on the Rights of*

*Persons with Disabilities.* The preamble also highlights the federal government’s commitment to continue implementing the Multilateral Early Learning and Child Care Framework and the Indigenous Early Learning and Child Care Framework at the national level.

In addition, the preamble reiterates the federal government’s commitment to achieving reconciliation with First Nations, Inuit and Métis peoples. It also emphasizes the federal government’s commitment to upholding the right of Indigenous peoples to be consulted to obtain their “free, prior and informed consent” for legislation regarding Indigenous children.<sup>29</sup> Finally, the preamble acknowledges the importance of engaging with civil society (including parents, guardians, tutors and other stakeholders) with respect to establishing and maintaining a Canada-wide ELCC system.

#### 2.1.2 Short Title and Interpretation (Clauses 1 to 4)

Clause 1 of Bill C-35 provides the short title of the bill, namely, the Canada Early Learning and Child Care Act.

Clause 2 is an interpretation provision that sets out definitions for various terms used in the bill. Notably, the bill defines the term “Indigenous governing body” as a “council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.”<sup>30</sup> The term “Indigenous peoples” is also defined in accordance with the definition of “[A]boriginal peoples of Canada” in section 35(2) of the *Constitution Act, 1982*, which includes First Nation, Inuit and Métis peoples.

Clause 3 is a non-derogation clause, typically included to indicate that the intent of a particular law is not to infringe on Aboriginal or treaty rights as established by section 35 of the *Constitution Act, 1982*.

Clause 4 allows the Governor in Council to designate a member of the King’s Privy Council for Canada as the minister for the purposes of this bill.

#### 2.2 PURPOSE AND DECLARATION (CLAUSES 5 AND 6)

Clause 5 states that the purpose of the bill is to set out the federal government’s vision for “a Canada-wide, community-based” ELCC system and its commitment to ongoing collaboration with, and long-term funding for, the provinces and Indigenous peoples to establish and maintain the ELCC system. According to clause 5, the purpose of the bill is also to set out principles to guide ongoing federal investments to establish and maintain the ELCC system. Another purpose of the bill is to establish the Council.

Finally, the bill is also designed to help realize the right to benefit from child care services as recognized in the *Convention on the Rights of the Child*, and to contribute to the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*.

Clause 6 of the bill is a declaratory provision setting out the federal government's goal to support the establishment and maintenance of an ELCC system, where all families have access to "affordable, inclusive and high quality" ELCC programs and services, in collaboration with the provinces and Indigenous peoples. Clause 6 also highlights the importance of a flexible and affordable ELCC system to fostering children's development, supporting families and communities, and enabling the full economic participation of parents, guardians and tutors, particularly mothers. Finally, clause 6 declares that the needs of First Nations, Inuit and Métis children and families are best supported through culturally appropriate ELCC programs and services that are led by Indigenous peoples and "that respect the right of Indigenous peoples to free, prior and informed consent in matters relating to children."<sup>31</sup>

## 2.3 FUNDING (CLAUSES 7 AND 8)

Clause 7(1) of the bill indicates that federal investments and efforts to enter into agreements with the provinces and Indigenous peoples to establish and maintain a Canada-wide ELCC system must be guided by the principles that ELCC programs and services should be "accessible, affordable, inclusive and of high quality." Federal investments and efforts to enter into agreements must therefore aim to:

- (a) support the provision of, and facilitate equitable access to, high-quality [ELCC] programs and services – in particular those offered by public and not-for-profit child care providers – that meet the standards set out by provincial governments or Indigenous governing bodies, that are reflective of other evidence-based best practices in high-quality service provision and that respond to the varying needs of children and families;
- (b) enable families of all income levels, including low incomes, to benefit from affordable [ELCC] programs and services;
- (c) support the provision, including in rural and remote communities, of [ELCC] programs and services that are inclusive of children from systemically marginalized groups, including children with disabilities, and of children from English and French linguistic minority communities, that respect and value the diversity of all children and families and that respond to their varying needs; and

- (d) support the provision of high-quality [ELCC] programs and services that foster the social, emotional, physical and cognitive development of young children, including through the recruitment and retention of a qualified and well-supported early childhood education workforce, recognizing that working conditions affect the provision of those programs and services.<sup>32</sup>

Clause 7(2) states that, in addition to the guiding principles in clause 7(1), federal investments in ELCC programs and services for Indigenous peoples, as well as any efforts to enter into related agreements with Indigenous peoples, must also be based on the principles established in the Indigenous Early Learning and Child Care Framework.<sup>33</sup>

Clause 7(3) indicates that, in addition to the guiding principles in clause 7(1), federal investments related to ELCC programs and services that are subject to an agreement with a province, must also be guided by the commitments set out in the *Official Languages Act*, the purpose of which is to ensure respect for English and French as the official languages of Canada.<sup>34</sup>

Clause 8(1) of the bill sets out a commitment by the Government of Canada to maintain long-term funding for ELCC programs and services, including those for Indigenous peoples and for official language minority communities. Clause 8(2) stipulates that the funding must be provided primarily through agreements made with the provincial governments, Indigenous governing bodies and other Indigenous entities.<sup>35</sup>

#### 2.4 NATIONAL ADVISORY COUNCIL ON EARLY LEARNING AND CHILD CARE (CLAUSES 9 TO 15)

Clause 9 of the bill establishes the Council, consisting of 10 to 18 members, including the Chairperson and the *ex officio* member. Clauses 10(1) and 10(2) indicate that the *ex officio* member is the minister's deputy minister who may designate in writing an alternate to perform their duties and functions on the Council.

Clause 11(1) stipulates that the other members of the Council are to be appointed by the Governor in Council on the minister's recommendation and hold office during pleasure for up to three years with the possibility of reappointment.<sup>36</sup> This clause also recognizes the importance of appointing members who represent the diversity of Canadian society – including Indigenous peoples and official language minority communities.<sup>37</sup> Pursuant to clause 11(2), the *ex officio* member and the Chairperson are the only members that may have full-time membership on the Council.

Clause 12(3) of the bill states that Council members, other than the *ex officio* member, are deemed to be employees for the purposes of the *Government Employees Compensation Act*,<sup>38</sup> which sets out the workers' compensation benefits scheme for federal employees who are injured or become ill as a result of their work. They are also deemed to be employees of the federal

public administration for the purposes of regulations made under section 9 of the *Aeronautics Act*,<sup>39</sup> which may establish compensation payable for the death or injury of an employee while undertaking a flight in the course of their duties. In addition, where the Chairperson is a full-time member, the Chairperson is deemed to be employed in the public service for the purposes of the *Public Service Superannuation Act*.<sup>40</sup> This Act sets out the pension benefits scheme for eligible federal public servants and their dependants.

Clauses 12(1) and 12(2) provide that Council members, other than the *ex officio* member, are to be paid the remuneration that may be fixed by the Governor in Council and are entitled to be reimbursed for work-related travel, living and other expenses.

Clause 13(1) of the bill stipulates that the Chairperson supervises and directs the work of the Council. Clause 13(2) provides that, if the Chairperson is absent or becomes incapacitated, or if this office is vacant, the minister may authorize another member of the Council to act as the Chairperson for a term of up to 90 days; any extension beyond this term must be approved by the Governor in Council.

Clause 14 indicates that the Council must:

- provide advice to the minister on ELCC matters (such as programs, services, funding and related activities);
- consult broadly with individuals and organizations (including parents, early childhood educators, child care providers, advocates, and policy and research specialists) on a Canada-wide ELCC system; and
- undertake any other related activity that is specified by the minister.<sup>41</sup>

Clause 14.1 allows the minister to provide the Council with any information about the ELCC system that is related to the Council's functions, provided the minister has authority to share this information.<sup>42</sup>

Clause 15 states that the Council must meet a minimum of four times in a fiscal year unless the minister specifies otherwise.

## 2.5 ANNUAL REPORT (CLAUSE 16)

Clause 16(1) requires the minister to prepare an annual report containing the following information:

- a summary of the information regarding federal investments made in connection with the Canada-wide ELCC system during the fiscal year, provided the minister has authority to disclose this information;

- a summary of the progress made regarding the Canada-wide ELCC system, including information on the “quality, availability, affordability, accessibility and inclusiveness” of ELCC programs and services; and
- a summary of the advice provided by the Council to the minister regarding ELCC matters and the work of the Council during the reporting period.<sup>43</sup>

Clause 16(2) requires the minister to table the annual report in each house of Parliament within 15 sitting days after the report is completed.<sup>44</sup>

## 2.6 COMING INTO FORCE (CLAUSE 17)

Clause 17 of the bill indicates that the provisions for establishing and operating the Council (clauses 9 to 15) come into force on a day to be fixed by order of the Governor in Council.

---

## NOTES

1. [Bill C-35, An Act respecting early learning and child care in Canada](#), 44<sup>th</sup> Parliament, 1<sup>st</sup> Session (S.C. 2024, c. 2).
2. Employment and Social Development Canada (ESDC), [Multilateral Early Learning and Child Care Framework](#). This 2017 framework indicates:

While the Government of Québec [sic] supports the general principles of the Early Learning and Child Care Framework, it does not adhere to the Framework as it intends to preserve its sole responsibility in this area on its territory. The Government of Québec [sic] expects to receive its share of the federal funding and will continue to invest significantly toward programs and services for families and children.
3. ESDC, [Indigenous Early Learning and Child Care Framework](#).
4. ESDC, [Backgrounder](#).
5. In its final report, the Truth and Reconciliation Commission of Canada (TRC) called for additional measures on childhood education, including: “fair and adequate” funding of Indigenous education; maximum Indigenous control over their children’s education; and education provided in accordance with Indigenous cultures and languages. See TRC, [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#), 2015, p. 152; and TRC, [Truth and Reconciliation Commission of Canada: Calls to Action](#), 2015, p. 2.
6. United Nations, [United Nations Declaration on the Rights of Indigenous Peoples](#), 13 September 2007.
7. [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14.

Under the Act, which came into force on 21 June 2021, the Government of Canada will: work with Indigenous peoples to take all measures necessary to ensure the laws of Canada are consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* (the Declaration); prepare and implement an action plan to achieve the goals of the Declaration; and report annually on its progress.

The first annual progress report was made available in June 2022. See Government of Canada, [Annual progress report on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act](#), June 2022. The action plan referred to in the Act is due 21 June 2023.
8. House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA), [Bill C-35, An Act respecting early learning and child care in Canada](#), Ninth report, 4 May 2023.



9. Senate, Standing Committee on Social Affairs, Science and Technology (SOC), [Bill C-35, An Act respecting early learning and child care in Canada, without amendment but with observations](#), Seventeenth report, 21 November 2023.
10. Senate, [Debates](#), 6 December 2023, 1610.
11. [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.).
12. Peter W. Hogg, “[Federal power](#),” *Constitutional Law of Canada*, 5<sup>th</sup> ed., s. 6:8 [SUBSCRIPTION REQUIRED]. See also Karine Richer, [The Federal Spending Power](#), Publication no. PRB 07-36E, Library of Parliament, 13 November 2007, p. 1.
13. David Macdonald and Martha Friendly, Canadian Centre for Policy Alternatives, [Measuring Matters: Assessing Canada’s progress toward \\$10-a-day child care for all](#), 26 October 2023, p. 25.
14. Statistics Canada, “[Table 14-10-0396-01: Labour force characteristics by family structure, annual, unadjusted for seasonality](#),” Database, accessed 29 February 2024.
15. Pierre Fortin, Luc Godbout and Suzie St-Cerny, [Impact of Quebec’s Universal Low Fee Childcare Program on Female Labour Force Participation, Domestic Income, and Government Budgets](#), Working Paper 2012/02, Chaire de recherche en fiscalité et en finances publiques, Université de Sherbrooke, May 2012, p. 6.
16. Government of Canada, [Early Learning and Child Care Agreements](#). Quebec does not adhere to the multilateral framework, but has an asymmetrical agreement to support programs and services for families and children.
17. ESDC, [Indigenous Early Learning and Child Care Framework](#), 2018.
18. *Ibid.*, pp. 6–7.
19. Department of Finance Canada, “[Chapter 2: Communities Built for Change – Supporting Families Through Early Learning and Child Care](#),” *Building a Strong Middle Class*, Budget 2017, pp. 131–132.
20. ESDC, [Federal Secretariat on Early Learning and Child Care](#).
21. ESDC, [Indigenous Early Learning and Child Care](#).
22. Department of Finance Canada, [Supporting Early Learning and Child Care](#), Backgrounder, 7 April 2022.
23. Government of Canada, [National Advisory Council on Early Learning and Child Care](#).
24. Government of Canada, [Canada and the Sustainable Development Goals](#). See, for example, sustainable development goal 4, quality education.
25. United Nations, [United Nations Declaration on the Rights of Indigenous Peoples](#), 13 September 2007; and [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14.
26. United Nations, Office of the High Commissioner for Human Rights (OHCHR), [Convention on the Rights of the Child](#), 20 November 1989. See also, for example, article 2, which stipulates that there is to be no discrimination of any kind; article 3, which provides that decisions should be made in the best interests of children; and article 4, which states that governments must do all they can to ensure every child in their jurisdiction enjoys all the rights of the Convention.
27. OHCHR, [Convention on the Elimination of All Forms of Discrimination against Women](#), 18 December 1979. See also, for example, article 10 on equal rights in education and article 11 on the equal right to employment opportunities.
28. OHCHR, [Convention on the Rights of Persons with Disabilities](#), 12 December 2006. See also, for example, articles 5 and 7 on equality and non-discrimination for persons and children with disabilities.
29. At committee stage, HUMA amended the preamble of the bill to include a commitment about upholding the right of Indigenous peoples to “free, prior and informed consent” in legislative matters regarding Indigenous children.

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was adopted by the General Assembly on 13 September 2007. Among the 46 articles of UNDRIP, the concept of “free, prior and informed consent” is articulated with respect to the removal of Indigenous peoples from their territories in article 10:

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 19 sets out a requirement for consultation on legislative measures:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

See United Nations, [United Nations Declaration on the Rights of Indigenous Peoples](#), 13 September 2007.

The Court of Appeal of Quebec further notes in its *Reference to the Court of appeal of Quebec in relation with the Act respecting First Nations, Inuit and Métis children, youth and families*, 10 February 2022:

Construing s. 35 of the *Constitution Act, 1982* as including, within the existing Aboriginal rights recognized and affirmed by that section, the right of Aboriginal peoples to regulate child and family services seems entirely consistent with the principles set out in the UN Declaration.

See [Unofficial English Translation of the Opinion of the Court, Reference to the Court of Appeal of Quebec in relation with the Act respecting First Nations, Inuit and Métis children, youth and families](#), 2022 QCCA 185 (CanLII), para. 513. The full reference is available in French only. See [Renvoi à la Cour d'appel du Québec relatif à la Loi concernant les enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis](#), 2022 QCCA 185.

30. [Constitution Act, 1982](#), being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.).
31. At the committee stage, HUMA amended the declaration provision of the bill to include a stipulation about the right of Indigenous peoples to “free, prior and informed consent” regarding children’s matters.
32. At committee stage, HUMA amended the guiding principles provision of the bill to include language related to: equitable access to high-quality early learning and child care (ELCC) programs and services; access to affordable ELCC programs and services by families of all income levels; the provision, including in rural and remote communities, of ELCC programs and services that are inclusive of children from marginalized groups and from English and French linguistic minority communities; and the recruitment and retention of the early childhood education workforce, including an acknowledgement that working conditions affect the provision of ELCC programs and services.
33. ESDC, [Indigenous Early Learning and Child Care Framework](#), 2018, p. 11.
34. At the committee stage, HUMA amended the bill to indicate that federal investments related to ELCC programs and services must also be guided by the commitments set out in the *Official Languages Act*. See [Official Languages Act](#), R.S.C. 1985, c. 31 (4<sup>th</sup> Supp.).  
  
For additional information about the *Official Languages Act*, see Marie-Ève Hudon, [The Official Languages Act: Understanding Its Principles and Implementation](#), Publication no. 2011-55-E, Library of Parliament, 17 October 2023; and Stephanie Feldman and Marie-Ève Hudon, [Legislative Summary of Bill C-13: An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts](#), Publication no. 44-1-C13-E, Library of Parliament, 5 February 2024.  
  
To view the agreements concluded with the provinces, see Government of Canada, [Early Learning and Child Care Agreements](#).
35. During third reading, the Senate amended clause 8 of the bill to add a commitment from the Government of Canada to maintain long-term funding for ELCC programs and services for official language minority communities. Previously, the general funding commitment in the bill only made specific reference to ELCC programs and services for Indigenous peoples.
36. According to a Government of Canada publication, “Appointees who hold office during pleasure may be removed from office at the discretion of the Governor in Council.” See Government of Canada, “1. Appointment, Tenure and Related Matters (Contextual),” [Terms and conditions applying to Governor in Council appointees](#).
37. At committee stage, HUMA amended the bill to indicate that Indigenous peoples and official language minority communities should be among the groups considered when appointing members to the National Advisory Council on Early Learning and Child Care (the Council) who are representative of the diversity of Canadian society.
38. [Government Employees Compensation Act](#), R.S.C. 1985, c. G-5. See also ESDC, [Compensation for federal workers](#).
39. [Aeronautics Act](#), R.S.C. 1985, c. A-2, s. 9.

40. [Public Service Superannuation Act](#), R.S.C. 1985, c. P-36.
41. At committee stage, HUMA amended the bill to require the Council to “consult broadly with individuals and organizations” regarding the ELCC system, thereby replacing a provision that instead required the Council to “conduct engagement activities” regarding the ELCC system.
42. At committee stage, HUMA amended the bill to include a provision about sharing information with the Council.
43. At committee stage, HUMA amended the bill to include additional reporting responsibilities for the minister.
44. At committee stage, HUMA amended the bill to require the minister to table the annual report before each house of Parliament.