

Standing Committee on
Government Operations



Report on Bill 63: *An Act to Amend the Official Languages Act*

19th Northwest Territories Legislative Assembly

Chair: Mr. Rylund Johnson

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February 28, 2023

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Government Operations is pleased to provide its *Report on Bill 63: An Act to Amend the Official Languages Act*, and commends it to the House.



Mr. Rylund Johnson
Chair, Standing Committee on Government Operations

**STANDING COMMITTEE ON
GOVERNMENT OPERATIONS**

Report on Bill 63:

An Act to Amend the Official Languages Act

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STANDING COMMITTEE ON GOVERNMENT OPERATIONS REPORT ON BILL 63: AN ACT TO AMEND THE OFFICIAL LANGUAGES ACT

INTRODUCTION

Bill 63: *An Act to Amend the Official Languages Act*¹ (Bill 63) received second reading on November 2, 2022, and was referred to the Standing Committee on Government Operations (Committee) for review.

The *Official Languages Act* (*Act*) recognizes the “official” status of eleven languages in the NWT. The *Act* sets out the rights, rules, and responsibilities for using these languages in different parts of government.

Bill 63 updates the *Act* for the first time in twenty years. Many of the proposed changes were recommended by Committee in early 2022. Specifically, Bill 63:

- Clarifies and strengthens the role of the Languages Commissioner;
- Merges the two languages boards; and
- Updates the preamble to recognize:
 - o The impact of colonialism;
 - o The relevance of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); and
 - o The government’s commitment to fair access to services for residents who speak Indigenous languages.

This report describes how Committee engaged with the Minister before Bill 63 was introduced. It also summarizes how different stakeholders responded to the proposed changes and what Committee decided on key issues.

This report is separate from Committee’s upcoming report on our statutory review of the *Official Languages Act*. That second report will touch on some of the larger changes Committee wants to see. Committee will present this report before the end of the February/March 2023 sitting.

COMMITTEE WELCOMES CHANGES DURING 19TH ASSEMBLY

The *Official Languages Act* needs to be reviewed about every five years – with the last review happening in 2014. Committee started a new review in early 2020, but it was delayed because of the COVID-19 pandemic. Committee was unable to travel to

communities and consult the public because of public health orders, local outbreaks, and the Members' desire to avoid spreading the virus. As a result, many plans had to be postponed.

In December 2021, Committee decided that the review of the *Official Languages Act* could not be finished in time to make changes to the law before the 19th Assembly's term ended. However, it had been almost twenty years since the *Act* was last updated and, during that time, many important and straightforward amendments had been suggested. Therefore, Committee urged the Minister to work with us to create and propose new legislation before the Assembly's term ended. The Minister agreed and welcomed Committee's input for a bill.

HALF OF COMMITTEE'S PRIORITIES ADDED TO THE BILL

Committee set out to provide its priorities for changes to the *Official Languages Act*. To do that, Committee looked at all recommendations made since the law was last changed, in 2003. Committee looked only at recommendations that were legislative in nature that came from:

- The Languages Commissioner's annual reports;
- Committee's previous two reviews of the *Act*; and
- Public meetings held in Inuvik in June 2021 and virtually in January 2022.

Committee identified close to 50 past recommendations in total, which are documented in an Appendix to this report. While most of these recommendations had merit and continued relevance, they could not all be put forward due to the limited time available. Committee therefore provided the Minister with the 12 changes that we thought were most important. Those changes were to:

1. Update the preamble to acknowledge the impact of residential schools and colonial policies on Official Language communities, and affirm Indigenous Peoples' language rights according to UNDRIP;²
2. Strengthen the Languages Commissioner's ability to get information from public bodies;³
3. Impose response requirements on public bodies for recommendations from the Languages Commissioner;⁴
4. Empower the Languages Commissioner with alternative dispute resolution mechanisms;⁵
5. Require the Languages Commissioner to reside in the territory;⁶
6. Ensure housing authorities are bound by *Official Languages Act*;⁷
7. Make the *Act* flexible and open to creative solutions from communities;⁸
8. Recognize Michif as an Official Language;⁹
9. Broaden concepts of "significant demand" and "nature of the office" and work

- toward accessibility of services in all Official Languages in all areas;¹⁰
10. Establish a mechanism to address violations of the *Act*;¹¹
 11. Provide a bilingual bonus to all government employees who speak an Indigenous Official Language;¹² and
 12. Clarify the role of the Languages Commissioner in raising concerns and making recommendations to the Minister.¹³

The Minister of Education, Culture and Employment (ECE) included about half of these changes in Bill 63. Changes #1 through #5 were accepted and included in the bill, while change #6 can be pursued through a change to the *Government Institution Regulations*. In correspondence with Committee, the Minister committed to making this change in the regulations. Unfortunately, changes #7 through #12 were not included in the bill.

Committee is pleased with the changes that ECE included in the bill and commends the Minister for working together with Committee to introduce changes to the *Act*.

However, Committee is disappointed that Bill 63 did not include more changes and was not more ambitious. Other governments in Canada have recently implemented more significant changes to bolster Official and Indigenous Languages.¹⁴ Committee hopes that the government will introduce additional legislation to protect, promote, and revitalize Official Languages with the same level of ambition in the 20th Assembly.

The Standing Committee on Government Operations therefore recommends:

Recommendation 1: That the Government of the Northwest Territories commit to a second phase of legislative changes to protect, promote, and revitalize Official and Indigenous Languages in the 20th Assembly.

This new legislation should be based on past recommendations, suggestions arising during the review of Bill 63, and the advice in Committee's upcoming report on its statutory review of the *Official Languages Act*. The new legislation should also seek to implement Articles 13 and 14 of the *United Nations Declaration on the Rights of Indigenous Peoples*. Indigenous Governments should be invited to co-develop the legislation.

STAKEHOLDERS OFFERED THOUGHTFUL SUGGESTIONS TO STRENGTHEN LANGUAGE RIGHTS AND COMMUNITIES

Committee sought public feedback on Bill 63 with a public notice and targeted engagement letters to those who may have had an interest in the Bill. Committee received written submissions from:

- Collège Nordique;
- La Fédération franco-ténoise (FFT);

- The Languages Commissioner; and
- The Northwest Territory Métis Nation (NWTMN).

All written submissions are included in an Appendix to this report.

Committee also held a public review of Bill 63 on January 18, 2023.¹⁵ At that meeting, Committee received oral comments from the Minister, Collège Nordique, the FFT, and a member of the public. Committee also met with the Métis Nation to hear their input on January 30, 2023.

Committee appreciates everyone who offered their feedback and ideas for the review of Bill 63. Their participation demonstrates a passion to protect, maintain, and enhance the vitality of Official Language communities in the territory.

Updating the preamble

All participants agreed it was a good idea to add language about colonialism, UNDRIP, and fair access to services for residents who speak an Indigenous Official Language into the preamble. However, the Métis Nation thought that this change should not just be in the preamble of the *Act*, but throughout the whole *Act*, so that the GNWT is fully committed to UNDRIP and the Truth and Reconciliation Commission of Canada's *Calls to Action*.

Committee agrees with the Métis Nation and hopes the GNWT will make bigger, more transformative changes to the *Official Languages Act* in the 20th Assembly to reflect these commitments.

Clarifying and strengthening the Languages Commissioner's role

Eligibility requirements

Bill 63 would require the Languages Commissioner to live in the NWT and forbid them from being a member of the public service. Participants agreed with these changes. Committee agrees that the Commissioner must be connected to the people they serve.

Alternative dispute resolution

Bill 63 would also allow the Languages Commissioner to refer matters to alternative dispute resolution. Participants supported this change but wanted to see the bill provide more tools to deal with complaints. The FFT suggested setting up a language rights tribunal to adjudicate on language rights violations. Committee thought this could be a good idea but was outside of the scope of the bill. A future review should study how this idea could work.

The Languages Commissioner wanted to have the option to resolve a complaint without

doing a full investigation. Committee found that the *Act* does not currently provide her that power. Committee thinks it might be good for the Languages Commissioner to have a way to solve problems informally, but there are important policy questions to think about first. Committee encourages the Languages Commissioner to explain more about her recommendation for informal resolution, perhaps in an annual report. Committee also wants to see how the alternative dispute resolution works before adding another mechanism.

Deadlines for information requests

Bill 63 would require public bodies to answer information requests from the Languages Commissioner within 60 days. Participants agreed with this change but thought more could be done to ensure the Commissioner gets the information she needs. The Languages Commissioner wanted to be able to set the deadline herself, based on each situation. Committee was worried this power would give too much discretion to the Commissioner and too little predictability to public bodies. Fixed timelines written into law is also the approach taken for other statutory officers, like the Ombud and the Information and Privacy Commissioner.

The Languages Commissioner was also concerned that the part of the *Act* dealing with information requests, section 22, stops her from requesting information without doing a formal investigation. Committee asked the Law Clerk for advice and believes the Commissioner can ask for and receive information, without doing a formal investigation. Given this information, Committee does not think the *Act* needs to be changed.

The FFT wanted to give the Languages Commissioner the power to force anyone to answer a complaint. This change would significantly expand the authority of the Commissioner, who right now has very specific powers in investigations. A future study should review this suggestion.

Supreme Court orders

Bill 63 would allow the Languages Commissioner to go to court and get an order when a public body has not acted on a recommendation. Participants agreed with this change, but the FFT wanted to see some additional changes. The FFT wanted to place a three-month time limit for public bodies to act on a recommendation, failing which the Commissioner could get a court order. Committee was concerned that more complex language rights cases could take more than three months, so we preferred the more flexible approach in the current bill.

The FFT also suggested that the law enable the Languages Commissioner to collect damages and costs from the public body in question at the Supreme Court. Committee notes that the Court can already award damages and costs, so this change is not needed.

Merging the Languages Boards

Bill 63 would combine two Boards: the Official Languages Board and the Aboriginal Languages Revitalization Board. Most participants agreed with this change but suggested some improvements. The Métis Nation questioned the name of the merged Board, suggesting that the name should explicitly include the word “Indigenous” to reflect Indigenous participation on the Board. The FFT suggested that the government delay the merger and was worried whether the combined Board could focus on French and Indigenous Languages at the same time. Collège Nordique supported the change and thought the government could go farther to ensure greater transparency from the merged Board.

Committee notes that this change has already been delayed, as it was first recommended in 2009.¹⁶ Committee has heard that the two Boards already mostly function as a single entity, though this is not yet reflected in the *Act*. The Boards themselves would prefer to be a combined entity to improve efficiency.¹⁷ Committee is confident the new Board will fulfill its mandate with respect to each Official Language and their distinct needs.

Committee agrees that the public should know more about what the Board does. Separately, Committee has heard that, in practice, the current Boards are organized by the Indigenous Languages and Education Secretariat, which might make them less independent. Since the combined Board will give advice and recommendations to the Minister and evaluate language programs, Board independence is important.

The Standing Committee on Government Operations therefore recommends:

Recommendation 2: That the Department of Education, Culture and Employment ensure independence and transparency at the merged Languages Board.

The Department should provide a proper framework and resources for the Board to fulfill its mandate, including timely appointments when vacancies arise.

The Board should disclose meeting agendas, minutes, and other documents of public interest. The Board should also release an annual report that summarizes recommendations to the Minister, the Minister’s response, progress on implementation, and the findings of program and initiative evaluations.

Scheduling statutory reviews

Bill 63 would match the timing of statutory reviews of the *Act* with the schedule of the Legislative Assembly. This means a review would happen within the first two years of every other Assembly, rather than every five years.

Several stakeholders were worried about the change. The FFT believed it could delay a

review indefinitely if the Assembly sat indefinitely. However, the territory's *Legislative Assembly and Executive Council Act* says the Assembly can only last for four years,¹⁸ so a review would still happen regularly, about every eight years.

The Languages Commissioner was concerned that waiting so long between reviews might not give enough chances to improve the law. But Committee believes that doing the review in the first two years of an Assembly will help make sure any changes suggested during the review can become law in the remaining two years of the Assembly. Committee does not want to repeat the experience of the last two reviews, neither of which led to legislative changes.

Other suggestions to support Official Languages

Committee heard several other ideas to improve the *Official Languages Act* including:

1. Ensuring the Languages Commissioner, the Minister, and the Languages Board develop policies collaboratively;
2. Requiring government to take steps to support Official Language communities;
3. Requiring each public body to have performance measures on how well they are following the *Act*; and
4. Making the Premier, rather than the Minister of Education, Culture, and Employment, responsible for the *Official Languages Act*.

Committee also received a suggestion that would not necessarily require legislative change. A member of the public recommended that the government to set up language resource centers in larger communities. These centers would document and preserve each Indigenous Official Language, as a resource for future generations to revitalize the language.

While these suggestions were out of scope for the review of Bill 63, Committee hopes they will be studied the next time the *Act* is reviewed.

COMMITTEE AMENDED ONE CLAUSE

Clause 10 of Bill 63 requires the Languages Commissioner to provide more information in her annual report. The goal of the clause is to ensure useful information is available to the public. One subclause, as originally drafted, would have required the annual report to disclose "*what recommendations, requests and applications were made by the Languages Commissioner respecting each complaint*".

The Languages Commissioner was concerned that this wording could cause a complainant to be identified in an annual report and, if so, discourage residents from making formal complaints. Committee was also worried that the Languages

Commissioner could be led to make her recommendations more broadly worded to protect complainants' privacy. Committee felt this was not a desirable outcome, potentially undermining the effectiveness of the recommendations.

Committee therefore agreed to and passed a motion to amend the subclause. The amendment required a summary of recommendations, requests, and applications, rather than the exact text respecting each complaint. Committee believes this change will allow the Commissioner to make specific recommendations but then summarize those in the annual report, reducing the possibility that a complainant might be identified.

CONCLUSION

On February 15th, 2023, Committee held a clause-by-clause review.¹⁹ Committee passed a motion to report Bill 63, as amended, to the Legislative Assembly as ready for consideration in Committee of the Whole.

This concludes the Standing Committee on Government Operations' review of Bill 63.

<p>Recommendation 3: The Standing Committee on Government Operations recommends that the Government of the Northwest Territories provide a response to this report within 120 days.</p>
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APPENDIX:**WRITTEN SUBMISSIONS**

- A. Fédération franco-ténoise (English and French)
- B. Languages Commissioner of the Northwest Territories
- C. Northwest Territory Métis Nation
- D. Collège nordique francophone

PAST RECOMMENDATIONS

Past recommendations		Source
1	Consider the link between Indigenous languages and the implementation of UNDRIP, as per the TRC	Virtual '22 Inuvik '21
2	Make the <i>Act</i> a living document with flexibility on what can be done, opportunity for communities to be creative.	Virtual '22
3	Reflect the youth voice in the <i>Act</i> .	Virtual '22
4	Acknowledge the impact of residential schools and colonial policies, and the need for “healing” in the <i>Act</i> .	Inuvik '21
5	Review the preamble to determine whether it accurately reflects the language rights set out in the <i>Act</i> , including the status of Aboriginal languages and any language of work rights.	LC '15-16
6	Clarify what is meant by paragraph six of the preamble. This deals with using Indigenous Official Languages for “official purposes” in the NWT, but “official purposes” are not defined.	LC '07-08 LC '05-06
7	Delete paragraph ten of the preamble. This deals with language rights in the workplace, but the <i>Act</i> does not itself deal with the issue of language of work.	LC '07-08 LC '05-06
8	Implement a mechanism to address violations of the <i>Act</i> and incentives to respect the legislation.	Virtual '22
9	Introduce a right to education in Indigenous languages (possibly within separate legislation).	Virtual '22
10	Grant Indigenous languages the same rights and privileges as English and French	Virtual '22
11	Replace concepts of “significant demand” and “nature of the office” regarding language rights when communicating with the public. The new approach should be simple and holistic and prioritize accessibility of services to the public, including making some basic services (e.g., health) available in all Official languages in all geographical areas.	Virtual '22 LC '15-16 LC '07-08 LC '05-06
12	Impose responsibilities on public bodies regarding: <ul style="list-style-type: none"> - Minimal service standards - Priority hiring for minority language speakers - Bilingual job positions - Bilingual service delivery 	Virtual '22
13	Ensure bilingual bonuses for employees who speak an Indigenous Official Language.	Virtual '22

14	Consider provisions about funding, including the consistency, sufficiency, and timing of funding.	Inuvik '21
15	Consider provisions regarding the mode of service for providing language services to those who seek to access services from the GNWT.	LC '17-18 LC '16-17 LC '15-16
16	Expand rights to receive services in an Official Language to deal with the issue of communicating with service providers outside of the NWT.	LC '16-17
17	Add housing authorities to the list of bodies bound by the <i>Act</i> .	LC '15-16
18	Require contractors doing business on behalf of the GNWT to comply with the <i>Act</i> .	LC '15-16 LC '05-06
19	Reconsider what languages should be given the status "Official Languages" – including adding the Michif language, sign language, and other languages and dialects that are not protected.	LC '15-16 LC '11-12 LC '07-08
20	Provide every Member of the Legislative Assembly the right to translation of debates and other proceedings into another Official Language.	LC '15-16 LC '07-08
21	Clarify the role of the Commissioner, specifically regarding how the Commissioner may bring forward concerns and recommendations to the Minister Responsible for Official Languages.	LC Feb '22 Virtual '22
22	Strengthen the Commissioner's ability to get requested information from public bodies, including time-bound requirements to respond to requests.	LC Feb '22
23	Impose time-bound requirements on public bodies to respond to Commissioner recommendations.	LC Feb '22
24	Consider making the role of the Commissioner more like an administrative tribunal.	Virtual '22
25	Increase the scope and power of the Languages Commissioner, such as to provide order-making powers like the Information and Privacy Commissioner or the federal Official Languages Commissioner.	Virtual '22 LC '07-08
26	Include administrative alternative dispute resolution mechanisms.	Virtual '22 LC '19-20
27	Require the Commissioner's annual report to track progress on specific, measurable indicators on key statistics, for each public body, regarding employees with skills in an Official Language, response times by language, internal policies, and communications in each language.	Virtual '22
28	Require the Commissioner to be able to speak an Indigenous language.	Inuvik '21
29	Require the Commissioner to engage in frequent public consultation.	Inuvik '21
30	Create and maintain a repository of resources at the Office of the Languages Commissioner.	Inuvik '21
31	Develop a formal process and specific timeline for the Legislative Assembly to respond to the Commissioner's recommendations.	LC '19-20 LC '17-18 LC '16-17 LC '15-16
32	Review the structure and resources for the proper functioning of the Office of the Languages Commissioner.	LC '17-18
33	Include NWT residency as a statutory requirement.	GO 2009
34	Include minimum requirements for community outreach to promote Official Language rights and the <i>Act</i> itself.	GO 2009

35	Review whether to clarify or strengthen sections on self-initiated investigations.	GO 2009
36	Review whether to grant additional powers to audit government agencies for their implementation of the <i>Act</i> .	GO 2009
37	Create provisions that minimize the “reinvention of the wheel” and encourage people to share resources.	Inuvik '21
38	Reform the nominations process of the combined Board.	Virtual '22
39	Specify the framework of the combined Board to ensure independence from the Indigenous Languages Secretariat.	Virtual '22
40	Amalgamate the two Languages Boards into one Aboriginal Languages Board that will provide the link between the Aboriginal language communities and the Minister.	Virtual '22 GO 2009
41	Change the appointment process by broadening the list or organization who nominate representatives of their Language Communities.	GO 2009
42	Clarify the mandate, powers, and relationship with the Minister of the combined Board.	GO 2009
43	Describe the roles, responsibilities, competency requirements, and compensation/per diem schedule in the Regulations.	GO 2009
44	Require board members to consult with their communities and stakeholders.	GO 2009
45	Clarify the role and membership of the Board and require more transparency of its activities, including producing and publishing annual reports.	Virtual '22 Inuvik '21
46	Embody the Languages Secretariat within the <i>Act</i> .	Virtual '22
47	Determine whether to develop an <i>Official Languages Services Act</i> , potentially to replace the <i>Official Languages Act</i> .	LC '15-16 LC '11-12 LC '10-11 LC '08-09

NOTES

¹ Bill 63 is available at: https://www.ntassembly.ca/sites/assembly/files/bill_63_0.pdf.

² See comments from **Mabel English, Lillian Elias, and Andrew Cienski** during Committee's Public Meeting on June 7, 2021, in Inuvik. Available at <https://www.youtube.com/watch?v=yqbm3Zt13CY&list=PLZiv8ITEMg4cxlwqCQJdi9Jf5J-BhMPg&index=5>.

See also comments from **Paul Boucher** during Committee's Virtual Public Meeting on January 27, 2022. Available at <https://www.youtube.com/watch?v=tl6yLWYM-hU>.

³ This is one of three legislative changes the Languages Commissioner wants prioritized, as she indicated during her recent appearance before Committee on February 17, 2022. Available at <https://www.youtube.com/watch?v=fF-b8CDQvU8>. This recommendation is consistent with and in response to the Languages Commissioner's longstanding recommendation to develop a formal process and specific timeline for responses to the Commissioner's recommendations. This recommendation has been made in every Annual Report since 2015-16, including most recently in 2020-21. Available at: https://www.ntassembly.ca/sites/assembly/files/td_482-192.pdf#page=10.

⁴ Ibid.

⁵ See comments from Linda Bussey and Batiste Foisey during Committee's Virtual Public Meeting on January 27, 2022. Available at <https://www.youtube.com/watch?v=tl6yLWYM-hU>.

See also the Languages Commissioners 2019-20 Annual Report, recommendation #2. Available at <https://olc-nt.ca/wp-content/uploads/2021/02/2019-2020-Annual-Report.pdf#page=23>

⁶ See Committee's Final Report on the Review of the *Official Languages Act* 2008-2009, recommendation #46.1.1. Available at https://www.ntassembly.ca/sites/assembly/files/09-05-28_final_report_on_the_review_of_the_official_languages_act_2008-2009_reality_check_-_securing_a_future_for_the_official_languages_of_the_northwest_territories.pdf#page=37.

⁷ See the Languages Commissioner's 2015-16 Annual Report, recommendation #2. Available at <https://olc-nt.ca/wp-content/uploads/2017/11/OLC-Annual-Report-for-2015-2016.pdf#page=23>.

⁸ See comments from **Paul Boucher** during Committee's Virtual Public Meeting on January 27, 2022.

⁹ See the Languages Commissioner's 2015-16 Annual Report, recommendation #4. Available at <https://olc-nt.ca/wp-content/uploads/2017/11/OLC-Annual-Report-for-2015-2016.pdf#page=25>.

See also the Languages Commissioner's 2011-12 Annual Report, recommendation #3. Available at <https://olc-nt.ca/wp-content/uploads/2017/01/2011-2012-Annual-Report.pdf#page=19>.

¹⁰ See comments from **Batiste Foisey** during Committee's Virtual Public Meeting on January 27, 2022. Available at <https://www.youtube.com/watch?v=tl6yLWYM-hU>.

See also the Languages Commissioner's 2015-16 Annual Report, recommendation #9. Available at <https://olc-nt.ca/wp-content/uploads/2017/11/OLC-Annual-Report-for-2015-2016.pdf#page=26>.

See also the Languages Commissioner's 2007-08 Annual Report, recommendation #10. Available at <https://olc-nt.ca/wp-content/uploads/2017/01/2007-2008-Annual-Report.pdf#page=38>.

See also the Languages Commissioners 2005-06 Annual Report, recommendation #3. Available at <https://olc-nt.ca/wp-content/uploads/2021/08/2005-2006-Annual-Report.pdf#page=21>.

¹¹ See comments from **Linda Bussey** and **Batiste Foisey** during Committee's Virtual Public Meeting on January 27, 2022. Available at <https://www.youtube.com/watch?v=tl6yLWYM-hU>.

¹² See comments from **Paul Boucher** during Committee's Virtual Public Meeting on January 27, 2022. Available at <https://www.youtube.com/watch?v=tl6yLWYM-hU>.

¹³ See endnote #3 for more information.

¹⁴ Examples include the federal government's *Bill C-13* and Nova Scotia's *Bill 148: Mi'kmaw Language Act*.

¹⁵ Video of the January 18th, 2023, public review of Bill 63 is available at:

<https://www.youtube.com/watch?v=oA2HSQDShZQ>.

¹⁶ See recommendation 46.2.1 in Committee's 2009 *Final Report on the Review of the Official Languages Act 2008-2009*. Available at: <https://www.ntassembly.ca/sites/assembly/files/09-05->

[28 final report on the review of the official languages act 2008-2009 reality check - securing a future for the official languages of the northwest territories.pdf#page=38.](#)

¹⁷ See the plain language summary of Bill 63. Available at:

[https://www.ntassembly.ca/sites/assembly/files/taled_document_782-192_-_ece_-_plain_language_summary_of_bill_63_an_act_to_amend_the_official_languages_act.pdf#page=2.](https://www.ntassembly.ca/sites/assembly/files/taled_document_782-192_-_ece_-_plain_language_summary_of_bill_63_an_act_to_amend_the_official_languages_act.pdf#page=2)

¹⁸ See Section 3(1) of the *Legislative Assembly and Executive Council Act*. Available at:

[https://www.justice.gov.nt.ca/en/files/legislation/legislative-assembly-and-executive-council/legislative-assembly-and-executive-council.a.pdf#page=16.](https://www.justice.gov.nt.ca/en/files/legislation/legislative-assembly-and-executive-council/legislative-assembly-and-executive-council.a.pdf#page=16)

¹⁹ Video of the February 15th, 2023, clause-by-clause review of Bill 63 is available at:

[https://www.youtube.com/watch?v=ihtjKpFUosw.](https://www.youtube.com/watch?v=ihtjKpFUosw)

January 24, 2023

BY EMAIL

committees@ntassembly.ca

Standing Committee on Government Operations
Legislative Assembly
PO Box 1320
Yellowknife NT X1A 2L9

Dear Standing Committee members:

Subject: Analysis of Proposed Amendments in Bill 63

Thank you for your letter dated December 13, 2022, concerning the proposed amendments to the *Official Languages Act* (the Act).

The Standing Committee on Government Operations would like input from the Fédération franco-ténoise (FFT) on Bill 63 to amend the Act. You wish to make sure the proposed amendments are aligned with the FFT's position. This letter sets out the FFT's stance on the proposed amendments in Bill 63.

1. Section 2, updated preamble to the Northwest Territories *Official Languages Act*

The preamble is important because it helps the courts to understand the purpose of the Act. All of the proposed amendments to the preamble are meant to provide context for Indigenous languages. Consequently, in the FFT's view, the amendments to the preamble of the Act have no negative ramifications for Francophone residents of the NWT.

The inclusion of a paragraph in the preamble recognizing the colonialist policies of the past, the negative impact on the assimilation of Indigenous peoples and the intent to implement the principles of the *United Nations Declaration on the Rights of Indigenous Peoples* is a positive measure. The FFT supports this amendment.

The preamble already recognizes that English and French are official languages of the NWT and that they have equal status, rights and privileges under the Act. It is similar to the federal legislation and is therefore acceptable.

The Act proposes to use the word "Indigenous" instead of "Aboriginal" in English. That is acceptable to the FFT.

2. Section 4, Bill 63

This amendment would require the Languages Commissioner to be a resident of the NWT, which is acceptable to the FFT.

There is also a change to section 15(2.1) stating that the Languages Commissioner must not be a member of the public service. The Languages Commissioner is appointed by the Legislative Assembly and, as such, is not a member of the public service and is independent from it. That is acceptable to the FFT.

3. Section 5, Bill 63

Section 5 proposes to amend section 18 of the Act. The aim is to allow the Languages Commissioner to declare a conflict of interest with respect to a particular matter. This would enable the Legislative Assembly to appoint a special Languages Commissioner for a particular matter. That is acceptable to the FFT.

4. Subsection 18(2) of the Act

The NWT Act has to be amended in English to reflect the fact that the Languages Commissioner can be a man, a woman or a non-binary person. The wording used would be “their” instead of “his or her” so as to be more inclusive. No change is needed in the French-language version because the wording is already inclusive. That is acceptable to the FFT.

5. Section 6, Bill 63

This section also proposes to use “their” instead of “his or her” throughout the remainder of the Act. That is acceptable to the FFT.

6. Section 7, Bill 63

It is proposed to add a new section, 20.1, to allow the Languages Commissioner to refer a complaint to an approved third party for alternative dispute resolution. Such a referral could only be made with the consent of the complainant. This would broaden the powers of the Languages Commissioner and provide them with an additional tool for resolving complaints. It would no longer always be necessary to start an investigation following a complaint or following an action on the Languages Commissioner’s own initiative. The Languages Commissioner could refer the matter to a third party for alternative dispute resolution.

Currently, the Act does not specify whether alternative dispute resolution consists solely of mediation or whether it also includes arbitration or referral to a person who would act along the lines of a tribunal. We will have to wait to see how the Regulations define and set out the limits of this new proposed power for the Languages Commissioner.

In the FFT’s view, this addition to the Languages Commissioner’s role is acceptable, provided they can also be a party to the alternative dispute resolution process. The Languages Commissioner must not be allowed to shirk their responsibility by shifting the burden of alternative dispute resolution to the complainant. It must also be ensured that these alternative dispute resolution processes can be handled in French by persons who speak and understand French without the direct assistance of an interpreter.

The FFT would also like to mention that alternative dispute resolution should not be used every time, as it could result in every complaint being settled confidentially. The alternative dispute resolution process must be transparent and accountable to the public. Complainants must not be allowed to accept less than what the Act mandates. The final outcome of alternative dispute resolution processes must be made public for educational purposes. Third parties authorized to conduct alternative dispute resolution processes must also be specialized in language law.

The FFT also suggests that the Act be amended to give the Languages Commissioner the power to refer a complaint to a person whose function would be similar to that of a human rights tribunal and who would hand down a decision regarding violations of the Act. Such

a process would give more teeth to the Act. It would also ensure that final decisions are made and reparations can be ordered. Other provisions should be added to the Act to create such a tribunal responsible for hearing matters involving violations of the Act. The *Canadian Human Rights Act* could be used as a model for that. This suggestion warrants further consideration.

The FFT would like to be involved in the expansion of this function of the Languages Commissioner.

The FFT notes that subsection 20(2) already allows the Languages Commissioner to conduct an investigation on their own initiative. It is not necessary to wait for a complaint. The FFT would like to know if the Languages Commissioner has ever used this power, and if so, how many times. If it has not been used, the FFT would like to know why the Languages Commissioner has not conducted investigations on their own initiative in the past. Is it because the Languages Commissioner did not have a sufficient budget or the time to do so? The Languages Commissioner will have to be proactive in order to conduct investigations on their own initiative. To be proactive, the Languages Commissioner will have to have the human and financial resources that investigations require. The FFT supports that pro-active power.

7. Section 8, Bill 63

It is proposed that subsection 21(1) be replaced with a similar provision, such that the Languages Commissioner would not be required to conduct an investigation on receipt of a complaint should the Languages Commissioner decide, with the complainant's consent, that the complaint is to be referred for alternative dispute resolution. In that case, a complaint would not necessarily have to be investigated, but rather referred for dispute resolution.

The FFT agrees with this amendment, provided the outcome of the alternative dispute resolution process is made public and is transparent. The complainant's name could be redacted to protect their identity, at their request.

8. Section 9, Bill 63

It is proposed that section 22 of the Act be replaced to give the Languages Commissioner the power, while investigating a complaint, to require that government institutions provide information that the Languages Commissioner deems necessary. Such information would have to be provided within 60 days.

The ability to request information from a government institution would be a new power for the Languages Commissioner. The FFT supports this proposed amendment.

In the FFT's view, the Act should also be amended to give the Languages Commissioner the authority to require that individuals appear before them to answer questions related to complaints. The Languages Commissioner should have powers similar to those of a human rights tribunal. Otherwise, government institutions could do as they wish and refuse to take part without fear of consequences.

The Act needs to be made more coercive where government institutions are concerned in order to reflect the importance of language rights in the NWT. In the FFT's view, official languages should not be relegated to wishful thinking or recommendations at best. The Act has to confer powers on the Languages Commissioner and allow for the making of

orders to ensure compliance with the Languages Commissioner's investigation findings and recommendations.

9. Addition of subsection 22(6)

The FFT supports this new subsection 22(6). It would be the first time the Languages Commissioner has the authority to apply to the Supreme Court of the Northwest Territories should the territorial government fail to implement the Languages Commissioner's recommendations. This provision would make the Languages Commissioner's recommendations binding were the Languages Commissioner to deem it necessary to apply to the Court for an order requiring the institution in question to implement their recommendations. This new provision would enable the Languages Commissioner to take the following actions:

Apply to the Supreme Court of the Northwest Territories for an order requiring the institution (1) to take the recommended action or such other action as the Court considers just in the circumstances; and (2) to comply with the Languages Commissioner's request.

The FFT supports this new power of the Languages Commissioner. However, we suggest that the meaning of "within a reasonable time after a copy of a report... is transmitted to the Minister" be clarified. We propose that the Minister have up to three months to implement the Languages Commissioner's recommendations. If they are not implemented within that time, the Languages Commissioner could apply to the Supreme Court for an order.

The FFT also recommends that subsection 22(6) be amended to enable the Languages Commissioner to require other kinds of reparations from the Supreme Court of the Northwest Territories. The Act should allow the Languages Commissioner to require that the Supreme Court award damages and expenses against the territorial government or government institution in question. In the FFT's view, that would result in language rights being taken seriously.

In addition, in the FFT's view, the proposed new power under subsection 22(6) is clearly linked with section 32 of the Act. It might be better if subsection 22(6) were combined with section 32 of the Act to ensure that appeals to the Supreme Court of the Northwest Territories and any reparations are dealt with under a single provision.

10. Section 10, Bill 63

The FFT supports the addition of subsection 23(1.1) as proposed. This subsection would ensure that the Languages Commissioner's annual report provides more information, such as the number of complaints received, the government institutions involved, the recommendations and requests made by the Languages Commissioner, and a report on progress made on the recommendations. This would ensure that the report is more useful for the public. It would also be more transparent and ensure accountability to the public.

11. Section 11, Bill 63

The FFT is reluctant to support the abolition of the Aboriginal Languages Revitalization Board. The FFT is concerned that, if there is just one official languages board for the NWT's 11 official languages, the focus will be entirely on the nine Indigenous languages instead of also ensuring the substantive equality of English and French.

It is important to note that the Act gives English and French equal status. It also grants rights in respect of the nine Indigenous languages, albeit mostly at the regional and community level. Abolishing the revitalization board raises significant concerns for the nine Indigenous languages. In addition, these languages require further revitalization.

In the FFT's view, abolishing the Aboriginal Languages Revitalization Board could be very prejudicial to Indigenous languages and, at the same time, adversely affect French as a minority language in the NWT. For that reason, the FFT requests that the Legislative Assembly delay the abolition of the Aboriginal Languages Revitalization Board. Alternatively, the FFT proposes that regulations be adopted to clearly define the two separate roles of a future official languages board, and to ensure that both are performed fully.

12. Section 12, Bill 63

It is proposed that sections 28 to 31 of the Act be repealed so that there be only one official languages board, with the Aboriginal Languages Revitalization Board to be abolished. For the above reasons, the FFT asks that this amendment be postponed and studied further.

The FFT notes that subsection 29(b) as proposed gives more powers to the Official Languages Board. It could henceforth review and evaluate programs and initiatives of communities, government institutions or other bodies that aim to maintain, promote or revitalize any Official Language.

The FFT also notes, however, that the Official Languages Board has no power to require that government institutions and the territorial government provide it with documents and answers to questions that would enable it to review and evaluate programs. Accordingly, it may be necessary to consider granting more powers to the Official Languages Board if it is given that role. Alternatively, that responsibility could simply be transferred to the Languages Commissioner, and the Official Languages Board would advise the Commissioner instead of the Minister.

The FFT also has concerns about the resources available to the Official Languages Board. If the Official Languages Board has very few human or financial resources, it will be very difficult for this entity to do its job. The FFT wonders if the Official Languages Board should report to the Minister or to the Languages Commissioner.

13. Section 13, Bill 63

It is proposed that section 32 of the Act be amended by adding 32.1. This would give the Languages Commissioner the added ability to be more proactive and coercive. Should the Languages Commissioner believe that a government institution is not complying with the Act, they may apply on their own initiative to the Supreme Court of the Northwest Territories for a remedy that the Supreme Court considers appropriate and just.

The FFT concurs with this new power for the Languages Commissioner. This provision gives more weight to language rights in the NWT. It is important that the Languages Commissioner advocate for the rights granted by the Act. Complainants should not be the only ones who may apply to the Supreme Court of the Northwest Territories for a remedy. The FFT would also like to suggest once again that the Legislative Assembly examine the possibility of establishing a language rights tribunal, along the lines of human rights tribunals. This tribunal would develop special expertise that the Supreme Court of the Northwest Territories may not necessarily possess.

14. Section 14, Bill 63

The FFT is in favour of the addition of (e.1) after paragraph 34(e) respecting alternative dispute resolution mechanisms. The provision must ensure that the final outcome is made public for the sake of transparency and accountability.

15. Section 15, Bill 63

The FFT requests clarification of the proposed amendment to section 35 of the Act. The current provision clearly stipulates that the Act must be reviewed every five years. It now appears that the Act would be reviewed less often, namely every second Legislative Assembly. Since the Assembly can sit for an indefinite period, it would be preferable in the FFT's view if the review were to take place on fixed dates at regular intervals.

16. Amendments missing from Bill 63

The FFT also wishes to reiterate its desire to see the following amendments added to Bill 63:

- Obligation to establish measures promoting the development and vitality of the official languages communities.
- Obligation for the government to report on implementation of the Act, using measurable and verifiable indicators. Responsibility for implementing the Act should be shared between agencies and departments, and they should also be required to develop a strict and ambitious action plan for improving their service offerings in French. An annual languages report could include indicators such as the presence of French-language service policies or planning strategies and documents supporting French, e.g., section dedicated to French in a human resources strategy; the number of bilingual employees, designated bilingual positions and bilingual forms; the response rate for requests for service in French, and so on. The FFT recommends that these indicators be developed jointly with the community.
- Transfer of responsibility for the *Official Languages Act* to the Office of the Premier. This would ensure that implementation of the Act is seen as a priority, and give public servants responsible for implementing the Act more authority to require that government agencies and departments abide by the standards in place.

The FFT would like to thank the Legislative Assembly for this opportunity to suggest amendments. You may rest assured of our keen interest in the process to amend the Act.

Yours sincerely,

Jean-François Pitre
President, Fédération franco-ténoise

Le 24 janvier 2023

PAR COURRIEL
committees@ntassembly.ca

Comité permanent des opérations gouvernementales
Assemblée législative
C.P. 1320
Yellowknife (TN) X1A 2L9

Objet : Analyse des modifications proposées par le Projet de loi 63

Mesdames,
Messieurs,

Nous accusons réception de votre lettre du 13 décembre 2022 relative aux changements proposés à la *Loi sur les langues officielles*.

Le Comité permanent des opérations gouvernementales sollicite l'avis de la FFT sur le projet de loi 63 pour modifier la LLO. Vous voulez vous assurer que les changements proposés correspondent à ce que souhaite la FFT. Cette lettre ce veut la position de la FFT par rapport aux modifications proposées par le projet de loi 63.

1. Article 2, mise à jour du préambule de la LLO des T.N.-O.

Le préambule est important parce qu'il aide un tribunal à déterminer ce que sont les objets de la loi. Les modifications proposées au préambule sont toutes pour ajouter du contexte aux langues autochtones. Donc, selon la FFT, les modifications au préambule de la LLO des T.N. n'a pas d'impact négatif sur les Franco-ténois.

L'adoption d'un paragraphe au préambule qui reconnaît les politiques colonialistes du passé, l'impact négatif sur l'assimilation des autochtones et l'intention de faire la mise en œuvre des principes de la déclaration des Nations unies sur les droits des peuples autochtones est positive. La FFT appuie cette modification.

Le préambule reconnaît déjà que le français et l'anglais sont les langues officielles des T.N.-O. et que la loi les dote d'un statut, de droits et de privilèges égaux. Cela est similaire à la LLO fédérale et est donc acceptable.

Il y a une modification proposée pour utiliser le mot « indigenous » plutôt que le mot « aboriginal » en anglais. Cela est acceptable à la FFT.

2. Article 4, projet de loi 63

Cette modification exigerait que la commissaire aux langues soit résidente des T.N.-O. Cela est acceptable pour la FFT.

Il y a aussi une modification à l'article 15, sous-paragraphe 2.1 pour confirmer que le commissaire aux langues n'occupe pas un poste au sein de la fonction publique. Le commissaire est nommé par l'assemblée législative et, donc, n'occupe pas un poste au sein de la fonction publique et est indépendant de celle-ci. Cela est acceptable pour la FFT.

3. Article 5, projet de loi 63

L'article 5 propose de modifier l'article 18 de la LLO. Ceci vise à permettre au commissaire aux langues de déclarer un conflit d'intérêts relativement à une affaire particulière. Ceci permet à l'assemblée législative de nommer un commissaire spécial aux langues pour une affaire particulière. Ceci est acceptable pour la FFT.

4. Paragraphe 18, sous-paragraphe 2 de la LLO

La LLO des TNOs doit être modifiée en anglais pour reconnaître que le commissaire aux langues peut être un homme, une femme ou une personne non-binaire. Pour être plus inclusive, la terminologie sera « their » au lieu de « il » ou « elle ». Ce changement n'a pas besoin d'être fait en français, puisque la terminologie française est déjà inclusive. Ceci est acceptable pour la FFT.

5. Article 6, projet loi 63

Cet article prévoit aussi d'utiliser le mot « their » plutôt que « il » ou « elle » partout ailleurs dans la LLO. Ceci est acceptable pour la FFT.

6. Article 7, projet de loi 63

Il est proposé d'ajouter un nouvel article 20.1 qui permettrait au commissaire aux langues de soumettre une plainte à un tiers approuvé pour un mode alternatif de règlement des conflits. Ceci peut seulement se faire avec le consentement du plaignant. Ceci élargit les fonctions du commissaire aux langues et donne un outil additionnel à celui-ci pour trouver une solution à une plainte. Il ne serait plus toujours nécessaire de procéder à une enquête suite à une plainte ou suite à une action de la propre initiative du commissaire. Il pourrait renvoyer le dossier à une tierce partie pour un mode alternatif de règlement.

Présentement, la loi ne dit pas si le mode alternatif de règlement est seulement de la médiation ou inclut aussi de l'arbitrage ou un renvoi à une personne qui agirait comme un tribunal. Il faut attendre la rédaction des règlements qui vont définir et établir des paramètres sur ce nouveau pouvoir proposé pour le commissaire aux langues.

Selon la FFT, cette fonction additionnelle aux tâches du commissaire aux langues est acceptable dans la mesure où le commissaire aux langues peut aussi participer comme une partie à un tel mode alternatif de règlement. Il ne faut pas que le commissaire aux langues puisse se dégager de ses responsabilités en transférant le fardeau de mener un tel mode alternatif de règlement sur le ou la plaignante. **Il faut aussi s'assurer que tous ces modes alternatifs de règlement puissent se faire aussi en français** par des personnes qui parlent et comprennent le français directement sans interprète.

La FFT veut aussi souligner qu'il ne faut pas que ce mode alternatif de règlement de conflit soit utilisé chaque fois, car cela pourrait faire en sorte que toute plainte soit réglée de façon confidentielle. **Il faut que le processus de mode alternatif de règlement soit transparent et imputable au public.** Il ne faut pas permettre qu'un ou une plaignant(e) puisse accepter moins que ce que la LLO garantit. Il faut que le résultat final d'un mode alternatif de règlement des conflits soit rendu public afin d'être un processus éducatif pour le public. **Il faut aussi s'assurer que le tiers approuvé pour faire ce mode alternatif de règlement de conflit soit spécialisé en droit linguistique.**

La FFT suggère aussi que la loi soit modifiée pour accorder le pouvoir au commissaire aux langues de renvoyer une plainte à une personne qui agirait similaire à ce que fait un

tribunal des droits de la personne et qui rendrait une décision relative à une violation de la LLO. Ce genre de processus donnerait plus de pouvoirs à la LLO et assurerait que des décisions finales soient prises et que les formes de réparation puissent être ordonnées. Il faudrait ajouter d'autres dispositions à la LLO pour créer ce tribunal pour violations de la LLO. Le modèle à suivre pourrait être la loi fédérale sur les droits de la personne. Cette suggestion mérite plus de réflexion.

La FFT demande d'être impliquée dans l'élargissement de cette fonction du commissaire aux langues.

La FFT note que le paragraphe 20.(2) permet déjà au commissaire aux langues de procéder à une enquête de sa propre initiative. Il n'est pas nécessaire d'attendre une plainte. La FFT veut savoir si le commissaire aux langues a déjà utilisé ce pouvoir et, si oui, combien de fois. Si ce pouvoir n'a jamais été utilisé, la FFT veut savoir pourquoi le commissaire aux langues n'a pas procédé à des enquêtes de sa propre initiative dans le passé. Est-ce que c'est parce que le commissaire aux langues n'avait pas un budget suffisant ou le temps nécessaire pour faire ce genre de travail? Procéder à une enquête sous sa propre initiative nécessite que le commissaire aux langues soit proactif. Pour être proactif, il doit avoir des ressources financières et humaines pour mener ce genre d'activité. La FFT appui ce pouvoir pro-actif.

7. Article 8 du projet de loi 63

Il est proposé que l'article 21(1) soit remplacé par une disposition semblable, mais qui permet au commissaire aux langues de ne pas être obligé de tenir une enquête lorsqu'il reçoit une plainte, si le commissaire, avec le consentement du plaignant, décide que la plainte soit envoyée pour un mode alternatif de règlement des conflits. Dans ce cas, une plainte n'aurait pas obligatoirement à être enquêtée, mais plutôt envoyée pour un règlement des conflits.

La FFT est d'accord que cette modification peut être faite, en autant que le résultat final du mode alternatif de règlement des conflits de cette plainte soit rendu public et transparent. Le nom du plaignant peut être caviardé pour protéger l'identité du plaignant, si celui-ci le demande.

8. Article 9 du projet de loi 63

Il est proposé que l'article 22 de la LLO soit remplacé pour accorder le pouvoir au commissaire aux langues, lors d'une enquête d'une plainte, de pouvoir exiger d'une institution gouvernementale qu'elle lui fournisse les renseignements qu'il estime nécessaires. Cette information aurait à être rendue dans un délai de 60 jours.

Ceci est un nouveau pouvoir accordé au commissaire de demander des renseignements d'une institution gouvernementale. La FFT appuie cette proposition de modification.

La FFT est d'avis que la LLO devrait aussi être modifiée pour accorder le pouvoir au commissaire aux langues d'exiger que des personnes comparaissent devant lui pour répondre à des questions relatives à la plainte. Il faut que le commissaire aux langues ait des pouvoirs similaires à un tribunal des droits de la personne, sinon les institutions gouvernementales peuvent faire à leur gré et refuser de participer sans qu'il y ait de conséquences négatives.

La LLO doit être rendue plus contraignante vis-à-vis les institutions gouvernementales afin de refléter l'importance des droits linguistiques aux T.N.-O. La FFT est d'avis que les langues officielles ne devraient pas être seulement des vœux pieux ou de simples recommandations. La LLO doit accorder des pouvoirs au commissaire aux langues et permettre des ordonnances pour faire respecter ses conclusions d'enquête et ses recommandations.

9. Ajout d'un paragraphe 22(6)

La FFT appuie l'ajout de ce nouveau paragraphe 22(6). C'est la première fois que le commissaire aux langues aurait le pouvoir d'aller lui-même à la Cour suprême des TNOs si le GTNO ne fait pas la mise en œuvre des recommandations du commissaire aux langues. Cette disposition rend les recommandations contraignantes si le commissaire juge nécessaire de demander à la Cour de donner suite aux recommandations. Cette nouvelle disposition accorde le pouvoir au commissaire aux langues d'entreprendre les actions suivantes :

Demander à la Cour suprême des T.N.-O. de (1) rendre une ordonnance enjoignant à l'institution de prendre les mesures recommandées ou toute autre mesure que la Cour juge juste selon les circonstances ou (2) de se conformer à la demande du commissaire aux langues.

La FFT appuie ce nouveau pouvoir du commissaire aux langues. Par contre, il est suggéré de mieux encadrer ce que veut dire « un délai raisonnable suivant le rapport au ministre ». Il est suggéré qu'il soit accordé au ministre un délai de trois mois pour faire la mise en œuvre de la recommandation du commissaire aux langues. Si cela n'est pas fait dans trois mois, alors le commissaire aux langues peut demander à la Cour suprême de rendre une ordonnance.

La FFT recommande que l'article 22(6) soit aussi modifié pour permettre au commissaire aux langues d'exiger d'autres formes de réparations de la Cour suprême des T.N.-O. La loi devrait permettre au commissaire aux langues d'exiger que la Cour suprême des T.N.-O. accorde des dommages-intérêts et des dépens contre le GTNO ou l'institution gouvernementale en question. Selon la FFT, cela ajouterait du sérieux à la question des droits linguistiques.

De plus, selon la FFT, ce nouveau pouvoir prévu à l'article 22(6) a un lien évident avec l'article 32 de la LLO. Il serait peut-être préférable que l'article 22(6) soit combiné avec l'article 32 de la LLO afin que tous les recours à la Cour suprême des T.N.-O. et les formes de réparation soient retrouvées dans une seule disposition.

10. Article 10 du projet de loi 63

La FFT appuie l'ajout d'un paragraphe 23(1.1) tel que proposé. Ceci assure que le rapport annuel du commissaire aux langues donne plus d'information, dont le nombre de plaintes reçues, les institutions gouvernementales impliquées, les recommandations et les demandes présentées par le commissaire et un rapport sur les progrès réalisés des recommandations. Ceci assure un rapport qui est plus utile pour le public. Il est plus transparent et assure une imputabilité au public.

11. Article 11 du projet de loi 63

La FFT hésite à appuyer la suppression du conseil de revitalisation des langues autochtones. La FFT s'inquiète que, s'il y a seulement un conseil des langues officielles pour les 11 langues, toute l'attention sera mise sur les neuf langues autochtones plutôt que d'aussi sur le fait d'assurer l'égalité réelle de la langue française vis à vis la langue anglaise.

Il est important de se rappeler que la LLO accorde le statut égal à la langue anglaise et à la langue française. Des droits sont aussi accordés aux neuf langues autochtones mais surtout au niveau régional et communautaire. Supprimer le conseil de revitalisation soulève des questions très importantes pour les neuf langues autochtones. De plus, les neuf langues autochtones ont besoin de plus de revitalisation.

Selon la FFT, la suppression du conseil de revitalisation des langues autochtones peut nuire grandement aux langues autochtones et, en même temps, nuire à la langue française minoritaire aux T.N.-O. Pour cette raison, la FFT demande que l'assemblée législative retarde la suppression de ce conseil de revitalisation des langues autochtones. Subsidièrement, la FFT demande que des règlements soient adoptés pour clairement définir les deux rôles distincts d'un conseil des langues officielles futurs et s'assurer que qu'ils soient chacun remplis entièrement.

12. Article 12 du projet de loi 63

La proposition est d'abroger les articles 28 à 31 de la LLO pour établir seulement un conseil des langues officielles et abolir le conseil de revitalisation des langues autochtones. Pour les raisons données plus haut, la FFT demande que cette modification soit reportée et étudiée davantage.

La FFT note que le nouvel article 29b) proposé donne plus de pouvoirs au Conseil des langues officielles. Il pourrait dorénavant examiner et évaluer les programmes et les initiatives des collectivités, des institutions gouvernementales ou d'autres organismes qui visent à maintenir, promouvoir ou revitaliser toute langue officielle.

La FFT note, par contre, que le Conseil des langues officielles n'a aucun pouvoir pour obliger les institutions gouvernementales ou le GTNO de lui fournir la documentation et répondre aux questions qui lui permettraient d'examiner et d'évaluer les programmes. Il faut peut-être, donc, songer à accorder plus de pouvoirs au Conseil des langues officielles si on lui accorde ce rôle. Subsidièrement, il faudrait tout simplement transférer cette responsabilité au commissaire aux langues et le Conseil des langues officielles serait un conseil qui aviserait le commissaire plutôt que le ministre.

La FFT se questionne aussi par rapport aux ressources qui sont disponibles pour le Conseil des langues officielles. S'il y a très peu de budget ou de personnel d'attribué au Conseil des langues officielles, il devient très difficile pour cette entité de faire son travail. La FFT soulève la question à savoir si le Conseil des langues officielles devrait relever du ministre ou du commissaire aux langues.

13. Article 13 du projet de loi 63

Il est proposé de modifier l'article 32 de la LLO en ajoutant 32.1. Ceci donne un pouvoir additionnel au commissaire aux langues d'être plus proactif et plus contraignant. De son propre chef, le commissaire aux langues qui croit qu'une institution gouvernementale ne

se conforme pas à la LLO peut s'adresser à la Cour suprême des T.N.-O. pour obtenir une réparation convenable et juste.

La FFT appuie ce nouveau pouvoir accordé au commissaire aux langues. Cette disposition rend plus importante les droits linguistiques aux T.N.-O. Il est important que le commissaire aux langues se fasse le défenseur des droits accordés par la LLO. Ce ne devrait pas être seulement le plaignant lui-même qui a le droit de se présenter à la Cour suprême des T.N.-O pour une forme de réparation. La FFT réitère aussi la suggestion que l'assemblée législative étudie la possibilité d'établir un tribunal des droits linguistiques similaire au tribunal des droits de la personne. Ce tribunal développerait une spécialité qu'on ne retrouverait pas nécessairement en Cour suprême des TNO.

14. Article 14 du projet de loi 63

La FFT appuie une modification à l'article 34(e.1), pour assurer qu'il y ait un règlement qui accorde les paramètres aux modes alternatifs de règlement. Le règlement doit s'assurer que le résultat final soit rendu public. Ceci assure la transparence et l'imputabilité au public.

15. Article 15 du projet de loi 63

La FFT demande une clarification à la modification proposée à l'article 35 de la LLO. La disposition actuelle est claire que la LLO doit être examinée à chaque cinq ans. Il paraît maintenant que la LLO serait examinée moins souvent. L'examen aurait maintenant lieu à chaque deuxième assemblée législative. L'assemblée législative peut avoir une durée indéterminée. Selon la FFT, il serait préférable qu'un examen ait lieu à intervalle régulier, à date fixe.

16. Modifications absentes du projet de loi 63

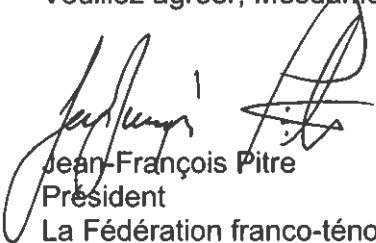
La FFT tient également à réitérer son désir de voir certaines modifications ajoutées au projet de loi 63 :

- L'obligation de mettre en place des mesures favorisant le développement et la vitalité des communautés de langues officielles.
- Des obligations pour l'État de rendre des comptes selon des indicateurs mesurables et vérifiables quant à la mise en œuvre de la Loi. La responsabilité de la mise en œuvre de la Loi devrait aussi être partagée entre les différentes agences et ministères qui devraient se doter de plan d'action rigoureux et ambitieux pour améliorer leur offre de services en français. À titre d'exemple, un bilan linguistique annuel pourrait inclure des indicateurs tels que l'existence de politiques sur les services en français, l'existence de stratégies ou de documents de planification ciblant le français (ex : inclure une partie ciblant le français dans une stratégie sur les ressources humaines), le nombre d'employés bilingues, le nombre de postes désignés bilingues, nombre de formulaire bilingues, taux de réponse aux demandes de services en français, etc. La FFT recommande que ces indicateurs soient développés conjointement avec la communauté.
- Le transfert de la responsabilité de la Loi sur les langues officielles au bureau du Premier ministre. D'une part, cela permettrait de s'assurer que la mise en œuvre de la Loi soit traitée en dossier prioritaire. D'autre part, cela donnerait davantage de pouvoir aux

fonctionnaires en charge de mettre en œuvre la Loi d'exiger des différents ministères et agences gouvernementales qu'ils respectent les normes en place.

La FFT veut remercier l'assemblée législative pour l'occasion de lui faire des suggestions de modification. Nous voulons vous assurer de notre vif intérêt concernant la modification de la LLO.

Veillez agréer, Mesdames, Messieurs, l'expression de mes sentiments distingués.



Jean-François Pitre
Président
La Fédération franco-ténoise

According to the Bill, complaints can be resolved through investigations, or mediation processes. I would like to add a section to the Bill that is similar or identical to Section 43(10.1) of New Brunswick's *Official Languages Act* (SNB 2002, c O-0.5) that states "when the Commissioner considers it appropriate, the Commissioner may attempt to resolve a complaint without conducting an investigation." This will provide the Languages Commissioner the power to directly contact a complainant or government institution to address an obvious issue that may not require a full investigation; this would streamline the Commissioner's process.

2. *May request information*

The addition of sections 22(1) and (2) are welcomed additions to the Languages Commissioner's investigative powers that will facilitate information gathering. However, a set time requirement and an inability to request ad hoc documents are cause for concern.

The time required to provide information will naturally change with the nature of the information requested. A set 60-day rule in section 22(2) may not provide the flexibility necessary to account for the varying of depths of investigations. Providing discretion to the Languages Commissioner to set timeframes according to the nature of the requested information may be more suitable and allow timeframes to be tailored to the situation. The use of "within a time limit set by the Office of the Language Commissioner" maybe more suitable in this regard.

Furthermore, section 22(1) limits the Languages Commissioner from requesting specific information without a formal investigation. This limitation may not lend itself to the effective exercise of the Languages Commissioner's mandate. The Languages Commissioner often scans the environment when in government institutions and may wish to gather information without opening a formal investigation. An example of this is when the Languages Commissioner sees a typed sign, pamphlet or a poster in a government institution and would like to request a copy from the employee present. As written this section limits opportunities for informal environment scanning. Wording to indicate that section 22(1) in no way limits the Languages Commissioner from requesting information on an ad hoc basis would be welcomed.

3. *Action where recommended action not taken*

The Languages Commissioner supports the addition of actionable steps to ensure government institutions comply with recommendations. The addition of section 22(6) to the legislation provides the Languages Commissioner with powers to further engage government institutions should they not follow the recommendations provided.

The Languages Commissioner stated in multiple annual reports that, "The only power the Languages Commissioner has is to make recommendations. If the recommendations are ignored, it calls into question whether the Office has any real purpose." This addition is welcomed.

4. Additions to annual report

The Languages Commissioner is always seeking ways to improve reporting on the work of the Office of the Languages Commissioner. Currently, the annual reports highlight the number of complaints received, the language involved and the department the complaint is regarding. The addition of 23(1.1) will require more information regarding each complaint received to be published in the annual reports.

Despite speaking with numerous Indigenous language-speakers and understanding that they have reasonable issues regarding the lack of service provision and the lack of Indigenous language rights recognition by government institutions, it has been challenging to have formal complaints put forward by Indigenous speakers under the current *Official Languages Act*.

The additions to the annual reporting framework put forward in section 23(1.1) may hinder efforts to encourage formal complaints under the Act because it creates a risk to the complainant's anonymity. Specifically, the Languages Commissioner is concerned that the annual report must include specific details; per section 23(1.1)(c), "what recommendations, requests, and applications were made by the Languages Commissioner respecting each complaint".

With the small size of the Northwest Territories' population and the interconnectedness of populations in specific language groups, the requirement to provide this additional information in the annual report makes complainants more easily identifiable. With a greater risk of a complainant's identity being known in the community, it is less likely that informal discussions will become formal complaints. This reality perpetuates the impacts of colonization that the Indigenous people have experienced, and that the updated *Official Languages Act's* preamble is trying to address.

Should these reporting requirements be implemented, the way the Languages Commissioner puts forward recommendations to government institutions will also be impacted; it may weaken the wording used in recommendations to ensure the complainant is not identifiable by the information that will be published.

5. Review of Act

The review provisions as written in Bill 63 are concerning. This is a change from a statutory review occurring every five years to every five to seven years. This is moving closer to the average of approximately 10 years of review of Language legislation in other jurisdictions. While other Language Commissioners believe that a review every ten years provides an opportunity to evaluate how the changes that occurred are working, this timeline may be insufficient in the NWT.

Other than the statutory review of the *Official Languages Act* in the Northwest Territories, there is little opportunity for changes to occur to the legislation as there is no real opportunity for the Languages Commissioner to suggest changes. This was discussed in the report tabled by the Standing Committee on Government Operations Report on the Review of the Languages Commissioner for the Northwest Territories Annual Report in 2020-2021.

6. *Policy and Guidelines*

Bill 63 does not speak to policy and guidelines; however, the Languages Commissioner believes it is important to include an amendment to ensure that the Office of the Languages Commissioner, the Minister Responsible for Official Languages, and the Languages Boards are functioning under collaboratively developed policies that are kept current and are updated with the input of all three entities.

Thank you once again for the invitation to provide comments on Bill 63. I appreciate the opportunity to respond to Bill 63 and provide you with my suggestions on the proposed amendments to the *Official Languages Act*.

Please feel free to reach out if clarification is required on anything in this document.

Sincerely,



Brenda M. Gauthier MEd, BSW
Languages Commissioner for the Northwest Territories

NORTHWEST TERRITORY MÉTIS NATION

January 11, 2023

Attention: Rylund Johnson, Chair
By email: committees@ntassembly.ca

Dear Standing Committee on Government Operations:

RE: *Bill 63: An Act to Amend the Official Languages Act – Proposed Changes*

The Northwest Territory Métis Nation appreciates the opportunity to comment on the Government of the Northwest Territories' proposed amendments to the *Official Languages Act (NWT)*. As an Indigenous Government, the NWTMN is particularly concerned about Indigenous language protection as a means of implementing the articles of the *United Nations Declaration on the Rights of Indigenous Peoples*.

Preamble

The NWTMN supports the additional language to the Preamble to recognize the significant negative effects colonialism has had on the use of Indigenous languages in the NWTMN. We also support the GNWT's commitment to ensuring fair and equitable access to services for Indigenous language speakers.

Official Languages Board

The amendment to the *Official Languages Act* includes a proposal to merge the Aboriginal Languages Revitalization Board with the Official Languages Board. Reference to "official languages" has typically been interpreted to refer to English and French. The reference within the name of the board to "Indigenous" is important to include to reflect the Indigenous participation on the Official Languages Board.

UN Declaration

Although there is a proposal to refer to the UN Declaration within the preamble section, there is no proposal to make substantive amendments to the *Official Languages Act* to implement the UN Declaration.

Article 14 of the UN Declaration refers to Indigenous languages:

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning...

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Truth and Reconciliation Commission of Canada: Calls to Action

In order to redress the legacy of residential schools and advance the process of Canadian reconciliation, the Truth and Reconciliation Commission of Canada made the following calls to action related to language:

Language and Culture

13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.

14. We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:

- i. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them;
- ii. Aboriginal language rights are reinforced by the Treaties;
- iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation;
- iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities;
- v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.

15. We call upon the federal government to appoint, in consultation with Aboriginal groups, an Aboriginal Languages Commissioner. The commissioner should help promote Aboriginal languages and report on the adequacy of federal funding of Aboriginal-languages initiatives.

Although the Calls to Action listed above are directed to the federal government, we request the GNWT consider implementing the above listed Calls to Action within the *Official Languages Act*.

Substantive Amendments

The amendments to the *Official Languages Act* to address Indigenous languages is contained within the Preamble of the Act. The preamble sets out intentions and purpose and does not include any binding commitments. The NWTMN would like the *Official Languages Act* to be transformed in a way that recognizes and preserves Indigenous languages.

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 is 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 *Official Languages Act*. The GNWT should have met with the NWTMN leadership to review the amendments *Official Languages Act*.

We 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,



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



Presentation on Bill 63, An Act to Amend the Official Languages Act

to the Northwest Territories Standing Committee on Government Operations

Angélique Ruzindana Umunyana, Chair of the Board of Directors, Collège nordique francophone

- Good morning, Mr. Chairman and members of the Committee.
- Thank you for inviting the Collège nordique francophone to share with you its views on Bill 63, an amendment to the Official Languages Act.
- Since the presentation is on official languages, we will speak to you in French.
- We will be happy to take questions in English following our brief presentation.
- Collège nordique francophone was established over 10 years ago and today offers professional training and language classes, in French, English, Spanish and tłı̨cḥ.
- We are currently tooling up the willı̨deh community so that they can teach their language themselves.
- If we have post-secondary education in French in our souls, we have language teaching and the spread of the eleven official languages in our hearts.
- I would also like to acknowledge the presence of Rosie Benning, (insert title), who skilfully steers the community relations necessary to build the trust needed to bring our linguistic communities together.

- We are proud that the people of the Northwest Territories come to Collège nordique in large numbers for the joy of learning and understanding each other better.
- We firmly believe that in doing so, we are participating in the revitalization of Indigenous languages in a way that maximizes the resources and expertise we have in teaching and, in the greatest respect for the protocols that ensure sustainable and respectful relationships between language communities.
- As you can see, languages are at the heart of our work, our lives and the definition of who we are.
- They enrich the Northwest Territories just as they enrich our work.
- For us, they are not in competition with each other. They exist in an evolving context.
- This evolution and the modernization of this Act must create an environment where each language is respected and protected so that they can flourish.
- It is my pleasure to turn the floor over to our general manager for the next part.
- Thank you, Angélique.
- The Collège nordique francophone is in the midst of a transformation to become an accredited college under the new Post-Secondary Education Act developed by your government.
- For us as a francophone educational institution, French is very important, as you can imagine, especially in a minority situation.
- Multilingualism is also important because of our language school, but also because of our environment.
- In the proposed changes to the Official Languages Act, we would like to focus on two main elements: the Commissioner of Official Languages and the merger of the Official Languages Board and the Aboriginal Languages Revitalization Board.

Commissioner of Official Languages

- We are pleased that the government has heard what many official languages commissioners across the country have previously recommended, which is to give more power to the Office of the Commissioner of Official Languages.
- The role of the Commissioner is important and effective only if he or she has the latitude to act.

- Thus, the fact that the Commissioner is not part of the public service strengthens his or her independence, which is crucial to fully carrying out the mandate.
- We particularly welcome the changes to allow him to impose a time limit on institutions to respond to his requests and to allow him, on his own initiative, to go to court if an institution does not comply with the Act.
- This strengthens its powers and the Act itself in a very real way.
- More detailed annual reports will allow the people of the Northwest Territories to know which departments and agencies have received complaints and the progress of the Commissioner's recommendations.
- We believe this will make the process more transparent.
- These reports are important tools for the Francophone community, but also for public servants and Members of Parliament.

Merger of the Official Languages Board and the Aboriginal Languages Revitalization Board

- In Bill 63, you propose to merge the Official Languages Board and the Aboriginal Languages Revitalization Board to become the Official Languages Board.
- We believe that this merger would be beneficial for several reasons.
- First of all, since the mandates and composition of the two bodies overlap, we believe that the merger will lead to better management and monitoring of the 11 official languages of the Territories.
- It will ensure that the recommendations of this new body are more coordinated.
- We believe, however, that the government could go further in developing guidelines and requiring greater transparency in the work of the Council, including the release of some of the documents from their meetings, so that the public is more aware of the Council's work.

Protection of the French language

- As Francophones living in a minority context, we know how important it is to protect the language, to have mechanisms in place to promote it and institutions to ensure the vitality of the Francophone community.

- The 2021 census data released last summer show that French is declining in most provinces and territories.
- The Francophone community of the Northwest Territories has lost some demographic weight between the 2016 and 2021 censuses.
- In addition, according to the most recent Government of the Northwest Territories French Language Communications and Services Satisfaction Survey (2021-2022), the proportion of direct services provided in French in 2021-2022 has decreased from 84.7% to 65.2%. This is a decrease of almost 20% in the provision of direct services in French.
- We believe it is very important, even urgent, to increase the accessibility of services and improve active offer.
- Active offer and access to services in French are an integral part of the Official Languages Act and even though this is not part of the current amendments, we feel it is important to emphasize it to you.
- We would like to take this opportunity to remind you that Collège nordique is a supplier to the NWG in teaching, learning and language assessment.
- Together, we can help build a skilled workforce that can meet the needs of Franco-Ténois, the Francophones in the NWT.
- The strength of the NWT is the diversity of our communities and our strong desire to define ourselves on our own terms and to do things in a way that reflects our own realities.
- While some may say that the protection and promotion of the French language is to the detriment of other minority languages in the Territory, we invite you to come and see us at the College to witness the opposite.
- Strengthening the Official Languages Act is the right thing to do and we thank you for giving this issue an important place in your legislative agenda.
- That is the essence of what we wanted to present to you today.
- Once again, we thank you for the invitation and are available to answer questions in English and French if you have any.