

Statement of Consistency

Bill No. 8-20(1)

An Act to amend the Student Financial Assistance Act

Private Member's Public Bill

Sponsoring Member: Mr. Robert Hawkins, MLA for Yellowknife Centre

Explanatory Note

The [United Nations Declaration on the Rights of Indigenous Peoples Implementation Act](#)¹ (*UNDRIP Implementation Act*) came into force on October 6, 2023.

Subject to certain exceptions, section 8(2) of the *UNDRIP Implementation Act* requires the sponsor of a private member's bill, before second reading, to "table a Statement of Consistency prepared by the Law Clerk of the Legislative Assembly indicating whether or not, in their opinion, the bill is consistent with the Declaration² and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*." [Section 35\(1\)](#) of the *Constitution Act, 1982* provides "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."

A Statement of Consistency helps inform public and Legislative debate on a bill. The requirement for one appears in the *UNDRIP Implementation Act* under the heading "Consistency of Laws with Declaration", which includes section 6(1): "The Government of the Northwest Territories shall, in collaboration and cooperation with Indigenous peoples, take all reasonable measures to ensure that the laws of the Northwest Territories are consistent with the Declaration". While a private member is not the Government, section 6 and the Act as a whole inform the Statement of Consistency.

The Statement of Consistency is not a comprehensive analysis of all conceivable inconsistencies of a bill with the Declaration and section 35 of the *Constitution Act, 1982*. The bill may be amended after second reading as it passes through Committee and the House. And it is the Assembly as a whole, not the Member acting individually or the Government, that may enact the bill into law. Through representatives elected to this Assembly, Indigenous peoples and Indigenous Governments or Organizations have an opportunity to participate in that legislative process. Additional considerations relevant to

¹ SNWT 2023, c. 36.

² As defined in the Act, "Declaration" means the *United Nations Declaration on the Rights of Indigenous Peoples* set out in the Schedule to the Act.

the consistency of a bill with the Declaration or section 35 rights may arise during that process.

Analysis of the bill

The bill is very short and does only one thing. It proposes to raise the maximum amount of loans that can be made to one person under the [Student Financial Assistance Act](#) from the current limit of \$60,000 to a higher limit of \$90,000.

The Student Financial Assistance program already contains certain affirmative action policies for Northern Indigenous residents. This bill would not change any of those. The bill would apply to any resident of the NWT equally. The bill would not change the eligibility criteria for a loan.

The bill does not directly address any rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. However, the bill could be seen as supporting the following aspects of the Declaration:

- Article 14(2): Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
- Article 21(2): Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

Statement of Consistency

The Law Clerk has reviewed the bill for consistency with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*, as per section 8(2) of the *UNDRIP Implementation Act*. This review involved consideration of the context and words of the bill and the Act it would amend, as well as the context, object and intention of the *UNDRIP Implementation Act* itself.

In the Law Clerk's opinion, the bill is consistent with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.

LAW CLERK
Toby Kruger

June 11, 2024