



**LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY**

**Economic Policy Scrutiny Committee**

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**Inquiry into the Training and  
Skills Development Amendment  
Bill 2018**

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**October, 2018**



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## Chair's Preface

This report details the Committee's findings regarding its examination of the Training and Skills Development Amendment Bill 2018.

The primary purpose of this Bill is to abolish the Northern Territory Training Commission (the Commission) from the *Training and Skills Development Act* and to remove all references to the Commission from the Act. At present, the functions of the Commission are being undertaken by the Department of Trade, Business and Innovation from within existing resources.

Only one submission raised objections to the Bill and these reflected a fundamental disagreement with the Government's decision to abolish the Commission. The Committee acknowledges the views expressed in this submission but considers the Government's rationale for abolishing the Commission to be compelling. The abolition of the Commission will enable the Department of Trade, Business and Innovation to report directly to the Minister rather than through an intermediary statutory body. This will assist the Department to provide timely responses to changing economic and employment conditions and to ensure these responses are closely aligned with Government policy.

On behalf of the Committee, I wish to thank those who made submissions to the inquiry. I would also like to thank the Department of the Legislative Assembly for the support it provided to the Committee and the Committee Members for their support in the examination of this Bill.

A handwritten signature in black ink that reads "Tony Sievers". The signature is written in a cursive style and is underlined with a single horizontal line.

**Mr Tony Sievers MLA**

**Chair**

## Committee Members

	<b>Tony Sievers MLA</b> Member for Brennan	
	<b>Party:</b>	Territory Labor
	<b>Committee Membership</b>	
	Standing:	House, Public Accounts
	Sessional:	Economic Policy Scrutiny
	Chair:	Economic Policy Scrutiny
	<b>Jeff Collins MLA</b> Member for Fong Lim	
	<b>Party:</b>	Territory Labor
	<b>Committee Membership</b>	
	Standing:	Privileges
	Sessional:	Economic Policy Scrutiny
	Chair:	Northern Territory Harm Reduction Strategy for Addictive Behaviours
	<b>Gary Higgins MLA</b> Member for Daly	
	<b>Party:</b>	Country Liberals
	Parliamentary Position:	Leader of the Opposition
	<b>Committee Membership</b>	
	Standing:	House, Standing Orders, Members' Interests
	Sessional:	Economic Policy Scrutiny
	Select:	Northern Territory Harm Reduction Strategy for Addictive Behaviours
	<b>Lawrence Costa MLA</b> Member for Arafura	
	<b>Party:</b>	Territory Labor
	<b>Committee Membership</b>	
	Sessional:	Economic Policy Scrutiny
	<b>Yingiya Mark Guyula MLA</b> Member for Nhulunbuy	
	<b>Party:</b>	Independent
	<b>Committee Membership</b>	
	Sessional:	Economic Policy Scrutiny
On 28 August 2018, Member for Nelson, Mr Gerry Wood MLA was discharged from the Committee and replaced by the Member for Nhulunbuy, Mr Yingiya Mark Guyula MLA.		

## **Committee Secretariat**

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## **Acknowledgments**

The Committee acknowledges the organisations that have made written submissions to this inquiry.

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## Terms of Reference

### Sessional Order 13

#### *Establishment of Scrutiny Committees*

- (1) Standing Order 178 is suspended.
- (2) The Assembly appoints the following scrutiny committees:
  - (a) The Social Policy Scrutiny Committee
  - (b) The Economic Policy Scrutiny Committee
- (3) The Membership of the scrutiny committees will be three Government Members and one Opposition Member nominated to the Speaker in writing by the respective Whip and one non-party aligned Member to be appointed by motion.
- (4) The functions of the scrutiny committees shall be to inquire and report on:
  - (a) any matter within its subject area referred to it:
    - (i) by the Assembly;
    - (ii) by a Minister; or
    - (iii) on its own motion.
  - (b) any bill referred to it by the Assembly;
  - (c) in relation to any bill referred by the Assembly:
    - (i) whether the Assembly should pass the bill;
    - (ii) whether the Assembly should amend the bill;
    - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
      - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
      - (B) is consistent with principles of natural justice; and
      - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
      - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
      - (E) confers powers to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
      - (F) provides appropriate protection against self-incrimination; and
      - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and

- (H) does not confer immunity from proceeding or prosecution without adequate justification; and
  - (I) provides for the compulsory acquisition of property only with fair compensation; and
  - (J) has sufficient regard to Aboriginal tradition; and
  - (K) is unambiguous and drafted in a sufficiently clear and precise way.
- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether the bill:
- (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
  - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
  - (C) authorises the amendment of an Act only by another Act.
- (5) The Committee will elect a Government Member as Chair.
- (6) Each Committee will provide an annual report on its activities to the Assembly.

Adopted 24 August 2017



## **Recommendations**

### **Recommendation 1**

The Committee recommends that the Legislative Assembly pass the Training and Skills Development Amendment Bill 2018.

# 1 Introduction

## Introduction of the Bill

1.1 The Training and Skills Development Amendment Bill 2018 (the Bill) was introduced into the Legislative Assembly by the Minister for Workforce Training, the Hon Selena Uibo MLA, on 16 August 2018. The Assembly subsequently referred the Bill to the Economic Policy Scrutiny Committee for inquiry and report by 27 November 2018.<sup>1</sup>

## Conduct of the Inquiry

1.2 On 24 August 2018 the Committee called for submissions by 19 September 2018. The call for submissions was advertised via media release, the Legislative Assembly website, Facebook, Twitter feed and email subscription service.

1.3 The Committee received submissions from the:

- Industry Skills Advisory Council NT
- National Tertiary Education Union

## Outcome of Committee's Consideration

1.4 Sessional order 13(4)(c) requires that the Committee after examining the Bill determine:

- (i) whether the Assembly should pass the bill;
- (ii) whether the Assembly should amend the bill;
- (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
- (iv) whether the bill has sufficient regard to the institution of Parliament.

1.5 Following examination of the Bill, and consideration of the evidence received, the Committee is of the view that the Legislative Assembly should pass the Bill with no amendments.

### Recommendation 1

**The Committee recommends that the Legislative Assembly pass the Training and Skills Development Amendment Bill 2018.**

## Report Structure

1.6 Chapter 2 provides an overview of the policy objectives of the Bill and the purpose of the Bill as contained in the Explanatory Statement.

1.7 Chapter 3 considers the main issues raised in evidence received.

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<sup>1</sup> Uibo, Hon. Selena MLA, Minister for Workforce Training, Training and Skills Development Amendment Bill 2018 (Serial 59), *Explanatory Speech*, Northern Territory Legislative Assembly, 16 August 2018, <http://www.territorystories.nt.gov.au/jspui/handle/10070/300580>

## 2 Provisions of the Bill

### Background to the Bill

2.1 The Northern Territory Training Commission (the Commission) is a statutory body that was established under the *Training and Skills Development Act* in July 2016. The Commission's responsibilities include the:

- promotion of vocational education and training in the Northern Territory;
- provision of high level strategic advice to the Minister for the planning of vocational education and training in the Northern Territory; and
- development of a vocational education and training investment framework and an annual investment plan.<sup>2</sup>

Commission members were selected from a broad range of industry areas based on their knowledge and experience in areas relevant to the functions of the commission.<sup>3,4</sup>

### Purpose and Overview of the Bill

2.2 As noted in the Explanatory Statement, the Bill:

... abolishes the Northern Territory Training Commission (the Commission) from the *Training and Skills Development Act* (the Act) and removes all references to the Commission from the Act.<sup>5</sup>

2.3 The rationale for abolishing the Commission from the Act is two-fold. First, the Commission's functions are currently being undertaken by the Department of Trade, Business and Innovation from within existing resources, with some support provided by the Industry Skills Advisory Council NT.<sup>6</sup> Second, as noted by the Minister in her *Explanatory Speech*, the Commission's 'statutory functions do not align with the current government's policy agenda which includes a broader focus on labour market jobs and employment outcomes'.<sup>7</sup>

2.4 In presenting the Bill, the Minister noted that the purpose of the proposed amendment is to:

provide the Department of Trade, Business and Innovation with greater flexibility to respond to economic and employment conditions through agency initiatives

<sup>2</sup> The *Training and Skills Development Act* (NT), s12

<sup>3</sup> The *Training and Skills Development Act* (NT), s14

<sup>4</sup> P. Styles, (Deputy Chief Minister of the Northern Territory, Minister for Employment and Training in 2016), *New NT Training Commission to shape future of VET sector*, 26 July 2016, <http://newsroom.nt.gov.au/mediaRelease/21158>

<sup>5</sup> *Explanatory Statement*, Training and Skills Development Amendment Bill 2018 (Serial No. 59), p.1 [https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0010/558217/Explanatory-Statement,-Training-and-Skills-Development-Amendment-Bill-2018-Serial-59.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0010/558217/Explanatory-Statement,-Training-and-Skills-Development-Amendment-Bill-2018-Serial-59.pdf).

<sup>6</sup> Uibo, *Explanatory Speech*, 2018, p.1 <http://www.territorystories.nt.gov.au/jspui/bitstream/10070/300580/2/Debates%20Day%203%20-%202016%20August%202018.pdf>

<sup>7</sup> Uibo, *Explanatory Speech*, 2018, p.1 <http://www.territorystories.nt.gov.au/jspui/bitstream/10070/300580/2/Debates%20Day%203%20-%202016%20August%202018.pdf>

without legislative restrictions, and through the ability to report directly to the Minister instead of an intermediary statutory body.<sup>8</sup>

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<sup>8</sup> Uibo, *Explanatory Speech*, 2018, p.1  
<http://www.territorystories.nt.gov.au/jspui/bitstream/10070/300580/2/Debates%20Day%203%20-%2016%20August%202018.pdf>

## 3 Examination of the Bill

### Introduction

3.1 The submission from the Industry Skills Advisory Council NT supported the amendments proposed in the Bill. While the submission from the National Tertiary Education Union (NTEU) did not raise any issues in relation to specific clauses in the Bill, it was opposed to the policy intent of the Bill and did not support the proposed amendments to existing legislation. Following is a summary of concerns raised in the NTEU submission.

### Summary of Evidence Received

3.2 The NTEU proposed that the Commission be re-constituted rather than abolished and stated that:

While NTEU has concerns about the lack of public provider or staff or student representation on the current Commission, we are highly reluctant to agree to its abolition without a clearer understanding of what formal consultative or advisory bodies will be established to replace it.<sup>9</sup>

3.3 The NTEU noted that the Commission was set up as part of a broader set of policy reforms related to the regulation and funding of vocational education and training. It further noted that these broader reforms, particularly the introduction of an entitlement funding model, have had a range of detrimental impacts on the Vocational Education and Training (VET) sector. The entitlement funding model entitles all eligible Territorians to a government subsidised place in a Certificate III or higher VET qualification with an approved private or public provider and, in NTEU's view "allows private providers to cherry pick profitable courses and offer them in selected locations while leaving TAFE to supply high cost but essential training".<sup>10</sup>

3.4 The submission includes data to demonstrate the negative impacts of entitlement based funding including:

- a significant shift of student load away from public TAFE providers - predominantly Charles Darwin University (CDU) and Batchelor Institute of Indigenous Education (BIITE);
- a significant decline in the overall level of real public investment in VET in the Territory;
- a significant decline in the value of real funding per VET hour delivered; and
- a significant impact on the financial viability of TAFE delivery in the Territory, particularly for CDU and BIITE which have experienced an acceleration in operating losses from 2014 onwards and a failure of revenue to keep up with continued cost increases.<sup>11</sup>

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<sup>9</sup> National Tertiary Education Union, Submission No. 2, p.1

<sup>10</sup> National Tertiary Education Union, Submission No. 2, p.3

<sup>11</sup> National Tertiary Education Union, Submission No. 2, p.6

3.5 The NTEU considers that the Commission should be reconstituted to include representation from both public and private VET providers as well as from industry. In addition, it notes that one of the key roles of a re-constituted Commission should be to examine “the impact of its investment frameworks and plans on public provision which would explicitly take into [account] community service obligations”.<sup>12</sup>

3.6 In summary, the NTEU proposed that:

Rather than abolishing the Commission as is proposed by the Training and Skills Development Amendment Bill 2018, the NTEU is calling for the Commission to be reconstituted:

- 1) so that its functions include assessing the impacts of any VET investment framework or plan on public TAFE providers, specifically CDU and BIITE, and
- 2) broadening its membership to include representatives from TAFE, staff and students.<sup>13</sup>

### **Committee’s Comments**

3.7 The Committee acknowledges the views expressed in the submission from NTEU and its consequent opposition to the abolition of the Commission. The Committee notes that no other person raised objection to the abolition of the Commission and is of the view that the Government’s rationale for abolishing the Commission is compelling.

3.8 Having considered the evidence received, the Committee has formed the conclusion that the Bill should be passed.

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<sup>12</sup> National Tertiary Education Union, Submission No. 2, p.8-9

<sup>13</sup> National Tertiary Education Union, Submission No. 2, p.10

## Appendix A: Submissions Received

### Submissions Received

1. Industry Skills Advisory Council NT
2. National Tertiary Education Union

**Note:** Copies of submissions are available at:

<https://parliament.nt.gov.au/committees/EPSC/59-2018>

## Bibliography

### *Training and Skills Development Act (NT)*

Training and Skills Development Amendment Bill 2018 (Serial No. 59), *Explanatory Statement*, Northern Territory Legislative Assembly, 3 September 2018, [https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0010/558217/Explanatory-Statement,-Training-and-Skills-Development-Amendment-Bill-2018-Serial-59.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0010/558217/Explanatory-Statement,-Training-and-Skills-Development-Amendment-Bill-2018-Serial-59.pdf)

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