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COST ESTIMATE FOR BILL C-13: AN ACT FOR THE SUBSTANTIVE EQUALITY OF CANADA'S OFFICIAL LANGUAGES

OFFICE OF THE PARLIAMENTARY BUDGET OFFICER
BUREAU DU DIRECTEUR PARLEMENTAIRE DU BUDGET

The Parliamentary Budget Officer (PBO) supports Parliament by providing economic and financial analysis for the purposes of raising the quality of parliamentary debate and promoting greater budget transparency and accountability.

This report response to a request from the Standing Senate Committee on Official Languages to provide an independent analysis of the financial cost of Bill C-13, *An Act for the Substantive Equality of Canada's Official Languages*.

Lead Analyst:
Ben Segel-Brown, Senior Analyst
Katarina Michalyshyn, Analyst

This report was prepared under the direction of:
Jason Jacques, Chief Financial Officer / Director General, Costing & Budgetary Analysis

Nancy Beauchamp, Marie-Eve Hamel Laberge and Rémy Vanherweghem assisted with the preparation of the report for publication.

For further information, please contact pbo-dpb@parl.gc.ca

Yves Giroux
Parliamentary Budget Officer

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Executive Summary

Of the many provisions set out in this bill, financial implications arise solely from the proposed extensions of French language rights to federally regulated private businesses.

We expect private compliance costs to implement these rights to be $240 million in one-time costs plus $20 million each year in ongoing costs. These costs arise primarily from language training and bilingualism wage premiums for managers in designated bilingual regions outside Quebec.

We estimate the public administrative cost to implement these rights to be $2.9 million per year. However, the amount of funding provided is fundamentally discretionary – the activities that can be undertaken in support of the implementation of Bill C-13 will be limited by the funding available.

The 2021-22 Fall Economic Statement allocated $16 million in 2022-23 for initial implementation costs associated with this bill. The responsible departments wrongfully refused to disclose how this funding would be allocated on the basis that "this information is not publicly available." They also refused to identify the additional ongoing tasks they plan to undertake as a result of the bill, or associated staffing and costs. The $16 million does not cover ongoing administrative costs and was not intended to cover those costs. However, it will allow additional initial implementation activities to be undertaken.

The cost estimates provided above are sensitive to the scope of regions outside of Quebec where the legislation will be applied, the businesses sizes which are exempted, any additional industry exemptions, and the operationalization of the rights to receive services, work, and be supervised in French.

Summary Table 1 Summary of Expected Administrative Costs

Organization	Activity	Cost ($ millions each year)	
		Years 1-2 (Quebec Only)	Years 3+
Canadian Heritage	Providing assistance, education and information to affected businesses	1.1	1.4
Commissioner of Official Languages	Processing complaints, audits, and interventions to ensure compliance	1.2	1.5
	Total	2.3	2.9

1. Introduction

This report estimates the financial cost of *Bill C-13: An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts* (short title: *An Act for the Substantive Equality of Canada's Official Languages*), at the request of the Standing Senate Committee on Official Languages

Of the many provisions set out in this bill, financial implications arise solely from the proposed extensions of French language rights to federally regulated private businesses.

The proposed *Use of French in Federally Regulated Private Businesses Act* would immediately apply to federally regulated businesses in Quebec. Amendments included in Bill C-13 would later extend that new Act to "regions with a strong francophone presence".

This extension of rights has two forms of financial implications addressed in the sections below, specifically:

1. Administrative costs, and
2. Tax revenue implications of private compliance costs.

As outlined in Appendix A, the other provisions set out in the bill do not give rise to financial implications because they:

1. Codify existing obligations and practices,
2. Require changes to practices without estimable financial costs, or
3. Express commitments to principles or goals.

2. Costing Assumptions

The financial costs of this bill arise solely from the proposed extensions of French language regulatory obligations to federally regulated private businesses. However, many important details regarding these obligations are left to be established by regulation. Departments have not announced these details and refused to provide these details in response to PBO inquiries, stating that some of the information is not publicly available.

Our cost-estimate is based on the following assumptions, which were made after consultations with stakeholders, including the Office of the Commissioner of Official languages:

- The bill will apply outside of Quebec to the regions listed in the Bilingual Regions of Canada for Language-of-Work Purposes. These regions are:
    - the province of New Brunswick,
    - the City of Ottawa
    - some parts of Eastern Ontario and Northern Ontario.
- Businesses with fewer than 50 employees will be exempt.
- No additional industries will be exempted by regulation.
- In order to offer services to consumers in French, a business must have a number of sales and service employees who can speak French that is at least proportional to the number of persons in the region who identify French as their first official language.
- In order to meet the duty to allow employees to work and be supervised in French, all supervisors and managers must speak French.

3. Tax Consequences of Private Compliance Costs

Federally regulated private businesses will have to incur costs to create a workplace where all employees can be supervised in French and customers can receive service in French.[1]

3.1. Offering Services in French

In order to be able to service consumers in French, we assume that each workplace would require that the share of sales and service employees who can speak French is proportional to the share of the local population who identify French as their first official language spoken, to a minimum of 25% of employees.

Based on our data analysis, sales and service employees already have high levels of bilingualism in the regions designated as bilingual for language of work purposes. The share of sales and service employees who can speak French exceeds the above standard in all regions. Due to variations between regions and employers, there will be some businesses which have to hire additional bilingual staff but, on average, federally regulated businesses already exceed the assumed standards.

Figure 3-1

Share of Sales and Service Employees who can speak French, by designated bilingual region

	Share of sales and service employees who can speak French in federally regulated industries	
Designated bilingual region	Current	Assumed standard
New Brunswick	49%	32%
Ottawa	37%	25%
Quebec	97%	84%
All others	48%	28%

Source: PBO based on 2016 Census

Bilingual employees in sales and service occupations in federally regulated industries are paid an average of $2,951/year more than comparable employees who only speak English. Since the wage premium for bilingual employees is a small fraction of training costs, and the number of additional French-speaking employees required is small, we assume that most employers will meet these the new regulatory requirements by preferring

French-speaking employees in hiring rather than training unilingual employees.

In total, we estimate that the private compliance cost to offer services in French in designated bilingual regions will be small because on average, federally regulated businesses already exceed the assumed standards.

3.2. Offering Supervision in French

Under the proposed *Use of French in Federally Regulated Private Businesses Act*, employees at federally regulated workplaces in the specified regions would have a right to carry out their work and be supervised in French, receive all communications and documents in French, and to use computer systems in French.

We assume that this will require that all managers in the specified regions speak French, irrespective of whether any of their employees wish to be supervised in French. This reflects the interpretation of this requirement in the federal public sector.

We estimate that there are currently about 3,413 managers in federally regulated industries in bilingual regions who cannot speak French.

Except in Quebec, this represents the majority of management employees in federally regulated industries in these regions. With so many employers seeking so many French-speaking managers in these industries at the same time, it will likely be necessary to provide second-language training to existing staff.

Table 3-2 Managers in federally regulated industries who can speak French, by designated region

Designated Bilingual Region	Managers who can speak French in federally regulated industries	
	Current	Assumed Standard
New Brunswick	38%	100%
Ottawa	39%	100%
Quebec	97%	100%
All others	43%	100%

Source: PBO based on 2016 Census

We assume the cost to provide second-language training, backfill the employee's position, and conduct evaluations to be about $70,000 per employee based on costs in the public sector with $2,400/year in ongoing second-language maintenance costs.[2] In addition, bilingual employees in management occupations in federally regulated industries in designated regions are paid an average of $3,457/year more than comparable employees who only speak English.

In total, we estimate one-time private compliance costs of $240 million to train these managers, plus $20 million each year in ongoing wage premiums and second-language maintenance.

3.3. Tax revenue implications

As summarized above, we expect affected business to incur a total of $240 million in one-time costs and $20 million each year in ongoing costs to train and retain French-speaking managers and sales and service staff.

It is unclear to what extent these additional costs will impact federal tax revenues. The PBO mapped out potential impacts, consulted relevant literature, and solicited the views of several industry associations representing affected firms. However, this research did not provide clear guidance regarding how the fiscal impact of regulatory compliance costs should be estimated in this context.

4. Administrative Costs

Parliament may wish to approve additional expenditures to support the implementation of the *Official Languages Act* set out in Bill C-13. The amount of funding provided is fundamentally discretionary – the activities that can be undertaken in support of the implementation of Bill C-13 will be limited by the funding available.

This section summarizes the funding that the government has requested and the activities that funding will support. It also provides an independent estimate of the funding that we would typically expect to be requested, given each department's new legislative responsibilities.

4.1. Departmental Spending Plans

In the 2021 Economic and Fiscal Update, the federal government announced that it was allocating $16 million in 2022-23 "to support the implementation of the proposed [modernization of the *Official Languages Act*] upon Royal Assent."[3] In response to PBO inquiries, the Treasury Board Secretariat indicated that this amount "is not intended to support the implementation of the bill in its entirety, but rather to fund immediate implementation of the key legislative changes in the bill that will, upon Royal Assent, result in direct costs to the federal government to carry out its new responsibilities". In other words, the funding allocated is not expected to be sufficient to cover the ongoing costs arising from Bill C-13.

Funding will be provided to the Commissioner of Official Languages and three government departments, namely:

1. the Treasury Board of Canada Secretariat,
2. Canadian Heritage,
3. Immigration, Refugees and Citizenship Canada.

In response to PBO inquiries, the three departments refused to disclose their planned expenditures pertaining to the changes set out in C-13, either as a share of the $16 million for initial implementation or in terms of ongoing costs. Departments provided limited detail regarding the specific tasks they planned to undertake and no detail regarding their anticipated resource requirements for those tasks[4].

The Treasury Board Secretariat indicated that it would use additional funding for:

- monitoring and auditing compliance by federal institutions with official languages policies, directives and regulations that comprise new ones pertaining to part VII,

- recommending to the Governor-in-Council new regulations on part VII of the *Official Languages Act*,
- evaluating the effectiveness and efficiency of federal institutions' official languages policies and programs, and
- promoting innovation and best practices with regard to official languages governance within federal institutions.

The Department of Canadian Heritage indicated that it would use additional funding to:

- develop tools and best practices to guide and inform the relevant businesses of their new language obligations under the *Use of French in Federally Regulated Private Businesses Act* and its regulations.

Immigration, Refugees and Citizenship Canada indicated that it would use additional funding for:

- the development of a new policy on immigration in Francophone minority communities,
- a new Francophone immigration corridor specifically aimed at recruiting Francophone and French-language teachers, as well as
- the development of a program for French language training and learning for newcomers.

The Office of the Commissioner of Official Languages (OCOL) indicated in response to our inquiries that it has not yet been advised what portion of the $16 million provided for C-13 it will receive. The OCOL indicated they were undertaking internal analysis to determine the potential impacts of Bill C-13 on its mandate and resources, but such analysis would not be completed for several months.

4.2. Independent Estimate

Although the amount of funding provided is fundamentally discretionary, it may assist parliamentarians to know the level of funding that we would typically expect to be allocated to support the additional activities required by Bill C-13.

Under Bill C-13, Canadian Heritage receives a new responsibility under the *Use of French in Federally Regulated Private Businesses Act* to provide assistance, education and information to affected federally regulated private businesses. The PBO estimates that the cost of these activities would be $1.1 million for each of the first two years when obligations would apply only in Quebec, rising to $1.4 million each year following the extension of those obligations to designated bilingual regions outside of Quebec.

This estimate is based on the number of federally regulated private sector employees in Quebec and the designated regions. The cost per additional employee supervised is based on our estimate of the OCOL's budget per federal public sector employee ($8.52/year/employee) to raise awareness and support the development and viability of minority language communities. To account for the greater difficulty involved in serving private sector entities newly subject to bilingualism requirements, this cost was marked up by 71%, proportional to complaint volumes.[5] This cost could rise significantly if financial assistance is offered to cover some part of the costs of achieving bilingualism. However, Canadian Heritage's response to our information request did not indicate that it had any intention of providing such substantive assistance.

The Commissioner of Official Languages will be tasked with administering the bilingualism requirements in relation to affected federally regulated private businesses. The PBO estimates that the cost of these activities would be $1.2 million for each of the first two years when obligations would apply only in Quebec, rising to $1.5 million each year following the extension of those obligations to designated bilingual regions outside of Quebec.

As before, this estimate is based on the number of federally regulated private sector employees in Quebec and the designated regions. The cost per additional employee supervised is based on our estimate of the Commissioner of Official Languages' budget per federal public sector employee ($9.44/year/employee) for processing complaints, audits, and interventions to ensure compliance with the *Official Languages Act*. The same markup for relative difficulty is applied.

In total, PBO estimates that appropriate funding to implement Bill C-13 would be $2.3 million per year for the first two years when it would apply only in Quebec, and $2.9 million per year following the extension of the bill to designated bilingual regions outside of Quebec.

Appendix A: Other Sections of the Bill

Codify existing obligations and practices

Many provisions of Bill C-13 codify existing obligations or practices. While there are financial costs incurred to carry out associated activities, there is no incremental financial cost to requiring government to continue those activities. The government may choose to increase the level of funding for the activities through discretionary spending, but doing so is not needed to fulfill the obligations set out in the bill. For example, Bill C-13 contains clauses that:

- specify that all legal obligations related to official languages apply at all times, including during emergencies;
- codify certain interpretative principles regarding language rights;
- clarify the nature of the duty of federal institutions to take positive measures to implement certain Government of Canada commitments and the manner in which the duty is to be carried out;
- provide that the Minister of Citizenship and Immigration is required to adopt a policy on francophone immigration and that the policy is to include, among other things, objectives, targets and indicators; and,
- provide that the Treasury Board is required to establish policies to give effect to certain parts of that Act, monitor and audit federal institutions for their compliance with policies, directives and regulations relating to the official languages, evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages and provide certain information to the public and to employees of federal institutions.

Changes to practices without estimable financial costs

Other provisions of Bill C-13 require changes to government practices. Some of these practices will not necessarily give rise to financial costs. Others may have non-zero financial costs but given that the bill does not specify targets or goals for these provisions, the amount of funding provided would be so discretionary that the PBO is not able to provide a meaningful estimate. For example, Bill C-13 contains clauses that:

- provide that bilingual judges are required for bilingual cases before the Supreme Court of Canada;

- provide that a final decision, order or judgment of a federal court that has precedential value is to be made available simultaneously in both official languages;
- provide for a commitment to contribute to an estimate of the number of children whose parents are rights holders under section 23 of the Canadian Charter of Rights and Freedoms;
- authorize the Commissioner of Official Languages to enter into compliance agreements and, in certain cases, to make orders; and
- authorize the Commissioner of Official Languages to impose administrative monetary penalties on certain entities for non-compliance.

Commitments to principles and goals

Other provisions of Bill C-13 amend the preamble and purposes of the Act or empower government departments to take certain actions. While departments may request funding for programs or policies taken to achieve the goals of the act, the legislation itself does not require those departments to take any specific action or to achieve any specific target. Examples of such provisions include:

- committing to protecting and promoting French;
- committing to advancing opportunities for minority communities to learn in their own languages throughout their lives;
- committing to advance the use of English and French in the conduct of Canada’s external affairs;
- requiring federal institutions to take positive measures to meet the government’s commitments;
- requiring the Minister of Canadian Heritage take steps to advance the equality of status and use of English and French in Canadian society; and,
- requiring the Minister of Citizenship and Immigration to adopt a policy on francophone immigration and that the policy is to include, among other things, objectives, targets and indicators.

Notes

1. The PBO consulted with various stakeholder groups representing the affected industries, but they were unable to provide meaningful quantitative information regarding how they would be affected because they did not have key details like the regions and sizes of business that would be affected, or the obligations that would apply.
2. PBO, Cost Estimate for Bill S-209: An Act to amend the Official Languages Act (communications with and services to the public).
3. Finance Canada, 2021 Economic and Fiscal Update.
4. It is possible that in the time since the PBO received the departments' responses, the departments may have developed clearer ideas about the resource requirements or will do so in the coming months. However, the issue of funding being very discretionary for many of these activities would still be present even if the PBO had more information at the time of writing this report.
5. Specifically, a mark-up of 71% was applied on the basis that Air Canada, as a representative private sector business, receives 171 % of the complaints we would expect it to receive based on its number of employees.