



# Yukon Legislative Assembly

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34th Legislature

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## HANSARD

Wednesday, November 14, 2018 — 1:00 p.m.

Speaker: The Honourable Nils Clarke

# YUKON LEGISLATIVE ASSEMBLY

## 2018 Fall Sitting

**SPEAKER — Hon. Nils Clarke, MLA, Riverdale North**  
**DEPUTY SPEAKER and CHAIR OF COMMITTEE OF THE WHOLE — Don Hutton, MLA, Mayo-Tatchun**  
**DEPUTY CHAIR OF COMMITTEE OF THE WHOLE — Ted Adel, MLA, Copperbelt North**

### CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
<b>Hon. Sandy Silver</b>	Klondike	Premier Minister of the Executive Council Office; Finance
<b>Hon. Ranj Pillai</b>	Porter Creek South	Deputy Premier Minister of Energy, Mines and Resources; Economic Development; Minister responsible for the Yukon Development Corporation and the Yukon Energy Corporation
<b>Hon. Tracy-Anne McPhee</b>	Riverdale South	Government House Leader Minister of Education; Justice
<b>Hon. John Streicker</b>	Mount Lorne-Southern Lakes	Minister of Community Services; Minister responsible for the French Language Services Directorate; Yukon Liquor Corporation and the Yukon Lottery Commission
<b>Hon. Pauline Frost</b>	Vuntut Gwitchin	Minister of Health and Social Services; Environment; Minister responsible for the Yukon Housing Corporation
<b>Hon. Richard Mostyn</b>	Whitehorse West	Minister of Highways and Public Works; the Public Service Commission
<b>Hon. Jeanie Dendys</b>	Mountainview	Minister of Tourism and Culture; Minister responsible for the Workers' Compensation Health and Safety Board; Women's Directorate

### GOVERNMENT PRIVATE MEMBERS

#### Yukon Liberal Party

<b>Ted Adel</b>	Copperbelt North
<b>Paolo Gallina</b>	Porter Creek Centre
<b>Don Hutton</b>	Mayo-Tatchun

### OFFICIAL OPPOSITION

#### Yukon Party

<b>Stacey Hassard</b>	Leader of the Official Opposition Pelly-Nisutlin	<b>Scott Kent</b>	Official Opposition House Leader Copperbelt South
<b>Brad Cathers</b>	Lake Laberge	<b>Patti McLeod</b>	Watson Lake
<b>Wade Istchenko</b>	Kluane	<b>Geraldine Van Bibber</b>	Porter Creek North

### THIRD PARTY

#### New Democratic Party

<b>Liz Hanson</b>	Leader of the Third Party Whitehorse Centre
<b>Kate White</b>	Third Party House Leader Takhini-Kopper King

### LEGISLATIVE STAFF

Clerk of the Assembly	Floyd McCormick
Deputy Clerk	Linda Kolody
Clerk of Committees	Allison Lloyd
Sergeant-at-Arms	Karina Watson
Deputy Sergeant-at-Arms	Harris Cox
Hansard Administrator	Deana Lemke

**Yukon Legislative Assembly  
Whitehorse, Yukon  
Wednesday, November 14, 2018 — 1:00 p.m.**

**Speaker:** I will now call the House to order. At this time, we will proceed with prayers.

*Prayers*

## DAILY ROUTINE

**Speaker:** We will proceed at this time with the Order Paper.

## INTRODUCTION OF VISITORS

**Hon. Ms. McPhee:** I will ask my colleagues to help me welcome Mr. Tim Koepke to the House, former Ombudsman and Information and Privacy Commissioner and Officer of this Legislative Assembly. Welcome.

*Applause*

**Ms. Hanson:** I just wanted to add to the Minister of Justice's welcome to Tim Koepke that he was also the chief federal negotiator on the Tr'ondëk Hwëch'in negotiations and played an instrumental role in getting that agreement through the federal system.

*Applause*

**Speaker:** Are there any further introductions of visitors?

## TRIBUTES

### In recognition of the 20<sup>th</sup> anniversary of the Tr'ondëk Hwëch'in final and self-government agreements

**Hon. Ms. Frost:** It is with great pleasure that I rise today to pay tribute to the Tr'ondëk Hwëch'in First Nation. This year they celebrate the 20<sup>th</sup> anniversary of their final and self-government agreements. On July 16, 1998, the Tr'ondëk Hwëch'in, the Government of Canada and the Government of Yukon signed the Tr'ondëk Hwëch'in final and self-government agreements.

The Tr'ondëk Hwëch'in citizens voted to sign the land claims agreement with an overwhelming majority of 92 percent. This was the strongest endorsement for any land claim agreement in Yukon and perhaps in Canada. Since 1998, the Tr'ondëk Hwëch'in have accomplished so much. They are advancing their self-government in ways that benefit their citizens, community and the Yukon as a whole. Tr'ondëk Hwëch'in is working hard to accomplish their vision, which is to maintain their relationship to the land, preserve their heritage and empower their people.

Their Heritage department is doing an exceptional job working with their elders and their citizens in research to revitalize the Hän language and the culture. The Moosehide Gathering and the Dänojà Zho Cultural Centre are incredible examples of cultural revitalization at work.

The Tr'ondëk Hwëch'in have successfully protected and maintained their connection to the land despite ongoing

historic and modern pressures from mining activity. They fought to protect the important historic area of Tr'ochëk from legal action against illegal mining activities in the 1990s, then had it protected as a heritage site in their final agreement and now today, they have had it designated as a national historic site.

The Tr'ondëk Hwëch'in have been unwavering in their commitment to protect this culturally significant area. They were also instrumental in the development and now the management of Tombstone Territorial Park. This park protects not only the natural environment, but the cultural importance of the land as well.

Tr'ondëk Hwëch'in has been an active and engaged participant in managing the land and resources on their traditional territory. They are a champion for sustainable development that creates opportunities and prosperity for their citizens. Since they have become self-governing in 1998, they have taken on more and more responsibilities and now have 10 departments that serve their citizens. I would like to thank some of the visionary leaders who were involved in the negotiations and signing of these agreements.

Mahsi' cho to former Chief Steve Taylor, Percy Henry, Peggy Kormendy, Hilda Titus and Angie Joseph-Rear. Thank you to the former councillors and family representatives Edward Roberts, Art Christiansen, Duane Taylor, Fred Taylor, Karen Farr, Trudy Lindgren and Ronald Johnson. Thank you to the negotiators Tim Gerberding and Ed Kormendy. There were many others who participated in this process — and, of course, Mr. Koepke, who was actively involved on the federal side.

It is my pleasure today to highlight some of the many successes of Tr'ondëk Hwëch'in. Congratulations on 20 years of self-government and mahsi' cho.

*Applause*

**Ms. Van Bibber:** I am pleased to rise today on behalf of the Yukon Party Official Opposition to pay tribute to the 20<sup>th</sup> anniversary of the signing of the Tr'ondëk Hwëch'in final agreement and self-government agreement.

Dawson City has provided much to our territory through mining and tourism. This small town is to be recognized for the amount they contribute to the territory's economy. Gold rush history has captured the imagination of the world and the fascination is still strong some 120 years later, but the discovery of gold that started the Klondike stampede caused much turmoil and change for the First Nation people in the region.

The Hän people were river people, although they did travel inland for caribou and moose. They relied heavily on the river salmon and fish for their way of life. In 1896, there was no Dawson City, and two years later, in 1898, there was a population of 30,000 people. Can you imagine if that even happened today, in modern times? We would not be able to cope easily, no matter what time in history.

With the influx of so many outsiders came corruption, alcohol, disease and a change so drastic that then-Chief Isaac took his people three miles downriver to settle at a place they

called Moosehide Village. Even the face of the First Nation people began to change as Northern Tutchone and Gwich'in people also settled in the area, creating a mixed group now known as Tr'ondëk Hwëch'in. The oral history, songs and dances of the people are alive and well due to the passion of many elders and young people who strive to bring to life a story that could have been lost.

During the 1950s and 1960s, Moosehide was all but abandoned as most First Nation families lived in Dawson City. It was a trying time for most of them due to lack of work and a meaningful place in Dawson society.

Now as one of the self-governing First Nations, the Tr'ondëk Hwëch'in are forward-thinking and very progressive in many of their projects. I commend the amazing work done through the years. Just to highlight two initiatives that I think are amazing — the biennial Moosehide Gathering is a festival featuring northern indigenous artists, and the gathering is truly a teaching as well as a reuniting event.

The other project is the teaching farm, worked in conjunction with Yukon College, to ensure the citizens have fresh, healthy produce as well as raising chicken and pork. Young people learn, study and work in the countryside and also have a bounty to share at the end of their season.

When I think of the beauty of the Klondike region, the landmarks such as the Moosehide slide and the Midnight Sun Dome and the Klondike River and Yukon River merging — one very dirty and the other crystal clear — that has been captured in so many photos, one can get a little nostalgic.

For our first peoples, whether we call it “homeland”, “hometown”, “birthplace”, or “native land”, the strength of pride and sense of love for their part of the Yukon is as vast as the country we have shared.

Well done, Tr'ondëk Hwëch'in, for of the 120 years that we have been an official territory, 20 years of that you have led your people to a brighter future and prosperity that is evident and well-deserved. I know from where we come.

As we continue our journey into the next decades, good luck and congratulations. Mahsi' cho.

*Applause*

**Ms. Hanson:** On behalf of the Yukon New Democratic Party, I'm pleased to also join in marking the July 16, 20<sup>th</sup> anniversary of the signing of the Tr'ondëk Hwëch'in final and self-government agreements.

As previous speakers, my colleagues, have indicated, the finalization of the Tr'ondëk Hwëch'in agreements was long, complex and challenging. In a process that spanned so many years, you can be assured that it is an understatement to say how challenging it was, because history has not been kind to the Tr'ondëk Hwëch'in people. Perhaps nowhere else in the Yukon was the brutal impact of the Klondike Gold Rush felt more directly.

As a result, when it came to finally work with the Tr'ondëk Hwëch'in First Nation to complete a key component of their final agreement land negotiations, there were huge challenges because, to an extent not seen elsewhere in Yukon, so much of their traditional territory had been taken and torn

apart by mining interests spanning, at the time of signing, almost 100 years.

In an era of the Truth and Reconciliation Commission, as we look at the impacts of the assumptions underlying colonial history, it is hard to believe that government's actions and laws, such as the free entry system still in place under the *Quartz Mining Act* and the *Placer Mining Act*, effectively granted rights to people who inundated a region for a short time, granting rights that endured and prevailed over the rights of the indigenous occupants and owners of the land. That, in short, was the dilemma faced by the Tr'ondëk Hwëch'in.

The Klondike Valley had been staked from end to end with placer claims, so finding a just resolution took ingenuity and time. It is to the credit of leaders like Chief Percy Henry, Peggy Kormendy, Hilda Titus, Angie Joseph-Rear and Steve Taylor that the Tr'ondëk Hwëch'in First Nation was, over time, able to work with representatives of numerous federal and territorial government ministers to finally achieve agreement in July 1998.

There are many significant aspects of the *Tr'ondëk Hwëch'in Final Agreement*. I agree with my colleague across the way. The establishment of the Tr'o-ju-wech'in Heritage Site to recognize, protect, enhance and celebrate the Hän culture and history, while also recognizing and respecting the non-aboriginal heritage aspects of the site related to the Klondike Gold Rush, represents an amazing spirit of generosity and compromise by the Tr'ondëk Hwëch'in.

Another significant accomplishment of the Tr'ondëk Hwëch'in agreement was the creation and protection of the Tombstone Territorial Park. Twenty years on, Mr. Speaker, given the iconic stature of Tombstone, it is difficult to believe that achieving agreement on ensuring that this area would be protected as a co-managed, natural environment park would be so difficult. It was and is to the credit of the Tr'ondëk Hwëch'in and the territorial government of the day that 11 years after the signing of the *Tr'ondëk Hwëch'in Final Agreement*, the *Tombstone Territorial Park Management Plan* was signed.

Today we celebrate the 20<sup>th</sup> anniversary of the signing of the Tr'ondëk Hwëch'in final and self-government agreements, and we look forward to working with the citizens of Tr'ondëk Hwëch'in as the roots of those agreements bear fruit over time.

*Applause*

### **In recognition of World Diabetes Day and Diabetes Awareness Month**

**Hon. Ms. Frost:** I rise in the House today to acknowledge this month as Diabetes Awareness Month and November 14 as World Diabetes Day. Diabetes Canada estimates that more than 10 million Canadians are living with diabetes or pre-diabetes. With more than 20 Canadians being newly diagnosed with the disease every hour of every day, chances are that diabetes affects you or someone you know.

To help support those with diabetes, the chronic condition support program has partnered with the Yukon Diabetes Education Centre, which is run out of Whitehorse General

Hospital. They have collaborated to develop and run the diabetes wellness series. The diabetes wellness series consists of four education sessions that provide a wide range of information, including practical strategies for self-management, advice about medication and tips on healthy eating and physical activity. Sessions are offered in Whitehorse and in some rural Yukon communities. One course was also offered at the Kwanlin Dün Health Centre earlier this year. This collaborated effort is a great example of our communities working together to assist Yukoners living with diabetes.

I also want to pay tribute to the friends, family and other caregivers who support those with diabetes, whether they are learning to cook healthier meals, driving loved ones to exercise sessions or learning to check blood sugar levels and inject insulin for their loved ones.

Lastly, the Diabetes Education Centre will be hosting a build-your-own-parfait event in the hospital cafeteria on November 21 as a fundraiser for Diabetes Canada. A nurse, a dietician and a certified diabetes educator will be on hand to answer questions. I encourage all Yukoners to stop by the event, ask questions and learn how to make a healthy yogurt snack.

*Applause*

**Mr. Kent:** I rise today on behalf of the Yukon Party Official Opposition to recognize November as Diabetes Awareness Month and today, November 14, as World Diabetes Day. I am honoured to deliver this tribute as I have had the privilege to meet a number of young Yukoners and their families who face type 1 diabetes, or T1D, on a daily basis.

I have spoken with the parents and families of these children whose lives have also been changed by the diagnosis of their loved one.

Every day brings new challenges with what affects blood sugar levels. From too much sleep to not enough sleep, to all foods, healthy or not, and exercise, there are a multitude of factors to consider.

I wanted to share with the House the T1D footprint for one of my young constituents, a grade 6 student, Heidi Nash: 2,430 is the number that represents the days she has been living with type 1 diabetes; 1,385 hours of sleep lost; 13,668 finger pricks; and 80 insulin pump site changes. When Heidi was diagnosed with T1D, her parents thought she was simply battling a flu. Colin and Jill Nash travelled to BC Children's Hospital with Heidi, where they were educated in just two and a half days on how to care for their daughter, who was suddenly facing a life-threatening autoimmune disease.

I would like to share a few words from Jill — and I quote: “My daughter is a fighter and she thinks about her health and where her blood sugar is more than 15 times a day. I know this because we text constantly about it — how much insulin to take for snack, for lunch, how much to cut insulin back for gym, recess, on and on. It's way too much for any child.”

Like so many Yukoners, Heidi is lucky that there are so many of her family and friends who are in her corner, helping

her navigate this disease. I would like to also personally thank the Yukon T1D Support Network. The board members each have a connection to the disease. Three are mothers of children with T1D, and one is a type 1 diabetic herself and is fitted with a CGM, or continuous glucose monitoring machine. They work to provide education, advocacy and funding support to people living with T1D.

Their efforts have led to two pilot programs. The first one provides children with CGM machines, and the other one, offered through the support network, covers a handful of CGM systems to youth aged 19 to 25. Their ultimate goal is to have CGM covered for all Yukoners with type 1 diabetes.

The group does many other things as well to support Yukon residents living with this disease. They hosted a diabetes expo here in Whitehorse this past May, attended a similar forum in Vancouver, produced an awareness video and hosted a camp at Tagish Lake for young Yukoners with T1D. They are some of the most dedicated and energetic volunteers I have ever had the opportunity to work with.

Finally, Mr. Speaker, we recognize today as World Diabetes Day in honour of Dr. Frederick Banting's birthday. Dr. Banting was awarded the Nobel Prize in Physiology or Medicine in 1923 after discovering insulin in 1921.

We need to remember that insulin is a treatment for diabetes and not a cure. This is the reason we continue to promote awareness and raise funds to search for a cure for this disease.

**Ms. White:** I rise on behalf of the Yukon NDP caucus in recognition of today as World Diabetes Day. November is a month when those in our community who are affected daily by diabetes share information to help educate and dispel myths. Diabetes is about the body's ability, or lack of ability, to produce the required amount of insulin to control glucose levels in the blood. Diabetes is all about numbers. It's about counting carbohydrates to determine how much insulin is required to cover food intake. It's a never-ending task to manage to keep oneself safe.

Today I focus on type 1. Type 1 diabetes has nothing to do with lifestyle or diet. It's not preventable. It is lifelong, and there is no cure. Type 1 diabetes is a disease in which the pancreas does not produce any insulin. Nothing the person or parent did or did not do could have prevented the onset of type 1. No amount of healthy eating or exercise can stop the unknown trigger that causes the body to mistakenly attack and destroy the insulin cells within the pancreas. No matter how hard they try as children or how they work as an adult, the blood glucose levels of a person with type 1 will not ever truly stabilize.

Life with type 1 means good days, bad days, highs, lows, constant monitoring, insulin dosing, carb counting and adjusting. Managing type 1 involves more than taking shots and checking blood sugar. It is a complex balance of insulin dosage, exercise and carbs. Growth, illness, stress and changes in activity level, injection locations and many other factors can affect this balance. Continuous adjustment helps to maintain healthy glucose levels. For diabetics, insulin is the

key to health, but insulin is not a cure for diabetes. As we've heard, it's just a treatment.

Since the discovery of insulin in 1921, diabetes research has always been on the cutting edge of science. The first continuous glucose monitor passed FDA testing in 1999, and advancements continue at lightning speeds. Diabetes is a disease, and individuals and families should have equitable access to the health treatment and options of their choice. A person's ability to self-fund essential medical equipment like a continuous glucose monitor should not be the deciding factor on whether or not they are able to access one.

With the announcements of \$25.6 million over four years to support innovation in Yukon's health care system and \$4.3 million of those dollars per year going toward innovations aimed at strengthening health systems and improving health outcomes, Yukon could be a leader in Canada by making this option available to all diabetics in the territory.

*Applause*

### In recognition of Movember

**Mr. Adel:** I rise today on behalf of the Yukon Liberal government, the Official Opposition and the Third Party to pay tribute to Movember, the leading charity changing the face of men's health by raising awareness and funding for innovative research on issues including prostate cancer, testicular cancer, mental health and suicide prevention.

The foundation works for men by funding innovative research for global and local impact. More than 1,200 men's health projects have been funded through this organization around the world in the past 15 years. The Movember Foundation aims to reduce the number of men dying prematurely by 25 percent by the year 2030.

How does an idea grow from 30 friends in Australia to five million "Mo Bros" and "Mo Sistas" around the world? It grows because it's important to all of us that our loved ones take responsibility for their own health.

This initiative is particularly important to me. My father was a survivor of prostate cancer due to early detection. I'm the father of three sons, and my involvement in Movember has helped to initiate important conversations with them about men's health issues.

We need to ensure that men of all ages feel comfortable coming forward with their health concerns and that they feel they have adequate support from their family and friends. Encouraging men to talk openly about their health and seek the appropriate treatment is why I'm offering this tribute today.

Mental health is another focus of Movember. One in 10 Canadian men will experience major depression over the course of their lives. Suicide is the second largest killer of men between 15 to 29 years of age. Around the world, we lose 60 men per hour to suicide.

You don't need to grow a moustache to participate in Movember, as my esteemed colleague the Minister of Community Services is trying desperately over there to get

done — and he's doing a heck of a job. There are many ways to get involved.

This year I am joining Movember by participating in the Make Your Move challenge. This challenge includes walking 60 kilometres over the course of the month. This distance signifies the 60 men we lose to suicide each hour.

If you are interested in becoming involved or donating, you can visit [movember.com](http://movember.com) to learn more about this initiative and all of the ways that you can support this great cause — join me, tell your friends and get involved for your loved ones.

*Applause*

**Speaker:** Are there any returns or documents for tabling?

Are there any reports of committees?

Are there any petitions?

Are there any bills to be introduced?

Are there any notices of motions?

### NOTICES OF MOTIONS

**Mr. Hassard:** I rise to give notice of the following motion:

THAT this House urges the Premier to move the motion for second reading of Bill No. 19, *Electoral District Boundaries Act*, during the 2018 Fall Sitting.

**Mr. Cathers:** I rise to give notice of the following motion:

THAT this House urges the Minister of Energy, Mines and Resources to provide an update on the status of work to develop revised zoning regulations for the Shallow Bay area, including the date of the public meeting which was supposed to be held this fall.

I also give notice of the following motion:

THAT this House urges the Liberal government to provide clarity to potential purchasers of the 20 lots in Grizzly Valley subdivision which are currently for sale via a land lottery that closes today, November 14, 2018, by announcing whether or not school bus service will be provided into the subdivision.

**Ms. White:** I rise to give notice of the following motion:

THAT this House urges the Government of Yukon to amend the *Education Labour Relations Act* to allow substitute teachers to join a union of their choice.

**Speaker:** Are there any further notices of motions?

Is there a statement by a minister?

### MINISTERIAL STATEMENT

#### Pacific Northwest Economic Region's 2018 economic leadership forum

**Hon. Mr. Pillai:** Mr. Speaker, the Pacific Northwest Economic Region's 2018 economic leadership forum is taking

place in Whitehorse this week. Members will recall that a year ago at this time, representatives from the organization visited Whitehorse to solidify plans for this week's events. I am very pleased the organization took my and my colleagues' invitation to heart and decided to host this year's forum here in the Yukon. As the Minister of Economic Development and Yukon's lead delegate to the Pacific Northwest Economic Region, I am happy to welcome delegates to the Yukon — in particular, Matt Morrison, the CEO of Pacific Northwest Economic Region.

The Pacific Northwest Economic Region was established in 1991 by the legislative leaders of British Columbia, Alberta, Alaska, Washington, Oregon, Idaho and Montana. Yukon joined in 1994. The organization's purpose is to increase the economic well-being of the northwest region, to facilitate policy cooperation and coordination in the region, to promote public and private sector communication and to leverage regional influence in Ottawa and Washington.

One of the items that already came out of the conference is an invitation to meet with the Governor of Alaska in January in Juneau to discuss Shakwak and opportunities for economic cooperation.

The Pacific Northwest Economic Region is a non-partisan public/private partnership. It is fantastic to have this network of support for the region's economic development and a strong partnership model through which we can pursue mutually beneficial policy goals. Regional business leaders, legislators and key decision-makers from Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, Oregon, Washington, Alaska and Yukon are attending the forum this week.

For the private sector, it is a chance to highlight priorities and work together with legislators and governments to achieve joint objectives. For the Government of Yukon, the forum presents an excellent opportunity to introduce regional leaders to the territory's economic advantages and our successes in growing and diversifying the economy.

As part of the activities over the next few days, delegates will tour the newly launched NorthLight Innovation. I know that they will be impressed with the facilities available for entrepreneurs to access, support and grow their businesses.

They will also have the opportunity to tour Yukon Brewing Company Ltd. and Air North, one of the largest employers in the territory. The 2018 Economic Leadership Forum also allows the Government of Yukon to progress its three priorities for the Pacific Northwest Economic Region: (1) support increased First Nation participation in economic growth; (2) develop and grow in the innovation and knowledge economy; and (3) encourage economic diversification.

Discussions over the next few days will be enlightening, and I hope that they will spark new collaborations among public- and private-sector leaders. Delegates will explore the impact of recent congressional and state elections on the United States and Canada relationship, First Nation economic development and aboriginal tourism initiatives. They will

learn about First Nation leadership and governance and energy solutions in the north.

The final day of the Economic Leadership Forum will examine a wide range of topics, from PNWER's role in combating tariffs to new opportunities in infrastructure and transportation. Getting to know fellow delegates and strengthening professional networks are an important part of the conference.

In addition to the opening reception at the MacBride Museum of Yukon History, delegates will attend a video launch showcasing entrepreneurship in Yukon at a reception hosted by the Yukon First Nation Chamber of Commerce and Kwanlin Dün First Nation. The 2018 Economic Leadership Forum is a great opportunity for the public/private sectors to connect and to discuss issues that are important to the region.

**Mr. Istchenko:** I rise today on behalf of the Official Opposition to respond to the Minister of Economic Development's ministerial statement.

I would like to recognize the importance of the Pacific Northwest Economic Region and acknowledge the long-standing relationship between PNWER and the Government of Yukon. There are many important issues facing our two countries, such as the renegotiation of NAFTA and the new USMCA trade deal. Of course, there is still the outstanding issue with the tariffs on steel and aluminum that the United States has implemented as well as the tariffs that Canada issued in response to those tariffs.

We have heard a lot from local business here that they have concerns about those tariffs. The Official Opposition has written to the federal government to express our concerns over the impacts to local business on these tariffs, and we hope that the Liberal government follows our lead soon and stands up for local business.

Another issue, of course, is Shakwak funding. This is an important topic as well and one that is very important to both Yukon and Alaska. It is because of the important connection between the Yukon and Alaska that we are disappointed to hear from the Premier that he had not met with the previous Governor of Alaska, but we do hope that he will get to meet with the new one. I think that is why PNWER is a great thing: It gives us that opportunity to grow the connections with other jurisdictions. Hopefully that means our governments can meet. PNWER can also be a vehicle to discuss the important issues that I referenced earlier.

**Ms. Hanson:** On behalf of the Yukon New Democratic Party, I am pleased to respond to the ministerial statement today on the Pacific Northwest Economic Region leadership forum. I was pleased last night that my colleague and I from the NDP caucus had the opportunity to attend the opening reception of the Pacific Northwest Economic Region 2018 Economic Leadership Forum and to meet with representatives from other governments as well as leaders from the private sector groups who were represented at this event.

The PNWER event is occurring while we're in the Legislative Assembly Sitting, but I know that a number of us

will be attempting to sit in on sessions that are particularly apt and appropriate to some of the challenges that we are currently facing in the Yukon. I for one will be looking forward to trying to attend the energy solutions in the north session that will be going on later today and which will be focusing on creative solutions in meeting the energy needs in the north. That session will be showcasing the benefits of projects such as the Vuntut Gwitchin project that they are doing in partnership with ATCO Electric Yukon, which is an innovative, high penetration solar/diesel storage project in Old Crow. I understand a number of delegates from PNWER will be going to Old Crow to actually view this.

Another one that is particularly interesting given the announcement from the Northwest Territories about the \$40-million investment by the territorial government and federal government in Inuvik, with \$40 million for wind — the presentation that will be done as part of this energy solutions in the north is on piloting a wind-to-heat storage demonstration project — is particularly apt. The PNWER does offer those great opportunities.

Tomorrow, there is a breakfast keynote plenary that I will be looking forward to which is focusing on innovative infrastructure. It is not that futuristic anymore. Mr. Bruce Agnew will be talking about the future of autonomous, connected and electric shared vehicles — all things that are not that far away for us here in the Yukon. PNWER has offered the opportunity for the public as well as elected representatives to participate in these events, and we thank them for holding their meeting here this week.

**Hon. Mr. Pillai:** Mr. Speaker, I would like to reiterate how delighted we are to welcome these business leaders, legislators and governments to Whitehorse for the 2018 Economic Leadership Forum. I would like to thank the MLA for Porter Creek Centre and his team and the staff from the Economic Development department as well as Albert Drapeau and his staff from the Yukon First Nation Chamber of Commerce for all of their good work in putting this event together.

In response, I say to the Official Opposition, first, I appreciate that the Official Opposition took the opportunity that was afforded to all Canadians through the online process of putting their concerns in, whether it be on the free trade agreement or on tariffs. We sit at a bilateral table where we have representation and we are key in those conversations, so we do have a bit of an opportunity to have a verbal dialogue as well as going back and forth supporting our tariffs, versus my colleague who would be submitting probably on a public website or just sending a letter in — but all of that matters.

With that dedication, I would ask my colleague from Kluane — I appreciate the fact that there have been these many local companies that have reached out to him and his colleagues. PNWER is putting together a list of comments from businesses on their letterhead. I will have my executive assistant reach out to the Member for Kluane this week, and we will give a respectful time period for the member to gather those letters on behalf of the many individuals he listed today

in the House that have reached out to him so that we can work in conjunction.

Thank you to the Third Party, of course, for being there with us last night — any opportunity to speak to American policy-makers is key. I know that there were a couple of previous Yukon Party ministers there who I recognized last night — Jim Kenyon as well as then-Minister Rouble — so they were there. We think we all did a good job of speaking. Any chance you can get to be there this week before it is over, I think it would be good. Of course, we will be taking up the Shaktak invite and the opportunity to meet with the new governor. This is all, of course, because of this event.

Just in closing, I was excited to see the announcement of the \$40 million in Inuvik, but the devil is in the details. It is through the Arctic energy fund. I am not sure what the allotment has been to the Northwest Territories. I know that the Yukon allotment is about \$50 million. I would think that the Northwest Territories' allotment is similar, which means that my good friend Minister Schumann has decided to use the majority of the Arctic energy fund on one particular project — although it will offset up to something like three million litres of diesel on an annual basis.

Here we don't just have one partner; we have nine partners who are all looking to use that same fund. We are looking to diversity throughout the Yukon, not just on one turbine. But I do congratulate them and I will look for more details to bring forward to the House.

Thank you, Mr. Speaker, for the opportunity to brief Yukoners on this important event that is happening.

**Speaker:** This then brings us to Question Period.

## QUESTION PERIOD

### Question re: Carbon tax

**Mr. Hassard:** Well, another day and another leaked document. This time it is a document contradicting the Premier on the carbon tax. Last week, the Premier told us he was working with the Yukon Chamber of Commerce to develop a rebate for the trucking industry. According to the document that CBC reported on today, the chamber of commerce has stressed to the Liberals that they are not the lead on this and that they are only one member of a larger committee. Further, that committee — and I will quote from the document: "... doesn't want to be used as the entity that supported and approved the design of the Yukon government rebate."

It looks like the Premier has been misrepresenting the facts, so will he apologize and will he tell us how the rebate for the trucking sector will work?

**Hon. Mr. Silver:** We committed to working with the business community to rebate dollars from the federal carbon pricing, and this leaked document shows that work is in action, and I want to give a shout-out to the chamber. We are doing our job of consulting. Sometimes we don't do enough consultation according to the members opposite, and sometimes I guess we do too much.

There are differences of opinion right now as far as options for a rebate model on the table — as you can see from this document, Mr. Speaker — so nothing has been decided. As you can also see in this document, there are other areas such as the treatment of Yukon electrical utilities — that conversation, again — we are still waiting for some clarity from the federal government, but we are excited to be moving forward with that as well.

We are continuing to gather information from the business community on the carbon-pricing rebate.

I won't speculate or pre-determine the outcome of this work, but I do want to give a shout-out to the low carbon stakeholder committee, made up of an impressive list of organizations, including the Association of Yukon Communities, Cold Climate Innovation research centre, the Klondike Placer Miners Association, the Tourism Industry Association of Yukon, Yukon Agricultural Association, the Yukon Chamber of Commerce, Yukon Conservation Society, Yukon Contractors Association — and it goes on and on.

Mr. Speaker, we made a commitment to rebate and to return all the money to Yukoners and we're sticking by that commitment.

**Mr. Hassard:** Last week, the Premier told us that it was 90 percent done; now he says that nothing is decided. It's rather confusing for Yukoners.

On October 31, regarding the carbon tax, the Premier said he had — and I quote: "Great conversations about how the cheques are going to get back into the pockets of Yukoners..." Later that day, he said that the final details on how we're going to get those cheques into the pockets of Yukoners will come. A minute later, he said that those cheques will be coming. Shortly after that, the Premier said: I do appreciate Yukoners' concerns as far as how we are going to get the cheque in the mail. Then he said — and I quote again: "... the Yukon Liberal Party — this government — can get those cheques in the mail..." That's interesting, Mr. Speaker, because this leaked document from a meeting that the Premier's chief of staff was at, discussing the carbon tax rebates, says that they will not be distributed by cheque. So can the Premier tell us who we should believe?

**Hon. Mr. Silver:** My goodness, Mr. Speaker — yes, we are still waiting to find out how exactly those cheques are going to get in the mail. We commit to that and we will still see that. I stand by every single one of those statements. I don't know what's confusing to the member opposite. We're working on options; we're working with both the business community and individuals, and there will be cheques in the mail.

I don't really know necessarily what the big deal is to the members opposite other than this leaked document. Again, they are relying their whole careers now on leaked documents, which is fine by me.

At the same time, we're going to continue to work with businesses, we're going to continue to work with governments, and we're going to continue to work with the federal government, because we believe you need to put a price on carbon because we believe that man-made climate

change is real. We want to make sure that we have international and national governments working together to make sure that we actually do put a price on carbon and that we can actually maybe turn into a jurisdiction at the forefront of innovations and technologies, whereas the Yukon Party — well, they don't even have a plan, and they're just criticizing ours. We have been at this table here in the Legislative Assembly talking about all the details that have come out as far as the rebate mechanisms, as far as working with the First Nation governments, the municipality governments and the placer miners.

The members opposite make it seem like they haven't heard anything from all of the stuff that we have announced, but I guess it's really hard to hear anything on carbon when your head is in the sand on carbon.

**Mr. Hassard:** As I said, the Premier has told us how it's 90 percent done, and then he says that nothing is decided. He tells us that the cheques will be out, but the document says that the rebate will be given via a tax credit in the following year, not as a cheque, so obviously the Premier is not up to date on his own files.

In terms of the leaks, we have seen leaks with the Cabinet directive asking departments to look for cuts. We have seen leaks about the mining industry concerns with the *Quartz Mining Act* and e-mails from concerned employees at schools. Today, there's a leaked document about the carbon tax. The newest leak states that the Premier's staff met with the chamber and the low carbon committee on August 13 and 29 to discuss the carbon tax design.

We do know that we will have trouble ATIPPING the minutes from that meeting, so would the Premier be open and transparent and provide those minutes, or do we have to wait for them to come in the form of a leak as well, Mr. Speaker?

**Hon. Mr. Silver:** It's easy to be confused if all you are doing is listening to the Yukon Party, because they take everything out of context.

I'll resay exactly what I said. There are options on the table for the rebate model that we're discussing with the business community. So again, if the members opposite would actually listen as opposed to talking while I talk, they would hear that on that particular file nothing has been decided yet. If something was decided, we would be the first ones to be in the Legislative Assembly talking about the decisions —

**Some Hon. Member:** (Inaudible)

**Speaker:** Order, please. The Premier has the floor.

**Hon. Mr. Silver:** Thank you, Mr. Speaker — talking about the decisions that we've made with the business community.

Now, again, this is us working in consultation with the Yukon business community. It is our rebate. We will be giving that rebate. We're not looking for someone to say that it's their rebate. We've been very, very clear that the federal government collects the money, and we've been very clear that we will be rebating 100 percent of that money back to Yukoners and Yukon businesses. We are going to make good on that commitment, and again, as opposed to having a conversation in here about the budget, what we have is a

Yukon Party that relies on leaked documents, going on those things and trying to spark together these narratives based upon pieces of paper.

We will continue to have a whole-of-government approach using our Cabinet committees and using our engagement and our stakeholders, and we will work on all of these files for Yukoners because we said that we were going to rebate that money and we will rebate that money.

**Question re: Carbon tax**

**Mr. Cathers:** The Liberals were elected 737 days ago, and we still have no details on how the carbon tax rebates will work. This government's inability to make a decision is their defining characteristic. When we ask how carbon tax rebates are going to work, the Premier says that we are waiting for Ottawa, or he points to the chamber and the low carbon committee.

Last week an economist debunked the Premier's first excuse. This week a leaked document states that the low carbon committee: "... doesn't want to be used as the entity that supported and approved the design of the Yukon government rebate." The leaked document states that the committee doesn't support the rebates, so that excuse of the Premier is debunked too.

Either the Premier isn't paying attention to the file, or what he's saying are falsehoods — to be quite frank with you. Which is it?

**Hon. Mr. Silver:** If the member opposite was spending less time preening to the camera and more time listening to the answers to the first question, he would have heard that, again, the majority of the decisions on carbon pricing and how we're going to be rebating that money have been decided already. We've spoken at length — ad nauseam, almost — this year about the carbon pricing in regard to mining, in regard to aviation —

**Some Hon. Member:** (Inaudible)

**Hon. Mr. Silver:** Again, the members off-mic want to talk when I'm talking because they don't want to hear this. They don't want to hear that the government here is working with First Nation communities. They don't want to hear that this government is working with the municipal communities, with the mining industry or with the agencies internationally that are saying that carbon pricing is the most cost-effective way of dealing with man-made climate change.

So again, we answered the questions. We said that we are committed to working with the business community to rebate the dollars from the carbon-pricing mechanism, and this document shows this work in action. Again, we will continue to commit to working on this.

I will be very clear again — because we know how the Yukon Party likes to parse out the parts of quotes that they like and not the other parts — that there are different options for a rebate model on the table, and so you can see from the document that nothing has been decided on that yet. Again, once something gets decided from these conversations, I will be the first one ready, willing and quite able to make sure that

Yukoners know how the money is going to be rebated to Yukoners and Yukon businesses.

**Mr. Cathers:** Unfortunately for the Premier, this is another area where his narrative falls apart when you look at his own documents. The trucking industry and the aviation industry compete against each other in the delivery of freight. Last week, we asked the Premier why he didn't fight for a carbon tax exemption for the trucking industry.

He was quick to brag that he fought for one for the aviation industry, so it must be possible to get exemptions if you try hard enough — unless, of course, the Premier is now changing his tune and saying that he took credit for something he actually had no role in. Will the Premier agree to send a letter to the federal environment minister today asking that the trucking industry be exempt from the Liberal carbon tax scheme?

**Hon. Mr. Silver:** What we do know is that the local businesses here will be part of the rebate mechanism. What we do also know is that there is a low carbon stakeholder committee that is currently working to make sure that we take into consideration the needs of businesses as we rebate this money. Again, the Yukon Party would make it seem like this money is not going to be rebated to a particular sector. They make it seem as if the transportation industry is not going to be part of that rebate mechanism. That is simply not true, Mr. Speaker.

But anyway, again, we will continue to gather input from the business community on the carbon-pricing rebate. I won't speculate or predetermine the outcome of this work. Members of the Department of Finance have been meeting with this committee over the summer and into the fall, and those talks continue. I want to thank the members of this low carbon stakeholder committee. The other groups that I did not mention include the Yukon Contractors Association, Yukon First Nation Chamber of Commerce and also the Yukon Wood Products Association. It is great to have these conversations. When we come to this table, we come to it wanting to rebate 100 percent of the money to Yukoners. We also do not want to grow government. Those are two things that I guess the Yukon Party is against, but we will continue to make good on that campaign promise.

**Mr. Cathers:** What we are basically hearing from the Premier is, how dare we remind him of the facts.

I have a letter here signed by the Leader of the Official Opposition addressed to the federal environment minister asking her to please also exempt the Yukon's trucking industry from the carbon tax. We left a blank signature spot for the Premier so he can co-sign it with us and show bipartisan support for our trucking industry. I will quickly read the letter for the Premier. It is very short and straightforward:

"Thank you for granting northern aviation companies an exemption from the carbon tax.

"Given that aviation companies compete with Yukon's trucking industry for the hauling of freight, we request that you please also exempt this industry in order to prevent any competitive disadvantages created as a result of this new tax."

Will the Premier agree to sign it?

**Hon. Mr. Silver:** I have not seen a day yet when the Yukon Party is actually working with this government when it comes to how we are going to be rebating the money to Yukon businesses and Yukon communities. So with all due respect to the members opposite, I am not going to be taking advice from an ex-government that really had no plan on carbon and basically now wants to still drive this government from the backseat. Again, we think that we are on the right side of history. We believe in carbon pricing as a mechanism to make sure that we can transition to a non-fossil-fuel future.

Maybe our college — as it turns into a university — also can reap the benefits of the Cold Climate Innovation and the technologies, Northern Lights as well, and of YuKconstruct and the (co)space that is developing there — also working forward on technologies as we transfer ourselves into a new era of a non-fossil-fuel future.

Mr. Speaker, we have made a commitment to businesses in the Yukon. We have made a commitment to individuals in the Yukon that we will rebate 100 percent of that money to Yukoners. We are thrilled with the work that we have done with the federal government to get the exemptions that we did get. We are very excited to be able to work with the placer miners to have a dollar-for-dollar rebate there as well, but again, all of this falls on deaf ears because the Yukon Party is not paying attention — with their heads in the sand when it comes to carbon.

#### **Question re: Whitehorse Correctional Centre phone system revenue**

**Ms. Hanson:** Last week, Members of the Legislative Assembly heard the independent inspector appointed by the Minister of Justice to conduct an inspection of Whitehorse Correctional Centre repeat his recommendation that the Corrections branch should stop charging clients for local phone calls. This would help to enhance ongoing connection between inmates, their families and their communities, critical to rehabilitation.

Can the minister tell this House how much is currently charged for a local call at Whitehorse Correctional Centre?

**Hon. Ms. McPhee:** I appreciate the question; I think it is an excellent question. It is certainly something that I have asked the department to look into. I have read all of the recommendations, of course, of Mr. Loukidelis. I heard his comments in answer to a question here last week, and I do think that it is a situation that requires us to look into it and get more information. I have asked for that, and I am happy to provide it to the member opposite when I receive it.

I think it is important to note that the *Whitehorse Correctional Centre Inspection Report* and all of the recommendations made by Mr. Loukidelis have been turned over to an implementation working group, and that group is currently working. That is one of the recommendations that they need to address.

**Ms. Hanson:** To be fair, I didn't expect the minister to know the answer. The answer is \$2.40 for a local call, Mr. Speaker. That is because Whitehorse Correctional Centre

has contracted its phone services to a Texas-based company called Synergy. Synergy provides the phone system as well as the payment kiosk for families who want to deposit money in an inmate's account. As you can imagine, this all comes with a hefty administrative fee for inmates and their families. The company's website reads — and I quote: "Synergy provides secure, state-of-the-art inmate communication technology as well as ways to help our clients create new revenue." Mr. Speaker, the client here is the Yukon government.

Does the minister think it is appropriate for the government to create new revenue by putting up a barrier for inmates to contact their family and their community?

**Hon. Ms. McPhee:** Again, I appreciate the question. I think these are exactly the kinds of questions that the testimony of Mr. Loukidelis raised for me as well. The department is looking into that and how we provide that service. Again, it is a recommendation from the Correctional Centre review by Mr. Loukidelis, and it will be addressed not only by my questions — and I am happy to provide those answers to the member opposite — but also by the implementation working group and the work that they are doing on implementing those recommendations.

**Ms. Hanson:** Actually, in the last question, I was not asking for the department's views; I was asking for the minister's views. We do appreciate that some of the funds generated are going to the victim services trust, but it doesn't change the fact that charging \$2.40 for a local call prevents inmates from contacting their families, their counsellors and other supports. This doesn't help rehabilitation. That is why Mr. Loukidelis recommended that inmates and their families shouldn't be charged for phone calls.

The government's contract with Texas-based Synergy doesn't cost anything to Whitehorse Correctional Centre, which means the company keeps a share of the revenue — but so far, we haven't been able to find out how much the company keeps.

Can the minister tell this House how much money Synergy is making on the backs of inmates and their families? Will the minister commit to implementing Mr. Loukidelis's recommendation to stop charging for phone calls at Whitehorse Correctional Centre — not put it off, but actually stop it now?

**Hon. Ms. McPhee:** I am going to assume that since the member opposite didn't expect me to know the answer to the first question, she will not actually expect me to know the answer to the third. But I will repeat the fact that it is something I have asked for — the information that I have requested — and that it is one of the recommendations.

I think I will take an important opportunity to remind the members of this House as well as to remind Yukoners that the only instruction given to the implementation working group is: Tell us how, get the information and determine how best to implement the recommendations from the Whitehorse Correctional Centre review done by Mr. Loukidelis so that we can improve services — improve the services at the Whitehorse Correctional Centre and, more particularly, improve the services to inmates.

**Question re: Resource Gateway project**

**Mr. Kent:** Yesterday we asked the Minister of Energy, Mines and Resources to tell us when construction for the Resource Gateway roads project will begin. Unfortunately, he was unable to provide a very clear answer.

By way of background for everyone, the federal government approved the project in June 2017. Further, according to the federal government — and this is quoting from the government's website — the forecasted construction date was supposed to be June 1 of this year. It's pretty clear, Mr. Speaker — the forecasted construction date.

This would have been the date that the Liberals would have told the federal government that they could have shovels in the ground. Now that they have missed this deadline by five and a half months, is the minister able to give us a date for when construction will start so that the Government of Canada can update its website?

**Hon. Mr. Pillai:** Of course, the Department of Energy, Mines and Resources — as we spoke to yesterday — continues to work with Highways and Public Works and the directly affected First Nations to achieve project agreements to proceed with the Yukon Resource Gateway program.

I would look at this project as three separate entities. I would say, first of all, that when it comes to the Little Salmon Carmacks First Nation portion of the project, which is a bypass into the community, there is some significant geotechnical work that needs to be done. Of course, we have an agreement in place. We have to go through a YESAA process for the geotechnical work. I will leave it to my colleague. I know the departments are looking at how they can maybe compress the applications but, of course, still respecting the process with YESAA.

As for the other two projects, we have been in very fluid conversations with the Liard First Nation. We continue to look at phase 1 of that project. There have been good negotiations happening, and we are moving toward agreement. In many of those cases, there will not need to be significant environmental processes because, in some cases — and I think the member opposite would remember that it is for upgrades to existing roads and some of that important work. It's the same in the goldfields area as well.

Of course, some of the additional work in that third portion as it goes into the Coffee Gold is still going through an environmental process that is part of the larger package. I will leave questions 2 and 3 to my colleague for Highways and Public Works.

**Mr. Kent:** What we do know is that the construction start date is now five and a half months late, and the minister can't tell us when he believes that construction will start.

Important work that could be happening now is on the engineering side of things. Can the minister tell us if the engineering work has started on the project? How long does he anticipate that to take?

**Hon. Mr. Mostyn:** I am happy to revisit this issue this afternoon. We did have a conversation yesterday about this. I am more than happy to come back to it again today.

The member opposite has said work hasn't started — that's not true. I said it yesterday; I'll say it again. Perhaps the members opposite don't consider planning as part of the job, but planning is certainly part of the job. We're not doing things fast and loose over here. We are actually going through in a methodical way and planning out the three phases of this project on Gateway.

Gateway work has begun within the Department of Highways and Public Works. Engineering, the YESAA process — we're looking at a drill program that's going to be underway in the Little Salmon Carmacks region. So there's an awful lot of work on this project going on, Mr. Speaker, so Yukoners can rest assured that this project is proceeding. It's something we have done because we are working very closely with our First Nation partners. That's something that's new to the members opposite, but that's what we vowed to do; that's what we are doing. We are working very closely with them. We're making sure that we don't proceed without their agreement. That's what we committed to the federal government as part of the Gateway project; that's what we're doing. We're more than happy to continue working with our First Nation partners and getting this project going.

**Mr. Kent:** So the construction date is five and a half months late. The minister can't tell us when construction will start. He can't even tell us definitively if the engineering has been started. Again, the federal government website stated — and the date is yesterday morning at 11:30 — that construction was supposed to have started on June 1 of this year, with a forecast construction end date in March 2024.

Again, Mr. Speaker, we asked this yesterday, but will ask again: Since the minister is unable to provide us with any updates on construction conclusion or engineering, can he at least tell us when the project will be submitted for environmental review and how long he anticipates that review to take?

**Hon. Mr. Pillai:** As I stated to the question, the member opposite is asking specifically as if this would be submitted as one project. There are multiple phases to different areas of the road.

What I will say is that this is another file where what we're getting is split hairs on which month this is going in or "what's the update on this", but the reality is that it's another project from the "didn't get it done" pile. We showed up; there was an application; we're working with the application that the previous government submitted.

Do you know when it will get done? It will be when we have a respectful agreement in place with our partners. That's when it will get done. You know what? If you go back to the court case and the hundreds and hundreds of thousands of dollars the previous government spent because they didn't figure that out — when we have a respectful agreement in place with our partners, we will build the roads in partnership with them. That's when it's going to get done. I'm not going to allude to anything until we have those agreements. We have one agreement in place. Your team is doing a great job, but that's how you get it done.

Just like we picked up the fibre project — we'll also get that one done. I know our friends across the way like to make announcements on stuff that they didn't get out the door, but the work is being done. Anybody who has been involved or has the background in project management would understand that project open and the front-end scoping is a very important part of it versus the willy-nilly, and then you get into problems like we have seen in the past.

**Question re: Tourism development strategy**

**Ms. Van Bibber:** On October 22, the Minister of Tourism and Culture stated that tourism has plateaued a little bit in terms of increase in the GDP. She used this statement to justify the new tourism strategy which includes a recommendation to create a new government agency.

This statement jumped out at us because there was a bit of difference from what we had heard. We went back and looked at the annual tourism report that the minister tabled in the House in March. According to the revenues, sales and visitation, all are up. I assume the minister has the information to back up the statement. Can the minister provide us with the information that shows tourism has plateaued?

**Hon. Ms. Dendys:** I thank the member opposite for the question. Yes, I am happy to stand and talk about tourism today. I did make that statement because the tourism GDP has been around the same mark for many years. Right now, what we're doing with the development of a new Yukon tourism development strategy that hasn't been done — a new plan hasn't been in place for 18 years — is that we're taking tourism to the next level. We know that we have an opportunity where tourism has been performing at that kind of equal level for a while. Yes, last year we had a very good year, and we want to take advantage of that and bring it to the next level, which is why we put together an all-partners, all-stakeholders tourism development strategy committee.

We're working with them. They have worked very hard over the last year and a few months to develop a draft tourism development strategy, and we're looking forward to having that in our hands soon. We'll analyze that on our side when we have that, explore all of the options that are being put forward and move forward on a new tourism development strategy for Yukon.

**Ms. Van Bibber:** The minister justified a new tourism strategy that includes a recommendation for a new government agency by stating that tourism has plateaued or stayed the same. All we are asking is for the minister to provide us with information to back up her statement. What was the tourism's contribution to the GDP last year?

**Hon. Ms. Dendys:** Thank you for the supplementary question. The GDP for last year was 4.4 percent. I have stated that in the House. Tourism represents 3,500 good-paying jobs in Yukon and, in fact, we're in the highest in Canada. We're the second highest GDP attributed to tourism in Canada.

What I have said in this House — and I will probably say it many more times — is that tourism has been performing well and it has been at a pretty level percentage over the last several years. We want to take advantage of that. Tourism has

been up in Canada — the numbers are up. We haven't had a new plan in 18 years.

Working with all of our partners, taking into consideration self-government and all of the opportunities that we have with Yukon First Nation governments and with all of our partners throughout the entire territory, we have an opportunity to take tourism to the next level, which is the whole premise of this new draft tourism development strategy, and we will be happy to have this in place soon.

**Ms. Van Bibber:** The minister made the statement that tourism has plateaued in the territory, and I assume this is based on a briefing note. We were just asking for the minister to provide us the information to demonstrate to us that indeed tourism has plateaued, like she stated.

This information would be very helpful to us as we discuss the important issue of tourism. As we have stated, the annual tourism report the minister tabled seemed to contradict her, but we do look forward to her providing the information to back up her claim.

Can the minister also provide us with an analysis that shows how the new government agency will increase tourism's contribution to the GDP?

**Hon. Ms. Dendys:** I think I stated very clearly in my previous statements the need that we have in the Yukon for a new plan that takes into consideration all of the new opportunities that we have in Yukon. We are looking forward to developing indigenous and cultural tourism. We are looking forward to taking advantage of winter tourism. We had a great summit last year that fed into a new draft tourism development strategy that has brought together many, many Yukoners — many business owners and industry from across the territory — who worked hard to look at the shoulder season and to look at the winter season. We have tremendous opportunity in the Yukon to take tourism to a whole new level.

What we have done with this draft tourism strategy is that we talked to Yukoners — 12,000 comments were gathered. The tourism strategy committee worked very hard. We had 15 members from all across the industry who worked very, very hard on putting together a plan that is for Yukoners. It is not a Yukon government strategy. This is a Yukon tourism development strategy, and I cannot emphasize that enough.

I am very proud of the work that we have done on this and I am looking very forward to having it in my hands soon.

**Speaker:** The time for Question Period has now elapsed.

Introduction of visitors outside of the time provided.

**INTRODUCTION OF VISITORS**

**Ms. Hanson:** I would ask my colleagues to join me in welcoming Jessica Lott Thompson, director of the Yukon Human Rights Commission, to the Legislative Assembly this afternoon.

*Applause*

## ORDERS OF THE DAY

### OPPOSITION PRIVATE MEMBERS' BUSINESS

#### MOTIONS OTHER THAN GOVERNMENT MOTIONS

**Clerk:** Motion No. 330, standing in the name of Ms. Hanson.

**Speaker:** It is moved by the Leader of the Third Party:

THAT this House urges the Government of Yukon to strengthen the independence of the Yukon Human Rights Commission by making the commission an office of the Yukon Legislative Assembly.

**Ms. Hanson:** I thank all the members for participating in this conversation this afternoon. Mr. Speaker, this motion is brought forward as something that is not new.

During the course of the conversation this afternoon, I hope to lay out a bit of a background as to why the Yukon NDP believes that we do, as Members of this Legislative Assembly, finally need to act on recommendations that go back a very long time with respect to strengthening the independence of the office of the Human Rights Commissioner — the office of the Human Rights Commission — by making the commission an Officer of the Yukon Legislative Assembly. I note there is a nuance, Mr. Speaker, in terms of the way the motion is written. It says “office”, and it’s intended to mean “officer”. The intent really is to provide the Yukon Human Rights Commission the status of an independent officer of the Legislative Assembly.

It’s important to keep in mind that the Yukon Human Rights Commission was established 31 years ago, in 1987. At the time, it was groundbreaking legislation. The *Human Rights Act* states its objectives are: “(a) to further in the Yukon the public policy that every individual is free and equal in dignity and rights; (b) to discourage and eliminate discrimination; (c) to promote recognition of the inherent dignity and worth and of the equal and inalienable rights of all members of the human family, these being principles underlying the Canadian Charter of Rights and Freedoms and the Universal Declaration of Human Rights and other solemn undertakings, international and national, which Canada honours.”

I think it’s important, Mr. Speaker, to repeat these publicly, because sometimes we forget that the Human Rights Commission is more than a place for individuals to take their complaints or concerns. It is vital that the work of the Human Rights Commission be given the independence and resources to conduct the business of the commission independent of government.

Approval of this motion would require — would absolutely require — amendments to the legislation to bring it in line with other offices of the Legislature, including the Ombudsman, the Child and Youth Advocate and the Chief Electoral Officer. But, Mr. Speaker, the discussion around this is not new. I think that’s why it should be so simple for this Legislative Assembly to come to an agreement this afternoon with respect to this motion.

The “how” that we employ to achieve it will be up to the government, of course, in terms of implementing the necessary legislative amendments, but it’s the will of this Legislative Assembly that I’m looking for this afternoon. I’m looking to the expression of the will of this government and all members of this Legislative Assembly to express that we do believe that the Human Rights Commission not only needs to be perceived to be independent of government, but that it must be by design and by legislation independent of government.

In October 2007, 20 years after the human rights legislation was passed, a private member, Don Inverarity, Liberal Member for Porter Creek Centre, introduced a private member’s bill to amend the Yukon human rights legislation. Unfortunately, it didn’t get very far. Debate was adjourned about a month after he introduced it; however, the Legislative Assembly of the day determined that it would appoint by motion a select committee on human rights. That was Motion No. 374, and it would refer that private member’s bill and other matters with respect to the *Human Rights Act* to a select committee.

The lead for the all-party select committee of this Legislative Assembly was appointed in October 2007. It included: Marian Horne, Yukon Party, Pelly-Nisutlin; Don Inverarity, Liberal, Porter Creek Centre; and Steve Cardiff, NDP, Mount Lorne. The independent select committee reported back to the Legislative Assembly in November 2008 — 10 years ago. They heard submissions from over two dozen individuals, and they held hearings.

I just thought that I would spend a little bit of time going through a couple of those findings and one of those submissions, as well as a few other matters with respect to how often this very same issue has been debated and discussed in this Legislative Assembly and why it should not be a matter of any contention, that we should be simply coming to an agreement on this matter.

On October 17, 2008, the Yukon Human Rights Commission, in its submission to the select committee on improving the *Human Rights Act*, made a recommendation and noted some comments made by the committee — and I will come back to that section. They made a comment with respect to part 3, section 16(1) of current act, which provides that “There shall be a Yukon Human Rights Commission accountable to the Legislative Assembly and the commission shall...” The Human Rights Commission pointed out in October 2008 that there is no mention of how the commission is to be funded. They recommended a change to the legislation — and I am not prescribing or suggesting that the language that the Human Rights Commission proposed 10 years ago is the correct approach, Mr. Speaker. What I am suggesting is that what they were seeking to achieve was an independence from the current arrangement.

Perhaps I should step back one moment. We recognize — and all members of this Legislature do recognize — that the Yukon Human Rights Commission does report to the Legislative Assembly, but for financial purposes and for funding purposes, they are treated as a part of the Department

of Justice — a government department, Mr. Speaker. There is no perception of independence from the functions of a government department.

In order to address that 10 years ago, the Human Rights Commission had recommended that a new section be added to the legislation that would say, “The Commission shall submit annually to the Members’ Services Board in respect of each financial year, an estimate of the sum that will be required to be provided by the Legislative Assembly to defray the expenses of the Commission in that financial year.” The second part of that would be: “The Members’ Services Board shall review the estimate submitted pursuant to subsection (1) and, on completion of the review, the Speaker shall transmit the estimate to the Minister of Finance for recommendation to the Legislative Assembly.” In response to the question “why”, the Human Rights Commission said: “The proposed change is the same as the funding provision in the Yukon’s *Ombudsman Act*. This change would allow the commission to have and maintain a fundamental arm’s-length relationship with the Department of Justice. Currently the Commission submits a budget each year to the Department of Justice. The Commission’s funding is a line item within the Department of Justice’s budget...” — equal at that time, according to the submission of October 17, 2008, to approximately one percent of the department’s overall budget.

The commission said, “The Department of Justice has the potential of being a respondent in human rights complaints and also lawyers from the Department of Justice represent other departments which have human rights complaints filed against them. Currently, there is no provision in the *Act* about how the commission is to be funded. Some members of the public have told the Commission that they do not perceive the Commission as neutral, due to the current funding arrangements.” That was part of the submission made by the Human Rights Commission to the Select Committee on Human Rights in 2007-08.

When the Select Committee on Human Rights made its report in November 2008, their concluding statement or paragraph was that: “While the Yukon’s *Human Rights Act* was viewed as cutting-edge legislation across Canada at the time it was passed...” — and at that time, it was 21 years ago; it is now 31 years ago — “... the Select Committee believes the *Act* now needs to be reviewed and updated.”

Mr. Speaker, I am simply echoing that recommendation. It needs to be reviewed and updated with respect to the independence of the office of the Human Rights Commission. “The Committee...” — they said — “... feels that the primary purpose of the *Act* is, and should remain, to protect the rights of all Yukoners.”

In their detailed recommendations, they made recommendation 25: “Section 16: Role of Commission — Funding”. They outlined the considerations. They found within their discussion items — they said, as I had outlined in the current section 16(3) and 16(4), that because it’s within the Department of Justice, it’s viewed as too close and too controlling.

In 2010, the Department of Justice issued a discussion paper and asked for submissions on modernizing the human rights system in Yukon. That was in October 2010, I believe. The Yukon Human Rights Commission made a submission on the discussion paper — the discussion paper being *Modernizing the Human Rights System in Yukon* — and submitted it on October 8, 2010 — eight years ago.

The Human Rights Commission, in its introduction — and this paper was submitted by the chair of the Human Rights Commission. At that time, the chair’s name was Melissa Atkinson. She indicated — and I’m quoting: “... I welcome improvements to the human rights system. An important aspect of law reform is keeping pace with change...”

Further, she says — and I quote: “The Commission believes there must be better funding for the education component of its mandate and work. In terms of effectiveness, it is also important to ensure that the Commission’s funding is adequate to carry out its full mandate in a timely and efficient way and at arm’s length from government.”

The Chair of the Human Rights Commission in 2010 further said, “To achieve this, the Commission has repeatedly stated that its funding should be dealt with by the Member Services Board of the Legislative Assembly and not through the Department of Justice, which is a respondent in some complaints and also the department which provides legal advice and representation to government respondents on various other human rights complaints.”

I have to say that it looks like the Department of Justice, in reviewing and asking for input on modernizing the human rights system in Yukon, actually did provide to the respondents in advance some discussion papers to guide them in providing their input. These five expert papers provided by the Department of Justice were considered by the Human Rights Commission to be very helpful, including one called “Balancing Accountability and Independence of Human Rights Agencies” by the expert panelist Lorne Sossin. The commission referred to a number of these papers throughout its submission.

I’ll note, Mr. Speaker, that the submission made by the Human Rights Commission regarding this consultation process was detailed. It was very thorough, and I think that it merits consideration by Members of the Legislative Assembly as they dwell on the fact that various chairs of the Human Rights Commission and various constructs of membership of the Human Rights Commission over the past 31 years have identified this as a significant issue in terms of their ability to deliver on the objects and the objectivity of the Human Rights Commission as contemplated by Members of this Legislative Assembly when establishing the Human Rights Commission.

As I mentioned, there were five papers that had been circulated by the Department of Justice with these various thematic aspects to them. One was on funding and financial accountability, so the question was: Do the existing processes by which the Yukon Human Rights Commission and tribunal are funded strike an appropriate balance between independence and accountability? The response by the Human

Rights Commission was: “In the Commission’s view the current arrangements for funding the Commission do not strike an appropriate balance between accountability and independence.” The commission, they said, “... is a statutory body created by the Legislature or the legislative branch. It is not created by government (often referred to as the executive branch in Canadian constitutional law). Although the Justice discussion paper...” — and here they are referring to the discussion paper that I was mentioning earlier. It says that human rights commissions are created by governments for the purpose of implementing government policy. This is not true in the Yukon. It is also worth noting that typically the commission’s legislative mandate does not change as governments come and go.

From this response to the request from the Department of Justice by the Human Rights Commission on October 10, 2010, it says, “*Financial Accountability* — Under the requirements of the *Human Rights Act*, the Commission reports to the Legislature every year by tabling its annual report which becomes part of the public record. The Commission’s financial statements are always included: they are the result of a review of the Commission’s books by an accountant each year which is produced in its entirety in the annual report. The report is also available on our website and in accessible formats through the Commission office. In this way, the Commission is financially accountable to both the Legislature and the Yukon public about the public money it has spent, as it should be.”

The commission further went on to talk about the lack of financial independence: “The Commission is not required under the *Human Rights Act* to report to any part of the Government, including the Department of Justice. However, currently, the Commission is required to obtain its funding from a contribution agreement with the Department of Justice. The Commission has explained throughout this past decade...” — which is now two decades — “... to the Justice Department that (1) there is no requirement for this in the *Human Rights Act*, which is paramount over all other Yukon acts, including the *Financial Administration Act* and that (2) in the Commission’s view the current arrangements impair the independence of the Commission in terms of public perception.”

That is a theme that recurs over and over again — impairing the independence of the Commission in terms of public perception. The Commission went on to talk about the nature of the problem: “The Commission investigates and deals with complaints against the Government, including those against the Department of Justice. In addition, the Department of Justice typically provides lawyers to represent the various government departments in responding to complaints against them, either as an employer or service provider.”

The Human Rights Commission reflected on the select committee. I made reference already to the select committee that was appointed in October 2007 and reported in November 2008, so we are now at a consultation paper two years later by the Department of Justice on the Select Committee on Human

Rights — modernizing the *Human Rights Act* — and the Yukon Human Rights Commission, in response to that consultation — you can see why some people might begin to wonder at what point government ever takes an action, because we are just going to keep putting things off for 20 or 30 years. However, they do reflect on the select committee’s recommendation that the committee not be funded through Justice. So they say: “The Select Committee on Human Rights, a body set up by the Legislature, not the government, and made up of members of Legislature, recommended unanimously that the Commission’s funding be removed from the Department of Justice.” The discussion paper that the Department of Justice put forward — they don’t say why, nor does the committee’s report, other than to say it is too close.

“However, two members of the Select Committee both spoke on this issue in the Legislature on March 30, 2009, when the Minister of Justice tabled amendments to the *Human Rights Act*. MLA Don Inverarity” — the Liberal MLA from Porter Creek Centre said — and I quote: “The issue is one of transparency and... it’s important that... we move toward trying to move the funding arrangement for the Yukon Human Rights Commission out of the Department of Justice and perhaps into the Yukon Legislative Assembly, much like some of the other boards we have.” Eight years later — that is not so bad.

As just about the last point from this submission by the Human Rights Commission on October 8, 2010 — and I will quote what the commission’s position is: “The Commission recommended in its submission to the Select Committee that it should be funded through the Member Services Board of the Legislature...” So they have already said this to the select committee, but now they are being asked again by the Department of Justice in another consultation, round two, three years later. They are reiterating that “... it should be funded through the Member Services Board of the Legislature, just as the Ombudsman is — another statutory decision-maker which must be independent and must be seen to be independent of government and with a mandate to investigate government. There is no explanation in the Justice discussion paper...” — which I referenced earlier — so these five papers that were circulated as part of the discussion around modernizing the legislation. There was no discussion in those papers as to why the Ombudsman and child advocate have direct financial accountability to the Legislature while the commission does not.

The commission told the select committee and the Department of Justice that some members of the public, including parties to complaints, have told the commission that they do not perceive it as neutral because of the current funding arrangements. In the past several years — so this is prior to 2010 — this issue has been formally raised in written submissions by complainants in several cases as a legal issue.

The reference that I made to those five papers — there was reference made by Mary Cornish in her paper commissioned by the Department of Justice as part of this consultation in modernizing the *Human Rights Act*, which was about building a culture of equality through human rights

enforcement. Again, this was part of the consultation that was given to the respondents to comment on. She pointed out in her expert paper — she says at page 4: “... with the government often the respondent in human rights complaints, funding and appointments must be structured so as to ensure the independence and expertise of human rights institutions.” This is a paper commissioned by the Government of Yukon, by the Department of Justice, and she is saying exactly what the Human Rights Commission has been saying.

The Human Rights Commission’s paper — and I commend it to the Members of the Legislative Assembly, because it actually is very thorough and gives a fair amount of background on a number of situations that have occurred in case law elsewhere that might be informative in helping us to understand how they came to this very same conclusion as some of the experts commissioned by the Department of Justice but, so far, not acted on by subsequent governments.

They point out again that the *Human Rights Act* is silent on the question of how the commission is to be funded and said that this should be clarified.

The commission in summary then said, “The Yukon Commission believes, as do many Yukoners who expressed their views in the Phase 1 consultation, that to do its work fairly and in a way that inspires public confidence in its independence, its funding should not come through a government department, but rather directly through the Legislature or through a standing committee of the Legislature like the Member Services Board.”

There has been a fair amount of work done by and on behalf of this Legislative Assembly through the Department of Justice in repeated submissions of the Yukon Human Rights Commission and others, including a select committee of this Legislative Assembly that found findings in line with this motion today, which is simply a motion that the Yukon Human Rights Commission be an independent office of the Legislative Assembly.

I think it is really worth bearing in mind that, while these reports and these various studies were going on, it is not an academic exercise, although I quoted from a number of reports from academics and legal experts who had been commissioned by the government, by the Department of Justice in reviewing aspects of modernizing the human rights legislation. The fact of the matter is that, on the ground, there has been conflict. The Yukon Human Rights Commission is not making up an abstract notion about the potential for conflict or perception of conflict between the independent role of the Yukon Human Rights Commission and the Department of Justice. We have seen that manifest time and time again, particularly as it relates to the Whitehorse Correctional Centre.

Mr. Speaker, I will just refer you to a couple of issues. On September 9, 2014, the *Whitehorse Daily Star* reported: “The Yukon Human Rights Commission has asked its members to refer human rights complaints at the Whitehorse Correctional Centre to its board of adjudication for hearing, condemning the Department of Justice’s recent claim that the commission doesn’t have jurisdiction to investigate.

“A lengthy letter sent last week...” — so this is the week prior to September 9, 2014 — “... by the commission’s lawyer to the department calls...” — the Department of Justice’s — “... position ‘narrow’ and ‘completely wrong,’ citing pages of case law to show it does indeed have the authority to investigate complaints.”

Mr. Speaker, that’s the kind of thing we are talking about here. I don’t want to get into the “he said, she said” of the Department of Justice and Human Rights Commission, but if there is a perception that somebody’s human rights are being trampled or subsumed or that the Human Rights Commission cannot investigate because their funder says they don’t have the authority to do so, that’s not a great perception.

The department has said that the Investigations and Standards Office — which we heard a lot about last week with the independent inspector Mr. Loukidelis — the ISO, a body established under the *Corrections Act*, is the appropriate venue for allegations of human rights abuses. Now, didn’t Mr. Loukidelis last week say we should not be having people from inside the organization making those kinds of assessments?

We’re all probably sadly quite familiar with some of the circumstances — some more than others, depending on what access you’ve had to court documents — with the situation of Michael Nehass. Michael Nehass’s father filed a complaint on behalf of his son, and I’m quoting here — “... who was brought naked and shackled before a judge via video camera from the jail for a case management conference earlier...” in 2014.

The Department of Justice said that the Human Rights Commission didn’t have the authority to investigate because the *Human Rights Act* states that where an alternative exists, regardless of whether it is accessed, the commission shall not investigate the complaint. It suggests that because inmates can also go to the territory’s Ombudsman with human rights complaints or address them in court, the commission lacks jurisdiction. The human rights lawyer wrote that it would have the absurd result of leaving inmates without a forum in which to air their allegations of discrimination, contrary to the intentions of the Legislature that ensures all persons be able to access human rights legislation.

“It’s the perception that that interpretation of the act not only limits the rights of Whitehorse Correctional Centre inmates, but prevents them from having the same rights as other citizens simply because they’re incarcerated,” said the lawyer for the Human Rights Commission. So there’s a perception that has become, I think, quite widely established in this community that it’s the Yukon government’s desire — and I hope it’s not this Yukon government’s desire — to keep everything that happens at Whitehorse Correctional Centre inside its internal processes, processes created under the *Corrections Act*.

That’s not what I heard this minister say, and I’ve seen her demonstrate her commitment to having the inspection done — as the tool that she had available to her — of the conditions at Whitehorse Correctional Centre with respect to,

in particular, the mental health and solitary confinement issues.

But as long as the Human Rights Commission is perceived to be kept under the thumb of the Department of Justice, the public perception will be that it is not wholly independent, and that, I believe, does a disservice to the framers of this legislation and to the many hundreds of people who participated in the discussions 31 years ago when this legislation was first brought forward as groundbreaking legislation; but it didn't end in 2014.

In January 2015, the Department of Justice decided — and I am quoting here from the *Whitehorse Star* on January 30, 2015: “The Department of Justice intends to have a judge review the Yukon Human Rights Commission’s decision to investigate human rights complaints from inmates at the Whitehorse jail...” The letter states that “... the department will be seeking judicial review of jurisdiction — that’s whether the commission has the authority to investigate human rights complaints at the Whitehorse Correctional...” institution. Here we have the Department of Justice, which is ostensibly not supposed to be involved with the Human Rights Commission in terms of giving it direction or controlling it, but effectively is controlling it. Would we, as Members of this Legislative Assembly, countenance that kind of behaviour by any government department toward the Information and Privacy Commissioner, the Ombudsman or the Minister responsible for the *Public Interest Disclosure of Wrongdoing Act*? I don't think so. Why have we set up, despite the structure of the system that is put in place — not the legislative structure, but the system that has been put in place — why do we countenance this with respect to the Human Rights Commission? Why do we countenance the perception that the Department of Justice can direct what the Human Rights Commission may or may not investigate?

Mr. Speaker, the Human Rights Commission has been clear for many years that this is an issue that needs to be addressed. In the annual report for 2015-16, the chair of the commission at that time, Russ Knutson, noted that — and I quote: “The current split funding and reporting framework for the human rights system in Yukon is inadequate. It needs to change to improve the independence of the Commission, as recommended by an all-party committee in 2008.”

It is interesting — you know, sometimes there is kind of a blasé attitude toward the activities — or even the setting up — of select committees of the Legislative Assembly, but it is imperative to the trust that citizens place in these democratic institutions of this Legislative Assembly, including select committees representing all parties in this Assembly, that when those committees, through their due diligence of listening to citizens and hearing recommendations, come together to submit reports reflecting the perspectives — the non-partisan perspectives — Members of the Legislative Assembly, that this House acts with some alacrity. We are 10 years on and we still haven't acted on this simple recommendation.

Mr. Knutson said in the 2015-16 report that “Currently, the Commission reports to the Legislative Assembly, but the

Department of Justice” — he said — “controls our funding and administration — which impacts our ability to access resources and to meet our core mandate. The Commission urges the Legislative Assembly to take immediate action to address this serious concern.”

The Human Rights Commission has expressed its optimism that, with the changes that came about in November 2016, a new government would agree to one of its long-standing requests, as I have outlined, going back 20 years at least — the long-standing request of financial independence from the Yukon government. In an article of January 18, 2017, the Human Rights Commission said to the *Yukon News* — reiterated the importance of having that independence from the Yukon government. They pointed out that — and I'm quoting: “While the commission reports to the Yukon Legislative Assembly, its funding comes from the Department of Justice.

“That’s a problem, said the commission’s chair, as the commission sometimes investigates complaints directed at the justice department.”

The chair at the time talked about examples I have cited here today with respect to the Whitehorse Correctional Centre. The chair, Mr. Knutson, said: “We have to be and appear to be an independent body”. Because the Justice department also provides legal support to other Yukon government departments that the commission might be investigating, he said — and I'm quoting: “It’s a really uncomfortable situation”.

I'm quoting here from this article of January 2017 — Knutson said that while the government hasn't threatened to cut funding because of human rights investigations, “the potential is there”. Again, Mr. Speaker, nobody is asserting that this government or any government has threatened to do so, but it is the potential and the perception. We have an ability — and I would say an obligation — to remove that perception. There is no impediment to us to do so.

As I mentioned already, the calls for the commission to be truly arm's length date back to 2008 when that select committee reported in November 2008 and recommended that the Legislative Assembly address the funding conflict. Here we are today, 10 years later, hopefully simply agreeing to address it.

The notion of having an independent body similar to the Office of the Ombudsman, the Child and Youth Advocate and Elections Yukon, each headed by stand-alone entities, is not new. The Government of British Columbia, after a political decision in 2002 to disband its human rights commission, did public consultations this past year and a bit, and it has now announced that they will be establishing an independent human rights commission.

I am quoting here from the parliamentary secretary in the British Columbia government, Ravi Kahlon, who said, “The most important piece I heard from stakeholders is that the human rights commission should be fully independent of government.” He said that making sure the commissioner was fully independent was a significant step in the ongoing

process of reconciliation with First Nation people in that province.

We have the opportunity to take this step today. It is a simple step. It is simply acknowledging that the Human Rights Commission needs to be not only recognized as being independent of government, but that, by the mechanisms that we set up through legislation, it is independent both in perception and in reality of any government interference. We can agree that we continue the relationship of the Human Rights Commission reporting to this Legislative Assembly, and then we can strengthen both the perception and the reality of their independence by ensuring that we do whatever is necessary to effect the changes through legislation, the *Human Rights Act*, to ensure the financial control of the Human Rights Commission, now or in the future — if we assume that we adopt this motion today — does not stand the threat of perception that it is under the control of any government department or Government of Yukon, whichever party is in power.

There are mechanisms that we have at our disposal. It is my understanding that the act would need to be amended to provide for requirements similar to those found in section 9 of the *Ombudsman Act*, section 22 of the *Child and Youth Advocate Act*, section 28 of the *Conflict of Interest (Members and Ministers) Act* and section 16 of the *Elections Act*, which provide that the estimates for financing and operations of the commission be submitted to the Members' Services Board for approval prior to their inclusion in an appropriation bill. We would have to make sure that the Human Rights Commission would be removed from the vote for the Department of Justice and established as either a stand-alone vote or as a program within the Legislative Assembly vote. I would suggest that it would be best served if it was a stand-alone in the same fashion as the other House Officers.

My point is that the Legislative Assembly of the Yukon has discussed this matter for over 20 years. Today the Legislative Assembly is being asked to approve a motion that urges the government to strengthen the independence of the Human Rights Commission by making the commission — and I will be most willing to hear from others about the actual structure of the motion, because I will say yet again, as I said at the outset, that the intent is to achieve the same independence as officers of the Legislative Assembly — the same independence and perception of independence as the Ombudsman, the Child and Youth Advocate and the Chief Electoral Officer have. We have at our disposal the legislative tools to effect this change to achieve both the reality and the perception of independence of this vitally important body within the Yukon Human Rights Commission.

I look forward to support from all Members of the Legislative Assembly today in getting this done — 31 years after the legislation was passed by this same Assembly, 20 years after the select committee on modernizing the *Human Rights Act* proposed that we do so and eight years after the consultation documents on modernizing the human rights legislation pursuant to that select committee in 2008. We have had lots of discussion about this, so there is no lack of

information. I am most interested in hearing the views of other members and ultimately to having a positive vote by all Members of this Legislative Assembly to strengthen the independence of the Yukon Human Rights Commission.

**Hon. Ms. McPhee:** I appreciate the opportunity to speak about this topic. It is certainly something near and dear to my heart. An office of the Legislative Assembly is being suggested by the member opposite. Unfortunately, I think — I say “unfortunately” because I have spoken to the member opposite about how we might like to see our way clear to supporting this motion, but I think we see the problems or potential problems that have been outlined by the Member for Whitehorse Centre differently. I think we probably see the solutions differently. I appreciate the opportunity to speak about this matter today.

I am pleased to rise to speak to the motion brought by the Member for Whitehorse Centre. This is a bit of an unusual motion in that it asks for the Yukon Human Rights Commission — and I note that the member opposite has noted already — to become an office of the Legislative Assembly. Of course, there are no offices of the Legislative Assembly. I take her point, that she meant “officer” of the Legislative Assembly, but we will speak a little bit about that distinction and the importance of the kinds of decisions that would have to be made for us to get there.

Mr. Speaker, this would require — in my submission to this House — significant amendments to the *Human Rights Act* as well as changes to the structure of the Human Rights Commission itself. I think that has been described by the member opposite as a bit of a simple step; I don't agree, unfortunately, that it would be a simple step. Redrafting the Yukon *Human Rights Act*, which, as we know, is a pillar and was amended by this government to include improvements for the LGBTQ2S+ populations and other improvements over the last two years — which we are proud of — rewriting and restructuring that piece of legislation would not, in my view, be that simple. It could be done. The restructuring of the Human Rights Commission itself would also be required to meet the goals outlined by the Member for Whitehorse Centre.

It would also require the appointment of a commissioner, because currently there is no such thing as a Yukon human rights commissioner, an individual person — commissioner, as is being suggested as an Officer of the Legislative Assembly by the member opposite. One would need to structure the act in order for that to be the case. Again, it's not impossible, but it could be done — again, not a simple change, in my view.

Mr. Speaker, I think it is important to also note that, at this stage, that would require growth within government. We would be going down the road of structuring and making legislative changes and appointing a commissioner of Yukon human rights, which would be an additional one person, and presumably with the commissioners as appointed. I'm not speculating on what that would be, but clearly we do not have such a person now, and the suggestion is that we would have such a person.

To properly understand these proposed changes, it is important to be clear about the current structure of the Human Rights Commission. We would, as noted, in appointing a new commissioner or a new officer of the Legislative Assembly and all of the administration that might go with that — there is an OIC here under the *Government Organisation Act* here in the Yukon government that indicates that the Yukon Department of Justice is responsible for the *Yukon Human Rights Act*, because all entities of government must be responsible to a particular department under the *Government Organisation Act*. The *Human Rights Act* established a Human Rights Commission consisting of a minimum of three and a maximum of five members, and that is the current law. These members are appointed by an all-party committee of the Legislative Assembly and can only be removed from the commission by a resolution of the Legislative Assembly. I'm going to be saying this on more than one occasion, Mr. Speaker, but that commission of three to five members is accountable to the Legislative Assembly by virtue of law. They are required to be accountable to the Legislative Assembly. There is a director of human rights who is responsible to the commission, and the commission itself, as stated in the act, is accountable to the Legislative Assembly. There are other details around that — the annual report of the Yukon Human Rights Commission, for instance, is submitted through the Speaker to the floor of this Legislative Assembly — an important statement, in my view, of the independence of the Yukon Human Rights Commission and an activity which has been taking place since 1987.

Another important part of the *Human Rights Act* is, in fact, section 39 — the paramountcy clause — as noted by the member opposite. That section of the act reads, “This Act... — meaning the *Human Rights Act* of Yukon — “... supersedes any other Act, whether enacted before or after this Act, unless it is expressly declared by the other Act that it shall supersede this Act” — the *Yukon Human Rights Act* — of which there are very few. I'm afraid I don't have an example, but I'm happy to look for one. I'm not aware of any.

The *Yukon Human Rights Act* is by legislation, by law, by the design of this Legislative Assembly a paramount act to all of our other pieces of legislation. What that means, of course, Mr. Speaker, is that even if government were to give instructions to not cooperate with the Yukon Human Rights Commission, it would be violating the law to do so, and that is completely and utterly unacceptable.

Of course, there will be — and I plan to speak more about this — challenges about interpretation of the law, and those are completely and utterly legitimate. They do not affect the independence of the Yukon Human Rights Commission, nor should they. They would not be seen to do so by any court in this land, and in fact, the interpretation and challenges with respect to the jurisdiction of the Yukon Human Rights Commission and whether or not they can investigate something has never been the case. It is, in fact, the case that there have been legal arguments about what section 20 of the *Yukon Human Rights Act* says. Those would be the case despite the reporting structure of the Yukon Human Rights

Commission, which I do not hesitate to remind everyone is to the Legislative Assembly. They are currently responsible to this body.

The current legal structure of the Yukon Human Rights Commission makes it independent of government and directly accountable to the Legislative Assembly. The one exception is with respect to their budget. For over 30 years, since 1987, the Department of Justice has been a mechanism for the Yukon Human Rights Commission to submit requests and to receive its budget. It is a mechanism for that to happen. Each year, the commission submits a budget request through the Department of Justice to Management Board which approves funding for the commission's operations. This includes core funding — and despite the article referenced earlier, I think from 2017, from a newspaper report where Mr. Knutson speaks — and I'm certainly not suggesting for a second that it has anything to do with Mr. Knutson's misunderstanding of this — but he indicates in that article — and I quote: “As it stands, every time the commission needs money, it goes to the department of justice to ask for one-time grants, ‘and it just makes it very, very difficult to create any kind of consistency in the office,’ says Knutson.”

First of all, let me just clarify that is not, in fact, the case. There is core funding for the Yukon Human Rights Commission, and then there are additional requests that are dealt with on behalf of the Yukon Human Rights Commission in the event that they should have such a thing. But the concept that the Department of Justice, every time they need money, is involved with the Yukon Human Rights Commission and grants only one-time grants is simply not, in fact, the case. I don't think for a second that Mr. Knutson misunderstands that. I appreciate that's the way it was reported. I won't speculate any more other than to say that is a public statement and that's not, in fact, correct.

Each year, the Human Rights Commission of the Yukon submits a budget request through the Department of Justice to Management Board, which approves funding for the commission's operations. This includes core funding as well as occasional supplementary funding, sometimes for legal services or professional contracts. A request came forward last year and there were additional funds provided to the Yukon Human Rights Commission for what they thought were experts and legal services needed for particular hearings. Sometimes it's something like that or to address fluctuations in a number of hearings, or sometimes it could be for special projects, depending on the management of the Yukon Human Rights Commission, which is solely up to the commission itself, to its director, in consultation and cooperation with the Yukon human rights commissioners.

The Department of Justice continually works with the Yukon Human Rights Commission to stabilize its operational costs and to resolve funding issues as it brings them forward to the department. For the past five years, the Department of Justice has given the commission an increase to its core funding every year. That has resulted in an increase in funding from \$567,000 in 2013-14 to a core funding amount of \$682,000 in 2017-18. In addition, for the 2018-19 budget, the

Yukon Human Rights Commission originally asked for a 73-percent increase in funding over the 2017-18 core funding amount.

After reviewing the commission's budget, the Department of Justice recommended an increase of 17.7 percent, or the equivalent of \$121,000, over the 2017-18 budget. This broke down to an increase of two percent to the core funding and 15.7 percent to a one-time increase to cover legal services and professional contracts, as indicated by the Yukon Human Rights Commission in their request.

As you can see, Mr. Speaker, the funding that government has provided to the Yukon Human Rights Commission has steadily increased over the years through the mechanism of the Department of Justice line item. The Department of Justice will continue to work together with the commission to address funding pressures that are created by an increased number of hearings, if those are in any particular year.

Mr. Speaker, you will know something about the way these organizations — important organizations that they are — are funded, in particular through the Department of Justice, as that is what we're speaking about today, and that there are several unpredictable programs that are administered through the Department of Justice. I will get to those in a second.

The provision of funding by the Department of Justice in no way impacts the independence of the Yukon Human Rights Commission. In fact, the situation is not all that different from what happens in the case of legal aid, for instance, and other organizations.

For instance, let me just say that the government provides funding to the Yukon Legal Services Society, which is also known as Legal Aid, here in the territory so that it can provide professional legal services to Yukoners to ensure that they have access to justice. Of course, Mr. Speaker — something you will know a lot about — the Department of Justice lawyers appear in court as opposing counsel with Legal Aid lawyers and their clients, if not on a daily basis, on a weekly basis — and no one challenges the independence of those individuals to argue their proper legal case and properly represent their clients. This year, as an aside, we have also increased the funding for legal aid, and despite that funding mechanism, the Yukon Human Rights Commission operates like Legal Aid, completely independent of government.

Their work — that of the Yukon Human Rights Commission as well as Legal Aid — is completely unfettered by the Department of Justice officials, and I know of no suggestion to the contrary. I have listened very carefully to the comments made by the member who has brought this motion before the House, and I am pleased to be able to debate it today, but it is not the case that — not only to my personal knowledge, but to the knowledge of anyone in the history of the department — that interference with the operations of the Yukon Human Rights Commission or other organizations — Legal Aid, the indigenous court workers program, Yukon Public Legal Education — all programs that are funded through the mechanism of the Department of Justice but that operate quite independently from any of the work of the

Department of Justice, with the exception of funding requests and answers — it is simply not the case that the independence of any of those organizations is challenged.

Since I assumed the role of the Minister of Justice two years ago, there has been no concern about the independence of the Yukon Human Rights Commission. I have certainly met with the director and other members of the commission over the last couple of years, but early on we met and this matter did come up. We spoke briefly about it, but I have not had a request — official or otherwise. As I said, I am happy to debate this on the floor of the House today, but certainly we have not had extensive discussions about this as an option.

What I would like to stop to say here now is that if this is about adequate funding for the Yukon Human Rights Commission, then frankly, Mr. Speaker, that is what we should be talking about. The structure of the Yukon Human Rights Commission already requires the commission to report to the Legislative Assembly. Their annual report is to come through you, Mr. Speaker. It does not require in any way, shape or form any other activity by the Human Rights Commission in conjunction with the Department of Justice, with the exception of a mechanism for their funding.

Mr. Speaker, the Department of Justice has been working very carefully over the last couple of years to develop a constructive relationship with the Yukon Human Rights Commission. As I have said, we have met on several occasions. I have spoken with the director about more than that. We have spoken about specific situations involving general reform. We have consulted with the director, for instance, on the Whitehorse Correctional Centre inspection and will do so again as we move forward to determine how to best implement those recommendations — they are experts in the field. Earlier this year we reached a significant settlement with the Yukon Human Rights Commission that reflects our respect for the work that the commission does and our good faith when it comes to addressing human rights concerns in the territory.

As a government, we are pleased that we were able to come to a settlement in those cases that resolved four human rights complaints of a systemic nature relating to separate confinement and mental health services at the Whitehorse Correctional Centre. This has previously been made public, but it is an important step in the relationship and — I say to you, Mr. Speaker — evidence of the fact that the Yukon Human Rights Commission operates quite independently of the Yukon government, as it should — as it is required to do so by law.

We are fully committed to working with the Yukon Human Rights Commission to implement the settlement terms that I referred to, which will bring about many positive changes and improve how we provide mental health services and mental health care services and manage individuals in custody at the Correctional Centre. This is just one part of our ongoing efforts and intent to improve service delivery at the Correctional Centre, especially as it concerns mental well-being and services to inmates. Mr. Loukidelis's work — as we heard here in the House last week — is, of course, another

part of that, but the settlement also reflects our intent to work together with the Yukon Human Rights Commission to address human rights concerns in the territory.

Mr. Speaker, in most Canadian jurisdictions, the provincial human rights commission acts as a gateway to the human rights tribunal, which actually makes decisions on complaints, not unlike our own. We heard a bit earlier today about British Columbia. I appreciate that they are intending to change their system. For many, many years, they had no human rights commission at all, and they presently don't have one. Their current situation is that the BC Human Rights Tribunal plays a dual role as a commission and as a tribunal in British Columbia. The minister responsible for the *Human Rights Code* is set by order-in-council, and currently in British Columbia it is the Attorney General.

The minister responsible for approving the tribunal's budget — who acts as the Attorney General, as well — is Mr. David Eby. It is different from our process, of course.

In Ontario, the minister responsible for the *Human Rights Code* is the Minister of Justice. The same minister is responsible for the code and is set by an order-in-council. The code in Ontario specifically makes the commission responsible to the minister for the administration of this act, noting that ours is responsible to this Legislative Assembly but leaves the power set, with respect to salaries — again in Ontario — and expenses of the commissioners, to the Cabinet. Ontario's commission budget is set by the government and the commission is forced to work within that budget.

The federal Human Rights Commission is established by the *Canadian Human Rights Act*. The Minister of Justice is charged with the responsibility of that act for Canada, and Cabinet is responsible for setting the salary of full-time commissioners. The Minister of Justice for Canada controls the budget of the commission and also has significant administrative control over the commission — I note, not like here in the Yukon. There is no administrative function for the Department of Justice with respect to the Yukon Human Rights Commission.

In the vast majority of Canadian jurisdictions, the structure is as we have here with respect to the Yukon Human Rights Commission, again noting that the mechanism is the Department of Justice with respect to having that matter — their budget — approved, but that does not impede the independence of the Yukon Human Rights Commission.

Mr. Speaker, I appreciate that the mover of this motion, the Member for Whitehorse Centre, and I will disagree about this. I appreciate her principled approach with respect to having brought forward this particular motion. I also appreciate the passion with which she has brought this to the floor of the Legislative Assembly, but I note that, in my submission to this House, there are a number of points I would just like to note that have come from the submission by the member opposite.

I would like to reiterate that if we are talking about the funding for the Yukon Human Rights Commission, then we should be talking about the funding. These are two very separate issues. I appreciate how one might see a question of

independence, but I think it's critical that we understand that no matter the reporting mechanism — and our Human Rights Commission does report to the floor of this House — there will be challenges in which government lawyers are involved with other parties before the Yukon Human Rights Commission and the Yukon human rights board of adjudication. That is simply a fact. In a jurisdiction the size we have, it is simply a fact — on the basis that the Yukon government is a very large employer — that they are the respondent in a number of investigations because of either perceived concerns or complaints brought on behalf of individuals to the Yukon Human Rights Commission, and that is as it should be.

A number of comments were made, and some were noted to be from former members of this Legislative Assembly and more in general from a select committee that dealt with these issues over a number of years — but I think I need to take issue with some of them. I appreciate that I might be repeating myself, but this is the absolute basis for this motion — which I will not be able to support — and it is that the independence of the commission is challenged.

A comment was made about their funding and that the Yukon Human Rights Commission is somehow treated as part of the department. That is simply not the case. I have noted that Justice funds many programs that operate independently from the Yukon Department of Justice, and I have noted just as examples Legal Aid, indigenous court workers, public legal education, et cetera. That is not to be laughed at, Mr. Speaker, or dismissed in a quick way. It is a function of the Department of Justice that we fund many independent programs because of the function of justice — because individuals will come into conflict with the law or will come into conflict with the government, and Department of Justice lawyers will need to be involved in that, as well, but that actual independence is never a concern because it is the function of the department and a function of legal representation that must be taken into account.

I would like to note and speak just for a second about the public perception of this situation. It is certainly not available to me — and I am not saying it isn't the case — that there is a public perception that the Yukon Human Rights Commission is somehow interfered with on a regular or daily basis. It is not even my perception that, in fact, the current commissioners or director of the Yukon Human Rights Commission believe that to be the case.

I know the member opposite will say that we're not talking about the current government — nor should we. We should talk about decisions going forward for all future governments that must comply in future. I guess it is important, in my view, to remind us that the Yukon Human Rights Commission — except for the mechanism of funding — is already independent from government. We have structured the law the best way we can to have it be independent from government. It reports to the Legislative Assembly. Its members come through the Legislative Assembly. It is not possible to remove someone from that job unless it comes through the Legislative Assembly. In fact, its

reporting comes to the Speaker through the Legislative Assembly.

Mr. Speaker, I just need to speak a little bit about the concept of arguing jurisdiction. May I say it this way: Regardless of whether or not the Yukon Human Rights Commission reports to this Legislative Assembly and gets its funding through a process administered by the Department of Justice — a mechanism administered by the Department of Justice — or gets its funding through a mechanism administered by the Members' Services Board, there will be now, in the past and probably in the future, challenges on the legalities of the Yukon *Human Rights Act* itself. Where the funding comes from will not affect the fact that there will be sometimes be legal disputes about a particular piece of the section of the legislation or about an interpretation of the legislation and, unfortunately or fortunately, the reference made by the member opposite is about a perception that the Yukon Human Rights Commission was being challenged about whether or not it could investigate a matter.

Section 20 of the Yukon *Human Rights Act* sets out the jurisdiction of the Yukon Human Rights Commission, and it says that the Human Rights Commission can do these things — it should do these things in this case. It is the parameters upon which it can operate, and one of them happens to be that if there is another process, then they shouldn't do something.

There has been in the past and probably will be in the future disputes about what that means. The Yukon Human Rights Commission is fully within its rights to take a particular position, but so are individuals who are challenging that jurisdiction, regardless of who they are. Should they happen to be a government lawyer defending a government department, that's the way the law operates. That's what's going to happen. It is in no way challenging the independence of the Yukon Human Rights Commission to challenge a section or their interpretation of a section of their act. A conflict of legal interpretation will not disappear if the Yukon Human Rights Commission were to have a different funding mechanism. It just wouldn't.

I have to disagree — as I think I've noted earlier — about the public perception. The Yukon Human Rights Commission, in the last number of years, has done much work in public education to support Yukoners who have challenges under the act, who have complaints — come to them for their services, for their assistance with a complaint — to have justice in their maltreatment. The Yukon Human Rights Commission has done an excellent job, not only on individual cases and sorting those out for those individuals who come to them, but on a public education front and the perception or the belief that they somehow have an inability to do their work properly because of the mechanism of the Department of Justice being involved in their funding. This is certainly not something that I am aware of in a public arena and not even truly, as I have said, in a private arena.

I think that some of the comments made earlier could be construed — not saying they were intended that way — to leave the belief that the Department of Justice interferes with what the Yukon Human Rights Commission can and cannot

investigate, and that simply is not true, Mr. Speaker. If there is evidence to the contrary, please bring it forward. It is clearly not what is intended by the law; it's not what is permitted by the law, and it is not, in fact, what's happening. The Yukon Human Rights Commission operates absolutely independently from the Department of Justice and from government. It is responsible to this Legislative Assembly with the exception of a mechanism for them to get money to operate.

The legal question about jurisdiction, as I have noted, is a legal interpretation of section 20 that I've also outlined is a valid question. It will continue to be a valid question. It could be any other section. It happens to be section 20 of that act that has been the one that's been questioned about jurisdiction, but it could be another section. It could be a section about how commissioners are appointed or how a commissioner might be removed. All of our laws are open to valid legal challenge and must be defended as such.

It is the kind of questions that lawyers must deal with and, in fact, that the Yukon Human Rights Commission must deal with all the time. I dare say that for virtually every case, they do an analysis of whether or not they have jurisdiction to investigate. It determines whether or not they do, and they proceed on that basis. Section 20 is the answer to the question: Where do you get your authority? That is the authority of the Human Rights Commission there.

I need to address the idea that controlling the funding — I take issue with the word "controlling" — so providing the funding with respect to how the Human Rights Commission gets core funding, additional funding for certain situations and for the administration of the Yukon Human Rights Commission is, again, inaccurate. If we are going to talk about funding, then we should be talking about funding. Funding and administration are quite separate, not only in the act, but in practice.

The submission or statement by the member opposite, the mover of the motion, that the Yukon Human Rights Commission should be at arm's length from the government is a statement that I actually agree with. Where we will differ is that I believe that the law says that the structure that we currently have does, in fact, have them at arm's length. It has been designed for them to be at arm's length of the government, and there needs to be a mechanism for which they would receive funding.

If it weren't through the Department of Justice and if it were through Members' Services Board, which I understand to be the suggestion, it is still connected to government. The esoteric argument could be that all of our officers of the Legislative Assembly are, in fact, still connected to government because their funding comes through a mechanism of government. In my submission, the Yukon Human Rights Commission is at arm's length from the government. It is designed to report here to this Legislative Assembly, its members come from this Legislative Assembly, and removing its members from Commission must be done here. It is required to report here. The mechanism for its funding does not question the independence of the Yukon Human Rights Commission.

I appreciate the opportunity to speak to the House today about this.

**Mr. Cathers:** Speaking to the motion, I would note that while I do respect the view of the Leader of the NDP, I do not share the view that there is a problem with the current structure or that the independence of the commission is compromised or impeded by the current structure that pertains specifically to matters such as budgetary review or any other matter. I do respect that some people share that view brought forward by the Leader of the NDP, but with all due respect to those people, I do not happen to agree with that view. I believe that the current structure is probably more appropriate than one in which the submission would present its budgets to Members' Services Board, as the Department of Justice has far more resources for the review of budgetary submissions and requests than the Legislative Assembly office does.

I would agree with the minister in some of the statements, though not all, that she brought forward, including the fact that it would not be a good fit to submit its budgets via Members' Services Board. Again, I share some but not all of the views that the Minister of Justice brought forward this afternoon.

I do agree that there is a significant difference between an office and an officer and that giving life to the proposal of the Leader of the NDP would likely, as the minister stated, result in the growth of government, which we would not support.

The Minister of Justice also correctly noted that funding for the Human Rights Commission has grown over the past number of years, and I do not believe that there has been an issue in that regard because of the structure. I do have confidence in how staff of the Department of Justice handle budgetary requests from the Human Rights Commission, and unless we see evidence of a change in how these matters are handled under the Liberal government of this minister, I do not believe that there is a problem that needs to be solved through this.

With that, Mr. Speaker, I will not be supporting this motion brought forward by the Leader of the NDP for the reasons I have articulated.

**Speaker:** Is there further debate on Motion No. 330?  
If the member now speaks, she will close debate.  
Does any other member wish to be heard?

**Ms. Hanson:** To say that the NDP caucus is disappointed in the response is perhaps an understatement, Mr. Speaker. I find it fascinating that, after 31 years, we're having a conversation in this Legislative Assembly about a fundamental piece of legislation that at its time was the gold bar — the gold measure — in Canada for human rights legislation. I would point out to the former Minister of Justice and the current Minister of Justice, both of whom have expressed the same views from two different political perspectives, that when this legislation was passed, it preceded the existing officers of the Legislative Assembly — the legislation that put in place the Office of the Ombudsman, the

office of the Child and Youth Advocate and the office of the Information and Privacy Commissioner — by quite a number of years.

We see an evolution in political thinking and political accountability and the importance of impartiality and the importance of the perception of independence of political interference or perceived political interference as our democracies evolve.

Between the time in 1987 when that legislation was passed until the subsequent pieces of legislation that I referenced were passed, I would suggest that the Members of the Legislative Assembly gave considered thought to the implications of embedding aspects of a relationship between a fundamentally important organization, an entity, set up to protect that — and not only protect, but be seen to be impartially protecting the human rights of all Yukoners — from any perception of political or administrative interference.

It is disappointing. Nothing that I heard today could probably be much different than in past debates. Ironically, there is a complete dismissal of the fact that this Legislative Assembly — it is as though we have got this tabula rasa and that we are starting all over again every time. It feels like Groundhog Day. A select committee of this Legislative Assembly 10 years ago — just to use the member opposite's favourite phrase — it just wasn't a willy-nilly kind of exercise; this was a considered exercise, consulting with Yukoners, to look at the human rights legislation 20 years after it was put into effect. They came to a consensus view — all three parties, I would point out. It wasn't one dissenting view — and we have had that in the past, where there have been sort of side comments. All parties agreed, and they agreed on this very aspect that is the subject of this motion today. I fundamentally disagree that this is all about money.

The minister may say that, in the courts of this land, there is no perception that there is no independence, but I will say — and stand firmly behind the notion — that, in the court of public opinion, it will rule otherwise.

If this government wants to argue about nickel-and-diming, about how much money and the minutia of the budgets, that's fine, but that's not what this debate was about. This debate was about the fundamental independence and maintaining the perception of the independence of the Yukon Human Rights Commission. We will continue to hold firm to our belief. We'll just leave it there.

**Speaker:** Are you prepared for the question?

**Some Hon. Members:** Division.

#### Division

**Speaker:** Division has been called.

#### Bells

**Speaker:** Mr. Clerk, please poll the House.

**Hon. Mr. Silver:** Disagree.

**Hon. Ms. McPhee:** Disagree.

**Hon. Mr. Pillai:** Disagree.

**Hon. Ms. Dendys:** Disagree.

**Hon. Ms. Frost:** Disagree.

**Mr. Gallina:** Disagree.

**Mr. Adel:** Disagree.

**Hon. Mr. Mostyn:** Disagree.

**Hon. Mr. Streicker:** Disagree.

**Mr. Hassard:** Disagree.

**Ms. Van Bibber:** Disagree.

**Mr. Cathers:** Disagree.

**Ms. McLeod:** Disagree.

**Mr. Istchenko:** Disagree.

**Ms. Hanson:** Agree.

**Ms. White:** Agree.

**Clerk:** Mr. Speaker, the results are two yea, 14 nay.

**Speaker:** The nays have it. I declare the motion defeated.

*Motion No. 330 negatived*

**Hon. Ms. McPhee:** I move that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

**Speaker:** It has been moved by the Government House Leader that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

*Motion agreed to*

*Speaker leaves the Chair*

## COMMITTEE OF THE WHOLE

**Deputy Chair (Mr. Adel):** Order. Committee of the Whole will now come to order.

The matter before the Committee is Vote 52, Department of Environment, in Bill No. 207, entitled *Second Appropriation Act, 2018-19*.

Do members wish to take a brief recess?

**All Hon. Members:** Agreed.

**Deputy Chair:** We will recess for 15 minutes.

*Recess*

**Deputy Chair:** Committee of the Whole will now come to order.

### Bill No. 207: *Second Appropriation Act, 2018-19* — continued

**Deputy Chair:** The matter before the Committee is Vote 52, Department of Environment, in Bill No. 207, entitled *Second Appropriation Act, 2018-19*.

Is there any general debate?

#### Department of Environment

**Hon. Ms. Frost:** I am presenting today on the Department of Environment's supplementary budget, which will see a resulting increase of \$1,054,000, which is just over two percent of our overall budget of \$45,919,000, which was previously voted. The increase falls under the department's operation and maintenance budget, and it is 100-percent

recoverable from Canada. It supports important projects in climate change, habitat research and air quality awareness.

The Department of Environment is also the appointed body for the implementation of the *Inuvialuit Final Agreement* in Yukon. This work is to manage the Qikiqtaruk Territorial Park, which is in north Yukon, in collaboration with fish and wildlife management for the North Slope. Due to later transfers of core funding from Canada of \$408,000, the increase of our O&M budget will provide continued support for bringing the Inuvialuit agreement in line and, of course, the supports required there.

The increase in the details, as I mentioned previously — the department's increase in supporting important projects also includes climate change, habitat research and air quality awareness. I would like to tell you a little bit more about these projects. In the north, we know that climate change is clearly not a theory — it is what we see every day — the cracks in the highways, the shifting foundation on a lot of our buildings. In particular, in Vuntut Gwitchin, Ross River and Kluane, we are seeing some significant changes there with permafrost — so real impacts on our communities.

We have a four-year agreement in place with Canada. We will provide \$1.7 million of recoverable funding in this supplementary budget. This agreement is through the federal climate change preparedness in the north program and includes a total increase of \$5,042,000 in O&M monies. This funding is supporting a number of important climate change projects throughout Yukon communities, and I would like to specifically mention two projects that are directly impacted by the budget adjustment.

Both projects look at integral resources for habitat for all Yukon species — our forests. Of course, the tracking of changes in the Yukon forest project is in partnership with the Dawson region and is looking at forest growth and species to monitor how they are changing. Together with First Nations, this project aims to incorporate traditional knowledge and build local capacity in the area of data gathering.

The second forest project looks at one of climate change's biggest threats to our community: forest fires. We can all appreciate initiatives that look to better inform our understanding and responses to forest fires. This specific project goes one step further to not only inform how we react but to support our efforts to predict forest fires so that we can be better prepared and take action proactively.

The predicting forest fire risks project is using innovative modelling to help us better prepare earlier for the impacts forest fires have on our lands, wildlife and communities. The department is also working on a project in the Nisutlin delta wildlife area, which is situated near Teslin and is within the Teslin Tlingit traditional territory. The delta is an important waterfowl staging area and is a designated national wildlife area.

Previous studies occurred in 1983 and 1998, providing baseline datasets to help monitor changes over time. This study, which will be supplemented by a \$12,000 increase in our O&M budget, will track changes in vegetation, species abundance, composition and diversity in the delta and relate

findings to a changing climate — recognizing that we don't have a lot of data collected in the Yukon with respect to water and wetlands strategies and we were proceeding with a broader Yukon strategy, so this is really relevant to the work that we are doing.

In addition, potential competition for vegetation among moose and waterfowl in the delta will also be investigated.

Lastly, I would like to mention the air quality project, which represents a \$99,000 increase to our O&M budget. Yukoners enjoy some of the best air quality in Canada, but a recent study that we conducted with Health Canada shows that clearly there are areas for improvement. This funding will support our work with communities to encourage more efficient wood-burning practices, especially in areas that saw a decrease in air quality. The funding will also support continued air quality monitoring in Whitehorse, as well as a new monitoring station in Dawson City and a transportable monitor that can be dispatched for areas experiencing forest fire smoke. This data will help guide our work to improve air quality for years to come.

In closing, I wanted to capture very quickly what the supplementary budget covered. I will take my seat and I will wait for responses.

**Mr. Istchenko:** I want to welcome the staff here today, and I want to congratulate him on Air North's seven-to-one win over the Whitehorse Oldtimers. I believe he scored a goal; that was pretty good.

In September 2018, the tender for the permit hunt authorization review was cancelled, citing no qualified bids. I have a few questions with respect to the cancelled tender.

Can the minister confirm the status of the independent audit on the permit hunt system? Has another tender been issued? Can the minister explain whether the department has looked into the reasons why the tender did not receive qualified bids?

Can the minister explain what direction she is taking instead of the cancelled tender? Can she confirm whether a contractor has been hired for this review outside of the tender process? If not, when does she anticipate a contractor to be placed and this review to begin?

**Hon. Ms. Frost:** With respect to the question, we are in the process of making the final proceedings with respect to the bid process. The member opposite is correct that we went out on a public call but did not get any expressions of interest, so we went back out again. Now we are in an invitational process. That closed and we are now able to proceed with an announcement. That will happen in the coming days.

**Mr. Istchenko:** Can the minister explain the reasons why the original tender did not receive qualified bids? Did she look into this?

**Hon. Ms. Frost:** My understanding is that we went out through a public process, and the bid that was received was deemed by the regulatory process as not being in compliance in that there was specific information and details that were added to the parameters of the bid. Therefore, through the bid process, it did not meet the stated qualifications for proceeding.

**Mr. Istchenko:** I thank the minister. Can the minister confirm that the audit will be complete and changes to the system implemented by the 2019 hunting season?

**Hon. Ms. Frost:** Thank you for the question. That is the plan: to have the results completed and, of course, in effect for the next hunting season. That is our target.

**Mr. Istchenko:** This summer, the minister issued a caribou ban less than 24 hours before the start of the hunting season. With no prior notice, some hunters were left unaware of the change and groups were left confused and concerned by the lack of consultation efforts. Can the minister commit to ensuring that a hunting ban of this nature will not happen again at the last minute and with no consultation?

**Hon. Ms. Frost:** Before I get into the question, I wanted to provide a little clarity with respect to the permit hunt lottery system. I appreciate that there were some specific issues with respect to the actual draw of the permits and that process was supported by the Yukon Bureau of Statistics. We obviously took the necessary steps to address the data errors that were received, always with the objective to ensure a fair and accurate process through a lottery draw process. There was never any intent to mislead or misdirect a process.

Looking at modernizing from a handwritten process to that of an electronic system, there were errors detected relating to the weighting of the application, and of course, that had been rectified. The objective was to work with the department and work with the Bureau of the Statistics to ensure that all of the records that we have on file and that have been transferred were done in such a way that we will never receive any specific challenges within the next draw period for the next hunting permit process.

The permits that were issued for the second time — clearly there was a miscalculation on the first draw and then again in the second process, so at that point, human errors happened as a result of the transition of hard data into electronic data systems. We recognized that and, at that time, begged for patience from Yukoners as we proceeded to move forward with the application process and make some amendments, as necessary.

With respect to the Finlayson permit hunt and the decisions around the permit hunt and consultation and the discussions that had transpired over the course of time with the department, as the member opposite well knows, there were a number of concerns raised over the years with the Finlayson caribou herd and the decline of the herd from somewhere around 5,600 animals down to less than 3,000, so approximately 2,700 animals. In consultation with the Ross River Dena Council and in consultation with the department, the decision was to proceed with a closure on that until we can come up with a broader long-term management plan. We did that in discussions and notification with the Fish and Wildlife Management Board and also, despite what perhaps has been said, we did meet and inform the Fish and Game Association as well and will continue to do that as we evolve into the next hunting season and look at the necessary permit hunt authorizations specific to the Finlayson herd, but also as we do the draw process.

**Mr. Istchenko:** Is it the position of this government that limiting harvest should occur or resident hunters should voluntarily comply with requests from other governments in the absence of data without the due process and/or population assessment?

**Hon. Ms. Frost:** I apologize; I didn't get the question. Can you just repeat that please?

**Mr. Istchenko:** Is it the position of this government that limiting harvests should occur or that resident hunters should voluntarily comply with requests from other governments in the absence of data or without the due process and/or population assessments?

**Hon. Ms. Frost:** As we know, we have rules, and the rules that apply under the hunting regulations define how and what we do in Yukon. Perhaps a little history lesson with respect to how we deal with self-governing and non-self-governing nations — we know that we have an obligation to consult and a duty to engage with those First Nations that have rules in place that govern their traditional areas. With respect to how we do that and who we engage with, clearly we want to listen, collaborate, and, of course, cooperate around co-management efforts when issues of concern are brought to our attention. We do that through collaboration with the Yukon Fish and Wildlife Management Board and the RRCs.

In the case where we have non-settled First Nations, they don't really have a place to voice their concerns other than through the Yukon Fish and Wildlife Management Board; therefore, the process for collaboration and relationship building with the non-settled First Nations is sometimes a big challenge. The decision to engage needs to be done in such a way that every community is given an opportunity to participate and bring their concerns forward.

As we know, under chapter 16, the premise for the design and building of these structures to govern rules around hunting, fishing and trapping is consistent with historical and traditional practices in laws of the nation in which territory we are on. Therefore, the input from the RRCs through traditional knowledge and practices must be accompanied with co-management efforts when we look at scientific assessments.

With respect to questions around game management zones with respect to closures and regulated changes, those are things that we most certainly take into consideration under advisement as we approach the health and well-being of our wildlife in each one of the traditional areas. Of course, encouraging compliance when we go into a traditional area that really hasn't already defined special management areas, protected areas or chapter 13 management measures that generally apply to the self-governing nations — and those areas really define special areas of significance to the nation in whose the land we enter.

There is an opportunity for us to embrace and look for cooperative measures when we speak to the White River, Ross River and Liard First Nations as the nations that really don't have a mechanism in which to identify these special areas. The objective is really to ensure that we take scientific, traditional and local knowledge and work them together to

inform better decision-making when it comes to the well-being of our wildlife.

**Mr. Istchenko:** With respect to the Alsek Moose Management Program — I had asked the minister in the spring if there were plans to extend it past its end date of March 2018. It was stated that an evaluator was hired to look at the program and that the evaluation would be completed by the end of May.

Would the minister please outline the findings of the evaluation and tell the House whether the program has been or will be extended, and will she provide a copy of those findings to me?

**Hon. Ms. Frost:** At the moment, I am not able to respond directly to the question of what the evaluation said, but I will provide a response back to the member opposite.

**Mr. Istchenko:** What steps has the minister taken — and I am asking the minister and not the department — to encourage registered trapping concession holders to trap wolves as a viable option to kick-start the recovery of our herd populations?

**Hon. Ms. Frost:** I am happy to speak to that. It is something that we always encourage, and we work in partnership with the local RRCs. We know that we encourage trapping and try to encourage the trapping of wolves when we have pressure areas.

I would not say specifically that I am a trapper myself, but I have been on a trapline, and I will continue to do that as I go home to my own community. It is important to look at management and co-management and to do that in collaboration with our RRCs and our First Nations. The advisement that we get under each one of our specific areas of responsibility — we try to do it in a manner that reflects the pressure areas that we are seeing in the game management zones. So reflecting some of that and encouraging more harvesting of wolves in specific areas are some of the things that we are doing.

Mr. Deputy Chair, I move that you report progress.

**Deputy Chair:** It has been moved by Ms. Frost that the Chair report progress.

*Motion agreed to*

**Deputy Chair:** The matter before the committee is the amendment to clause 74 in Bill No. 24, entitled *Access to Information and Protection of Privacy Act*.

Do members wish to take a brief recess?

**All Hon. Members:** Agreed.

**Deputy Chair:** We will recess for five minutes.

*Recess*

**Deputy Chair:** Committee of the Whole will now come to order.

**Bill No. 24: Access to Information and Protection of Privacy Act — continued**

**Deputy Chair:** The matter before the Committee is the amendment to clause 74, in Bill No. 24, entitled *Access to Information and Protection of Privacy Act*.

*On Clause 74 — continued*

*On proposed amendment — continued*

**Hon. Mr. Mostyn:** Mr. Deputy Chair, I am happy to continue talking about the amendment proposed by the members opposite this afternoon. First, a recap — we have been debating this bill for several days. We have directly heard the thoughts of the Information and Privacy Commissioner on this piece of legislation because we invited the official into the House — another first for the territory. All three parties asked the commissioner questions. The opposition has asked us questions, and we are now considering the legislation line by line.

Mr. Deputy Chair, the Member for Lake Laberge has had a thought — a thought that the Member for Lake Laberge believes is a good one. The other day the Member for Lake Laberge acted on his thought, and without any consultation or warning — indeed, without any contact at all — he brought forward what amounts to, for the Member for Lake Laberge, a painstakingly crafted amendment on this 144-page piece of legislation — to amend clause 74(1)(a) by: (1) deleting all words after the word “prepared”; and (2) replacing them with the words “for Cabinet; or”.

The Member for Lake Laberge thought this was a good one because he said so, Mr. Deputy Chair. According to Hansard: “I think that this amendment strengthens the legislation”, the Member for Lake Laberge said simply. Now, that is the member’s right, of course — to have a thought and to propose an amendment on the fly — but I would suggest that this fast-and-loose approach to legislating probably isn’t the best way to “fix” a piece of legislation such as this. There are better ways, Mr. Deputy Chair — ways to work together collaboratively, although this is admittedly a new idea for the members opposite. Bushwhack amendments made unilaterally at the 11<sup>th</sup> hour are probably not a great way to legislate. That approach certainly doesn’t respect the titanic effort that the hard-working civil servants in the Department of Highways and Public Works demonstrated in crafting this elegant piece of legislation.

They spent months researching other legislation around the world, assessing best practices for our territory. They held 60 days of public consultations and collected 124 responses from the public, which they carefully considered, treating with respect the advice that was given and then worked those thoughts into the legislation where and when appropriate. They sought legal expertise considering the national legal framework and, most important for clause 74, what case law had been established. They’ve spoken to the media. They’ve spoken to the Information and Privacy Commissioner and they have worked with other departments. They worked with legal experts, policy experts, information and privacy experts and writers.

They worked for months. They consulted with me, a former journalist and user of the existing ATIPP act, and the Minister of Justice, former Information and Privacy Commissioner herself and a lawyer. They also heard the thoughts of a former drafter of the old ATIPP legislation. They came before Cabinet and then went back and made more changes. They listened some more and made more changes. In short, they worked very, very hard for many, many months, and then they started drafting a brand new *Access to Information and Protection of Privacy Act* that is, as I have mentioned, 144 pages long. As I have also said, I believe it to be a well-crafted, thoughtful document.

Of course, that’s not to say it can’t be improved. That’s why we’re here today. But surely if you respect the work of the civil service and if you understand the effort, the long nights and the thought that go into a piece of legislation like this — and after 15 years in government you would think a person might understand that — you would do more than simply, at the 11<sup>th</sup> hour in debate on such an important bill, put forward a 15-word amendment on the fly, fast and loose, that profoundly changes a key piece in the legislation. You might float such a plan beforehand. I certainly would out of respect. Otherwise, and I’m sure this wasn’t the Member for Lake Laberge’s intent, but such a thoughtless last minute off-the-cuff amendment might look like a stunt — a crass stunt. As I said, I’m sure that wasn’t the intent. The member opposite simply had a thought. He thought his 15-word amendment drafted on the fly — fast and loose, with no consultation and apparently no legal vetting — without looking at case law, without approaching the Information and Privacy Commissioner, without approaching the media or even the experts within the Department of Highways and Public Works — would improve a 144-page bill. Well, as we’ve learned, that’s how the last ATIPP amendments were done — with none of that forethought.

We wouldn’t want to curb future thoughts or dim enthusiasm for the job, so we’ll commend the Member for Lake Laberge’s effort, but unfortunately, the member’s little amendment doesn’t work. It doesn’t improve the bill. It confuses the bill and it undermines it. It kind of wrecks it.

Section 74 is necessary for the Public Service Commission to function and, through it, briefing books can now be accessed through an ATIPP request. Only information subject to the limited exceptions may be refused. Any decision made by government is subject to oversight by the Information and Privacy Commissioner. Access is expanded to Cabinet records. For example, factual information for the purpose of providing background information must be released. Cabinet records that have been in existence for more than 10 years must be released, and the secretary of the Executive Council may grant access to any Cabinet record if it is in the public interest. Access is expanded to information related to policy advice and recommendations. There has been a reduction of provisions that can be used to refuse such information. For example, this section only applies to advice or recommendations.

What can be refused access is much narrower than the current act. Factual information for the purpose of providing background information must be released. It is like this because of the thoughtful work of a great many civil servants and I, for one, am indebted to them for their diligence on this file and I thank them, Mr. Deputy Chair. They have written a tremendous piece of legislation that provides a robust and flexible framework that includes dynamic oversight in maintaining government accountability and protecting the public's personal information.

This legislation demonstrates the government's commitment to protecting privacy and providing access to information. It allows innovation to occur while ensuring privacy and providing access to information. That is, the bill finds the right balance between the right to know and the legitimate need for members of Cabinet and the public service to have free discussions and provide frank advice. This is a foundational principle that allows necessary discussions and permits compromises and decisions to be reached. Its practical foundation is not absolute. It is for this reason that we introduced the new features in the bill to allow for more access to Cabinet information and information generated by public servants — for example, the public interest override. The Information and Privacy Commissioner can now conduct own-motion investigations. As such, it supports a government framework that allows citizens access to more online services through a single government web portal. It allows for public bodies to carry out data-linking activities. It allows for government to make evidence-based policy decisions, and that also benefits the public interest.

We are confident that this bill will provide the needed clarity and efficiency that the Yukon government, stakeholders and the public want. We know this, Mr. Deputy Chair, because we have spoken to the media, we have spoken to the Information and Privacy Commissioner and we have reviewed access to information documents across the country. We have looked at access-to-information documents abroad in foreign nations. We have spoken to other government departments. We have considered the legal framework across the country — decisions that have been made in court. We have done our due diligence. The civil service has spent hours working on this piece of legislation, honing it and crafting it. As a result, we are confident that this bill will provide the needed clarity and efficiency that the Yukon government, stakeholders and the public want.

I am afraid I cannot support this member's amendment — his simple plan.

**Mr. Cathers:** Well, that was a pretty rich speech coming from the Minister of Highways and Public Works. I do have to wonder how long the minister spent working on that. Also, there is, one might say, somewhat of a double standard, considering one of the minister's Cabinet colleagues complains about even the slightest criticism in the House, for the minister to engage in such a diatribe in this Legislative Assembly with personal attacks galore.

I am going to focus on the policy issues. What, in fact, has occurred in this situation is the minister has been caught.

It has been exposed that the Liberals' headline announcement of releasing the content of briefing books is, in fact, a meaningless stunt. By allowing themselves through this section to redact all the advice and all of the recommendations contained within, they have, in fact, while making a grand gesture with one hand, taken all of the meaningful content of that gesture back with the left hand, hoping that the public will be fooled.

I do have to point out as well that I certainly do respect the work of civil servants on this legislation, and the minister is quite well aware of that fact. But the minister also knows that when it comes to the policy decisions and direction upon which this legislation is based, the minister and his Cabinet colleagues and perhaps their caucus had full involvement in making those decisions. The minister would like to frame a narrative for the gullible and unwary who listened to his speech that suggests that they are collaborative and we are not, but I would point out that, as the minister knows full well, the minister did not engage in respectful collaboration with the Official Opposition or work to ensure that our views were incorporated in this legislation in the way that he would like to suggest. The government brings forward, not just amendments to legislation, but legislation itself without sharing a copy with members of the Official Opposition or the Third Party. The minister's words in this case are really quite rich — for the minister to be trying to spin such a narrative.

While we have in some cases — such as this case — brought forward proposed amendments to legislation or to motions, that is, in fact, no different from what the Premier himself did when it came to motion debate when he was in the Third Party. He frequently proposed amendments or provided comments on legislation or motions without first bringing it to the government. It is a pretty interesting double standard that the minister is now creating.

I do have to go back to the central point here. There are two things at hand with this legislation that occur. The government made a much-touted announcement that they were going to be so open that they were going to release the content of briefing books, but in fact, we caught the government in this area, and that has been exposed as a meaningless stunt, because the real content of those briefing books — the advice and the recommendations — will be something the government has given itself more ability to redact in the future. Again, the minister has given something with one hand while taking all of it back with the other hand.

In this case, if the government is actually serious about what they pretend to believe in, they have an opportunity here to support this amendment. Contrary to what the minister has asserted, the amendment to the legislation is in order and the minister is fully aware of that fact.

We know the minister is very sensitive because of the recent situation in which the government was caught politically interfering when it comes to ATIPP, but we are giving them an opportunity through this constructive amendment to strengthen this legislation.

We might as well get on with the vote on this. It is quite clear that the minister is not going to support this constructive

amendment, and we may as well not see him waste the House's time with any of his so-called purple prose.

**Hon. Mr. Streicker:** When the amendment was proposed — was it last week? I apologize, Mr. Deputy Chair; I will have to refer back to see when it was proposed. When the amendment was proposed, I took the time to do a couple of things. Number one was to look at other jurisdictions to try to understand what the standard is here, and then I also had the opportunity to talk with some of the officials just earlier today. For example, in other jurisdictions like Ontario — I looked it up — I found a very similar clause doing exactly the same thing. What I understand is that this is a very standard clause. There is a similar standard clause like this in the existing legislation, so the amendment to clause 74, as proposed, is currently in the act which the members opposite brought into force. I want to acknowledge that I think it's great to hear all members of this Legislature talk about the importance of providing more access to information broadly. On that principle, I am very supportive.

I will also say that I know of no interference that the member opposite has stated. I find that to be incorrect — sorry, I want to be careful with language. It is not an accusation that I agree with in any way, and I don't believe it has been well made. I will also say that one of the things that I have witnessed as a member of this government is that when we have sat around the table and discussed the principles of access to information, it has been at all times about how we can improve public access to information while also maintaining privacy, which is so critical.

The other thing that I did when this amendment was proposed was I looked back to 2012, at which time the then-government, the Yukon Party, brought forward their legislation. I tried to track it through Hansard. It was introduced in 2012. It came to the floor for second reading on November 28, and it had less than a half-hour of debate. It then came forward a second time on December 10, 2012, and it had, again, less than a half-hour of debate at second reading. Then on December 13, it went to — and I don't know if this is an official term, but I hear it referred to as the guillotine clause, where the debate was closed and a vote was held. So it had less than an hour of debate in this Legislature — no Committee of the Whole which we are in now in this Legislature. Then I started reading back through it to try to see, and it was the Member for Kluane who was the minister responsible for this act at the time.

I saw that, through debate in this Legislature, there was no briefing provided for the members of the opposition — no briefing on the legislation. When it was called that day, the member for the Official Opposition, the NDP, asked for a recess because it also had not been brought up at House Leaders' that morning to acknowledge that it was coming forward that day, so the opposition was scrambling to try to prepare to speak to it.

When I think about double standards, this feels like a double standard to me. In fact, when I looked through it, one of the comments was that there had been no consultation with the public — none — about the amendment to the act. So on

almost every act that I have heard — and a significant issue that has been brought forward to this Legislature — one of the criticisms that comes forward from the Official Opposition is that there is not enough consultation. I love that, because it says to me that consultation is important and that we all value it, but it was surprising to me to look back at this and see that there had been none.

One of the comments that came forward from the minister at the time was that it was a minor amendment. However, the Information and Privacy Commissioner said it was significant. I think it caused some concern here in this Legislature from the public that there was a significant amendment coming forward to the *Access to Information and Protection of Privacy Act*. It was not consulted on. I am happy that there is a new leaf being turned in this Legislature and that now consultation is important. I am very happy that this piece of legislation has had extensive consultation, and I am very happy that we are here in Committee of the Whole, which did not happen last time.

**Some Hon. Member:** (Inaudible)

#### Point of order

**Deputy Chair:** Mr. Cathers, on a point of order.

**Mr. Cathers:** The minister does not appear to be speaking to the amendment that is before the House.

**Deputy Chair:** Mr. Streicker, please.

**Hon. Mr. Streicker:** On the point of order, Mr. Deputy Chair, I am speaking to the debate that we have had here on the floor about this amendment, talking about double standards, talking about consultation, talking about the importance of this act and making sure that, through the amendment as proposed by the member opposite, it is providing somehow more access to information. I think it is all relevant. I look forward to your decision, Mr. Deputy Chair.

#### Deputy Chair's ruling

**Deputy Chair:** It appears to me on this that you have not gone that far off what was being brought up by the Member for Lake Laberge, so I will call this a disagreement among members, and we will continue on.

**Hon. Mr. Streicker:** So let me talk about what this amendment proposes and does not. I take the member at his word that this is to provide greater access and more access. I thank him for wanting greater and more access. However, I note that beyond the briefing books — which, yes, we have acknowledged are something that we would be rolling back, that previous amendments of 2012 were moved and are rolled back — we have other clauses.

For example, clause 82 in the bill that is before us talks about — despite any of the provisions that are in the sections here the member is now proposing an amendment on — I'm now quoting from section 82(1): "... the head of a responsive public body must not deny an applicant access to information in relation to which the head, after consideration of the factors listed in paragraphs (2)(a) and (b), determines that the public

interest in disclosing the information clearly outweighs the public interest in withholding the information from disclosure.” In other words, if it’s in the public’s interest, it should outweigh all.

That was not there and it is now, so there’s an example of a way in which it goes beyond this amendment that the member has proposed.

This amendment is going to a clause that is central to all of the legislation that I have found looking across the country. It seems to me that it is a standard clause. If the point of the member opposite is to increase access there, I hope that means that he will be supportive of the legislation overall as a result of the fact that, as I just pointed out, there are improvements. I don’t think it is right to get at this clause. I thank him for his proposed amendment.

**Mr. Cathers:** I appreciate the legal advice and interpretation from the Minister of Community Services, who I wasn’t aware was actually a lawyer, but in him doing his scan of the country — or claiming to — I would point out that when the government has compared this section to pieces in other legislation, there are significant differences, contrary to what the government says.

I would just have to remind the public that it’s quite clear that the government is — the Minister of Highways and Public Works worked long and hard on his speech, trying to come up with a way to spin this issue but, in fact, we have a situation here where the government has got caught with their signature commitment of this legislation: the access to ministerial briefing books. It has been proven that through this section, by the Minister of Highways and Public Works’ own admission, there is the ability on — quote: “... a case-by-case analysis...” for that — and again I quote — that if it — quote: “... fits the criteria for exceptions and if information within a briefing book fits the criteria, it can be rejected.” So the minister confirmed that they have the ability through this section of the act to refuse to release the advice and recommendations contained within briefing books, which effectively renders this entire commitment and their signature announcement related to this as smoke and mirrors — a shell game, so to speak.

On the one hand, the government has pretended to create access to information, but on the other hand, has clawed back all of the meaningful content of those briefing books, because the factual information contained within briefing books is available through other sections of ATIPP, so if the advice and the recommendations contained within ministerial briefing books is redacted through this section of the act, then effectively this entire exercise was just an empty gesture by the government aimed at political grandstanding.

I’m just going to note that, through this section of the legislation, it does appear that the government is giving themselves the ability to apply the curtain of secrecy on a broader basis. The minister himself has admitted that it applies to ministerial briefing books on, in his words, a case-by-case basis, but in fact, it appears to allow for a significant broadening of that.

There are two things in ministerial briefing books that I should reiterate: one is factual information, normally available through ATIPP requests outside of briefing books, and the second and more notable piece is the advice and recommendations on what the minister may wish to say or may wish to do.

By completely providing the ability for the Liberal government and its ministers to claw back and keep all of the advice and recommendations secret, in not just ministerial briefing books but, in fact, broadening it to apply to other matters, it does seem that they have given themselves the ability to not only completely undo all of what they claim to do in increasing public access, but broadening that to apply to other matters.

We have brought forward an amendment that I have prepared. It is a constructive amendment, and I would just reiterate for those listening and reading Hansard that what this section does, what the proposal I brought forward does is it would allow government to continue to keep matters prepared for Cabinet confidential. We respect that principle, but it would eliminate the ability that seems to be created through clause 74 to redact all of the advice and recommendations from briefing books before releasing them and to apparently broaden the ability to refuse to release advice and recommendations on other matters the minister may receive and on a broader basis if it is prepared for a public body.

Therefore, I believe that this proposal that narrows the ability to refuse to release advice and recommendations — to cover those recommendations that are prepared for Cabinet — respects that principle of Cabinet confidentiality without giving each and every minister the broad ability to interpret the act as they choose. I do have to remind you, Mr. Deputy Chair, that ministers have been given more of a role in this legislation than exists in the previous bill.

I would note that the Minister of Highways and Public Works, when referring to the ministers’ ability to interpret the act, characterizes a situation where, while he would release the information, he said — and I quote: “... hopefully it will do the same for others in this House...” As I noted on November 6 in debate on this clause initially, relying on how “hopefully” ministers would be convinced to release information is not a sound basis for legislation, and it is certainly not open and transparent, as the government claims to be.

The government will, of course, stand and demonstrate where they truly stand on this issue of access to information, and I would note that if they vote for it, it will preserve the principles of Cabinet confidence while eliminating the ability that the government seems to have created for themselves through clause 74 to broaden the curtain of secrecy under the Liberal government from not only beyond ministerial briefing books, but to other matters the minister covers and to other matters within public bodies.

I do want to note, just in conclusion — I want to reiterate the fact that we respect and appreciate the work that civil servants have done on this legislation and recognize that, of course, at all times they are acting under the direction of the

government of the day. We certainly don't take any issue with the work that they have done in this area, but we have brought forward a well-thought-out amendment that will help the government actually fulfill its platform commitment. If they vote against it, they are, in fact, continuing with what appears to be a plan to broaden the curtain of secrecy that falls under this Liberal government, which has already been caught acting inappropriately on ATIPP.

**Deputy Chair:** Is there any further debate on the amendment?

Are you agreed?

**Some Hon. Members:** Agreed.

**Some Hon. Members:** Disagreed.

**Deputy Chair:** In my opinion, the nays have it. I declare the amendment to clause 74 defeated.

*Amendment to clause 74 negatived*

**Deputy Chair:** Is there any further debate on clause 74?

*Clause 74 agreed to*

*On Clause 75*

*Clause 75 agreed to*

*On Clause 76*

*Clause 76 agreed to*

*On Clause 77*

*Clause 77 agreed to*

*On Clause 78*

*Clause 78 agreed to*

*On Clause 79*

*Clause 79 agreed to*

*On Clause 80*

*Clause 80 agreed to*

*On Clause 81*

*Clause 81 agreed to*

*On Clause 82*

**Mr. Kent:** The Official Opposition has no more questions with respect to this act. I am not sure if colleagues have any other questions on the clauses, but we are prepared. I would need the script and the clause number — sorry.

**Some Hon. Member:** (Inaudible)

**Hon. Mr. Mostyn:** I want to continue debate on clause 82. It is an important clause in this piece of legislation and deserves a little bit of attention and a little bit of focus.

It reads: "82(1) Despite any provision of Division 8 or 9 other than section 67, the head of a responsive public body must not deny an applicant access to information in relation to which the head, after consideration of the factors listed in paragraphs (2)(a) and (b), determines that the public interest in disclosing the information clearly outweighs the public interest in withholding the information from disclosure."

That is that providing the information clearly outweighs the public interest in withholding that information. We have a way of getting information to the public — even information that is held in a public document — that would otherwise not be available. It's a public interest override. It is an important piece of this legislation to provide that escape clause — that

way of getting public information to the public when otherwise it would be withheld.

On section 2, in determining whether the public interest in disclosing the information clearly outweighs the public interest in withholding it under subsection (1), the head — the person responsible for the department — must consider the following factors: the level of public interest in the information, whether the information is likely to be accurate and reliable. This was important, because in discussion in 2012 on the act, we had the minister responsible at the time quoted in Hansard, nervously talking about misinformation in a public sphere. To quote, at the time, "When the Cabinet confidences are not upheld and incomplete drafts and preliminary briefings are thrown into the public sphere, political crowing and scaremongering often ensues." Political crowing and scaremongering often ensues when you throw inaccurate information into the public sphere.

"Decision-makers are not given the opportunity to complete their work. Assumptions about direction or outcome often form before a decision is complete, making the work of public officials all the more time-consuming and costly, a burden that ultimately the taxpayers bear" — a burden that, ultimately, the taxpayers bear, Mr. Deputy Chair. "Furthermore, the spreading of inaccuracies and misinformation leads to confusion, both internal to government and within the public sphere."

It is amazing to look at where we are six years later.

What we are going to do — we want to make sure that we clear up that misinformation. Clause 82 allows us to provide that clarity that the members opposite were so fearful of back in 2012. If there is a need to clear up, to provide clarity, a government could come forward with the information that would hitherto be denied and make it available to the public — to clear up any misconceptions or inaccuracies that may arise when documents are leaked to the public from the government. As we know, going back to 2012, when Cabinet confidences are not upheld and incomplete drafts and preliminary briefings are thrown into the public sphere, political crowing and scaremongering often ensue. Now we have a way of clearing up that scaremongering — political crowing — by releasing documents through the public interest override section of this piece of legislation.

I know that the member opposite was talking in his earlier remarks about this — that there were some things said, that they caught the government — about our ability to suppress information. I think he was talking about briefing notes — the briefing notes that the members opposite struck from the record — actually put into a black box well away from any public oversight. This act brings them back into the fold. This act brings them to the light and makes them available — makes factual information available to the public. As a matter of fact, as we mentioned on clause 74, if there is factual information in a document, that information must be disclosed — it must be. It is not suppression of public information; that is a provision of public information, and that is what this act does in spades, contrary to the assertions of the members opposite.

Now, it is true that advice to Cabinet in the Westminster system is protected. That allows us to get advice and make decisions based on the advice that we are given — the professional advice from our civil servants. That is still protected. However, section 82, which we are discussing right now, is an override. It will actually allow us to make it public in certain cases — if the information meets these criteria. That criteria, as I said, is the level of public interest — “(a) the head must consider the following factors...” — and can’t go off willy-nilly, can’t go off making decisions on the fly.

They have to consider: “(i) the level of public interest in the information, (ii) whether the information is likely to be accurate and reliable, (iii) whether similar information is in the public domain, (iv) whether suspicion is likely to exist in respect of a public body’s conduct in relation to the matter to which the information relates, (v) if harm to a person, public body or government is likely to result from disclosure of the information, the significance and type of the harm” — again, a considered opinion about what harm might happen to somebody — “(vi) whether the disclosure of the information is likely to result in similar information no longer being supplied to a public body.”

Factor (b) is: “if the information is of a type referred to in paragraph 69(1)(a) or (b), the head must consider the following factors in addition to the factors referred to in paragraph (a).” That is: “(i) whether the public interest in disclosing the information clearly outweighs (A) any financial loss or gain to a person or entity that could be reasonably expected to occur because of the disclosure, (B) any harm to the competitive or negotiating position of a person or entity that could be reasonably expected to occur because of the disclosure, (2) whether disclosing the information could be reasonably expected to improve competition, and (c) the head must not consider the following factors: (i) the applicant’s identity or motive for requesting access to the information...”

That first one I am sure will be of grave concern to the members opposite, so they must take solace in the fact that section 82(c)(i) is in there, because the applicant’s identity or motive for requesting information must not be considered. I know that is a concern for the members opposite, so I am sure it is good for them to have this in here.

It goes on: “(ii) whether the medium in which the information is available would, if the information were disclosed in that medium, contribute to misunderstanding of the information by the applicant or the public, (iii) whether there are means, other than through submitting an access request, for the applicant or the public to become aware of the information or know that it exists.”

If that threshold is met, then the head must not consider any of those factors before making a decision on this piece of legislation.

There are things to protect the public, but there are also measures to get more information before the public in this legislation. We know that, unlike the amendments brought in in 2012, this does bring more information before the public and it does provide a measure of confidence in the public that their government is transparent. That is really an underlying

principle of this legislation — this transparency and openness of the public government in service of its citizens.

We have talked about red tape a little bit in the past, and red tape will be lessened through this legislation. It will ease the provision of information when we are talking about the provision of information within government. We can actually share information more easily within the confines of the government with this legislation in place. That, of course, is also another very important piece of this legislation.

We know that these clauses — like clause 82, which we are talking about right now — were well-considered by the civil service when they were doing their research into this piece of legislation. The Information and Privacy Commissioner, in her review of this legislation — she was integral to the drafting of this legislation, unlike amendments that were brought forward in 2012 and really barely saw the light of day before they were brought to this House — had no concerns with 82. She actually lauded the fact that we had more methods of getting information before the public. So it was drafted with consideration and with thoughtfulness.

Contrary to what the members opposite have been saying, this does put briefing books before the public. It puts all factual information contained in the government record before the public. It actually will allow the public to see far more information than they were allowed to see after the amendments were rammed through the Legislature in 2012 with absolutely no public consultation, with no oversight by the Information and Privacy Commissioner and with no consultation with the opposition at the time. They just sort of appeared magically before the House, and with scant more than an hour’s debate, they were passed and guillotined into existence. We know from the fact that there was no public interest — there was no clause 82 in that amended legislation back in 2012. A public interest override wasn’t even considered. It wasn’t even part of that whole thing. There was little thought to any such measure in that amended piece of legislation — the reason being that the government was focused at the time on trying to keep Cabinet information out of the prying eyes of journalists. We don’t do business that way in this government now; we do it differently. That’s why this new legislation provides access to factual information. It does not redact. It provides information instead of documents. That’s an important piece.

I’m very proud of the bill. I have made that known on several different occasions. I think clauses like clause 82, the public interest override, are a vast improvement over what we have now. Briefing books will be made available. The factual information will not be suppressed anymore, and it’s going to be a far better day for the territory going forward after this bill is passed.

With that, Mr. Deputy Chair, I move that you report progress.

**Deputy Chair:** It has been moved by Mr. Mostyn that the Chair report progress.

*Motion agreed to*

**Hon. Ms. McPhee:** I move that the Speaker do now resume the Chair.

**Deputy Chair:** It has been moved by the Government House Leader that the Speaker do now resume the Chair.

*Motion agreed to*

*Speaker resumes the Chair*

**Speaker:** I will now call the House to order.

May the House have a report from the Deputy Chair of Committee of the Whole?

### **Chair's report**

**Mr. Adel:** Mr. Speaker, Committee of the Whole has considered Bill No. 207, entitled *Second Appropriation Act, 2018-19*, and directed me to report progress.

Committee of the Whole has also considered Bill No. 24, entitled *Access to Information and Protection of Privacy Act*, and directed me to report progress.

**Speaker:** You have heard the report from the Deputy Chair of Committee of the Whole.

Are you agreed?

**Some Hon. Members:** Agreed.

**Speaker:** I declare the report carried.

**Hon. Ms. McPhee:** I move that the House do now adjourn.

**Speaker:** It has been moved by the Government House Leader that the House do now adjourn.

*Motion agreed to*

**Speaker:** This House now stands adjourned until 1:00 p.m. tomorrow.

*The House adjourned at 5:28 p.m.*