



Yukon Legislative Assembly

Number 48

2nd Session

34th Legislature

HANSARD

Thursday, November 2, 2017 — 1:00 p.m.

Speaker: The Honourable Nils Clarke

YUKON LEGISLATIVE ASSEMBLY

2017 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
Hon. Sandy Silver	Klondike	Premier Minister of the Executive Council Office; Finance
Hon. Ranj Pillai	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
Hon. Tracy-Anne McPhee	Riverdale South	Government House Leader Minister of Education; Justice
Hon. John Streicker	Mount Lorne-Southern Lakes	Minister of Community Services; Minister responsible for the French Language Services Directorate; Yukon Liquor Corporation and the Yukon Lottery Commission
Hon. Pauline Frost	Vuntut Gwitchin	Minister of Health and Social Services; Environment; Minister responsible for the Yukon Housing Corporation
Hon. Richard Mostyn	Whitehorse West	Minister of Highways and Public Works; the Public Service Commission
Hon. Jeanie Dendys	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

Ted Adel	Copperbelt North
Paolo Gallina	Porter Creek Centre
Don Hutton	Mayo-Tatchun

OFFICIAL OPPOSITION

Yukon Party

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

THIRD PARTY

New Democratic Party

Liz Hanson	Leader of the Third Party Whitehorse Centre
Kate White	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	Doris McLean
Deputy Sergeant-at-Arms	Karina Watson
Hansard Administrator	Deana Lemke

Yukon Legislative Assembly
Whitehorse, Yukon
Thursday, November 2, 2017 — 1:00 p.m.

Speaker: I will now call the House to order.
 We will proceed at this time with prayers.

Prayers

DAILY ROUTINE

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

Tributes.

TRIBUTES

In remembrance of David Murray

Hon. Mr. Pillai: Mr. Speaker, on behalf of the Liberal government and the Third Party, I rise to pay tribute to David Murray.

David, a treasured member of the Agriculture branch and a long-time member of Yukon's public service, passed away this September. David Murray had worked in various capacities in the public service and private sector since arriving in the Yukon in 1979. David's approach to public service was exemplary, with so many of the qualities that are cherished in our employees: honesty, integrity, openness, a balanced approach, and incredible analytical skills.

He lived in the Hamlet of Mount Lorne and raised three children over the last 29 years. Many of David's friends, co-workers, and family are with us today, including his former long-time partner Karen and his daughter Sarah. His son Nansen was unable to attend today.

He spent his leisure time in the mountains around Annie Lake Road. He enjoyed dog-mushing, and exploring on his own and with his family. He had hiked every mountain that could be seen from the front window of his cabin.

David's first Yukon job was as a jackleg miner at Whitehorse Copper mine. David's early career as an underground miner working difficult ground in the pitch black with some temperamental equipment set him up perfectly for a life in government land disposition.

David got his start in agriculture when he was hired by Agriculture Canada in the summer of 1983. He was hired due to his mining experience and his job was to dig soil pits with a portable jackhammer. David worked with soil scientists Scott Smith and Charles Tarnocai for about five years, conducting soil surveys, hazard mapping and related research. Notable projects included a soil survey of Herschel Island, a survey of paleosols developed in unglaciated soils in central Yukon, and soil surveys in Carcross and Takhini valleys.

In 1984, David was a co-author of the first *Yukon Agriculture State of the Industry* report. David moved to the Yukon permanently in January 1985, after working toward a geography degree at Ryerson University. In a testament to his wide-ranging interests, he also held a bachelor of arts in English literature from the University of Manitoba.

David started with the Yukon Agriculture branch in 1991 as a soil technician and conducted agricultural capability inspections, vegetation surveys and related cartography. He took on more duties related to land disposition, which eventually led to the program as manager of agricultural land. During his 26 years with the Agriculture branch, he was involved with approximately 500 agricultural land applications. David made over 13,000 hectares of land available to Yukoners for agricultural purposes — that is out of the 15,000 hectares available in total. The Yukon vegetables you see in the store, the hay you buy for your horses, the eggs and the meat — almost all of it was grown on land that was released through his hands.

In the words of one of his co-workers: "David was a treasured member of our various planning teams over the years — always full of knowledge, corporate memory and some lighthearted fun. I know many folks enjoyed working with him and appreciated his authenticity."

From another — "Loved his sense of humour, his unique style of expression, and his funny and insightful musings on government, the bureaucracy and whatever else was worth musing about. He was kind, smart, respectful, and incredibly knowledgeable and had a way of making everyone around the table feel comfortable."

His three children — Sarah, Nansen and Kendra — miss him very much.

I only had a couple of occasions to work with him. I got to meet him in the department and I had an opportunity for him to come alongside me to the agricultural AGM. He was a very kind man, and I wish that we had had more time to get to know each other and for me to learn from him. He will be greatly missed by all of us. You can see by the gallery today the number of friendships that he built.

Mr. Speaker, if you don't mind, I think it is quite important to acknowledge his friends, supporters and coworkers, as well as his family members here, whom I mentioned: Brad Barton from EMR, Matt Larsen, Jesse Walchuk, Kam Davies, Randy Lamb, Shannon Gladwin, Matt Ball, Temesha Deblar, Valerie Whelan, Manon Moreau, Shirley Abercrombie, Tracey Anderson, Belinda Potvin, Jim Brown, Colin McDowell, John Bailey, Jesse Devost, Ross McLachlan and Stephen Mills. I think Diane Gunter from Environment is with us today; also Kevin Bower, who used to work with Energy, Mines and Resources, is here today; Rod Jacob; and friends from Forestry Lyle Dinn and Kirk Price. I saw Pavlina Sudrich from the Commissioner's Office here today; Stewart Guy, the Premier's former rock bandmate — he told me; Catherine Welsh is here today as well; Katie Lowey, Graham White and Colin Bearisto.

I know I might have missed one or two people, and I apologize. I thank all of you for coming today for this important tribute.

Applause

Mr. Cathers: I just wanted to rise today on behalf of the Official Opposition and express our sincere condolences to

all of the family, friends and former colleagues of David Murray.

I had the opportunity to work directly and indirectly with David on many files over the past 15 years and, since he served under both me and the Member for Copperbelt South during our time as Minister of Energy, Mines and Resources, I wanted to rise and just express our personal thanks and condolences to all of his family and friends.

David also has helped a great many of my constituents. Most of the farmland in Yukon that is currently under cultivation is of course within my riding of Lake Laberge. I know that the number of applications that the Minister of Energy, Mines and Resources cited that David was involved in reviewing and the number of hectares that were put out are impressive statistics, especially since it's almost all of the farmland in the territory. But beyond statistics are people whose lives are made better and whose families have been helped in not only advancing Yukon agriculture but in helping make their lives better. Really David's contribution and his service to the government and his service to the public has helped make the territory a better place and I just want to thank him and to again express our very sincere condolences to all of the people whose lives he touched.

Speaker: Introduction of visitors.

INTRODUCTION OF VISITORS

Mr. Gallina: I would like members to join me in welcoming Gerard Tremblay, a constituent, and someone I have had the opportunity to meet with to discuss the advancement of services supportive of the deaf community. He is being supported today by Amanda Smith. Welcome, Gerard.

Applause

Mr. Hassard: I would like to ask all members to join me in welcoming Kirk Potter. He was here for the tribute as well, so thanks, Kirk.

Applause

Speaker: Are there any returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Ms. McPhee: I have for tabling a legislative return, which is the answer to a question asked by the Member for Takhini-Kopper King on October 25, 2017.

Speaker: 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. Hutton: I rise to give notice of the following motion:

THAT this House urges the Government of Yukon to work with First Nations and all stakeholders to develop a wetlands policy.

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

THAT this House urges the Government of Canada to support Bill C-369, *An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code (National Indigenous Peoples Day)*, that would make June 21 National Indigenous Peoples Day a statutory holiday; and

THAT this House directs the Speaker of the Yukon Legislative Assembly to convey the consensus of this House in support of Bill C-369 to the Speaker of the House of Commons of Canada and to the leaders of all federal political parties.

Mr. Istchenko: I rise in the House today to give notice of the following motion:

THAT this House urges the Yukon government to work with First Nations, Yukon Fish and Wildlife Management Board, renewable resources councils, the Yukon Fish and Game Association, Yukon Trappers Association, Yukon Outfitters Association, and individual hunters, trappers and anglers to improve the management of fish and wildlife populations to ensure healthy populations that will sustain hunting and fishing opportunities.

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

THAT this House urges the Yukon government to update the 2006 Yukon agriculture policy through full and meaningful consultations with stakeholder organizations, farmers, market gardeners, processors, retailers, communities and the public.

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

THAT this House urges the Government of Yukon to respond to the needs expressed by mobile-homeowners through a petition and a government survey by limiting the allowable pad rent increase to the annual rate of inflation.

Speaker: Are there any further notices of motions?
Is there a statement by a minister?

Speaker's ruling

Speaker: Prior to proceeding with Question Period, the Chair will rule on a point of order raised during Question Period yesterday.

The point of order raised by the Government House Leader concerned the use by the Member for Lake Laberge of the word "rhetoric" when referring to statements by the Minister of Energy, Mines and Resources.

In her submission, the Government House Leader referred to the statement by the Member for Lake Laberge as inappropriate, but did not cite a Standing Order or established

practice that had been violated. In response, the Member for Lake Laberge offered that he did not believe he had contravened past rulings by his use of the word.

On May 29 of this year, the Chair gave a ruling that addressed unparliamentary language and other matters. In that ruling, the Chair spoke of the importance of context in determining whether the use of a word or phrase is unparliamentary. The second edition of *House of Commons Procedure and Practice* says the following at page 619:

“In dealing with unparliamentary language, the Speaker takes into account the tone, manner and intention of the Member speaking; the person to whom the words at issue were directed; the degree of provocation; and, most importantly, whether or not the remarks created disorder in the Chamber. Thus, language deemed unparliamentary one day may not necessarily be deemed unparliamentary the following day. The codification of unparliamentary language has proven impractical as it is the context in which words or phrases are used that the Chair must consider when deciding whether or not they should be withdrawn. Although an expression may be found to be acceptable, the Speaker has cautioned that any language which leads to disorder in the House should not be used. Expressions which are considered unparliamentary when applied to an individual Member have not always been considered so when applied ‘in a generic sense’ or to a party.”

The challenge for the Chair is to determine whether the word “rhetoric”, in the context in which it was used yesterday, constitutes unparliamentary language. Having reviewed yesterday’s Blues, the Chair concludes that there is no point of order. The Chair did not sense a high degree of provocation in the statement by the Member for Lake Laberge; nor did the statement create disorder in the House. Had the term “rhetoric” been accompanied by one or more derogatory modifiers the degree of provocation might have been higher, disorder might have resulted and it is possible that the Chair would have ruled differently on the point of order.

The Chair thanks the Government House Leader and the Member for Lake Laberge for their interventions on the point of order, and all members for their attention to this ruling.

This brings us now to Question Period.

QUESTION PERIOD

Question re: Mining sector development

Mr. Hassard: On March 16, the Liberals promised the mining industry that they would address their concerns regarding reassessments and timelines for development projects through a collaborative framework. We have asked the minister all week for an update on where this is at and all week, the minister has avoided the question, blamed the federal government, or blamed the previous territorial government.

Mr. Speaker, in fact we have asked the minister 12 times to give us an answer and unfortunately he has not answered. So we’re asking this question because the mining industry wants to know what the Liberals have done to live up to their promise. We’ll go for lucky 13 here and see what we get. Can the minister please tell us what the status is of this

collaborative framework that the Premier promised industry seven months ago?

Hon. Mr. Pillai: I thank the Member for Pelly-Nisutlin for his question.

I would beg to differ. I believe that, in all 12 previous situations, I provided an appropriate answer. I appreciate the strategic move to frame this in a different way, but let’s get back to the answer.

As a group within the Legislative Assembly, we came together to show our support for the repeal of Bill C-17. It’s moving through a process right now. We’re not quite sure when —

Some Hon. Member: (Inaudible)

Hon. Mr. Pillai: Or the appeal of Bill S-6 — but, of course, with Bill C-17 — thank you, Leader of the Third Party.

What we’re looking at, at this point, is for it to move through Parliament. It’s being stalled by the Conservatives, the cousins of our friends across the way. We’re hoping that will conclude quickly. The next step is for it to move into the Senate. So we have months and months of a process, but that’s where it is at this point.

We have a framework which we have committed to. The first step of the framework is to ensure that the federal government, the territorial government and Yukon First Nations are sitting at the table so that we get things right moving forward. I think I’ll leave it there. On a supplementary, I’ll explain a series of reasons why those are the appropriate steps and what has happened in the past.

Mr. Hassard: I would like to remind the minister that it was this government that promised industry seven months ago that they would develop a framework to address the mining industry’s concerns about timelines and reassessments. That was this government, Mr. Speaker — not a promise of the federal government. So we are asking this government what they have done to live up to that promise, Mr. Speaker.

Hon. Mr. Pillai: Continuing on, part of the challenge is that — what previously happened with interaction between the Government of Yukon, predominantly under our friends across the way — when government first goes to stakeholder groups and doesn’t do the proper conversation with the other governments in the territory, you have massive issues and problems, and you don’t help anybody in this situation.

In this case, we committed to going down a process, a collaborative framework. The first piece we have is that Yukon First Nations and the federal government will come together. That framework has been agreed upon. That’s the first step.

If you remember some of the situations that have occurred in the past — the placer occupancy, the wetlands policy, the outfitters policy work that was done — in every case, the previous government went directly to industry, they left out First Nation governments, and they left it where they didn’t help anybody and, essentially, we were moving toward legal challenges on every piece.

I think I have answered this appropriately in the sense that we have to get it right. I would hope that the members

across the way, if they really want to champion the mining sector and the resource sector — let us work together so we don't have the problems of the past. That's what we're working toward.

Mr. Hassard: It sounds like the minister is still busy blaming other governments — but anyway, I think the mining industry and all Yukoners would certainly appreciate it if the government would just listen to the question and attempt to answer it.

We spent all week trying to get the minister to update us on the status of this framework that the Premier personally promised the mining industry seven months ago. It's a very simple question. Will the Liberals stop playing games and please just answer the question, when will they fulfill this promise?

Hon. Mr. Pillai: It's very obvious that Member for Pelly-Nisutlin, although I'm answering the questions, is not thinking on his feet; therefore, he's going back to exactly what has been written in front of him and actually can't even come up with an appropriate response other than the four lines that have been written for him.

We understand the views of industry on the changes to the amendments, renewals and timelines. Yukon government wants certainty in the process while meeting all of our legal requirements. These issues will be worked on under the guidance of the YESAA oversight group. Additionally, Yukon government will bring forward industry interests in further discussions at the next tripartite working group meeting.

As I stated last Thursday, it was a very good meeting with the Yukon Chamber of Mines supporting this process going forward. They absolutely want resolution to this, but they understand that it has to be a process to fix the many problems left behind.

Once the reset MOU is in place, there will be opportunities for industry to be engaged in discussions about YESAA. At this point, the MOU is out for signing.

To the Member for Pelly-Nisutlin, I apologize that I'm calling him on this, but the reality is that I'm answering the question and he's going right back to the words that his staffers wrote for him. Why not change the dialogue so that we can have a meaningful conversation about this?

Question re: Agriculture policy

Mr. Cathers: I have some agriculture questions for the Minister of Energy, Mines and Resources. As he knows, there is an agricultural conference coming up on the weekend, so I'm going to ask him about a few of the matters that the public would like updates on.

The 2006 agriculture policy is due for review. Can the minister please tell me whether that review has started? Secondly, can he please outline the process for stakeholder and public consultation, including when and how groups like the Yukon Agricultural Association, Growers of Organic Food Yukon, Fireweed Community Market and the Yukon Game Growers Association will have an opportunity to participate in that consultation?

Hon. Mr. Pillai: The 10-year review of the 2006 Yukon agriculture policy will incorporate input from representatives of Yukon's agricultural industry, Yukon First Nations, mandated *Umbrella Final Agreement* boards and councils, and the public.

The goal of the 2006 Yukon agriculture policy is to encourage the growth of an industry that produces high-quality products for local consumption, is economically viable, operates in an environmentally sustainable manner and contributes to community well-being.

Since its implementation, the 2006 Yukon agriculture policy has helped to foster planned agricultural lot development and has created a vision for a stronger and more diversified agriculture industry. An updated 2006 agriculture policy will seek to improve food production and further the goal of Yukon food self-sufficiency.

This work is underway at the department level. Part of what we need to do is reach out to our oversight groups and the Member for Lake Laberge, who has worked with these groups in many cases — not just the Yukon Agricultural Association or the organic growers, but also taking direction from our oversight group. This, of course, will be paralleled with the fact that we have signed our bilateral agreement with the federal government — or at least the framework of that agreement has been signed in St. John's, Newfoundland this summer and now we negotiate bilaterally as we define how the framework of those dollars will be spent.

Mr. Cathers: I appreciate the answer from the minister. If he does have any sense of timelines on that, that information would also be appreciated.

As he mentioned, the current agriculture policy was approved in 2006 and has helped this sector of the economy grow. Another important part of the government's support for agriculture, as mentioned by the minister, is the Growing Forward 2 funding agreement and the programs funded under it. That agreement ends in March 2018, and I understand from the minister's answer that the new framework agreement has been signed but not the bilateral agreement as yet. I understand the successor agreement is also being renamed.

Can the minister please update the public on the status of the new framework agreement, including what opportunity Yukon farmers and market gardeners will have for input on the programs that will be available to Yukoners under the new agreement, and whether there will be an opportunity for them to be involved in the development of the bilateral agreement between Yukon and the federal government?

Hon. Mr. Pillai: First of all, I think it was a great opportunity to be at that table this summer in St. John's, Newfoundland as the agreement was signed with provinces and territories. Certainly it gave us an opportunity to voice the unique situation in the north and to commend the work that has been done, which has been amazing. I think our industry is growing very, very fast compared to other regions. The 10-year plan that was in place before was a great blueprint to see expansion in the agriculture industry.

I think the feeling is that we're going to have the bilateral conversation done in time for us to ensure there is no gap in

funding. I can say, as I have been signalled from our officials, that the flexibility with the funding envelope seems to stay the same. The previous ministers did a great job of ensuring there was much flexibility in this. If it's going to be done before the end of the calendar year or later into the first quarter, I'm not quite sure, but I will get back on the rough time frame on when we feel the federal government will sign off on this. I apologize — I will get back with a time frame on the consultation piece and the time frame of the scope concerning the 10-year plan.

Mr. Cathers: I do appreciate the answers from the minister. He has actually partially answered this already, but if the minister can provide an indication of what the government's priorities will be for the new agriculture policy and the successor funding agreement to Growing Forward, any more information about that would be appreciated. As well, those timelines or anticipated timelines would certainly be appreciated by my constituents and other Yukoners who are interested in these two important areas of supporting the agriculture sector.

I believe he indicated the same flexibility is expected in the new bilateral agreement with the federal government, but I would appreciate it if he could confirm now — or later, if he is unable to today — that this will include the continued ability for the Yukon to use our funding from the federal government to support the development of agriculture infrastructure.

Hon. Mr. Pillai: The flexibility seems to be there which the Member for Lake Laberge is seeking when it comes to — I appreciate the correspondence over the summer from the member on this particular topic, ensuring that some of the flexibility that was there before is still there.

The guiding principles — I think people — we've spoken about Mr. Murray today, and others in the department — have done a good job of having conversations with multi-stakeholder groups to ensure some of the values.

I will say that spending time with Yukon farmers over the last number of months has also brought together some really innovative ideas that I would like to discuss at a further point in a friendly debate here. I think there are some really good opportunities for us. We have seen the commercial egg production that is in place and certainly Yukon Grain Farm is another fantastic operation that is in place. Looking at a long-term view of how we look at food sustainability on a commercial level as well as on a micro-level is going to be something that I think we should discuss here.

Also, I want to have that discussion about elk. We talked about it a bit here. I seemed a little bit prickly on it, but really, what I meant was that it has been a problem for a long time. I think I do owe a better debate on it because it takes up an immense amount of our overall budget from Agriculture just dealing with the mitigation of that.

Question re: Workplace harassment

Ms. Hanson: Mr. Speaker, a report released yesterday by the federal government's Minister of Labour shows how prevalent harassment is in Canadian workplaces. Sixty percent

of the participants in the survey say that they have experienced harassment at work, with one-third saying that they have experienced sexual harassment. Even more alarming is the fact that a majority who reported the inappropriate behaviour feel that they were either not taken seriously or, even worse, faced retaliation. There is, unfortunately, no reason to believe that these statistics are any different in Yukon.

Can the minister tell this House what Yukon statistics reveal about the prevalence of harassment in the workplace in the Yukon? Can the minister also tell this House what recourse, support and protections are in place to protect Yukon employees from harassment, whether they work in the public or private sectors?

Hon. Mr. Mostyn: I thank the Leader of the Third Party for the question. As for the specific statistics about harassment in the Yukon government — I will have to get back to the member opposite with those numbers. I can say, though, that members on this side of the House certainly take this issue seriously. We cannot in all good conscience as a manager or as a leader of this organization condone such behaviour. We certainly will take action to address harassment in the workplace over the coming years.

Ms. Hanson: Mr. Speaker, in the wake of the #MeToo campaign, the release of this report by the federal Minister of Labour shows that harassment and sexual harassment are problems that can't be ignored. The Yukon government is the territory's largest employer and, as such, has a double responsibility. As the government, it must establish procedures to protect all employees, no matter what sector they work in. As an employer, it has an additional level of responsibility and accountability to its own employees.

Can the Minister responsible for the Public Service Commission tell this House what the government is actually doing as an employer to protect victims of harassment in the workplace and ensure that they don't face retaliation if and when they report inappropriate behaviours?

Hon. Mr. Mostyn: I thank the member opposite for the question. Within the Yukon government, already there are procedures in place to deal with harassment and abuse within the workplace.

This government does not condone such behaviour. I'm sure any one of us could talk about hearing examples of poor behaviour on the part of managers in the workplace. It comes down to a management — we have to have managerial buy-in to this process and make sure that, when abuse happens and when bad behaviour happens in the workplace — terrible behaviour, unacceptable behaviour — that managers actually take appropriate action. That is the message that I have communicated to staff at the Public Service Commission through the deputy on down; that this cannot be allowed to happen. You start at the top and you start to convey that this behaviour is not acceptable within our government.

Of course, the government itself has many rules in place to govern this type of behaviour, but it comes down to managers and how our managers handle those things. When we hear about it, we have to make sure it's followed up on.

Ms. Hanson: Ultimately, it is up to the government and it is up to the minister. He is accountable and responsible, as the Minister responsible for the Public Service Commission, and he will know the *Public Interest Disclosure of Wrongdoing Act* has been publicly stated by the Commissioner as being not satisfactory in terms of the exposure of victims and the process that they have to follow.

Report after report shows how prevalent workplace harassment is and how, despite the programs that already exist, women are often not taken seriously or choose not to report it because they fear retaliation. The status quo is not acceptable. Existing programs are clearly not enough, so can the minister please outline what new approaches this government is taking? How are they identifying gaps in the current system? How is he ensuring that senior management accountability and how is it improving its response to harassment in the workplace?

Hon. Mr. Mostyn: This issue raised by the Leader of the Third Party is a good one and it is an important one for us to grapple with. To be honest with the member opposite, I don't think we're doing enough. I don't think this government is doing enough. I think we have to do better.

Personally, I'm conveying that we have to do better. I have done that with my officials and they are looking at this issue. We have a workplace harassment office; we have teams that can work into places where there is conflict in the workplace. They go in and try to sort out those problems.

We're talking about a culture within the civil service that has to change. I've seen and heard of incidents where managers have acted badly, they have been abusive, and there has to be — the whole reprisal piece is a really interesting one, Mr. Speaker, because I have heard for decades how people are afraid to speak out and raise these concerns. We have to break through that.

I encourage people to come forward and have their concerns heard when things happen.

Question re: Government building maintenance

Ms. White: Earlier this week, we asked the Minister of Highways and Public Works about the non-working backup generator at École Émilie Tremblay.

In his response, he indicated that a similar problem had been identified at a Porter Creek school — and I quote: "... there is one at Porter Creek that is currently being fixed for exactly the same problem. We're going to get on that and fix those problems."

Mr. Speaker, it's disturbing to hear that another school in Whitehorse is experiencing the same problem as the one that closed for two days.

Can the minister tell this House whether this other school has had battery-operated emergency lighting installed and have all other Yukon schools been assessed to ensure that no others have similar problems?

Hon. Mr. Mostyn: Yes, I can confirm to the member opposite that indeed we have been placing the same battery-operated lights in Porter Creek as we had installed at École Émilie Tremblay. I'm not sure if that work has been done. I

haven't spoken to my department today about that issue, but that work was on the radar and was supposed to have been executed. I will check back for the member opposite to see if that work has indeed been done.

As for the other schools, I believe that this is the only other emergency generator in the Whitehorse area that has had their emergency lights hard-wired into it, but I can get back to the member opposite with that answer as well.

Ms. White: I thank the minister for that answer. Earlier this week, in response to a question, the Minister of Highways and Public Works said — and I quote: "There has been a deficit in the maintenance of our public buildings for several years."

In the Auditor General's report dated March 2017 — the report on Capital Asset Management – Yukon — the first recommendation was that the department — and I quote again: "... should complete all planned building assessments, verify the data in the assessments, and then incorporate this information into the maintenance plans for all buildings in its portfolio."

Mr. Speaker, this was not the first time the Auditor General has made these recommendations. The same aspects of capital asset management were included in their performance audits in 2007, 2009 and again in 2012.

What progress has been made by the department to address the recommendations of the Auditor General around the assessment of government-owned buildings and when will it address high-priority deficiencies?

Hon. Mr. Mostyn: I thank the member opposite for the follow-up question. I too remember the times in 2007 and 2009. You outlined the dates very well — this constant litany of these problems being kicked down the road and not being dealt with. This is one of the first matters that came before me as Minister of Highways and Public Works and I asked the department where we were at. I want tangible, measurable advancement of this cause. I don't want this slipping again.

We have been working very hard — the computer systems are in place, the actual management tools are now in place — and we are working forward methodically to address some of the concerns that were outlined by the Auditor General in successive reports because it is not acceptable to have this going on for a decade — I think it's a decade's worth of work. The department has made quite a bit of progress and I can get back to the member opposite with some tangible examples of what those are.

Ms. White: We appreciate where the minister is at with this file.

The government capital assets include over 500 government-owned buildings, many where public services are provided. In its conclusion, the Auditor General reported that the department did not meet its key responsibilities for asset management. Transportation infrastructure was adequate, but the same could not be said for building infrastructure.

The Auditor General has completed similar performance audits since 2007. Recommendations have been made about completing building assessments, verifying data and permafrost impacts. We know from the most recent report that

57 buildings are vulnerable to permafrost degradation, yet only three have been investigated. We have already experienced the cost of permafrost damage at the Ross River School.

Will the minister tell this House what progress has been made on the investigation of the remaining 54 buildings that are vulnerable to permafrost?

Hon. Mr. Mostyn: The member opposite is correct; the numbers do align with what she has mentioned. I think it was three buildings. We are making progress on these things. I will get back to the member opposite with specifics. I don't have the information right here at my fingertips and I apologize for that, but I will get back to the member opposite.

Question re: Highway safety

Ms. Van Bibber: There is an issue of repainted lines along the highway through Hidden Valley, Couch Road and MacPherson Road. Recently, the line pattern was changed, removing turning lanes on the side as there had previously been. We have heard from Yukoners who are concerned about this as it may become a safety issue.

Will the minister take these concerns seriously and commit to repainting the lines and putting the turning lanes back?

Hon. Mr. Mostyn: I thank the member opposite for the question. I do believe that I got a written request on this very issue. I have sent a response back. I don't have that response at my fingertips right now, but I do believe that the department has looked at that issue and determined that the lines at this time are going to stay the way they are and that it does match with our *Highways Act* and the rules set down by transport officials.

Ms. Van Bibber: Yukoners who live along the Two Mile Road are also concerned about safety issues related to a turning lane. They would like a better marked and longer turning lane along the entrance of their road. This road sees a disproportionate amount of traffic due to the use of a public boat launch. As a result, residents report frequent high-speed use by non-residents. Unfortunately, and understandably, people are concerned about safety issues of high-speed traffic going past their homes.

Will the minister extend the turning lane on to Two Mile Road to improve safety by allowing more time for vehicles to slow down before they pass homes that are near the road?

Hon. Mr. Mostyn: I thank the member opposite for the question. I will mark it in Hansard and get my officials to look at it. I'm not sure of the particulars of Two Mile Road, but I do know that the issue of road safety is something that certainly has come up several times from the members opposite with regard to roads in and around Whitehorse. I have followed up in every case with the department for them to go out and scope out the problem to see what can be done and what issues they are trying to address through the highway markings they're putting in place this season.

In almost every case, they come back and say they do match the acceptable rules, that they are within Transport Canada's — within the *Highways Act* — and within the

accepted parameters for safety on public roads. I am not a road safety expert. I know that my traffic officials — my highways officials — are certainly aware of a lot of these concerns. They have looked into the ones that have been brought to my attention. This Two Mile Road is another one that I will flag and have the officials go out to prepare an answer for the member opposite.

Ms. Van Bibber: I'm glad we will have that looked into. There's another section of the highway near Porter Creek. There have been a number of requests from residents of Porter Creek for a turning lane on to the Alaska Highway right in front of Porter Creek Super A and that would improve the safety of that intersection. When we asked the minister about this in the spring, he said he would look into the matter further then.

Could the minister update us on that particular intersection? Will he agree to listen to the concerns of the public and commit to installing a turning lane on the Alaska Highway in front of Porter Creek Super A?

Hon. Mr. Mostyn: I thank the members opposite for their interest in this matter. As they know, I have spoken a little bit about the Whitehorse corridor. It's not a word that we use lightly around here; the stretch of highway from the south Klondike up to the north Klondike highway is an important corridor to the territory. It is one of the busiest stretches of highway in the territory and sees a lot of traffic. There are a lot of concerns up and down this stretch of highway.

A lot of development has happened without a lot of planning. We are looking at this now. The members opposite did a fairly fulsome traffic study and did some engagement on that. I have looked over that document. The engagement was inconclusive. There's a lot of support but there's also a lot of objections to the findings of the report. We are sifting through that right now to come up with a way forward to address some of the concerns. The members opposite know what they are. There are lots of issues along that corridor and we're going to deal with that in the fullness of time.

Speaker: The time for Question Period has now elapsed.

We will now proceed to Orders of the Day.

ORDERS OF THE DAY

Hon. Ms. McPhee: Thank you, Mr. Speaker.

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

Chair (Mr. Hutton): Order, please. Committee of the Whole will now come to order.

The matter before the Committee is general debate on Bill No. 8, entitled *Act to Amend the Workers' Compensation Act and the Occupational Health and Safety Act (2017)*.

Do members wish to take a brief recess?

All Hon. Members: Agreed.

Chair: Committee of the Whole will recess for 15 minutes.

Recess

Chair: Order, please. Committee of the Whole will now come to order.

Bill No. 8: Act to Amend the Workers' Compensation Act and the Occupational Health and Safety Act (2017)

Chair: The matter before the Committee is in general debate on Bill No. 8, entitled *Act to Amend the Workers' Compensation Act and the Occupational Health and Safety Act (2017)*.

Hon. Ms. Dendys: I would like to welcome to the House today the Workers' Compensation Health and Safety Board president and CEO, Kurt Dieckmann. Thank you so much for being here.

This bill speaks to one of my government's enduring priorities: the well-being of Yukoners. The focus of helping Yukoners to live happy, healthy lives is the hallmark of this government's approach to governing our territory. I said during second reading, and I will say it again, that I am proud and honoured to be the champion of this legislation.

As the minister responsible for workers' compensation and occupational health and safety in the territory, I take very seriously my responsibility to keep people safe at work and to support workers who are injured on the job. When I talk about keeping people safe, I don't mean only physically; I mean emotionally, psychologically and spiritually. That is a tall order, but it is one I take to heart.

Bill No. 8 comes at the issue of workplace PTSD in two ways: through prevention and through support to workers who have developed this serious condition. The presumptive aspect captured in part 1 of the bill sends a clear message to emergency response workers that we understand the unique and personally taxing demands of their jobs and the serious impact that work can have on their mental health.

It recognizes that exposure to trauma is in the job description for these workers and that, during any given shift, they may be faced with horrors most of us thankfully never have to face. When those horrors begin to take their toll, this new legislation will encourage them to get the help they need sooner rather than later. I am convinced that this presumption will go a long way toward removing the stigma around mental health issues that exist in society at large and in these

particular workplaces. Reducing the stigma will benefit all workers, not only the ones to whom the presumption applies.

I need to reiterate that the presumption for emergency response workers does not compromise the ability of other workers suffering from psychological injury, including PTSD, to get help. The benefits of the compensation system are there for all workers and will continue to be there when needed. Members of the Third Party have advocated for the presumption to be extended to all workers. I remind them and other members that we already have a presumption for all workers in part 3 of the *Workers' Compensation Act*. We also have a balance of probabilities provision in the act that works in favour of workers.

We have a policy in place for adjudicating psychological injuries that is really a model in Canada. The policy takes a broad, inclusive view of psychological injury and reflects the board's values of compassion and empathy, which align with my own personal values.

I also wish to reiterate that the presumption is rebuttable, meaning that, if evidence comes to light that a claimant's PTSD is not work-related, the presumption would be rebutted. The claimant might still be entitled to compensation benefits, but the claim would proceed to adjudication for that determination.

As I noted in the second reading debate, we found out during the board's public engagement with Yukoners this summer that more needs to be done to prevent psychological injuries. Part 2 of the bill speaks directly to that issue. It enables the government to enact regulations to increase awareness of how to prevent psychological injuries and clarify the requirements for employers and workers.

This actually speaks to a question that came up just today in Question Period about bullying and harassment in workplaces. Yukon employers are already responsible for the mental health and well-being of their workers, and that is not going to change. What we are doing is addressing a gap in the current regulatory regime by specifically including mental health. We know that many Yukon employers are addressing mental health in their workplaces, and we commend them. But this regulation will take us further for those who are not yet, and the new regulations will provide welcome guidance.

That is what this bill intends to achieve. I look forward to further debate on Bill No. 8 and to answering the members' questions. Those are all of my introductory comments and I look forward to the debate beginning.

Ms. McLeod: Thank you to the official for joining us today. It's my pleasure to see this bill into Committee of the Whole.

We have spent some amount of time discussing this bill on a couple of different platforms. I don't have a lot more to say about it.

I just wanted to go back to the survey results that helped to formulate this bill going forward and that are posted on WCB's website — that roughly 200 people responded to the survey. About one percent of responses agreed that legislation ought to cover only first responders.

First I want to say that we will be supporting this bill, and we want to certainly see it go forward and we're looking forward to it coming into force. My only question concerns the number of times the government has stressed that they want to make decisions based on evidence, and clearly the evidence from the survey would suggest that a lot more people wanted to see this bill have a much broader application.

As I say, we've discussed this at length. I think there are a lot of workers still in Yukon who might have preferred to be covered by this legislation.

I certainly look forward to seeing the consultation and development of regulations, which may help to address the prevention of and better treatment for occupational injuries. Really, I don't have a lot more to say on this bill. As I say, I look forward to its speedy passage.

Hon. Ms. Dendys: I would like to just respond to the member opposite's comments and questions posed today. I anticipated that this question would come up on why presumption doesn't apply to all workers.

The Yukon Workers' Compensation Health and Safety Board already provides loss of earnings, benefits, health care assistance, and return-to-work support to all workers who are covered by the *Workers' Compensation Act* and who suffer compensation work-related injuries, whether physical or psychological. The presumption does not change that. I said that in my opening comments. General presumption is already in place that ensures coverage for all workers who suffer from injuries.

To be direct to the question about the survey itself, we had certainly considered a number of factors when we decided that we would focus on this particular group of workers. We had a report that was published in August 2017 by *The Canadian Journal of Psychiatry* indicating that Canadian emergency workers experience psychological injury at a rate significantly higher than our rates for the general population — 44.5 percent versus 10 percent. Based on this and our other evidence, we considered — and I have spoken to this previously — a number of other factors.

The Yukon Workers' Compensation Health and Safety Board for sure conducted a survey, which included all of those respondents that the member opposite has raised, but we also considered other evidence. We received advice from the Yukon Workers' Compensation Health and Safety Board, information from its actuary — such as the average cost of PTSD claims and the potential effect on our rates if more PTSD claims are accepted, which is what we anticipate. We absolutely anticipate that. The Yukon Workers' Compensation Health and Safety Board consulted its peers from across Canada and provided a report detailing what other jurisdictions are doing with respect to PTSD presumption legislation. The Yukon Workers' Compensation Health and Safety Board conducted its public survey, which has certainly formed part of the evidence that we have before us today — and then other evidence, like the report that was published in August 2017, which is a very new report.

We certainly looked at all of that together and feel that the presumption recognizes the unique working conditions of

the emergency response workers and their higher risk of suffering psychological injury, but any worker who experiences on-the-job trauma and is diagnosed with PTSD as a consequence is eligible for loss of earnings and benefits, health care assistance and return to work.

Based on all of the evidence that we have, the PTSD presumption in Bill No. 8 takes the general presumption a step further by establishing an explicit presumption for work-related PTSD for emergency service workers, but it does not compromise workers' compensation coverage for other workers in any way.

Ms. Hanson: I thank the minister for her opening comments and for the presence here of the representative from the Workers' Compensation Health and Safety Board as well.

I want to say at the outset that the New Democratic Party has supported and continues to support presumptive coverage for emergency workers and first responders. We made that clear in 2015; we made that clear in 2017. What I have said repeatedly since that time is that it is possible, as a legislator, to learn. We have learned by listening to workers and workers' groups across this country that, as deep as the impacts are for emergency workers and first responders with respect to post-traumatic stress disorder or injury, it is possible that the same traumatic events can occur in all workplaces.

I'm deeply concerned when I hear from the minister — as I heard from the Minister of Finance, the Premier — any suggestion that a decision to limit the scope of this legislative coverage is based on the financial aspect, the potential for cost increases. Mr. Chair, that runs so contrary to the contractual nature, the underpinning of the covenant, the contract, that was established when workers' compensation was established 100 years ago. We talked about that when the witnesses were before this Legislative Assembly.

Workers give up the right to sue, in terms of their right to be able to go to court and demonstrate the employer's wrongdoing, in exchange for the assurance — as the minister referenced indirectly when she was referring to section 17, the balance of probability section. It deeply worries me that, in an era in this territory where, over the last couple of years, we have seen very healthy rebates — \$10 million — to employers, including over \$2 million to the Yukon government as an employer. To suggest that you limit the scope of potential coverage for workers on a presumptive basis because it might cost more money — I put that out there as something that should be deeply concerning for all members of this Legislative Assembly, if they really and truly believe the underlying objectives and principles of the coverage and what workers' compensation is about.

The minister has referenced a number of times the fact that there is a process currently for dealing with people who have experienced trauma in the workplace — for any worker, she says. That's covered under EN-09, the adjudicating psychological disorders section, which is a policy statement. I would like to ask the minister — there's a section there that's called "Exceptional Circumstances". I'll just read it: "In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to

do so would result in an unfair or an unintended result, the YWCHSB will decide the case based on its individual merits and justice in accordance with YWCHSB's policy, 'Merits and Justice of the Case'. Such a decision will be considered for that specific case only and will not be precedent setting."

Can the minister tell us under how many exceptional circumstances policy EN-09, *Adjudicating Psychological Disorders*, has been applied to in the Yukon? Do they track the nature of those exceptional circumstances?

Hon. Ms. Dendys: Mr. Chair, I was just having a side discussion with Mr. Dieckmann, and my understanding is that this provision is rarely used, but it is not tracked. That is something that we will have further discussion on, for sure.

I want to go back to a few of your opening comments about the cost and our commitment. General presumption is already in place and assures coverage for all workers who suffer injuries arising out of the course of their employment. I know we are talking about policy EN-09, *Adjudicating Psychological Disorders*. If there is a question of balance of probabilities, it goes in favour of the worker. That is how our system currently works. I haven't gone into direct costs. I have not done that because I really wanted this bill to focus on the reduction of stigma around psychological injury.

The heart of our bill is to reduce that stigma and to send a clear message to all of our emergency response workers who have it within their job description to face trauma each and every day that we understand and we know that they're at a higher risk of injury.

I'm going to talk a little bit about the costs. We have some early estimation of what a claim could cost. It's not about the money, but I know that it has been raised here, so I want to just place it on record that lifetime costs of a PTSD claim is estimated at \$300,000 to \$500,000. Right now, a majority, if not all, of our PTSD cases are within the government rate.

We made a commitment. I know I heard the member opposite for Takhini-Kopper King talk about going beyond platform commitments yesterday and we are doing that. We have done that with this bill; we have certainly done that. Our commitment was to bear the cost of this presumption and we have done that.

We know that we haven't been able to determine across the board what other rate groups would think about us making a decision on their behalf that would increase their rates, because as soon as you increase the risk of more types of cases, we will be effectively impacting other rates of other employer groups across the Yukon. As soon as we do this, then our actuary is going to be having a conversation with us and directing us to set aside more funds, which will effectively increase our rates across Yukon.

We know that if another rate group has a psychological injury like construction or placer mining — maybe a critical incident or something along those lines happen on a work site — right now we have it within our current act that will allow that worker to come forward, so hopefully we have done our work to destigmatize and say that it's okay. It's okay if you

have a psychological injury — you can come forward. We have a law that will assist you and cover you.

For us to make a decision on behalf of all employers in Yukon without enough evidence is not something that we've committed to, and we would like to implement this act and gain more experience with it because we haven't been able to find what the full impact of that could be across Yukon.

Just going beyond our platform commitment, we're proposing changes to regulations that will put in place guidance for all employers to put preventive measures in place to avoid psychological injury in the workplace. That is for all employers. We have made a decision that we want this to apply to all employers in the Yukon, so everyone will have to implement these regulations and put in place programs and services that will effectively prevent psychological injury in the workplace. That is where we have gone broader. We have gone beyond our platform commitment. We are not just proposing a change to add a presumption for this group of employees. We have gone broader and we are proposing regulation changes to the health and safety act as well.

Ms. Hanson: I thank the minister for her comments. I would point out that the fact of the matter is that addressing the need — going back several years — to have first responders covered under workers' compensation as a presumptive cause was because the system was not working, Mr. Chair. It wasn't for nothing that first responders — that Jim Regimbal, Michael Swainson and other pioneers in this area, pioneers who have lived it through it, either through their colleagues or themselves. It wasn't because they just suddenly said, "Oh gee, a couple of work categories need to be covered on a presumptive basis under workers' compensation." They did it because they lived through living hell. That is why we are talking about this today, Mr. Chair. It's not because, out of the blue, political parties decided to make this change. It is because — although there are nice provisions that are set out at the back of the policy about adjudicating psychological disorders — that is not easy. We collectively — because I think all parties have recognized, more or less, that there are rare circumstances — we are not talking about a huge number of incidents this year.

It would be interesting for the minister to be able to articulate for the record how they made the financial assessment, because the reference there was again to their actuaries having concerns. On what basis have they made the analysis that presumptive legislation coverage for all workers in the Yukon would change costs? On what cost basis is the analysis there? We do know that an employer's interest lies in the fact that, ultimately, they do finance any compensation paid to rehabilitation services given to a worker; that is part of the trade-off. There is a direct financial impact — we know that. But on what basis does she make the assessment about the expansion of this, based on the numbers that were provided to us and the corrected numbers that were provided to us of the incidents of accepted claims for PTSD in Yukon?

Hon. Ms. Dendys: I thank the member opposite for the question. Right now, all costs are assigned to the rate group

where the injuries are occurring and are covered no matter if there is an increase in incidence or not. That's for sure.

The issue is that the rate could increase without any increases in injury simply because the Yukon Workers' Compensation Health and Safety Board might be made to book an additional liability.

For instance, the firefighters' cancer presumption resulted in a \$5-million liability without any additional injuries. That was just simply because the presumption was put in place. If we went further and put this out to all employers in the territory, I'm not sure what that liability would look like. If you look at the example of the firefighters' cancer presumption, no further additional injuries — and that rate group had to book a \$5-million liability.

Going ahead with a full "all workers are presumed" — if they present with PTSD that's work-related, it's going to effectively cause a further liability to all employers in the Yukon. That's a given.

Ms. Hanson: Those are pretty big ifs. If ifs and ands were pots and pans, what would we do for tinkers? The reality is that this is a decision that is being taken based on fear of the unknown, as opposed to any knowns. Also missing in that equation that the minister has outlined is the responsibilities in terms of prevention. We know the historic liabilities that came with the firefighters' presumption because we would hope that, in the future, firefighters' working conditions are going to be less hazardous than some of the documented cases that we have seen that led to those actual carcinogens. It's never going to be obviated. We know some of those workplace situations — going to a fire and the response in those circumstances is that they are going to walk into unknown hazards — but there are times, in terms of obligations on the employer, to ensure that they are properly equipped. Historically we know that has not necessarily been there.

The obligation of the employer on the prevention side has to be factored into the determination of the liability, should somebody's workplace — I'm really seriously looking for the determination and on what basis we're assuming that the costs are going to dramatically rise. I don't, quite frankly Mr. Chair, think that you can equate the presumption on firefighters — that's quite a different kind of circumstance, unless you are prepared to talk about injuries, and we're not — we still want to keep it under the psychiatric disorders classification, so let's keep it where it is — then I think, for the record, we need to know on what basis the government is fearful of this costing so much more, if there's an equitable balance in terms of prevention activities on behalf of all employers. It sounds like there is an intention to do so, so where's the balance and what is the cost?

Hon. Ms. Dendys: Going back to the example that I used, because that is where we are at — the firefighter cancer presumption — I just want to make note because I did not say this: That \$5-million liability was all within the government rate. At the time that this presumption was put into place, we had more robust regulations in place.

The difference here is that we do not have strong regulations around psychological injury. We are going to be

looking at past exposure to psychological injury, and it will cause a liability to the government. You are right. We are looking at putting a lot of weight behind prevention. At the end of the day, I do not want this to be about cost in any way, shape or form — financial cost. I want this to be about prevention and creating healthier, happier lives for Yukoners — bottom line. That is my intention here and our government's intention. That is why we are doing this.

Yes, I fully acknowledge the work of Jim Regimbal and others who have advocated for this for a very long time. I am brand new into government. This is my very first term — my first year — and I am happy that our government is bringing this forward now. We are taking it a step further. We are working toward putting in regulations that will prevent psychological injury in the workplace. I hope that in five or 10 years from now, we will only be talking about prevention and working toward the goal that the Workers' Compensation Health and Safety Board has of zero injuries in the workplace. That includes psychological injury.

I think you had also mentioned the language around "disorder" versus "injury". I talked about this extensively in my opening comments in second reading. It's not intended to be disrespectful in any way to anyone who has suffered psychological harm anywhere, let alone in the workplace, but PTSD is a specific medical condition requiring a professional diagnosis. "Disorder" is a term used in the DSM-5, which is the reference document for diagnosing PTSD. It is also the term used by workers' compensation organizations in other jurisdictions. I just wanted to just reference why that is the term that we are using within this bill.

I hope I covered your questions. If not, please let me know.

Ms. Hanson: I thank the minister. The issues of using the medical model and the psychiatric model to address workplace injuries or disorders are beyond the scope of this discussion. I raised it repeatedly and I will continue to raise it because I think eventually that we as a society and as legislators will get there. We will recognize that we're talking about injuries and we're not talking about necessarily having to fulfill the DSM-5, which is fraught with many, many issues beyond the scope of our conversation here today.

The minister's reference to costs, with respect to firefighters, and how those are costs to government — well, there are a number of factors here. One is that it's perhaps true that it was an additional cost, but as a ratepayer, the Yukon government received a rebate over the last couple of years. It's not as though it's breaking the bank for the Yukon government to have acknowledged that class of workers in terms of presumption as a result of injuries attributed directly to their employment — injuries — illness basically, physically manifested in cancer.

We acknowledge and we know that when we look at the annual reports of the Workers' Compensation Health and Safety Board, the various industry sectors — their rates fluctuate. It's not as though it's unexpected. There is no static level for all employees across this territory. Why is this being treated differently than any other related injury?

The minister has already spoken about the onus on the employer to work on prevention, but quite frankly we all know that PTSD, as the minister said in her opening remarks, can occur from a single traumatic event and that's not going to be restricted to a single traumatic event that occurs within the domain of emergency responders and first responders. There are many other workplaces where that can occur.

We're not talking about rampant sort of spikes; we're talking about incidence, and how this is different in terms of the unforeseen spikes already faced by the board as it makes its decisions — planning forward and looking at its past year — in terms of decisions around what the rates will be per sector and employer groups and as it determines what kinds of rebates it's going to give employers, because that has been the pattern over the last few years. There is a requirement, as I understand from the briefings I've sat in on and at the annual meetings where this has been discussed. There's a certain margin within which the board is either not comfortable or has an obligation not to accrue too much money. That's all understandable. Nobody wants there to be too much money, I guess. If you anticipate that there will be — because you haven't done the commensurate work that is necessary in preventing an injury, wouldn't it be prudent to not be rebating such significant amounts to employers until you have sort of sorted it all out?

If it's all in the government right now, I really don't get it. The expansion — and I'll get to this in a minute, because I want to come back to the questionnaire that was cited earlier, but I am really curious as to how that argument holds water with respect to this focus on the rates spiking suddenly.

Hon. Ms. Dendys: Yes, so we are trying to figure out exactly what the question was, but I think where we have landed is that there is a concern that we are rebating money to employers each year, and there is absolutely no guarantee of that. That overfunded position that we are currently in with Workers' Compensation Health and Safety Board is strictly because of investments in the market and it has caused us to be in an overfunded position. There is never a guarantee. That is a board decision. The board makes that decision around whether rebates happen or not.

Again, I just want to go back — yes, right now the majority of cases sit within the government rate group, which is why we're making the decision. We have made that commitment that we will do that. There would have to be a lot more discussion with employers across the Yukon if we were to make a decision on behalf of all employer groups that PTSD is going to be presumptive for all Yukon employees. Right now, we do have a provision in the act that covers all Yukon employees and, if we were to see some sort of increase in another rate group, then obviously that rate group would be impacted. If it was particularly in the area of post-traumatic stress disorder, then that would be something within our new regulations that we are proposing around prevention and that we would be working very closely with that rate group to address, because, again, the overall goal is to reduce psychological injury in all workplaces throughout the Yukon

— particularly to those who are in the category that we are talking about today, which is emergency response workers.

Ms. Hanson: I thank the minister. Let's come at it from a different angle. The minister has spoken about unquantified concerns expressed about the potential for burgeoning costs with respect to rates, but no linking of numbers to that. Fine — then let's talk about the fact that the minister has made it clear that the government has assumed the liability because it doesn't want to spread the potential liability for increased rates, whatever they should be or could be, as a result of the expansion to all workers.

What we have is a government saying that some government workers or some people who are covered under government deserve coverage, but not all government workers. When we look back at the responses to the questionnaire that the Workers' Compensation Health and Safety Board received in August, what we find there is that: 51 respondents, or roughly 25 percent, said that nurses should be covered — and, well, many nurses work for government; 44 respondents recommended other social care staff, which include therapists, counsellors, group home workers, nursing home workers, child welfare workers, outreach workers, youth-at-risk workers and mental health and addiction workers; 43 respondents recommended social workers; 32 recommended corrections officers; and 29 recommended other medical staff, including admitting staff, family support staff, medevac personnel, first-aid volunteers, midwives, dispatchers and emergency room staff. Many of those are in the government's employ in this territory. Why is the government prepared to assume whatever unknown increased rate liability for some people who are going to be directly covered by government rate, but not all?

Hon. Ms. Dendys: I will just start with the first part where you were focused primarily on nurses. Nurses are included in the general presumption for all workers as outlined in part 3 of the *Workers' Compensation Act*. Bill No. 8 does not change that. The Workers' Compensation Health and Safety Board provides loss-of-earnings benefits, health care assistance and return-to-work support to all eligible workers who suffer work-related injuries, whether they are physical or psychological. The definition of "paramedic" in the bill was written in such a way that it includes community nurses when they are acting as paramedics in the course of their work. Only 25 percent of Yukoners who participated in the engagement conducted by the board this summer suggested that nurses should be included in the presumption if the presumption were to be expanded in the future. Again, around the definition, we have included that, specifically to capture nurses who work in the communities who are acting in a paramedic role.

I just want to go back, going over why the presumption applies only to emergency response workers. I want to go over this one more time — or I'm not sure — maybe more than one more time.

I have gone over some of the factors that contributed to our decision at the end, when we had decided this is where we would focus the presumption. The presumption recognizes the

unique working conditions of emergency response workers and their higher risk of suffering psychological injury, but any worker who experiences on-the-job trauma and is diagnosed with PTSD as a consequence, is eligible for loss of earning benefits, health care assistance and returning to work support — anyone who experiences trauma at work — however not everyone faces trauma as a job expectation. We don't; we're here at work today. We don't expect to be in a trauma situation, but if something critical were to happen in the Legislative Assembly, maybe we would. Maybe — right? It's a good thing we have cumulative coverage, because the day-to-day work in the Legislative Assembly can be stressful.

Emergency response workers are potentially exposed to trauma as part of their day-to-day job duties. A PTSD presumption for paramedics, firefighters and police officers recognizes a higher likelihood of these particular workers to develop PTSD as a result of workplace exposure to trauma. Anyone can experience trauma at work — we know that. However, for most workers, the possibility exists of being exposed to a single traumatic event. Emergency response workers are often exposed to a series of traumatic events over time and are, therefore, more likely to suffer the cumulative effects of years of exposure. When a worker not covered by the presumption does experience workplace trauma — for example, a robbery or an assault — which results in a diagnosis of PTSD, the worker is covered, whether they are from another rate group or not.

Again, if we start to see there are cases coming from different rate groups, we're going to work with that employer group to ensure that the regulations that we're proposing in Bill No. 8 are adhered to and that we're assisting them with putting in place programs that will prevent psychological injury on the job.

The same is true for any worker who is diagnosed with PTSD as a result of cumulative exposure to workplace trauma. Too often paramedics, firefighters and police officers are so busy caring for others that they overlook their own self-care or don't feel supported to care for themselves. A presumption encourages these workers to seek help sooner so they can recover more quickly with less long-term suffering and permanent harm.

It also reminds them and all of us of the importance of taking action to prevent psychological injury. We are committed to Yukoners. We committed to Yukoners during our election campaign to provide presumption for first responders.

We now refer to them as emergency response workers as we worked through the definitions for this bill and we're happy to be fulfilling that commitment today.

Ms. Hanson: The minister has referenced the fact that nurses who are working as emergency medical evacuations would possibly be covered under this legislation. I just want to refer to a submission that was made by the Manitoba nurses association in May 2015 with respect to presumptive post-traumatic stress disorder. In that submission, which is actually — and I would recommend it to all members because it is a very comprehensive and thoughtful outline in terms of the

issues associated and the background around the presence of PTSD in the nursing profession. It also covers some of the basic issues that we have been debating in this Legislative Assembly.

One of the things they say is that it is often under-reported and under-recognized that the causes of PTSD in nurses are masked behind a misdiagnosis of other illnesses, such as critical incident stress or occupational burnout. It's important to note that terms like "anxiety", "stress" — which is not a Workers' Compensation Health and Safety Board-covered thing, and I get it — or "neurotic disorders" represent core symptomology of PTSD according to the DSM-5.

From the nurses' perspective, presumption of PTSD coverage would improve the timelines and consistency of adjudication for PTSD claims because the claimants would no longer be responsible for proving the causal connection between an event and PTSD. Depending on how that legislation is structured — this is going to be really critical and we will be going into this as we get into this legislation even for those narrow groups that are defined — and depending on how that presumption is structured, the adjudication process will be more efficient since claimants would only have to validate their diagnosis of PTSD and confirm that the events took place during employment.

I hear from the minister repeatedly that this is fine for everybody because they're all going to be covered anyway, but one of the real challenging things that we find is that, without that presumption, there is a need to rely on the adjudicator's interpretation of determining whether or not an incident caused PTSD.

I asked the question before and I will ask again: Are the adjudicators for Workers' Compensation Health and Safety Board medically trained? If not, on what balance of probabilities are they making their assessments of an assessment by a psychologist or a psychiatrist that the PTSD under EN-09 is or is not valid?

I am going to just go back to where you started in your questioning around the Manitoba legislation. I am just going to read the actual presumption clause within the Manitoba legislation.

The presumption re post-traumatic stress disorder is captured in section 4(5.8): "If a worker (a) is exposed to a traumatic event or events of a type specified in the *Diagnostic and Statistical Manual of Mental Disorders* as a trigger for post-traumatic stress disorder; and (b) is diagnosed with post-traumatic stress disorder by a physician or psychologist; the post-traumatic stress disorder must be presumed to be an occupational disease the dominant cause of which is the employment, unless the contrary is proven."

Where considering a claim under the presumption in the Manitoba WCB, the worker was exposed to a traumatic event or an event specified in the most recent version of the manual as a trigger for PTSD, the worker has received a diagnosis of PTSD and there is evidence to rebut the presumption.

Now this is exactly how Yukon's system works now for all employees. This is exactly it.

Hon. Ms. Dendys: I'm sorry — maybe I missed the question. I will just sit down. I perhaps have missed the point because there was a long preamble there. I was going back to the Manitoba legislation to speak specifically about that. Maybe I will just let the member opposite clarify her question.

Ms. Hanson: Just to clarify, Mr. Chair, I was not referring to the legislation. I was referring to a submission made by the Manitoba nurses association with respect to the importance of inclusion of nurses in the category of workers who would be covered under presumptive legislation for PTSD. I was citing from the Manitoba nurses' submission with respect to that. I have not referred to anybody else's legislation so far in our conversation this afternoon.

What I was referring to is that the minister had indicated that only 25 percent of the respondents said that nurses should be covered. Well, in fact, the questionnaire was worded — not about what categories. It was like: If we were to think about this someday in the future, what would you consider? That is mixing apples and oranges, and I was pointing out that, despite the fact that the government had structured its questionnaire in a way to say, "We are going with first responders. If we ever come back to it in the future, who else do you think should be covered?" clearly, only three respondents said that we think it should be restricted to first responders.

I pointed out that the others — and I gave the numbers with respect to the breakdown, and that makes about 25 percent. I was making the case that the nature of the work of nurses — many of whom are covered and in the employ of the Government of Yukon and are therefore covered by the government rate. If there is going to be some unforeseen increase as a result of this presumptive legislation by covering that workers' group, I am curious as to why not.

The question that I had asked at the end was with respect to the adjudication process. If we are going to make this equitable because, if the reliance for all workers other than those articulated by the minister who will be covered by presumption — if the reliance on EN-09 is that you will submit to these various assessments by psychiatrists or psychologists — whichever is the one deemed to be appropriate at the time and is the adjudicator — a medically qualified adjudicator — on what basis do they contradict, perhaps, the findings of a psychiatrist who has spent many years in academic and practical experience to be identified and accredited the designation as psychiatrist? That was my question.

Hon. Ms. Dendys: My apologies to the member opposite around the previous answer, but I think it is still relevant that we talk about that because it has been brought up around the Manitoba system and that it is somehow better than the Yukon system or what is being proposed here.

The adjudicators rely on the assessment of the mental health professional. The adjudicators are not medically trained, but they rely on the assessment of the mental health professional.

Ms. Hanson: There are other legislative assemblies that have considered this issue and have considered a broader

scope of coverage for workers. We have been focused on trying to understand the rationale for the narrow focus by this government without even any indication that it would review it in three years, two years or five years to determine whether or not the scope or the coverage should be extended. That's what concerns me, Mr. Chair. It is like, this is what we're doing, despite what we have in terms of the consultation process — a consultation process that, again, was very short, had limited participation and is being actively ignored. I'm trying to understand that.

If you could just give me a moment, I wanted to ask a question specifically about — because it's hard to find succinct information from workers' perspectives. I was looking at how claims would be dealt with. How does the minister's proposed legislation that she has here deal with timelines for a submission of a claim of PTSD?

For example, my understanding is that Alberta's presumptive legislation permits a 24-month timeline for submitting PTSD claims, a 24-month period — I'm reading from the MNU submission. "The 24-month period applies to the date of the incident that caused PTSD, or the date the worker became aware of their PTSD." Those can be very different, Mr. Chair.

The WCB of Alberta considers the date of diagnosis or treatment to be the date on which the worker became aware of the incident. Should a claim be made after that 24-month period, the WCB of Alberta has the authority to waive the limitation on a case-by-case basis. I am presuming that kind of balance of probabilities would apply here, but I want it confirmed by the minister.

What approach does this legislation contain with respect to even that narrow range of workers who will be covered with respect to the time limit? Is it one month, six months, 12 months, 24 months, or broader than that?

Hon. Ms. Dendys: Just to be clear: Our system and the way it works doesn't really factor when an injury occurred because we have a cumulative type of consideration. It's really about when the diagnosis is received.

An example of that is you may have an emergency response worker who worked on the job and potentially had exposure to a number of traumatic experiences or incidents, and maybe hasn't worked as an EMS for three years or something like that, and comes forward with a diagnosis of PTSD. For the Workers' Compensation Health and Safety Board, it is not really a factor of when the injury occurred because that worker would be covered if that injury occurred in the Yukon.

Ms. Hanson: I would like to go back to the comments that were made earlier with respect to the workers who are covered by this legislation. In debate — probably in second reading — the minister talked about emergency response workers and the firefighters, paramedics, community safety officers, police officers, auxiliary officers, folks driving the medical ambulance — she can correct me if I misheard her during that discussion — and community nurses who were involved in medical evacuation. Under definition of police officer, it says it means a worker who is engaged in police

work and it does say this includes a member of a police force and an auxiliary member of a police force. Are 911 operators included?

As well, during that second reading debate in response to a question from my colleague for Takhini-Kopper King, the Premier indicated that corrections officers are also included. I would like to have the minister confirm whether or not he was correct and whether or not corrections officers are also included under this proposed legislation.

Hon. Ms. Dendys: No, 911 operators will not be covered under this specific presumption. It's really clear in our definition of who is included, and correctional officers will not be included in this presumption. I'm not sure — maybe it was just something out of context. I'm not sure. I would have to go back and look at that.

Ms. Hanson: The minister spoke about community safety officers. Could the minister just give one succinct answer of who exactly is going to be covered and the kinds of job descriptions that one might anticipate being covered by this in terms of presumptive legislation — because, as I said, there seems to be some confusion here? The list that — I would be appreciative if the minister would just make that very clear for the record so that we all have the same understanding of what limitations are anticipated.

Hon. Ms. Dendys: Thank you to the member opposite for the question. I think when we get into — potentially if we do go into line-by-line debate, we can go through all the details a bit, but it would really be determined by the job description of the employee. If we are talking about community safety officers, if the description by the employer includes policing types of services then, yes, I believe that it would be covered under this presumption.

Ms. Hanson: That is a partial response. I asked the minister to identify — because we have a delimitation of what the scope is. It's not all community nurses; it is only community nurses performing certain functions. I don't see that in the definitions.

I would like the minister to tell this House which job titles are captured in Bill No. 8. So when we talk about presumption respecting post-traumatic stress disorder for emergency response workers, what is included in the language of “emergency response workers?”

Hon. Ms. Dendys: Thank you to the member opposite. I guess we're going to jump into line-by-line debate, because that is where I'm going to just run through these definitions. An “emergency response worker” means a firefighter, a paramedic, or a police officer. The emergency response worker is a key definition in this bill. Any worker who comes within the definition of emergency response worker receives the benefit of the presumption contained in the bill. Emergency response worker is defined to include a firefighter, a paramedic and a police officer, each of which is also defined in the bill.

“Firefighter” means a worker who is a full-time firefighter, a part-time firefighter, or a volunteer firefighter, as defined in subsection 17.1(1). A firefighter adopts the definition of the firefighter already included in subsection

17.1(1) of the *Workers' Compensation Act* pertaining to firefighters diagnosed with certain types of cancer. The definition is relatively complex, but includes full-time, part-time and volunteer firefighters. Under the definition, fire marshals and deputy fire marshals are included. A worker who only fights a forest fire is not deemed to be a firefighter under the definition.

“Paramedic” means a worker who is trained to give emergency medical care to individuals who are seriously ill or severely injured with the aim of stabilizing them before transporting them to a medical facility. “Paramedic” has been defined to include any worker who has been trained or given emergency medical care with the aim of stabilizing the patient and transporting them to a medical facility. This definition would also include those community nurses who attend ambulance calls and air ambulance medevacs.

“Police officer” means a worker who is engaged in police work and is a member of a police force, and includes an auxiliary member of a police force referred to in paragraph 6(1)(e). A police officer is a worker who is a member of the police force, but also includes an auxiliary member of a police force referred to in paragraph 6(1)(e) of the *Workers' Compensation Act*.

Members of the RCMP are not covered by the definition because they are employed by Canada and are covered by federal legislation. We wanted this provision in here as we move forward within a self-governing context. For instance, in the administration of justice agreements that are now being negotiated, enforcement officers or police officers are certainly anticipated under some of those agreements. So this is forward thinking and future thinking within this legislation.

I hope that answers the question from the member opposite and I would be happy to take more questions.

Ms. Hanson: I have two questions. An emergency room nurse may be very much involved in stabilizing a patient in preparation for emergency medical evacuation and may very much fit those definitions of the functions ascribed to a paramedic or a community nurse in that emergency situation. Why would an emergency nurse not be covered in this?

Hon. Ms. Dendys: In terms of the difference between a community-based nurse and an emergency room nurse, they are very different. Emergency room nurses would likely have a whole system of support. I think the difference here is that when you are going into the field to an unknown, and are potentially on your own to stabilize and move a patient, to more services like an emergency room where there are many supports in place. I think that is a distinct difference. I have family members who do that kind of in-the-field community nursing on a daily basis, and I can tell you that it takes its toll. Really key in that is that, in the communities, there is always less capacity. That is something that is being looked at in this bill.

Ms. Hanson: Well, the minister has just outlined a problem that is largely the result of the employer — not having adequate staff in those positions in order to ensure that individual nurses who work in the community nursing practice

are not working in isolation and are not facing that kind of trauma.

I would suggest that the minister may want to talk to an emergency room nurse who has spent many hours and years in that practice. It's not the intention, I don't believe, of any legislation or of the *Workers' Compensation Act* to pit one category of workers' trauma over another category of workers' trauma. I simply asked the circumstances of somebody practising and working as an emergency room nurse, who is experiencing and doing the same work as that nurse — why would they not be covered? That was my question. I wasn't asking to extol the virtues of one or the other.

The minister just identified a real irony. We have a government that's reluctant to expand coverage on a broader scope, even to their own rate group, their own workers, but then goes on to explain to the Legislative Assembly that they have a category that is as yet undefined, a job description not known, and that it's anticipated that, someday in the future, there will be a category of workers that will come out as a result of negotiations that are ongoing and have been ongoing and will be ongoing for some time — whereas we have now, within the employ — and we're not talking about other governments, Mr. Chair. We're talking about the Government of Yukon. It does now have in its employ social workers, corrections officers, social work therapists, child welfare workers, mental health and addictions workers, nurses — and this government is refusing to provide them that presumptive coverage but is anticipating that, someday in the future, some other group of employers will have a category of workers.

Can the minister explain the rationale for that?

Hon. Ms. Dendys: It's hard for me to not respond to levels of emotion in the Legislative Assembly. I have a really difficult time with that. I want to address it because I find it very difficult, I guess — that we haven't taken deep consideration of this bill and looked at all the implications. I want to say that nurses are now included in general presumption of all workers, as outlined in part 3 of the *Workers' Compensation Act*, Bill No. 8. That does not change as a result of this bill.

We provide earnings, benefits, health care assistance and return-to-work support to all eligible workers who suffer from work-related injuries, whether they are physical or psychological. All nurses are covered now.

Going back to the question of why it applies only to these workers as defined as paramedic, firefighters and police officers — the presumption recognizes, again, the unique working conditions of the emergency response workers and their higher risk of suffering psychological injury. But any worker who experiences on-the-job trauma and is diagnosed with PTSD as a consequence is eligible for loss of earnings, health care assistance and return-to-work support.

I have gone over a couple of times why we focused on these particular workers and I can do that again. We looked at a lot of evidence. We sought advice from the Workers' Compensation Health and Safety Board and we made careful consideration. To have the member opposite suggest that — I

feel that there is a suggestion that there is a lack of compassion on the part of our government. I do not see that. I see that we've taken careful consideration here.

This has been a long-standing issue, obviously, and workers in these particular occupations have been crying out for quite some time. Really, it's about the stigma of mental health issues. It's about the stigma and so our government has moved forward to introduce Bill No. 8 to include a presumption for these particular workers. We already have an overall presumption within our legislation and we have taken it a step further. We are introducing prevention measures and I think that's really important for us to focus on. Yes, we're fulfilling a campaign commitment here today, but we embrace prevention.

I would like to just go back — on October 23 during Committee of the Whole general debate on Bill No. 11, *Act to Amend the Health Act (2017)*, the Third Party said — and I quote from Hansard: "We believe that people can achieve and improve their well-being through prevention of illness and injury through the promotion of health and collective action against the social, environmental and occupational causes of illness and injury." These eloquent words spoken by the Leader of the Third Party here in this House embody the spirit of the second part of our Bill No. 8. I just wanted to bring that forward.

I know that the comments were in reference to the *Health Act*, but I think that really the essence of this bill that we're bringing forward is to enhance the lives of all Yukoners and to bring particular emphasis to emergency response workers. I just want to say again that all employees in the Yukon are covered for psychological injury. Those are all of my comments right now.

Ms. Hanson: I thank the minister. The minister didn't answer my question, which was with respect to the fact that we have, in their own questionnaire — even though, as she said, they did only put the questionnaire out framed in the language of their platform, and we have already had lots of discussions about the challenges of a government that is going to limit itself to narrowly defined mandate letters and platforms as how you respond to Yukoners, because then it really reinforced that notion that government has what we want to do and listen. That is kind of the opposite of active listening and the opposite of what — I guess it is not hearing, which I thought was part of the big mantra.

The question I had asked was — despite the fact that the questionnaire was worded in the way it was, they only got three out of the 206 respondents who said it should be restricted to the ones they wanted to include in their election platform. The rest of them said, "Listen, there are other workers." I have already acknowledged — and the minister has repeated many times that they are not going to do that. I asked the minister to explain how — given the fact that we don't want to talk about all of these other workers who might be out there in the non-public sector — that the government rate group includes nurses, therapists, social care staff, nursing home workers, group home workers, child welfare workers, youth-at-risk workers, mental health and addictions workers,

social workers, corrections officers, and they are ignored, but we have an undefined category that is going to be anticipated — an anticipated group that is not in the employ of the Government of Yukon. My question is: How do we include an undefined, anticipated category of workers when we refuse to include even those people who are in our employ and who face difficult and oftentimes traumatic work environments? I am simply asking how you get that definition included, which is not a definition — it is just this anticipated category. How does that get into this bill when all of these other workers are not?

Hon. Ms. Dendys: Again, I will say that all workers are covered because I think the preamble was all about that. There are many occupations that are not included in this particular presumption, but there is an overarching presumption, and they are all covered — absolutely.

We have committed to a government-to-government relationship with our indigenous governments. We have done that. There are ongoing administration of justice negotiations. We anticipate that First Nation governments will have these types of occupations under the administration of justice agreements that fall from the self-government agreements.

Yes, we're anticipating that but, right now, all workers in the Yukon are covered under a general presumption. We have introduced a particular presumption for emergency response workers because we know that they have a higher likelihood of suffering psychological injury as a result of the work they do each and every day on behalf of all of us Yukoners.

Ms. Hanson: Then, with respect, why wouldn't the minister include that anticipated category in the future when she comes back, or this government comes back, or another government comes back — because it's now 2017. We are four years past the due date for the review of the workers' compensation legislation. The whole legislation didn't get brought forward here today — just a segment of it. So in the future when we come back to review the legislation, or to review this section of the workers' compensation legislation, and we talk about nurses and we talk about these other groups that have been excluded, why wouldn't the minister include that anticipated category then, as opposed to asking the Legislative Assembly to include a group that doesn't currently exist?

I absolutely understand and appreciate the fact that we anticipate and we want to see the conclusion of the administration of justice agreements. I do know the history of those agreements. I do know they have been going on since 1991. Sometimes there are challenges associated with them, not the least of which is the federal government driving you out of your mind in the Department of Justice — but that's a whole other story.

Mr. Chair, I'm trying to ascertain why we're including a category that doesn't currently exist when we are rejecting categories of government workers that currently exist. I do understand that EN-09 does apply; I do understand section 17. I would ask the minister if she has ever had to sit and work through with an individual that process under EN-09.

Hon. Ms. Dendys: I went over the definitions earlier, which I thought we would do in line-by-line debate but we're doing now. Police officers — this includes a worker who is a member of the police force, but also includes an auxiliary member of a police force referred to in paragraph 6(1)(e) of the *Workers' Compensation Act*.

We do actually have police officers who will be covered under this presumption. So it's not that there are no anticipated workers under this that will be covered. We do have auxiliary officers who will be covered under this presumption. I think that in terms of whether I have — since it has been personalized here — actually worked through issues with people with post-traumatic stress disorder or have assisted them — absolutely I have. I spent my whole career working in the communities in really difficult situations and have many people in my life who have certainly experienced and are currently experiencing post-traumatic stress disorder, Mr. Chair. If the member opposite wants to bring this to a personal level — sure it is personal.

I absolutely am proud that our government is bringing forward this bill today. We are going to make a difference in the lives of many workers and I want to remind the member opposite again — and I know that the member is aware — that all workers are covered under a general presumption. That is not going to change. We have certainly emphasized through this bill and are committed to a further presumption that encourages the workers in the category of emergency response workers to seek help sooner so that they can recover more quickly with less long-term suffering and permanent harm. It also reminds them — and all of us — of the importance of the actions to prevent psychological injury.

I know that the member has emphasized certain workers. The post-traumatic stress presumption in Bill No. 8 takes general presumption a step further by establishing an explicit presumption for work-related PTSD for emergency service workers, but it does not compromise workers' compensation coverage for other workers in any way. It will not impact coverage for social workers, corrections officers, emergency room nurses, convenience store workers or bartenders. Any worker exposed to trauma is covered now and will continue to be covered for PTSD and other psychological injuries under the *Workers' Compensation Act*.

Ms. Hanson: I do believe the minister misinterpreted my statement with respect to taking it personally. What I was asking the minister was is if she had worked through with anybody the EN-09 adjudicating psychological disorders process, which certainly does and is available as the means for ascertaining whether or not somebody has a diagnosis of PTSD.

Perhaps the minister could describe for the House the difference between working through that process and for the worker who will be working as an emergency response worker presenting with PTSD. The emergency response worker currently goes through EN-09 adjudicating psychological disorders. The emergency response worker, whenever this legislation comes into force and effect — what will be the difference?

Hon. Ms. Dendys: I thank the member opposite for her question. In terms of — you're asking about the time to adjudicate and what the differences would be with the process. Basically, every injury and illness claim to the Yukon Workers' Compensation Health and Safety Board goes through a careful, compassionate process of adjudication before a decision is made. This is true both with physical and psychological injury. Every claim requires a diagnosis. You have to be diagnosed before a decision can be made about it, so due to standard diagnostic procedures, it generally takes longer to get a diagnosis of a psychological injury.

The presumption cannot shorten the diagnostic time frame; however, it can have an impact on the length of the decision-making process once a diagnosis is made. That is where the really distinct difference will be.

Factors that affect the time for a psychological injury diagnosis include appointment scheduling, the complexity of medical assessments and the service provider's reporting period. Essentially, there will be very little difference.

Our paramedics, firefighters and police officers are often so busy caring for others that they just essentially overlook their own self-care and they don't feel supported to care for themselves, and I talked extensively about that in second reading. A presumption encourages these workers to seek help sooner so that they can recover more quickly with less long-term suffering and permanent harm. It also reminds them, and all of us, of the important work that they do for us each and every day.

It will hopefully get workers injured by psychological injury through the door sooner, and that really is essentially part of what we want to accomplish with this bill. I think that it's a very good step forward to destigmatize the issues of psychological injury, and those are the comments I have around this right now.

Ms. Hanson: For the minister, it would seem to me that the objective of the workers' compensation system is to facilitate the return to work of all workers, not only emergency response workers.

What I was asking the minister is, materially, what is the difference between that emergency response worker today — who is recognizing that they do need to deal with some issues, does present and is ultimately going to be diagnosed with PTSD — and that same worker whenever this legislation comes into effect? If it is six months from now, what is the material difference in the experience between today's worker presenting not under this legislation, and that same worker if they present six months from now under the presumption piece? I think it's really critical to understand what difference this legislation will make in their lives.

Hon. Ms. Dendys: I thank the member opposite for the question. In terms of the change in time, what we know is that this type of legislation will get people through the door sooner. They will, hopefully — with our support, as a government and society — know that we have taken these very meaningful steps to send a signal to them that their mental health absolutely matters. In terms of what the difference would be — and I have already said this — I think

that the presumption really cannot shorten the diagnostic time frame; however, it will have an impact on the length of the decision-making process once the diagnosis is made. It can take anywhere from 45 to 60 days for a psychological injury claim to be fully adjudicated. This includes approximately 30 days for a medical diagnosis, followed up by 10 business days to make a decision. We are really hoping that this will reduce the time because it will be presumed for these workers that the injury happened as a result of their work. A lot of the decisions are made on the diagnosis, so whether or not a worker is presenting with a diagnosis — the only place that it will really change is that period directly after the diagnosis. We know that it takes at least 30 days to get a diagnosis, and then it will be a much quicker decision process thereafter. That is essentially what it will be.

Again, it will be a shorter time period. People hopefully will seek help sooner and not allow psychological injury to turn into a full disorder that is really very difficult to treat. Right now, it is about 40 to 45 days, and that should be reduced to 35 to 40 days. We hope that emergency response workers will come forward sooner and that other workers, regardless of whatever occupation they are in — I have listed all of those other workers the member opposite is concerned about who are already covered under a general presumption — will seek help sooner. Our system will work with them to get the help that they need to return to work. Yes, our Workers' Compensation Health and Safety Board is dedicated to getting all workers who are injured, whether physically or psychologically, back to work as soon as they can and into meaningful work that matters to them.

Chair: Would members wish to take a brief recess?

All Hon. Members: Agreed.

Chair: Committee of the Whole will recess for 15 minutes.

Recess

Chair: Order, please. Committee of the Whole will now come to order.

The matter before the Committee is general debate on Bill No. 8, entitled *Act to Amend the Workers' Compensation Act and the Occupational Health and Safety Act (2017)*.

Ms. Hanson: I would just like to confirm if I understood correctly — the minister's response, I believe, was indicating that the difference between Joe Q emergency worker today and what his or her experience would be post-effective date of this legislative amendment. If the minister could confirm whether I'm correct or not in understanding that the big difference would be that once the worker has been diagnosed with PTSD by a qualified psychiatrist or psychologist, it would not be subject to adjudication and that's the difference in the time frame.

If the minister could confirm if I have misunderstood — and if I have misunderstood, could the minister explain where I have gone wrong in my hearing of that?

Hon. Ms. Dendys: In response to the question, that is correct. Every case that comes to the Workers' Compensation

Health and Safety Board is adjudicated; however, there would be presumption that the injury is as a result of their work, so it would lessen the time for emergency response workers.

Ms. Hanson: To clarify, if a psychiatrist or psychologist, as defined in the legislation, makes a diagnosis of PTSD, there would be no adjudicative challenge to that diagnosis?

Hon. Ms. Dendys: It is rebuttable if there is something such as the injury occurring outside of the Yukon in another jurisdiction — that could become an issue. Those are things that we would work out with other jurisdictions so that we would have some agreements in place that would cover those types of situations.

The general presumption — outlined in section 17 of the *Workers' Compensation Act*, "Presumptions and Benefit of Doubt" — establishes that: "Unless there is evidence to the contrary, an injury is presumed to be work-related if it arises out of or in the course of a worker's employment" and other issues around jurisdiction.

Section 19 of the act, "Balance of probabilities" states that: "... when the disputed possibilities are evenly balanced on an issue, the issue shall be resolved in favour of the worker or the dependent of a deceased worker."

Within the claims process, there are opportunities for appeals, including a final appeal to the Workers' Compensation Appeal Tribunal, so the claims process gives workers the benefit of any doubt and provides for appeals of decisions of PTSD presumption for emergency response workers is rebutted if evidence comes to light that the condition did not arise at work or because of work as required by our legislation. Rebuttal may occur, for example, if the diagnosis of a worker's psychological injury finds that the source of the PTSD originated from and is the result of experiences of childhood. This is clearly outside of the workplace and not in the course of work and the presumption would be rebutted.

"Rebuttable" does not mean that the claim would be denied, however; it just means the presumption would not apply in these circumstances. The claim would move on to adjudication where it would be assessed and, based on an evidence-based balance of probability method, either denied or approved. If denied, the worker would have the opportunity to appeal the decision. I think those are exceptional types of circumstances, but it is really important that we state that for the record. That is basically an answer to the question that has been placed on the floor here today.

Ms. Hanson: Let's go back to the issue of the difference between the situation of an emergency worker today and an emergency worker after this legislation comes into effect. Let's go back and use the example, as the minister has cited, of the firefighters. A firefighter who is diagnosed with any one of the enumerated cancers in the legislation presents with that cancer and has been working as a firefighter is presumed to have acquired a workplace injury. My understanding of the whole purpose of that whole debate and that discussion going back to 2009 in this Legislative Assembly and the passage in 2011 — or whenever it was —

was that it was to avoid prolonging the agony of somebody who has cancer having to prove that they got cancer through their workplace.

I am trying to ascertain when somebody presents with PTSD and, even if we take the narrowly defined definition of the workers who will be covered by the minister's proposed legislation, what is the difference in the experience of that worker? It is my understanding that this worker who is the firefighter who has to present with this awful diagnosis is that it is presumed to be theirs and they are covered. If you present with PTSD because you are an emergency response worker, are they going to be covered automatically or are they going to have somebody rebutting them that they didn't get it at work? Are we dragging out the process for first response workers, which is different from the process for the firefighter who has PTSD or the firefighter who has cancer that is work related?

I'm really trying to ascertain the material benefit and the difference in terms of process for that worker today who is not covered as a PTSD disorder injury — they're following the process now under EN-09 — versus what happens with this amendment to whatever section it is of the legislation.

Hon. Ms. Dendys: We do not seek to rebut presumption; that's not our goal. If evidence were to be presented potentially in the diagnosis and the professional evidence given to our adjudicators raises a question, then we would have to do due diligence around that and determine whether it was work-related or not. It would just go into a regular adjudication process, like the one that exists now. We're not seeking to rebut these cases that come before the Workers' Compensation Health and Safety Board.

Ms. Hanson: Hopefully this is my last question: What is the difference between the firefighter with the cancer and the firefighter with the PTSD in the process?

Hon. Ms. Dendys: If there is a diagnosis, the presumption automatically applies. There is no difference in that. That's the answer.

Ms. Hanson: I'm sorry to belabour this, but I just heard that, if there is a diagnosis, the presumption automatically applies, but prior to this, I was told that if there is a diagnosis of PTSD, an adjudicator can still rebut it. I'm trying to clarify — again going back to the difference between the circumstances under EN-09 and this presumptive legislation.

That's why I was using that example. It seemed pretty clear to use that cut-and-dry — hopefully, because of the importance of it, the presumptive legislation that was put in place for the firefighters is in the previous debate on presumptive legislation.

If that's the case, that's great; I will take that as fact. I just want to know if that's the case, as the minister just stated.

Hon. Ms. Dendys: Yes, that is the case.

Ms. Hanson: My colleague has some questions.

Ms. White: I'm able to get up and get down, so that it would be less complicated. I am thankful that we're here and we're talking about this, because years ago, this wasn't something that we talked about. I'm just going to start by saying that I am happy to be here and I'm happy to see the

changes. I'm also going to premise it with the fact that I wish it was bigger and it went further.

First, we'll start with another compliment before I get to my questions: I do appreciate right now the responsiveness of the WCB in their advertising campaign that says every worker is covered for PTSD. I do appreciate that, because I think that is important. I appreciate it and I have seen those all over the place, and I think that's really good.

One of the questions I have is: What other jurisdictions did the department look at when expanding this legislation? We know that there's Nova Scotia, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia — so when taking a look, what other WCB arrangements did we look at? Where did we go? What did we learn and how did we get to where we are today?

Hon. Ms. Dendys: Thank you to the member opposite for the question. When we were considering this bill and the scope of the PTSD presumption coverage, we looked at other jurisdictions in Canada. We looked at Alberta, Saskatchewan, Manitoba, Ontario and New Brunswick. Those are the jurisdictions that we looked at, and I do have more detailed information that I'm just trying to locate here.

Ms. White: The minister can give me more details, but I'm familiar with the legislation because we have been on this side looking at it for a fair number of years.

One of the interesting things that I just found really recently was that Nova Scotia is looking at expanding their presumptive legislation even further. Currently, firefighters, paramedics and police officers are included but as of September of this year, they're looking at adding correctional officers, nurses — sorry, they actually already have correctional officers, firefighters, nurses, paramedics and police officers. So there are three that we're talking about and they have an extra two, but they are adding 911 operators and they're also adding continuing care workers. Even since their legislation has been well-established, they're looking at expanding that. My guess is that it is because of need. I just wanted to highlight that, even though other jurisdictions have the presumptive legislation, a lot of them are looking at that expansion.

On October 19 — when we were in second reading and we had people in the gallery — I was on the floor and was talking about my experiences in corrections. At that point in time, it was the Premier who said that correctional officers were covered. I want to confirm — because it didn't get confirmed at that point in time — if correctional officers will be covered presumptively.

Hon. Ms. Dendys: Thank you to the member opposite for the question. When we were looking at other jurisdictions, we looked at everything that they are doing. We found that, in lots of ways, our proposed bill takes things a little bit further, but we were very much advanced in certain ways. I would like to just note that other jurisdictions have had these in place for a while and have gathered their evidence. They have looked at the implications and they are implementing legislation that is best for their jurisdiction.

We weighed all the factors for us in Yukon and think that we're on the right track in putting in place further provisions within our legislation that will meet the current needs. They waited to gather their own evidence, and I think that is really smart legislative practice — to gather the evidence that is needed to make the right decision on behalf of your jurisdiction. In terms of correctional officers, I am not sure. I will have to go back in Hansard and have a look at that. However, right now, no, they are not covered under this presumption.

Ms. White: For the future, it is October 19, and it is page 1233. Unfortunately, I did not repeat what was said off-mic. It says “inaudible” twice and that is what I was referencing.

What evidence was looked at to make this decision? The minister just referenced that evidence was looked at in the territory, and I want to know what evidence was looked at.

Hon. Ms. Dendys: Yes, I have reviewed this previously. We definitely looked at a lot of evidence and a lot of consideration prior to making this decision. The Workers' Compensation Health and Safety Board provided information from its actuary, and we have already had that discussion about costs, such as the average cost of PTSD claims and the potential effect on rates if more PTSD claims are accepted. We have had the debate here.

Workers' Compensation Health and Safety Board consulted its peers from across Canada, so we have a number of those jurisdictions that we looked at. I will go into that a little bit more after I go through the list here. The Yukon Workers' Compensation Health and Safety Board conducted the survey, which we have had a good debate about here today. We considered research such as from *The Canadian Journal of Psychiatry* and the Ontario Ministry of Labour.

Going into a little bit around that particular study — and then I'll go into some of the information about the jurisdictions and speak a little bit more about them. I think it's really important that we review that because it seems to be an area that members of the Legislative Assembly want to further explore.

A report published in August 2017 by *The Canadian Journal of Psychiatry* indicated that Canadian emergency response workers experience psychological injury at a rate significantly higher than the general population. I've said this before: it's 44.5 percent versus 10 percent. The study surveyed 5,813 participants across Canada from September 2016 through January 2017. Categories of workers surveyed were dispatchers, correctional workers, firefighters, police and paramedics.

The survey screened for symptoms associated with post-traumatic stress disorder and depression, as well as social anxiety, panic and alcohol use disorders. The survey found that symptoms of psychological injury appeared to increase with more years of service. In September 2017, a report — there were other reports that we looked at in terms of the Alberta WCB review panel. Just going into a little bit more about the presumption in other jurisdictions, each jurisdiction has approached this issue in a different context made up of

legislation, policy, adjudication processes and workforces. It is not possible to directly compare each jurisdiction's approach to PTSD presumption in isolation. That's something that we'll have to consider as we go forward in this debate.

Bill No. 8 proposes an approach that is the best — again, I've said this already — for Yukon's unique legislative and policy environment. Bill No. 8 takes into account the current adjudication process used by the Yukon Workers' Compensation Health and Safety Board. In Yukon, when a worker suffers a physical or psychological injury and the evidence for or against the injury being work-related is even, the claim is settled in favour of the worker. Unless there is evidence to the contrary, an injury is presumed to be work-related if it arises out of the course of the worker's employment.

That presumption is already in place in the *Workers' Compensation Act* and applies to all workers covered by the act. Bill No. 8 seeks to enhance the presumption for emergency response workers and encourages these workers at high-risk for PTSD to make the claim to which they are entitled.

This process is not the case in all jurisdictions, and that's why I wanted to go over it again, because it's not the case. The meaning of presumption can vary.

For example, the presumption in Saskatchewan covers all workers for all psychological injuries. The worker must be exposed to a traumatic event that arose in and out of the course of employment and caused the worker to suffer a psychological disorder diagnosed in accordance with the *Diagnostic and Statistical Manual of Medical Disorders*, or the DSM, and must be diagnosed by a licensed psychologist or psychiatrist. These presumptive provisions are roughly equivalent to the adjudication provisions contained in Yukon's EN-09 and therefore essentially involve a full adjudication process to satisfy that the worker was exposed to trauma before the presumption is applied.

In other words, the Saskatchewan presumption mirrors the process we are already using in the Yukon.

In Manitoba, all workers are covered by the presumption. Manitoba's presumption requires the worker to be diagnosed with PTSD, to have been exposed to a traumatic event or events specified as a trigger for PTSD in the most recent DSM and that there be no evidence to rebut the presumption. Again, the provisions are similar to how the Yukon already adjudicates claims.

During second reading, it is worth pointing out that my colleague, the Minister of Justice, described this matter very well during second reading of this bill and I would like to take a moment to quote her — this is from Hansard: "It's also important to note that some other jurisdictions introduced presumptive PTSD legislation in response to existing adjudication processes that did not recognize cumulative trauma as a contributor to PTSD, and they required a psychological injury to be linked directly to just a single traumatic event. That is not what we have done here in the territory. PTSD may be acute as a result of one event. It might be cumulative as a result of several events over a brief or a

long period of time, or it could be vicarious, indirect exposure to a traumatic event through first-hand account or a narrative of that event."

I just wanted to clarify here that these jurisdictions do not have a presumption that is over and above or more inclusive than what we are proposing in Bill No. 8. In fact, implementing their respective presumptive legislation brought them to the Yukon's adjudicative process for psychological injury claims. Alberta applies its presumption to emergency response workers defined as emergency medical technicians, firefighters and police officers. New Brunswick applies its presumption to emergency response workers defined as firefighters, paramedics and police officers. Ontario includes a wider scope of the occupation under their presumption.

A lot of evidence was certainly looked at when we were making the decision around this presumption. Again, all Yukon workers are covered under the *Workers' Compensation Act* under the general presumption, and we are happy to be introducing an enhancement to that today.

Ms. White: When the minister was talking about the second part of this — that would be the prevention measures that would get rolled out — I was wondering if the minister could expand on that. In a higher risk industry — for example, like paramedics or firefighters — I can see what the program might look like. Making sure that you have a response team so you can talk it out after something like a critical incident — all of those things make sense. I am also curious as to how prevention measures will look to, for example, gas station attendants and fast food restaurants — the other part of workers. Those are ones who wouldn't be caught under the emergency response workers. I can see how it would work in the emergency response worker arena, but I want to know how it would work for others — if you were in retail or fast food, or something similar to that. Can the minister expand on prevention measures?

Hon. Ms. Dendys: Thank you very much for the question. I really do want to focus on prevention because that is the magic behind this bill. We know that preventing injury is incredibly important.

A tremendous amount of work will have to go into the development of these regulations, and that's something that we will start work on immediately upon this bill hopefully passing unanimously through the House. What we will do is work very, very closely with all employer groups to assist them in looking at programs and measures that they can put in place within their workplaces to prevent these injuries or put in critical incident management programs that will help them to ensure that employees are getting the support that they need immediately. This is really important, because it ensures that the specific risks of mental health in various types of workplaces could be addressed in a structured and very transparent fashion. Regulations would be developed in the interest of mitigating specific occupational risks to mental health.

Regulations could also spell out specific workplace remedial initiatives or resources that could reduce or eliminate the long-term impacts of psychological injury that could occur

— for example, a robbery prevention program in gas stations — or access to the employee assistance programs that a lot of workplaces already have, but there may be some workplaces that would need a lot more support or discussion around what would make sense for them.

Also, it's really important to note that new regulations, as they're developed, will go through thorough consultation with stakeholders, employers and workers. The way that the regulations apply to employers with different sizes of workplaces will reflect the outcome of those consultations. There will be a lot of work done with all stakeholders to ensure that the regulations are clear and that we're reflecting what will make sense to those really different types of small versus large employer groups.

It is going to be an exciting time in Yukon to put these types of regulations in place that will protect the psychological well-being of all Yukon employees.

Ms. White: Just one question — when the minister referenced employee assistance programs, it was my understanding that those are available to government employees because we have insurance and they're available to employees whose work has private insurance to cover them, but an EAP is not available to someone who works in many retail positions. They have access to things like Many Rivers, but it is five appointments a year, if I'm not mistaken.

It's my understanding that if an employee has to go through the EN-09 process, that actually draws down their ability to seek counselling, and then there is nothing left at the end because a Yukoner without coverage has a limited amount of ability to see someone.

It's great to talk about the EAP for those of us who are covered, but a great deal of the Yukon workforce isn't covered under that. If the minister could just expand on how someone would be able to access that kind of help because, if we're talking about a prevention and the ability to talk to someone — which I totally agree with — it's not the same for every employee — so if she could just expand on that please.

Hon. Ms. Dendys: Thank you for the question. My understanding is that WCB has provided EAP services to small employers when critical incidents have happened to help prevent post-traumatic stress disorder in other employees or the employee who has been directly impacted. These are questions that we will address through the stakeholder consultation and put in place good measures that will mitigate the issues of psychological injury as a result of critical incidents or other preventive measures as we move forward with this legislation.

Ms. White: I'm just going to go back to near the beginning of the day when the minister was talking about actuary rates, because you have someone here who can help answer this question.

What I wanted to know was how rates are currently set for various industries. We have high-risk industries and lower risk industries. I'm sure there's a complicated math, so it can be the Coles Notes version, but I was just curious on how that gets established. I know they can fluctuate from year to year. I was wondering if I can get an example today of what the low

end is for an industry right now. The lowest risk industry probably has the lowest rate, and I imagine the highest risk industry would have the highest rate — if we could get those as an example.

Hon. Ms. Dendys: I thank the member opposite for this question — I have to say, it is a very technical question. I am going to try.

The comprehensive fund is the money set aside to care for injured and ill workers. Right now, we are in a surplus position, and we talked about that a bit in terms of why we do rebates. At the end of 2016, the compensation fund's position was at 150 percent of the total liabilities. The target rate for the compensation fund's funded position is 121 percent to 129 percent. The board of directors basically had committed to returning the compensation fund from its surplus position to its target range. I know that is not where we are going here.

I think it is important though to look at those higher arching types of issues that have been raised here today and to go through it, because this will give you a more comprehensive answer. The targeted range is established by terms set out by the funding policy, which the board of directors is responsible for administering. The board of directors' goal is ensuring that the compensation remains within its target range, to ensure rate changes to employers accurately represent the actual costs of the system and to reduce them in terms of setting down those rates. When the compensation fund is in a surplus position, the funding policy requires that the board of directors subsidize assessment rates. This subsidy lowers assessment rates below the actual costs associated with the system.

The goal of subsidies is to temporarily reduce the amount of money collected from employers so that the surplus position does not experience further growth and the compensation fund returns to the range in due course. The positive market influences that we talked about here today already have overridden the effects of the assessment rate subsidies and the compensation fund surplus is in an increased position despite the subsidies.

There was a goal to kind of reduce the funded position and it was thought that it would be done through rate subsidies, but because of the market influences, it increased the amount of surplus that we have.

Essentially, I'll go into a little more detail about the rates this year — because we just released them recently — and I will go over that a bit. The factors that go into the impact on rates or the injury costs are the administration costs and the investment returns, so it is really important to kind of look at that bigger picture when we talk about our investment returns and where we need to be in terms of being in a position to pay out all the injuries, because once there is an injury, we have to be able to be in a position to pay that employee for the time that they are away from work. If it is a lifelong injury, then we have to have money there to pay it. So where we want to be is at about 121 percent to 129 percent. Right now, we're at 150 percent. Essentially, those are the three things that are factored into the impact on the rates. As the injury costs go up,

so do the rates. Once we bring our surplus to the range that it should be, you will potentially start to see rates go up.

A good example of a rate that went down — when you go through all of the areas and each rate group, this coming year, the resource and transportation medium decreased. This is where the placer miners and those types of employers are within that rate group. The reason it went down is that they had a reduction in accidents and, over a period of time, they really mitigated some of the issues that they have in their industry, working with Occupational Health and Safety to mitigate the risks that they have.

Some of our really low rate groups would include — it's called "services, low". It includes accountants, doctors' offices and lawyers and that is one of our lowest rate groups right now. I hope that somewhat answers the question that the member opposite had. That is a long version.

Ms. White: I appreciate the effort there, Mr. Chair, because at least now I have more of a vocabulary to hone in on what I was looking for.

It's my understanding that it's reflected as a cost per \$100 of payroll. Even just using the two industries — if we talk about accountants and placer miners, so with the service low and the resource something-or-other medium — could the minister just tell me what the rate is per \$100 of payroll — just those two numbers to get an idea?

Hon. Ms. Dendys: The two that I referenced — the resource and transportation medium is \$4.66, and the other service low is 68 cents.

Ms. White: I thank the minister for that. The one reason I was looking for that was just to get more of an idea of what the difference could be between a high-risk industry and lower risk industry. I do thank the minister for making me not necessarily have to quote from the Canadian Federation of Independent Business about how we are second in the country, because she did that for me.

The one thing that I would say is important is that we know that we returned \$9.8 million in 2015, and we returned \$9.7 million in 2016. I hope those numbers are accurate; if not, they're close.

When the minister said earlier that it was \$300,000 to \$500,000 in costs for a lifelong claim for PTSD, one of the things that I was trying to figure out and trying to get a better understanding for is, for example: Would that cost be affected by the passage of the new bill, or is it still going to be that average — the \$300,000 to \$500,000? If it doesn't change with the passage of the new bill — I'm just trying to figure out what the difference will be in cost.

Hon. Ms. Dendys: That amount is a forecast amount. We don't have a lot of evidence around what the actual cost will be. That's what we're forecasting.

We had talked earlier about the liability. We used this as an example earlier today — the firefighter cancer presumption that resulted in a \$5-million liability without any additional injuries. Because of us putting that presumption in place, that was a direct cost and we have had to set aside for the possibility of further injuries as a result of the presumption — but we would have that money set aside.

If additional liability is booked, any surplus would be reduced because the Yukon Workers' Compensation Health and Safety Board total liability would increase, so that would leave less money to subsidize rates as a result of the overall rate increase.

The board has had a lot of consultation with employer groups, with the chambers of commerce, with all of our stakeholders. The decision of the board is to be moving forward. There is absolutely no guarantee that there would ever be a rebate, because something could happen with the market tomorrow and we would be left without surplus. We still have to ensure that we have that 121 percent to 129 percent to cover the liabilities that we have right now.

Ms. White: When the minister talks about the \$5 million of liability required for firefighters, with assistance — can I get an idea of what that cost was to the rates for WCB — the rate within that group? We know that service is as low as 68 cents per \$100 of payroll, and that resource-extraction medium is \$4.66 per \$100 of payroll. To cover that \$5 million of liability within the firefighters, what does that look like, as far as the rate within that group?

Hon. Ms. Dendys: When that liability was added to the government rate, it essentially saw an eight-cent increase. That may not sound like a lot, but to employers, it is a lot. When you have industries that are working really hard to bring their rates down because they are mitigating risks and doing all of these preventive measures, those are real costs to employers. We have made the decision in relation to this bill to make that decision on behalf of the government rate for the increase. Again, we are not 100-percent sure what the actuary will come back with to book the liability.

Ms. White: In all of the research that was done to make the decision to include these three groups of workers, at any point in time was the actuary asked what the cost would be for a blanket across the industry? If it was to include everybody, what would that increase look like? If it was looked at compared to the government rate, and understanding that firefighters would fall under government — the eight-cent increase was within the government coverage for WCB — if there was a request to do the research on what that increase would be for across the board? I am just going to look for a visual nod. I can call to report progress right now and I can repeat that all after we come back to make it easier.

Mr. Chair, I just asked my colleague across the way — because this is complicated, and I am going to have to read my own notes in Hansard to get this out — thank you so much to the official for being here and to the minister for working through this with us.

Mr. Chair, I move that you report progress.

Chair: It has been moved by Ms. White that the Chair report progress.

Are you agreed?

Motion agreed to

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

Chair: It has been moved by Ms. McPhee 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 Chair of Committee of the Whole?

Chair's report

Mr. Hutton: Mr. Speaker, Committee of the Whole has considered Bill No. 8, entitled *Act to Amend the Workers' Compensation Act and the Occupational Health and Safety Act (2017)*, and directed me to report progress.

Speaker: You have heard the report from the 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. Monday.

The House adjourned at 5:27 p.m.

The following legislative return was tabled November 2, 2017:

34-2-77

Response to oral question from Ms. White re: teacher staffing (McPhee)

The following written question was tabled November 2, 2017:

Written Question No. 20

Re: Respectful workplace office statistics for 2015-16 and 2016-17 (Hanson)