

**Yukon Legislative Assembly  
Whitehorse, Yukon  
Monday, November 2, 2009 — 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 recognition of Mothers Against Drunk Driving and Project Red Ribbon

**Hon. Mr. Kenyon:** I rise today to pay tribute to the Mothers Against Drunk Driving initiative and the Project Red Ribbon Campaign. This morning MADD launched the 22<sup>nd</sup> annual Red Ribbon Campaign. This is an initiative to eradicate impaired driving which has sadly touched too many of us in some way. The Yukon Liquor Corporation supports MADD Canada's mission and we are proud to renew our partnership in the Red Ribbon Campaign.

Today, until January 4, red ribbons and donation boxes are available at all six Yukon liquor stores across the Yukon and at our head office on Quartz Road. We stand with MADD, the RCMP and other organizations who say, "That's enough. Drinking and driving is dangerous and we refuse to tolerate it."

Mr. Speaker, as the members know, the Yukon Liquor Corporation has the mandate to encourage social responsibility in the sale and consumption of alcoholic beverages in the territory. Drinking responsibly means knowing when to draw the line and, among other things, when not to drive. It means not letting other people drink and drive either. Alcohol doesn't mix with driving; it's just that simple.

There's always a better solution than getting behind that wheel, and no excuse measures up to the potential tragedy of a preventable death or serious injury. I encourage you to look for and support local MADD volunteers at checkstops this holiday season. They will be distributing bright green Yukon Liquor Corporation ice scrapers with the "Drive Safe! Drive Sober!" message in English and in French.

The MADD red ribbon, tied to an antenna or a rear view mirror, is a reminder. It symbolizes a driver's commitment to drive safe and sober, and by tying a red ribbon on to our vehicles in a conspicuous place, we're supporting the goal of keeping impaired drivers off our roads and making a personal commitment.

Mr. Speaker, I take this opportunity to urge members of this House, and all Yukoners, to please pick up a red ribbon and tie it on to their vehicles. Display it prominently and demonstrate your commitment to driving safe and sober.

Thank you.

**Mr. Elias:** I rise on behalf of the Official Opposition to pay tribute to the Mothers Against Drunk Driving Red Ribbon Campaign. The Whitehorse chapter of Mothers Against Drunk Driving, or MADD, was established in 2003. MADD's mission is to stop impaired driving and carnage on our roads and highways. Our local chapter of MADD continues to raise awareness and educate Yukoners on the effects of impaired driving and is helping to make a difference.

Each year, from the beginning of November to the first Monday after January 1, MADD volunteers distribute red ribbons across the country. Displaying the red ribbon is a commitment by Canadians to drive safe and sober. The red ribbon is also a sign of respect for the thousands of Canadians who have lost their lives or who have been injured as a result of an impaired driver.

Driving a motorized vehicle, boat, car, truck, quad or snow machine while under the influence of alcohol or drugs can have tragic consequences. Death and injuries resulting from impaired driving are needless tragedies and are totally preventable.

The Commissioner of the Yukon proclaims November 2 to 8 as MADD Week with a theme, "Don't drive impaired." Each and every one of us must make a commitment to support MADD and to reinforce the message to drive sober. We congratulate and thank the Whitehorse chapter of MADD and all those responsible for the commitment of making our roads safer and providing a voice for victims of impaired driving. Life is a precious gift; help save one today.

Thank you, Mr. Speaker.

**Mr. Cardiff:** I rise on behalf of the NDP caucus to pay tribute to Mothers Against Drunk Driving, or MADD, and the Red Ribbon Campaign.

In 1990, victims of drunk driving formed a national network in Canada with the aim to stop impaired driving and to support victims of its crime. In 2003, MADD established a Yukon branch. MADD sponsors a campaign of "Tie one on For Safety," where red ribbons are placed in highly visible areas, on vehicles or personal items. The ribbons remind everyone not to drink and drive. The campaign runs from the beginning of November to the first Monday after January 1. With the red ribbon, a person commits to drive sober.

Statistics around drunk driving are shocking indeed. Drinking while driving costs the economy \$27 billion annually. One in five drivers is known to be drinking, and one in 20 is impaired. Fifty percent of driving fatalities involve liquor, and 38 percent of these have impaired drivers at the wheel. Driving while drunk is the largest cause of deaths and injuries on Canadian highways and, ironically, it's one of the most easily preventable tragedies.

MADD also promotes the designated driver program. People should plan ahead when they are celebrating by designating one person to be a sober driver. This is especially important during the coming holiday season, which is one of the deadliest times of the year. MADD also encourages everyone to call 911 to report if they see a driver who is likely impaired. There will be many events and parties during the coming season, and if

you are hosting a party, make sure you set rules on drinking and driving, offer non-alcoholic drinks, provide rides for guests or have them stay over rather than drive home. Be assertive; be proactive with guests who insist they are sober enough to drive by preventing or delaying their departure. To protect your family and your friends, avoid driving in the early and late evening hours on holidays.

This holiday season, let's choose to make driving in the Yukon a safety concern by committing ourselves not to drink and drive and to educate others to do the same.

**Speaker:** Thank you. Are there any further tributes?  
Introduction of visitors.

## INTRODUCTION OF VISITORS

**Mr. Cathers:** I would ask all members to join me in welcoming two of my constituents, Karl and Jennie Gruber to the gallery today.

*Applause*

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

## TABLING RETURNS AND DOCUMENTS

**Hon. Mr. Fentie:** I have for tabling a letter, dated May 26, 2006, to Mr. Doug Tenney of the Yukon Electrical Company Limited, from the former chair of the Yukon Development Corporation.

I also have for tabling a letter from myself to the president/chief executive officer of the ATCO group, dated November 7, 2008.

**Hon. Mr. Lang:** I have for tabling the amendment to the *Access to Information and Protection of Privacy Act* regulations.

**Mr. Hardy:** I have for tabling Bill C-311, before the House of Commons. It's an act to ensure Canada assumes its responsibilities in preventing dangerous climate change.

**Mr. Cathers:** I have for tabling a letter to the Minister of Environment.

**Speaker:** Are there any further documents for tabling?  
Hearing none, are there any reports of committees?

## REPORTS OF COMMITTEES

**Hon. Ms. Taylor:** I have for tabling the 11<sup>th</sup> report of the Standing Committee on Appointments to Major Government Boards and Committees.

**Speaker:** Are there any further reports of committees?  
Are there any petitions?

## PETITIONS

### Petition No. 8

**Mr. Hardy:** I have a petition for the Chamber. The petition states that a publicly owned electrical utility operated at arm's length from government and regulated by an independent regulatory authority is the most appropriate vehicle to meet public energy policy objectives and to guarantee that Yukon consumers have access to a reliable, affordable, and environmentally sustainable supply of electrical energy; therefore, the undersigned ask the Yukon Legislative Assembly to resist any attempt by the Government of Yukon to privatize or deregulate the Yukon Energy Corporation or its parent entity, the Yukon Development Corporation, and ensure that these agencies will continue to function as Crown corporations wholly owned by the people of the Yukon Territory, operated at arm's length from the Government of Yukon and subject to the regulatory authority of the Yukon Utilities Board.

There are 752 signatures on this petition.

**Speaker:** Are there any further petitions?  
Are there any bills to be introduced?  
Are there any notices of motion?

## NOTICES OF MOTION

**Mr. Mitchell:** I give notice of the following motion:

THAT this House urges the Government of Yukon to provide stable and long-term funding to the Whitehorse Food Bank to ensure that the Whitehorse Food Bank does not have to rely solely on volunteer contributions to finance its operations.

**Mr. Elias:** I give notice of the following motion:

THAT this House urges the Government of Yukon to amend the *Municipal Act* to provide greater protections for personal privacy by allowing electors, when being enumerated, to withdraw their names from publicly posted lists of electors.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to formally recognize elder Stephen Frost Sr. of Old Crow, Yukon for his 37 years of service and dedication to the operation and maintenance of the Old Crow nursing station by renaming the "Old Crow Health Centre" the "Stephen Frost Sr. Health Centre".

**Hon. Ms. Taylor:** I give notice of the following motion:

THAT the membership of the Standing Committee on Public Accounts, as established by Motion No. 8 of the First Session of the 32<sup>nd</sup> Legislative Assembly, be amended by rescinding the appointment of John Edzerza and appointing Steve Cardiff to the committee.

**Mr. Fairclough:** I give notice of the following motion:

THAT this House urges the Yukon government to provide a ministerial statement updating Yukoners on the status of H1N1 in the territory.

**Mr. Cardiff:** Mr. Speaker, I give notice of the following motion:

THAT this House urges the Legislature's Public Accounts Committee to exercise its rights and obligations by issuing subpoenas, if necessary, to call Yukon government officials, Yukon government ministers, current and former directors of the Yukon Energy Corporation, members of the Yukon public, and executives of ATCO, as witnesses to appear before the committee to answer questions on discussions between ATCO and the Department of Energy, Mines and Resources and the Yukon Energy Corporation regarding the management, generation, distribution and ownership of Yukon's energy assets.

**Mr. Hardy:** Mr. Speaker, I give notice of the following motion:

THAT this House supports the initiative of Bruce Hyer, NDP Member of Parliament for the Thunder Bay-Superior North, in drafting Bill C-311, the *Climate Change Accountability Act*, which would establish science-based targets for greenhouse gas emission reductions, and encourages the House of Commons to pass this bill into law before the Copenhagen Climate Change Conference commences on December 7.

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

THAT this House urges the Department of Highways and Public Works to examine and report on options to improve safety at the Takhini River Bridge on the north Klondike Highway, including improving the approach to the bridge, widening the bridge and adding a pedestrian walkway.

I give notice of the following motion:

THAT this House urges all Members of Parliament and Senators to support Bill C-391, *An Act to Amend the Criminal Code and the Firearms Act (repeal of long-gun registry)*.

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

Hearing none, is there a statement by a minister?

This then brings us to Question Period.

## QUESTION PERIOD

### Question re: Yukon Energy Corporation/ATCO

**Mr. Mitchell:** The Yukon government joint position paper, dated May 27, 2009, outlines the negotiations undertaken to date by this government and ATCO regarding ownership and control of the Yukon Energy Corporation. It details how personally involved the Premier was in these negotiations, including speaking directly to ATCO's president, Nancy Southern.

This joint position paper tells us that last April the Premier discussed a variety of issues with Ms. Southern, including getting ATCO involved, not just in Yukon's energy but in Yukon's water, waste management and housing. In another section of the joint position paper, we learned that the Premier told Ms. Southern that longer would be better for the term of the president of the proposed new utility company. This presi-

dent, by the way, would be appointed by ATCO and not the Yukon.

It seems the Premier was very involved in these negotiations and that he dealt directly with ATCO's president.

Will the Premier admit that he negotiated personally with ATCO president Nancy Southern?

**Hon. Mr. Fentie:** I want to explore with the member opposite a number of items of fact. Now, the member opposite, on Thursday last week, clearly stated in this House: "The evidence is overwhelming: the Premier was in the middle of selling out our energy future to a private company, and we have the written documents to prove it."

Now, what I'd like to explore is if the document tabled by the member opposite last Thursday is the member's evidence. Let me point out a few things to him.

First, this document explicitly states that this is a framework of issues and concepts. It explicitly states that they're discussing proposed models. It also states that the Yukon Energy Corporation and Yukon Electrical Company Limited would continue to own their own existing assets. So, the member has some facts misconstrued on the matter.

And furthermore, once again, there were no negotiation; merely scoping-out discussions should there be future negotiations, if needed.

**Mr. Mitchell:** The selective interpretation of the documents gets curiouser and curiouser.

Mr. Speaker, the Premier has told the Yukon public a lot of things about these negotiations to sell out Yukon's energy future. He told the public — and repeats again — that these negotiations weren't taking place. He told the public that he wasn't personally involved. He told the public that he never met with Nancy Southern, that he didn't know the president of the company he was negotiating with for the control of Yukon Energy Corporation. The facts don't back up that statement. The joint position paper tells us about the substantive conversations the Premier had with Ms. Southern. The Premier also introduced Ms. Southern in the Legislative Assembly. On April 20, 2006, he declared it his great honour to do so. It would be a stretch to say he knew her well enough to say her presence was a great honour without ever having met her.

Will the Premier please explain why he told the public again and again that he had never met Ms. Southern?

**Hon. Mr. Fentie:** I think the only thing for sale here is the bill of goods to the Yukon public by the Leader of the Official Opposition. Is it not customary to introduce visitors in our gallery? Is the member suggesting that any office of the Premier should not be in discussions at any given time or have any contact with presidents and CEOs of the corporate community in this country that invest in this territory?

Mr. Speaker, I don't think the member opposite actually means that. Mr. Speaker, we the government side feel strongly that the Yukon public deserves the facts. The Yukon Energy Corporation employees deserve the facts. That is why we are proceeding with the Public Accounts Committee to do its work on the matter. We certainly look forward to its report and its conclusions.

**Mr. Mitchell:** Mr. Speaker, the Premier says “discussions” and we say “negotiations.” It sounds like an old song.

Mr. Speaker, the Premier dealt directly with ATCO president Nancy Southern during these negotiations. The joint position paper tells us that he discussed with Ms. Southern getting ATCO involved in Yukon’s water, waste management and housing. It also details that he told Ms. Southern about his preferences for the length of the term for the new utility company’s president. We even know from the public record that the Premier knew Ms. Southern well enough, as we said, to introduce her to the Legislative Assembly. Why did the Premier say he did not know Ms. Southern when he in fact did?

### Speaker’s statement

**Speaker:** Before the Hon. Premier answers, I would just like to remind all members to please be respectful of one another. When a member stands up to answer a question, please allow that member to answer that question.

Hon. Premier, you have the floor.

**Hon. Mr. Fentie:** Mr. Speaker, as I recollect, I have introduced dignitaries from other countries around the globe and I’ve never met the individuals. I’m not sure what the member’s point is about introducing someone that visits our gallery.

The facts are critical in this matter. The Yukon public has been subjected to what I would call a “bush league sham.” That’s why the Public Accounts Committee needs to do its work, report to this institution and provide the facts —

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

### Point of order

**Speaker:** Order please. The Hon. Member for Kluane, on a point of order.

**Mr. McRobb:** On a point of order, Mr. Speaker, just a moment ago you cautioned all members to be respectful of one another. I would suggest the phrase “bush league sham” in association with the question is clearly out of order.

### Speaker’s ruling

**Speaker:** From the Chair’s perspective, this is a fairly strong conversation we’re having here, members. The Chair’s caution was to members not to interrupt while another member was speaking. There has been a fair amount of latitude toward both sides here — not just the government side; on the opposition side as well — from this Chair. I’ll continue to exercise that until honourable members step over that line. I don’t believe that line has been crossed yet.

Hon. Premier, you have the floor.

**Hon. Mr. Fentie:** Thank you, Mr. Speaker. I would also like to refer to another document of evidence as provided by the member opposite in this House Thursday last.

What is very interesting in that document and the proposal that came from the Yukon Electrical Company Limited is that any entity that may be embarked on — and I emphasize “maybe” — would remain a public utility, regulated by the Yukon Utilities Board on behalf of the public interest.

### Question re: Yukon Energy Corporation/ATCO

**Mr. Mitchell:** Well, we will try a different tack, Mr. Speaker, because we’re not getting answers. When the MLA for Lake Laberge quit on the Premier he said it was about integrity not electricity. A big part of integrity is keeping one’s word. On December 8 of last year, the former chair of the Yukon Energy Corporation Board and several board members had a meeting with the former minister responsible for Yukon Energy Corporation, the negotiating team, and several political staff. Board members had recently found out about the Premier’s secret plan to privatize the Energy Corporation and they were not happy. One of the board members told CBC News, “They promised us, all of them, in that room, that there would be no more discussions with ATCO.” Yukoners know, of course, those discussions continued on for several months and may be continuing as we speak. When the board found out, half of them quit.

Why did the government break its promise to these former board members? Why did negotiations continue?

**Hon. Mr. Fentie:** Mr. Speaker, in the member’s preamble, I noticed that he referenced discussions. Furthermore, as I keep repeating, the Public Accounts Committee is charged with addressing this matter and providing the public with the facts. The public deserves the facts, not the misinformation they have been subjected to.

Our government is very concerned about that because: (a) the discussions with ATCO, as the government has said all along, had been ongoing and, in fact, today the government side has tabled correspondence that is real evidence about those discussions that had been ongoing.

**Mr. Mitchell:** Well, it’s clear that the government didn’t refer to the officials as the “discussion team”. They called them the “negotiating team”.

Now, let me remind the Premier what one of the board members told the media in July: “They promised us, all of them, in that room, there would be no more discussions with ATCO” — this was in December — no more at all. The board member in question is someone I have personally worked with and consider an honourable person. I’ll take his word over that of the Premier’s any day of the week. He’s not perpetrating a sham.

The government promised him the negotiations to privatize the Energy Corporation would end. They did not, and several months later, that board member resigned. It’s about integrity. Why did the Premier not keep the promises made to this former board member? Why did negotiations continue?

### Speaker’s statement

**Speaker:** Before the Hon. Premier stands up, honourable members on both sides of the floor, we treat each other with respect in this House and we presume that all members are honourable.

Hon. Premier, you have the floor.

**Hon. Mr. Fentie:** I guess the short answer is, integrity dictates all promises are kept, and that’s exactly what this government does — keep its promise. One of its promises to the Yukon public is to provide reliable, affordable energy to Yuk-

oners in an efficient manner. We have two companies that do that: the Yukon Energy Corporation and the Yukon Electrical Company Limited. It only makes sense that we have discussions. There have been discussions in the past; there have been ongoing discussions; and I'm sure we'll continue to have discussions to meet that objective of providing affordable, reliable energy.

**Mr. Mitchell:** The former chair of the board was also in those December 8 meetings. He said the Premier was in a rage and quite irate. He also said the former minister responsible for the Energy Corporation was blindsided by the entire discussion. All these negotiations had been going on behind his back. When he found out that day, he said he was going to resign. Of course, he never did and a few months later he was pushed aside and the Premier took over the reins himself.

The former minister has refused to discuss this publicly and continues to back the Premier. They're all in this together.

The former chair also received assurances that the privatization negotiations would be terminated. They were not, and he ended up resigning when he found out the secret negotiations continued. Again, Mr. Speaker, we will take the word of the former chair before that of the Premier on this issue.

Why did the Premier not keep the promise he made to the former chair of the board? Why did negotiations continue?

### Speaker's statement

**Speaker:** The honourable members insist on dragging the Chair into this conversation, and I don't want to be involved in this. However, you are impugning the integrity of a member of this House by that statement, honourable member, and I am going to ask you not to do that in the future.

**Hon. Mr. Kenyon:** I will certainly get involved in the discussion at this point. The member opposite, the Leader of the Official Opposition, has his facts as correct on this as he seems to in so many other things. The discussion that he refers to never happened. It did not happen. It was referred to in the media at a location that we weren't even in; none of it is true. I will put that on the floor right now. I do hope that he gets his facts a little bit straighter, especially when he reads the letter tabled today from the chair he refers to, asking in 2006 for the very negotiations that he is now showing outrage against.

### Question re: Yukon Energy Corporation/ATCO

**Mr. Hardy:** The Premier promised the Yukon people that he would do a better job of informing them about his government's plans for the publicly owned energy asset.

That's a promise that was made after — as we know, with the history being repeated over and over and over.

Unfortunately, his response to my question on Thursday was not very informative. In fact, it raises even more questions in our minds. The Premier said he was only talking with the board of the Yukon Energy Corporation.

So my question: does this mean he has not had any discussions with First Nations or the private sector since this summer about the generation, transmission or distribution of energy in the territory? Is that what he is saying?

**Hon. Mr. Fentie:** We do have a process or an initiative in the public today about independent power production. I would assume at some point that consultation will lead to discussions with the private sector. Of course, our position all along has been to develop partnerships with First Nations in the area of energy. That's one of the things we're doing right now in the Mayo B project in working with Na Cho Nyäk Dun. We all know that the public statement during the announcement of Canada's investment in Mayo B included that provision for First Nation involvement and participation in the matter.

I hope that helps clear up the question for the member opposite.

I can't speak for the Energy Corporation itself. It probably has discussions at any given time with other companies, which would include the Yukon Electrical Company Limited. I think the salient point is, what is our objective and our purpose?

The first thing is, our purpose is as stated; secondly, the government's position is "no privatization". It must remain a public utility and, furthermore, our energy strategy clearly articulates that the government would be fostering partnerships.

**Mr. Hardy:** Actually, Mr. Speaker, I want to correct the member opposite. He does speak for the Yukon Energy Corporation when he is in the Legislative Assembly as the minister responsible for the Energy Corporation, so he does have to speak on their behalf.

Nor did he answer the question I asked, which was whether he was involved in any discussions. He managed to skirt around that issue and that's inappropriate. I would like a direct answer to that one.

The people of the territory deserve straightforward answers in this Legislature on these kinds of questions, and they have a right to know if their locally owned energy assets will be traded or sold off to the private sector or a First Nation development corporation. They have a right to know who is in discussions regarding our future energy needs.

So has the corporation, on behalf of the minister — the Premier — been in discussions with anyone, or has any department official on behalf of the Premier been in any discussions, or has the Premier himself been directly involved in any of those discussions? Simple question.

**Hon. Mr. Fentie:** Mr. Speaker, one would suppose that the discussion with Na Cho Nyäk Dun, with respect to the Mayo B project, is an item the member is referring to.

I know there are discussions in the development of an arrangement with Na Cho Nyäk Dun. Those discussions began with the government in the finalization of a memorandum of understanding, so that the government met its treaty obligations. I can tell the member opposite that there have been further discussions with the Energy Corporation on developing an arrangement for Na Cho Nyäk Dun's involvement in the Mayo B project.

We've had discussions, by the way, with such companies as Sherwood Copper, now Capstone, which resulted in a partnership, an investment in Yukon's energy infrastructure, and I will emphasize, it did not privatize that infrastructure. In fact, Capstone invested significantly in Yukon's energy infrastructure as a partner. And the result: a mine site no longer burning

diesel for its operations, but it's on a greener form of energy — hydro — reducing substantially our carbon footprint, and furthermore, allowing us to connect a community like Pelly to our hydro grid, further reducing our carbon output. Those are the kinds of discussions we've had and will continue to have.

**Mr. Hardy:** All I am trying to do is get information out to the public. It is very simple. This is not very hard, really. The Premier should be speaking to the public on a regular basis with updates on what kinds of negotiations are happening and what direction we are going. We shouldn't have to be trying to pull that information out of the Premier. He should be quite happily sharing that whether it is done through his communications branch or whatever. It's a shame that we have to do it in this manner.

Let me go to a question. Mayo B has been mentioned a few times already. We have \$90-million shortfall between what the government has been promised and what it needs to build the Mayo B project. There is no doubt in everybody's mind that \$90 million has to come from somewhere. My question: besides Na Cho Nyäk Dun — though I do not believe they have \$90-million capital lying around to invest in this project — who else has been involved in these kinds of discussions and how broad is it and what role is the Premier/minister playing in these discussions?

**Hon. Mr. Fentie:** I share the member's issue about providing information. Of course, we have been tabling a lot of information in the first two days of this sitting. That's also why the government is taking the issue of discussions with ATCO to the Public Accounts Committee. It's all about factual information.

Now, as far as the Mayo B project, I can share with the member opposite that the contribution agreement with Canada is a 50:50 proposition. Yukon is responsible for 50 percent of that agreement; Canada's investment is \$71 million; Yukon must provide \$71 million. The corporation itself is working through those issues now, and I'm sure that will result in finalizing that portion of our agreement with Canada.

Is it through the means of accessing a private company to invest in the Mayo B project? No, it is not. The Energy Corporation itself will be working with the government on finalizing that portion of the Mayo B investment.

#### **Question re: Yukon Development Corporation, board appointments**

**Mr. Cardiff:** The resignations of four members of the Yukon Development Corporation Board this summer created four vacancies. I asked the minister about this last week and, once again, his answers raised more questions. At a meeting of the Standing Committee on Appointments to Major Government Boards and Committees, the government informed the standing committee that they had not advertised for nominees to fill the vacancies, but they had four interested people.

The standing committee was not presented with options, which would normally be the procedure, and consequently, the four nominees' names were put forward.

Does the Premier consider this a normal process?

**Hon. Mr. Fentie:** Without delving into the long history of appointments to boards and committees in this territory,

I can categorically state that it is certainly not out of the norm. The government has an obligation to make appointments to boards and committees. The standing committee — the select committee by the way — is a political body. It does not, however, negate the government's obligation of making these appointments. We went before the select committee with the names of individuals who had provided all the necessary information for an informed discussion at the committee level and for the recommendations to come forward by the committee. I would add, Mr. Speaker, that the committee is only mandated to make recommendations. The decision still rests with the government. The obligation of making the appointments still rests with the government.

**Mr. Cardiff:** It's just incredible what we are hearing in the Legislature. The Premier thinks, and he has said, that the process used was a normal process. That is not the case. A normal process would be having Yukoners informed and given an opportunity to put their names forward. A normal process would be where the government advertises publicly, where it solicits names from business groups, from labour, from community organizations; a normal process would be where there are more people interested in the vacancies than there are vacancies. So why was that normal process not followed with these appointments?

**Hon. Mr. Fentie:** Unfortunately, I will have to disagree with the member opposite. There may very well be other individuals out there who might have an interest. However, again I repeat, the government's obligations — its job — is to make the appointments. I think the individuals who came forward and expressed an interest in serving — we should congratulate and extend our appreciation to them for that. The disciplines that came forward to serve on the board, I think, are quite relevant and important in the areas of accounting, geology and engineering. We feel the individuals who stepped forward will contribute greatly to the board. We look forward to the ongoing development of Yukon's Crown corporation and its wholly owned subsidiary, the Yukon Energy Corporation, in the interest of the public.

**Mr. Cardiff:** It's also the government's job to consult with Yukoners and to make Yukoners aware of the opportunities that are available.

On Thursday, the Premier said that only one person came forward for the Workers' Compensation Health and Safety Board, and that's not the case. The minister wasn't at the meeting. In fact, there were three names that came before the standing committee, and one name was recommended. When I asked the Premier to explain on Thursday how appointments to the Yukon Development Corporation Board came forward, he didn't really provide much of an explanation. He didn't know where those names came from. All he said was that the names came forward.

Maybe we've reached a new normal, Mr. Speaker, where the public is kept in the dark and the government hand-picks board members for important public bodies. Is that the new normal?

**Hon. Mr. Fentie:** I think that's a disservice to the citizens who step forward. It's a disservice to any citizen who

steps forward and offers to participate and contribute on boards and committees in this territory. To suggest that they are being hand-picked certainly is not something that the government side would agree with whatsoever.

We will continue to follow the process as required. I would remind the member that the select committee makes recommendations based on information provided or that comes forward, and the government still has the obligation of making decisions.

I stand corrected about the Workers' Compensation Health and Safety Board. However, at the end of the day, this is a normal practice of making these appointments and it has a long-standing history in the territory.

#### **Question re: Yukon Energy Corporation/ATCO**

**Mr. Mitchell:** Mr. Speaker, we know that the Premier has spent at least \$275,000 on consultants and lawyers to help him pursue his plan to privatize the Yukon Energy Corporation. They have produced a great deal of work. The Premier has decided, however, that the public has no right to see that information. We have asked that it be released to the public and the government has refused. At a recent public meeting, the MLA for Lake Laberge said the government was holding back the information — such as the options papers that were prepared — because it would be politically embarrassing if it were to be released. The Premier says he has nothing to hide and that the government never considered the sale of public hydro assets. We believe they did. The former minister says they did.

Most Yukoners believe they did. Let's see the documents — all of them — and the question will be settled. Will the Premier release all of the documents we are requesting? Yes or no?

**Hon. Mr. Fentie:** Well, is the member prepared to deal with this at the Public Accounts Committee? Of course, we'll release all the documents and all the information we have available. I can tell the member opposite that the document he presented to this House on Thursday of last week is not a document that had ever been presented to the government.

This is a normal process. Proposals come in to government and discussions take place. But if the member truly wants to get all the documents and all the facts that are relevant to the discussions with ATCO, then it's time to get on with the work of the Public Accounts Committee.

**Mr. Mitchell:** Let's discuss the Premier's newfound love and fascination with the Public Accounts Committee. If the Premier wants the Public Accounts Committee to meet, he should try talking to the four government members who signed the letter to me on April 9, saying they weren't coming to any more PAC meetings. We don't even have a quorum until the Yukon Party members bother to show up for a meeting.

These are not the only documents that the Premier is withholding from the public on this issue.

In August, we learned that the Yukon's negotiating team — and that's what they were called by this government: the negotiating team — were asked by ATCO to sign a confidentiality agreement. In other words, they were asked to keep the secret talks secret.

The Premier, who was calling the shots on these negotiations, agreed to sign on. He agreed Yukoners had no business knowing what he was up to. All the decisions would be made in the corner office.

Will the Premier make that confidentiality agreement public? Will he allow Yukoners to see for themselves what was on the table?

**Hon. Mr. Fentie:** Oh boy, Mr. Speaker. Well, confidentiality agreements are normal practice when dealing with the private sector, and understandably. It is so candid discussions can take place. There's nothing unusual about it. Did the Premier sign a confidentiality agreement with anyone on the matter? Absolutely not.

By the way, at this very moment, we are looking at the release of those confidentiality agreements. We're not the only parties that signed on to them. So too did a representative from the Yukon Energy Corporation. So too did representatives from the ATCO Corporation. So it's not our decision and our decision alone to make. I think that the normal course of dealing with these matters should be done in accordance with what we're doing.

However, all this information, all this material, all the facts will certainly come out of the Public Accounts Committee's work. Now, I'm just wondering, Mr. Speaker, if there is some hesitation by the Official Opposition to engage in that process for fear of the facts coming out.

**Mr. Mitchell:** If the Premier would study the Public Accounts Committee — because he seems fascinated by it — he would know that Public Accounts Committee can only look at how well the government's policies are being implemented; they can't question the policies. Now we understand the confidentiality agreements are standard practice when negotiating with the private sector. We know it because the Premier's official said so at the Premier's press conference. Oh yes, the Premier had left by then.

Now, consultants, lawyers and public servants worked under the direct supervision of the Premier on this privatization plan for almost a year. We say "directly" because the minister who was supposed to be responsible for the Energy Corporation was out of the loop. The Premier rejected calls for the work of the consultants to be made public and he previously said there was no chance that would happen.

Let's try another batch of documents. Officials in the Department of Energy, Mines and Resources attended several negotiating sessions in Calgary. They obviously took negotiating positions and analyses with them. They didn't just show up empty-handed. Will the Premier release the documents the officials took with them as they carried out his privatization agenda?

**Hon. Mr. Fentie:** What is actually very fascinating is the member opposite presenting this misinformed interpretation of privatization. I refer to the evidence the member brings to this House. If the member can demonstrate to anyone that the evidence presented and any of the material brought forward, and in any of the preamble the member has presented to this Assembly, is evidence of privatization, I would submit that's an affront. There's no evidence here of privatization at all. In

fact, part of the document, as presented here last Thursday — which is the so-called evidence — states clearly that the new entity would continue to be a regulated utility under the Yukon Utilities Board.

How on earth does the member opposite, the Leader of the Official Opposition, draw the conclusion that that is privatization? I would suggest the member go to the Public Accounts Committee and he can explain his methodology on how he comes to conclusions.

**Speaker:** The time for Question Period has now elapsed. We'll proceed to Orders of the Day.

## ORDERS OF THE DAY

## GOVERNMENT BILLS

### Bill No. 77: Second Reading

**Clerk:** Second reading, Bill No. 77, standing in the name of the Hon. Mr. Hart.

**Hon. Mr. Hart:** I move that Bill No. 77, entitled *Act to Amend the Public Health and Safety Act*, be now read a second time.

**Speaker:** It has been moved the the Minister of Health and Social Services that Bill No. 77, entitled *Act to Amend the Public Health and Safety Act*, be now read a second time.

**Hon. Mr. Hart:** I am very proud to speak to this new bill. I am proud of the work that has been brought before you today. Last spring the initial wave of H1N1 swine flu captured the attention of governments around the world, leading to the June declaration of a global pandemic by the World Health Organization. Beginning in April, the department has participated weekly in national conference calls that monitor the spread of H1N1 and plan for the Yukon and the national responses.

In April we also fast-tracked our review of the *Public Health and Safety Act*. Although we had previously set out a five-year plan to thoroughly review and update the Act, we immediately shifted our focus to those changes that would be essential to prepare for the anticipated return of H1N1 this fall. The current act was put into place to ensure that the government could take the necessary steps to protect the health and safety of Yukoners.

In terms of diseases, it was originally designed to meet the threat of known diseases such as anthrax, diphtheria and rabies. As a result, it did not provide the tools necessary to protect Yukoners from the rapidly emerging new disease, nor does the current act provide sufficient authority to respond quickly to other health emergencies that may overwhelm Yukon's health and human resources.

The proposed amendments to the *Public Health and Safety Act* will allow us to take the necessary steps to monitor, to analyze and to quickly respond to an impending public health emergency such as a pandemic with severe health consequences or other urgent circumstances that jeopardize the life or health of people in the Yukon.

To begin with, the proposed amendments formally create the position of chief medical officer of health or CMOH and set out the duties and responsibilities of that position in the legislation. Wording is also revised throughout the act to make the language uniform and consistent with that in common use across Canada.

The proposed process for triggering the process necessary to better respond to health and public health emergencies will require the CMOH to determine that an emergency situation exists and to advise the minister of the details. Then the minister is responsible for informing the public and advising Cabinet.

The flow of information is critical in such emergencies. In this report on the SARS outbreak in Ontario, Mr. Justice Archie Campbell decried the inability of officials to obtain the information needed to monitor the status and movement of SARS.

The proposed amendments will provide the necessary authority to allow the collection of health-related data necessary to identify and address public health needs. For example, there is explicit authority to collect health data from a third party, such as from a school or school board, about students who are absent.

The information amendments are consistent with the principles of ATIPP, except where the urgency for action makes it unreasonable to take the time to provide certain notices to individuals for whom the personal information is being collected. This exemption was crafted with the advice from the Information and Privacy Commissioner.

In a future health emergency, Yukon might have an urgent need for additional health professionals. These amendments provide authority to temporarily permit health professionals from outside the Yukon to practice here. This authority is subject to strict limitations, which are supported by the Yukon Registered Nurses Association, which adopts suggestions made by the Yukon Medical Council. Limitations include the following: there must be a declared health emergency and the Minister of Health and Social Services must believe that certain health care services are required.

The health professional must have a licence to practice in another jurisdiction in Canada or the United States. The health professional must be qualified to competently perform the needed services.

Finally, the minister's authorization to practise has a maximum duration of 15 days, unless the time is extended by Cabinet.

Mr. Speaker, in a public health emergency, some medications, supplies or equipment may become scarce. There may be, for example, very limited supplies of a critical drug subject to very specific controls; the amendments will allow the chief medical officer of health to suspend the sale of needed supplies or equipment and for the minister to order procurement or seizure. These powers can only be exercised when a health or communicable disease emergency has been declared, and the CMOH is of the opinion that the supplies or equipment are necessary to protect health in the Yukon and the regular procurement process is unlikely to meet their needs.



In addition, an order by the CMOH suspending sales would last a maximum of 30 days, unless extended by the minister. If the person suffers a loss resulting from the order of the CMOH or the minister, Cabinet must make compensation according to the Cabinet guidelines.

These amendments were made in consultation with the owners of pharmacies and medical supply companies in the Yukon. The amendments will provide that, in a public health emergency, a person exposed to a communicable disease may be detained for observation and surveillance. They also provide liability protection to those acting under the act or under the direction of someone acting under the act.

We want to encourage people to act in support of public health of Yukoners by assuring them that if they are acting in good faith and carrying out the duty or function under the *Public Health and Safety Act*, they are protected from being sued for their actions.

The amendments also authorize the CMOH to designate communicable diseases to ensure that regulatory requirements apply in appropriate circumstances. The department is consulted as broadly as possible within the time limitations of moving this legislation forward at its earliest opportunity.

I would like to thank all those who have provided comments and support for this important initiative. Mr. Speaker, Yukoners want to know that their government is in the strongest position possible to respond in a public health emergency. Without sacrificing the appropriate checks and balances, these amendments achieve those goals.

I look forward to taking the members through this new bill in detail during Committee of the Whole and I encourage members to support this critical initiative.

**Mr. Mitchell:** I thank the minister for his opening remarks.

First of all, I would like to thank the officials from both the Department of Health and the Department of Justice, including the Deputy Minister of Health, who made themselves available to brief us on this legislation on Friday of last week.

As the minister has outlined, this amendment to the *Public Health and Safety Act* will create the position of the chief medical officer of health. We were somewhat surprised to learn that we didn't have such a position previously, because Canada does and most of the provinces do. We certainly support that.

The provisions for giving temporary authority to the chief medical officer of health to allow outside health professionals during a public health emergency to practise here for a defined period of time seem reasonable — again, the provisions regarding the medicines and other substances that might be demanded to be made available.

We have one general area that we do have some concerns about — this doesn't mean that we don't support this legislation; we recognize why it is needed and why it is currently needed in a timely fashion, and we are prepared to move forward in a timely fashion — that is section 4.5(1). The sections that deal with following the declaration of the existence of a public health emergency allow the chief medical officer of health to demand, basically, that personal medical information

of any individual or of a family member or someone known to an individual be made available.

We understand that there is balance that is intended in this legislation and that we are all thinking right now of H1N1, and it's a flu, and we can't see the harm in that, but I just want to remind all members that this legislation is not specifically dealing with H1N1. It changes this act into the future and it will apply to diseases past that may become endemic in the future and diseases unknown that could become endemic or pandemic in the future — just as SARS wasn't known until a few years ago. I think back to a time that I served years ago in a school council, in the earlier days some 25 or 30 years ago, when there was much less knowledge about HIV than there is today and much more misinformation and panic among people.

There were a lot of judgemental claims, thoughts, and statements that people made regarding the school setting, for example, and about adults, children, someone who might have been exposed or carried this virus and what this would mean for other people.

I just want to caution this Assembly that whenever we start saying that personal information can be demanded of people — personal health information — it is a slippery slope. I hope we will have some good discussion about the checks and balances as to just what this means in Committee, because I note in the bill that it says that people can be directed — if you have custody or control of the information, then you must comply promptly with the request. The bill doesn't actually set out what the penalties would be if a parent, for example, said, "No. My children may be sick; they are at home and I refuse to provide the information."

We don't know exactly what the result of this is and I am hoping the minister and officials during Committee can provide some more clear answers to that.

We only have to look south at our neighbours in the United States to see the reaction to 9/11 and how much they have moved the bar of personal freedoms and personal information becoming available to the government, all in the cause of protecting people.

So it's just a cautionary note that I want to raise here today. Our job as legislators is to make sure that we don't approve something with one purpose in mind, which later on may prove onerous. I'm looking forward to good clarifications and answers on that. It is a concern that the ATIPP act won't apply. It seems to be that the state — in this case being Yukon — is taking on some strong powers of demanding information from people, and that needs to be considered very carefully.

With that, I look forward to hearing comments from other members and to discussing this bill in more detail in Committee.

Thank you, Mr. Speaker.

**Mr. Cardiff:** I'd like to begin as well by thanking the officials in the Department of Health and the Department of Justice for providing a briefing on this bill last Friday morning. We too are looking forward to debating the amendments to the *Public Health and Safety Act* in Committee of the Whole and get into a little bit more detail. We understand the need for the

minister and for the government to respond quickly and effectively in the case of a health emergency, a communicable disease emergency or a public health emergency, where people's health and our communities' health and the lives of our citizens are threatened, and to keep our communities safe.

We too have some questions in Committee of the Whole and look forward to having a conversation with the minister at that time. Both the minister and the officials have provided lots of information on the background of the bill, so we'll ask more questions when we get into Committee.

**Mr. Cathers:** I'll be very brief today in speaking to this legislation. I want to thank the minister for bringing this forward. I'm pleased to see this is being dealt with so quickly in this fall sitting. I want to also thank the Government House Leader for that scheduling and accepting the suggestion I made that this be dealt with very quickly.

Mr. Speaker, in speaking to this legislation, I would like to note that the tools put in place with it — the actions it enables — are very powerful tools. It is a difficult balance but it is absolutely critical that legislation be in place that enables government and medical officials — including the chief medical officer of health — to take the necessary steps in dealing with a pandemic, whether it be the current H1N1 situation or some future problem.

The work on this legislation has been ongoing for quite some time. I would like today to recognize the many hours spent by many staff of Health and Social Services and other departments that went into developing this legislation. Some of the efforts leading up to this were underway when I was Minister of Health and Social Services. I know that the efforts by officials — both then and since — have been significant in developing this legislation in considering what the appropriate tools were to respond to a pandemic in developing the legislation to enable them to take those actions in those situations.

With that being said, Mr. Speaker, I would just like to commend this legislation to the House, and I urge all members to support it. I thank the many staff and others who put effort into developing this important piece of legislation and this very important amendment to the *Public Health and Safety Act*.

**Speaker:** If the honourable member speaks, he will close debate. Does any other member wish to be heard?

**Hon. Mr. Hart:** I thank the members opposite for their comments, and I look forward to debate in Committee of the Whole.

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

**Some Hon. Members:** Division.

#### Division

**Speaker:** Division has been called.

#### Bells

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

**Hon. Mr. Fentie:** Agree.

**Hon. Ms. Taylor:** Agree.

**Hon. Mr. Hart:** Agree.

**Hon. Mr. Kenyon:** Agree.

**Hon. Mr. Rouble:** Agree.

**Hon. Mr. Lang:** Agree.

**Hon. Ms. Horne:** Agree.

**Mr. Edzerza:** Agree.

**Mr. Nordick:** Agree.

**Mr. Mitchell:** Agree.

**Mr. McRobb:** Agree.

**Mr. Elias:** Agree.

**Mr. Fairclough:** Agree.

**Mr. Hardy:** Agree.

**Mr. Cardiff:** Agree.

**Mr. Cathers:** Agree.

**Clerk:** Mr. Speaker, the results are sixteen yeas, nil nays.

**Speaker:** The yeas have it. I declare the motion carried.

*Motion for second reading of Bill No. 77 agreed to*

**Hon. Ms. Taylor:** 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. Nordick):** Committee of the Whole will now come to order. The matter before the Committee is Bill No. 77, *Act to Amend the Public Health and Safety Act*. Do members wish a brief recess?

**All Hon. Members:** Agreed.

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

*Recess*

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

#### Bill No. 77 — Act to Amend the Public Health and Safety Act

**Chair:** The matter before the Committee is Bill No. 77, *Act to Amend the Public Health and Safety Act*.

**Hon. Mr. Hart:** Mr. Chair, I'm very pleased to introduce Bill No. 77, entitled *Act to Amend the Public Health and Safety Act*, for debate in Committee of the Whole today.

The local and global experiences with H1N1 influenza earlier this year highlighted the importance of the Yukon being prepared for a more severe pandemic with greater health risks. We are fortunate that the impact of H1N1 in the spring was mild. The speed with which H1N1 has returned to spread has made it necessary to expedite our preparations. In drafting these amendments, we have reviewed similar legislation across the country and drawn on Ontario's experience with SARS.

These amendments to the *Public Health and Safety Act* will strengthen Yukon's ability to act quickly to protect the public health, and I am looking forward to working with the other members on this important initiative. I will be happy to take questions on the bill, Mr. Chair.

**Mr. Mitchell:** Again, we won't be at great length here, but I thank the officials again for the briefing on Friday and look forward to having some clarifications.

Again, we are talking about changes — first of all, creating the chief medical officer of health position. As I have already stated at second reading, we think that is a good idea. I have to admit that I hadn't realized that the person we currently think of as the chief medical officer of health, Dr. Hanley, was not already in that position. I thought that we had that position here. I'm surprised we didn't, but I'm glad that we are moving to align ourselves with the same structure that is used by Canada and the provinces.

I do think that it's good that the powers here are powers that are directed at the recommendation of a health expert, the chief medical officer of health, and then Cabinet has to act to provide those authorities in each instance. That is a good check and control. However, there are some concerns that I have stated at second reading. They largely revolve around the collection of personal information for the purposes of this act, which appear in section 5, 2.1(1) and (2) and then later in section 4.5(1), (2) and (3), and (4), (5) and (6) relate to it as well. Again, they revolve around where to draw the line of the government, the state, requiring persons to provide information, including personal information, to the chief medical officer of health to enable them to perform their duties and functions under this act. And a person to whom a request is directed under subsection (1) and who has custody or control of the information requested shall comply promptly with the request.

Then it goes on to say later on that this act prevails over the *Access to Information and Protection of Privacy Act*. So we are removing a protection, and it's meant to be for the greater good. Again, the only concern I really have is the maintenance of this information — things such as: will it be maintained indefinitely, or only for the period of the health emergency and then perhaps be destroyed, so that the government does not continue to have this information about an individual or individuals?

Although we don't think that with H1N1 — and that's what we're all thinking and that's the filter we're looking at this through — the legislation is not specific to that.

It's legislation that will change this act and carry forward into the future. Quite clearly, there are some times being ill in some manner that there's a social stigma attached to it where other people may be judgemental about a person or persons if they become aware that that person, or several people perhaps in a family, have become ill with some disease. This may be some disease we've never heard of before, but it is something that is spreading and people are nervous or scared about it because they don't understand it. It's new to them, and people tend to pass judgements, and it's for these reasons why this is information that's normally kept personal and private.

We know what an outcry there has been in this territory and it continues to be over providing the government information about what firearms people may have in their possession. This is even more personal. It's about our bodies and our persons.

Really, all my questions relate to those sections of this act. I just want to know more about what protections will be in place for the protection of this information beyond those people who immediately must need it in order to perform their duties in the public interest and what happens to this information at the end of the particular public emergency that must be declared — or health emergency that must be declared — in order to provide those powers to the state.

Thank you.

**Hon. Mr. Hart:** I appreciate the questions and concerns of the member opposite with regard to information being provided. I will also reiterate the discussion with regard to my opening remarks about SARS. SARS indicated that the information was necessary. They highlighted many of the items that made it difficult for them to deal with SARS. Many of the changes in the regulation that came about in Ontario were because of SARS. We are following the Ontario model, which will protect the information with regard to the personal information. With regard to third party information, that information is maintained. For example, if we have a person who is a volunteer — which we are using right now — that person is still subject to the ATIPP regulations like every other employee that we have. That information is protected for the individual and the process.

With regard to providing the information from the third parties, we feel that it actually goes beyond ATIPP because it enables us to ensure that the information we get from the third party is kept and maintained under the process.

With regard to how long we keep the information, we're following the ATIPP regulations when it comes to the maintenance and retention of all records. The ATIPP regulations will still hold.

**Mr. Mitchell:** I thank the minister for his response. Some further clarifications, specifically around section 4.5(2) — “A person to whom a request is directed under subsection (1) and who has custody or control of the information requested shall comply promptly with the request.” I'm not a lawyer, so I know the officials can provide the legal explanation to the minister. Is that information about oneself, or oneself and minor children, or would this apply if the government had reason to believe that any individual had information about another individual, a third party, perhaps a co-worker who was sick with some potentially infectious disease? Could the government be compelling a person to provide information if the government had reason to believe they knew that person had information about a third party who wasn't available to directly respond himself or herself?

**Hon. Mr. Hart:** I'm getting legal advice. The member opposite has to read the entire box with regard to 4.5(1). It relates to the emergency that is being declared. The information being obtained or requested has to relate to that emergency, and it is only related to that particular one.

**Mr. Mitchell:** I don't believe the minister actually quite answered the question I was asking. I understand that it has to relate to the matter at hand, the emergency being declared. The question I am asking is, can a person be compelled to provide information about third party, not themselves or a minor child but perhaps a co-worker, an employee, or a superior for that matter — can the government use this legislation to require or request that a person provide information about another person?

**Hon. Mr. Hart:** For the member opposite, with regard to his question, I think I will try to address it directly. They can provide, if it is reasonably deemed necessary by the chief medical officer of health, information that is required for the public health emergency. Yes, then the information can be deemed necessary and requested.

**Mr. Mitchell:** Then that leads to an obvious follow-up question. In 4.5(4), it says, "No action or proceeding for damages or otherwise for providing information under this section shall be commenced against an individual, including an individual acting on behalf of a public body, unless the individual acts maliciously and the information provided is not true". There is similar wording in 4.5(5), about being protected unless the information has been provided maliciously. There appears to be no filter regarding the information just simply being provided out of ignorance, misunderstanding, mistaken belief or personal belief that somebody can provide information about some other person which they may, in good conscience, believe to be correct. But they are making a statement about another individual and that individual's possible infection from a communicable disease — without the knowledge of that other individual initially.

So this is giving the state the ability to ask people to more or less testify against their neighbours — that's the only way I can put it. I know that this is not the intent, but we have to be concerned about the impact of legislation — not just its intent, but how it may play out in practice. There has been, even to date, much misinformation about H1N1. People are poorly informed. They read things on the Internet that are not accurate. Again, this was the case with SARS, and it was the case with HIV. I'm concerned about empowering people to make statements that can have impacts upon the lives of others by providing information on a third party.

So again, that would relate back to the question: should there not be a method at which, beyond a certain point in time, this information is destroyed.

**Hon. Mr. Hart:** Mr. Chair, I think I can appreciate his concern with regard to the information, but I think what we must do is, above all, think about the integrity of the CMOH in our case. He's the one who determines the reasonableness of asking the question. Also, there must be a state of emergency in place, and it must be a reasonable request for the information in that process.

I will state to the member opposite — I think I already have — that we have run this information by the Privacy Commissioner. She has deemed the information adequate to protect the individual's rights, but I think what we're looking at here is to ensure the safety of Yukoners.

**Mr. Mitchell:** Let me ask another question around this same section. It simply indicates, in sections 4.5(1) through (6), how and under what conditions information requests can be directed and who has control of the information.

It talks about requiring this information to be provided. There is no reference to what the consequences of refusal are. I believe that one of the officials said during the briefing, "Well, that could lead to a summary conviction." I'm just wondering if the minister can answer questions as to what sort of penalties might be expected for a summary conviction. What I'm looking at, for example, is if a parent believes that this is intrusive and replies to the request about minor children by saying, "No, I will not provide this information. My children are at home. They're not mixing with other children. You don't need this information. It's personal and private, and I'm not going to reveal it." What are the options for the government, in terms of being refused the information?

**Hon. Mr. Hart:** I'll go back and repeat what I said before. It is the responsibility of the CMOH. First of all, an emergency has to be in place, and secondly, he has to have a reasonable aspect of getting and obtaining the information. There is a penalty under the *Public Health and Safety Act* in the event of a breach with regard to not supplying information.

**Mr. Mitchell:** Let's just accept as a given that everything is being done in good faith and that there is a genuine public health emergency, we have a well-meaning, well-educated, well-informed CMOH who requests that this information be provided but it is refused. Can the minister tell us whether there is a set penalty or a range of penalties or what are we opening up that can happen to people for refusal?

**Hon. Mr. Hart:** Items are set under the *Public Health and Safety Act*, and it is up to the court to determine the actual fine in process under that act.

**Mr. Mitchell:** There may also be cases where, due to personal belief or religious belief, somebody refuses to provide information. Is that something that the government has the ability to use temperance to determine whether or not to pursue the matter?

**Hon. Mr. Hart:** There is always discretion provided by the CMOH as to what information is being done and whether we actually pursue these actions and what the bottom line is, basically, if we don't get the information or if we do.

**Mr. Cardiff:** I would like to thank the Member for Copperbelt for asking all those questions and the minister for providing the answers. I have probably just one or two questions. We talked in the briefing, and I would like to thank the officials again for the time they took last Friday to give us the information and to go through it with us in great detail.

We talked about alternates. If the minister is out of town, there's always an alternate. In the case of the chief medical officer, I believe, if I'm not mistaken — it's section 2.2(3), and it says, "The chief medical officer of health may authorize a medical officer of health or a member of a health profession who, in the opinion of the chief medical officer of health is qualified, to temporarily perform some or all of the duties and functions of the chief medical officer of health."

The way I read that is that the chief medical officer of health may on occasion appoint or designate somebody, or authorize them according to the legislation. I'm wondering if there is a permanent fallback position, because you don't always know. If we're relying on only one individual to fulfill these duties, there needs to be a 24/7, 365-days-a-year fallback position, because we don't know where the chief medical officer of health is going to be at any given time.

Is there a fallback?

**Hon. Mr. Hart:** For the member opposite, with regard to a permanent fallback position to the chief medical officer, no, there are very few medical officers in the Yukon who can fulfill this role. It is up to the chief medical officer to ensure that he is covered when he is going to be leaving the territory, and that somebody will take his duties on when he leaves, for example, for a vacation or has to go out for a family emergency or whatever.

He makes that there. If we were to make somebody permanent, they may leave during the process and we are right back to where we started in having to utilize alternate resources. It is the chief medical officer who looks for his replacement when he is away, whether he is off in Ottawa or he is down in Vancouver. He finds the people to take care of his duties when he is away, plus he is never very far away from his phone, regardless. It is his responsibility to ensure that he is covered, and we do have adequate personnel here to cover the chief medical officer when he is away.

**Mr. Cardiff:** I can accept the minister's answer on that if it is a planned absence. What I am talking about is if it is an unplanned absence. If the chief medical officer of health has gone hunting and goes missing for two weeks or is in a motor vehicle accident and is medevaced to Vancouver and is unavailable, according to the act, it is up to him to authorize someone to take his place. If he is not of a capacity where he can do that or in a place where he can do that, what is the fallback?

**Hon. Mr. Hart:** The chief medical officer has indicated a couple of physicians that can be acted upon through an order-in-council. If an individual is hunting and goes missing — although I'm sure Dr. Hanley wouldn't be doing such a thing — regardless, there is a way in which we can activate through an order-in-council those two names that he puts forward for us. That has already been done for this year.

**Mr. Cardiff:** That is the answer I was looking for the first time I asked the question. I would just like to follow up on the privacy issues, I guess. I just want to be clear about some of the questions that the Member for Copperbelt asked. My concern is about the ability of the chief medical officer of health to require information to be provided. Like the Member for Copperbelt said, it could be asking a parent about their child. A parent has knowledge of their child and of their medical condition and their status.

What I'm concerned about is — if I heard the minister correctly — that the chief medical officer of health can ask a third party — it could be your neighbour, it could be a co-worker. I guess, to put it into context here, he could come and ask one of

us here in the Legislature about another member of the Legislature. Do we have the knowledge?

I understand that these are only under extenuating circumstances. These are when there is a public health emergency — when it's a crisis situation, basically, and there are extraordinary measures taken.

What I want to know is — again, this is checks and balances — how are you going to ensure — and it doesn't need to be malicious, but how can you ensure that the information that's being gathered is being done — and the person the information is coming from has the full knowledge and that they are informed of the situation about the person they're providing information for. I don't know if that's clear enough for the minister.

**Hon. Mr. Hart:** With regard to privacy and dealing with the information, again, we are relying on the integrity of the CMOH to ensure that the information being requested is necessary and relates to the health emergency and is relevant to the public safety, that that information is being utilized to make his decision and assist in his decision.

The ability to garner third party information is basically enabling the chief medical officer to obtain information from schools re attendance and issues like that. It's not for specific — as the member opposite indicated, except in exceptional circumstances that are very unusual.

But if the government of the day finds that it has a rogue medical health officer, then we have the ability to replace that individual. But in essence we are relying on the integrity of the individual to obtain that information and to provide the information on a reasonable basis to basically complete the duties under his job description.

**Mr. Cardiff:** I guess my concern is — I mean, I understand the need to have the information provided.

I'm going to ask the minister another question and I'll come back to this.

When the information is received by the chief medical officer of health and he acts on it, once the public health emergency, or health emergency, or communicable disease emergency is declared over, what happens to the information? Is it destroyed? Or is it held somewhere? And who has access to it?

**Hon. Mr. Hart:** For the member opposite, with regard to the information that is collected, it is protected under ATIPP. It is protected under ATIPP because, as long as it is information that is relevant to the individual's health future and deals with the audit of the system, litigation possibilities and the future studies on the spread of disease, et cetera — in other words — it is information that is accumulated under that particular process and it is protected under ATIPP.

**Mr. Cardiff:** The next question that I have for the minister is in the sections specifically 4.5(4) and (5). It talks about no action or proceedings and it talks about "unless the individual acts maliciously and the information provided is not true." What happens to information that is provided that isn't true? Does it remain on the record, subject to ATIPP, or does it get destroyed? If it forms part of a record then somebody has access to it and, if it is not true, then it should be destroyed.

**Hon. Mr. Hart:** As I indicated, the information is protected under ATIPP. Under ATIPP, the information can be challenged under that process. There is a venue in which the individual can challenge that information under ATIPP, if it is falsely recorded.

**Mr. Cardiff:** How does an individual who has had information supplied by a third party become aware that that information is even there — if it's not acted on? There could be information that forms part of the record that is untrue and the individual that information is about might not even be aware of it. So, basically, you're unaware; you're walking around out on the street and yet somewhere in the files of the chief medical officer of health there is — albeit protected by ATIPP — information that may not be true; it may be false information. So how can you go through a process to have that information removed when you're not even aware of it?

**Hon. Mr. Hart:** I'm not quite sure to what the member opposite is trying to allude with regard to the information, but I will go back to where we started again. The chief medical officer has to obtain the information. If he obtains the information, it is up to him to utilize that information, to ensure it's reasonable and necessary in the performance of his duties, obviously ensuring that the person the information is getting to — if in fact the information is incorrect, then the chief medical officer can make a notation in his assessment and apply that information to the individual's file and put it in there.

Nobody reads the information with regard to what goes in the file unless it's there, so it's a responsibility to ensure our chief medical officer puts the information into the file that is reasonable and attainable and again, as I said, to ensure the public's health is being protected to the utmost.

I'm sure that any chief medical officer will ensure that any information, as purported in a person's file, is reasonably true and available to that individual.

**Mr. Cardiff:** Well, I guess it raises a couple more questions: one, is there a requirement for the chief medical officer of health to notify those persons, about whom information has been provided, that there has been information provided respecting their health? That would be one question. And maybe I'll let the minister answer that.

**Hon. Mr. Hart:** With regard to the member opposite's concern, there is nothing in there that compels the information to be there, because it's third party information.

It's up to the CMOH to ensure that if there is something that needs to be followed up with this individual, then if it is reasonable for the chief medical officer to follow up with that individual, he will do so — or she will do so. If in fact the information is found out to be malicious or whatever, then the chief medical officer can make that notation and forward it to the individuals and record it in his record finding.

**Mr. Cardiff:** I don't think the minister would appreciate it if I were providing information about him to somebody and he was unaware that I was doing that, or that the chief medical officer of health didn't tell him that information had been gathered about this status from some member on this side of the Legislature.

The way I understand it, it is up to the chief medical officer of health to determine the veracity or the truthfulness of the information that is being provided. It would just seem that at some point — I know, in the heat of an emergency when there is a lot going on, that it would be difficult to cover off all the bases, but what I think is that at some point — after things have settled down — at the very least, people should be contacted and told that information has been provided about their medical condition with relation to the recent public health emergency. They should be given the opportunity to know what information was provided and they should be given the opportunity to either agree with it, or to correct it, or refute it outright as a falsehood. At that point, it should be removed from the record if it is proven to be a falsehood. If it continues to form part of the record and two or three chief medical officers of health down the road — if those files are still accessible then he may not know the background. It is about maintaining proper records and records that are accurate. It is about Yukoners' personal medical information. I think that all Yukoners expect and have a right to have that information not just be kept confidential but to have it be correct.

If you're going to third parties — whether it be officials at the school, or whether it be an employer, or a neighbour, or the MLA across the Legislature — it needs to be correct. If it's false information, the opportunity to have it removed and corrected must be provided.

I understand that we're probably not going to amend this bill here today on the floor of this Legislature, but I think that it's important that we have this conversation and that we highlight these matters and that they form part of the public record of the debate about these amendments so that people can look back and they can say, "These were concerns," so that the officials who are sitting with you, the officials in the future, that the chief medical officer of health — not just the current one — but down the road, will be able to come back and read about what the concerns were, and maybe somewhere down the road the legislation can be strengthened.

So that's basically what I'm asking the minister: how are we going to ensure that false information doesn't form part of the permanent record?

**Hon. Mr. Hart:** The information is for public health purposes. Is there a threat to the public health system? If not, no action is taken. If there is, yes, the people will be contacted. You'll be advised that the information is provided.

There are three checks with the process as I mentioned before. There has to be a public health emergency identified. The request made of the information must be reasonable from the CMOH with regard to that. Also, right in the act it says that the information can't be malicious and it's right in there. So it's there for that purpose.

All this again falls under the regime of the health officer and it's supported by his integrity, his ability to act, based on his medical background and science of the situation and in conjunction with the national scope and dealing with our national guard on a pandemic situation.

**Mr. Cardiff:** I think one of the key words the minister used was: providing it's not malicious. What I am talking about

is uninformed, because not everybody has all the information. They may have a perception of something but they may not have all of the information. I guess that is what I am concerned about, that it is an uninformed provision of information to the chief medical officer of health. I am not talking about whether it is malicious; I am just talking about if it is uninformed, like if they don't have all the information but they are providing to the best of their knowledge what they believe to be true, but they don't have enough facts to ensure — how does the chief medical officer of health know how much information they have or how close they are to the situation?

**Hon. Mr. Hart:** For the member opposite, again, I guess we'll go back. It is the chief medical officer's responsibility to ask the question — again, we'll get back to the role and the reasonable question of finding the information and making his assessment based on that reasonable question. From there the chief medical officer will make his or her decision on whether or not to utilize that information that he has received from a third party. Then he goes forward from that particular aspect.

The member opposite touched base on whether the information being provided by a third party is full or complete. Again, that will be the responsibility of the chief medical officer in making the assessment. When they ask his or her the question, or the group the question, it will be up to the chief medical officer to ascertain just exactly how much of that information he can utilize in making his decision and coming up with the correct decision utilizing that information that has been provided by a third party.

**Mr. Mitchell:** I just want to follow up on some of the answers provided by the minister during the questioning by the Member for Mount Lorne in the earlier questioning that I was undertaking. We will just take it as a given that the information that might be collected has not been provided with malicious intent, so there is no bar there that it was malicious and therefore shouldn't have been collected.

But again, as the Member for Mount Lorne has indicated, people are not necessarily expert, but they think they know something about their neighbour or their neighbour's family or co-worker, and they provide information.

To use a sort of metaphor, in the case of credit information, you have the ability to request from agencies that maintain credit information — there are about three main ones that are used — a copy of that report. You can go out and go to them and say, "I would like the information you have on file." You then have an ability to correct that information if it's incorrect, and sometimes it is. Then only the correct information is maintained.

Would it not be beneficial to have some requirement in here that, when information is provided about a third party, that party will always be contacted and informed that someone has provided information about their medical health and personal information and give them an opportunity to see what the information is and correct it, if necessary; and two, since all of this has been couched in the requirements of dealing with a medical health emergency — a public health emergency — so it's being done for the greater good of the population at large.

That's why we're able to move the bar and infringe upon personal information for the greater good.

Why wouldn't there be some clause to simply allow that information after the fact, after the public health emergency has passed, and the declaration has been rescinded — to then have that information removed from the records so that we're not dependent upon ATIPP and people who look through files when an ATIPP request is made to see whether or not the information is pertinent?

I mean, information that is maintained in public files has a way of eventually getting out, or other people can become aware of it. In the case of Yukon, we are a very small jurisdiction, so it is likely that when this information is maintained that other people may know the people that the information has been collected about.

Would there be the possibility in the future? We're not looking to amend legislation on the floor. We know we're not going to draft anything that's going to necessarily be proper to address the issue, but we think we've identified an issue on this side of the House. Would the minister consider having his officials look into it and see if this is something that could not be corrected at a later date?

Thank you.

**Hon. Mr. Hart:** For both members opposite, with regard to the question, I guess we on this side are having some difficulty with regard to the concern but, I mean, the act is always under review. If the changes are going to be necessary, then I see no reason why a change couldn't be made or an amendment with regard to that. As I have stated, the information is designed to collect an aggregate of data and it is just to understand how the disease spreads or how the pandemic moves along. We are trying to keep it there. I am trying to stay away from adversarial debate with regard to this act. I feel that we've gone a long way in providing the information. As I stated, the Privacy Commissioner has reviewed this and indicated that where we are meets her needs with regard to the privacy information act.

The information is collected; however, if the members feel that they would like to see something in the future, then possibly they can make a suggestion and my staff can look at it for a future amendment that might meet their needs and still not impede our medical health officer in their duties.

**Chair:** Is there any further general debate? Seeing none, we will proceed with clause-by-clause debate of Bill No. 77, *Act to Amend the Public Health and Safety Act*.

*On Clause 1*

*Clause 1 agreed to*

*On Clause 2*

*Clause 2 agreed to*

*On Clause 3*

*Clause 3 agreed to*

*On Clause 4*

*Clause 4 agreed to*

*On Clause 5*

*Clause 5 agreed to*

*On Clause 6*

*Clause 6 agreed to*

*On Clause 7*  
*Clause 7 agreed to*  
*On Clause 8*  
*Clause 8 agreed to*  
*On Clause 9*  
*Clause 9 agreed to*  
*On Title*  
*Title agreed to*

**Hon. Mr. Hart:** I move that Bill No. 77, entitled *Act to Amend the Public Health and Safety Act*, be reported without amendment.

**Chair:** It has been moved by the Hon. Mr. Hart that Bill No. 77, entitled *Act to Amend the Public Health and Safety Act*, be reported without amendment.

*Motion agreed to*

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

**Chair:** It has been moved by Hon. Ms. Taylor that the Speaker do now resume the Chair.

*Motion agreed to*

*Speaker resumes the Chair*

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

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

#### Chair's report

**Mr. Nordick:** Committee of the Whole has considered Bill No. 77, *Act to Amend the Public Health and Safety Act*, and directed me to report it without amendment.

**Speaker:** You have heard the report of the Chair of Committee of the Whole. Are you agreed?

**Some Hon. Members:** Agreed.

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

#### Unanimous consent re third reading of Bill No. 77

**Hon. Ms. Taylor:** Pursuant to Standing Order 14(3), I would ask the unanimous consent of the House to proceed with third reading of Bill No. 77, *Act to Amend the Public Health and Safety Act*, at this time.

**Speaker:** The Government House Leader has, pursuant to Standing Order 14(3), requested the unanimous consent of the House to proceed with third reading of Bill No. 77, *Act to Amend the Public Health and Safety Act*, at this time. Is there unanimous consent?

**All Hon. Members:** Agreed.

**Speaker:** Unanimous consent has been granted. Government bills.

### GOVERNMENT BILLS

#### Bill No. 77: Third Reading

**Clerk:** Third reading, Bill No. 77, standing in the name of the Hon. Mr. Hart.

**Hon. Mr. Hart:** I move that Bill No. 77, entitled *Act to Amend the Public Health and Safety Act*, be now read a third time and do pass.

**Speaker:** It has been moved by the Hon. Minister of Health and Social Services that Bill No. 77, entitled *Act to Amend the Public Health and Safety Act*, be now read a third time and do pass.

Are you prepared for the question?

**Some Hon. Members:** Division.

#### Division

**Speaker:** Division has been called.

#### Bells

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

**Hon. Mr. Fentie:** Agree.

**Hon. Ms. Taylor:** Agree.

**Hon. Mr. Hart:** Agree.

**Hon. Mr. Kenyon:** Agree.

**Hon. Mr. Rouble:** Agree.

**Hon. Mr. Lang:** Agree.

**Hon. Ms. Horne:** Agree.

**Mr. Edzerza:** Agree.

**Mr. Nordick:** Agree.

**Mr. Mitchell:** Agree.

**Mr. Elias:** Agree.

**Mr. Fairclough:** Agree.

**Mr. Cardiff:** Agree.

**Mr. Cathers:** Agree.

**Clerk:** Mr. Speaker, the results are 14 yeas, nil nays.

**Speaker:** The yeas have it. I declare the motion carried and that Bill No. 77 has passed this House.

*Motion for third reading of Bill No. 77 agreed to*

**Speaker:** I declare that Bill No. 77 has passed this House.

#### Bill No. 16: Second Reading

**Clerk:** Second reading, Bill No. 16, standing in the name of the Hon. Mr. Fentie.

**Hon. Mr. Fentie:** Mr. Speaker, I move that Bill No. 16, *Fourth Appropriation Act, 2008-09*, be now read a second time.

**Speaker:** It has been moved by the Hon. Premier that Bill No. 16, entitled *Fourth Appropriation Act, 2008-09*, be now read a second time.

**Hon. Mr. Fentie:** I am pleased to present the *Fourth Appropriation Act, 2008-09* and the accompanying final supplementary estimates for fiscal year 2008-09. This appropriation act closes the 2008-09 fiscal year, and the additional expenditures for which it seeks authority are reflected in the 2008-09 public accounts tabled earlier in the Legislature.

Mr. Speaker, this is a good opportunity to share some observations with the members regarding the public accounts. Members will note that for 2008-09, we have adopted a significant accounting change relating to the Building Canada plan at the request of the Auditor General. Previously, we recognized



revenue upfront for the fiscal year. The Auditor General has now requested that we use the matching principle. That is, Yukon will recognize revenue when expenditures under Building Canada are actually made. Mr. Speaker, this is a more conservative approach, particularly on the revenue side of the ledger and will provide for a matching of revenues and expenditures for each fiscal year of the Yukon government's Building Canada investment.

I mention this accounting change, Mr. Speaker, because despite the more conservative approach, I am extremely pleased to announce that the Yukon government's fiscal position remains strong.

As members will note, the 2008-09 public accounts — the consolidated annual surplus for the year — that is all government enterprises captured in the consolidated statements — is \$7.1 million — resulting in consolidated net financial resources of \$281 million and an accumulated surplus of some \$736 million.

Mr. Speaker, the 2008-09 public accounts also represent the seventh consecutive year that the Yukon government has realized an annual or year-end surplus.

Turning our attention to the *Fourth Appropriation Act, 2008-09* and the final supplementary estimates, these are required in order to fulfill the requirements of the *Financial Administration Act*, which requires that the Legislative Assembly provide the statutory authority for departmental expenditures.

Occasions arise where year-end expenditures in excess of the voted authority are indeed necessary. This final supplementary covers year-end spending requirements for three departments: Health and Social Services, Department of Environment and the Department of Justice.

The total value of this final supplementary appropriation is \$1.974 million and is as follows: first, there is a \$1.415 million O&M expenditure under Health and Social Services for higher than anticipated costs related to out-of-territory hospital claims. Secondly, the \$150,000 of operation and maintenance expenditure under the Department of Environment is required to recognize environmental liabilities at the old Dawson highway yard.

It is worth noting that the environmental liability recognized at year-end specific to this site totalled some \$758,000. Had the Yukon government not booked this liability, the Department of Environment would have been under its own appropriation by some \$608,000.

Finally, \$409,000 capital was required under Justice as work advanced on the correctional infrastructure project more quickly than anticipated.

So, Mr. Speaker, as we have come to expect, departments have once again made excellent efforts to manage their budgets within their appropriations. Looking at total expenditures on the operation and maintenance side, we see that departments came in at approximately 2.2 percent underbudget. This represents a modest lapse in the operation and maintenance budget and should indicate to all of us that the departments have developed fair, realistic budget plans and have been effective in delivering those plans.

On the capital side, departments lapsed approximately \$54 million, or 23.6 percent of the total capital expenditures voted. Given the multi-year nature of major capital projects, and the potential for delays, it is quite usual to experience lapses in the capital vote. Mr. Speaker, although we did lapse \$54 million in this fiscal year's capital vote, I draw members' attention to this, and I'm sure that all members will appreciate that \$175 million in capital investment was expended in the fiscal year 2008-09.

Further, we remain committed to completing previously approved projects that did not progress as far as anticipated during the course of the fiscal year. The Yukon government continues to follow its tried-and-true practices and procedures to revote funds to ensure that capital projects continue to move forward as appropriate. Items lapsed in 2008-09 and approved for revote have been included in *Supplementary Estimates No. 1* for the fiscal year 2009-10. I'm sure my colleagues will welcome the opportunity to debate these when the time arises.

Turning our attention to the non-consolidated statements — for example, the Government of Yukon on its own — I remind members of the significant accounting change related to the Building Canada plan, as previously detailed. This accounting change was requested by the Auditor General and represents, as I said, a conservative approach to revenue recognition.

After incorporating this accounting change, the non-consolidated statements reflect a surplus for the year of \$1.368 million, resulting in a non-consolidated net financial resources position of \$135.5 million and an accumulated surplus of \$547 million.

I am somewhat hesitant to speak in terms of what-ifs, however, had the Auditor General not requested this change, for the members' opposite benefit, the non-consolidated statements would have reflected an annual surplus in the \$15-million range and a net financial resource position of just under \$170 million. Clearly the adopted accounting change is a significant adjustment providing a more conservative financial picture. However, notwithstanding, I'm pleased to say the Yukon government financial framework remains very positive.

With that, Mr. Speaker, I thank you and look forward to discussing the supplementary appropriation more fully in general debate.

**Mr. Mitchell:** Well, we're not going to spend a great deal of time, I'm hoping, on this *Fourth Appropriation Act, 2008-09*, because, as the Premier, the Minister of Finance, has already outlined, it largely addresses three overexpenditures that have to be authorized in order to be in compliance. There has to be votes of the \$1.415 million and O&M for Health and Social Services largely out-of-territory travel, \$150,000 for the Department of Environment having to do with issues in Dawson, and \$408,000 for additional progress on the correctional centre. We would like to spend more of our time on the supplementary budget — the first supplementary budget for the current fiscal year, as well as the remaining six or so pieces of legislation or others that the government might table later this week.

There are some questions. Last week the Premier tabled the public accounts for the fiscal year we're talking about,

2008-09, and these amounts. Although there's a slight discrepancy — and there may be some technical reason for this that I'm not aware of — the public accounts mentioned \$408,000 for Justice and the supplementary budget identifies it as \$409,000. Maybe it's just rounding one way or another.

These are the amounts that were on page 78 of the public accounts identified as overexpenditures for which there was no authorizing vote; this will clean that up.

In looking at the public accounts, there were a couple of other notable things. The first one is page 5 — and I'm sure the Premier will have some good answers for us — where it says, "Auditor's Report, March 31, 2009 — not available at press time." That sign-off from the Auditor General's Office, which the Premier has frequently cited in the past, is fairly important and usually present. It's the letter that says whether or not the entire financial statements are considered to be an order by our auditor, the Auditor General of Canada, or not. It's missing, so I will ask the Premier and Finance minister to explain why.

I'm going to ask several questions at once now because I think we can save the Assembly some time.

So, why is it missing? When can we expect to see the Auditor General sign off on last year's books? What is the reason for the delay? Why wasn't it ready? We all know the date this needs to be ready by, so why wasn't it ready for tabling on the last day of October, which is what the act requires?

We also noticed in looking at the consolidated statements that the statements for the Yukon Housing Corporation are also missing, and we wonder whether either the Finance minister or the minister responsible can explain why those are not yet present and when we can expect to receive them. So, I think I'll leave it at that.

As far as the minister's double set of books that he's referring to — the ones as they are and the ones as they might have been had we been using a different accounting method — that's hypothetical. The numbers are as presented here, not the larger numbers that the minister wanted to refer to, if only we hadn't been using such conservative principles. It really doesn't matter what would have happened under another method. This is the method that's approved.

So if the minister can explain why we're missing the auditor's report, that would clear up a lot.

Thank you.

**Mr. Cardiff:** We, too, don't have a lot of questions regarding the *Fourth Appropriation Act, 2008-09*. We understand this is basically wrapping up the year-end. It says there's \$1.4 million for Health and Social Services due to higher than anticipated costs for out-of-territory hospital claims. I'm just wondering if this is an ongoing thing. Is it just volume — the number of people who need to go Outside to obtain health care? What's the driving factor in that? Will it continue in the future? Is this a trend? I guess that's what I would like from the minister, when he rises again.

There are a couple of other questions. We see that there's a big change in personal income tax when it comes to revenue — a change of \$9 million in personal income tax. I suppose that could be taken as a good sign about the economy and that there

are more people paying taxes. As well, on the other side, I guess, corporate income tax is down by almost \$7 million. I am just wondering if the Minister of Finance can explain why that is. Why is personal income tax up and yet corporations are paying less income tax for that year?

The Minister of Finance talked about the amount of lapses and how basically, on the operation and maintenance side, we are doing pretty well. We seem to continue to lapse — the minister used the figure 23.6 percent or \$54 million in lapses on the capital side. I guess the issue — and for somebody who comes from a background of working on those types of projects and being in that sector of the economy, then \$54 million is a lot of money when it comes to capital expenditures, whether you're building airports or jails or highways, or whether you're just purchasing goods from Home Hardware, Whitehorse Business Machines or Staples. So, it's about completing projects, and the way I read it is that 23.6 percent of the general project didn't get completed, and in the business I worked in, if you didn't complete 23.6 percent of the project, you didn't get paid. You had to complete the project. So there's a lot of work out there that could be being done. I understand issues around inclement weather, having delays on construction projects, but I honestly believe that we could be doing a better job when it comes to budgeting and scheduling and planning these projects.

Maybe it's just about being a little more realistic up front, because when the Premier delivers his budget speech in the spring and talks about spending over \$200 million in capital — \$230 million in capital is what was voted, as of the last supplementary. Then you find out that \$54 million of it didn't get spent. I think people expect a little bit more, and I think that we can do a better job, and I hope that we're working toward that. We've had this discussion before.

So I don't have much more to say about the *Fourth Appropriation Act, 2008-09*, and I look forward to the minister answering those questions.

**Speaker:** If the Hon. Premier speaks, he'll close debate. Does any other member wish to be heard?

**Hon. Mr. Fentie:** I thank the members opposite for their comments. Just quickly, because we should get into more detail in general debate and in the departmental discussions, but with respect to the Auditor General signing off page 5 and the Yukon Housing Corporation, that is an issue. There is a lateness with Yukon Housing Corporation reporting. I can tell the members opposite that, some time ago when that became evident, the Department of Finance immediately sent officials over to assist the Housing Corporation in its fiscal reporting. We expect that the progress being made there will resolve the issues.

Furthermore, the Leader of the Official Opposition made a comment about the difference in the accounting procedures. I would remind the member that in fiscal year 2007-08, the Auditor General approved the booking of Building Canada on the front end of our budget. This year, the Auditor General has chosen to change that. So it does mean a lot. It's midstream, if you will, of the Building Canada agreement with the federal

government — accounting practices and the booking requirements did change. Therefore, it is significant.

As far as rounding off, that may be, but we'll get into more of the detail. The Third Party touched on income tax. Let me say, Mr. Speaker, that the measurement of income tax is a much better barometer for how our economy is doing; so there is a good positive element there. The issue of corporate tax, however, to a great degree involves the federal government's reporting of how corporate tax is being handled. A lot of what has created this scenario in the fiscal framework for the Yukon government can be linked back to how the federal government is dealing with corporate taxation.

The issue of lapses — if we go back over many years of budgeting, we will see a fairly consistent trend of lapses. Much of it is revoted into the next fiscal year to pick up the projects and that is why we go through a very extensive revote exercise with all departments on capital investment. I think what is really important is \$175 million was expended. That certainly generated in large part the increase in income tax. It is part of that stimulus approach that we're all taking in this country. I am pleased to say that the departments involved, along with the capital project team that we have established, are very much on top of the issues and challenges, and what we're trying to do always is maximize retention and benefit for Yukon.

So with that, Mr. Speaker, we'll now go into the next phase of discussion and that would be general debate.

*Motion for second reading of Bill No. 16 agreed to*

**Hon. Ms. Taylor:** 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 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:** Committee of the Whole will come to order. The matter before the Committee is Bill No. 16, *Fourth Appropriation Act, 2008-09*. Do members wish 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. 16 — *Fourth Appropriation Act, 2008-09*

**Chair:** The matter before the Committee is Bill No. 16, *Fourth Appropriation Act, 2008-09*.

**Hon. Mr. Fentie:** Mr. Chair, in second reading, I provided an overview of the *Fourth Appropriation Act, 2008-09*. There were some questions that we can get into further detail on. There is no need to repeat the relevant amounts for account-

ing. I think we have highlighted to a great degree the overall situation with respect to the supplementary.

What is extremely important for us in the territory is the fiscal position we are in, which is definitely a very positive one. Then we move forward into the next fiscal year of 2009-10 where much of what we've closed out our year-end with will be reflected.

**Mr. Mitchell:** I think these estimates remind of that old adage that you can't judge a book by its cover, because it is clearly the territory's most attractive budget cover that we ever had and it would be sad in a way to see this would be the last of the editions on this particular budget in terms of that photo — at least of Tombstone.

Again, we don't have a lot of questions here. I wouldn't mind if we could deal with a lot of these in general debate rather than having to spend a lot of time in the departments.

I think there was a question that was asked when the Speaker was in the Chair at second reading by the Member for Mount Lorne regarding the increase of \$1,415,000 in the expenditures for O&M for travel outside the territory for health care. I'm wondering if the Finance minister has any specific information on that or if we have to leave that for debate when that department is called, because that is the more significant figure, by far, among the three expenditures. I would ask that.

Again, when the minister was last on his feet, he indicated that the Finance department has been working with the Yukon Housing Corporation since the time they became aware that the Yukon Housing Corporation was going to be struggling with getting their statements properly done on time. I'm wondering — since he mentioned that his department was working with the Yukon Housing Corporation — whether, from the perspective of his department, he can provide us with an update of just what the issue is at this point in time.

**Hon. Mr. Fentie:** Just quickly — I can't give finite detail on the Health and Social Services request for this supplementary, but I can in general terms make the point that it is probably due to a combination of volume and price. However, the Minister of Health will certainly have the detail around that. I think we also have to recognize that these types of expenditures are definitely dictated by the demand or the need. It's very difficult at the beginning of a fiscal year to have an actual accounting of what our medical travel will be, given the many variances that would be involved here, depending on any individual's health in the Yukon.

As far as the public accounts issue, the delay is related to the Yukon Housing Corporation's financial statements and its audit. She's not able to issue her opinion because of that. By the deadline, by the way, of October 31, there will be certainly an opinion coming. I think we have to recognize that the Auditor General has indicated that there are no issues on the consolidated financial statements, except for that portion that relates to the Yukon Housing Corporation. The Auditor General needs more time to determine its accuracy.

The situation, I think, in fairness to the Housing Corporation, that it found itself in is a capacity issue. We have to remember that the Housing Corporation is directed by and run by an appointed board of directors — citizens who are appointed

to do exactly that. The capacity issue, when it became apparent, was addressed quickly by the Department of Finance. We've done a number of things in that regard. We've removed the Housing Corporation from shared services with Community Services. In the month of August, the Department of Finance assumed responsibility for the financial statement preparation, and during the month of October, the Department of Finance furthered its involvement by providing financial stewardship to the Housing Corporation. Yukon Housing Corporation is reviewing organization structure to further enhance its financial unit. It comes down to capacity and people in place with the overall credentials to deal with this particular area of the corporation.

I'm pleased to say, though, that the Finance department acted quickly and provided that assistance to the Housing Corporation.

**Mr. Mitchell:** I have a couple of follow-up questions on the comments that the Finance minister just made. He indicated that he's pleased that the Auditor General said that the only problem with issuing the letter is the Yukon Housing Corporation — there is no statement to that effect in here in the public accounts. So I just want to be clear on that, that the Finance minister has heard from the Auditor General and those are in fact the only issues.

Regarding the Yukon Housing Corporation, has all the information now been resubmitted, in terms of whatever requests the Auditor General's Office was making for additional information or a different way of providing that information? So are we simply now awaiting the Auditor General to look through additional information that has been submitted, or is the Finance department still working with the Housing Corporation to finalize this information to be provided to the Office of the Auditor General?

**Hon. Mr. Fentie:** The issue comes down to the lateness of the Housing Corporation being able to provide the Auditor General the financial statements. In September — I believe late September — those statements were provided; the Auditor General needs more time to finalize her review of those statements. The Auditor General then did not issue the letter that the member is pointing to because of the fact that her work on the financial statements for the Yukon Housing Corporation is yet to be completed.

**Mr. Mitchell:** Are the concerns that the information provided from the Yukon Housing Corporation was insufficient — does that in any way relate to the special audit that is being done into performance, which this year happens to be on the Yukon Housing Corporation? In other words, was it a capacity issue of the Yukon Housing Corporation in complying with the Auditor General's investigations for the special audit or was it in fact the information that became known to the Auditor General during the special audit that has led to the additional questions?

**Hon. Mr. Fentie:** I want to be crystal clear on the matter. There is no link. They are two distinct issues. The Auditor General, yes indeed, is performing a performance audit on the Yukon Housing Corporation. I think that is pretty standard practice across government departments and its corporations.

The issue is not insufficient information or questions about information. The issue is the lateness of Yukon Housing Corporation being able to provide its financial statements due to the capacity challenges it faced.

**Mr. Mitchell:** I don't have a lot of additional questions in general debate for the Finance minister. He has already indicated that to ask specific questions about the departments — he doesn't have all that information at his fingertips. So for the three departments that have asked for additional spending approval on O&M, we'll save it for then.

I would just add my comments to those of the Member for Mount Lorne. I had made notes as the Premier was speaking earlier, and I didn't say them then, but I will also say that it seems rather ironic to have a Yukon Party budget that indicates that all the money that was voted for O&M has been expended and, in fact, some additional resources are required, when there are \$54 million in lapses on capital projects.

It begs the question: if the government has not been able to manage, in a timely manner, the \$200-and some-odd-million — \$229,118 million — that was originally voted to date on capital and had 23.6 percent lapse — even though they're going to be revoted this coming year, it's a concern as we get additional funds through the Building Canada fund and the other stimulus funds that have been put in to deal with the recession we experienced this past year, because it's all about spending that money in a timely manner to keep Yukoners working in the trades and all areas of construction, in order to combat the effects of a recession.

The money that goes to construction workers, plumbers, pipefitters and electricians, and people working with concrete and so forth, then flows to the economy, supposedly, and helps to support many other people in terms of retail and wholesale. If the money is not being spent and is carried forward as lapses, only to be revoted for the next year, it is a concern.

It makes one question whether the even larger sums in the 2009-10 budget will be spent or whether the government has simply reached the point where it can't manage so many large projects and get them done in a timely manner.

I know the Member for Mount Lorne raised this issue at second reading and I expect he'll raise it again, but 23.6 percent seems like a large percentage. I recognize that sometimes they are timing issues when you hit a year-end — or when one hits a year-end — and spending can't be completed during that period of time, but we all saw how long it took in the attempts to build a health centre in Watson Lake, and we still don't have one there. We don't have one in Dawson and now those projects are being transferred over to the Hospital Corporation. We hope that we don't see too many more examples of this.

If the Premier can explain why so many of these projects have had to lapse, that would be helpful.

**Hon. Mr. Fentie:** First off, Mr. Chair, again on a matter of clarity, this is not a Yukon Party budget. The Yukon Party has its own bank account, run by its own executive and I guess it would have its own budget. This is the Yukon's budget, the Yukon Territory's budget. I think it's important that we clarify that.

As far as the lapses, Mr. Chair, the lapses are well within the range of historical lapses.

Though I share the member's concern about the management of projects, I feel very comfortable and the government side feels very comfortable that the project management team that is in place, that represents Highways and Public Works and Community Services and so on, is doing a very good job in managing our projects. I think a lot of this has to do with the capacity in the Yukon to take on this scope or order of magnitude of work. We always must be careful of leakage and other factors that are involved here. In many cases, these are projects that are rolling over into subsequent years.

We may have budgeted an estimated amount for a particular project during the course of the fiscal year through the planning and so on. Certain delays may have come forward. It certainly happened with projects like sewer projects. There have been issues there — for example, Dawson City. Much of that relates to court proceedings and what we must keep bringing into the court, including a referendum. However, no excuses. The range is within historical values. Managing the projects is of the utmost importance but we have to also reflect on the fact that Yukon does have a capacity issue. In this growth and this stimulus environment that we are in, that capacity issue is certainly a part of why lapses take place.

**Mr. Cardiff:** I'll just pick up right where the Premier left off there, when it comes to capacity issues. I know the Minister of Education talks quite regularly about how we are building capacity, how there are more apprentices, and how that capacity is increasing. There are, however, some tradespeople who are migrating to other jurisdictions to get work when there isn't work here.

I think what we were talking about — what I raised at second reading — is planning capital budgets that are appropriate for the capacity that we have here in the Yukon, so that we don't have that leakage, so that we're not lapsing money, and so that when people look at the budgets they reflect what's really going to happen. That's enough said about lapses, I guess, and revotes.

As I mentioned in second reading, I had some questions around income tax. For the personal income tax — what was voted originally and what we're voting today — there's an increase of just over \$9 million in personal income tax which would say something about the amount of economic activity and the number of people who are working in that fiscal timeframe of 2008-09.

With regard to the corporate income tax and the decrease of \$7 million, maybe the Premier could explain how the federal government reports corporate income tax. I would just like the minister to go over this and explain to us how that is because what we predicted — it's over half, basically, of what we predicted or what was predicted by government officials. We're receiving less than 50 percent of what was predicted by government officials.

So there is some concern there about how we can make a prediction like that and go so far wrong on it, I guess.

The other question I have is with regard to taxes and just whether or not there is any information about why the tobacco

tax is down \$1 million. Is it because of health initiatives? Is it because of the *Smoke-free Places Act*? Was there a reduction in tobacco taxes? What are the reasons for that?

**Hon. Mr. Fentie:** Back to the lapses again, I can only reiterate that they're well within historical ranges. We're always conscious of maximizing the retention and benefit for Yukon. I think if we were to get too far extended in projects being rolled out, if you will, I think you would find that leakage factor becomes quite an issue here.

The lapses indicate that we're probably not getting a serious leakage factor, but that what is going on in the Yukon is actually benefiting Yukon and that is reflected in our income tax increase — that's Yukoners working — and it is a much better measurement of our economy.

As far as the corporate tax — the downward pressure on our value of corporate tax is based on allocations from Canada. I would remind the member that in 2008 in the survey conducted of 3,000 Yukon businesses, only 18.3 percent are actually incorporated. A lot of our businesses are paying tax through the personal tax model. A lot of the downward pressure is the result of our allocation from the national corporate tax structure, and obviously it is down in the country. You know, that includes banks and big corporations, but when you consider what went on in the last year with the global recession, I think that is to be expected.

I think a better measure of our economy is our income tax, and it is up. That means that things are proceeding in a positive manner but nobody believes we are out of the woods yet, with respect to the global situation, and we must continue to be very, very diligent in what we do to manage our way through that cycle.

I think the member asked — it just slips my mind what else. The tobacco tax, yes. As we'll all recall, it was the Third Party that brought forward the *Smoke-free Places Act*. This House worked collaboratively on that, and I think the good news is, in the public interest, the reduction in tobacco tax can, to a large degree, be related to the *Smoke-free Places Act*, the increase in taxation for tobacco, our education program and the reduction of tobacco use.

**Chair:** Any further general debate? Seeing none, we will proceed with departments, vote by vote, in Bill No. 16. Committee of the Whole will proceed with Vote 52, Department of Environment. Do members wish a five-minute recess?

**All Hon. Members:** Agreed.

**Chair:** Committee of the Whole will recess for five minutes.

*Recess*

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

#### Department of Environment

**Chair:** The matter before the Committee is Bill No. 16, *Fourth Appropriation Act, 2008-09*, Vote 52, Department of Environment. Is there any general debate?

**Hon. Ms. Taylor:** I believe, as the Minister of Finance has already articulated, this is a request for an additional \$150,000 within the Department of Environment. It is required to recognize the environmental liabilities at the old Dawson highway yard. Of course, this has to do with the new mechanical sewage treatment plant and where it is actually situated. There is a requirement that the site be completely remediated prior to construction of the plant itself, so we are honouring those obligations.

That work, of course, with \$150,000 comes to a total of year-end specific of \$758,000, as has already been mentioned by the Minister of Finance. It's pretty straightforward, Mr. Chair, but I would certainly entertain any questions.

**Mr. Fairclough:** Well, I thank the minister for that explanation on this line item. We don't have any questions really on this. I thank the government side for providing information.

Perhaps one question. It's recorded now and it's identified for the 2008-09 budget year. It's recorded there, but when did the work take place? Was it this past year and just recorded as a line item in this 2008-09 budget year?

**Hon. Ms. Taylor:** It is my understanding that that work has been completed but, just to be clear, if there was any deviation from that, I'll be sure to correct the record with the member opposite.

**Mr. Fairclough:** Thank you. I look forward to that information coming forward. We don't have any further questions on this line item.

**Chair:** Any further general debate on Vote 52? Seeing none, we will proceed line by line in Vote 52.

***On Operation and Maintenance Expenditures***

***Operation and Maintenance Expenditures in the amount of \$150,000 agreed to***

***Department of Environment agreed to***

**Department of Health and Social Services**

**Chair:** Committee of the Whole will now proceed with Vote 15, Department of Health and Social Services, general debate.

**Hon. Mr. Hart:** There is approximately \$1.4 million in O&M under Health and Social Services for higher than anticipated costs related to out-of-territory hospital claims in other provinces.

**Mr. Mitchell:** The explanation that's provided for this one line is supplementary funding requirements were mainly due to higher than anticipated costs for out-of-territory hospital claims. Can the minister just explain if that is because the costs of having Yukoners treated out of territory were higher on a per capita basis or were there more Yukoners who went out than had been anticipated?

**Hon. Mr. Hart:** It's also related to the increased costs of our agreements with both Alberta and British Columbia, as well as the increase in clients going to both of those areas.

**Mr. Mitchell:** I'll just take advantage of this opportunity to ask the Health minister whether the patient navigators are now in place in both British Columbia and Alberta to assist Yukoners when they're Outside for health costs.

**Hon. Mr. Hart:** In British Columbia, they're in place; yes. We're still working on one location in Alberta for the navigator.

**Mr. Cardiff:** Just one question, along the same lines that I raised during second reading, is about the higher-than-anticipated cost for out-of-territory hospital claims. It's a combination, obviously, of more travel costs, the contracts, and increased usage, I think, or increased uptake on patients having to travel Outside. Is this upward trend going to continue in future years? Is this something we're going to see in future years, in the fourth appropriation? If it is, how can we budget for it in advance, as opposed to voting for it after it has been spent?

**Hon. Mr. Hart:** Of course, I have no way of trying to look in my crystal ball as to whether in fact it's going to be the same this year coming. I can tell the member opposite that, as I mentioned previously on this matter, it's an issue — a combination of our increased cost agreements between British Columbia and Alberta for our hospital fees there, in addition to an increase of our clients going to both of those locations. We have had an increased number of clients going there.

I can't tell the member opposite whether it is a trend or whether it is based on our age — the median age in the Yukon being quite a bit higher than it was 10 or 15 years ago. I can tell you that we're looking at it but I just can't guarantee the member opposite what I am going to be able to budget for next year because we don't know exactly what it is. For example, it might be a little higher this year because of H1N1. I don't know but it is a good possibility.

**Mr. Cardiff:** I would think that there we are a little over halfway through or about halfway through the fiscal year. I would have thought there was some statistical data that would have indicated whether or not there was a trend where we were maintaining just the same amount of usage of that service as in previous years.

I have a question for the minister. The other piece of this that it is related to is the contracts we have with other jurisdictions, and specifically Alberta and British Columbia. We have contracts for service for them to provide service. Is that like a fixed contract with a fixed term so that we know that the costs are going to be the same for a certain period of time? When are those contracts renegotiated?

**Hon. Mr. Hart:** As I stated, they are due to the increases for which we just signed an agreement. As for the actual term, there is a fixed term and there is a fixed amount that we pay, per bed, in both units in both provinces for specific care that we send our patients down for that they agree to cover on our behalf. Of course, with regard to the issue of where we are, we are up, as I mentioned, a little bit over last year already and we're only halfway through. But there is such a lapse in time between the time we actually get billed for hospitals from both Alberta and British Columbia hospitals that it's difficult for us to ascertain just exactly what our lump sum is on the outstanding amount. That is why, in this particular case, we are over, because we had underestimated what those costs would be.

But again, now that we're sort of gearing up a little bit, we should be a little bit more prepared when we come for our supplement budget.

**Mr. Cardiff:** Could the minister indicate if he has the information on the length of the term of the contract that was just let?

**Hon. Mr. Hart:** As the member opposite can see, I don't have personnel with me, so obviously I don't have that information at hand, but I will definitely endeavour to get it to the members opposite.

**Mr. Cardiff:** I would just like to say thank you to the minister and I look forward to receiving that information.

**Chair:** Is there any further debate on Vote 15? Seeing none, we will proceed line by line in Vote 15.

***On Operation and Maintenance Expenditures  
Operation and Maintenance Expenditures in the amount  
of \$1,415,000 agreed to  
Department of Health and Social Services agreed to***

**Department of Justice**

**Chair:** Committee of the Whole will now proceed with Vote 8, Department of Justice.

**Hon. Ms. Horne:** We have only one line in this budget and I am pleased to report that we are proceeding at pace on our Whitehorse Correctional Centre replacement construction project. A total of \$409,000 is required in supplementary funding requirements, which were due to higher than anticipated expenditures for the correctional infrastructure project as more work was completed on the project during the year than expected.

Total voted in the spring budget was \$3,887,000, and with the \$409,000 in this budget, there will be a total expenditure of \$4,296,000. This project is currently on time and on budget and will result in a whole new way of doing business for correctional services in Yukon. The \$67-million project is the cornerstone of correctional redevelopment in the territory and will provide construction jobs today and a stronger correctional system tomorrow.

**Mr. Elias:** I thank the minister for her explanation. I just have a couple of questions. Can the minister provide some clarification with regard to if this work is already completed? If so, what was the money spent on and, if not, what is hoped to be completed by the \$409,000 added to the supplementary budget?

**Hon. Ms. Horne:** As I said in my opening remarks, there was more work done than expected, which is a good thing for us. We are getting more work done and it is being done faster. The funding was used for additional design work.

**Mr. Cardiff:** For \$409,000, you get a lot of design work done. I would like to know — this is just for some clarification on the project. This is a design/build project, this is my understanding, where there's a fast-track method to building a facility.

I'm just wondering is the design — the way I understand it is they had a preliminary design and that there was still design work going on as it was being built. Is the design work complete now?

**Hon. Ms. Horne:** To my knowledge, the design is complete. The Department of Justice is satisfied with the design. If you want more detail on the actual design, I would ask the member opposite to direct his questions to the Minister of Highways and Public Works.

**Mr. Cardiff:** It's pretty difficult to ask the Minister of Highways and Public Works about line items that are in the Minister of Justice's budget. When we get to the Department of Highways and Public Works, in the first supplementary, and I ask the Minister of Highways and Public Works questions about the correctional facility, he'll tell me to ask the Minister of Justice. This is our opportunity. I'm positive that he will.

The minister said that the project is ahead of schedule and on budget. I'm just wondering if the minister could tell us what the proposed completion date of the facility is and just confirm what she said — that it's on budget and that there haven't been any cost overruns or extras added to date.

**Hon. Ms. Horne:** The construction is being managed. The tender process is being managed by HPW. I would tell the member opposite to direct questions to the minister of that department. Our work schedule is on a very aggressive schedule. If things go as they are, we could be finished early, but we are projecting December 2012 for the move in and completion.

**Mr. Cardiff:** Well, I'll ask the Minister of Highways and Public Works. If he can stand up and answer the question, that would be fine. I would like to know if there have been any unanticipated costs associated with the correctional facility to date.

**Hon. Ms. Horne:** As I said earlier, we are on budget and on schedule.

**Mr. Cardiff:** That wasn't what I asked.

I asked if there have been any unanticipated costs or expenditures in building the facility today. There are things that come up, and I'm just wondering what kind of unanticipated things have happened that could cause this project to go over-budget. The reasons I'm asking questions, Mr. Chair, is because of the method of construction that the government has chosen to use, which is a fast-track method, it's "move it along really fast", and when you're designing something as you're building it, unanticipated things happen, and they cost money. That's why I'm asking the question.

**Hon. Ms. Horne:** There have been no unanticipated expenses. We are on budget, on target. With the good management of the department, and the budgeting process and planning, there are no unexpected costs.

**Chair:** Is there any further general debate?

***On Capital Expenditures  
Capital Expenditures in the amount of \$409,000 agreed to  
Department of Justice agreed to***

*On Schedule A  
Schedule A agreed to  
On Schedule B  
Schedule B agreed to  
On Clause 1  
Clause 1 agreed to*

*On Clause 2*  
*Clause 2 agreed to*  
*On Title*  
*Title agreed to*

**Hon. Ms. Taylor:** Mr. Chair, I move that Bill No. 16, entitled *Fourth Appropriation Act, 2008-09*, be reported without amendment.

**Chair:** It has been moved by Ms. Taylor that Bill No. 16, *Fourth Appropriation Act, 2008-09*, be reported without amendment.

*Motion agreed to*

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

**Chair:** It has been moved by Ms. Taylor 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. Nordick:** Committee of the Whole has considered Bill No. 16, *Fourth Appropriation Act, 2008-09*, and directed me to report it without amendment.

**Speaker:** You've heard the report from the Chair of Committee of the Whole. Are you agreed?

**Some Hon. Members:** Agreed.

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

#### Unanimous consent re third reading of Bill No. 16

**Hon. Ms. Taylor:** Mr. Speaker, pursuant to Standing Order 14(3), I would ask the unanimous consent of the House to proceed with third reading of Bill No. 16, *Fourth Appropriation Act, 2008-09*, at this time.

**Speaker:** Is there unanimous consent?

**All Hon. Members:** Agreed.

**Speaker:** There is unanimous consent.

#### Bill No. 16: Third Reading

**Clerk:** Third reading, Bill No. 16, standing in the name of the Hon. Mr. Fentie.

**Hon. Mr. Fentie:** I move that Bill No. 16, entitled *Fourth Appropriation Act, 2008-09*, be now read a third time and do pass.

**Speaker:** It has been moved by the Hon. Mr. Fentie that Bill No. 16, entitled *Fourth Appropriation Act, 2008-09*, be now read a third time and do pass.

*Motion for third reading of Bill No. 16 agreed to*

**Speaker:** I declare that Bill No. 16 has passed this House.

#### Bill No. 17: Second Reading

**Clerk:** Second reading, Bill No. 17, standing in the name of Hon. Mr. Fentie.

**Hon. Mr. Fentie:** I move that Bill No. 17, *Second Appropriation Act, 2009-10*, be now read a second time.

**Speaker:** It has been moved by the Hon. Premier that Bill No. 17, entitled *Second Appropriation Act, 2009-10*, be now read a second time.

**Hon. Mr. Fentie:** I am indeed pleased to introduce Bill No. 17, *Second Appropriation Act, 2009-10*, along with the accompanying *Supplementary Estimates No. 1*, for the 2009-10 fiscal year. Since the adoption of full accrual accounting by the Yukon government back in the 2004-05 fiscal year, I do find that I repeat myself on one specific message when it comes to the first supplementary estimates of any given fiscal year. That is, Mr. Speaker, the first supplementary estimates of a fiscal year provides us with two opportunities. First, in conjunction with the prior year's public accounts, this first supplementary provides the Legislature and the general public with an update on the financial position of the government.

Second, and more to the point of seeking required spending authorities, this first supplementary estimates details the proposed expenditure changes that require legislative appropriation authority in addition to the spending authorities previously granted by the Legislature when the main estimates were approved.

Before I move on to some of the details underlying the proposed spending limits being sought from the Legislature, I want to comment on the highlights of the Yukon government's financial position.

As members may recall when Bill No. 16, *Fourth Appropriation Act, 2008-09*, was introduced, as requested by the Auditor General we undertook a change of accounting for Building Canada. I need not go into that detail on this particular occasion but it is a significant accounting change for the books of the Yukon government.

Also, since the global economic downturn, members and Yukoners in general will have heard me comment on the strength of the Yukon government's financial position and how this strength has put Yukon in the unique position to address, head-on, the resulting challenges that we face, particularly considering the demands for increased government investment.

The first supplementary estimates delivers on two fronts; that is, our government achieves a balance between providing significant investments on behalf of Yukoners while maintaining sound principles of financial management.

First, this supplementary provides an additional \$68.6 million, increasing total project spending for 2009-10 to \$1.071 billion, of which \$284 million will be directed toward capital investment. Of course the resulting outcome is stimulus for the Yukon.

Second, we continue to deliver a healthy financial position, everything considered. I tabled the first supplementary estimates for 2009-10 reflecting a projected annual surplus of \$222,000, a net financial position of \$92.7 million, and an accumulated surplus position of some \$547 million.

So, Mr. Speaker, it is because we have committed to our mandate of prudent financial management that we are provided and are able to act upon a unique opportunity not afforded



many other jurisdictions. We are able to significantly increase spending and investments on behalf of Yukoners while maintaining an annual surplus and, more importantly, without moving into a net debt position.

Mr. Speaker, as I have just indicated, the first supplementary for 2009-10 continues to reflect our strong fiscal management practices while providing the investment needed to meet the challenges that Yukon and Yukoners face now and into the future. This supplementary seeks authority of the Legislative Assembly to increase operation and maintenance expenditures by just over \$24.9 million and capital expenditures by \$43.6 million. I would like to reiterate this supplementary estimate includes \$68.6 million additional expenditure authority required in several key areas of importance to Yukon and our territory. I am sure that members opposite can appreciate the significance of this.

Mr. Speaker, while ministers will be pleased to provide members of the Legislature with the complete details of their respective portfolios during Committee debate, I will take this opportunity to provide to you in the House some of the highlights.

Infrastructure investments are a huge component of our overall stimulus plan in meeting the challenges of the global economic downturn. As I mentioned, when *Supplementary Estimates No. 3* for 2008-09 were introduced, the Yukon government continues to follow its tried and true practice of revoting funds to ensure that capital projects continue to move forward and advance as appropriate.

Therefore, significant components of the requested expenditure authority in the first supplementary estimates come about because departments are seeking capital and O&M revote authority for lapses from the previous year. The net revotes in O&M and capital are approximately some \$36 million of the budgetary authority that is sought.

Much of this represents funding required to continue our investment in important infrastructure projects across the territory. An example include the \$6 million identified in the supplementary for the Whitehorse waterfront project under Canada's strategic infrastructure fund, bringing the total 2009-10 budget for this project to some \$9.4 million.

Also, \$3.223 million for the Hamilton Boulevard extension, approved under the municipal rural infrastructure fund, increasing our total expenditure for 2009-10 in this important project to \$4.9 million.

Just over \$2 million is allocated for the Erik Nielsen Whitehorse International Airport expansion and the parking lot improvements for a total in 2009-10 on revised figures of approximately \$9.5 million; \$916,000 for the Kluane First Nation youth and elders activity centre; and \$3.993 million under Building Canada allocated to the Carmacks sewage treatment project.

Mr. Speaker, this supplementary is not just about providing authority for revotes of prior year lapses. The supplementary also provides for new infrastructure investments such as \$1.8 million for the first year of a two-year funding agreement totalling \$11 million with the Canadian Border Services Agency for the construction of 16 housing units at Little Gold

Creek, Beaver Creek and Pleasant Camp. Another \$1.5 million will address emergency washouts on various major highways and secondary roads; \$812,000 for the first year of the two-year 50:50 cost shared economic stimulus agreement with infrastructure Canada totalling \$3.5 million; and another \$1.589 million under the municipal rural infrastructure fund as we undertake a partnership with the Champagne and Aishihik First Nations for the construction of a cultural centre in Haines Junction in the traditional territory of the First Nation. Also, work on the women's transitional living unit is progressing faster than anticipated. Mr. Speaker, we have included an additional \$385,000 in the supplementary estimates, advanced from future year's capital allocations to complete this project this fiscal year.

Mr. Speaker, I am certain the minister responsible for the Housing Corporation will be pleased to provide detail during general debate but I wish to take this opportunity to highlight a very significant investment for Yukon under the affordable housing economic stimulus initiative. This is a \$50-million investment over two years. This supplementary estimate includes just over \$19 million to initiate or continue significant housing projects, such as the family-focused housing in Whitehorse, Korbo apartment replacement in Dawson City, along with seniors facilities in Watson Lake, Faro and Teslin.

One last significant infrastructure investment that I want to mention before I move on to other highlights is the Mayo B project. Mr. Speaker, as the Yukon Development Corporation continues to work on securing financing for this major project by way of the supplementary estimates, our government has advanced \$25 million to the corporation on a short-term basis.

Mr. Speaker, I cannot overemphasize how important this significant investment is. It will increase our power generating capacity for Yukoners through hydro. Not only will we enhance our renewable energy capacity, we will reduce future diesel generation requirements, thereby reducing costs of the Energy Corporation. Also, what is very important is reducing our overall carbon footprint by reducing CO<sub>2</sub> emissions.

These projects do not represent the full extent of our infrastructure investments. Additional investments will become obvious as I continue to touch on the highlights for this first supplementary for the 2009-10 fiscal year.

Let me touch on the labour market issues. Mr. Speaker, members may recall that in the first supplementary for 2008-09, labour market initiatives were approved, utilizing funds under the community development trust. Specifically, the first year of the funding was approved to support a two-year initiative to develop a labour market framework.

The framework is the collaboration of Yukon government, Yukon First Nations and stakeholders. Working groups are preparing five different strategies, one of which is a new training strategy that will guide Yukon's labour market for the foreseeable future. Continuing this good work, the Department of Education has identified in the first supplementary estimates for 2009-10 some \$1.457 million for year one of the five-year agreement with Canada on the labour market agreement. To the credit of our Minister of Education and the efforts being made

in this area, Yukon is taking steps to meet its labour market challenges in these very trying times.

This agreement will give Yukon the resources to assist in the training needs of Yukon residents who are not eligible for EI benefits, particularly First Nation people, youth, persons with disabilities and social assistance clients.

Education has a number of initiatives under this agreement. These include \$102,000 to support the Kwanlin Dun First Nation House of Learning; \$300,000 for youth employment in rural Yukon; another \$500,000 to support heavy equipment operating training for First Nation people; and another \$237,000 to support employability initiatives with Challenge.

Mr. Speaker, the labour market agreement is an important joint initiative with Canada and we believe, on the government's side, that it will be of significant benefit to Yukon over the term of the agreement, which is over the next five years. And in addition, the Department of Education has negotiated with Canada devolution of responsibility under the labour market development agreement.

To that end, Yukon government will now have a more significant voice in determining the nature of employment benefits and support measures that Yukoners can assess under Part II of the *Employment Insurance Act*. Also, the transfer is scheduled to occur on February 1, 2010.

This supplementary estimates includes \$750,000 for the first year of what is intended to be an ongoing agreement or arrangement between Yukon and Canada. Our initial investment utilizing community development trust funds, along with subsequent noted agreements between Yukon and Canada, are providing the Yukon government significant opportunities to address labour market issues that are unique to our territory.

By way of example, the community development trust will allow the Yukon government to initiate the northern institute of social justice, a multi-departmental approach hosted and supported under the auspices of Yukon College for justice-related training issues across the Yukon. Governments, including First Nations, will now be able to collaborate more effectively on providing the training needed.

In the area of capacity building, I referred to the labour market projects initiated during the 2008-09 fiscal year by the Department of Education, utilizing funds under the community development trust. Other departments are accessing these funds as well, including the Department of Economic Development — \$125,000 for the Yukon entrepreneur support program and another \$90,000 for the Yukon film concept training program; the Department of Health and Social Services — \$80,000 for pre-apprenticeship programming offered by the Youth Achievement Centre; \$100,000 for social worker retention and recruitment, another area of challenge being addressed; the Department of Energy, Mines and Resources — \$40,000 in support of the First Nation Training Corps position, specifically a GIS technician in the oil and gas branch.

#### **Motion to adjourn debate**

**Hon. Mr. Fentie:** Mr. Speaker, seeing the time, I move that we adjourn debate on Bill No. 17, *Second Appropriation Act, 2009-10*.

**Speaker:** It has been moved by the Hon. Premier that debate be now adjourned.

*Motion to adjourn debate on second reading of Bill No. 17 agreed to*

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

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

*Motion agreed to*

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

*The House adjourned at 5:26 p.m.*

#### **The following Sessional Paper was tabled November 2, 2009:**

09-1-134

Appointments to Major Government Boards and Committees, Standing Committee on: Eleventh Report (dated October 30, 2009) (Taylor)

#### **The following documents were filed November 2, 2009:**

09-1-116

Yukon's electricity options: letter (dated May 26, 2006) to Mr. Doug Tenney, Yukon Electrical Co. Ltd. from Willard Phelps, Chair, Yukon Development Corporation and Yukon Energy Corporation, regarding options to restructure ownership of electric power infrastructure (Premier Fentie)

09-1-117

Yukon's electricity options: letter (dated November 7, 2008) to Ms. Nancy Southern, President and Chief Executive Officer, ATCO Group, from Premier Fentie (Premier Fentie)

09-1-118

Orders-in-Council (draft dated October 19, 2009) re *Access to Information and Protection of Privacy Act* regulations (Lang)

09-1-119

Climate Leaders Summit invitation: letter (dated October 30, 2009) to the Hon. Elaine Taylor, Minister of Environment from Brad Cathers, MLA for Lake Laberge (Cathers)