



Yukon Legislative Assembly

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HANSARD

Monday, December 1, 2014 — 1:00 p.m.

Speaker: The Honourable David Laxton

YUKON LEGISLATIVE ASSEMBLY

SPEAKER — Hon. David Laxton, MLA, Porter Creek Centre

DEPUTY SPEAKER — Patti McLeod, MLA, Watson Lake

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Hon. Elaine Taylor	Whitehorse West	Deputy Premier Minister responsible for Education; Women's Directorate; French Language Services Directorate
Hon. Brad Cathers	Lake Laberge	Minister responsible for Community Services; Yukon Housing Corporation; Yukon Liquor Corporation; Yukon Lottery Commission Government House Leader
Hon. Doug Graham	Porter Creek North	Minister responsible for Health and Social Services; Yukon Workers' Compensation Health and Safety Board
Hon. Scott Kent	Riverdale North	Minister responsible for Energy, Mines and Resources; Yukon Energy Corporation; Yukon Development Corporation
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Jan Stick	Official Opposition House Leader Riverdale South
Kevin Barr	Mount Lorne-Southern Lakes
Lois Moorcroft	Copperbelt South
Jim Tredger	Mayo-Tatchun
Kate White	Takhini-Kopper King

Liberal Party

Sandy Silver	Leader of the Third Party Klondike
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**Yukon Legislative Assembly
Whitehorse, Yukon
Monday, December 1, 2014 — 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 with the Order Paper. Tributes.

TRIBUTES

In recognition of World AIDS Day

Hon. Mr. Graham: I rise in the House today in honour of World AIDS Day held each year on December 1 to commemorate those who have died from the disease. It also recognizes those who live with the disease raises awareness of AIDS and the global spread of the HIV virus. The theme for this year's World AIDS Day is "Getting to zero", which stands for zero new HIV infections, zero discrimination and zero AIDS-related deaths. HIV is a virus that your body cannot clear. Without proper treatment, HIV most often leads to AIDS, the final stage of HIV infection.

According to the World Health Organization, there were approximately 35 million people worldwide living with HIV in 2013. Of those, 2.1 million were newly infected in 2013, including 240,000 children who were infected by their HIV-positive mothers during pregnancy, childbirth or breastfeeding.

Since the mid-1980s, there has been much progress in combating the disease on all levels. There have been better treatments. People are better educated on preventing the spread of the virus and there are laws to protect people living with HIV. However, there is still a great deal of work to be done. There is often still a stigma attached to those living with HIV and there is a constant need to educate the public on how the virus is transmitted. It is estimated that 25 percent of Canadians living with HIV do not even know that they have it. That is a staggering percentage and it is another example of the need to constantly educate the public on how the disease is spread and encourage testing.

Mr. Speaker, may I take the opportunity as well to introduce five people here from Blood Ties Four Directions who were kind enough to join us here today: Patricia Bacon is the executive director of Blood Ties; with her is Elyse Kornhauser, who is the health education coordinator; Jana Huismans, who is the harm reduction and wellness councillor; Hannah Zimmering, who is the housing navigator; and Jeremy Locke, who is a social assistance practitioner student. Welcome, on behalf of all of us to the House here today.

Applause

Ms. Stick: I rise on behalf of the Yukon NDP Official Opposition to stand in solidarity with millions of other as we recognize December 1 as World Aids Day. Today is an

opportunity for us all to unite in the fight against HIV. Today is an opportunity for us all to unite to show our support for people living with HIV. Today we pause and commemorate the millions who have died of AIDS. This virus that sees no boundaries or borders, that does not judge or forgive, was the health crisis that united the world in the creation of the first-ever global health day. World AIDS Day made its debut in 1988. The red ribbon we wear is a symbol to show our solidarity and support for those living with HIV and AIDS who still face discrimination.

It is a symbol of support for the growing number of people living with HIV around the world. We are fortunate that in our corner of the world we have fierce advocates for equality and social justice concerning people with HIV and AIDS. These individuals and groups work to educate the general public and raise awareness about the broader social factors that, until acknowledged, will continue to put our friends and neighbours at risk. Those include poverty, homelessness and racism. The everyday work of these groups is to uphold the philosophies and values of harm reduction. They work hard to keep people safe, regardless of life's circumstances. They work with an understanding of inclusion and respect, and they do so without judgment.

The staff and volunteers at Blood Ties Four Directions work in every Yukon community to promote awareness and deliver prevention education for HIV/AIDS and hepatitis C. They advocate for better access to education and health care for all citizens, even those without a home address. They believe that, in a country as rich as ours, we shouldn't be seeing new cases of HIV, and they work hard toward that goal.

On World AIDS Day, I always remember my cousin who died 22 years ago today of AIDS. I am reminded of how different his life and death would have been if the same awareness, treatment and supports were available for him and his family, instead of the fear and shame of that time. It is important that we continue to move forward and provide support, education and awareness so others can continue to live with HIV without fear, and that we can reach zero.

Mr. Silver: I also rise today on behalf of the Liberal caucus to pay tribute to World AIDS Day.

December 1 marks World AIDS Day as an opportunity to acknowledge the epidemic that AIDS is, killing an estimated 1.5 million people per year. As of 2011, an estimated 71,300 Canadians were living with HIV infection. There is still stigma surrounding HIV, especially in small communities, and because of this, many in the territory choose to go to the bigger centres to be tested for HIV. This makes it extremely difficult for us to know how many Yukoners there are currently living with the virus.

It is also the first day of Aboriginal AIDS Awareness Week. Canada's aboriginal people make up a highly disproportionate amount of those affected with AIDS. Despite making up only four percent of Canada's total population, they make up a full 12 percent of those infected.

Aboriginal AIDS Awareness works together with others for a goal of zero newly infected, while creating a more inclusive and understanding environment for those who are infected with HIV in the First Nation communities.

World AIDS Day was the first-ever public health day, dating back to 1988, and is an opportunity to reflect on the progress that we have made in combatting this epidemic.

Treatment has improved and life expectancies are much higher than they were in the 1980s, but there still is no cure. Unfortunately, so many of those who suffer live in the world's poorest communities and the poorest countries, and they do not have access to treatment. We, as Canadians, have an important leadership role to play in helping to ease the burden on countries that do not have the resources that we do in combatting the disease. Let us all recommit to raising awareness, funding research and ultimately ensuring that we create an environment so that those with HIV are not as reluctant to disclose this virus.

Speaker: Introduction of visitors.

INTRODUCTION OF VISITORS

Ms. Stick: I would ask members to welcome Morgan Forry, who is travelling across Canada to promote better mental health services and collecting signatures on a petition asking for a federal ministry for mental health that will be tabled in Parliament.

Applause

Mr. Tredger: I would ask the Legislature to welcome a constituent from Carmacks, Mr. Bob Patles. He works with the community wellness program for Little Salmon Carmacks First Nation and, as such, he works with people with addictions. He has been very instrumental in several programs to combat violence against women and has done some wellness workshops. He is involved with FASSY and, just recently, he has become the local coordinator for the White Ribbon campaign.

Welcome, Bob.

Applause

Ms. White: I ask everyone in the Legislative Assembly to join me in welcoming my friend Carol Ann Gingras to the Assembly. Thank you for joining us.

Applause

Speaker: Are there any returns or documents for tabling?

Are there any reports of committees?

Are there any petitions to be presented?

Are there any bills to be introduced?

Are there any notices of motions?

NOTICES OF MOTIONS

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

THAT this House urges the Government of Yukon to use the community development fund to support the Whitehorse

Glacier Bears Swim Club to purchase and install an event and timing board at the Lion's Aquatic Centre.

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

THAT this House urges the Government of Yukon to use the community development fund to support the Klondike Snowmobile Association to upgrade the trails that connect Wolf Creek and Mount Sima subdivisions to the Whitehorse Copper road by way of new bridges across two small creeks and improving deeply rutted sections of trail.

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

THAT this House urges the Government of Yukon to use the community development fund to support Bringing Youth Towards Equality to host a multi-day youth entrepreneur conference in Whitehorse to bring together Yukon entrepreneurs aged 18 to 29 to learn how to develop and run their own business.

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

THAT this House urges the Government of Yukon to improve rural access to services and take action to close the health and wellness gap between rural and non-rural Yukoners.

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

THAT this House urges the Government of Yukon to implement regulations necessary for the *Residential Landlord and Tenant Act*, passed in December 2012, to come into full force.

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

THAT this House urges the Government of Yukon to release the cost to renovate the new ambulance station on top of Two Mile Hill to accommodate housing the RCMP.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to ensure adequate funding continues to be provided to the First Nations health program.

Speaker: Is there a statement by a minister?

This then brings us to Question Period.

QUESTION PERIOD

Question re: Hospital bed shortage

Ms. Stick: When the Hospital Corporation appeared before this House, they confirmed the \$35 per diem that seniors are being charged to stay at the hospital due to the lack of long-term care beds. The president of the Hospital Corporation indicated that the *Hospital Act* allows them to charge patients for their stay in Yukon hospitals. A lack of

available beds in Yukon's continuing care facilities and inadequate levels of home care have led to seniors being sent to the hospitals for extended periods of time. Unfortunately, these seniors are not receiving the services adapted to their needs that seniors who are living in Yukon's long-term care system receive.

What services does the \$35 per diem provide to individuals waiting in Yukon hospitals for a long-term care bed?

Hon. Mr. Graham: I find it quite interesting that the member opposite is questioning me on an item or an issue that was enabled by a former NDP government. At the time of the inception of the Hospital Corporation, they were given the ability to enact fees such as these. They have done that. They have enacted a fee for long-term care patients.

It's not necessarily for long-term care patients, Mr. Speaker; it's for alternate care patients. These people probably would not be served — and the member there is wrong — by a higher level of home care, because they have needs that prevent them from going home even with a higher level of home care.

The fee has been charged for some time now and the additional expense of having these people in hospital is unfortunate; however, as everyone knows, our government is working very hard to provide additional long-term beds, both in the short term and the long term.

Ms. Stick: Mr. Speaker, the reality is that seniors who are being cared for in the Yukon hospitals are being charged as if they are in continuing care. Seniors living in long-term care facilities can expect to take part in social activities — both in and out of the facility — celebrate holidays, enjoy in-house entertainment, laundry service and appropriate nursing care. But seniors waiting in the hospital for a place in a long-term care facility do not receive these same services. In addition, many have not transitioned out of their home and are continuing to pay rent on top of the \$35 per diem they are being charged.

Does this government support the Yukon Hospital Corporation charging over \$1,000 per month for hospital stays for seniors awaiting continuing care?

Hon. Mr. Graham: We support seniors' care, either through extended home care, for which we have almost doubled the budget in the last two years, or we want to see them cared for more appropriately in a long-term care facility. That is one of the reasons we are attempting to do the things we are attempting. We will provide shorter term beds for long-term care patients, thereby moving them out of the hospital, because we know that the hospital is not an appropriate place for people who need an alternate level of care and who are not acute care patients.

We have extended seniors housing support and we are looking to do a number of different things. We are investigating, at the present time, three alternate locations for short-term care. We will be enacting that as quickly as we possibly can.

Ms. Stick: I didn't hear an answer about the over-\$1,000 per month that people are being charged. This

government has failed to provide adequate levels of continuing care. The seniors are being punished and charged for their stay at the hospital. This situation is not benefitting anyone. The hospital is having difficulty in having to defer some surgeries at times due to a lack of recovery beds and seniors are being forced to live in an acute care hospital, which is not appropriate.

According to the *Hospital Act*, there is no requirement for the Yukon Hospital Corporation to charge these fees. It just states that they have the ability to do so. How does the government justify charging seniors over \$1,000 per month to live in a hospital and receive less programming because of government's failure to provide continuing care beds?

Hon. Mr. Graham: Mr. Speaker, this is the same person who voted against a long-term care facility — the budget necessary to plan and enact a new long-term care facility in the future. This is the same opposition that doesn't believe that we should be building another long-term care facility. We believe we should be. It's unfortunate that it wasn't planned in many years previous — as many as 10 or 20 years previously. Unfortunately, it simply wasn't done.

We've taken the bull by the horns. We're planning for a new expanded long-term care facility, but we're also attempting to plan some shorter term alternatives so that people don't have to live in the hospital — because we agree that it's not the best alternative. But it takes some time to get these things in place and we're doing that as we speak.

Question re: Mountain View Golf Course leased land buyback

Mr. Barr: Last week, the Yukon NDP raised questions about this government's land purchase deal with the Mountain View Golf Course to help them pay off their debts. Yukoners have grown accustomed to this government's dodging and not even answering questions on a daily basis, but what we saw on Thursday was a new approach in avoiding responsibility.

Both the Minister of Community Services and the Minister of Energy, Mines and Resources said that they were not ministers at the time, as if that somehow absolves them of their duty to be accountable to Yukoners. So will anybody on the other side of the House take responsibility for this backdoor deal, or is the "I wasn't here" approach to government spending the new norm?

Hon. Mr. Kent: As the Minister of Community Services and I did state last week, neither of us were part of the Cabinet. In fact, like many members in this House, I wasn't even elected at that time. That said, with respect to the actions of the government of the day and the minister of the day, it appears that there were two pressing issues at that time. One was land availability — of course, everyone who campaigned in 2011 — everyone in this House knows what the people in Whitehorse, particularly, were saying about housing and land availability — the availability of lots.

The second aspect of this was that the Mountain View Golf Course was in some financial difficulty. What this deal that was done by the previous minister accomplished was it

led to lots now being available for sale over the counter and an important piece of recreational infrastructure, the Mountain View Golf Course, which has a long history of supporting Yukoners' recreational needs as well as charitable events — continues to be viable to this day.

Mr. Barr: Which lots would those be? This government's position on their backdoor deal to pay off the golf course debt has been all over the map. Their claims that providing \$750,000 in funding in secret is somehow legitimate is astounding, not to mention the nearly \$250,000 in additional engineering appraisals, surveying and legal fees that this government incurred to get this deal done.

It is clear from the documents attained by the Yukon NDP that this government wanted to help the golf course pay off its debts without being upfront with the public. If the minister truly believes he should not be held accountable because he wasn't there at the time, will he at least stand in this House and tell Yukoners that this kind of backroom deal is unacceptable and shouldn't have been greenlighted by the previous Yukon Party government?

Hon. Mr. Cathers: As my colleague the Minister of Energy, Mines and Resources and I have both noted, this is a matter that took place when neither of us were ministers responsible for these portfolios or even members of Cabinet at that time. We have been working with departments to gain a better understanding of why the decision was made and, as my colleague noted in response, it appears that the decision in the agreement was intended to accomplish two things: one being to assist with the acquisition of land for purposes, including installation of a perimeter trail and storm water system, as well as to assist Mountain View Golf Course with addressing their mortgage.

I would remind the member that government assists many dozens of NGOs with their needs on an ongoing basis. As far as why the decisions were made in this particular case and why there wasn't a press release issued to announce it, we are ourselves working to gain a better understanding of that, but again, neither myself nor the Minister of Energy, Mines and Resources were members of Cabinet at that time.

Mr. Barr: This is not about golfing. This is about the government's lack of transparency and accountability. Now the minister is defending a deal he doesn't think that he's responsible for. We're talking about \$1 million of Yukoners' money. Someone has to be accountable.

Last week, the Minister for Community Services told the Member for Takhini-Kopper King — and I quote: "I think that almost every Yukoner understands that when government says that we receive a request from an NGO for increased funding, we do ask them for accountability and to explain that information."

His statement sounds exactly like the long public process that Mount Sima had to go through to get extra funding. This government's action raised the simple question: Why the obvious double standard?

Hon. Mr. Kent: As the Minister of Community Services and I stated in the media last week as well, the City of Whitehorse, of course, knew about this arrangement at the

time. As the minister said, we are still gathering information from the departments with respect to this deal. But the bottom line is that Mountain View Golf Course continues to be a viable recreational infrastructure to this day. There are many hundreds and thousands of Yukoners who have used that facility or volunteered at that facility over its lifetime.

That course goes back even prior to that — operating at Annie Lake — which is still viable out in the member's riding of Mount Lorne. I know he's heckling right now, not understanding the importance of this infrastructure for Yukoners.

There are two things that we know today. There are lots available for sale over the counter here in Whitehorse that didn't happen at the time that the previous minister made this deal and Mountain View continues to be an operating golf course that is enjoyed by many, many Yukoners every summer.

Question re: Energy supply and demand

Mr. Silver: As far back as 2007, the Yukon Liberal Party has been advocating for the government to adapt an independent power policy or an IPP policy.

In that time, we have seen a lot of activity, including ministers being shuffled out of Energy, Mines and Resources, but we have yet to see an IPP policy. The holdup is the Yukon Party government, which has been talking about putting a policy in place for this for years now, but still has not completed the job. This is something industry and the Liberal caucus have been promoting for a number of years.

When will we see an IPP policy in place?

Hon. Mr. Kent: Of course, an IPP policy was part of the 2009 *Energy Strategy* that was adopted by the Yukon government. This policy will enable small producers to generate power to help the territory to meet present and future power demands.

There was a three-month public consultation period on the draft policy that ended in late August of this year. Energy, Mines and Resources' staff are now considering the comments received. It's my understanding that we can anticipate a policy and a program being in place sometime within the first six months of 2015.

Mr. Silver: Yukoners have known that a great deal of time was wasted on energy planning when the previous Yukon Party minister and Premier tried to sell our power assets to Alberta. Two years were lost there when they should have been working and finishing an IPP policy.

We as a territory need to be planning better for the future. I believe that the Yukon Party has simply failed to deliver here. We are in an energy crisis and an energy crunch. It's because of a lack of planning and also a lack of an IPP. A clearly laid out independent power production policy is an important part of planning for our future, but it is still not in place after many, many years of talking about it.

I guess the question is: What exactly is the holdup?

Hon. Mr. Kent: As I mentioned, we did close a public consultation period in August of this year. We received over 40 responses to the draft policy. Energy, Mines and

Resources' staff are now considering the comments that we have received. But beyond this, Mr. Speaker, I think that there are a number of items that I would like to point to with respect to long-term energy planning that this government is engaged in and has completed, such as the microgenerating program that was launched earlier this year. In January of this year, I believe, the program came into place. There is also the work being done right now by the Yukon Development Corporation with respect to long-term hydro. I committed to the member opposite that the IPP policy would be in place within the first six months of 2015. Of course, we need to consider comments that we received as part of the public consultation period. I think it's important that we take the time to get it right, rather than rushing into things as the member opposite would have us do.

Mr. Silver: I think over five years is not necessarily "rushing".

The Yukon is absolutely a leading jurisdiction in Canada for renewable energy at approximately 85 percent. That is very true. Yukoners are very proud of that fact, as is the Liberal Party. We do hope to continue with this trend and we believe that an independent power policy will continue to provide renewable energy in the Yukon. We in the Liberal Party are very anxious to see this policy going forth in a smooth and responsible manner, as it could provide a much-needed increase to our territory's power supply. Unfortunately, we have been waiting for many years on this.

As the minister mentioned, there was much consultation held this summer. Usually after consultation of that sort, we get a summary document, or a *What We Heard* document. Can the government tell us about the policy itself, or if there's some kind of documentation about the "what we heard" part of this consultation process, and will that be available for the public?

Hon. Mr. Pasloski: The document the member opposite is inquiring about is coming in due course. What I would like to say is that initially I was a bit surprised to see the leader of the Liberals here today, but upon a —

Speaker's statement

Speaker: Order. You're not to refer to the presence or absence of any member in this House, I would remind you.

Hon. Premier, please continue.

Hon. Mr. Pasloski: Mr. Speaker, what I'm referring to, really, is broken promises, in terms of a trip to Ottawa — another example of a flip-flop of the Liberal leader. We know that the Liberal leader's position changes, depending upon what audience it is that he's talking to. So, Mr. Speaker, I'm really not surprised with the attendance today.

Question re: *Residential Landlord and Tenant Act* amendments

Ms. White: I rose in this House almost a month ago to ask the government when *Residential Landlord and Tenant Act* regulations would be implemented, and we received no clear answers. These regulations are the last step for the act to

come into force. Both landlords and tenants are living with unanswered questions with nowhere to turn for answers.

Continued government inaction means that the Residential Tenancies Office, created under the new act, is unable to actually do anything to help Yukoners in these situations. The daily realities of Yukoners in unfair situations, from both the landlord and tenant perspectives, won't go away while we wait for this government to enact the regulations.

Without regulations in place, how does the minister propose that Yukoners go about addressing the critical rental housing problems this new act was meant to address?

Hon. Mr. Cathers: First of all, I would like to begin by thanking all the Yukoners who participated in the consultation process leading up to the development of the *Residential Landlord and Tenant Act*, as well as the regulations. I would again remind the member that this is modernizing legislation that was over 50 years old. This is an area that the NDP did not address during three terms of government. Again, we have taken steps in this to modernize the legislation. The regulations were out for consultation this year, but some of the policy areas did require some careful consideration, research and consideration of options for how to address them, so it does take some time to ensure that the final product is the very best it could be, and I look forward to seeing that finalized in the near future.

Ms. White: The government has had since the end of 2012 to take action. As a result, the new Residential Tenancies Office, which is supposed to help resolve landlord and tenant disputes, is unable to do its work. At the end of the day, nothing has changed for residential landlords or their tenants since prior to 2012. The public consultations did end in March.

When I rose to ask about these regulations earlier this session, the minister would only say that they would be tabled — and I quote: "...in the not-too-distant future..." We've heard similar things again. Can the minister tell us, using firm dates, when the government will table the regulations necessary for the *Residential Landlord and Tenant Act* to come into force?

Hon. Mr. Cathers: First of all, I should point out to the member that regulations aren't tabled; legislation gets tabled in this House; regulations get passed by orders-in-council and are approved by the Commissioner after approval by Cabinet.

With that correction, I would remind the member that yes, this process has taken some time, but it is because we are modernizing legislation that is over 50 years old. Every step is being taken to ensure that we end up with the final product that has given full consideration to its effect on Yukoners, both landlords and tenants, and has also fulfilled — or is enacted, based upon the feedback that we have heard during this consultation process. We do thank the many Yukoners who have participated in it and look forward to seeing the regulations completed in the near future.

Ms. White: I thank the minister for that correction, but it doesn't change the current reality for both landlords and tenants. If the government had really wanted to make this act a

priority, the regulations would already be in place, as we have seen done in other legislation. I encourage the government to support the motion that I tabled earlier today and to table a clear timeline, so that residential landlords and their tenants can finally have some certainty about when the act will come into force. This is about showing landlords and tenants the respect that they deserve.

What is this government prepared to do to support landlords and tenants to resolve conflicts outside the courts until regulations are in place?

Hon. Mr. Cathers: I would remind the member that this is modernizing legislation and regulations that have been in place for over 50 years. It does take some time and some policy work by department staff to ensure that we are getting it right — that we are reflecting the input that we have heard from both landlords and tenants, as well as stakeholder groups. That work is very close to being finalized. The member is trying through her comments — or appears to me to be trying — to create a sense of a looming crisis. I would remind the member this legislation has been in place and has worked for over 50 years. We are taking the step to modernize it and make it better, but until then, the sun will continue to rise and the sun will continue to set. We are committed to completing this modernization process and improving upon that, but we are committed to getting it right.

Question re: Special needs education programming

Mr. Tredger: I am very glad to hear that the Minister of Education has instructed her department to work with one of our schools to ensure that their students receive adequate special needs assistance. These supports are essential to students' continued, effective participation in the school community. We know our front-line educators are holding up their end of the bargain. This government's top-down removal of the student's educational assistant is what triggered this unfortunate event. It is a sad day indeed when a parent needs to call the media because the education system is letting his child down.

What does it say about this government that a parent had to go to the media to force a discussion on making sure his daughter has the special assistance she needs?

Hon. Ms. Taylor: Actually, as I tried to articulate for the member opposite last week, this review at this particular school was triggered six weeks ago — plus. In fact, our department has been working with the school administration and school council to review the assignment of staff and to look at the provision of supports as currently provided at that particular school so as to ensure that students who require that additional support are receiving those supports. There was a meeting that was scheduled for last week that did take place last week. In fact, there are other meetings being scheduled as we speak with the school council and school administration to review the findings, but more importantly, to review the recommendations as we go forward.

In fact, we have received some feedback from the school council itself. They're very appreciative of the opportunity to

come up with a joint plan of action coming out of this review. We certainly are very much committed to providing those supports that will see every student succeed in our education system.

Mr. Tredger: The minister is acting on this case and I thank her for that, but it isn't an isolated one. Every day, our educational system is being stretched thinner by a government whose focus is on centralizing the special needs evaluation process, in contravention of the *Education Act*.

The act calls for individual education plans, created by school administration in consultation with students' parents and relevant specialists. Instead, the Department of Education is forcing schools to follow a rubric to determine which students are most in need, using a hierarchy of symptoms. Our students' needs don't fit into a box. Every student in a Yukon school who requires assistance should get it.

When will the Minister of Education involve local schools and parents and return to the consultation assessment process that's spelled out in the *Education Act*?

Hon. Ms. Taylor: Well, the Department of Education is very much committed to working with all stakeholders when it comes to addressing individual student needs of our schools. In fact, we have been working with school administrations, in consultation with professional staff and students' parents, to determine whether or not a student has special educational needs and, if so, what specific plans are appropriate to meet those specific students' needs.

Criteria has been developed by the department to assist school administrators to determine whether in fact a student does have those specific needs — a criteria that has not been in place ever since last fall. We are working with students, with students' parents; we are working with school councils and we are working with school administrations. Again, the Government of Yukon is very much committed to addressing those specific needs. As I have shared on the floor of the Legislature, we have more than doubled the number paraprofessional staff comprised of educational assistants and remedial tutors since 2002.

In fact, it has grown from 81 to just over 178 EAs and remedial tutors during that time, while we have, in fact, seen a decrease in the school population.

Question re: Whitehorse airport safety

Ms. Moorcroft: The closure of runway 19 continues to cause concern among private and commercial pilots who use the Whitehorse airport. In Yukon, it isn't uncommon for commercial operators to use small bush aircraft to better meet their clients' needs. These small aircraft can have a maximum crosswind capability of 12 knots, which is about 22 kilometers per hour. That is why pilots need runway 19 open when crosswinds affect their ability to use the main north-south runway.

Having runway 19 open for landings and takeoffs means pilots aren't put into the position of exceeding their aircraft limitations and putting their passengers at increased risk.

Will the Minister of Highways and Public Works commit to immediately opening runway 19 so Yukon's aviation industry can continue to operate without increased liability?

Hon. Mr. Istchenko: I have said it in this House before and I will say it again: of course safety is the utmost concern and we are very proud of our safety record at the airport.

We are working with the interested parties, including COPA, Transport Canada, individual pilots and land lessees up there. I sent a letter — drafted one last week and sent it out this week to all the interested parties. The Minister of Energy, Mines and Resources and I will be meeting with them over this exact issue and other issues that we like to talk to industry about. Working with industry is key and important and that is exactly what we are doing.

Ms. Moorcroft: I am glad that the minister is proud of their safety record, but he hasn't answered the question about why they have not opened that runway. The minister could do that. I am getting the impression that the minister does not fully understand the concerns of pilots concerning safety and the closure of runway 19. Perhaps there is something the minister isn't telling us. Last week, the minister did tell us that Transport Canada changed some existing exemptions that affected Whitehorse's runway 19 and that also affected another runway in the Yukon. We know about Cousins Airstrip being closed due to ruts on the runway, but it sounds like there is another runway with an issue.

Mr. Speaker, can the minister tell us which other Yukon runway is being affected by Transport Canada changes?

Hon. Mr. Istchenko: I am glad the member opposite is glad that I am all about our safety being of the utmost concern, because I am on this side — absolutely.

I said it last week and I'll say it again this week — we are here to listen to industry, but we also have rules and regulations that come down from Transport Canada. We are working with Transport Canada. I have been working with industry — in meetings with industry — on this exact issue and I look forward to solutions moving forward.

Ms. Moorcroft: The government has developed plans for new lease lots along the taxiway on the west end of runway 19. The trees have been cleared from the land; now there's dust in the air on a windy day. It would make sense that if there are to be new lots, the usage would be limited to aviation-related activities and businesses since this is, after all, an airport. I will remind the minister that the best use of airport land is having runways for the safe takeoff and landing of aircraft and the facilities for the pilots and their aircraft; however, some of the available lots have been leased to non-aviation businesses.

Will the minister tell us why airport lands are being leased to businesses not directly related to the aviation industry, while a needed runway has been kept closed for almost two years?

Hon. Mr. Istchenko: I will get it out on the record here that my department officials are engaged with Transport Canada. I said earlier in Question Period today that we're meeting with industry. Industry is key to economic development in the Yukon and as we see a good economy

grow under Yukon Party leadership, we are going to see more lots being needed. This is exactly what we're here to do: to listen to industry. We are also here to follow the guidelines that Transport Canada puts in front of us, so we have to work with industry and Transport Canada. That's what we're doing.

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

ORDERS OF THE DAY

Hon. Mr. Cathers: 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: Order. Committee of the Whole will now come to order. The matter before the Committee is general debate on Bill No. 75, *Public Interest Disclosure of Wrongdoing Act*.

Do members with a brief recess?

All Hon. Members: Agreed.

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

Recess

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

Bill No. 75: *Public Interest Disclosure of Wrongdoing Act*

Chair: The matter before the Committee is general debate in Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*.

Hon. Mr. Dixon: It's a pleasure to rise and speak to Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act* in Committee. I'm joined by Catherine Marangu from the Public Service Commission, who led the policy work on this bill, as well as Pam Muir, who is from the Department of Justice, who led the drafting team.

As I stated earlier, the fundamental premise of this type of legislation is that public interest is best served when strong mechanisms exist to prevent and address wrongdoing in the workplace. This act provides the legal avenue for an employee who believes that wrongdoing may be occurring in the Yukon public service workplace to bring those concerns forward, confident in the knowledge that the law is designed to protect them from workplace reprisal.

This bill sets out: the kinds of wrongdoings that we believe need to be within the scope of the act; ways by which possible wrongdoings can be prevented or addressed; some possible consequences for those who commit wrongdoing or

who reprise against an employee who sought advice about or made a wrongdoing disclosure, cooperate in the investigation under the act or decline to participate in a wrongdoing; and how we will be informed about activity occurring under the act.

This legislation is an important addition to our governance and accountability toolbox. With its passage, we will be joining the majority of Canadian jurisdictions that have already introduced or brought into force similar legislation. The purposes of this act are: (a) to facilitate the disclosure and investigation of significant and serious matters in or relating to public entities that an employee reasonably believes may be unlawful, dangerous to the public or injurious to the public interest; (b) protect employees who in good faith make those disclosures; and (c) to promote public confidence in the administration of public entities.”

These purposes are articulated in part 1, along with essential definitions. Part 2 of the act sets out the wrongdoings to which the act applies, and those include: breaking a Yukon or federal law; doing or not doing something that creates a substantial and specific danger to people or to the environment; gross mismanagement of public funds or assets, or knowingly directing or counselling someone to do any of these things.

Part 2 also sets out that an employee who commits a wrongdoing is subject to appropriate discipline up to and including dismissal. This is in addition, and apart from, any penalty provided by law.

Part 3 enables chief executives of organizations encompassed by the legislation to establish procedures to manage disclosures and sets out the minimum content criteria that the procedures must address. It requires proposed new or amended procedures to be reviewed by the Public Interest Disclosure Commissioner before they are implemented. A copy of the final procedure is to be provided to the commissioner. It also provides that the Public Interest Disclosure Commissioner is a new officer created under the act with responsibility to investigate disclosures and complaints of reprisal the commissioner receives under the act. Unless another person is appointed according to the process set out in the act, Yukon’s Ombudsman will serve as the commissioner.

Part 3 also requires chief executives to ensure wide information communication to their employees about the act and, if applicable, the disclosure procedures put into place by the chief executive.

It also sets out who employees can approach for advice about or to make a wrongdoing disclosure and the minimum information that must be provided in the disclosure. Part 3 also provides for possible referral of a disclosure from one organization to another if this would be appropriate in the circumstance and empowers the commissioner to take any steps considered appropriate to help resolve the matter. Also, it provides for the making of a public disclosure in emergency circumstances where time does not permit a disclosure to be made through the standard process and sets out limits on disclosures.

Part 3 also affirms that disclosure under this act does not negate an employee’s obligation under any other Yukon law to disclose or report on the matter as required by that law. It also sets out the scope of the commissioner’s authority to investigate disclosures received by that office, including the commissioner’s discretionary investigation authority and authority to investigate other possible wrongdoings uncovered in the course of investigation.

As well, it sets out the commissioner’s obligations for giving notices upon receipt of disclosures and for preparation and distribution of the investigation reports and authorizes the commissioner to make other reports if the commissioner believes an organization has not appropriately followed up on recommendations made or did not cooperate in an investigation.

Part 4 of the bill deals with employee protection from reprisal. I previously stated that fundamental to the purposes of this legislation are the provisions governing reprisal against employees who have sought advice about or made a disclosure, cooperated in an investigation under the act or declined to participate in the wrongdoing. Under this act, it is an offence for any person to take a reprisal against an employee for doing any of these things.

A reprisal can be committed by one or more subordinates, peers, colleagues or managers, can take many overt and indirect forms and can be indicated by a single incident or series of negative measures or behaviours. In addition to a possible fine of up to \$10,000, a person who is found to have committed a reprisal could also face discipline up to and including dismissal.

Part 4 provides for the making of a complaint of reprisal to the commissioner, sets timelines for doing so, and covers matters similar to those outlined for disclosures. A significant feature of part 4 is that it prohibits duplication of process by prohibiting the commissioner from investigating the complaint if the employee who made the complaint has commenced or commences a related procedure under another Yukon or federal law, a collective agreement or employment agreement, or policy of the affected organization.

It is also important to note that, similar to a disclosure, the commissioner will have discretion to not investigate or to cease investigating a reprisal complaint if the commissioner believes that the subject matter could be more appropriately dealt with initially or completely through another procedure available to the complainant, the complaint was not made in good faith, or there was another valid reason for not investigating. For this reason, it will be important for an employee who believes they are suffering a reprisal to give the soonest possible consideration as to which door they may want to enter with their complaint.

As with the disclosure investigation, upon completion of the complaint investigation, the commissioner must prepare a report containing findings and may also offer recommendations. An affected organization will have opportunity to make representations on the commissioner’s draft report before it is finalized.

Within 30 days of receiving the final report, an affected organization must decide whether it will follow any report recommendations and give written notice of the same to the commissioner. Failure to provide written notice, by the affected organization, within that time frame will be considered a deemed refusal of the recommendations made.

If the organization agrees to follow the recommendations, it must take action to implement the recommendations as quickly as possible. If an organization decides to not follow the recommendations, part 4 lays out a process by which a finding of reprisal or the remedy to be provided to a complaint can be taken to arbitration for a final binding decision.

If an arbiter finds a reprisal has been taken against an employer, the arbitral award may require the affected organization to do various things to remedy the situation to the affected employee, including, but not limited to: permitting the employee to return to work; reinstating the employee; paying damages to the employee if the arbitrator believes the trust relationship cannot be restored; compensating the employee for lost remuneration; and paying for any expenses or other financial losses the employee incurred as a direct result of their reprisal.

The award is binding on the commissioner, the affected organization, the employee who made the complaint and the person or persons who took the reprisal. If the award requires action by an organization, it must take the action as quickly as possible.

A significant transparency and accountability element of this legislation is the annual reporting obligations of chief executives and the commissioner. These are contained in part 5 of the bill. Chief executives must prepare and submit to the responsible minister and, if applicable, to the chair of the organization's governing board an annual report on any disclosures and complaints of reprisal made internally and related pertinent information. A copy of this report must be provided to the commissioner, who will include in his or her own annual report information received from the various organizations.

The commissioner's annual report must include similar information, as well as other information on the commissioner's own activities under the act, including the number of recommendations made and whether the applicable organizations complied with the same, the number and description of matters referred to arbitration, whether the commissioner believes there are any systemic problems that could give or have given rise to wrongdoings, and finally, any recommendations for improvement the commissioner considers appropriate.

The commissioner's annual report must be given to the Speaker for tabling in the Legislative Assembly within 15 days of receiving it, if the Assembly is sitting or, if it is not sitting, within 15 days after the next sitting begins. The commissioner will also have authority to publish special reports relating to any matter within the scope of the commissioner's authority, which must also be provided to the Speaker for tabling.

Finally, the commissioner may be asked by the Legislative Assembly or any of its committees to investigate and report on a matter. Subject to any special direction, the commissioner must investigate the matter so far as it is within the commissioner's jurisdiction and can report back to the commissioner, as the commissioner sees fit.

Allegations of wrongdoing or of reprisal are extremely serious matters. The act accordingly vests the commissioner with very strong powers to investigate such matters. These are contained in part 6 of the bill. Part 6 also deals with the Office of the Public Interest Disclosure Commissioner appointment matters if someone other than the Ombudsman is to serve as the commissioner.

Part 7 of the bill lays out other offences, in addition to the offence previously mentioned, for committing a reprisal. These include making false or misleading statements in relation to a disclosure or reprisal complaint, obstructing another person in the performance of their functions or duties under the act, or destroying, falsifying or concealing evidence knowing it was likely to be relevant to an investigation, or to order or counsel another person to do this.

We have taken care to ensure there are appropriate privacy and confidentiality provisions in the bill, balancing the need to uphold privacy and confidentiality interests with the need to ensure investigations can be appropriately carried out.

We also want to ensure this legislation works to uphold the public interest in having a mechanism in place that puts their interests first. For this reason, within five years of this act coming into force, a review of the legislation will be initiated.

Regardless of the basis of their employment, all employees of Yukon government departments, directorates, secretariats or other similar executive agencies — Yukon Development Corporation, Yukon Energy Corporation, Workers' Compensation Health and Safety Board, Yukon College and Yukon Hospital Corporation — are all eligible to make wrongdoing disclosure and receive reprisal protection under this act. The Legislative Assembly office and offices of the Chief Electoral Officer and Child and Youth Advocate are also included.

I previously stated my belief that the vast majority of Yukon public servants and those employed by the organizations encompassed by this act work diligently every day to uphold Yukoners' trust in them. I want to thank them for their contributions in helping to make Yukon a great place to live. I look forward to the debate and to seeing the bill passed.

Before I move on, there are a few additional items I wanted to touch on that were raised through the various second reading speeches that we heard from a variety of members. First of all, there appears to be some concern that the bill does not explicitly state that the Public Interest Disclosure Commissioner can establish timelines for a public entity to implement the commissioner's recommendations for remedy when a person is found to have suffered a reprisal. The bill already enables the Public Interest Disclosure

Commissioner to make any recommendations the commissioner thinks fit following an investigation of a reprisal complaint. This implicitly includes authority to make recommendations on timelines within which recommended actions should be taken. As such, there is no need to state this in the bill.

It is important to also note that public entities must be given an opportunity to review and comment on a draft report prepared by the commissioner before it is finalized. This report contains the commissioner's findings, the reasons for the findings and any recommendations about the complaint of reprisal. Without knowing what the recommendations will be for each case, it is difficult to come up with a time frame that would be appropriate in all circumstances for all public entities. It is in this context that the expression "as soon as is reasonably practicable" in subsections 34(2) and 39 is used. If a timeline is agreed to, it is expected that the public entity will give effect to the recommended action as soon as is reasonably practicable, but within the agreed-upon timeline.

Failure by a public entity to give effect to agreed-upon timelines would be considered a deemed refusal by the affected entity to accept the recommendations, in which case the matter could then be referred to arbitration.

The second matter raised relates to the provision dealing with public disclosures, which includes a restriction on release of information that is restricted under federal or Yukon law. I would like to remind members that the intent of a public disclosure is to warn of imminent danger and to get a response to avert the danger to people or the environment. It is important that when information is being released into the public domain, we balance the protection of personal or confidential information provided by law within the right to disclose. Following a public disclosure, the employee is required to immediately make the same disclosure internally within the organization. Internal disclosures and disclosures to the Public Interest Disclosure Commissioner permit release of personal and confidential information if necessary to make the disclosure. However, this provision sets out that existing legal rules regarding release of information will continue to apply if a public disclosure is being made. The reason, as noted, is to strike a balance between the right to disclose and the right of others to have their personal or confidential information, for example, protected.

An employee who, in the course of their employment, learns of a matter meriting possible public disclosure is expected to be familiar with information restrictions that apply within the context of their employment and employment field. Other Canadian jurisdictions' legislation, including Manitoba's, includes a similar information release restriction on public disclosures.

Concerns were raised about the regulation-making powers under the act that could potentially be used to restrict or narrow the powers of an arbitrator or the commissioner and introduce a new definition in the act. I should note that regulation-making powers are used for a variety of purposes, including but not limited to providing procedural clarity or to address possible gaps that could not be foreseen. Regulations

cannot conflict with or override anything the act provides for, unless the act specifically says they can. This is not the case with this bill.

The bill's regulation-making power in relation to section 56(f) applies to the extremely narrow circumstance where imposition of a limitation may be appropriate in the interest of defence or security. It is essential to understand that the regulation-making powers in relation to section 56(h) cannot be utilized to restrict the act-provided powers and protections of the Public Interest Disclosure Commissioner as the act itself does not make the powers and protections of the commissioner's office subject to the regulations.

The main purpose of section 56(h) is to provide the means to address any possible act gaps in the provision of parallel powers and protections to someone other than the Ombudsman who might be appointed to serve as the Public Interest Disclosure Commissioner. However, it could also be used to give new powers not inconsistent with the act to the commissioner, whether it is the Ombudsman or not, in the event that, with the passage of time, it is discovered that there is something more required to properly implement the scheme of the act.

Paragraph 56(i) is a common provision in legislation intended to be used should there be ambiguity around some word or phrase used in the act that is not defined, allowing for the passage of a regulation to define the word or phrase so as to remove the ambiguity.

It is important to note that no regulations are anticipated at this time to accompany this bill once it comes into force. It has also been suggested that this bill is somehow inconsistent with the select committee's recommendation to include a sunset clause in the legislation. The select committee's 10th recommendation was that the legislation should not include a sunset clause and should instead provide for review of the legislation in five years. Bill No. 75 is completely consistent with the select committee's recommendation on this matter.

A comment was also made about resources for the Ombudsman's office to administer the legislation. One of the reasons that the bill proposes to have the Ombudsman serve as the Public Interest Disclosure Commissioner is to leverage the existing skills, knowledge and resources of the Office of the Ombudsman, which also serves as the Office of the Information and Privacy Commissioner. I expect that the Ombudsman is considering whether any additional resources may be required for the purposes of administering this legislation, versus other legislation that is administered by that same office.

There were a few other issues that I will be happy to return to at my next opportunity, but I see that you are indicating that I am out of time, so I will cede the floor now.

Ms. Stick: I again want to thank the minister for bringing forward this legislation that Yukoners and employees have been waiting a long time for. I would also like to thank the officials for being here today and for the work that was done to complete this legislation, because we did have more than one select committee that worked on this.

It is just good to see that we have something concrete now in front of us. It is important legislation. As the Official Opposition, we are pleased to not only see this introduced, but to be supporting of it.

I do still have questions and the minister gave a lot of information there. I hope I am not going back on something he has already spoken to, but I will go ahead anyway and ask these questions.

He was talking briefly about some of the concerns that the Ombudsman came forward with after this legislation was introduced. I guess my first question would be: Has the minister or his department spoken to these concerns with the Ombudsman and tried to come to an understanding, or take those concerns and answer them enough so that the Ombudsman does not have them any more?

Hon. Mr. Dixon: Prior to responding directly to the question, I will just finish with a little more information which I think will be helpful as we continue on.

As I indicated before, there were a number of issues raised at second reading. I just wanted to cover off a few additional ones that should only take a few moments here. At second reading, it was indicated that there is some question as to why the bill includes the various arbitration provisions. We clearly heard concerns last spring that the legislation needed to provide stronger protection associated with reprisal remedy recommendations made by the commissioner.

We took a second look at this and decided that, yes, it made sense to provide a stronger protection measure to the legislation to mitigate the concern. In some other jurisdictions, including Manitoba, reprisal complaints do not go to the Ombudsman or the Public Interest Disclosure Commissioner. Instead, they must be filed with the provincial labour board. Typically, these are boards that deal with both public and private sector labour and employment matters. Since Yukon does not have a general labour board, such as those done in other jurisdictions, we chose the direction we did.

The federal system is a bit different. In that case, reprisal complaint matters can be referred only by the Public Interest Disclosure Commissioner to a special tribunal established for the purpose. In all cases though, the intent is to provide an independent, neutral, third-party avenue to hear and render final binding decisions on the matter.

In looking at these various models, as well as some existing Yukon legislation that governs collective agreement grievance processes, we developed a model that we believe is quite straightforward, cost-effective and meets our shared interest in strong reprisal protections for persons who disclose wrongdoings.

Finally, I would like to address the question raised previously about why the bill does not make it mandatory for public entities to establish disclosure procedures. That answer is that, quite simply, most jurisdictions that require internal disclosure procedures to be developed also have provision to set aside that requirement where the entity involved is deemed to be too small to warrant it. Scaling this down to our Yukon context and the size of our act-encompassed entities, the too-small requirement more than aptly fits. It simply does not

make practical cost-effective sense to require each and every entity to develop such procedures, given the associated infrastructure, resourcing requirements and the other things that are associated with it. However, they can certainly do so if they wish.

Even if an entity chooses to not develop formal procedures, the bill requires every chief executive to prepare an annual report detailing the number of disclosures and reprisal complaints received and details on those cases where wrongdoing or reprisal was found. This reporting requirement will inherently oblige chief executives to think about and appropriately communicate how they will track, manage and report on disclosures and complaints received.

That completes some of the questions I heard at second reading, so I will turn now to the specific question that was raised by the member. It was about the engagement that our officials have had with the Ombudsman herself. To date, the Ombudsman has provided four separate pieces of input, which I'm sure everyone is familiar with. At each stage of her providing that input, our officials met with her to discuss the recommendations that were being made. There was a lot of back and forth discussion about how to address them and the resulting product is the bill that we have before us. It is somewhat different from what we initially started with, prior to receiving the Ombudsman's comments some time ago and the changes, including the section on arbitration, was a direct result of input provided by the Ombudsman. Officials have met regularly with the Ombudsman about her input. We've incorporated as much as possible and, ultimately, I think what we've achieved is a bill that needs the recommendations for the most part provided by the Ombudsman, while also respecting the existing legislation and procedures we have in place throughout the government.

Ms. Stick: So just to clarify, has the department met with the Ombudsman and Information and Privacy Commissioner with regard to the last number of recommendations or comments she had on the legislation before us?

Hon. Mr. Dixon: As I indicated, the Ombudsman has provided four pieces of formal input. This is in addition to the meetings that took place, but in actual hardcopy input, the Ombudsman provided four either pieces of correspondence or news releases. On April 16, 2014, she sent a letter as well as a news release. Following that, on July 17, 2014, a letter was sent. On September 26, 2014, a letter was sent and then at each one of those stages we responded by discussing and meeting with the Ombudsman. In pretty much just about each and every case, we were able to find a solution and made appropriate changes. However, in the case of the last piece of input provided by the Ombudsman, it was November 3, 2014, which was unfortunately after the bill had already been tabled. We haven't met with her since then because the three matters that are raised in that particular one we think are addressed in the bill anyway, so we're comfortable with the bill as it is and appreciate the input from the Ombudsman.

Ms. Stick: I thank the minister for that response.

My other question has to do with actually putting this legislation into work — making it work for employees and employers throughout the government and its different organizations. I'm wondering what the implementation and training plan will be to inform all staff of this new legislation and how they propose to carry on.

It can't just be a one-time "inform staff of this" but it's going to require ongoing information to employees. I'm wondering if there has been an implementation plan considered at this point for this.

Hon. Mr. Dixon: In the drafting and development of this bill, we consulted a number of entities, including all those that will fall under this act. So the chief executives and many of the staff are aware that it's coming forward but, once it's passed and once it's proclaimed, then the duty will fall to the chief executives of the individual entities to make their staff aware of their newly established or newly codified rights under this bill.

The Public Service Commission will provide some centralized support for that — information, whatever pamphlets or information disclosure materials that are needed by those chief executives. We're happy to do that but, at the end of the day, the individual entities, whether they are a department, an agency or a Crown corporation — the chief executives of those individual organizations — will have to do their best to ensure that their employees are aware of the provisions of the bill and what it means for those employees.

Ms. Stick: I again thank the minister for that. It would seem to me that it will be very important that it be consistent information that's going across to all organizations — supervisors, employers, as well as staff. I'm pleased to hear that the Public Service Commission would consider pamphlets and information going out to people, but I do think it's important that it be a consistent message and that it not just be left to the executives the minister spoke to.

The minister gave out a lot of information in his previous speaking, and I didn't quite catch what he said with regard to regulations and whether there would be regulations accompanying this act and when they might be prepared.

Hon. Mr. Dixon: To answer the first comment, I just would say, yes, of course the Public Service Commission will do their best to ensure that the rollout of any information is consistent and clear throughout the various entities and departments that are affected.

With regard to the concern raised about regulation-making power under this act, there were some comments in second reading, which I responded to in my earlier statements, but I'll repeat them. The regulation-making powers under the act could potentially be used to restrict or narrow the powers of an arbitrator or the commissioner and introduce new definitions in the act.

My comments earlier were that regulation-making powers are used for a variety of purposes including, but not limited to providing procedural clarity or to address possible gaps that could not be foreseen. Regulations cannot conflict with or override anything in the act unless the act specifically says that they can. The bill's regulation-making powers in relation

to subsection 56(f) apply to the extremely narrow circumstance where imposition of a limitation may be appropriate in "the interests of defence or security".

It is essential to understand that the regulation-making powers in relation to subsection 56(h) cannot be utilized to restrict act-provided powers and protection of the Public Interest Disclosure Commissioner, as the act itself does not make the powers and protections of the commissioner's office subject to the regulations. The main purpose of subsection 56(h) is to provide the means to address any possible act gaps in the provision of parallel powers and protections to someone other than the Ombudsman who might be appointed to serve as the Public Interest Disclosure Commissioner. However, it can also be used to give new powers, not inconsistent with the act, to the commissioner — whether it is the Ombudsman or not — in the event that with the passage of time it is discovered that there is something more required to properly implement the scheme of the act.

Paragraph 56(i) is a common provision in legislation intended to be used should there be ambiguity around some word or phrase used in the act that is not defined, allowing for the passage of a regulation to define the word or phrase so as to remove the ambiguity. I just realized that earlier in my comments, I spelled out what I thought was an acronym — ACT — but I was referring to the act.

It is important to note that no regulations are anticipated at this time to accompany this bill once it comes into force.

Ms. Stick: I thank the minister for the long way around to say, no, there will not be regulations at this time to accompany this act.

Another section I would like to see clarification on is section 26(2), which talks about the time period in which an employee can file a complaint of reprisal. Now the Select Committee on Whistle-blower Protection had recommended that employees have two years to file a complaint and this proposed legislation provides employees with 90 days to make a complaint of reprisal. I am looking for what the reasoning was for shortening that time period for a complaint from the two years that the select committee recommended to the 90 days that is found in today's legislation. That is 26(2).

Hon. Mr. Dixon: It is important that any alleged reprisals be reported as quickly as possible so the matter can be appropriately addressed in a timely fashion. Filing a complaint with the commissioner is an option for employees who also have other processes available to them, such as a collective agreement or an employment agreement grievance process for dealing with the matter. The timelines for initiating a formal grievance are typically shorter than 90 days. In addition, it is important to note that the commissioner will have discretion to accept a later complaint if appropriate to the circumstances of the employee.

With regard specifically to section 26, a complainant has 90 calendar days to file their complaint with the commissioner. Typically, grievance processes set out in a collective agreement or employment agreement have shorter deadlines for initiating a grievance. For example, the YEU and YTA employees have 20 working days, or approximately

28 to 30 calendar days, to initiate a grievance. However, as I noted, the commissioner has the discretion to accept a later complaint, depending on the employee's circumstances. By providing that provision, the commissioner — if there is reason for it — can accept later complaints. The intent is simply to deal with the issue as soon as possible and as close in time to when the event happened. That is the reason for the timing in the act.

Ms. Stick: I asked that question, in particular, because it is quite a drastic reduction of the number of days from what was recommended by the select committee on this — to go from two years to 90 days. It is not necessarily consistent with other legislation that we have. I refer to the fact that when the *Human Rights Act* was tabled and passed in this House, there were provisions in that legislation to increase the timelines for individuals to be able to make complaints — from six months to 18 months — recognizing that sometimes individuals are just not able or don't feel safe or don't recognize what is happening to them. In that case, the provisions allowed for 18 months for a person to make a complaint after the time it happened.

I am just wondering why it is so far off of what the select committee had suggested, which was the two years. To go from 24 months to three months is quite a drop. I just haven't heard a really good, concrete — except for other provisions in a person being able to make a grievance with an employee union or other. When I look at what we do in the *Human Rights Act*, we actually increased it to 18 months. I am just wondering if there might be a better balance.

Hon. Mr. Dixon: I would refer members to section 52 of the act, which provides that a prosecution under this act may not be commenced later than two years after the day the alleged offence was committed. Reprisal is an offence under the act, and there is a two-year time limit to initiate a prosecution for an offence under the act. To facilitate meeting this timeline and to expeditiously address reprisals that may have occurred or a reprisal that is occurring in relation to a prior wrongdoing disclosure, a person alleging reprisal will have 90 calendar days to file their complaint with the commissioner.

As I indicated previously, this is generally in line with or greater than timelines associated with the collective agreement processes. The 90-day clock, so to speak, begins when the employee knew, or the commissioner believes the employee ought to have known that a reprisal was being taken against them.

As I indicated, as well, Madam Chair, the commissioner does have the discretion of a later complaint if he or she believes it is appropriate, given the employee's circumstances. There is the flexibility built in to accommodate that longer time frame, as indicated by the member opposite. The 90 days is simply to provide a reasonably short amount of time — enough so that section 52 can be met. I should also note that in consultation with the various public sector unions and Ombudsman, there were no problems raised with this particular aspect of the bill.

Ms. Stick: I guess my last pieces have to do with reviewing the legislation. There is a time frame in the legislation to be able to do that — I believe five years is when it can be reviewed.

I am just wondering what would be the process or how could different levels of governments, other organizations — if they wanted to be included in this legislation or to come under it, is there a mechanism for them to do that?

Hon. Mr. Dixon: I do understand that the select committee's recommendation with regard to this was that, rather than include a sunset clause, they would include a mandatory five-year review. We encompassed that in section 55 of the bill. Section 55(1) reads of course: "Within five years after the coming into force of this Act, the Minister must begin a review of this Act on terms and conditions to be determined by the Minister."

In section 55(2): "The Minister must, on or before the first anniversary of the day on which the review began (or if the Legislative Assembly is not sitting on that first anniversary, within 15 days after the next sitting begins), table in the Legislative Assembly a report respecting the progress of the review."

The terms and conditions of the review would be set by the minister of the day — so whoever the minister of the day is would set the terms. I anticipate that they would consult with various organizations around the territory to determine whether or not there was a desire to have others included under the act. The flexibility is built into the bill in section 55 to allow for that, so I think that we have addressed the recommendations of the select committee. I think we have provided for the flexibility by which the review can be undertaken and that other entities or other organizations — or groups of any kind, I suppose — could make representations to the minister of the day at that time if they wish to be included. I think that can all be encompassed within that review that is built into section 55.

Ms. Stick: So until that five-year review begins, other organizations, entities or governments would not be able to come to the minister and say they would like to be able to be included in this legislation?

Hon. Mr. Dixon: That is correct; it would require legislative change to list other organizations in the act. While section 55 provides for that mandatory review and that mandatory process, that doesn't stop the Legislature from amending the act any time before that as well. It is the prerogative of the Legislature to amend legislation as they see fit but, yes, a legislative change would be required to add additional groups to this bill.

Mr. Silver: Thank you to the officials from the department for their presence here today and also for helping us out with the Ombudsman issues in the briefing. It was very helpful. It was nice to hear the minister address most of the clarifications here in the House, especially when it comes to modifications to the public disclosure, and also to the arbitrator, through regulations and the powers to limit.

I think we've actually gone through most of my issues and the questions I had here today, including the "may" clause

as well, but I just had one more clarification question, based upon section 56(i). The minister spoke of ambiguity. This provision permits the new definitions to be added to the process by regulation, as opposed to by the act. I was wondering — most of these definitions are actually embedded, so I'm just wondering why, in this particular case, these are added by regulation.

That's pretty much the only question, and it's just a clarifier. That's pretty much it.

Hon. Mr. Dixon: I would reiterate the comment I made earlier that no regulations are contemplated at this time, but my understanding is that section 56 is simply just a common drafting tool that legislators use to provide that flexibility for the future, should it ever be needed. The items (a) through (j) and the regulation-making power are simply there to provide the flexibility for government, should they need to enact regulations to add clarity or add some sort of consistency to the process.

They're there if we need them — if the government determines there's some sort of clarity that's necessary. It could have the potential to limit the need for litigation or something like that, should it come up, but it's simply just to provide flexibility for the implementation of the act and, as I indicated before, we're not contemplating any regulations at this time.

Chair: Does any other member wish to speak in general debate?

We're going to move then to clause-by-clause debate, beginning on page 1.

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 Clause 10

Clause 10 agreed to

On Clause 11

Clause 11 agreed to

On Clause 12

Clause 12 agreed to

On Clause 13

Clause 13 agreed to

On Clause 14

Clause 14 agreed to

On Clause 15

Amendment proposed

Ms. Stick: I would like to propose an amendment to 15(1)(c) and I'll read what the amendment would say:

THAT Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*, be amended in clause 15(1)(c) at page 9 by adding the words "the employee knows, or ought to know" after the words "information that".

Chair: Ms. Stick has already read the amendment into the record, but I will repeat that.

It has been moved by Ms. Stick:

THAT Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*, be amended in clause 15(1)(c) at page 9 by adding the words "the employee knows, or ought to know" after the words "information that".

Ms. Stick: The proposed amendment to this act would protect employees who do not knowingly disclose information in contravention with Yukon or federal laws. Section 15(1)(c) does not allow employees to publicly disclose information that is in contravention of these laws.

This amendment actually stems from one of the recommendations that came from the Ombudsman. I would just like to quote her statements on this particular section: "It is unlikely that an employee will know with certainty when disclosing information publicly in the circumstances described whether he or she is violating the law. Consequently, an employee will, in my view" — or in the view of the Ombudsman, because I am quoting here — "be prevented from making a public disclosure for fear that a law may be violated in the process and the protections against reprisal in the Act will not apply. Consideration should be given to modifying the requirement in paragraph 15(1)(c) to a requirement that the employee must not knowingly disclose this information."

Basically, if someone doesn't know about some obscure provision — territorial or federal — in an act, there could be reprisals or punishment rising from that as being seen as a wrongdoing. We don't want to be dissuading employees or people who are not sure, who are going, "Well, I'm not sure if this is covered or not." What we are trying to do with the amendment is just to clarify the protection of the employee in this instance.

Hon. Mr. Dixon: I will respond in a few ways. First of all, in response to the comments just made by the member, these are not obscure provisions in legislation — ATIPP or the health information law — any of these sorts of things are not obscure pieces of information.

They are pieces of legislation that are fundamental to employees doing the kind of work that they do. To suggest that members of the public service who encounter this kind of information may be subjected to some sort of obscure bill or obscure part of an act is a bit misguided. It is generally a requirement of a person's job to understand what their job is under the law.

I realize that this is an issue that the Ombudsman raised in her series of inputs. It is under section 15(1)(c). In the case of

a public disclosure, information that is restricted from disclosure under any federal or Yukon law — so basically, the laws of the land, whether they territorial or federal laws, continue to apply and are not somehow waived in the case of a public disclosure. For example, an *Access to Information and Protection of Privacy Act* restriction on release of personal information would continue to apply in the case of an emergency public disclosure made under section 13(1). I realize that the Ombudsman is of the view that she is and that is apparently shared by the member opposite, but there are a few comments I want to make about that.

The first is that the intent of a public disclosure is to warn of imminent danger and to get a response to avert the danger to people or the environment. Following a public disclosure, the employee is required to immediately make the same disclosure internally within their organization. Internal disclosures permit release of personal and confidential information, if necessary, to make the disclosure. Second, a public disclosure provision is provided solely to deal with those exceedingly rare circumstances that might occur where disclosure through the regular process is simply not possible or practical.

The imposed restriction is a fairly standard provision in other Canadian jurisdictions' legislation. In an emergency situation, it is likely that the key information that an employee will want to communicate publicly is the "what" of the situation, not the personal or confidential particulars of the "who" might be involved by posing the risk. The obligation for an employee who wants to make a public disclosure to first contact an appropriate law enforcement agency and follow any directions issued introduces a vetting mechanism into the public disclosure process. Law enforcement personnel are typically well-trained, knowledgeable and sensitive to information restriction requirements that may apply under the law.

Also, an employee who, in the course of their employment, learns of a matter meriting possible disclosure would typically be familiar with information restrictions that might apply within the context of their employment and employment field. An employee who inadvertently released information in a public disclosure that was not legally permitted to be released would merit reprisal protection, provided the disclosure was made in good faith. This act does not make it an offence for a person to release information that is otherwise restricted from release. Possible prosecution of any information restriction release offences that may occur as a result of a public disclosure under this act would need to be considered in the context of that legislation that sets out the applicable information restrictions.

I continue to believe that the individuals making public disclosures need to follow the law. I don't think that the amendment put forward by the Member for Riverdale South is conducive to that, so I will be disagreeing with the amendment, based on my outlandish belief that people should follow the law.

Mr. Silver: I do appreciate what the Member for Riverdale South is trying to accomplish here with the

amendment. However, without a better analysis of more questions for the folks who have worked on the writing of this bill, it's hard to see if whether or not this amendment actually accomplishes the goals of the Ombudsman. I think if we did have to come to a vote on this, I would have to abstain from a vote, just from lack of knowing whether or not this is actually accomplishing what the Member for Riverdale South says it will, based upon the Ombudsman quotes. Respectfully, I would have to abstain from a vote on this.

Chair: Does any other member wish to speak on the amendment?

Shall the amendment carry?

Some Hon. Members: Agree.

Some Hon. Members: Disagree.

Chair: The amendment is defeated.

Amendment to Clause 15 negatived

Clause 15 agreed to

On Clause 16

Clause 16 agreed to

On Clause 17

Clause 17 agreed to

On Clause 18

Clause 18 agreed to

On Clause 19

Clause 19 agreed to

On Clause 20

Clause 20 agreed to

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On Clause 56
Clause 56 agreed to
On Clause 57
Clause 57 agreed to
On Schedule
Schedule agreed to
On Title
Title agreed to

Hon. Mr. Dixon: I move that Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*, be reported without amendment.

Chair: It has been moved by Mr. Dixon that Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*, be reported without amendment.

Motion agreed to

Hon. Mr. Cathers: I move that the Speaker do now resume the Chair.

Chair: It has been moved by Mr. Cathers 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

Ms. McLeod: Mr. Speaker, Committee of the Whole has considered Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*, and directed me to report the bill without amendment.

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

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

GOVERNMENT BILLS

Bill No. 75: *Public Interest Disclosure of Wrongdoing Act* — Third Reading

Clerk: Third reading, Bill No. 75, standing in the name of the Hon. Mr. Dixon.

Hon. Mr. Dixon: I move that Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*, be now read a third time and do pass.

Speaker: It has been moved by the Minister responsible for the Public Service Commission that Bill No. 75, entitled *Public Interest Disclosure of Wrongdoing Act*, be now read a third time and do pass.

Hon. Mr. Dixon: It is a pleasure to rise at third reading to speak in favour of this Bill No. 75, the *Public Interest Disclosure of Wrongdoing Act*.

This legislation is an important addition to our governance and public accountability toolbox. We know Yukoners value good public services and we know Yukoners value the hard work that goes into making those services available. I'm proud of the integrity, professionalism and dedication of those public servants who help make Yukon such a great place to live, work, play and raise a family. It is my privilege on behalf of all Yukoners to thank them for their hard work and efforts.

However, I am also conscious of the potential that someone in the public service might commit a wrongdoing in the workplace. I also understand that a Yukon public servant who might learn of a wrongdoing in the workplace may not feel safe in bringing the matter forward in the absence of specific employee protections being put in place to safeguard them from reprisal. The *Public Interest Disclosure of Wrongdoing Act* is intended to address any such concerns.

We also want to ensure the accountability of those who commit wrongdoing or who retaliate against an employee who

got advice about disclosing wrongdoing, disclosed a wrongdoing, cooperated in an investigation under the act or refused to participate in a wrongdoing. The proposed act is designed to achieve these ends and, in doing so, will further promote public confidence in the administration of Yukon's public service.

The proposed act defines wrongdoings as: (1) breaking a Yukon or federal law; (2) doing or not doing something that creates a substantial and specific danger to people or the environment; (3) gross mismanagement of public funds or assets; or (4) knowingly directing or counselling someone to do any of these things.

Regardless of the basis of their employment, all employees of Yukon government departments, directorates, secretariats or other similar executive agencies, the Yukon Development Corporation, the Yukon Energy Corporation, the Workers' Compensation Health and Safety Board, Yukon College and Yukon Hospital Corporation are all eligible to make wrongdoing disclosure under the act. The Legislative Assembly and offices of the Chief Electoral Officer and the Child and Youth Advocate are also included.

The wrongdoings that can be disclosed are ones that have occurred and are occurring, or are likely to occur if action is not taken to stop it. The act sets out up to four possible avenues for an employee to get advice about disclosing or to actually disclose a wrongdoing. Three are specific people in their own organization, with a fourth option to make a disclosure to the Public Interest Disclosure Commissioner — the newly created office under this act — with the responsibility to investigate disclosures and complaints of reprisal the commissioner receives under the act.

Unless another person is appointed according to the process set out in the act, Yukon's Ombudsman will serve as the commissioner. I'm confident that, as commissioner, the Ombudsman will do an excellent job dealing with the disclosures and complaints received by that office, as well as serving as the primary point of public information and annual reporting on all organizations' activities under the act.

It's essential that employees know about this act and about any disclosure procedures established within their organization. The act requires chief executives to widely communicate such information to their own employees and to annually report on any disclosures and complaints of reprisal made internally.

In addition to providing their annual report to their responsible minister and, if applicable, to the chair of their organization's governing board, the chief executives must also provide a copy of their annual report to the commissioner, who will include in his or her own annual report information received from the various organizations.

The act also provides for making a public disclosure in the event of an emergency situation when there is no time to make a disclosure through the regular process and an employee believes there is imminent risk of substantial and specific danger to people or the environment. In this case, an employee must contact an appropriate law enforcement agency and follow any direction of the agency before going

public about the matter. The employee must then inform their employing organization that a public disclosure was made.

There are only three matters that employees are prohibited from disclosing under this act: Cabinet confidences, as set out in section 15(1) of ATIPP, except as permitted by subsection 15(2) of that same act; information protected by solicitor-client privilege; and, in the case of a public disclosure, information that is restricted under federal or Yukon law.

In every instance of a wrongdoing disclosure, if the disclosure involves personal or confidential information, the employee must take reasonable precautions to ensure no more information is disclosed than is necessary to make the disclosure. It's also important for employees to know that making a disclosure under this act does not alleviate any obligation they may have under other Yukon laws to disclose or report on the matter.

The act gives the Public Interest Disclosure Commissioner the discretion to not investigate a disclosure or to cease a disclosure investigation. The commissioner will also have authority to investigate other possible wrongdoing if one comes to light in the course of conducting a disclosure investigation.

The act obliges the commissioner to prepare a report following a disclosure investigation. It must include findings and reasons for the findings, and may include recommendations. In making recommendations, the commissioner can request information from an affected organization on steps taken or that will be taken to give effect to the commissioner's recommendations. An affected organization will always be provided reasonable opportunity to make representations on the commissioner's draft report before the draft is finalized.

If the commissioner believes that the affected organization has not appropriately followed up on the recommendations or did not cooperate in the investigation, the commissioner can also make a report on this. The act details the parties to whom the commissioner must give various disclosure receipts, decision notices and investigation reports.

I want to assure the House that we have taken care to ensure that any time a chief executive is implicated in a wrongdoing disclosure of the commissioner, the minister responsible — and, if applicable, the chair of an organization's governing board — will be made aware of it.

An employee who is found to have committed wrongdoing is subject to discipline up to and including dismissal. In addition, they may face other penalties, depending on the wrongdoing. I previously indicated that a fundamental aspect of this legislation is the provisions governing employment reprisal against employees. The act makes reprisal an offence. In addition to a possible fine of up to \$10,000, a person who is found to have committed a reprisal could also face discipline up to and including dismissal.

The act enables an employee who believes they are suffering a reprisal to choose the door through which they will endeavour to have the matter satisfactorily resolved — for

example, by going through their collective agreement or employment agreement grievance process, or by taking their complaint to the Public Interest Disclosure Commissioner. As with disclosures, the commissioner will have the discretion to investigate or to cease investigation of a reprisal complaint. It is also important for employees to know that the act prohibits the commissioner from investigating a complaint if the employee who made the complaint has commenced or commences a related procedure under another Yukon or federal law, a collective or an employment agreement or policy of the affected organization.

The requirement for chief executives to ensure wide communication about this act to their employees aims to help ensure that employees not only know that reprisal is an offence, but what their options are for making a reprisal complaint and how such complaints might be dealt with by the commissioner's office. As with a disclosure investigation, upon completion of the complaint investigation, the commissioner must prepare a report containing findings and reasons for the findings and may also offer recommendations. An affected organization will have opportunity to make representations to the commissioner's draft report before it is finalized. Within 30 days of receiving the final report, an affected organization must decide whether it will follow any report recommendations and give written notice of the same to the commissioner. Organizational failure to provide the written notice within the time frame will be considered a deemed refusal of the recommendations made. If the organization agrees to follow the recommendations, it must take action to implement the recommendations as quickly as possible.

If an organization decides not to follow the recommendations, the act lays out a process by which a finding of reprisal — or the remedy to be provided to a complainant — can be taken to arbitration for a final binding decision.

If the arbitrator finds a reprisal has been taken against an employee, the arbitral award may require the affected organization to do various things to remedy the situation of the affected employee. The award is binding upon the commissioner, the affected organization, the employee who made the complaint and the person or persons who took their reprisal. If the award requires action by an organization, it must take the action as quickly as possible.

Allegations of wrongdoing or of reprisal are extremely serious matters. The act accordingly invests the commissioner with very strong powers to investigate such matters. This includes the power of a board of inquiry under the *Public Inquiries Act* with various provisions of the *Ombudsman Act* applying to the conduct of such investigations, such as the powers outlined in the *Ombudsman Act*.

In addition to the reprisal offence, the act also makes it an offence to make false or misleading statements in relation to a disclosure or reprisal complaint, and also for a person to obstruct any other person in the performance of their functions or duties under the act or for a person to destroy, falsify or conceal evidence knowing it was likely to be relevant to an

investigation, or to order or counsel another person to do this. The potential penalties for these offences are the same as for committing reprisal.

Some other highlights of the act include provisions authorizing the commissioner to make special reports which, like the commissioner's annual reports, must be tabled in the Legislature. It also authorizes the commissioner to investigate and report on matters referred to by the Assembly. It requires prosecutions under the act to be commenced within two years of the alleged offence being committed and it requires a review of the act to be initiated within five years of coming into force.

Our public service employees are deserving of strong legal protection if they act in good faith to prevent or stop wrongdoing that they might become aware of in the course of their employment. I look forward to this bill receiving the support of all members of the Assembly so implementation preparations can begin immediately.

In closing, I would like to thank members for their comments and questions during Committee of the Whole and during second reading. I would like to give a special thanks to my predecessor, the former Minister of the Public Service Commission, for her years of hard working laying the foundations for this bill. Without those many years of hard work, this bill simply would not be possible. We very much appreciate the foundational and fundamental work that was done by that minister in the development of this legislation.

I would also like to thank the members of the Public Service Commission and the Department of Justice who worked on both the policy and drafting development of the bill that we see before us today. I look forward to hearing the support from all members of the House on the passage of this bill.

Ms. Stick: I would like to thank the minister for bringing forward this legislation. It has been a long time in the process and it is good to see it. The NDP Official Opposition will be supporting this legislation.

I do want to take a moment to thank the department officials — and it is more than one department, I realize — for the work they did on creating and writing this legislation.

I also think there should be a thank you to the select committees that also took submissions and looked at legislation from other jurisdictions. There were two different ones. The last one I had the privilege to sit on and I gained a lot information and knowledge about whistle-blowers. It was good to sit with a committee that was able to come up with unanimous recommendations in the end that could be in a report that was tabled in this House.

We will be supporting this legislation and we look forward to having that protection in the public service, with employees — for them to be able to feel safe in bringing the information forward that they feel needs to come forward and needs to be made public.

Mr. Silver: It gives me great pleasure to speak at third reading for this long-awaited legislation. I would like to thank

the member opposite for answering some of my questions and my concerns earlier in Committee of the Whole. I would also like to give credit to the minister responsible for the Public Service Commission for tabling this bill. It has been, like I said, a long time coming.

Some Hon. Member: (inaudible)

Mr. Silver: Would the Minister of Energy, Mines and Resources like to say a few words?

Speaker's statement

Speaker: Please direct your comments through me and to me.

Mr. Silver: Absolutely.

So, Mr. Speaker, with that being said — the select committee for this time around, for this particular bill — it was an honour to be on that committee. Although not all of our recommendations have been committed to in this legislation, it absolutely does enough for us to support it at this time.

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. Pasloski: Agree.

Hon. Mr. Cathers: Agree.

Hon. Ms. Taylor: Agree.

Hon. Mr. Graham: Agree.

Hon. Mr. Kent: Agree.

Hon. Mr. Nixon: Agree.

Ms. McLeod: Agree.

Hon. Mr. Istchenko: Agree.

Hon. Mr. Dixon: Agree.

Mr. Hassard: Agree.

Mr. Elias: Agree.

Ms. Stick: Agree.

Ms. Moorcroft: Agree.

Ms. White: Agree.

Mr. Tredger: Agree.

Mr. Barr: Agree.

Mr. Silver: Agree.

Clerk: Mr. Speaker, the results are 17 yea, nil nay.

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

Motion for third reading of Bill No. 75 agreed to

Speaker: I declare that Bill No. 75 has passed this House.

Hon. Mr. Cathers: 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 (Ms. McLeod): Committee of the Whole will now come to order. The matter before the Committee is resuming general debate in Vote 53, Department of Energy, Mines and Resources, in Bill No. 15, entitled *Second Appropriation Act, 2014-15*.

Do members wish a brief recess?

All Hon. Members: Agreed.

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

Recess

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

Bill No. 15: *Second Appropriation Act, 2014-15* — continued

Chair: The matter before the Committee is resuming general debate on Vote 53, Department of Energy, Mines and Resources, in Bill No. 15, entitled *Second Appropriation Act, 2014-15*.

Department of Energy, Mines and Resources — continued

Hon. Mr. Kent: Thank you very much. I know the last time we had Energy, Mines and Resources up for debate, the Member for Mayo-Tatchun and I discussed quite extensively energy and renewable energy. Obviously there have been a few more developments on that front since we were last up. I know that the Yukon Development Corporation and Yukon Energy Corporation will be appearing prior to the end of this Fall Sitting to answer questions with respect to the next generation hydro and some of the other projects that are underway with them.

That said, I would also like to welcome back to the Legislature, Shirley Abercrombie from the Department of Energy, Mines and Resources, who is providing support here today. I'm anxious to get back into debate with the member opposite, so I'll turn the floor over to him.

Mr. Tredger: Thank you to the minister for that. I also would like to welcome back the officials to our discussions.

We were talking about renewable energy and renewable energy options. I was able to attend an evening workshop put on by the Yukon Development Corporation and Yukon Energy Corporation around the potential hydro study that the

minister ordered. First, I would like to congratulate him on it. The NDP has been calling for many years that we develop a long-term renewable energy plan that will look at our current needs, medium-term needs and long-term needs — 20 to 50 years.

The minister has commissioned the Yukon Development Corporation to look into a major hydro project. My question for the minister is: Why was this study or project limited to hydro in its scope, and why would it not include many of the other renewable energy options available?

Hon. Mr. Kent: With respect to the next generation hydro project, obviously that's a major undertaking and we've tasked the Yukon Development Corporation with looking at that. I know the member opposite will be familiar, because he attended the evening workshop. When they set the screening criteria for it, it was limited to projects 10 megawatts or higher. Again, we were looking at a larger project, or projects, to bring into production at some point.

With respect to other renewables — I know we talked extensively about those the last time I was up in Energy, Mines and Resources. Many of those are captured under other energy initiatives, such as the independent power production policy, which I mentioned in Question Period earlier today would be released sometime in the first half of 2015 after a public consultation occurred this past summer, and other aspects that Yukon Energy Corporation is looking at. Again, just by way of reminder, officials from both the Development Corporation and the Energy Corporation — the chairs and their respective presidents — will be appearing in this House prior to its rise.

So if there are additional questions with respect to some of the short- and medium-term plans, I'm sure those officials would be happy to answer them, and I would be happy to answer any questions with respect to the power production policy.

Just following up on the previous debate that occurred on November 13, 2014, there were a number of questions that arose during that time related to oil and gas activities. I do have a fairly extensive memo here that's seven pages long. Rather than reading that into the record, I will review it and provide a copy to the member opposite within the next couple of days, just to take a look at the questions and the responses provided. That work has been completed by the department officials. I will get this copy over to the member as soon as possible.

Mr. Tredger: I look forward to reading that. I do have a number of follow-up questions on oil and gas, so I hope, if the minister is unable to answer them, they would be included in that.

A question around the next generation hydro was fairly clearly stated at the meeting, that it had been the minister's decision to limit the scope of it to plus-10 megawatts. One of the reasons I ask this is that many of the renewables are a very good interchange with hydro, if that hydro has storage. Right now in our system, the only hydro facility with major storage is the Aishihik dam. The others are essentially run of the river. The reason that is important is because it can then act as a

battery, and that is the aspect of hydro that is so beneficial to work with in conjunction with the other renewables.

I also know that there is a possibility of favourability maps for both wind, solar and geothermal that might be linked to hydro and, if it were included in the overall assessment, it might, in fact, as a combination, allow us to deliver the same amount of megawatts without having to flood large areas of our land. As I say, I am pleased to see the government looking at future renewable energy options, but I am concerned that the minister's directions to Yukon Development Corporation and the people who are working on it are somewhat limiting and not capturing the value of the renewables that we do have on hand and taking advantage of modern technologies.

There are a couple of areas. I will sort of roll them together and then perhaps the minister can answer them.

One is: Why was it limited just to major hydro? Why was not storage one of the prime considerations? Why was the main stem of the Yukon River taken out of the study, whereas other rivers, many of them of equal value in many ways to residents in rural Yukon, were left on the board?

Hon. Mr. Kent: With respect to the next generation hydro, we were looking at a larger scale hydro development to serve as that long-term bookend for our renewable energy strategy. Many of the other projects that the member opposite talked about, including wind — he will recall that I mentioned previously during debate or Question Period that the wind-monitoring equipment is now being relocated from Ferry Hill near Stewart Crossing to Mount Sumanik here near Whitehorse to ensure that we have good data on whether or not a wind project is sustainable in that area. I look forward to talking with the Energy Corporation through the Yukon Development Corporation, which is the direct report for me, about some of the opportunities with wind energy.

The favourability map that the member opposite referenced is, I believe, something that the Energy Solutions Centre is doing with the Yukon Geological Survey, but it is for geothermal only — just to clarify that for the member. It is not to do with wind or solar. There are a number of solar opportunities that are being explored — smaller scale, obviously. I think the member in Question Period referenced some of the work that Northwestel is doing. I had the opportunity to follow up with officials from Northwestel. Solar is offsetting some of the diesel, but there still is diesel being consumed at those sites that the member was referencing at that time.

With respect to the direction and the conversations and discussions that occurred at the initial workshop last week regarding the next generation hydro, the main stem of the Yukon River was excluded from the initial screen. We felt at the time that it would be difficult to achieve public acceptability to develop a project on the main stem of the river. There are a number of attractive projects that are along the main stem of the river, but from a navigable waters point of view and the migratory salmon issue that so many Yukoners care a lot about, we felt that we should remove the Yukon River. That said, that is why we go out and engage the public. If there is support demonstrated through our

discussions and through our public consultations for including some or any of the projects that are along the Yukon River's main stem, then I think we would have to consider that.

I know it came up at the evening workshop in questions and it also came up when I went to leadership and talked to First Nation leaders about this last week as well. That is one of the things that we would have to consider on a case-by-case basis. That is why we are out talking to the public right now about this. We look forward to the two subsequent workshops on this coming up in 2015, as well as a bigger First Nation energy forum, which will involve more of the political leaders from those First Nations and the technical people who have been involved in the two workshops so far.

Mr. Tredger: Just to clarify, it was a ministerial decision to not include the main stem of the Yukon River. It was also a ministerial decision to limit the scope of the project to megahydro and excluding storage, and it would have been a ministerial decision not to look at how other renewable projects might connect into potential grid applications.

Hon. Mr. Kent: Of course we did not want to go out with a blank sheet of paper. There were over 250 — I believe — potential hydro projects that were located throughout the Yukon and even some in northern British Columbia that were on the initial list compiled by the consultants. They were looking for direction into how we would apply the different screening tools that would reduce that number and bring it down to a more manageable number. I think it is 16 or 17 that are now on the list based on the different screenings that we put forward.

The Development Corporation did consult with me and I obviously talked to my colleagues about excluding the main stem of the Yukon River, so that was the direction for this initial screening that came from our office.

The 10-megawatt minimum was something that we had looked at in some of the other jurisdictions, and that was a number that we felt would provide a good baseload for these projects so that we can have a major hydro project.

With respect to the member's last question, of course there are a number of other renewable opportunities that we have here in the territory, but those are being looked at through other means, such as the microgeneration program, the upcoming IPP policy, work that the Yukon Energy Corporation has undertaken with respect to wind, solar and other renewable opportunities and some of the smaller scale hydro opportunities that exist.

I think that is one of the things when I went to leadership last week that I wanted to reinforce for First Nation leaders, because many of them are interested in these opportunities, but they have smaller projects that perhaps fall beneath the grid or are the storage opportunities that the member opposite referenced. While those won't be considered for next generation hydro, it is not to say that they won't be considered. There are other opportunities for us to bring those forward. It just won't be under this study and this planning directive that was issued to YDC around this time last year — November 22, 2013.

I should thank and congratulate the Yukon Development Corporation, the chair, Joanne Fairlie and the president, Greg Komaromi on all of the work that they have undertaken to date on this, and the entire board. They have come from that directive issued about a year ago to where we are now — to where they are starting to narrow this down and we're looking for a business case on next generation hydro to be available toward the end of 2015.

Mr. Tredger: Thank you to the minister for that answer.

There have been a number of studies conducted by Yukon Energy Corporation. I think of the Mount Sumanik wind study. There was also a geothermal study that was completed several years ago at significant cost, done by Yukon Energy Corporation. The minister has referenced wind prospecting and a return to Mount Sumanik. I assume there would be a report on Ferry Hill.

Can the minister assure us that the Yukon public will have complete access to these reports as they are done? The geothermal was done several years ago and certainly should form the base for any new studies done. The Mount Sumanik study — I believe the final form I saw still had some redactions, but I cannot confirm that. I assume there is a report on Ferry Hill that could be made public and any new information around Sumanik or Haeckel Hill that would help us to determine which areas the independent power producers could look at for renewable energies and help them to build a business case to move forward with independent power production.

Hon. Mr. Kent: I understand from those who attended the earlier meeting last week, which was the one that occurred during the day portion of the workshop — the president of the Energy Corporation, who was in attendance at that time, mentioned that anyone interested in acquiring the information that the member opposite is referencing should speak to him directly.

Perhaps I would just ask the member to ask officials from the Energy Corporation and the Development Corporation when they are in attendance. I know there have been some concerns with releasing that information in the past, and I would not want to commit to something without having checked with the Development Corporation and the Energy Corporation first. I think those are questions better asked of those individuals.

I just wanted to provide a quick status update on some of the renewables that the member opposite spoke about. When it comes to wind, currently less than one percent of Yukon's total electrical load is supplied by wind energy but, based on YEC wind modelling, there are 10 Yukon wind areas of interest that could have a significant installed capacity of over 100 megawatts. Of course, as I mentioned before, we would need to also have the ability to replace that energy, as wind is an intermittent source of energy and isn't reliable all the time, as far as providing that type of load.

The most promising wind energy site identified to date is the Ferry Hill site. Capital cost estimate for the Ferry Hill 21-megawatt wind project was \$3.4 million per megawatt. Yukon

Energy Corporation estimates the cost of producing energy with wind — the levelized cost of energy — is 14.8 cents per kilowatt hour. That includes a five-megawatt diesel rotary uninterruptible power supply to enhance the reliability. The cost would be lower without the backup generation but, as mentioned, something we want to ensure that we have.

When it comes to solar, there's a very small percentage of grid-connected solar generation that exists, estimated at approximately 60 kilowatts. This technology is growing in popularity, with the implementation of our microgeneration policy. It's estimated that approximately nine percent of Yukon's electrical demand could be met with solar photovoltaic systems. Without any energy storage, this would represent some 40 megawatts of installed solar PV, which is unlikely to be achieved over the next several decades. That is extremely unlikely to be achieved over the next several decades.

The capital cost of small-scale solar PV systems range from \$3 per watt to \$5 per watt, depending on the size of the system. The Energy branch estimates that the levelized cost of energy for small-scale systems is approximately 27.5 cents per kilowatt hour. We know there are several advantages to solar, such as local renewable source of energy with low operating costs. Solar capacity is greatest in Yukon in late winter and early spring, when hydro reserves are lowest, but some of the disadvantages are high capital costs and the intermittent supply of energy to the grid from it.

When it comes to geothermal, geothermal energy development in Yukon is currently limited to the Takhini Hot Springs resort. There is no geothermal electric generation in Canada, but there is an excess of 3,000 megawatts operating in 77 plants in 15 U.S. states, including Alaska. Costs are approximately \$2.5 million to \$4.5 million per megawatt, installed.

Electricity is produced at a cost ranging from 40 to 80 megawatts per hour, which is relatively low. This does not include the cost of locating a good geothermal resource, which can be significant. As mentioned earlier, the YGS, the Energy Solutions Centre and the Energy branch are exploring an opportunity to develop the geothermal favourability map for Yukon to support exploration for geothermal energy resources.

Hydro, of course — obviously all Yukoners are very proud of the amount of electricity that we are able to generate from hydro. Roughly 99.5 percent so far this year of the grid electricity has been generated by our hydro sources. Our site inventory has 171 known potential sites, ranging in generating capacity from 85 sites that are less than 20 megawatts to 36 sites that are greater than 100. Currently, as mentioned, Yukon Development Corporation is considering those sites in the range greater than 10 megawatts for the next generation hydro project. Hydropower projects in the less-than-10 to 300 megawatt range cost approximately 4.9 cents to 19 cents per kilowatt hour, installed. Obvious advantages to this are the local and renewable sources of energy with the very low operating costs. Storage-based hydro facilities are

dispatchable and therefore have the potential to add significant capacity to the grid.

Some of the disadvantages — run-of-river hydro projects vary seasonally, making them non-dispatchable. Hydropower projects range from 10 to more than 15 years to develop, with larger projects taking more time than the smaller ones. Obviously there are very significant capital costs to this, and significant regulatory as well as environmental and social challenges, which increase as the size of the project increases.

Biomass is something that we are also looking at. It was part of the 2009 energy strategy. I know that work is underway to develop a biomass strategy that we can release for consultation. I don't have a time frame on that yet, but am hoping to accomplish that before the end of this mandate.

There are approximately 24,000 cords, or 55,000 cubic metres, of wood harvested in Yukon to heat homes and buildings each year. This accounts for approximately 17 percent of Yukon's total consumption of energy for heat. This volume of wood is equivalent to what can be sustainably harvested from approximately 550 hectares of average Yukon forest in the southern Yukon areas of Whitehorse, Teslin and Haines Junction. Most cordwood in the territory is currently harvested in the Haines Junction area from beetle-killed trees and trucked to Whitehorse. The Whitehorse area accounts for approximately 75 percent of the territory's total heat demand.

The Yukon government has been responsible for the installation of two large-scale biomass heating facilities in the territory, one at the new Whitehorse correctional facility and the second at the Dawson City waste-water treatment facility. Each of these systems is estimated to produce a significant amount of renewable energy per year, totalling 20 terajoules of energy.

The Yukon government is developing, as mentioned, the Yukon biomass energy strategy with the intent to reduce our dependence on imported fossil fuels by optimizing the use of Yukon harvested wood to meet the territory's heating needs using modern biomass energy systems.

Through our good energy rebate program, the Yukon government has incentivized the purchase of 506 clean-burning wood and pellet heating systems. These appliances represent an estimated additional 30 terajoules of renewable energy production.

I guess with that, I will turn the floor back over to the member opposite. Hopefully, I have been able to give a snapshot of some of the other renewable opportunities that exist and address his questions with respect to next generation hydro.

Mr. Tredger: I thank the minister for that overview of the renewable energy potential. I think it is critical that we move and look at all of our options as we move into the next generation and the 21st century and take advantage of the discoveries — the technologies — that are bringing the costs of renewable energy ever more down.

I have a couple of questions on oil and gas. The minister has mentioned — and the Premier has mentioned — that we have very robust and state-of-the-art oil and gas regulations, and that they feel that our regulations are ready for the current

exploration projects that are potentially going on in both Eagle Plains and the Kotaneelee.

Around that I have a couple of questions. I had asked the minister about the Kotaneelee field pipeline and the viability of it, whether or not any leaks had been reported, and whether there were any means to determine fugitive emissions around that. When I look at a couple of the applications for development in — well, I will start with the Eagle Plains development. They are talking about a sump pit to hold the drill mud and the produced water from that project. It is located on permafrost, and my concern is that the experiences that we have had with sump pits in the Northwest Territories are that, over time, the permafrost melts and the viability of the sump pit is not there. Now the regulations that we have developed in Alberta call for an impermeable lining to be placed. However, when I noticed the application from Northern Cross, it was relying on packed clay.

Can the minister tell me whether he expects YESAB to make that decision or whether the current oil and gas regulations that we have would address the storage of drill mud and waste?

Hon. Mr. Kent: Without getting into the specifics of what the member opposite is asking, I think he is referring to an application that is still currently before the YESA board. I believe it is being assessed out of the designated office in Dawson City, actually. My understanding is that the seeking views and information portion of that has been extended to December 4, which is obviously later on this week, at which point I would anticipate that the YESA board would make a recommendation to the decision bodies on whether the project can proceed without mitigation, proceed with mitigation, or not proceed.

I think it would be premature to — I don't want to pre-judge the outcome of the YESAA process and what the various decision bodies would do with respect to what the member opposite is talking about, or any of the aspects of the Northern Cross application. I would anticipate that if there are issues that need to be dealt with that the YESA board doesn't deal with, they would be captured by the various decision bodies or regulators in the granting of the permits.

Mr. Tredger: I guess, when I hear that we have a robust regulatory system, I would think that it would address the regulations around that in determining the lining of a pit, the disposal of fluids and the disposal of waste. There should be regulations. I hope that we have those regulations developed and we aren't depending on an arm's-length assessing board to develop those regulations for us.

My question for the minister is: Do we have any regulations in effect now — like Alberta, like B.C. in their regulatory regimes — around the storage and disposal of drilling muds? I know that there has been concern expressed. There are some elevated levels of radioactive materials, especially around shale plays, which would be happening in that area. I would think that there are regulations that would guide YESAA in their decision-making process that would say, "No, that is not allowed here," or, "Yes, it's a go."

To me, that is a pretty critical area, especially considering what happened in the Northwest Territories with building these pits on permafrost. I know that a number of jurisdictions in the south started with unlined pits. The pits eventually, in some cases, leaked and they introduced regulations that ensured that there was an impermeable liner.

If the minister isn't aware of the regulations, can he point me to where the oil and gas regulations would be that would address that?

Hon. Mr. Kent: I will read part of the written response that I prepared for the member opposite. Again, I will be forwarding this to him in the near future. I will also provide a copy to the Member for Klondike, as has been past practice.

Now this was a question that was asked by the member on November 13: What training has been provided for Compliance Monitoring and Inspections branch around fossil fuel extraction? What other jurisdictions have we looked at, so we can analyze the successes and the failures and the problems encountered? What research has been done to apply that to the unique area that is the Yukon?

I'll answer that question, then there's another one I think I'll answer as well that he asked on November 13 that will hopefully address what he's asking today.

Our legislation and regulations have been built entirely from Canadian jurisdictions. When the act and first regulations came into effect, the majority were based on Canada's legislation and the regulations associated with the *Canada Oil and Gas Operations Act* and the *Canada Petroleum Resources Act*. Since then, we have improved our regulations from the good work done by Alberta, British Columbia and the Maritime provinces. Some of these jurisdictions have been willing to share policy documents as well, so we gain a better understanding of the policy intent prior to drafting legal provisions.

We have carefully avoided oil and gas law from the United States, as their land ownership regime, with much privately held land and rights in some cases, does not allow for protection of people, property or the environment in a uniform manner across the jurisdiction. We regularly review extensive and respected scientific research, such as the Council of Canadian Academies' report on the environmental impacts of shale gas extraction in Canada. Our officials regularly attend conferences that discuss new policy, law and technical improvements in a rapidly changing industry. There are also many examples of technology used in the circumpolar world that are a better fit for Yukon and its environment, touching on collaborative research we are embarking on with two respected Canadian scientists about permafrost in a response that occurs a little bit later on in this document.

I know in an earlier question, the member touched a little bit on the Pointed Mountain pipeline and what testing has been done, so perhaps I'll just read into the record what has happened with that project. Again, I will be providing the entire document to members opposite.

The National Energy Board is mandated to regulate transboundary pipelines. The Pointed Mountain pipeline, operated by Spectra Energy, was originally constructed in

1972 to transport gas from N.W.T. to British Columbia, through the Yukon. In 1979, a tie-in was provided when the Kotaneelee gas plant was constructed nearby. Since 2008, the section of the pipeline north of the Kotaneelee gas plant has been deactivated. The NEB has advised Oil and Gas Resources branch officials that, over its lifetime, there was one incident on this pipeline in 1996. This was a small gas leak due to a failed valve, which was immediately replaced.

The NEB continues to regulate this pipeline, which includes reviews of operation and maintenance procedures, as well as inspections and auditing requirements. Yukon government maintains a close relationship with the NEB, and there is regular communication between officials. We have contacted the NEB to assist in answering this question raised by the member opposite on November 13. They intend to provide additional information very soon, which will be forwarded when I receive it.

Pursuant to the *Oil and Gas Act*, the input and output of the Kotaneelee gas plant and wells has been metered to determine the quantity of gas produced, flared, used or exported to British Columbia. In addition, the gas received in Fort Nelson is metered to determine the quantity of sales gas available for market.

This provides an historical calculation indicating that approximately one to two percent of the gas received at the Kotaneelee gas plant is lost through equipment and piping. Since 2012, gas production at Kotaneelee has ceased, as members know, as the wells have been shut in. If production begins again, an increase in emissions is reasonable to expect; however, this will be minimized and mitigated through regulation of the gas plant and facilities under the *Oil and Gas Act* and the newly enacted gas processing plant regulations.

These require proponents to provide an environmental protection plan that identifies all streams and emissions pathways and remain within prescribed limits, such as those within the *Environment Act* and air emissions regulations.

Yukon and NEB regulators collaborate on inspections at Kotaneelee, as some regulatory responsibilities fall to Yukon regulators and others fall to NEB regulators. The licensee is required to report on hydrogen sulphide in the gas stream, sulphur in the gas and emergency flares, and sulphur dioxide.

The chief operating officer is developing best practices for flaring, venting and fugitive emissions. New instrumentation and technologies are at the forefront of the oil and gas industry's effort to reduce leaks, and new infrared cameras are able to pinpoint leaking locations with greater accuracy. These instruments, used in combination with metering devices, help to identify the location of the leak and the quantity emitted so that action can be taken to remedy the leak.

Leakage or waste is in contravention of the *Oil and Gas Act*, intentioned to maximize recovery and resource utilization. Furthermore, emissions are not in the interest of a producer, as lost methane is lost revenue. With respect to reduced greenhouse gas emissions, Yukon government uses Environment Canada's *National Inventory Report* data to understand Yukon's overall greenhouse gas emissions profile.

Environment Canada reports that Yukon's 2012 greenhouse gas emissions were 370 kilotonnes. This represents a 3.4-percent decrease from the previous year. It is impossible to determine if this drop is directly attributable to the shutdown of Kotaneelee in 2012. In late 2011, both the Mayo B powerhouse and the Aishihik hydro facilities came on-line, adding a total of 17 megawatts of additional capacity and displacing diesel use during times of peak electrical demand. The 2012 dip in emissions could be attributed to an assortment of activities, possibly including the addition of these two new turbines as well.

This is a seven-page document that I will provide to members opposite once I have had the opportunity to review it myself. It is hot off the presses from the department today, so I am going to take a quick look through it, and then I will provide it to members opposite, prior to the end of this week. Hopefully, if there are other questions, they can raise those later on or by way of letter to me, and I can address any additional questions.

When it comes to the YESA board, I think they use a variety of different documents and reports to determine what their recommended mitigations are or how they believe projects should be mitigated for adverse social or environmental or economic effects. With respect to what exactly they are using in review of the Northern Cross Yukon project, I am not sure exactly what they are using. There is regular dialogue between decision bodies and YESAB in trying to ensure that the assessment — regardless of what type of project it is or what project it is — that the assessment will meet the requirements of what the regulator is looking for, but not step into the bounds of what the regulator does — whether it is the oil and gas regulator, in this case, or the Water Board or mining land use, or whoever that regulator and decision body is.

Again, I am not entirely sure what they are using now, but if there is an opportunity to point the member in the proper direction to see what they are using to determine whether or not these effects can be mitigated that he has identified, I will commit to look into that for him.

Mr. Tredger: I guess one would look for the regulations to give guidance to YESAB and, in lacking regulations, then they have to develop them for each project, so lengthening the process. I am sure the minister is interested in meeting timelines and providing certainty to both the proponent and to the public.

I will save my other questions on oil and gas for a later time, once I have seen the document that the minister is speaking to.

My final question on oil and gas is around security for well sites. I know that, in Alberta, producers have a common fund where it is put in. There is a tremendous liability because, over the years, there have been thousands of what they call "orphan wells" — wells that are abandoned. We have just seen an example of one of those in the Old Crow area, and congratulations to Energy, Mines and Resources and those who were involved in catching that and spending, I guess, upward of \$1 million on repair of that single well. Now

that we are starting to develop more wells, that one was paid for by Canada because it was done under Canada's watch.

What does the minister have in place for security? How can we ensure that security lasts over a long period of time? Many of these wells won't begin to deteriorate or leak — maybe for one or two or three decades — and those remain liabilities and would remain liabilities for Yukon people. How does the minister intend to address the security issue around wells in the Yukon and ensure that future generations of Yukoners aren't on the hook, as it were, for potential liabilities — leaking wells, as they deteriorate? I know that the hope of the industry is that they will last a long time, but the fact is that, over time, wells start to leak and they start to deteriorate. There is a liability there. If the minister could explain how we intend to address that, I would appreciate it.

Hon. Mr. Kent: Just before I respond directly to that question, I too would like to congratulate not only the staff at Energy, Mines and Resources' Oil and Gas branch, but also the partnership we had with the Vuntut Gwitchin government and the cooperation of former Chief Linklater working with me, and his officials working with my officials, to ensure that that work was done. Actually, final invoices are not in, but for the 2014-15 year, the estimates were \$1.1 million — but it looks like the actual cost will be a little bit closer to \$800,000 — again, good work of officials and those involved to bring that project in, actually, under what we had estimated for costs.

Security for well sites was a question that the member opposite raised, and it is included in the brief that I will provide to members opposite, but it is a fairly quick answer, so I will just read it into the record.

At the time the member asked: What kind of security is there, and how do you intend to ensure that, in five, 10, 15, or 50 years from now, the company responsible for these wells is able to ensure that any spills and any discrepancies will be covered by the company and not be a burden for Yukon people? So it's a very similar question to the one he just asked.

In response to that, the *Oil and Gas Act* requires a well licensee to provide deposits intended to cover the future costs of abandonment for a well. Yukon has 12 suspended wells — or wells that have yet to be abandoned — and has retained over \$1.4 million in deposits. Yukon recently reviewed deposit amounts for the Kotaneelee gas fields in accordance with section 90(3) of the *Oil and Gas Act*. This section of the act requires that we review deposits every five years to ensure that appropriate security is in place to fully abandon a well.

Yukon and EFLO Energy Inc. are in agreement for the deposit amount required and are currently working on the form of security that will result in receipt of an additional \$1.62 million from the licensee. This policy is enshrined in regulation and ensures that Yukon people are not burdened by costs of closure for a bankrupt or non-compliant company to abandon a well to Yukon's regulatory standards.

Mr. Tredger: I thank the minister for that answer. I guess my one question there is — he mentioned that there were 12 wells in suspension and we have collected \$1.2

million in security, yet we just heard about one well that cost \$800,000. There may be a bit of a discrepancy in the value there and I would ask that the minister examine that closely, because — as we know — those companies working in the Yukon tend to be junior companies, and they come in and go out of favour. I think it is critical that we develop a method of determining amounts — \$100,000 might have been enough 10 years ago; it might not be enough 10 years from now. Having said that, I am sure the minister is looking at that and will follow up with his department on that.

I would like to move on to agriculture and talk a little bit about agriculture and the agricultural community. I would begin by congratulating the Agriculture branch for the work that they are doing, both with the consumers and the producers of food in the Yukon.

As the minister is well aware, the Growing Forward program has been a great success, and a lot of that is driven by the competence and the enthusiasm of members of the Agriculture branch. I congratulate them for that and for working with the producers. As I have mentioned several times, there is an excitement around agriculture in the Yukon. At one point, the agricultural industry in the Yukon — particularly in Mayo, Dawson and along the Stewart and Yukon Rivers and those areas — fed most of the mines and did it quite successfully. It is kind of neat to see it coming back — the farmers' markets, the producers working hard. The Yukon Agricultural Association and the Growers of Organic Food Yukon have been working very closely with the Agriculture branch. I congratulate them all for doing that.

There are a number of projects in the works or that we've been talking about. I would ask the minister if he has an update on the land development on the Mayo Road. There has been talk of a permanent abattoir there. I know we've gone to a temporary or a mobile abattoir. There's talk, especially for people further away from Whitehorse, to be able to bring their livestock into the abattoir, have it processed on-site and perhaps even including a distribution centre for that, as well as food storage for root vegetables, so we can ensure food security over a longer period of time.

Both the minister and myself and the Member for Klondike have talked about the just-in-time delivery system that we're on and the critical nature of people in the Yukon depending on a food supply that is a long way from source. I know a lot of people have hopes and have had input into the Yukon Agricultural Association's plans for this. I'm wondering if the minister can give us an update on where we are and when we can expect to see a facility developed that would serve some of these needs that I've mentioned.

Hon. Mr. Kent: I just quickly want to go back to well B-62, the one that was the result of the \$800,000 in work and give a little bit of history for members on that project. It's 65 kilometres west of Eagle Plains and was drilled by a predecessor of Imperial Oil in 1965. It was turned over to Canada, and then filled with diesel fuel for a Government of Canada-led geothermal study in 1970.

The well was abandoned with diesel fuel left in the wellbore. During a routine inspection of the well in 2010, Oil

and Gas Resources branch officials became concerned about the possibility of leakage. A thorough assessment of the well in early July 2013 amplified concern about possible leakage, and officials commenced immediate plans to mitigate this. By early August of 2013, YG had removed approximately 15,000 litres of diesel from the wellbore to prevent the possibility of leakage into the surrounding environment.

That's just a brief snapshot of a little bit of the history of what happened at B-62 that perhaps led to the increased cost. As I mentioned, we will be conducting reviews of the other wells that are currently in existence and any new wells that are existing to ensure that we have the proper amount of security in place.

When it comes to agriculture, we've discussed during a couple of motions — I believe one put forward by a government private member, the other by an opposition private member — various aspects of local food policy and what we're doing. The Agricultural Association, as the member referenced, is doing a study with respect to some lands on the Mayo Road. It's a very timely question by the member opposite. A report arrived on my desk this morning, and I haven't had the opportunity to review it yet, obviously, but I should be in a better position to provide some further details on that either later on in this sitting or perhaps even into the Spring Sitting when we are back again. I look forward to getting some more information in this House, but obviously, if there are things to report when we are not sitting, I can do that as well.

Again with the local food policy — we are committed to the promotion of local food production and consumption. It leads to the provision of fresher and higher quality food that uses less packaging, conserves energy, supports local farmers, builds community and economic diversity, and creates durable farms and farm-supported businesses.

An analysis of the agriculture industry shows that production and consumption of local food in Yukon could be improved. I believe that it wasn't at this year's North of 60 Agriculture Conference but was at last year's North of 60 Agriculture Conference where the market share for local producers is, I believe, at one percent of the total amount consumed by Yukoners as far as agriculture and food go. Obviously there is lots of room for improvement there. What we want to do is — as I mentioned, I think, on the 13th of this month — embark on a local food strategy that will help to augment our existing policy and program tools, including the agriculture policy, the multi-year development plan and the Growing Forward 2 program.

As I think I mentioned — it may have actually been in Question Period — there are 19 potential initiatives that would lead toward our objectives. Most of the initiatives are expected to be inexpensive and will provide significant potential for progress. I look forward to that local food strategy coming forward. In the second motion that came forward in April 2014, it urged the government to investigate the merits of introducing a local food act modelled on legislation passed in Ontario in 2013. Several jurisdictions have made efforts to establish policy or programs to

encourage local food production and consumption, and, as mentioned, Ontario established the *Local Food Act*.

The local food strategy, we believe — in discussions that officials have had at their level with officials in Ontario — will relate directly to what we want to accomplish. It would provide the support required for the introduction of policies and procedures, including a vision for local food production and consumption and principles to guide decisions. It will outline goals, direction and actions for increasing production and consumption of local foods, and articulate specific commitments by the Yukon government. It will also identify policies or programs that might play a role in guiding other government, industry, business and individual decisions about local food.

Of course, the Agriculture branch will continue to work with the interdepartmental food security working group and the Agriculture Industry Advisory Committee, which includes Growers of Organic Food Yukon, Fireweed Community Market, the Yukon Agricultural Association, young farmers and the game growers, to develop the concepts to enable the industry to expand.

I think, Madam Chair, that we have an exciting opportunity in front of us when it comes to agriculture and increasing the amount of local production and local consumption of food. There are a number of exciting projects, I think, that are coming forward. I think that with the development of this local food strategy, we will be in much better shape to ensure that we increase that one percent to a more reasonable number of where we can be with respect to local food consumption by Yukoners.

Mr. Tredger: I may have missed a couple of lines here and I apologize if this is a repeat, but has the minister had any discussions with his colleagues about Yukon institutions buying locally grown food from local producers and, if so, when can local producers expect to have that market?

Hon. Mr. Kent: I haven't had the opportunity to discuss it with colleagues, but I have had the opportunity to have that discussion with officials. We would like to see that institutional procurement piece, whether it's health care facilities or correctional facilities, or even schools — those that have the opportunity to buy local where they can. In those discussions — and if that's not included in the local food strategy, it will be included in the draft before it goes out for public consideration and industry consideration. I think there's a real opportunity there to ensure that, beyond the annual fundraisers that many of the schools do, those institutions are also able to source local products and provide those opportunities there.

How that's going to take shape hasn't been determined yet, but again, I've had those discussions with officials earlier this summer and I look forward to including that aspect in this local food strategy, when it comes forward.

Mr. Tredger: I thank the minister for that. Genetically modified organisms — this has been a topic of conversation for many years in the Yukon. I know previous ministers have said they are looking into it and have looked at coming up with a solution. I know the current minister has had

some preliminary discussions but, as we discuss and talk, I believe the last minister said he was trying to achieve consensus on the topic. I'm not sure what the end result was of that. Can the minister again give us an update on where we are with that — whether he is still in discussions or whether we can expect something around that in the near future?

Hon. Mr. Kent: I thank the member opposite for the question and giving me an opportunity to update the House on where we are at with this particular issue.

In my discussions with department officials, it's really the genetically modified alfalfa that is causing the greatest amount of concern right now. GMA seeds are approved, but have not been released in Canada, so I think that's an important thing to establish right off the top. As mentioned, the genetically modified alfalfa seeds are approved for use in Canada, but they have not been released in Canada.

The Yukon has been working proactively with the agricultural industry through the Agriculture Industry Advisory Committee to explore regulating genetically modified organisms in Yukon through the area development zoning regulations. Proposed regulatory amendments will allow for development areas to regulate genetically modified use as a discretionary use, if farmers and citizens within that area decide that is what they want to do. The discretionary use provisions of zoning regulations are subject to an application and to community consultation that will allow general consideration of the proposal and local impacts.

The Agriculture and Land Planning branches are currently working on a consultation strategy for implementing this discretionary use revision for all development areas that have an agriculture zone. That hasn't been finalized — what that consultation will look like. But again, I should congratulate the previous Minister of Energy, Mines and Resources, as this is a solution that I inherited from him when I assumed the role of Minister of Energy, Mines and Resources and attended my first Agriculture Industry Advisory Committee meeting. I can certainly attest that there are strong feelings on either side of this issue.

I am hopeful that we found a solution moving forward that will allow that decision-making process to occur at the local level, as best we can. That is the update that I can provide for the House with respect to GMOs and GMA.

Mr. Tredger: It is good to see the minister giving credit to his previous minister and acknowledging the succession there.

When can we expect this to come into effect?

Hon. Mr. Kent: I am not in a position right now to attach a timeline to it, other than to repeat that Agriculture and Land Planning are currently working on the strategy for implementing this discretionary use revision for all of those development areas that have an agriculture zone located in them.

Mr. Tredger: Will the minister assure Yukon producers and consumers that there then will be no genetically modified organisms introduced in the Yukon until such a decision is made?

Hon. Mr. Kent: That is what we are trying to accomplish, working with the local areas and local residents to ensure that we are able to develop that consultation strategy for implementing this use. It is unlikely that this genetically modified seed release will have an effect on Yukon farms. We grow only small acreages of alfalfa and the genetically modified varieties are unlikely to be suitable for our production system in the Yukon. Again, as I mentioned, the seeds have not been released in Canada, so there is no imminent issue with respect to this being used. We are going to implement this discretionary use revision prior to any of that being introduced here in the territory.

Mr. Tredger: So I would assume then that the minister can assure the public that there will be no genetically modified organisms until this process is complete?

Hon. Mr. Kent: Yes.

Mr. Tredger: I thank him for that.

In the Yukon, we are limited by topography and social conditions where we can grow food. In the past, many agricultural leases were awarded, some successfully and some not so successfully.

Can the minister tell us how much agricultural land and leased land is in production — is actually growing or producing a product? Is there any plan to conduct an audit of agricultural land to ensure that land designated for agricultural purposes and obtained under these auspices is indeed under production?

Hon. Mr. Kent: I can provide a summary of land sales from 1982 to August 31, 2014. Sold and titled lands equal 13,657 hectares or 33,734 acres. There are currently 50 agreements for sale for agricultural land. Land sales are predominantly in the Whitehorse area, with over 70 percent of agricultural lands within 60 kilometres of the City of Whitehorse.

Since 2002, approximately 90 spot agricultural applications have been approved. Work on direct spot land application areas is taking place with the cooperation of a number of First Nations, including Na Cho Nyäk Dun and Selkirk First Nation in their traditional territories, to meet anticipated future demand.

When it comes to other initiatives that are currently underway regarding land availability, two phases of planned land sales for the Haines Junction agriculture subdivision are complete. Access road construction for phase 3 is underway.

Public consultation on planned agriculture lots is underway on lands designated for agriculture in the Sunnydale/West Dawson local area plan. I spoke to the Member for Klondike about this some time ago, and I believe the meeting has been pushed off. It is just waiting for the river ice to firm up — December 6, the Member for Klondike informs me. We are looking forward to that public consultation being completed.

There is one lot in inventory at Upper Liard in the Member for Watson Lake's riding. It will be made available as demand occurs.

In the Whitehorse area, public consultation is complete, and a final concept has been developed for a number of

parcels on the north Alaska Highway. There are two small soil-based lots at Takhini crossing that will be made available once the environmental assessment is completed. Public consultation is complete on one non-soil-based lot on Gentian Lane and up to 10 more non-soil-based lots are being developed in the Hamlet of Mount Lorne. There are a number of other initiatives going on throughout the territory, and members will know of the recent launch of public consultation on the McGowan lands in the riding of the Member for Mount Lorne-Southern Lakes's riding, with some possible overlap with that of the Member for Copperbelt South.

I apologize if I have mixed up the boundaries, but that work is underway. Obviously we just had initial public meetings on that and are evaluating public feedback before we decide on a path forward.

Just with respect to the member's question on auditing and reviewing what has been done to ensure that these agriculture properties are actually being used for agriculture, I don't have any information on anything that is currently underway, but if there is an opportunity to do something like that, I would certainly entertain listening to officials and getting a sense for how we could achieve that and what would be the best way to go forward on that.

Mr. Tredger: I thank the minister for that. I would like to move on while we still have some time so I can turn it over to the Member for Klondike, if possible. I have a few questions around mining for the minister.

I noticed in the mains that \$70,000 has been allocated to the successor resource legislation working group with various First Nations. I know that, after a lot of the stuff around successor legislation and concerns expressed by First Nations last spring, I am wondering — that \$70,000. What has been accomplished? Is there a report? Can the minister update us as to the state of negotiations between the various First Nations and his department?

Hon. Mr. Kent: With respect to successor resource legislation — I know that members, when we discussed this in previous sittings of the Legislative Assembly — the piece of legislation that has been completed is the forestry act. It took some time to complete it — a number of years. I don't have the exact number, but I think it was six or seven years, potentially, to complete that work on the *Forest Resources Act*. The next act that was agreed to by the parties at the table was to do with the *Lands Act*. I think that is the additional work that needed to be completed.

That said, there is quite a bit of work that is going on with respect to the mining legislation. There have been a number of amendments to the *Quartz Mining Act* and *Placer Mining Act*. Who, of course, could forget Bill No. 66, which was introduced in this Legislature last fall and went through passage of this House? That was, of course, with respect to class 1 notification — so notification for individuals who are conducting class 1 work. At that time — this gives me an opportunity to provide an update for the House — we implemented that in the Ross River area, which was, of course, part of the Yukon Court of Appeal decision that this class 1 notification did have to apply in the Ross River area.

On May 2 of this year — I believe that was the date — the Premier, the Minister of Environment and of Economic Development and I met with First Nation leaders and four industry leaders from placer miners, prospectors, the Minerals Advisory Board and the Chamber of Mines. They were all in attendance and talked about a path forward on class 1 notification with the eventual idea of introducing it territory-wide for the 2015 field season.

From that May 2 meeting, there was a Yukon Forum convened, which was held at the end of May. At that meeting, it was decided that two First Nation chiefs and I would form a steering committee — I guess, for lack of a better title — to guide the work on class 1 notification and the big issue which is with respect to the type of thresholds that would be applied — what would constitute class 1— what type of activity.

There is the steering committee — myself and two chiefs. We'll put together a working group that has industry, First Nation technical advisors and Yukon government technical advisors and then a broader discussion with a bigger group of industry and public stakeholders. I think it's important because it shows the cooperation that the Yukon government and First Nations and industry are undertaking to ensure that we continue to have a viable industry — that First Nations' rights are respected and protected and that if there is an activity that does have negative impacts or adverse effects on the environment or First Nations' rights in a specific area — we can address those in a way that will allow the industry to continue to function as it has for the past number of years — the past 100 years or over 100 years here in the territory.

We are looking to bring in class 1 notification — if we can accomplish the workplan that we have set out — for the 2015 exploration season. I'm hopeful that that work can be done, but we do have processes to make changes, obviously, with the public consultation — public engagement that we have to adhere to as well. The target is for the 2015 exploration season — that that class 1 notification be expanded across the territory.

I should also say that on July 1 of last year, coming out of the Yukon Forum that we had, we agreed to expand that class 1 notification beyond the Ross River area to some areas in the Peel watershed that required that designation; as well as the Liard First Nation traditional territory; the asserted traditional territory of the Taku River Tlingit First Nation, which is a sliver in south central Yukon that comes up from Atlin; as well as the overlap area between White River and the Kluane First Nation — I believe that's the correct terminology. It's spelled out in agreements — and category B lands. Category A lands — it already exists, but category B lands are also included.

We have taken that step in July of this year and we're looking to take a further step for the next exploration season and bring this in territory-wide with some revised thresholds that will mean that will allow the industry to continue to do what they need to do without having a detrimental effect on First Nations.

Mr. Tredger: Lands in Ross River have been withdrawn from staking. Did that also apply to the other areas that you mentioned that were affected?

Hon. Mr. Kent: No, Madam Chair. That is a different declaration. There were two declarations that came out of the Court of Appeal. One was with respect to class 1 notification; the second one is what led to that staking ban in the Ross River area. Energy, Mines and Resources, through amendments to the quartz and placer mining acts, addressed the class 1 notification — we have given ourselves the ability to do that notification. The other declaration is being led by the Executive Council Office. I believe I mentioned earlier, in a question during Question Period from the Member for Klondike, that is due to come off on January 31, 2015. There have been some extensions while we work with the Ross River Dena Council, but again, I think perhaps the Premier — in his capacity as Minister of Executive Council Office — would be in a better position to answer specifics on that file, once his department comes up, or during Question Period, or other opportunities.

Mr. Tredger: I thank the minister for that answer.

We have in the Yukon a history of complex mining claims, overlapping claims and Crown grants. Recently we have encountered a number of problems with staking having occurred within municipal boundaries and precedents that had been set. I am thinking of the Dome Road, which necessitated a bailout by this government. I am wondering: Has the minister had conversations with municipalities, and can we look forward to some clarity and some certainty around staking within municipalities and the numerous existing overlapping claims that currently hang over the head in many of our municipalities?

Hon. Mr. Kent: Yukon government works with municipal governments to clarify and resolve mineral claim and exploration activities on claims that are in existence within the municipal boundaries. It is important to note that the *Placer Mining Act* prohibits staking of placer claims within municipal boundaries. Other than Whitehorse and Dawson, the other six municipalities have few — if any — active claims located within their city limits.

By way of update, in 2012, there was a prohibition order on quartz claim staking for 74 percent of the lands within the City of Whitehorse. The prohibition order is in place for five years. It provides clarity and certainty to the public, land administrators and industry on where new claims can be staked within the city boundaries.

Of course, members know that the City of Whitehorse has fairly extensive municipal boundaries, much of them up beyond the old haul road and the traditional and historical Whitehorse Copper, Kopper King, Pueblo mine and all the other mines that are up in that Fish Lake area.

I believe that most of the areas that are within municipal boundaries that are available for staking are up in that area of west Whitehorse, west of the Alaska Highway and up into the haul road and that area.

What this prohibition order reflects is the City of Whitehorse's land use vision and the priorities identified in

the OCP. The five-year timeline allows for Yukon government to review the order in conjunction with City of Whitehorse updates to the OCP, and it does not affect the rights of existing claimholders within the City of Whitehorse.

I think that most individuals who have been around the Yukon for some time remember the days when Whitehorse Copper was operating. I think it operated up until the early 1980s, and we did have an active mine right within the municipal boundaries of the city and a number of claimholders. There are existing claimholders, and I think that it's important — whether they are in Whitehorse or some of the traditional placer claims and other claims that are within the municipal boundaries of Dawson City — that we respect the rights of those individuals who, at a different time when priorities were different and when thoughts were different, staked under the rules of the day. Those claims, I think, should be respected — and they are being respected by not affecting the rights of existing claimholders.

With respect to Dawson City, I did receive a letter recently from the Mayor of Dawson with respect to a prohibition order on quartz staking in the city. We are open to those discussions. They haven't occurred as of yet. There are currently 231 active placer claims within the boundaries of Dawson, of which 116 have mining land use permits in place on seven operations. These grandfathered mineral rights will remain until the claimholder lets the claim expire or lapse. No new placer claims can be staked, and I think that is an important thing for us to consider as well.

Officials in Energy, Mines and Resources and the City of Dawson continue to work through issues related to mining lands approvals and city zoning. I know that I have had a very positive working relationship with the municipality of Dawson and their current mayor in my capacity as Energy, Mines and Resources minister, and I look forward to continuing those discussions and the dialogue and addressing the issue with respect to quartz mining claim staking occurring within his municipal boundaries that works for both parties involved.

Mr. Tredger: I have just a couple of quick questions around the Faro closure plan. What time frame are we looking at now before we get a finalized closure plan? I understand that there were elevated levels of zinc determined to be in the water table downstream from Rose Creek and in Rose Creek. Has the source of that contamination been identified? Is there a plan, if the aquifer does get contaminated, to clean it up? Is the site compliant with the Canadian Council of Ministers of Environment guidelines? When can we anticipate a new water treatment facility to be working? What is the plan to clean up the current contamination that was discovered over the last year? When will residents downstream be alerted? Is there a threshold where residents downstream, who live on the Pelly River, might be alerted to potential contamination?

Hon. Mr. Kent: Indeed that is a very complicated project that is underway at the Faro mine complex right now. The Member for Pelly-Nisutlin and I had the opportunity to travel with the new deputy minister and other officials to Faro

and have a day-long tour of what is taking place at the Faro mine complex.

The new water treatment plant — we toured it. It is operating — now it is in place and operating. I do not believe it has been — I will get into some details of it here as I go through the briefing notes. Perhaps that is a better way to do it.

Yukon government's project team is in year 1 of a four-year, \$180-million plan that includes the development of a long-term remediation solution, a series of interim capital works designed to address emerging risks to human health and safety and the environment and ongoing care and maintenance activities. Major works executed at the Faro mine complex offer opportunities to promote aboriginal and community participation through training, employment and business opportunities. Since 2004, the Yukon government has provided over \$7 million to affected Yukon First Nations to support their direct participation in the Faro mine remediation project.

Assessment and Abandoned Mines is undertaking \$50 million of work in fiscal year 2014-15, which includes significant improvements to workers' safety, a containment seepage interception and conveyance system to address deteriorating environmental conditions in the north fork of Rose Creek — and I'll speak to that a little bit more, because that's where the contamination is that the member opposite is talking about is — construction and commissioning of a new \$16-million water treatment plant, which was completed in September of 2014; increased ability to respond to operational upsets, including improvements to major pumping systems; an additional \$2.6 million in critical spares inventory; addition of reserve capacity; preparation for implementation of critical risk mitigation works in 2015-16; submission of a project proposal for environmental assessment and licensing for care and maintenance and construction activities; and implementation of training opportunities for affected Yukon First Nation beneficiaries and other Yukon individuals becoming involved in the project now and going forward.

Work is currently underway to review the current project governance and management approach to create the most optimal delivery mechanism to promote project success. The future role of affected Yukon First Nations is currently under direct discussion with Liard and Selkirk First Nations, as well as the RRDC. The RRDC, on behalf of the Kaska Nation, has entered into a project funding agreement with YG for the 2014-15 fiscal year, and YG is currently finalizing agreements with Canada for \$50 million of Faro project funding.

When it comes to the water quality issue, the Yukon government has been investigating elevated zinc levels in the north fork of Rose Creek at the Faro mine complex. Expert monitoring and analysis suggests the issue is related to a sudden and recent change in how water is draining through a waste rock pile. Yukon government is executing a project this fall designed to intercept this new source of contamination before it reaches the creek. Work is expected to have been completed, but I think there are some additional works that are underway right now, and I will provide in writing an update to

members opposite. I'll also provide to members opposite an update on how the communities and individuals are warned of any of this.

I know that, even from the source of contamination, it's not very far downstream before that contamination is sufficiently diluted so as not to cause an issue into the Pelly River or other things, but of course there are still issues for the fish that make it up that far in that north fork of Rose Creek. I'm not diminishing the seriousness of the issue but, again, it is sufficiently diluted before it gets down toward the Pelly River — that particular drainage that heads west from the mine complex. There's a significant distance between the mine complex and the Pelly River. The eastern drainage is a little bit shorter and it goes directly down through the town of Faro, but my understanding is there are no serious issues with water quality in that piece now.

Again, I'll get back to the member opposite with the protocols for informing people, but I look to provide that information to both parties opposite once it's made available.

Mr. Tredger: I thank the minister for that update.

I would just like to talk a little bit about Mount Nansen. Last spring, the minister said that an agreement had been reached between all of the parties and that a closure plan was imminent and it would be going forward. I raised concerns around the water treatment facility and when it would be operating. The water licence that was granted to the Mount Nansen facility, I believe, was on an emergency-only basis. This has been on for two or three years. I was wondering about where the state of the closure plan is on that. The minister said it was imminent but I haven't heard any announcements yet. The First Nations are certainly waiting for that.

The Canadian Minister of Environment standards in terms of water effluent from that, I believe, have been exceeded — certainly for arsenic. I'm wondering if the minister knows of any other chemicals that have released that exceed the standards and what measures have been taken, and how that information is distributed. When can we expect a closure plan?

Hon. Mr. Kent: With respect to Mount Nansen, the final remediation solution is currently in the engineering-design phase. The Yukon government signed a funding agreement with the Government of Canada for \$3.6 million for the current year. Mount Nansen is designated as a type 2 site under the DTA, which means that the federal government is responsible for the funding of the project but it is managed through the Assessment and Abandoned Mines branch. We lead the efforts to address environmental issues at the site. This includes managing ongoing site operations, care and maintenance, and developing and implementing a remediation plan.

Denison Environmental Services is the successful bidder of a public tender process. They are responsible for site operations until March 31, 2015. The Assessment and Abandoned Mines branch is currently preparing a site operations tender package for release to the public. It should have been released as of now. This briefing note is from

October. It was scheduled for release in October 2014. I do recall seeing it on the tender management system of the Government of Yukon.

The Assessment and Abandoned Mines branch completed 30-percent design for the Mount Nansen remediation project. It is currently undergoing a cost-refinement review. Once complete, and upon Government of Canada's approval, we will begin work on the 60-percent design. The Government of Canada through the *Federal Contaminated Sites Action Plan* provides 100-percent funding for site operations and development of a remediation plan, so their approval is required. We have not achieved that yet, but once we do, I will be able to inform the House that we're moving forward with the YESAB submission and the final remediation plan.

Pardon me, Madam Chair — just with respect to the effluent discharge and the questions asked by the member opposite, I will have to get back to him. I'm not 100-percent sure. I don't have that information in the notes that I have with me here today.

Mr. Tredger: Thanks to the minister for that answer. Casino mine is proposing a large copper-silver-gold-molybdenum project located roughly due west of Pelly Crossing. Casino's dam enclosure is approximately 10 times what Mount Polley had and much longer — about seven kilometres. It would be 286 metres high, which would make it one of the largest facilities in the world.

My question for the minister is: After the Mount Polley disaster, has the minister directed his officials to conduct a detailed assessment of Mount Polley? What regulatory failures were there? What assurances can he give the public that it won't happen here? Are there other methods to conducting such a large-scale mine rather than keeping it behind the facilities in a tailings pond? Is it possible to re-bury the waste? What lessons has his department and have we learned from Mount Polley? How would the minister determine security when we have a facility that is expected to last forever?

Hon. Mr. Kent: Of course the Yukon government shares the concerns of all affected by the unfortunate tailings pond breach at Mount Polley mine in British Columbia. I know that the British Columbia government is obviously taking that very seriously. Once we know all of the facts about what caused that situation, I am sure that mining regulators in the Yukon and across Canada can learn about how to improve and better monitor tailings storage.

There are a number of required methods in place to ensure safe construction and operation of tailings facilities within the territory. There are regular inspections by Compliance Monitoring and Inspections. There are different types of tailings that exist within the territory as well — Minto and Bellekeno, for instance, have dry stack tailings as part of their operations. The one tailings impoundment that is causing some concern right now is the one at Ketza. As mentioned earlier this sitting in Question Period, Compliance Monitoring and Inspections has initiated enforcement on that and are working to ensure that that tailings facility is not in danger of any overtopping at the spring runoff.

Madam Chair, I know that we will be back up in Energy, Mines and Resources — I am hoping we are back up in Energy, Mines and Resources — before the conclusion of this current sitting.

Seeing the time, Madam Chair, I move that you report progress.

Chair: It has been moved by Mr. Kent that the Chair report progress on Bill No. 15, entitled *Second Appropriation Act, 2014-15*.

Motion agreed to

Hon. Mr. Cathers: I move that the Speaker do now resume the Chair.

Motion agreed to

Chair: It has been moved by Mr. Cathers 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

Ms. McLeod: Mr. Speaker, Committee of the Whole has considered Bill No. 15, entitled *Second Appropriation Act, 2014-15*, and directed me to report progress.

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

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

Hon. Mr. Cathers: Seeing the time, 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 5:27 p.m.

Written notice was given of the following motion on December 1, 2014:

Motion No. 812

Re condemning the Yukon government's request to include certain amendments to YESAA in Bill S-6 that were opposed by Yukon First Nations (Tredger)