

**Whitehorse, Yukon**  
**Tuesday, April 8, 2008 — 1:00 p.m.**

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

*Prayers*

## DAILY ROUTINE

**Speaker:** We will now proceed with the Order Paper. Are there any tributes?  
 Introduction of visitors.

## INTRODUCTION OF VISITORS

**Hon. Mr. Rouble:** Mr. Speaker I would like to ask all members of the Assembly to join me in welcoming Ms. McCulloch and the grade 4/5 class from Takhini Elementary School to our Assembly today.

Welcome.  
*Applause*

**Mr. Nordick:** I would also like to have all members of the Assembly welcome His Worship Mayor Steins from the City of Dawson and Paul Moore the CAO of the City of Dawson.

Welcome.  
*Applause*

**Mr. Mitchell:** I would also like to ask all members of the Assembly to join me today in welcoming Chief Ruth Massie of the Ta'an Kwach'an Council and Corrine McKay, legal counsel to four First Nations.

*Applause*

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

Returns or documents for tabling.

## TABLING RETURNS AND DOCUMENTS

**Hon. Mr. Fentie:** I have for tabling a report from the Conflict of Interest Commissioner, Mr. David Jones, dated April 8, 2008.

**Speaker:** Are there any further documents for tabling?  
 Reports of committees.  
 Are there any petitions?  
 Are there any bills to be introduced?  
 Are there any notices of motion?

## NOTICES OF MOTION

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

THAT this House urges the Government of Yukon to continue to:

(1) increase the inventory of affordable housing for seniors and elders in the territory by exploring options in communities such as Teslin, Watson Lake and Dawson City to establish seniors facilities similar to the one in Haines Junction; and

(2) explore options for a variety of housing solutions that will enable elders and seniors with varying degrees of independence to continue living together as long as possible.

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

THAT this House urges the Standing Committee on Public Accounts to hold public hearings into the Yukon government's investments into asset-backed commercial paper and the Auditor General of Canada's report on these investments, or otherwise accept the resignations of the following members of the committee:

(1) the MLA for Copperbelt and chair of the committee, Arthur Mitchell; and

(2) the MLA for Porter Creek South, Don Inverarity.

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

THAT this House urges the Government of Yukon to make it a priority to consult with Yukon people about the need to review and modernize the *Mental Health Act* and mental health services across the territory.

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

THAT the Minister of Community Services immediately increase funding to the Mount Lorne Garbage Management Society by at least 50 percent, so that the society members can continue their valuable work of managing the area's waste which has achieved recycling rates that are almost double the national average.

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

THAT this House urges the chair of the Standing Committee on Appointments to Major Government Boards and Committees to fulfill the requirements of Standing Order No. 45(3.2), by ensuring that:

(1) all governments and organizations with the authority to nominate persons for appointments to any of the boards or committees referred to in Standing Order No. 45(3.2) are notified in a timely manner about existing or impending vacancies and are invited to submit nominations;

(2) public notification of existing or impending vacancies on such boards and committees as provided in an effective and timely manner;

(3) members of the standing committee receive full and accurate information regarding nominations that have been received with sufficient time to review all nominations thoroughly before meeting to make recommendations;

(4) members of the standing committee are advised whenever an unexpected vacancy arises in a major government board or committee or when an existing member of such a board or committee gives notice of their intention not to complete their term of appointment; and

(5) members of the standing committee are consulted whenever a vacancy or impending vacancy on a major government board or committee will result in that board or committee not having the necessary quorum to carry out its mandated duties.

**Speaker:** Are there any further notices of motion?  
Is there a ministerial statement?  
This then brings us to Question Period.

## QUESTION PERIOD

### Question re: *Child and Family Services Act*

**Mr. Mitchell:** The Premier was sent a letter yesterday from four First Nation chiefs requesting an invitation to appear before the Committee of the Whole when Bill No. 50, *Child and Family Services Act*, is being considered. The chiefs have identified concerns that they feel are relevant and material to the discussion and debate. They feel the presence of their respective First Nations merits the attention of the Committee.

My question: will the Premier extend the invitation to the identified First Nation leaders to appear?

**Hon. Mr. Fentie:** First, we will not be delving into the response to the correspondence on the floor of the Legislature; that's not a good practice and is something the government certainly will not do. Second, we're very pleased with the work to date, especially the contribution of First Nations as it relates to the work around the *Children's Act* and the new act that we have tabled here. It has been almost a five-year process, whereby we jointly chaired the process, vis-à-vis an agreement with CYFN. The government has resourced this process; the government has entered into policy forums, major consultations and is right to the point where we have jointly informed the drafting of the act before us today.

We're very pleased to have that partnership, very pleased that First Nations, along with public government, are the architects of a new child act for Yukon.

**Mr. Mitchell:** Committee of the Whole has had witnesses appearing as recently as yesterday and scheduled again for today. All honourable members have welcomed the input from the chair and the president of the Workers' Compensation Health and Safety Board.

Now, Bill No. 50, the *Child and Family Services Act* is far too important for us to not get it right. As the Hon. Premier knows, as many as 80 percent of the children who come under this act are of First Nation descent — these are the families who are most affected. Not to listen to the concerns that First Nation leaders have regarding this bill would be a travesty of major proportions. All they are asking is to be given an opportunity to be heard. That is all. It is in the interest of all Yukoners for this to be on the record.

Will the Premier support the chiefs' request to appear as witnesses before Committee of the Whole?

**Hon. Mr. Fentie:** I agree with the Leader of the Official Opposition on one point: it's very important. We all know that this particular area is extremely problematic and has been in the past. That's why we embarked on this exercise. We felt it was so important that we structured a partnership to ensure First Nations were informing the process every step of the way. We have had a tremendous amount of input from First Nations and Yukoners in the broader public, and we have a very good, updated modernized act before the House. We look forward to debating the act and moving on with implementing it so we improve our ability to deal with children in care.

**Mr. Mitchell:** So much for First Nation consultations. When we consult, we do so under the premise of good faith. We listen, we question, we seek clarification, and we should come away with a better understanding of the concerns. There is no point in consulting for years if, at the end of the day, none of the concerns raised are reflected in the final product.

In fact, it would have been far more honest to have been up front at the beginning and to have said there was no point in consulting because this government was not going to listen anyway.

This is a time for the Premier to demonstrate some true leadership and commit here on the floor of this House to have the witnesses appear and be heard. Will he do that?

**Hon. Mr. Fentie:** I would hope the Leader of the Official Opposition is not accusing someone on this side of the House of being dishonest. That said, we are very pleased with the input from First Nations over the last five years. It was critical to the development of the act as we have before the House today — an act that is as important to First Nations as it is to the public government. By the way, we went far beyond consultations. This is an act where we and First Nations jointly informed the drafting of the act. This is unprecedented in this territory.

### Question re: *Child and Family Services Act*

**Mr. Mitchell:** Let's try another minister. I have a question for the Minister of Health and Social Services. Bill No. 50, *Child and Family Services Act*, states in section 38(1): "If a director or peace officer has reasonable grounds to believe that a child is in need of protective intervention, the director or peace officer may apply to a judge for a warrant to authorize bringing the child into the care of the director."

Subsection (2) states: "The application for the warrant may be made without notice to any person."

If an official has time to apply to the court for a warrant, would they not have time to contact the First Nation involved? This smacks of the years gone by.

Will the minister explain why children can still be removed from a community, under warrant, without any consultation with that child's First Nation?

**Hon. Mr. Cathers:** The member is wrong in his assertion. The new act in fact reduces the unilateral power of the department. It provides for a more inclusive process. One of the themes that is threaded throughout the entire act is the involvement of First Nations in planning and decision making, in cooperative planning processes, in cooperative plans. Another new element of the bill is the emphasis on ensuring that, whenever possible and safe to do so, the child is not apprehended. If it is necessary to apprehend a child, family is considered first through that cooperative planning process.

The member is speaking to an emergency provision of the bill. If the member reads the legislation, he will see very clearly that this is not standard practice that he is reflecting in his question but only an emergency power in the most dire of circumstance for the safety and perhaps the life of that child.

**Mr. Mitchell:** Contrary to the minister's assertions, in Bill No. 50 there appears to be very little check on the discretionary power of the director.

The Premier has often said in reference to amendments to the *Child and Family Services Act* that we have to get it right. First Nation leaders don't think this minister has gotten it right, Mr. Speaker. If there are perceived concerns with giving prior notice, then that should be determined by the judge, not by the director. Will the minister explain why after years of consultations this bill does not reflect one of the most important outstanding issues addressed by First Nation leaders?

**Hon. Mr. Cathers:** The member is absolutely wrong. I'd encourage the member to pick up the act, do his job and read it. I would appreciate, and the public would be best served, if the member would reflect in his questions the facts. If the member compares the current child act to the newly tabled *Child and Family Services Act*, the member will see very clearly that this new legislation provides for more cooperative involvement, provides for the requirement to inform a First Nation of a child apprehension — this has been in policy — to require a First Nation, in fact, in all child matters where there is a safety issue. That is threaded throughout the bill.

The member is referring to a clause only to be exercised in the most dire of circumstances. It's similar to the emergency powers provided to a police officer to enter a home if they need to do so without going through their normal hoops and procedures that are put in place for protection. This is only to be exercised in the most dire of circumstances: the health, safety and perhaps the life of a child, if they are at imminent risk. That power is in place.

**Mr. Mitchell:** We are talking about the new act, and there are several omissions in discretionary power. The bill should clearly reduce the extent of the discretionary powers of the director and the social workers and render any remaining discretionary powers subject to the effective supervision and accountability.

Mr. Speaker, this minister did not get it right. There are so many First Nation children coming under the protection of the director, yet the child's First Nation is not involved in many key aspects. There is no supervision by a court of any other body of children who are in the care and custody of the director. The director has no obligation to report to an independent body regarding the administration of the act. There is no requirement for family conferences. It says "may", not "shall".

There is no independent review or complaints process. There is no child advocate office being established, only a promise for the future.

There is still time to get it right, Mr. Speaker. Will the minister assure this House and all Yukoners that the concerns of First Nations will be listened to and addressed by amendment?

**Hon. Mr. Cathers:** Mr. Speaker, has the member read the act? The member just made a number of assertions that do not reflect the fact of the legislation.

The legislation provides for far more cooperative involvement. It provides for the requirement to inform a child's First Nation. It provides for the involvement of the First Nation and the extended family in the cooperative planning process and in processes prior to and including a court process, if such is necessary.

The member just made a number of statements, Mr. Speaker, which are blatantly contrary to the facts. I would encourage the member to read the act. It appears he did not attend the briefing. It is very unfortunate, because the member is providing information to the public that has no reflection of fact. This legislation provides for far more involvement of the First Nation and the family than previous legislation; it provides historical recognition of custom adoptions, provides for a number of measures to ensure a far more inclusive planning process and reduces the unilateral power of the director of the family and children's services branch.

#### Question re: Mental health services

**Mr. Edzerza:** A few days ago yet another horror story about a hospital patient was in the news. When his frantic mother was finally able to get him into the hospital, she had to stay with him, because there was not enough staff to care for everyone. This teenage patient was obviously in distress. He had been violent to others and he threatened suicide. When his mother had to leave, he was able to discharge himself, wandering off in his hospital gown and slippers.

Earlier this winter, a man died in a snowbank after discharging himself from the hospital.

What has the minister done since the last crisis that will give proper security to patients and the public?

**Hon. Mr. Cathers:** The member needs to be aware that this is a civil liberties issue he is referring to. If the member or any member of this Assembly or any member of the public chooses to seek medical attention, unless they are, through due process and through the Capability and Consent Board, put in the care of the government and put into custody as someone who is a risk to themselves or others, they have the right to choose to refuse medical treatment. They have the right, against the advice of doctors, nurses and other staff, to leave the hospital or any other health care facility. That includes if an individual has sought attention for mental health challenges. They are not put into a situation where, as soon as they seek help, they have no choice to refuse treatment.

That's what the member's referring to. Mr. Speaker, this is a civil liberties issue, not a health issue. I am quite confident that the staff and health care professionals were ready, willing and able to assist that individual.

**Mr. Edzerza:** Obviously, something is wrong with this picture. Every day there may be four or five mental patients in Emergency, waiting for help. Mental patients are left to wander on their own, or are mixed in with other patients. There's only one psychiatric nurse in the hospital, although a second one will be starting soon.

Psychiatrists have always been in short supply, and there's only one secure room in the hospital for mental health patients. Mental patients are obviously not a priority for this government.

How many more disasters will this minister tolerate before he takes some action to properly respond to the needs of mental health patients and their families?

**Hon. Mr. Cathers:** Mr. Speaker, I appreciate the member's concern. I appreciate the fact that the member brings up a real issue, but it would be helpful in this debate if the

member toned down the political rhetoric so that we could have a more informed —

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

**Hon. Mr. Cathers:** Do I have the floor, Mr. Speaker?

— so that we could have a more informed and productive debate. Yes, there are challenges within the hospital. As I indicated previously to members, we have offered to the hospital to work with them in renovating the facility and working with them on possible changes to improve the security of patients and staff — particularly those with mental health issues. That planning is underway right now between the Hospital Corporation, the Department of Health and Social Services, and the Department of Finance in reviewing options around this area. The officials are doing their good work in this area.

I appreciate the member's concern. As I have mentioned before to the member in previous debate, we have acted significantly to increase the resources available to those with mental health challenges. The contracting of a second psychiatrist, the hiring of a mental health clinician for rural areas with a second one coming on this year, and the expansion of the telehealth network has facilitated increased access in communities for those individuals. We have hired a youth clinician in Whitehorse to assist those with mental health challenges.

Mr. Speaker, I believe that I'm out of time, but that is a list of a few of the steps that we've taken to assist those mental health challenges.

**Mr. Edzerza:** I remind the minister that my concerns are not paramount here, it is the mental health patients who are paramount. We have been told time and time again that there will be better services for mental health workers, more psychiatrists and more community supports. The minister promised that the Thomson Centre would include mental health and detox facilities but nothing has come of that to date. The hospital is doing the best it can with no support. Our *Mental Health Act* has not been reviewed for decades.

When is this minister going to start acting responsibly toward mental patients who need help, and take the steps that are in his power?

**Hon. Mr. Cathers:** The member is either suffering from a faulty memory or speaking notes that were constructed to create an inaccurate impression. The member knows very well, or ought to —

### Speaker's statement

**Speaker:** "Constructed to create an inaccurate impression" is accusing the honourable member of misleading the House. Please do not do that. The Minister of Health and Social Services has the floor.

**Hon. Mr. Cathers:** I struggle sometimes with how to call a spade a spade here while respecting the Standing Orders.

The member knows, or ought to know, that I have never once stated that the Thomson Centre would include mental health or medical detox. Those were suggestions made by others; there were others who proposed that. As minister I have consistently followed the approach of having the consulting firm, Options Consulting, review the functional usage of the Thomson Centre and provide recommendations. That recommendation, which I have articulated to the House as my pro-

posal — subject of course to the procedures we must follow — is to reopen the Thomson Centre to provide continuing care, and that is the position laid out in the 2006 Yukon Party election platform. As I've indicated to the member previously, we have acted in a number of areas to increase the resources available to those with mental health challenges, and we will continue to do so.

### Question re: Mental health services

**Mr. Edzerza:** I want to continue this line of questioning, but obviously the minister has blinders on regarding this problem. So we are ready to give him some ideas. He doesn't have to look very far to see what has already been done. One excellent place for the minister to start is with the Kirby/Keon report that came out two years ago. That report is called, "Out of the Shadows at Last: Transforming Mental Health, Mental Illness and Addiction Services in Canada."

It explores the current services and needs across Canada and mental illness and addictions.

Is the minister familiar with this report and what is he doing to respond to their recommendations in it?

**Hon. Mr. Cathers:** We appreciate the Kirby report. That is of course one of the many documents available in this area. The member should be aware, when comparing the Yukon to other areas, we do compare quite well in access to services, although there may be more psychiatrists and more complex services in some areas available Outside. This is a challenge across the country, as the member should be aware from the aforementioned Kirby report. There are identified gaps in every jurisdiction in the country in mental health services.

The Yukon has acted in a number of areas with me as minister in working through the department's resources, and through the Hospital Corporation's resources. We have expanded a number of areas, including, as I indicated, contracting a second psychiatrist, the hiring of a rural mental health clinician based out of Dawson City, who is serving that regional area. We are hiring a second rural mental health clinician right now. I believe the contract has gone out.

Also we already have provided a youth clinician based in Whitehorse to assist with the identification of early psychoses particularly and other areas. This is an area identified for significant funding under our territorial health access fund. I believe I am short of time to list some of the many good initiatives that we have implemented in this area.

**Mr. Edzerza:** The bottom line, Mr. Speaker, is that mental health issues are cut short in the Yukon. Mental health problems and addictions do not suddenly appear out of the blue. They have roots in childhood, in schools, in families and often in poverty. Our response to these problems is archaic. Patients are taken to Emergency if they are a danger to themselves or others. Often they are given medications and turned away with the hope that they will stick to their meds.

Instead of helping these patients to find support and belonging to give them a voice in their recovery, to give them hope, they are shuffled from institution to institution like sacks of potatoes and offered a minimal program of treatment.

Has the minister given any consideration to the damage this lack of personal support does to the patient, and what alternatives there may be?

**Hon. Mr. Cathers:** Again, I have answered this question; the member knows that. Unfortunately, he had a script of six questions on this issue, or rather two questions and two supplementaries for each one.

The member knows I've listed a number of the initiatives and examples of how we have acted in this area, how we've increased by hundreds of thousands of dollars per year the resources available to those with mental health challenges, through staffing, contracting the second psychiatrist, contracting a rural mental health clinician — or hiring, rather — based out of Dawson City, with a second rural mental health clinician coming. As well, there was the hiring of a youth clinician, based out of Whitehorse, to assist youth who, of course, face difficult challenges which, if they are not addressed at an early age, pose a great challenge.

These are a number of the areas we've acted in. There's also funding under our territorial health access fund. One of the areas we've identified is for increased programming and program development within mental health. Another area that I've mentioned previously in debate to the member is how we've created a situation by changing, as part of the areas identified within the *Child and Family Services Act* — I see I'm out of time again, Mr. Speaker. I'll list that further in the next response.

**Mr. Edzerza:** All those scripts, Mr. Speaker, and no positive response from this minister. It's unbelievable.

It is not a new concept that mental illness and addictions are best treated in a community setting with peer support and family involvement. Many different types of services have proven to be successful. I'm talking about services such as land-based treatment centres, follow-up care for people who have completed addictions treatment, peer counselling, long-term residential care, non-medical services and collaborative clinics.

We have a Community Wellness Court in place but we don't have the support services that can make it effective. What actions has this minister taken in collaboration with his colleague from Justice to develop and deliver alternative programs and services to mental health and addicted patients in the Yukon?

**Hon. Mr. Cathers:** As we have discussed previously in debate, we have funding under the territorial health access fund for increased program development, which is going on right now, for dual-diagnosed clients: those with substance abuse problems and mental health issues.

Now the member refers to sticking to the script, but the member can see by looking across the floor that I'm not sticking to a script; in fact, much of this is off the top of my head. I'm sure I'm missing some of the areas that we've invested in.

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

**Hon. Mr. Cathers:** Mr. Speaker, I'm sure that I'm missing some of the list of the investments that we've made to assist those with mental health challenges.

Another one was the hiring of a social worker to assist in that area. As well, we have changed the structure whereby previously, parents who did not have their child in the care and custody of the government, if their child needed complex residential care outside of the territory, were not able to access that service without transferring their child into the guardianship of the government. We have changed that and have set up a program in place so that any parent who has a child who needs these services can access these services.

Mr. Speaker, this is just a list of some of the areas that we have invested in. As I said, I'm sure that I am missing some but I'll re-cap: youth clinician — hired; regional mental health clinicians — hired; second psychiatrist — contracted. Not a short list, Mr. Speaker.

**Question re: Copper Ridge Place, standards of care**

**Mr. Fairclough:** Mr. Speaker, I have some questions for the Minister of Health. On May 18, 2006, this minister said that 12 new beds at Copper Ridge Place were being opened right now — right now, he said. Last spring we heard the same thing. Now comes word that yes, in fact, the 12 beds were opened and then closed three months later. What is the reason for the shutdown? The lack of nurses.

Can the minister confirm that these long-promised beds are in fact closed? Will he do that?

**Hon. Mr. Cathers:** If the member had been paying attention previously in debate, he would note that I addressed this issue in second reading on the budget.

Yes, this is a challenge. We have faced a changing marketplace for workers. We have, as I have indicated in previous responses, through our \$12.7-million health and human resource strategy, implemented a number of initiatives — two of them specific to nurses. One is the nursing bursary that previously existed, but we significantly increased the funding and increased the number of positions. Another is the nurse mentoring program.

Internally, we have increased the resources through work with my department and the Public Service Commission for the recruitment and retention bonus. Yes, we had a challenge after the decision was made to fund the opening of the 12 beds at Copper Ridge Place. That is why increases have been made in the recruitment and retention bonus and staff is being hired. We had a drop in staff at one point but those numbers are coming back up, and we are confident that that will be back up and running in the near future.

**Mr. Fairclough:** Mr. Speaker, this minister is long on promises and short on action. He said recruiting nurses was his number one priority, yet we are closing beds at Copper Ridge Place because we don't have nurses in place to staff them.

This minister likes to cut ribbons and have his photo taken, but he should be spending more time doing his job. He has been promising for two years that 12 additional beds at Copper Ridge Place would be open. Instead, they remain closed. Will the minister live up to his promise and get these beds open?

**Hon. Mr. Cathers:** I thank the member opposite for his cunning question, Mr. Speaker. It is unfortunate that the member again is injecting so much rhetoric into the debate.

As I have indicated in previous responses, there are national shortages of health care professionals. Every jurisdiction has faced challenges. Saskatchewan, as the member should recall, faced significant issues in their election with the large number of emergency rooms, maternity wards and intensive care units that had been closed due to lack of staff. Even Alberta is facing challenges, Mr. Speaker.

We have acted by improving our ability to train Yukon citizens. We have acted by increasing the resources internally to recruit and retain. As I indicated to the member, there were challenges with the staffing level of the new wing at Copper Ridge Place. Staff levels dropped due to being hired by other jurisdictions, or staff who were on the way but chose to go to another jurisdiction because it is such an intense, competitive marketplace.

We have acted in this area and, as I indicated, we have recently further increased the recruitment and retention bonuses to attract and retain staff, and to get the wing back up and running.

#### **Question re: Thomson Centre reopening**

**Mr. Fairclough:** I have more questions for the Minister of Health and Social Services about another broken promise. During the last election campaign, the minister made a lot of promises that he has since broken. He said he was opposed to raising taxes; now he's raising taxes. He promised a \$5-million hospital in Watson Lake; it's now \$11 million. He promised that 12 new beds at Copper Ridge Place would be opened; they are not. Another promise the minister made in August 2006 was to reopen the Thomson Centre within six months. We're well past the minister's own deadline.

What is the minister's excuse for not meeting a deadline he set?

**Hon. Mr. Cathers:** The member is making things up on the floor. I said no such words, as he's reflecting through a number of the list of remarks. Back in 2006, I indicated the government's expected timeline for reopening the Thomson Centre. The member knows very well that after that date, mould was discovered and there were challenges identified with that. Those matters are now being dealt with internally. Once the plan has been reviewed and approved by Cabinet, we look forward to seeing that opened.

The member should be aware that the challenges we faced in Copper Ridge Place are another issue. Because of the increasingly competitive market for staff we need, if we cannot staff a 12-bed wing, we certainly cannot staff another 44 beds. That is why changes have been made. The member knows full well that this government and I have acted by increasing the incentives for staff beyond what any other government has done. We are the only government in Yukon's history to develop a comprehensive health human resources strategy for which we have allocated \$12.7 million. The member knows that, and the member knows that every jurisdiction in the country is facing challenges in this area; we are facing fewer challenges than most and that is through the good work of this government and the staff of the department and the Yukon Hospital Corporation Board.

**Mr. Fairclough:** The minister says I'm making it up. I'm following his own press release of August 2006.

Yukoners are getting tired of this minister's habit of broken promises. He makes promises and then breaks them. He keeps changing his story, and this is happening too often on that side of the House. The Thomson Centre has been closed for five years under this government's watch.

The president of the Yukon Medical Association said that the unavailability of the Thomson Centre has put tremendous pressure on the whole health care system, and we know it's not going to open this year because there's no money in the budget to operate it.

When does the minister anticipate reopening Thomson Centre?

**Hon. Mr. Cathers:** This is another example of the opposition and their continued record of misrepresenting the Ombudsman, misrepresenting the Auditor General and misrepresenting my comments. I do not take very kindly to anyone suggesting that I do not keep my commitments, because I do. That is a fact.

We have invested in these areas. Are there challenges? Absolutely. On the Thomson Centre, I've been frank about the change in the expected target — which was an "expected target" and the member knows it. The circumstances changed.

Again, we're seeing opposition's pattern and their credibility issue, because they do not reflect the facts in their credion.

**Mr. Fairclough:** I'm quite surprised that this minister is still in charge of this project. We know responsibility for the ambulance attendants was taken away from him by the Premier. We know responsibility for the *Children's Act* review has been taken over by the Premier. He keeps getting things taken away, because he doesn't finish them on time or on budget.

The Thomson Centre was closed for five years under this government's watch and, before the last election, the minister promised it would be open within six months. He has failed to meet his own deadline. Now, if we ever get this building open, will we have enough nurses to operate it, given the minister's inability to recruit nurses?

When will the Thomson Centre reopen and what have we spent to date renovating it?

**Hon. Mr. Cathers:** It is virtually impossible to engage in a productive debate with the opposition, considering their record of not reflecting the facts.

Let's talk about misrepresenting the Ombudsman; the Leader of the Official Opposition and his misrepresentation of a motion at Members' Services Board — Members' Services Board; we see the members reflecting commitments that were not made, not reflecting the facts. I am sure I am missing some examples from the Official Opposition. They have not followed their own code of conduct that they tabled in the election.

This government keeps its commitments. We identify the challenges when we have a projected timeline, as we indicated with Thomson Centre; we have fully disclosed the challenges we are facing in that area; the member knows full well there are national shortages of health care professionals and that this government has acted far beyond any previous Yukon government has in investing in recruitment and retention and is the

only Yukon government to develop a comprehensive health human resources strategy that we have allocated \$12.7 million for under my watch as minister, Mr. Speaker, and through the good work of this government.

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

### Motion re government private members' business

**Hon. Mr. Cathers:** Pursuant to Standing Order 14.2(7), I would like to identify the motions standing in the name of the government private member to be called for debate on Wednesday, April 9. They are Motion No. 374, standing in the name of the Member for Klondike, and Motion No. 243, standing in the name of the Member for Klondike.

**Speaker:** We will now proceed to Orders of the Day.

### ORDERS OF THE DAY

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

#### Motion re reprinting of Bill No. 104

**Hon. Mr. Cathers:** Prior to taking a recess, Mr. Speaker, I move

THAT pursuant to Standing Order 60(1), Bill No. 104, *Smoke-free Places Act*, be reprinted and tabled in the Legislative Assembly in its reprinted form before the House proceeds with third reading and the passage of said bill.

**Chair:** Mr. Cathers has moved

THAT pursuant to Standing Order 60(1), Bill No. 104, *Smoke-free Places Act*, be reprinted and tabled in the Legislative Assembly in its reprinted form before the House proceeds with third reading and the passage of said bill.

*Motion agreed to*

#### Motion re appearance of witnesses

**Hon. Mr. Cathers:** I move

THAT Craig Tuton, chair of the Yukon Workers' Compensation Health and Safety Board, and Valerie Royle, president and chief executive officer of the Yukon Workers' Compensation Health and Safety Board, appear as witnesses in Committee of the Whole on Tuesday, April 8, 2008, to discuss matters relating to Bill No. 52, *Workers' Compensation Act*.

**Chair:** It has been moved by Mr. Cathers

THAT Craig Tuton, chair of the Yukon Workers' Compensation Health and Safety Board, and Valerie Royle, presi-

dent and chief executive officer of the Yukon Workers' Compensation Health and Safety Board, appear as witnesses in Committee of the Whole on Tuesday, April 8, 2008, to discuss matters relating to Bill No. 52, *Workers' Compensation Act*.

*Motion agreed to*

**Chair:** Do members wish to take a brief recess?

**All Hon. Members:** Agreed.

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

*Recess*

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

#### Re correction to notice of government private members' business

**Hon. Mr. Cathers:** I rise on a point of information. The motions called for debate tomorrow should have read, as the second motion, Motion No. 234, rather than 243.

#### Bill No. 52 — *Workers' Compensation Act* — continued

**Chair:** We will now proceed with clause-by-clause debate of Bill No. 52, *Workers' Compensation Act*.

On Clause 14 — continued

*Clause 14 agreed to*

*On Clause 15*

*Clause 15 agreed to*

*On Clause 16*

**Mr. Fairclough:** Section 16(2) says, "The board shall provide the employer with a written report concerning a worker's work-related injury if requested in writing by the employer or the worker."

Only the employer here is identified. I'm wondering about the worker.

**Ms. Royle:** The worker is always entitled to their full claim upon request at any time. They can come and review their claim. They can request copies of their claim at any time. This is the employer receiving information about the worker, so the worker is always entitled.

*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*

*On Clause 21*

*Clause 21 agreed to*

*On Clause 22*

**Mr. Fairclough:** I want to match the answers with the clauses. I believe the witnesses have already answered this, but could we go into a further explanation on it?

Section 22(1) says that the worker is entitled to 75 percent of their average gross earnings. Was consideration given to adopting the percentage of the net earnings? Maybe we could have some explanation from the witnesses.

**Hon. Mr. Cathers:** As has been discussed previously in debate, the real issue at hand is what the outcome is, not whether it is calculated on net or gross. There would be different percentages, obviously, depending on which it was. It would be a very pointless and expensive endeavour to change the calculation system in administration simply over an issue that is rather a minor issue. Those who reflect upon it simply are not focusing on the fact that the ultimate outcome, in terms of benefit and compensation, is the real matter at hand. I will turn it over to the witnesses for any further comments they might have.

**Mr. Tuton:** Absolutely, it is something that we did consider. The thing that we must keep in the foreground here is that the worker and his entitlement for compensation must not be lessened. If we looked at the cost from net to gross, the significant outcome would not be something that we should take any more time on. Really, it is an issue that, yes, the worker is going to get the benefits that are due to him, and that is the outcome that we were looking for; we were able to achieve that by this clause.

**Mr. Fairclough:** I'm just wondering how this compares to the rest of Canada and the other provinces.

**Ms. Royle:** All of the other jurisdictions in Canada calculate the benefits based on the worker's net earnings, and those changes were made many years ago. For us to switch to net, when the outcome would basically be the same, would require us to look at and change net claim codes, look at injured worker status at the time of their injury with respect to their income tax return versus their status later on, and completely revise all of our computer systems.

As Mr. Tuton indicated, the administrative cost of making a change from net to gross far outweighs the negligible savings, quite frankly, that would come from that calculation. If at the end of the day, the worker gets the same thing — it just depends on how it is calculated — it doesn't make sense to spend all of that administrative time, not only now in getting the computer system set up, but annually. Having come from a jurisdiction where that is done, it is quite the time-consuming exercise liaising with Canada Revenue Agency and making sure claim codes are up to date and keeping up with changing tax laws and entitlement to income tax, et cetera.

**Hon. Mr. Cathers:** Again, for the Member for Mayo-Tatchun, what he is proposing would be fruitless, pointless and expensive.

**Mr. Fairclough:** I was asking for clarification on this. It has nothing to do with what the minister is saying. He's just playing politics here again. Perhaps Question Period was too tough for him.

*Clause 22 agreed to*

*On Clause 23*

*Clause 23 agreed to*

*On Clause 24*

*Amendment proposed*

**Hon. Mr. Cathers:** As the House leaders were informed, I rise to move an amendment that was in the proofreading section and was corrected, which in fact should not have been corrected. It's to change it back to the original intent; what was thought to be a typographical error by those reviewing it would in fact reflect a policy change. Therefore, I move

THAT Bill No. 52, entitled *Workers' Compensation Act*, be amended in clause 24 at page 23 by deleting the expression "loss of".

**Chair:** It has been moved by Mr. Cathers

THAT Bill No. 52, entitled *Workers' Compensation Act*, be amended in clause 24 at page 23 by deleting the expression "loss of".

**Hon. Mr. Cathers:** Just to provide further clarity for members, this issue is related to the Canada and Quebec Pension Plan benefits and the gross disability benefit that someone is entitled to receive under either CPP or QPP. It is to be calculated on the worker's average weekly earnings rather than the loss of earnings. As I indicated, the reason for this is, if the members look at clauses 23 and 24, there are some references to earnings and some to loss of. This is correcting an error in the proofreading stage.

*Amendment agreed to*

*Clause 24 agreed to as amended*

*On Clause 25*

*Clause 25 agreed to*

*On Clause 26*

*Clause 26 agreed to*

*On Clause 27*

*Clause 27 agreed to*

*On Clause 28*

*Clause 28 agreed to*

*On Clause 29*

**Mr. Fairclough:** Clause 29 says that when compensation is payable to a worker under the age of 19, the board may pay the compensation to any person the board considers appropriate. This seems somewhat open ended. I am wondering how the board will determine the appropriate party to pay the benefits to.

**Ms. Royle:** This is an existing clause. We need to use this whenever we have workers who are under the age of majority in Yukon. In some cases it may be the worker if the worker has demonstrated good financial management — but for a 12-year-old or 13-year-old — if we are to pay benefits, we would first of all look to the person's legal guardians. We may set up a trust. We can do a number of things to ensure that worker gets the benefits to which they are entitled, because they themselves haven't reached the age of majority. We do use this clause on occasion. It's an existing one, and there certainly are processes in place to determine who the compensation is payable to on behalf of the young worker in this case.

*Clause 29 agreed to*

*On Clause 30*

*Clause 30 agreed to*

*On Clause 31*

*Clause 31 agreed to*



*On Clause 32*

*Clause 32 agreed to*

*On Clause 33*

**Mr. Fairclough:** Clause 33(1): “Compensation ceases to be payable to a worker in respect of any period of incarceration in a penal facility, but the board may pay the compensation that would otherwise have been payable to the worker for the period to one or more of the worker’s dependants.”

I think I know the answer to this, but I’d like to hear how it’s decided from the witnesses and what circumstances would warrant withholding compensation from the dependants?

**Ms. Royle:** To my knowledge, we have not withheld compensation to dependants where they exist. The act does have a definition of “dependants”, and that would be what we would use to determine to whom we would pay those benefits and, essentially, we want to make sure that a worker’s family who is dependent on their compensation income is not unduly put out because the worker is incarcerated. That, unfortunately, does happen and we use the act’s definition of “dependants” to pay.

*Clause 33 agreed to*

*On Clause 34*

*Clause 34 agreed to*

*On Clause 35*

*Clause 35 agreed to*

*On Clause 36*

**Mr. Fairclough:** On clause 36(2): “All questions as to the necessity, character, and sufficiency of any health care assistance shall be determined solely by the board.”

I’m wondering if the decision in clause 36(2) is solely the jurisdiction of the board and whether or not there is a sharing of decision-making in regard to this.

**Ms. Royle:** The board does provide the final decision-making on the advice of medical and health care professionals, but oftentimes those recommendations may conflict, so it is up to the board to determine the final outcome in those cases, but other sections enable us to have independent medical examinations, et cetera. We use primarily external medical consultants with respect to family physicians, specialists or other health care practitioners to make those determinations, but it is the decision of the board.

*Clause 36 agreed to*

*On Clause 37*

*Clause 37 agreed to*

*On Clause 38*

*Clause 38 agreed to*

*On Clause 39*

*Clause 39 agreed to*

*On Clause 40*

*Clause 40 agreed to*

*On Clause 41*

**Mr. Cardiff:** This is more a question for the minister, probably. If you go to the very end of this clause at 41(18), “This section shall only apply in respect of a work-related injury to a worker which occurs on or after a day to be fixed by the Commissioner in Executive Council.”

What are the government’s plans with regard to proclaiming this section?

**Hon. Mr. Cathers:** The reason that this section is left to date of proclamation by Cabinet — Commissioner in Executive Council, of course, being the legalese used around that term — is that there is some work that needs to be done, particularly with employers on being able to implement it. We want to ensure that the legislation, when it becomes a legal requirement — that the plans are in place so that employers are able to comply with it and that steps are taken to assist them to comply, rather than getting into an enforcement situation. As far as the date, that would of course be subject to Cabinet consideration.

All I can inform the member is that this is a section of the act that I, as minister, am eager to see implemented at the earliest possible date. That will certainly be some months down the road, and I can’t give the member a firm target on that. Of course, because it is subject to Cabinet approval, it would be a collective Cabinet decision.

I hope that has provided the member some information on this. We all look forward to seeing this section implemented at the earliest practical date.

**Mr. Cardiff:** I would be interested in knowing from the chair and the president if this will affect programming they are keen to see happen as well. I share the minister’s enthusiasm for this section, but I would be interested in knowing how that affects the board and the workings of the board, and how they intend to help employers achieve what it is they need to achieve in order for this clause to be proclaimed.

**Hon. Mr. Cathers:** Just before turning it over to the witnesses for a reply to some of the technical issues the member asked, as I think I’ve indicated in previous debate, this is a section — the recovery and return to work — from my perspective that is the most important single provision within the bill. Although there are a number of changes, this section is one that is key to implementing the effective change and the reduction of time spent injured and on the compensation system.

Beyond that, as I indicated, I won’t repeat my previous response, but the member did touch on another area. It isn’t simply employers who require some time to get up and running; the board and administration of Workers’ Compensation Health and Safety Board had to wait until the finalization and tabling of the act to know for sure if this would be implemented. They will have some implementation work on the programming side of how they engage with employers on helping employers get ready for this to become the law. There will be some education, discussion, et cetera, to implement this area.

With that, I would turn it over to the witnesses for some of the technical answers to the Member for Mount Lorne’s question.

**Ms. Royle:** Section 40 of the legislation is about the duty to cooperate. That, in fact happens before section 41, which is about the return to work. It does make sense from an implementation perspective to get the duty to cooperate really nailed down and working well, because that is the piece that happens during a worker’s recovery. As employers and work-

ers are used to working through that system, it's a natural progression into section 41.

For us, we will concentrate on the implementation of duty to cooperate, to make sure all parties understand their role, and how our role is going to be redefined given this new legislation. That is obviously the first priority. It does make sense in how the legislation actually flows and works together.

With respect to education of the workplace parties on not only section 40, but also into section 41, the board currently has a partnership through our prevention fund with the Yukon Federation of Labour. The federation does offer introductory training in the return-to-work process, as well as a more in-depth session. That prevention fund agreement is currently in place. We would then need to look at what else we need to do to augment that to ensure that employers are ready for this change.

The other piece, of course, section 40, affects all workers and all employers in the territory. Section 41 looks at the larger employers which whom we also have an opportunity to work through our CHOICES program to help them build the return-to-work program. This legislation should seamlessly flow into that, as we move forward.

I think the ordering will work for us and we will be able to implement it in a more systematic iterative fashion, as opposed to trying to do everything at once.

**Mr. Cardiff:** I would like to thank the minister and the witnesses for their answers. It sounds like everybody has their work cut out for them. I wish them well and I look forward to the minister proclaiming this portion of the act.

*Clause 41 agreed to*

*On Clause 42*

*Clause 42 agreed to*

*On Clause 43*

*Clause 43 agreed to*

*On Clause 44*

**Mr. Fairclough:** Under section 44(2) it says, "The board may pay the worker's spouse an amount in addition to that provided under subsection (1) if, in the board's opinion, the spouse is in need..."

Making decisions that are based on the board's opinions is a bit of a concern to some out there. I am just wondering what the determining factors are for a spouse in need, how is the board going to form an opinion of need, and what does this mean?

**Ms. Royle:** This existing section of the current legislation is used, but very rarely. We do feel the benefits provided under section 44(1) to spouses, as well as benefits for dependent children, in the vast majority of cases, are more than adequate. However, we are talking about situations where a worker has died, in order for this section to be in place, and each household situation is different. There may be a situation, for example, where the worker dies and is in extreme debt and has no other insurance other than the workers' compensation system, and that debt could cause a surviving spouse with several dependent children to potentially lose their house. We don't pay a lump sum; we pay a monthly amount. We don't have a big payout like a life insurance policy.

There are those exceptional circumstances where there could be need involved. We do take those very seriously. They are very rare because certainly the legislation is more than adequate, but there are times when that happens. In those situations, those decisions do come to my level to make, and we are confident in making those in exceptional circumstances. Unfortunately, there are families in the Yukon who may find themselves in those dire straits.

*Clause 44 agreed to*

*On Clause 45*

**Mr. Fairclough:** I think this will have a similar answer. "45(2) In exceptional circumstances, the board may extend the period for the payment of benefits under paragraph (1)(b) when the board considers it appropriate and just in the circumstances ..." Again, in the interest of a fair and balanced approach to decision-making, how is "appropriate and just in the circumstances" going to be established?

**Ms. Royle:** Again, some of this wording is in the existing legislation, and we do have those. This section is designed for workers who are in school and whose educational program is a defined one. Perhaps it's a five-year program. We would want to support that student, even though they're more than 19 years of age and more than 21 years of age, and they have one year left to do that.

So these are situations where a worker has died, the child is without a parent, and we will do that. The provisions are similar to those under the Canada Pension Plan, where they can provide to continue those benefits up to age 25 in exceptional circumstances. So we felt that would be a good idea for us to also include that.

The general rule is 21 years of age if you're in school; however, we have the ability, where there's one year left or two years left, for that dependent child to finish their education.

*Clause 45 agreed to*

*On Clause 46*

**Mr. Fairclough:** In 46(1), skipping halfway down that paragraph, it says "... the board shall pay all, or any portion, of compensation that would otherwise have been payable to a spouse under section 44 to the person who has assumed the responsibility for the dependent child ..." What circumstances would warrant the partial payment for compensation?

**Ms. Royle:** We haven't done any partial payments or any portion of compensation. We typically pay the compensation that is attributable, so I don't have an example of when we would do that because we've never had that situation. This would apply, of course, where the unfortunate situation is that a worker dies, leaves a dependent child and spouse and then the spouse, perhaps, dies or is incarcerated or is unable to take care of that child. In that case, we would assign the benefits to that other person. To my knowledge we haven't done a portion in any case.

*Clause 46 agreed to*

*On Clause 47*

*Clause 47 agreed to*

*On Clause 48*

**Mr. Cardiff:** I don't really have any debate, Mr. Chair, but I would just like to thank the drafters of the bill for includ-

ing this in there. I was part of identifying this issue as one of the 88 issues, and I'm glad to see it in here. I think that it is going to serve us well here in the Yukon, in our community, our workers and their families.

Thank you.

*Clause 48 agreed to*

*On Clause 49*

*Clause 49 agreed to*

*On Clause 50*

*Clause 50 agreed to*

*On Clause 51*

*Clause 51 agreed to*

*On Clause 52*

*Clause 52 agreed to*

*On Clause 53*

*Clause 53 agreed to*

*On Clause 54*

*Clause 54 agreed to*

*On Clause 55*

*Clause 55 agreed to*

*On Clause 56*

*Clause 56 agreed to*

*On Clause 57*

*Clause 57 agreed to*

*On Clause 58*

*Clause 58 agreed to*

*On Clause 59*

*Clause 59 agreed to*

*On Clause 60*

*Clause 60 agreed to*

**Mr. Fairclough:** You're going too fast, Mr. Chair.

### Unanimous consent re revisiting Clause 59

**Chair:** Clause No. 59 is carried. Committee of the Whole will require unanimous consent to reopen clause 59. Is there unanimous consent?

**All Hon. Members:** Agreed.

**Chair:** Unanimous consent has been granted.

*On Clause 59 — revisited*

**Mr. Fairclough:** Thank you, Mr. Chair. On clause 59(2): "In an application under subsection (1), both the appeal tribunal and the board shall have standing, regardless of which party makes the application."

What about the workers' advocate? Is it not reasonable for the workers' advocate to also have standing?

**Ms. Royle:** In this section, either the appeal tribunal or the board is applying to the Supreme Court, which is why the next section, section (3) says what it does, so the other party could have standing. These are cases that wouldn't be brought forward by the workers' advocate office, but they may be called as a witness by either party, because they weren't the person actually applying to court under this section.

*Clause 59 agreed to*

*On Clause 61*

*Clause 61 agreed to*

*On Clause 62*

*Clause 62 agreed to*

*On Clause 63*

*Clause 63 agreed to*

*On Clause 64*

*Clause 64 agreed to*

*On Clause 65*

*Clause 65 agreed to*

*On Clause 66*

*Clause 66 agreed to*

*On Clause 67*

**Mr. Cardiff:** I believe there is something new in here about the board having the ability to charge interest on assessments where the payments are late. I am wondering whether or not this has been a problem in the past and whether or not this is going to rectify it. Has this been an issue in the past?

**Ms. Royle:** The issue of late payments by employers is becoming more of an issue. The assessment subsidies, as you know, have been removed and some employers are certainly finding it a challenge to pay their assessments. If the board doesn't charge interest, we are certainly not first on the list of debtors that an employer would pay, having other pressing things to do. It is becoming more and more of an issue, and we are finding we are last on the list. It is important that we get paid, because we invest those funds to improve our financial position and hopefully decrease employer assessments. It has been an issue and we do feel that this approach, which is done by all other jurisdictions, will help in that regard.

*Clause 67 agreed to*

*On Clause 68*

*Clause 68 agreed to*

*On Clause 69*

*Clause 69 agreed to*

*On Clause 70*

*Clause 70 agreed to*

*On Clause 71*

*Clause 71 agreed to*

*On Clause 72*

*Clause 72 agreed to*

*On Clause 73*

*Clause 73 agreed to*

*On Clause 74*

*Clause 74 agreed to*

*On Clause 75*

*Clause 75 agreed to*

*On Clause 76*

*Clause 76 agreed to*

*On Clause 77*

**Mr. Fairclough:** "77(1) If an employer defaults in furnishing the security required by the board or if an employer defaults in the payment of any amount due to the board, the board may order the employer to cease employing workers until the default is remedied to the board's satisfaction." Does this enable WCB to shut down an employer's business for non-payment of assessment or the security deposit?

**Ms. Royle:** What this allows us to do in extremely exceptional circumstances — and to my knowledge we haven't done that — is to require the employer to cease employing workers. In some cases that may shut down the business. It's not a shutdown like an *Occupational Health and Safety Act*

shutdown, where the doors are closed. An employer could conceivably operate without workers if they have not incorporated, and so on.

We haven't done that; we have been able to work with employers to develop payment arrangements, and under this act we do have other ways of collecting money. We can seize assets; we work with employers on payment arrangements. So it would be a very exceptional circumstance.

There are a lot of steps that would happen before this type of thing would come into place, but it does give the board the power to do that.

*Clause 77 agreed to*

*On Clause 78*

**Mr. Cardiff:** I brought up an issue yesterday, and I wonder about the purpose of the statement and estimate of earnings. It says, "Every employer shall, no later ... provide, in a manner determined by the board, ... with a statement ..." So when they're listing "... the total amount of earnings paid to its workers employed in an industry during the immediately preceding year;". Is that with regard to assessable earnings?

Where I'm going with this is with regard to the question I was asking yesterday, when it gets to (d), which is "listing all subcontractors and the amounts paid to them;" because there was an issue about subcontractors and whether or not their earnings were compensable, I guess. That's where I'd like to start, anyhow.

The total amount of all earnings paid to workers is just that, the total amount. Typically that comes from the employers T4 summary, which is why February 28 or 29 coincides with the same time that you have to have that information ready for Canada Revenue Agency.

On our forms, we can only assess the employer up to the maximum for each individual worker. So the employer reports their total payroll to us and they also report the people who are at the maximum. So we do that difference — we only assess on that piece. We require the list of subcontractors and we do that for several reasons. One, it helps us to ensure that everyone is registered who should be registered. It is a way of finding employers in the territory. If the subcontractor is not registered, or has not paid their assessments to us, then the contractor is liable for those assessments.

**Chair:** Is there any further debate on clause 78?

**Mr. Cardiff:** I would like just a little bit of clarification around that. To be clear, it would be the employer who hired the subcontractor who would be responsible for those assessments, as opposed to the subcontractor?

**Ms. Royle:** In the first instance, if the subcontractor is registered, then they are responsible for paying assessments. However, if they fail to do so, then yes, the contracting employer then becomes responsible. What we recommend and is becoming more and more of a common practice is we ask anybody who is subcontracting work to request a letter of good standing from the board, which essentially gives them the status of the subcontractor that they have paid. Once they have received that, then that frees them from liability and then they would receive another letter before they finalize the job so they are not out-of-pocket at the end of the day. However, if the

subcontractor is not registered or has not paid, then we collect from the contracting employer.

**Mr. Cardiff:** I was just wondering if I could get an explanation or a little more clarification around 78(4) as well.

**Ms. Royle:** Subsection (4) of section 78 is, essentially, that while the employer reports all earnings of the worker to us, they only pay assessments up to the maximum assessable or compensable ceiling for that year. In 2008, that is at \$74,100. For a worker who is earning \$100,000, the employer will report \$100,000 to us; however, we would only charge them assessments on the \$74,100.

*Clause 78 agreed to*

*On Clause 79*

*Clause 79 agreed to*

*On Clause 80*

*Clause 80 agreed to*

*On Clause 81*

*Clause 81 agreed to*

*On Clause 82*

*Clause 82 agreed to*

*On Clause 83*

*Clause 83 agreed to*

*On Clause 84*

*Clause 84 agreed to*

*On Clause 85*

*Clause 85 agreed to*

*On Clause 86*

*Clause 86 agreed to*

*On Clause 87*

**Mr. Fairclough:** On 87(3), it says, "Despite any other Act, any amount due to the board by an employer ... creates a fixed, specific, and continuing security interest in favour of the board as of the date the amount becomes due ...". "87(3)(d) on the property or proceeds of property, whether real or personal, of the employer, including money payable to, for, or on account ..." I won't continue to read that paragraph. I would just like to know: does this enable WCB to take an employer's personal property if assessment premiums are not paid on time, and does it allow WCB to lay claim to any future revenue or, in essence, money the business has not yet made?

**Ms. Royle:** This section of the act does give the board significant power with respect to collecting assessments owed; however, we don't exercise that lightly and there are a number of steps that happen before then. First of all, we can organize a payment arrangement with an employer, and we are very flexible on that. We also have some employers who report actual earnings throughout the year to enable them, especially around seasonal operations, to pay their bill.

However, we can attach or seize the personal assets of an employer, a director of an incorporated company, for example. We don't look at those assets first. If we are looking at assets, we look at assets that are used in the operation of the business. However, in some cases, those assets don't equal the amount of the assessment or are not saleable or are not liquid.

We could look at personal property, although we haven't since I've been involved in the system in Yukon. It certainly would allow us to do that, if necessary, and the important part

is that the employer is paying their share of assessments. We cover the workers regardless — if that employer isn't paying their assessments, then all the other employers in the territory are paying for them. The act certainly gives us tremendous power, but we don't take that power lightly.

*Clause 87 agreed to*

*On Clause 88*

*Clause 88 agreed to*

*On Clause 89*

*Clause 89 agreed to*

*On Clause 90*

*Clause 90 agreed to*

*On Clause 91*

*Clause 91 agreed to*

*On Clause 92*

*Clause 92 agreed to*

*On Clause 93*

*Clause 93 agreed to*

*On Clause 94*

*Clause 94 agreed to*

*On Clause 95*

*Clause 95 agreed to*

*On Clause 96*

*Clause 96 agreed to*

*On Clause 97*

**Mr. Cardiff:** There are a couple of changes in here, and I was wondering whether we could get some clarification. The annual report used to be due on June 30, I believe, and now that's being moved to April 30. Is that correct? Can the witnesses or the minister explain that?

**Ms. Royle:** What we had heard when consulting with stakeholders was that June 30 was kind of late to get the financial picture of the board for the year prior. We were already halfway into the next year. We were asked whether it was possible to get those financial statements earlier. We consulted with the office of the Auditor General of Canada, which does our audit, and they indicated they would be able to have the audit completed and the financial statements prepared and ready by April 30.

That certainly gives us more of a timely reporting on our previous year and it gives stakeholders earlier reporting. Certainly, this section now rolls up all of the reporting into one, that is effective April 30. Also, the House is usually sitting around that time. That enables it to be tabled and then distributed to stakeholders, because oftentimes on June 30 the House is not sitting, and then there is a delay getting that report out to the public.

**Mr. Cardiff:** I look forward to the minister tabling that report earlier and receiving it earlier.

There are some other changes here that I'd like to hear the chair's perspective about with regard to the president being solely responsible and accountable to the board of directors, and basically not reporting to the minister, and the fact that this makes the board solely responsible for hiring the president, with the president accountable directly to the board and not to the minister. Is that correct? I was wondering how the chair of the board felt about that.

**Mr. Tuton:** We're very comfortable with the situation. The process around the hiring of the president still has the involvement of the Public Service Commission, and we don't see that changing; although, the reporting and the accountability of the president is still to the board. To that end, as part of the strategic planning process we went through about a year and a half ago, we developed that accountability section, which we deal with and review every quarter and yearly. This is to ensure that the president is meeting all the things that she had agreed to under that accountability agreement. I think that this section is going to work well, and not much has changed. Under the section of the act, if the president were to be removed from office, the procedure would still be the same as it was before, and we're fine with that.

*Clause 97 agreed to*

*On Clause 98*

*Clause 98 agreed to*

*On Clause 99*

*Clause 99 agreed to*

*On Clause 100*

**Mr. Fairclough:** Under 100(1), "The members of the board of directors shall," under (e), "consider and approve operating and capital budgets of the board."

Feedback from the public suggests that the stakeholders would prefer the budget be disclosed to them for input before being approved. Is this something that can be done?

While they are answering the question, Mr. Chair, I do have another one under (i). It says, "...before the adoption of any policy affecting claims for compensation or assessment matters, consult with employers, employer organizations, workers and worker organizations."

Does this include the WCB annual operating and capital budget?

**Mr. Tuton:** As I have indicated a couple of times over the last few days, one of the things that the board has put into place and structured is a stakeholder advisory committee, and that stakeholder advisory committee is very important to us.

To answer the last question first, where there are issues of policy, we even take it a step further and we have a policy working group that is comprised both of employers and members of labour. In fact, they are involved with the actual development of the policy prior to getting it to the board level. At the end of the day, the board of directors makes the final decision on policy; however, we do rely very heavily on the input from that policy working group.

That stakeholder advisory committee is and was involved all during our strategic planning process, as well as the process that was used to develop our business plan. They are very much involved in all of the steps leading up to the budget. In fact, prior to us releasing the budget publicly, we call in our stakeholder advisory group to make them aware of what the final document is to look like.

I would remind members that the structure of our board quite clearly states that our board members, which at present are four, are two from the employers group and two from the workers group, and they as well are stakeholders.

*Clause 100 agreed to*

*On Clause 101*  
*Clause 101 agreed to*  
*On Clause 102*  
*Clause 102 agreed to*  
*On Clause 103*  
*Clause 103 agreed to*  
*On Clause 104*  
*Clause 104 agreed to*  
*On Clause 105*  
*Clause 105 agreed to*  
*On Clause 106*  
*Clause 106 agreed to*  
*On Clause 107*  
*Clause 107 agreed to*  
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*Clause 108 agreed to*  
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*Clause 109 agreed to*  
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*Clause 110 agreed to*  
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*Clause 111 agreed to*  
*On Clause 112*  
*Clause 112 agreed to*  
*On Clause 113*  
*Clause 113 agreed to*  
*On Clause 114*  
*Clause 114 agreed to*  
*On Clause 115*  
*Clause 115 agreed to*  
*On Clause 116*  
*Clause 116 agreed to*  
*On Clause 117*

**Mr. Fairclough:** Clause 117(3) says, “Whenever information in respect of a specific claim, other than information that is statistical in nature, is provided to another government under subsection (2), the board shall notify the worker or the employer of the information that has been provided.”

This appears to enable WCB to provide personal information about a worker or employer to other governments, without express permission from the respective worker or employer. Does this violate the privacy laws or supersede them? Has the board received a legal opinion about this clause?

**Ms. Royle:** Essentially, we use this clause for our interjurisdictional agreement with all the other workers’ compensation boards in Canada. We do share information between boards with respect to an injured worker who may be claiming in both jurisdictions for the same injury. In those cases, the permission that the worker gives the board to share information upon claim is used and we do inform the workers that is happening. That legal opinion of the Association of Workers’ Compensation Boards of Canada on this issue has already been addressed and it is common practice among all the boards to have a clause similar to this, to enable that information-sharing to happen in particular circumstances, and that’s covered under our board policy as well.

**Mr. Fairclough:** I’d like to continue with asking questions on other clauses in this act, but I have to be somewhere else right now. I would like to thank the witnesses for appearing here. Your information has been quite useful to us and it really does speed things along. So, I thank you for your appearance here today.

*Clause 117 agreed to*  
*On Clause 118*  
*Clause 118 agreed to*  
*On Clause 119*  
*Clause 119 agreed to*  
*On Clause 120*  
*Clause 120 agreed to*  
*On Clause 121*  
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*On Clause 124*  
*Clause 124 agreed to*  
*On Clause 125*  
*Clause 125 agreed to*  
*On Clause 126*  
*Clause 126 agreed to*  
*On Clause 127*

**Hon. Mr. Cathers:** As I informed the House leaders, there were a number of typographical errors in the previous *Workers’ Compensation Act* that unfortunately were reflected in the draft tabled here. They were caught on the final review. These are errors in the existing legislation — references to the wrong section numbers — I believe I should be making these separately, so I will begin with the first one.

*Amendment proposed*

**Hon. Mr. Cathers:** I move

THAT Bill No. 52, entitled *Workers’ Compensation Act*, be amended in clause 127(1)(c) at page 87 by deleting the phrase “section 124 of this Act” and substituting the following: “section 3(n) of this Act”.

**Chair:** It has been moved by Mr. Cathers

THAT Bill No. 52 entitled *Workers’ Compensation Act*, be amended in clause 127(1)(c) at page 87 by deleting the phrase “section 124 of this Act” and substituting the following: “section 3(n) of this Act”.

*Amendment agreed to*

*Amendment proposed*

**Hon. Mr. Cathers:** I move

THAT Bill No. 52, entitled *Workers’ Compensation Act*, be amended in clause 127(1)(d) at page 87 by deleting the phrase “section 19 of this Act” and substituting the following: “section 35 of this Act”.

**Chair:** It has been moved by Mr. Cathers

THAT Bill No. 52 entitled *Workers’ Compensation Act* be amended in clause 127(1)(d) at page 87 by deleting the phrase

“section 19 of this Act” and substituting the following: “section 35 of this Act”.

*Amendment agreed to*

*Amendment proposed*

**Hon. Mr. Cathers:** I move

THAT Bill No. 52, entitled *Workers' Compensation Act*, be amended in clause 127(1)(e) at page 87 by deleting the phrase “section 19 of this Act.” and substituting the following: “section 35 of this Act.”

**Chair:** Mr. Cathers has moved

THAT Bill No. 52, entitled *Workers' Compensation Act*, be amended in clause 127(1)(e) at page 87 by deleting the phrase “section 19 of this Act.” and substituting the following: “section 35 of this Act.”

*Amendment agreed to*

**Chair:** Is there any further debate on clause 127?

**Mr. Cardiff:** This was something that we discussed the other day. I would like to bring to the minister's attention clause 127(g). I had an explanation provided yesterday about why the maximum wage rate is set at almost \$20,000 lower than it is for workers injured. I understand that, for the benefits paid under a given act or piece of legislation, the assessments that were collected under that act need to pay the compensation — I understand that. There are, or I believe there have been, exceptions to that, and it's my understanding they have impacted the fund or that the government actually provided additional funds for this or for something similar to this.

I asked for this information yesterday and the information wasn't available at the time about how many injured workers this actually affects between the dates July 31, 1973, and December 31, 1982. It is my understanding that it affects very few people.

The point that I was trying to make yesterday was the fact that, regardless of whether you were injured in 1973 or 1985 or 1993 or whether you were injured yesterday, when you walk into Superstore or the shoe store, the cost of living is the same, regardless of when you were injured.

If your benefits are based on a maximum wage rate that's almost \$20,000 less, the benefits that you are receiving are not the same. Basically, we could be talking about exactly the same injury, exactly the same disability, and it does not seem fair. I am just wondering whether or not the minister has given any thought to the issue of fairness and the fact that people, regardless of when they were injured, still face the same cost of living, and whether or not they have given any consideration to changing this and, given the fact that it affects very few people, at least looking at the cost that it would be to government to finance this.

**Hon. Mr. Cathers:** In answer to the question the member asked yesterday about the numbers of workers who were injured between January 1, 1973, and December 31, 1982, and who are receiving loss of earnings in 2008, I believe he is referring to those who are — sorry; I believe his words were “still on the books.” My understanding is that he was asking for who is receiving loss of earnings. The member is nodding his agreement. The information provided to me by officials is that

there are two workers who fall into that period who are presently receiving loss-of-earning benefits.

But with reference to this issue, the change for — I think the member is aware, but I'll state it, in case he is not, and for any who are listening or reading and trying to understand this issue. Previous legislation reflected on it being based — I don't have the wording in front of me, but I believe the reference was to the previous year's number of injured workers — the declining number due to passing on, in some cases, or others who had left the compensation system due to going back to work.

It got to a situation where there were a number of people — apparently two in this case — who were in a gap in the system in that the act they fell under referred to calculating the benefits being paid by people in previous years, and there were no longer people left in that reference group on which to base their calculation. This is a technical amendment.

The maximum wage rate being set at \$56,000 is the advice provided to me through the review and by officials in terms of what is the fair and equitable and comparable benefit to those workers versus those around them in those comparable categories. It is designed to be a replacement for what their benefits ought to have been under the legislation in place at the time. It is the maximum wage rate. The member's issue of whether \$56,000 is high enough only applies if any one of those two workers was at the time earning more than \$56,000 a year.

To the best of my understanding, I don't think this has an effect on either of those two people, which is our total affected group within that area. Therefore, the issue of whether it ought to be \$56,000 or higher is really for us collectively as legislators, and is not relevant to the group that would be affected by this. I'm not attempting to minimize the member's concern with that. I appreciate his asking that and where it's coming from, but based on the advice provided, the maximum wage amount is sufficient to provide parity and fair and equitable benefits to the two remaining cases that would be affected by this.

**Mr. Cardiff:** I guess there is one other question around this, and that is in regard to retroactivity. It is my understanding that this group of workers hasn't received an increase in their benefits for a number of years. I don't have that information in front of me right now, but my recollection is that it is around 16 years. There has been no increase in the benefits paid to these people, because the maximum wage rate hasn't increased.

The other question regards the effective date of January 1, 2009, there is an issue for this group of workers around retroactivity of the benefits that they have received, because they did not receive the increases based on maximum wage rate, because the maximum wage rate wasn't increasing.

That is my understanding. I am wondering what the minister's response to that would be. Is this going to address that issue of retroactivity for them?

**Mr. Tuton:** In one of the questions the member referred to the cost of living. In fact those recipients have received a cost-of-living adjustment annually. It is actually not 16 years that the member referred to — I think it is coming up to

11 years, and that is the last time that the maximum wage rate was increased.

The last time this was changed by legislation just a few short years ago, in 2002, the change brought all workers up to the maximum wage rate, and that cost to the system back in 2002 was some \$12 million and today it is \$18 million and rising, so it has a tremendous impact on the system.

This fix that we're proposing for January 1, would bring those workers up to a maximum of 56,000, of which there are no workers who were earning the maximum; therefore, there will not be any who will be affected. If you look at what the retroactivity is, the cost to the administration to administer that retroactivity payment would be more than the retroactivity itself.

**Hon. Mr. Cathers:** For clarity, and to elaborate on the point made by the chair of the board, there was a group affected by what I believe was Bill No. 73 at the time — brought forward by the Liberals when they were in office — that raised a specific group of workers. It considered them and paid them benefits at the maximum wage rate, whether or not they had actually been earning that wage. That, of course, is not parity with the vast majority of injured workers. The change brought forward here today would place workers affected by it on an equitable footing and would treat them equitably to workers today, that being that payment and compensation is based on their earnings, as long as their earnings are not above that maximum wage rate.

**Mr. Cardiff:** If I can ask one more question of the chair — it was Bill No. 73 in 2002 that made that change. Did that change affect the group of workers? Did that increase the benefits that were paid to them if they fell into that category — that group of workers between 1973 and 1982?

**Mr. Tuton:** No, Bill No. 73 did not address that group of workers, and I'm sorry that I can't answer as to why, but it left that gap.

**Mr. Cardiff:** Is this retroactively trying to correct that inequity? It wasn't dealt with in 2002. This is meant to address the concerns that have been raised since then? There definitely seems to have been a gap from 2002 to now.

**Hon. Mr. Cathers:** Yes, further to what the chair of the board indicated and in answer to the Member for Mount Lorne's question in this area, there was a group within a certain period of years that was covered by then Bill No. 73, brought forward by the Liberals. There was another group, this being the group we are talking about today, that fell under previous legislation, and because it referred to their calculations being based on injuries from the previous year, and that ended up then, because of declining numbers on the system, there not being a reference group, that is what is being addressed here — a gap in there — so this calculation simplifies it and brings it to a level of parity in the system.

I hope that has answered the member's question. Perhaps the witnesses may wish to elaborate further.

*Clause 127 agreed to*

*On Clause 128*

*Clause 128 agreed to*

*On Clause 129*

**Mr. Cardiff:** We are looking at another comprehensive review of the act within five years. This review of the act was a long time coming. I am wondering why there aren't any time frames for review of the act. This one took a long time. I'm not saying that wasn't good, but we seem to have a working relationship between employers and labour and the board and the government. I would hope it doesn't take as long the next time to review this piece of legislation as it did this time. I'm wondering if it wouldn't have been a good idea to impose some limits as to how long the review would be.

**Hon. Mr. Cathers:** Of course, as the Member for Mount Lorne indicated, the review did take longer than anyone had anticipated.

One thing that should be recognized is that there were no timelines on how long the review should take, in the previous legislation, nor is it proposed that there would be in this amendment that is before us now.

However, the reference in here, of course, is to indicate in the act the desire to conduct a review. The member has hit it on the head with his comments in noting that a lot of work has gone into this.

I think the member is aware of the change that has occurred within the working relationship between the major stakeholders, from the employer side and the labour side, during the past several years. That is part of the reason that this took longer, and is part of the reason that this act has so many significant changes that are of benefit and improvement to the WCB system.

Nothing in this clause precludes a review being conducted earlier. Of course, a review can be conducted earlier or it can be conducted later; minor changes can be made. It is within the power of any government of the day to bring in amendments.

The reference to "review" is, of course, to state the desire to conduct a review, but it does — as we discussed in debate yesterday — leave some discretion there, so that if there is not a collective desire of stakeholders to see a comprehensive review done, it allows them discretion for, perhaps, a targeted review or for the review to be delayed at the request of stakeholders.

*Clause 129 agreed to*

*On Clause 130*

**Mr. Cardiff:** I just would like to ask the minister what his intentions are with regard to advice to his Cabinet colleagues, as to when this act will be proclaimed into force.

**Hon. Mr. Cathers:** There are different sections of the act and some may be proclaimed on different dates. There is some implementation work that has to be done from the Yukon Workers' Compensation Health and Safety Board on the administration side, but certainly we're looking at each and every area of this act to be proclaimed at the earliest possible and realistic date, recognizing that it's important with this legislation that there be some time for employers, in particular, but also labour to do some preparatory work prior to it being up and running. We are looking at all sections. My recommendation — which was his question — would be that at the earliest possible date the sections be brought forward recognizing that,



as discussed previously, some sections will be proclaimed at different dates than others.

**Mr. Cardiff:** That's not the way this reads. It says, subject to subsection 41(18) — which was the one that we discussed earlier around duty to — well, I can't remember exactly what it was — but, basically, it's about duty to rehire or to bring these people back to work. I understand there was work that needed to be done around that.

The minister is now telling me that there are other sections of this act that aren't going to be proclaimed. I'm wondering if he would come clean and give us a list of which sections are going to be proclaimed, which sections aren't and give us a time frame around that?

**Hon. Mr. Cathers:** To clarify for the Member for Mount Lorne, as he indicated, my reference to different sections was intended to refer to 41(18). I just didn't have the wording right in front of me at that point, but it was 41 — that section would come into play at a different date. The expectation with the rest of the legislation is that we would likely be looking at an implementation date of July of this year, but that is subject to Cabinet approval, which is why I was hedging in answering the member's question. That is the timeline we would likely be looking at. Upon passage of the act, it is subject to Cabinet approval but, once that is done, that is the date I expect being able to implement the rest of the act.

**Mr. Cardiff:** I'd like to thank the minister for clearing that up. Given that this is pretty much the close of debate on the bill, I would like to thank the witnesses again for appearing today. This is their third day in the Legislature. It is quite refreshing to have expert advice and direct answers to our questions in the Legislature.

*Clause 130 agreed to*

*On Clause 131*

*Clause 131 agreed to*

*On Preamble*

*Preamble agreed to*

*On Title*

*Title agreed to*

**Hon. Mr. Cathers:** I would like to thank the witnesses, Mr. Tuton and Ms. Royle, for their time these past few days and for their efforts in answering the questions from members on all sides of the Assembly with regard to this piece of legislation.

As well I would like to thank them and their staff, and Mr. Tuton's fellow board members, for the work that has gone into preparing this legislation. I would also like to thank stakeholders — particularly the major stakeholders and representatives — who were involved in much of the discussions on the policy.

I would like to thank others including the panel, members of the public, or stakeholders who came forward with their input in this process.

*Witnesses excused*

**Hon. Mr. Cathers:** With that, Mr. Chair, I move that Bill No. 52, *Workers' Compensation Act*, be reported with amendment.

**Chair:** Mr. Cathers has moved that Bill No. 52, *Workers' Compensation Act*, be reported with amendment.

*Motion agreed to*

**Chair:** Would members wish to take a recess?

**All Hon. Members:** Agreed.

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

*Recess*

**Chair:** I will now call Committee of the Whole to order.

### **Bill No. 53 — Act to Amend the Tobacco Tax Act**

**Chair:** The matter before Committee of the Whole is Bill No. 53, *Act to Amend the Tobacco Tax Act*.

**Hon. Mr. Fentie:** Mr. Chair, tobacco use and addiction in all its forms is a very serious problem for the Yukon, not just in terms of health expenditures, but for Yukon society and families as well. The cost to society far exceeds the cost to government in health care costs. Fifty percent of all long-term smokers will die from tobacco-related illnesses. Half of these smokers will die up to 25 years prematurely during productive middle-age. The true cost to families is tremendous. Mortality studies conducted by Health Canada indicate that smoking and second-hand smoke is the primary cause of 22 percent of Canadian deaths per year. Despite the importance of the tobacco tax as a deterrent to tobacco use, the rates have only changed four times since 1974, and often minimally at that. Consequently, the Yukon today has the lowest taxation on tobacco and the fourth lowest taxation on cigarettes in Canada.

That today will change with the introduction of the most comprehensive changes to the *Tobacco Tax Act*, ever. Our long-term goal is to see a significant reduction in tobacco use in people of all ages, especially Yukon youth.

Mr. Chair, with this act the Yukon will have the highest rates in Canada for cigarettes and cigars and the second highest rates in the country for loose tobacco. The tax on a cigarette will change from 13.2 cents to 21 cents. Loose tobacco products will be taxed at 21 cents per gram, and cigars will be taxed at 130 percent of the taxable price. A 10-percent increase in the price of tobacco products, by the way, Mr. Chair, is well known to reduce consumption between two to five percent. Therefore, for youth, especially those who have not started to smoke, the effect of a 10-percent change can be up to three times larger than it is for adults. In the long term, we expect these changes will be a significant deterrent to tobacco use and our revenues will be declining as a result.

However, it takes time for behaviours to change and therefore we expect to see an increase in revenue of approximately \$3.9 million for the fiscal year 2008-09 due to these changes in this bill.

Mr. Chair, a recent statistical study by Physicians for a Smoke-Free Canada provides insight into the distribution of

who smokes in the country. Twenty-eight percent of smokers have a family income of over \$80,000 per year; 55 percent of smokers have a family income of over \$50,000 per year; and 77 percent of smokers have a family income of over \$30,000 per year.

While the prevalence of smoking may be higher in low-income families, low-income families clearly do not make up the majority of the population and, therefore will not be paying a majority of the tobacco taxes.

In the Yukon, according to Statistics Canada's most recent bi-annual community health survey, 30.4 percent of Yukoners over the age of 12 smoke. This is 8.6 percentage points above the national average. The Yukon was the only jurisdiction in Canada — and I want to emphasize this point: “the only jurisdiction in Canada” — to show an increase in the incidence of smoking between the last two surveys.

These are not statistics that we are proud of. Governments have three tools, as I stated in second reading, to combat tobacco addictions. They are legislative actions such as smoking bans — which this Assembly has tabled and has indeed debated — public education such as our tobacco reduction strategy here in Yukon, and the third tool, taxation itself. While all three tools are important, tobacco taxation is a very effective deterrent to smoking, especially among young people.

Most provisions of this act will come into force upon assent. However, the changes to rates will come into effect on July 1, 2008. The July 1 date is consistent with the amount of lead time provided in the two previous changes to the act. The lead time will allow wholesalers and retailers adequate time to change their computer systems and procedures.

Finally, unfortunately, illegal activities related to tobacco products take place in our society. The *Tobacco Tax Act* has been around since 1974. This bill introduces the first-ever changes to the offence provisions of the act itself. This bill sends a clear message that activities such as smuggling and illegal sales of tobacco will not be tolerated. It also sends a clear message that the government intends to ensure we do everything possible to stop people from smoking and to prevent those from starting to smoke.

Thank you.

**Mr. Mitchell:** As Health critic, it gives me pleasure to be able to respond to the Premier's opening remarks in general debate, and say that this is one of those instances where we on all sides of this House can agree that these measures' time has come.

We previously had some debate over why the previous position of the governing party had been different, and then changed, and it got to be an acrimonious debate. I am not really interested in going there today. I will accept the Premier's remarks — which I believe he made at second reading — that he has listened to counsel from the Yukon Medical Association. He has mentioned other medical organizations today, and that explains the reason for bringing forward this measure. I think it is time that this measure has come.

I hope that the intended goals of the new tax bill — which are laudable: to reduce the incidence of smoking among existing smokers, to discourage new smokers, particularly young

people, from commencing to smoke — will have the desired effect.

I hope that we can reduce the truly terrible figures that the Premier alluded to in his remarks, such as 30.4 percent of Yukoners over the age of 12 being smokers — 8.6 percent above the national average, and the fact that it has increased over the past 12 months.

I think the Premier made reference to some two- to five-percent reduction for each 10-percent increase in the taxes. I would like to see those statistics and I think that it would be important — I might have gotten that wrong; I'll have to check *Hansard*. I would like to see those figures and I would endorse the government making those figures widely known so that the members of the public who raise questions about the tax increase will understand what we're trying to achieve here.

I also agree with the Premier that there is not only a dollar cost to the health care system in dealing with the effects of tobacco use or tobacco addiction — because it is a very addictive substance — in terms of dealing with all sorts of forms of cancer from lung cancer to cancer of the throat, lips and other cancers that come from smoking, but there is a far greater human cost. Every one of us here has had friends and family who have succumbed to cancer as a result of this and we know other people who are fighting the fight. I could also point out that it is not just cancer; there are many other diseases, such as congestive heart disease and emphysema, which are directly linked to tobacco use.

We do support these goals.

We did raise — on behalf of members of the public who asked us to, in particular the input from members of the Yukon Anti-Poverty Coalition, who expressed concern that some of Yukon's most economically disadvantaged people, in their view, may be hard hit by this. That is unfortunate but, nevertheless, the goal is for their health as well.

We did ask that the government consider — since the minister mentions that this year there will be a \$3.9 million projected increase in tax revenue from this change, which will accrue from July 1 forward — in later years, that amount may be reduced by the diminishing number of smokers.

We ask that some or all of this money go toward making many of the aids for quitting tobacco use, from counselling services to the over-the-counter type things like the gums and the other aids, to programs and even to some of the prescription items available in some way at no cost to Yukoners who indicate they want to get rid of this habit.

I appreciate that the government put out a news release earlier today, entitled “Tobacco Education and Assistance for Quitting Smoking Enhanced”, which makes reference to doing that, at least to some extent. It is a little unclear, because it is a brief news release, to just what extent that will be and what will be covered. Perhaps the minister or his colleague, the Minister of Health and Social Services, might elaborate on that during the course of debate.

We do support the measure, and we do think if this can save one life — and I think it will save more than one — then it is worthy of our doing this. We will be voting for it at the next stage, as we did at each previous stage.

**Mr. Edzerza:** I would like to put on record that we in the third party support this tax increase on tobacco. Any deterrent to addictions is good; however, it would be somewhat comforting if the revenues from the increased tax were put back into prevention or assisting to help addicted citizens with the cost of methods used to break the addiction.

I certainly hope that this is a deterrent to young people to even start this habit. Again, it may work as a hardship to some of the seniors but it would also give them some incentive to really look at this addiction and even deal with it at an older age. It is a firm belief of mine that no one is ever too old to change their ways.

I sincerely hope that a lot of the seniors who are addicted to tobacco will really consider breaking the habit, as well.

**Hon. Mr. Fentie:** I want to thank the members opposite for their responses. Clearly, they have recognized the value of this particular measure. Ultimately, there is a clear, compatible link to the other two tools that we now have in place in the Yukon. We have made progress.

The fact is that we were at the point in the territory where we had one tool in operation: the Yukon's tobacco reduction strategy. We were void of any legislation governing this area of smoking in public places and we were void of the third tool in the Yukon, which is addressing smoking and tobacco use through taxation. What has happened here now is that this Assembly has collectively put together the three tools necessary to address this issue.

On the member from the Official Opposition's comment about position, it is a fact that we took the position of not raising taxes. In fact, this government has, in many areas, reduced taxes considerably, putting millions of dollars back into Yukoners' pockets. What became alarming, however, is the situation that the Yukon finds itself in statistically in relation to the rest of the country, regardless of positions on raising taxes or otherwise. This is an unacceptable position for our territory to be in and it had to be dealt with. We have accordingly done so.

The member also mentioned the relationship to increase versus reduction in consumption. That is related to an overall price increase in tobacco products. Statistically, it shows that a 10-percent increase in the price of tobacco products — not just taxation but the price of a tobacco product in its entirety — contributes to a two- to five-percent reduction in consumption.

So we know statistically that the tax measure is a deterrent. However, it is really important in the area where Yukon stands out the most, and that is for those who have started to smoke — the increased incidences of smoking in the territory in relation to the rest of the country. That most certainly can be attributed to our youth and, when it comes to our youth, this very same 10-percent overall price increase of tobacco products has an effect of a larger change in a deterrent for our youth of some three times more than the two- to five-percent reduction that adults experience when this type of price increase takes place.

We are advancing, along with our legislation, to ban smoking in public places, to address the issue of taxation — a very important tool — and, of course, we are also ensuring that the penalty component of the act is being updated so that those who choose to get involved in illegal activity by selling tobacco

— I guess the best way to put it is “under the table” — their penalties will be dramatically increased.

I want to assure all members that, because we have the three tools in place, there will be a very clear emphasis by the government on investing in a continuance of the Yukon's tobacco reduction strategy in all its forms. The announcement today was toward assistance for those who may be trying to avail themselves of other tools, if you will — most of that medically provided, whether it be prescription or otherwise — to assist in stopping smoking.

But we still have to concentrate in the area of prevention so that young people and others don't start to smoke. That is the most effective way to deal with the harm caused by tobacco use. Let's get a population — as we continue to go forward into the future — that starts to smoke less and less. That would be one of the most critical objectives along with how we deal with all other issues and challenges that we experience because of tobacco use.

So, I thank the members. I would now, at this time, move that Bill No. 53, *Act to Amend the Tobacco Tax Act*, be reported without amendment.

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

**Mr. Mitchell:** Just very briefly, I thank the Premier for his comments. He did respond to most of the remarks I made.

I am wondering if he can just provide any additional clarity as to exactly — he mentioned both over-the-counter aids and I think he said “medical” or “prescription” aids — whether there have been specific decisions made about items such as the patch being made available at reduced cost. If so, is that a 50-percent subsidy, or what degree of subsidy does someone need? Does a smoker have to enrol in a particular program in order to get that assistance or simply present the receipt after having that prescribed by a medical doctor?

**Hon. Mr. Fentie:** Actually, that discussion is much better left for the Department of Health and Social Services debate.

However, what I am going to assure the members about is that we have the three tools in place. Therefore, our emphasis in the area of tobacco reduction, the use of tobacco, and the reduction of that use will probably incorporate many elements of the tools, the one the member just mentioned being just one — but that is to be left to the strategy itself going forward.

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

We will proceed clause by clause.

**Mr. Edzerza:** I request unanimous consent of the Committee to deem all clauses and the title of Bill No. 53 read and agreed to.

#### **Unanimous consent re deeming all clauses and title of Bill No. 53 read and agreed to**

**Chair:** Mr. Edzerza has requested unanimous consent of the Committee to deem all clauses and the title of Bill No. 53, *Act to Amend the Tobacco Tax Act*, read and agreed to. Are you agreed?

**All Hon. Members:** Agreed.

**Chair:** Unanimous consent has been granted.

*Clauses 1 to 11 deemed read and agreed to*

*On Title*  
*Title agreed to*

**Hon. Mr. Fentie:** Mr. Chair, I move that Bill No. 53, *Act to Amend the Tobacco Tax Act*, be reported without amendment.

**Chair:** It has been moved by Mr. Fentie that Bill No. 53, *An Act to Amend the Tobacco Tax Act*, be reported without amendment.

*Motion agreed to*

### **Bill No. 49 — Act to Amend the Financial Administration Act**

**Chair:** Committee of the Whole will now proceed to Bill No. 49, *Act to Amend the Financial Administration Act*.

Do members wish a brief recess?

**All Hon. Members:** Agreed.

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

*Recess*

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

The matter before the Committee is Bill No. 49, *Act to Amend the Financial Administration Act*.

**Hon. Mr. Lang:** Passage of this bill would repeal the property management revolving fund. The Property Management Agency asked for this repeal as it will not require this fund when its status changes from a special operating agency to a regular program of the Department of Highways and Public Works on March 31, 2008.

In the 2008-09 fiscal year, Property Management Agency will submit an annual budgetary request for funding to the Legislative Assembly as part of the Department of Highway and Public Works.

Mr. Chair, are there any questions?

**Mr. McRobb:** The minister just spoke about the changes in the future tense, then referred to the effective date of March 31 of this year, which of course has already passed. I will just assume that he was reading an old note that was not updated and we can move on from there.

I would like it if the minister could provide us with a brief history of the revolving fund. I am particularly interested in knowing in what year it was formed, approximately how much was in the fund in each of the years, and can he elaborate on what its use was?

**Hon. Mr. Lang:** In answering the member opposite, its effective start-up date was 1996.

**Mr. McRobb:** Can we get a response to my other question?

**Hon. Mr. Lang:** It was utilized as a tool for maintaining the public's assets in the form of buildings and other requests.

**Mr. McRobb:** There is still one more question unanswered. Approximately how much money was in the fund for the years it was operating?

**Hon. Mr. Lang:** It certainly has changed over the years but, in latter years, it was approximately \$30 million to \$33 million.

**Mr. Cardiff:** I would like to thank the officials for appearing here. I would like to thank them, as well, for the briefing they provided on this act.

One of the pieces of information we learned about in the briefing was the fact that the Property Management Agency would be acquiring a property management information system, which is basically some computer software. I am just wondering if we know the cost of that computer software. What is the schedule for getting that software and getting it up and running?

**Hon. Mr. Lang:** In addressing the member's question, this is a two-year program — roughly \$800,000.

**Chair:** Is there any further general debate? Seeing none, we will proceed clause by clause in Bill No. 49.

*On Clause 1*

*Clause 1 agreed to*

*On Clause 2*

*Clause 2 agreed to*

*On Title*

*Title agreed to*

**Hon. Mr. Lang:** I move that Bill No. 49, entitled *Act to Amend the Financial Administration Act*, be reported without amendment.

**Chair:** Mr. Lang has moved that Bill No. 49, entitled *Act to Amend the Financial Administration Act*, be reported without amendment.

*Motion agreed to*

### **Bill No. 9 — Third Appropriation Act, 2007-08**

**Chair:** Committee of the Whole will now proceed with Bill No. 9, entitled *Third Appropriation Act*. Do members wish to take a brief recess to await officials?

**All Hon. Members:** Agreed.

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

*Recess*

**Chair:** Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 9, *Third Appropriation Act, 2007-08*.

**Hon. Mr. Fentie:** Mr. Chair, I'm pleased to address Bill No. 9 in Committee. This is the *Third Appropriation Act, 2007-08*, better known as *Supplementary Estimates No. 2*.

I'm not going to be going into great detail on the bill, since my second reading speech explained, in a great deal of detail, the content of this appropriation. Members will have the opportunity very shortly to raise questions in general debate with me and the various ministers who are seeking funding increases.

This supplementary estimate provides the Legislature with information about the expenditure changes that require additional legislative appropriation authority up to this period of the 2007-08 fiscal year.

It is also used to provide the general public and the Assembly with updated information on the financial position of the Government of Yukon.

Mr. Chair, this supplementary budget reflects the projected year-end financial position of the Government of Yukon to March 31, 2008. As such, it serves as the starting point for the 2008-09 main estimates.

This supplementary estimate for fiscal year 2007-08 seeks authority to increase operation and maintenance expenditures by just over \$8.8 million and to decrease capital expenditures by some \$17.3 million, for a gross expenditure decrease of \$8.4 million.

The government's revenues, transfers from Canada, and other third party recoveries are increased in total by a net amount of \$22.3 million. This results in a year-end forecast annual surplus of just over \$8.6 million. This is a significant change from the projected \$14.7-million deficit outlined in last fall's supplementary budget. I will also summarize the changes that give rise to this shortly. After these changes are approved, the net financial resources of the government to year-end are projected to be \$130 million and the accumulated surplus, as of March 31, 2008, is forecast to increase to almost \$554.4 million.

Yukoners can be comforted by the financial position of this government. The Yukon has a healthy bank account, unlike other less-fortunate regions of the country. The government is earning interest on its surplus funds; it is not paying interest on borrowed money, and our future is indeed not mortgaged.

Operation and maintenance and capital expenditures — in a brief summary, the changes include the \$8.8-million net increase for O&M identified for a few major expenditure areas. Examples include additional costs arising from amendments to the *Legislative Assembly Act*, totalling \$555,000. This is the government fulfilling its commitment to modernizing the emergency medical services program. This supplementary estimate transfers budget responsibility from Health and Social Services to Community Services and increases expenditures by some \$770,000.

O&M and programming costs for public schools — and this is an important facet of the supplementary — have increased by \$2.2 million, and I would encourage the members opposite to engage with the minister responsible, as this is a very significant investment in some important areas for our education system.

Costs related to our most valuable resource, our employees, have increased as this government continues to recognize its liability for employee future benefits.

On the capital side of the ledger, expenditures are showing some significant lapses. Community Services has identified lapses totalling \$12.6 million, primarily related to significant projects within the land development program and the municipal rural infrastructure fund initiative. We will follow through on these projects, as lapsed funds for 2007-08 will be included in the 2008-09 main estimates.

Health and Social Services has identified lapses of just over \$5 million for the health facility in Watson Lake. Again,

these lapsed funds are captured in the 2008-09 capital estimates to ensure this project moves forward.

Offset by modest increases that have been identified under other departments, the supplementary estimates identify gross capital lapses of some \$17.3 million.

Mr. Chair, I remind the members of the Assembly that many of the lapsed funds will be reflected in the 2008-09 main estimates or as revotes later in the year. Therefore, debate would be much more constructive recognizing that many of the questions should be asked when the main budget is brought forward for debate.

The ministers for departments I have named, as well as ministers for other departments, are requesting supplementary budget approval and will be pleased to provide the members of the Assembly with details with respect to those expenditures.

In closing, I want to thank the Assembly for its indulgence. I am very pleased to present this supplementary budget today, demonstrating clearly that, as our fiscal year for 2007-08 winds up, the Yukon's financial house is in order, is healthy and has definitely put the Yukon in a position so we can continue into the future with our investments and building a better quality of life. I am pleased to discuss further in general debate, in general terms, any issues the members opposite may have.

**Mr. Mitchell:** I thank the minister for his overview.

We put a number of items on the record in second reading, and I somewhat agree with the minister that time is limited and we would like to spend the bulk of our time debating the main estimates for 2008-09. I don't want to spend a great deal of time here repeating too much of what I said before, but I will make reference to some of it.

One thing that still does concern us is, would these revised figures for 2007-08 — out of the total revenue of \$863,320,000, when you add transfers from Canada to recoveries from Canada, \$675,902,000 comes directly or indirectly from Canada, and another \$81,916,000, as the minister has said, comes from third party recoveries.

What this tells us is that the \$95,502,000 that comes from taxes and general revenues is 11.06 percent of all revenue. We've made reference before that not too many years ago the percentage of own-source revenues was some 15 or 16 percent. There is a concern — and I want to be clear on this yet again: the concern is not about whether or not Yukoners are deserving of the transfers from Canada because, as the Premier likes to point out, that is required in order for Yukoners to enjoy the same level of services and the same quality of life as do all other Canadians; that is our just due. However, we still appear to be moving backward in terms of the percentage that we generate within Yukon, and perhaps the Minister of Economic Development, who is keenly listening, will be able to tell us later what is happening with economic diversification, because that is a concern.

I know that the absolute dollars have gone up for own-source revenue, but as a percentage of the whole, they seem not to be moving in that direction.

The Finance minister indicated that we were earning interest on our surplus funds, and I think it is more accurate to say that we're earning interest on some of our surplus funds. Cer-

tainly, on the \$36.5 million that was invested in asset-backed commercial paper last summer, while interest has been promised, we haven't been earning it. At least, it has not been paid to us. That interest cannot appear here. It is in the form of a promise for hopefully when the Montreal Accord finalizes the proposal, which is now slated to be in late April — I think April 25.

I know there have been some references to back-pay of interest that was not provided. It is my understanding that no interest payments have been received during this period of time. If that is not the case, I would like the minister to correct that.

This does bring up a question for the minister: what is the loan/loss provision policy of this government? We noticed that, as of this supplementary budget, which is in part meant to give us a more accurate picture of the fiscal year just completed, there is still no loan/loss provision relating to the frozen investments, unlike what other jurisdictions have done — and certainly what corporate Canada has done. It is something that we would like to hear more about.

I know that the Finance officials, when we asked that question during the briefing, indicated in their response that the reason there was no notation here was because any potential loss was not yet quantified. It was not yet known. That, however, is the same for any other jurisdiction, such as the Alberta treasury branch or the Caisse in Quebec or the one in Ontario. There may be government investments, but other governments have indicated that they will be making loan/loss provisions, recognizing that if there is full recovery down the road, there will be an adjustment to reflect that and, if not, at least the current statements would perhaps be more reflective of what's generally believed to have occurred to the asset base that is supporting those investments.

Perhaps the minister can speak to that; I would like to hear an answer to that.

In terms of some of the items that have lapsed, especially on the large capital expenditures, we're wondering if the minister could provide some more specific answers, such as in land development. It has been indicated elsewhere in this House that the government has not been able to proceed with some land developments due to some other levels of government — specifically, in one case, the municipality of Whitehorse. I'm wondering if that's all that's at stake, or is there some trend with these larger budgets of not having the capacity to actually complete the projects that are being announced?

We're seeing things announced, and then they get re-announced in a succeeding budget, with equal fanfare to the first time they were announced. It perhaps causes members of the public to think that additional new initiatives are occurring yet again and again, when it's the same, yet-to-be-completed initiative from previous.

We will have questions. Perhaps I can address some of them now and others when we're speaking of specific departments, in terms of what's occurring with the northern strategy, with the governance liaison and capacity development — whether there are any particular First Nations that were targeted out of this past year's funds to receive support, or

whether this is just an overall amount that has been allocated. We're curious about where it was spent.

When we see a revised vote in the land claims and implementation secretariat of a reduction, we would wonder what it was meant to do and what the reduction has been.

There are some large transfers into Community Services, for example, for protective services, transferred from where they were previously found in Health and Social Services. We just want to ask how that's proceeding and whether or not it seems to be working as was hoped.

Again, we know about some of these lapses. I am presuming that the Takhini North infrastructure replacement, for example — that's \$1.4 million out of the some \$12.6 million in lapses in capital expenditures under community infrastructure — will be revoked. We will be interested in knowing whether now all of the agreements are completed with the municipality to move forward so that money will be spent in the coming year.

There has been lots of debate in and around just how much money has been spent on the extended health care facility in Watson Lake. We know that, in the Health and Social Services budget, there was some \$5.12 million that lapsed and will be revoked, as part of the \$6.95 million — I think it is, if my memory serves — allocation for the current year. \$1.824 million was expended in the fiscal year just completed that we are debating here today.

I would be interested to know whether either this minister or the Health and Social Services minister can report on the progress that was achieved with that additional expenditure.

I know that a little over \$4 million has been expended to date. I know that the minister has publicly — on his radio interview show — indicated that the figures from the Official Opposition are all wrong. But, certainly, with the \$4 million-plus that has been spent — and we have to take the minister at his word that he intends to spend just under \$7 million in the current year — that will bring the total cost of that facility up to a little more than \$11 million, if that money is all spent during this year. Perhaps some will lapse again, and we will be looking at this money in 2009-10 but, for now, we have to presume that it is happening.

Similarly, there was \$60,000 as the revised vote in the multi-care facility in Dawson City so, obviously, some work occurred last year, but there is no money in the current-year budget to carry forward. So we are wondering what was achieved and whether this is just finalizing for plans to put on the shelf.

There were some specific questions in there, and I don't really want to carry on too much longer, but perhaps the minister could answer some or all of those when he is next on his feet.

**Hon. Mr. Fentie:** Let me begin with the member's fixation on the government's investments. I want to advise the member that it is incorrect to compare the corporate community and their bookkeeping with government. There are three reasons: in most cases, corporations have different year-ends, they also produce quarterly financials, and they have tax reasons for how they address this type of booking.

To date, we have not received instructions from the Auditor General on this matter to book any amounts related to the investments. In fact, we are working with the Auditor General through our year-end, and any requirement that the Auditor General brings forward will be incorporated in our year-end.

What the Auditor General has actually told us is it's too early to start anticipating or guessing what we might have to do here. I think we concur that we're in a process that is slated to bring a resolution to the matter.

The member has again made reference to dependency on the federal government. I think it's important that we go over these numbers, because the member is incorrect. In fact, overall dependency on the federal government is decreasing. Now let's go back to a comparable year — the last year the former Liberal government — when total expenditures were \$503,014,000. Out of that, 69 percent of that total expenditure was due to the grant — the transfer from Canada. Today, in 2008-09, as presented, \$873,981,000 in total revenue — of that, \$564 million is the grant, and since 2001-02, we've reduced by four percentage points the difference between the grant and own-source revenues, as it, combined, relates to our total revenue amount. Therefore, dependency is decreasing.

Furthermore, I would hope the member recognizes that out of these own-source revenues that are ever-growing here in the Yukon, because of our astute fiscal management and our plan for Yukon's economy, there have been significant tax decreases.

I hope the member recognizes that lower small business taxes contributed to the difference, yet were still reduced by four percentage points. The Yukon energy rebate, revised tax brackets to modify credits such as a medical credit, revised basic personal exemption, new child tax credits, revised Yukon child benefits, and the mineral exploration tax credit, all collectively added up together is close to some \$30 million of tax breaks for Yukoners, Yukon corporations and, with respect to the mineral exploration tax credit, the mining industry.

The member in his statements about dependency has to include all the facts. Our dependency is decreasing because our own-source revenues are increasing. It has allowed us to provide substantial tax breaks for Yukoners, and we continue the trend in the territory. By the way, the member in his issue of dependency should recognize that the Yukon, in terms of its financial health, is one of the best in Canada. That is an important point to be made.

I'd like the member to explain, when he takes these kinds of positions, how he views equalization — a constitutionally protected sharing of the national wealth. Why should the territories and, in this case, the Yukon, be treated any differently? It is the sharing of the national wealth, as envisioned in this country.

So through our negotiations with Canada, we have increased our fiscal capacity, as it should be. The member also has to remember that our territorial funding formula, as negotiated, includes an incentive where there is the retention of own-source revenues based on the representative tax systems of 30 percent. So, going forward, we have increased our capacity to reduce our dependence on the federal government by the

amount or the factor of retention of our own-source revenues. So I want to comfort the Leader of the Official Opposition — fiscally, all is well.

Most of the other questions relate directly to departments but, Mr. Chair, I will make mention of the fact that the member talked about lapses. First off, in many cases, projects don't end because a fiscal year-end has come upon us; they continue into other years. You'll see that in the mains, when we pick up the mains and debate them, what projects are revoked and continuing.

Secondly, a large portion of lapse in this supplementary relates to the city's project of Porter Creek lower bench, which did not proceed. That is not the government's decision to make. We provided the necessary fiscal resources and there was no progress made on this development; therefore, we lapsed the funds. The list goes on.

Most of what the member is seeking is going to be much better served in the department debates. I will close by pointing out that, when he mentions the ambulance transfer, it was based on the fact that we committed to integrate and modernize our emergency response system in the territory — all inclusive: ambulance, fire, floods and forest fire. It is now under one umbrella — integrated and modernized. We even now have paramedics in communities like Watson Lake and Dawson City.

**Mr. Mitchell:** On the point of the difference between corporate and public accounting, I would advise the Finance minister that, in case he wasn't listening when the Auditor General addressed us in this Assembly, that question was asked of her. In fact, I asked her how this would be done in public accounting because I assumed it might be different from how it's done in corporate accounting. I asked her how it would be done and if it is different. She actually responded by saying that, in this instance, it's not different; it's the same. She indicated that she would be looking forward to seeing some loan loss provision on a go-forward basis. I am basing my remarks on the response that the Auditor General gave here to those questions when they were asked.

If the Auditor General has privately informed Finance officials and the Finance minister that she is not expecting to see anything yet, that's fine, but that's different from what she said at the time on February 12 in this House. There is clearly no point in debating these figures with the member opposite because he's simply going to say he's right, and that's the approach he's going to take. I will say that we are still going to ask our questions, and if the minister doesn't like that we're asking them, he has had a tendency in the past to refer them to departmental debate, but when we get into departmental debate we are told that it should have been done in general debate. It's a bit of a game of three-card monte, looking to see which card is where, that we seem to be playing.

As far as the change to the funding to put all of the various aspects of protective services together, when the minister takes the opportunity to look back and review *Hansard*, I think he will find that I did not criticize it; rather, I asked a question about how it is working out to date. That's just asking, recognizing that it did not occur for the vast portion of the last year — perhaps we have to wait longer to see whether it is working

well. The question: are the efficiencies and the smoother operations that were cited as reasons turning out to be, in effect, what we are getting?

As far as the overview the Premier gives, we've said before, and I'll say it again: "Yes, we do deserve to have our fair share. Yes, we do believe in equalization. No, we don't need to have this debate within each response and question." Why don't we just accept the fact that we agree on that? We can still raise the issue of what we're doing toward additional diversification.

I'm wondering if the minister could just clarify — one of the ways in which the surplus appears to be getting created in recent years is by money that gets booked in when we receive it from Canada, such as the northern housing trust, for example. It's \$50 million that was booked in; nothing was done for some period of time until \$32.5 million was transferred directly to First Nation governments, based on agreement reached in the Yukon Forum. The remaining \$17.5 million remains on the books so, in effect, we create an appearance of larger surpluses because we take some time — it goes over several fiscal years sometimes before we spend the money.

Now I know some announcements have been made about some expenditures that will occur in the current year toward a somewhat vaguely defined project for single-parent housing, in that there is no overall budget for the project yet, and there is no location or any specific design for the project. But there is certainly an allocation of the better part of \$1 million to start the planning process.

Was there any other money from that northern housing trust, other than the funds transferred to First Nations, that were expended in the fiscal year that's just completed?

**Hon. Mr. Fentie:** You know, the member takes exception to my pointing out this issue in relation to what is constantly a response by the Official Opposition of federal largesse. So, if the member takes issue with my points of fact, demonstrating that our dependence is diminishing — because of the approach we've taken fiscally here in the Yukon — then stop trying to make the case and bring forward the information that is inconsistent with the fact — that our dependence is increasing. It's not. It's decreasing. We all know that and, in our ability to grow our own-source revenues, we have put millions of dollars through tax breaks back into the pockets of Yukoners. That's really the essence of our discussion. Now, I know the member doesn't probably like that, because it's a demonstration that fiscally all is well.

The member made comments once again about the Auditor General. I think what is really at issue here is the member is confused. The Leader of the Official Opposition is confused about what the Auditor General actually said, as confused as the role the member plays — along with the Member for Porter Creek South — on the Public Accounts Committee — when the member said that "This is a cover-up" and "We quit." Well, the member is confused, because the member can't quit.

It's the same with the member's position on the Members' Services Board. I'm just trying to help the member. Maybe the Leader of the Official Opposition is actually confused about what the Auditor General said — unlike the government side,

which is not confused at all. We're working with the Auditor General on our accounts, as we always do, with all matters fully and duly reported, as they always are — including our investments, which have been given scrutiny by the Auditor General since we were making investments. They are a special approach to this because of the scrutiny required for the investments the government is making.

All has been duly reported, fully disclosed and we all know what the real issue here is: it only became an issue when the banks did not live up to their liquidity agreements.

I know the member doesn't agree that these agreements exist, but they do. I know the member doesn't agree that that is a guarantee; however, it is, according to the federal regulator OFSFI.

Instead of bandying this back and forth — the government side with the facts, the member opposite trying to reconstruct the facts — let us move on to department debate and then the detail the member seeks will certainly be forthcoming.

**Mr. Mitchell:** Well, I did ask for some detail. I will ask it again.

Since the Finance minister says he wants specific questions, I asked him specifically: what is the loan/loss provision policy in general that the government employs? That is fairly clear-cut as a question. It doesn't have to relate to the Premier's favourite subject, which is liquidity agreements and bank guarantees and asset-backed commercial paper — it can relate to a policy in general.

If the Premier doesn't know the answer, I'm sure the officials can provide him with the answer and he can answer it when he is next on his feet.

As far as the other comments the minister just made, he has made quite a few comments about what has gone on in Members' Services Board, particularly at meetings at which he was not the attending member — other members attended. I have refrained until now and I will continue to in debating it because what occurred there is not as this member has represented it, or incorrectly represented it. However, if the members opposite choose to call the motion they put on the Order Paper about it, then I guess that will force us to bring forward minutes of the board meetings and I'll bring forward descriptions of meetings I had with members of the government caucus, as well as the third party caucus, and we can just carry forward and air all that out. I don't think it serves any purpose, so that is why I have refrained from responding to the misrepresentations that we have heard here about who moved what.

The record doesn't show that all, Mr. Chair. It doesn't do this Assembly any good to carry on that way. The member likes to play politics and so that is what he does.

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

**Mr. Mitchell:** He plays shocking politics, as he says.

Perhaps the minister can provide us with an update. When we say that there seems to be an inability on the government side of the House to actually bring projects forward, it is apparently always someone else's problem. He talks about the city not moving forward on the lower bench and that is a fair representation. We've heard other representations of why other numbers will have to be adjusted. Recoveries will be adjusted,



going forward, for the Whitehorse Copper subdivision, because it is difficult to have recoveries when you can't sell the lots because you haven't surveyed them properly — and that happened under this government's watch.

I look at the Department of Justice and I see that, under community and correctional services, there are three amounts that have been lapsed and will no doubt be revoted as part of even larger amounts, and that is \$310,000 in the corrections infrastructure, \$40,000 for correctional facilities renovations and \$393,000 out of \$507,000 on the interim space plan renovations.

Now that is interesting because, on the one hand, this government wasn't able to complete their projected renovations at the Correctional Centre, which meant that the current inmates have continued to live under very difficult conditions with infrastructure that is falling apart. As a result of the actual physical layout within the facility, prior to these renovations occurring with reduced programming — in particular for female inmates — there is an inability to have the space available in a secure fashion for the programming.

We've also heard that the amount that was budgeted — some \$500,000 — will be several hundred thousand dollars short of being sufficient, based on the bids that came in when the project went out for bid. So, first, the planning process seems to have not been very accurate, in that the amounts that were set aside in the plan for the interim space renovations were insufficient, based on what the available contractors bid. Second, the government didn't get most of it done anyway. What we are seeing here is a pattern — we can look at department after department — of an inability to get the job done.

If the lack of ability to get projects completed leads to the minister being pleased at the revised surplus going up at the end of the year, then that's his view of how planning and execution should occur. I don't think that is what Yukoners expect. They actually expect that things that are announced will then proceed expeditiously to accomplishment.

There are some questions there. I know that the officials take notes and provide the minister with the questions, so perhaps the minister will answer those, as opposed to getting into an endless debate on what we should or should not receive from Canada.

**Hon. Mr. Fentie:** Well, on the policy issue that the member mentioned quite some time ago, when he first got up, this is directly related to public sector accounting guidelines and as dictated by the *Yukon Act*. There, in a nutshell, is exactly what guides us. They are the instruments.

We will continue to follow those instruments.

Obviously, the member is trying to find areas to criticize, despite all the good that has taken place in the territory and the tremendous improvement in the quality of life for Yukoners. There was a recent announcement, I believe, that 1,000 more Yukoners now reside here, working in the mining and construction industries. That's another example of the many, many capital projects advancing in this territory. So I'm not sure what the member is talking about. I know that the criticism is being levied for a reason, which is because the Official Opposi-

tion is trying to find some traction somewhere. They have not been very successful to date.

So, all in all, we're pleased with the management of our fiscal resources, with how we've been able to invest capital monies to stimulate the economy, and how we've increased and enhanced education. That's a good discussion for the members to have with the minister in terms of what's in this supplementary as it relates to improving our education system, how we've enhanced our health care system, how we are protecting our pristine environment, how we are investing in providing good governance, and the list goes on.

I know the member is trying to find some area somewhere and some example that can provide some factual criticism, but to date, all criticism is void of that factual requirement. It is empty criticism. Useless information is how we can define it.

**Mr. Mitchell:** While we're defining useless information, I believe when the minister referred back to the first specific question I asked — simply what the loan/loss provision policy is — he said that it's as set out in the *Financial Administration Act* and elsewhere, as opposed to simply telling us what the policy is. It was a very straightforward question. The minister said it was defined and that they were following the *Financial Administration Act*, as they always do. Of course, that's not really correct, because the Auditor General said they don't always follow the *Financial Administration Act*. They didn't follow it with the asset-backed commercial paper investments, for one thing. They were not in compliance.

The minister talks about asking the ministers who can answer the questions. He made reference to things that are happening within his own portfolio. I think he made some reference to some things that are happening on the environmental front. I will ask him how the expenditures on the climate change action plan have moved us forward, since we see additional monies within this budget for additional office furniture, equipment, systems and space within his own department. We don't see a specific mention of the climate change action plan, but it does reappear as yet another homework assignment not completed in the 2008-09 budget. Why doesn't the minister just stand up and explain the policy? Then we have a better idea whether he is following the policy. I would appreciate that.

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

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

Seeing none, we will proceed to Schedule A.

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

#### Point of order

**Chair:** Mr. Mitchell, are you standing on a point of order?

**Mr. Mitchell:** Yes, I am. The minister said, "clear", and I don't think that's an acceptable answer.

**Chair:** Order please. Are you standing up on a point of order or are you proceeding with general debate on Bill No. 9?

**Mr. Mitchell:** My point of order is that, not having heard an answer to the question, I am still —

#### Chair's ruling

**Chair:** Order please. That is not a point of order. Is there any further general debate?

**Mr. Mitchell:** I will ask again whether the minister can tell us what the policy is for loan loss provisions — the policy that he's endeavouring to follow.

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

**Mr. Mitchell:** I believe that the answer I heard, although there was no minister on his feet, was that the policy is clear. I heard a number of people stating "clear", but I didn't hear an answer to the question. I am hoping that the minister will at least answer one question in general debate on this supplementary budget.

**Chair:** Is there any further general debate? Seeing none, we will proceed with Schedule A of Bill No. 9.

*On Schedule A*

**Chair:** Order please. Committee of the Whole is proceeding with Schedule A.

**Hon. Mr. Cathers:** Mr. Chair, seeing the time, I move that we report progress.

**Chair:** Mr. Cathers has moved that we report progress.  
*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

**Mr. Nordick:** Committee of the Whole has directed me to report on two motions: Committee of the Whole Motion No. 6, regarding the reprinting of Bill No. 104, and Committee of the Whole Motion No. 7, regarding the appearance of witnesses from the Workers' Compensation Health and Safety Board. Both motions were carried.

Committee of the Whole has also considered Bill No. 52, *Workers' Compensation Act*, and directed me to report it with amendment.

Committee of the Whole also considered Bill No. 53, *Act to Amend the Tobacco Tax Act*, and directed me to report it without amendment.

Committee of the Whole also considered Bill No. 49, *Act to Amend the Financial Administration Act*, and directed me to report it without amendment.

Mr. Speaker, Committee of the Whole has also considered Bill No. 9, *Third Appropriation Act, 2007-08*, and directed me to report progress.

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

**Some Hon. Members:** Agreed.

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

**Hon. Mr. Cathers:** 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 stands adjourned until 1:00 tomorrow.

*The House adjourned at 5:23 p.m.*

### The following Sessional Paper was tabled April 8, 2008:

08-1-68

Conflict of Interest, re Minister responsible for the Yukon Liquor Corporation: letter (dated April 8, 2008) from David Jones, Conflict of Interest Commissioner, to the Hon. Mr. Fentie, Premier (Fentie)