

**Yukon Legislative Assembly**  
**Whitehorse, Yukon**  
**Monday, December 14, 2009 — 1:00 p.m.**

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

*Prayers*

## DAILY ROUTINE

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

Tributes.

## TRIBUTES

### In recognition of Alfred Charlie

**Mr. Elias:** I rise to pay tribute to a respected elder and former Chief of the Vuntut Gwitchin, Mr. Alfred Charlie, who is hopefully going to be listening to the radio this afternoon in Old Crow.

Alfred was born in Johnson Creek Village on September 12, 1923. His parents were Peter and Mary Charlie. Alfred and his wife Helen raised seven children in Old Crow. Serving on the Vuntut Gwitchin First Nation Council from 1960 and then becoming the chief in 1968, Alfred Charlie held the needs and desires of his people in high regard and understood the importance of serving his people by connecting with other northern communities.

At the time, the only way to get supplies into the community was by boat in the summer or by landing aircraft on the Porcupine River gravel bar. He knew a permanent direct air connection would improve the goods and services and increase accessibility of health care and education for the Vuntut Gwitchin and yet his community would have some control and protection of the values and traditions held because of their isolation.

While working closely with the Yukon MP at the time, Erik Nielsen, Alfred Charlie pushed to see a year-round airport built in Old Crow. His persistence paid off in May 1972 when Old Crow saw construction begin on the airport. This was a considerable initiative at the time for his small, isolated community and it was big news, in Alfred's words, when it was announced that Old Crow was in fact getting an all-season airport.

Alfred Charlie was also instrumental in organizing the training and certification programs necessary for Old Crow residents in order to prepare for the airport construction and operations. Community members travelled to Whitehorse and gained skills as heavy equipment operators, mechanics and other related trades in order to complete the Old Crow airport.

It is important to mention that the airport project required that Alfred return as the pilot of the Brainstorm river barge to haul the heavy equipment necessary for the construction of the Old Crow airport. This meant that he had to leave his family and community to make the multiple river trips necessary to and from Dawson City and Old Crow.

After a year of construction, the airport became fully operational in 1973. Passengers and cargo were now transferred by air in and out of the community on a regular basis. During the airport's construction, the community also pulled together to harvest logs for the building of new homes and a new school.

In 1985, the airport was certified by Transport Canada for day and night flight operations. Since its very beginning, the airport has played an important role in the economic growth of our community, and today the airport remains a vital piece of infrastructure, and therefore plays a significant role in the day-to-day lives of community members.

It was a very proud moment for Chief Alfred Charlie and the community when the first aircraft landed at the new airport. The airport continues to be a year-round, fully operational facility that serves as the gateway for our community and north Yukon.

On November 4, 2009, the 2010 Winter Olympic Torch arrived in the community of Old Crow on Air North's Boeing Combi 737 jet aircraft.

It was Alfred Charlie's vision and drive that made the Old Crow airport a reality. On Friday, October 23, 2009, the Old Crow community airport was dedicated to Mr. Alfred Charlie and will be renamed the Alfred Charlie Old Crow Airport in recognition of his achievements, vision and dedication to his people and north Yukon.

Thank you, Mr. Speaker.

**Speaker:** Are there any further tributes?

Introduction of visitors.

Returns or documents for tabling.

Are there any committee reports?

Are there any petitions to be presented?

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 Canada to conduct a feasibility study of developing a deep-water port at either Stokes Point or King Point on Yukon's north coast with road access to the port site being provided from the Dempster Highway in order to promote Canadian sovereignty in the Arctic Ocean and the Beaufort Sea through actions that will support recognition of the 141<sup>st</sup> meridian being accepted as the offshore boundary between Yukon and Alaska and assert that the waters of the Northwest Passage are Canadian internal waters under the terms of the *United Nations Convention on the Law of the Sea*.

Thank you.

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

THAT this House urges the Government of Yukon to ensure that Yukoners gain benefits from economic activities in the territory through the development of a locally based skilled workforce in different disciplines of particular importance to

Yukon relating to economic development, education, First Nation capacity building, health and social services and social justice by working in partnership with communities, Yukon First Nations, business and industry and Yukon College.

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

THAT this House urges the Government of Yukon to support and work with youth service providers by increasing funding to non-government organizations that provide programs for youth in order to ensure continuation of access to much needed programming.

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

THAT this House urges the Government of Yukon to consider the safety of travellers by looking into widening the north Klondike Highway.

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

THAT this House urges the Yukon government to immediately proclaim section 41 of the 2008 *Workers' Compensation Act*, employers' obligation to re-employ, as this will lead to reduced claims costs and assessment rates.

I give notice of the following motion:

THAT this House urges the Yukon government to ensure that funding to the Salmon Subcommittee, established under the *Umbrella Final Agreement*, is sufficient in order to

- (1) conduct independent local research;
- (2) support environmentally safe local, commercial and recreational harvesting;
- (3) monitor salmon diseases;
- (4) train new committee members;
- (5) investigate aquaculture proposals;
- (6) improve administration of the committee;
- (7) respond to public inquiries and concerns; and
- (8) consult with the public on issues.

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

THAT this House urges the Yukon government to strengthen Bill No. 80, *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, by listing the bodies to which the act applies in the legislation itself, rather than under the regulations, as the government is currently proposing.

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

Hearing none, is there a statement by a minister?

Hearing none, this now brings us to Question Period.

## QUESTION PERIOD

### Question re: Yukon Energy Corporation/ATCO

**Mr. Mitchell:** I'd like to return to one of the Premier's favourite topics, and that is his plan to privatize the Yukon's energy future.

The Premier spent the early part of this sitting denying he had ever met the president of ATCO, Nancy Southern. Then he tabled a letter that contradicted his own statements. That letter proved that he had met personally with her and further established that he looked forward to developing the framework for a new partnership. Despite the Premier's many denials, Yukoners know he met several times with Ms. Southern during the course of several months with the ultimate goal of privatizing our energy future.

Will the Premier confirm for the record that he met with officials from ATCO as this fall sitting was just getting underway?

**Hon. Mr. Fentie:** Mr. Speaker, as the member continues on and on and on with this story about privatization, the government continues to invest in Yukon's energy infrastructure along with Canada. Mr. Speaker, I think our energy strategy is very clear. It is all about — given the blueprint that our strategy provides Yukon — investing in our energy future. We are not selling our Energy Corporation. We are not privatizing; we are building it.

**Mr. Mitchell:** Mr. Speaker, as this Premier continues on and on and on with his denials, we have been asking the Premier to fully disclose to Yukoners his secret meetings with Nancy Southern and with ATCO officials. In fact, we have asked him to provide a chronology of those meetings but he has refused to do so. Quote: "Unfortunately, there is no chronology to table," he told this House a few weeks ago.

Now we've learned through an access-to-information return that the Premier did indeed meet with officials from ATCO on October 31, two days after this sitting began, in Calgary. The Premier's chief of staff and executive assistant also attended that secret meeting. The ATIPP return also revealed this one-day stopover was part of a larger trip. We now know the Premier made a special stop to see his negotiating partners in Calgary.

Why has the Premier kept this meeting secret from Yukoners?

**Hon. Mr. Fentie:** Mr. Speaker, how can it be a secret if the member opposite is talking about a said meeting. The Premier's office and ministers, by the way, meet with all kinds of corporations, other dignitaries and other representatives of other governments. That's what government does. A surprise for the member opposite obviously — that having discussions on building Yukon's future is something that is abhorrent to the Official Opposition.

Well, the Yukon Party government believes in building Yukon's future in partnership with other governments, with First Nations, and indeed with the corporate community of Canada.

**Mr. Mitchell:** Mr. Speaker, the record will show a lot of unanswered questions about the Premier's secret parallel negotiating process. He promised to table documents throughout this sitting, yet he has failed to do so. We were forced to resort to an access-to-information request to shed more light on these secret meetings.

On October 31, the Premier and two political staff made a special stop in Calgary to meet with ATCO. This cost taxpay-

ers more than \$6,000. Details of this trip were not disclosed in the information provided by the department a few weeks ago; it was kept secret — the information the Premier said was all we needed to know. The Premier also met with Nancy Southern in Whitehorse just a few weeks ago. It is obvious the Premier is continuing to negotiate directly with ATCO on the privatization of our energy future.

When will the Premier live up to his campaign promise to run an open and accountable government by providing a complete list of all his meetings with ATCO?

**Hon. Mr. Fentie:** Actually, what's evident is the member, the Leader of the Official Opposition, simply conveniently avoids the facts, because the facts are dangerous to the Official Opposition. Let's hear from the Official Opposition how they intend to deal with Yukon's energy future. What position do they take? Where do they stand? No one knows; that's the secret, Mr. Speaker.

The Official Opposition has no option, has no plan, has no vision for the Yukon's energy future. The Official Opposition doesn't even know what open and accountable government is all about, given the information they bring to this House. The factual information they bring is so far from reality that the government side and Yukoners have a great deal of difficulty ferreting out what is really in the interest of the territory, given what the opposition views the Yukon to be all about.

I think the Official Opposition has a problem. It is their secret of what they stand for. Obviously, right now, that's nothing.

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

**Mr. McRobb:** It seems the Premier has plenty of time to fly to Calgary to meet with the president of ATCO about Yukon Energy. He was there only six weeks ago and billed Yukoners for the trip. Well, it's not just ATCO that's interested in Yukon Energy. Yukoners are interested too.

The Premier bends over backwards to please ATCO, but gives Yukoners the back seat. It is tradition in this House each fall for Yukon Energy Corporation's chair and president to appear and answer our questions. This is done on the Premier's invitation; however, the Premier has said they don't want to appear and he can't be bothered to invite them this year. Does the Premier expect Yukoners to actually believe these events are mere coincidences?

**Hon. Mr. Fentie:** Now the Official Opposition has me in Calgary six weeks ago in a meeting with ATCO. This is really a gem. And I challenge the members opposite to provide the public with the evidence of such a trip six weeks ago to Calgary to meet with ATCO. It'll be very interesting for Yukoners to see what kind of information the Official Opposition actually deals with.

Now, Mr. Speaker, coincidence? There's no coincidence. The new board and the new chair are busy doing their job. They're crafting the letter of expectation as they should. They're focused on the Mayo B project; they're focused on the objective of providing affordable, reliable electricity to Yukoners. They're focused on building Yukon's energy future as this government is. That's simply not what the Official Opposition

is up to. They're busy trying to dismantle Yukon's future with misinformation.

**Mr. McRobb:** I'll send over the evidence for the Premier so he can see what he did himself. This government shouldn't be allowed to get away with such evasions of accountability to the public. Not long ago the Premier escaped answering questions about the Yukon Energy Corporation scandal by pointing to the fact that Yukon Energy Corporation officials would be appearing in this House this fall to answer our questions — but lo and behold, another hollow promise, another red herring, another evasion of responsibility and another failure to be accountable to Yukoners.

Mr. Speaker, so what if the chair is new? That is no excuse. What is the real reason the Premier does not want Yukon Energy Corporation officials to appear in this House?

**Hon. Mr. Fentie:** Mr. Speaker, there is no reason for appearing or not appearing in the House whatsoever. We are simply doing our job. The board will be appearing in this House; however, under the circumstances, that won't be until spring. Let me remind the Member for Kluane that the Public Accounts Committee is dealing with this matter, and obviously the Official Opposition doesn't put much credibility into the Public Accounts Committee — especially the Member for Kluane. It is the member's leader who is the chair of that committee. I guess, Mr. Speaker, the Official Opposition just simply wants to ignore the facts and wants to continue on with this approach of providing information to Yukoners that is simply disconnected from reality.

**Mr. McRobb:** Mr. Speaker, the Premier is trying to get away without calling Yukon Energy Corporation to appear in this sitting just because the chair was appointed fairly recently. Well, the chair is newly appointed, because the last one resigned in protest. The chair and three other board members resigned because of the Premier's secret, parallel negotiating process. This shouldn't allow the Premier to escape without being accountable to the public.

So what if the chair isn't ready? We can still question the Yukon Energy Corporation president. He isn't new; he has been here before. He has been running the corporation during the entire duration of the Premier's secret parallel negotiating process with ATCO.

So will the Premier agree to have the YEC president appear in this House before this sitting ends?

**Hon. Mr. Fentie:** So what, is it? So what if citizens appointed to boards are actually doing their jobs? The Member for Kluane takes the position of, so what? They're doing their job or not doing their job, it means no difference to the Official Opposition. Well, it does to this government. We actually put some credibility into those citizens who step up and take on this responsibility. This is similar to Googling government officials for speaking out under their right to freedom of speech. This is similar to accusing people in the Workers' Compensation Health and Safety Board of wrongdoing by conveniently ignoring the salient point in the Ombudsman's correspondence. This is similar to telling Yukoners that the Yukon Energy Corporation was being privatized.

None of this is factual. Something that is the secret here is this: how does the Official Opposition really come up with this stuff? That is a secret.

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

### Speaker's statement

**Speaker:** Order please. Before the honourable member asks his question, I can only presume that when a member asks a question he wants to hear the answer. Could the members maintain a semblance of order while one member is speaking?

### Question re: Pension reform

**Mr. Hardy:** Canada's finance ministers are meeting later this week in Whitehorse. Up for discussion is an extremely important topic: reform of Canada's public pension plan. Fewer than 40 percent of Canadians have workplace pensions so they will be reliant on the public pension plan and their savings when they retire. However, a public pension plan loan does not provide people with enough income to live in security and dignity during their retirement years and only about 31 percent of Canada contributed to an RRSP last year. They have seen billions of savings evaporate because of the international financial meltdown. So what is the government's position on pension reform?

**Hon. Mr. Fentie:** It is the government's position to work with provinces, our sister territories and the federal government on a reform process that was launched many, many months ago that includes expert panels, both struck by the federal government and the Council of the Federation to help inform the governments of the provinces and the territories and indeed the federal government on the matter of pensions in the country.

The information the member has shared with the House is well known — the fact that many, many Canadians do not have a retirement security in place. So the position is to work with all the governments in the country toward pension reform.

**Mr. Hardy:** Well, there is another body of Canadians who care deeply about how people are able to retire and the Canadian pension plan, and that's Labour. Labour believes Canadians should not have to fend for themselves in retirement. It believes that improving the Canada Pension Plan has many advantages and that the Canada Pension Plan is portable. You can carry it from job to job and region to region. The overhead costs are very low in this regard. It offers protection against the rising cost of living, and 93 percent of Canadians contribute to the CPP.

The Canadian Labour Congress wants to see a doubling of CPP benefits, with the top monthly benefit rising to \$1,817 from \$980, which is impossible to live on in Canada. Doubling benefits will require an additional payroll deduction of about 2.5 percent. Does this government support CLC's position on this?

**Hon. Mr. Fentie:** The government supports the input of all groups and representative bodies in the matter. That's why the governments across this country have struck expert panels to engage with others across the country in dealing with the matter of pension reform.

This government is not going to be presumptuous. It will allow those processes to conclude. We will as governments receive reports and work on the matter further. But I must remind the member opposite that it's just not the Canadian Labour Congress that has interest in this; it's Canadians in general. It's those even who have pensions who are experiencing difficulty, and of course, it's including Canadians across this country who do not have that security of retirement.

**Mr. Hardy:** I'm just looking for some leadership, not following the mass movement that's usually driven by business interests. Now the Canadian Labour Congress proposal has a lot of support, and not just in the labour movement. Even the finance minister of British Columbia supports the Canadian Labour Congress proposal. As recently as this month, Colin Hansen said he would be fine with the CLC approach winning the day. It would be nice to hear that from the leader up here.

Now the CLC proposal would provide for adequate and affordable retirement payment schemes. It would cover the entire Canadian workforce. It is portable, transparent and cost-effective and operates in the interest of those it was meant to serve.

So why does this government not support the CLC proposal — which seems to be the indication I'm getting from him — which would effectively reduce poverty among the elderly and do so at a surprisingly low cost?

**Hon. Mr. Fentie:** It's not a question of supporting or not supporting the input, the product and the information being presented to the expert panels — not at all. I think it's more than just one issue. It's a very complicated, challenging issue of going forward for governments, Canadians, employers, employees and seniors. It's a challenging issue.

This is not a question of taking one group's view and supporting it or not supporting it. The key here is to do the work properly, gather all the information and make informed decisions.

### Question re: Pension reform

**Mr. Hardy:** Improving the benefits retired workers receive through the Canada Pension Plan could help reduce the number of Canadians living in poverty. It's very simple: our publicly funded pension plan has many advantages. It is universal, publicly run and administration costs are very low — about one percent of total benefits. It is also fully indexed to inflation.

However, and I've raised this in the past few years, some of the investments made by the managers of the Canada Pension Plan are often not as socially or environmentally responsible as they could and should be. Does this government believe that investments made by the CPP Investment Board should be based on ethical considerations or not?

**Hon. Mr. Fentie:** The member has just said, "This is simple." Well, it's not simple. For example, it includes the choice or the options around these things: are pensions better served if they are a direct-benefit type pension, or are they better serving Canadians if they are a direct-contribution pension? That is a very complex question to resolve, so it's not simple. It is a very detailed, complex issue and it's in the interest of Ca-

nadians that we must get it right. Governments must get it right.

I share the member's view that the CPP as a plan is flexible and portable — that's all well and good, but it's far from serving the needs of all Canadians for retirement comfort and benefit. That's why the work is being done by expert panels — all inclusive and we'll continue to participate in that work.

**Mr. Hardy:** I asked about ethical investments, not rhetoric from the previous question. In 1996-97, the federal Liberal government overhauled the Canadian Pension Plan and started to privatize it, as they often do. As a result, the new board — which today is comprised of CEOs or people who sit on the boards of large corporations — started moving CPP investments from bonds to the stock market.

More specifically, the board began investing in some of the most unethical, unsustainable and unwise corporate activities on the planet. It has invested in tobacco companies and, in 2008, spent \$4.1 billion to buy one of Britain's largest private water companies. It has also invested in companies that make weapons of war, such as the stealth bombers and nuclear-powered aircraft carriers.

Has the Yukon Minister of Finance ever raised this issue with his federal counterpart or the other provincial and territorial finance ministers?

**Hon. Mr. Fentie:** When we talk about reforms, we talk about reforms in the broadest sense of the word — all-inclusive, as I said, Mr. Speaker. I do make note that it was the former federal Liberals who commenced what the member believes to be unethical investments by the appointments they made and by the allowance for investments to be moved from bonds into the stock market.

Those are the questions that the expert panels and governments are grappling with. I don't share or agree with what the former federal Liberals did with the pension investments — not at all. However, we must be forward-thinking and do our best to resolve the issue for Canadians and resolve it in the best interests of all Canadians.

**Mr. Hardy:** Now, we know that pension plans need to make money, but when pension plans invest in tobacco companies, for example, this ends up costing all of us money over the long run, in terms of smoking-related illnesses. In 2004, the CPP Investment Board invested \$90.5 million in tobacco companies. In 2006, according to statistics provided by the Canadian Centre on Substance Abuse, the Yukon government spent \$2.7 million on direct health care costs related to tobacco use.

So will the minister press for legal and ethical screening legislation to ensure that CPP investments are in compliance with international and domestic laws, as well as existing treaties?

**Hon. Mr. Fentie:** I can assure the member that in reforming our pension system, all matters are before us. That's why the expert panels were struck, both by the federal government and the Council of the Federation, which the member knows represents all provinces and territorial governments.

However, on the tobacco front, let me remind the member that it is this House that passed legislation to ban smoking. It's

this government that dramatically increased the taxation on tobacco products.

It's this government that has worked diligently to ensure our health care system has the necessary fiscal and human resources to provide Yukoners with at least access to comparable services. We are working on all those fronts. The only thing I can suggest to the member of the Third Party is not to be too impatient on the matter of pensions. We have to get it right and that means all governments collectively working in unison.

#### **Question re: Yukon Human Rights Commission independence**

**Mr. Inverarity:** The Human Rights Commission was set up to enhance and protect human rights in the Yukon. As part of that mandate, it provides recourse to those whose rights have been infringed upon. It is very important work, Mr. Speaker, and it is essential that the commission be given every assistance by the government in that work. Unfortunately, the way the government funds the Human Rights Commission doesn't facilitate its work. The commission is housed in the Department of Justice and this creates an institutional conflict of interest. When someone files a human rights complaint, it is often against the government and the government defends itself through the same Department of Justice. What is the Minister of Justice doing to resolve this conflict of interest?

**Hon. Ms. Horne:** As I have said in this House before and as I have said to the Human Rights Commission directly, similar funding arrangements are in place in other jurisdictions in Canada. I believe there are eight jurisdictions that have the same funding arrangements.

The funding arrangements are based on the requirements of the *Financial Administration Act* and associated policies designed to ensure transparency and accountability. I believe I've reported that the budget has increased since 2002 by 188 percent — that's a fair amount. The requirements are covered.

**Mr. Inverarity:** Mr. Speaker, the *Human Rights Act* is the paramount act in the Yukon, and as such, is over the *Financial Administration Act*. I think the minister knows that. Frequently, the government is involved in both sides of the human rights complaint process. A full third of the time human rights allegations are made by government employees against the government. The Department of Justice defends the government against the complaint as it goes through the human rights process, and although all of the Department of Justice controls the Human Rights Commission, it's not enough for the commission to simply be said to be independent; it must also appear independent.

Yukoners have to believe the Human Rights Commission is independent. The minister even agrees that the commission should be independent, but has done nothing to make it so. Given all this, why is the Human Rights Commission still subservient to the Department of Justice?

**Hon. Ms. Horne:** Mr. Speaker, again, we are questioning the ethics of our Justice department's lawyers. As I've said in this House before, there is a very clear separation between the roles of a lawyer representing a client and the role of the administration authority, which provides the funding.

When the Department of Justice is functioning on behalf of a client, it takes instructions from that department. The work done by the legal services branch is subject to solicitor-client privilege. There is a very clear separation, and we are questioning the ethics of our lawyers in the Justice department here — shame.

**Mr. Inverarity:** As the minister knows, when we were on the Select Committee on Human Rights, it was a common theme among people who responded that, in fact, it was the appearance of this conflict of interest that was the main cause for the complaint. The Human Rights Commission doesn't need to be housed in the Department of Justice. The Yukon Ombudsman isn't, and the Ombudsman conducts independent investigations of Yukon government actions, just like the Human Rights Commission does.

The Ombudsman is housed in the Yukon Legislative Assembly, giving it the independence it needs to be effective investigators of the government. The report from the Select Committee on Human Rights recommends the commission needs to be treated the same. Will the minister move the Human Rights Commission into the Legislative Assembly?

**Hon. Ms. Horne:** As I've said in this House many times before, this is done in many jurisdictions in Canada.

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

**Hon. Ms. Horne:** Excuse me? Who has the floor? Thank you, Mr. Speaker.

We are questioning the ethics of the Justice department here, and as I've said in this House before, we're doing the human rights changes in two phases. This will be studied in the second part of the phase — phase 2. These changes may come about, but let's give it its due course and go through the consultations with those involved and give it the time. We don't want to rush things and do things improperly and rush them through. We're taking our time to make sure it's done correctly and this act will carry us well into the future.

#### **Question re: Yukon Housing Corporation financial accountability**

**Mr. McRobb:** I have a question for the minister responsible for the Yukon Housing Corporation. Section 22, paragraph 2 of the *Housing Corporation Act* reads: "The Auditor General shall report annually to the executive member the results of the Auditor General's examination of the accounts and financial statements of the corporation."

The Housing Corporation has not filed an annual report or financial statements for two years, and the Auditor General has refused to accept the government's financial statements.

The Auditor General has identified the problem to this minister. Now it's the minister's turn to tell Yukoners why the Yukon Housing Corporation's books are not acceptable. What did the Auditor General's report to the minister say the reason was for not accepting these financial statements?

**Hon. Mr. Kenyon:** It would appear that the Member for Kluane has forgotten the answers that were given in this House the other day.

Due to a delay in completion, the Auditor General of Canada was not able to issue an opinion. The Office of the Auditor General indicated there are no issues with the consolidated fi-

ancial statements, except for the portion that relates to the Yukon Housing Corporation, which the Auditor General requires more time to finalize. All the documents are submitted. The member opposite knows that. They are in the hands of the Auditor General, and I have every faith in the good people working in the Yukon Housing Corporation — unlike the member opposite, it would appear.

**Mr. McRobb:** Let's set the record straight. We're not attacking officials in the corporation. We don't have to apologize like this minister did.

Now, the minister originally said it was a simple matter of restating the finances. Then he blamed the Auditor General for the delay. His story changed again, when he said the delay was for a wide variety of reasons that are directly related to the corporation. He also said it is because the government has disbanded the shared services unit. Mr. Speaker, all other departments and corporations have accurately reported their financial position on time. It is time this minister got his financial house in order. This Yukon Party government campaigned on being open, accountable and fiscally responsible but is anything but.

Again, will the minister tell Yukoners what the Auditor General's report said?

**Hon. Mr. Kenyon:** As the member opposite quite well knows, the government did split the Yukon Housing Corporation from Community Services and disbanded the shared services unit and a stand-alone department has been created. At the same time, the Auditor General was unclear as to which of two accounting methodologies was to be acceptable and whether or not what is called "financial instruments" would be required, treating it as a private corporation or a government corporation. That has now been resolved and as the member quite knows and as I have said in this House, the documents are in the Auditor General's hands and we are waiting for her good report. I would remind the member opposite that increased volume doesn't make it right.

**Mr. McRobb:** Let's go back to the *Housing Corporation Act*, in 23(1): "The corporation shall annually, after the end of its financial year, prepare a report showing the revenues, expenditures and activities during its last financial year, together with (a) an audited financial statement; and (b) the report of the Auditor General..."

Paragraph 2 reads, "The minister shall table a copy of the report at the next ensuing session of the Legislative Assembly."

This minister's corporation has failed in its reported finances for two years now. He has not tabled his reports in the Assembly, contrary to his corporation's own act. Again, will the minister tell Yukoners what the Auditor General's report said?

**Hon. Mr. Kenyon:** All the documents are filed with the Auditor General and we await the good word that comes from the Auditor General. I can only say to the member opposite and refer back to his remarks that were made in this House on April 11, 2001, as recorded in *Hansard*. I quote: "It's clear that what the Liberals say one day is not what they're doing the next."

I again tell the member opposite the reports are in the Auditor General's hands; we await the Auditor General's report.

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

## ORDERS OF THE DAY

**Mr. Nordick:** 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 Acting Government House Leader that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

*Motion agreed to*

*Speaker leaves the Chair*

## COMMITTEE OF THE WHOLE

**Chair (Mr. Nordick):** Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 80, *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*. Do members wish a brief recess?

**All Hon. Members:** Agreed.

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

*Recess*

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

### Bill No. 80 — *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*

**Chair:** The matter before the Committee is Bill No. 80, *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*. We will now proceed with general debate.

**Hon. Mr. Lang:** It gives me great pleasure to speak to Bill No. 80 once again as we move into debate on this bill in Committee of the Whole. The Yukon government committed to amend the ATIPP act in our platform. The law needed to be modernized because of technological and record management process changes over time. We identified several key changes to both the access and the privacy provisions based on feedback from stakeholders who use or have an interest in this law. Input from the public consultation process from the Information and Privacy Commissioner and from government officials in the fall of 2008 have resulted in the proposed amendments. In these proposed amendments, our government has addressed key policy and administrative issues. In addition, there is a provision for regular reviews of this act in the future so that it can be kept up to date. I look forward to the discussion on this bill in the House today.

Thank you, Mr. Chair.

**Mr. Inverarity:** I guess first of all, I'd like to thank the officials for coming in and sharing their afternoon with us to-

day. It's much appreciated and we know that they have to give up some of the other work they're doing in order to attend here in the House. I certainly appreciate the effort.

On this ATIPP act, we discussed it a little bit further earlier in our second reading, but I think we're going to get into a few questions here this afternoon. We have a lot more business obviously to complete before the end of the sitting and so I'm going to try and gang a few of the questions together. Hopefully, the ministers can keep note of that and go on. I'll just move right into it right now.

This act was first put into place, as indicated, quite awhile ago, in 1996. As can be imagined, since then there have been many changes in information technology and in electronic communications. The ATIPP office has been calling for a comprehensive review of this particular act since the year 2000. We're now pretty much into nine years since they've actually called for a review.

The government actually didn't perform any comprehensive review until this time and it was more like a stakeholder analysis than anything else. The stakeholders were asked to make submissions on essentially eight issues that were brought forward by the government. However, the Privacy Commissioner made submissions on those eight primary issues identified by the government and also suggested an additional 21 issues.

In total, all but five of the issues were addressed, so my initial question is, what were the other issues that remain outstanding? Why were they not addressed in these amendments? When does the government plan to actually address those additional changes?

**Hon. Mr. Lang:** We certainly worked on the high priority on the list and we certainly look forward to working on just exactly what the member opposite is talking about in the future. I think the most important thing we've done in this act is certainly to expand it and there is also the commitment that we have to do a review every six years. That certainly is a commitment that all governments will have to keep in the future. So we won't get into the predicament we found ourselves in when we first opened this act — that it hadn't been looked at for so long that certainly the modernization was a bigger job than if we had done it on a regular basis.

**Mr. Inverarity:** Just on that topic, actually — when the act is reviewed, the minister indicated that it was every six years, but we know they say that technology changes 100 percent every 18 months, so we should perhaps be looking at something less than a six-year period. Has the minister actually considered an alternative time frame, say, for example, four years, which would be better than six and certainly not as good as going every 18 months, which would obviously be a burden on all the officials?

**Hon. Mr. Lang:** There is nothing preventing government from making changes whenever, but we have to do it every six years. It's a commitment in the act that this thing has to be reviewed on a six-year basis. So it doesn't tie you in to doing it every six years. If a government makes a decision to do a review, that's one thing, but the act does state that it has to be done every six years.

**Mr. Inverarity:** But four would be better. These amendments provide for a lot of clarity, particularly around the records manager. As we understand it, responsibility and authority government-wide for access to information belongs with the record manager.

At the departmental and Crown corporation level, the responsibility belongs to the ATIPP coordinator. Do all government departments have designated ATIPP coordinators? Are they full-time or shared positions with other responsibilities? Are the new corporations and designated agencies faced with staffing increases to accommodate this amendment? How much of an anticipated staff increase is actually being looked at if they will be looking at any staff increases to accommodate these new roles and responsibilities?

**Hon. Mr. Lang:** In the member opposite's question, each department is responsible for its own ATIPP and they have individuals who are responsible for it. As far as the corporations are concerned, I'm told they already have people in place who would be responsible for the act.

Whether they're full-time, part-time or whatever, I guess that would be a decision they would make and the department would make. As people move into the corporations, for the ones that are covered by ATIPP at the moment, it would be a bigger job. The departments have been handling their ATIPP issue internally. They're all responsible for the act and so they have people in place to do just that.

**Hon. Mr. Hart:** Yes, we will have to provide additional individuals for the Hospital Corporation to have the individual prepared and ready to go to provide the information for ATIPP. We would also have to provide additional training for that individual so they can do it, because currently they don't have to do any ATIPP work through the Hospital Corporation. So, yes, there is going to be a substantial amount of training involved. We will also have to provide additional staff for that individual, because that individual will be very busy with that particular corporation, and it will probably take some time to get that underway. So we will be looking for some sort of leniency on that while our people get up and trained for that particular corporation.

**Mr. Inverarity:** I thank the ministers for those responses. One of the Privacy Commissioner's recommendations was that ATIPP should apply to municipalities also. I think it's probably a valid question: should the city councils, school councils and school boards be specifically named so that the laws apply to these organizations as well, and what does the Privacy Commissioner think of this?

**Hon. Mr. Lang:** In answering the member opposite, we're looking at — over the next 18 months — working with those groups to bring them up to speed, but I would say to the member opposite that eventually they will be part and parcel of an ATIPP process. We just want to get more consultation done so that they're more comfortable with it. Of course, they have a lot of questions and that consultation is being done and will be done over the next 18 months.

**Mr. Inverarity:** Is the problem strictly just one of going out for consultation, or are there any other issues around trying to include them in the act now rather than having to re-

open the act in two years or more, which is what it'll likely take?

**Hon. Mr. Lang:** Yes, the consultation is ongoing and we certainly want them as comfortable as we can make them with some of the obligations that ATIPP will bring to the organization. We're doing the good work, and over the next 18 months, hopefully the municipalities will buy in to go forward with ATIPP, but this is a big decision for them to put their head around, per se, in how they would address it at that level. We're working with them and putting things together so, in the next 18 months, they'll be more comfortable with any decision that comes from that.

**Mr. Inverarity:** One of the administrative changes in the act was to set a fee threshold for personal information. If memory serves me right, inquiries were somewhere around \$25 for up to 160 pages' worth of results, if you want to call it that, or information coming back. After 160 pages, I gather there's a scale where they have to pay additionally for information.

This provision is limited for personal information requests only. Why would it not be included or set up for political parties, for example, or anybody for that matter — corporations that are looking for information? Why is it only personal requests?

**Hon. Mr. Lang:** We haven't changed the fee structure and the individual who is the records manager has flexibility if it causes undue stress or undue cost to an individual, that they can waive the fee. That part of the structure hasn't been changed.

**Mr. Inverarity:** Do you have any idea how many times the records keeper or the ATIPP individual has perhaps waived that fee? It just strikes me that while \$25 may not seem like a lot to you or me, generally people who are going in to request this information obviously have some issue they have with the government and you would think that in a bid to be more transparent, from a government perspective, you would not charge your citizens anything to receive this particular information. I am just asking if you have considered waiving the fees at all.

**Hon. Mr. Lang:** I don't have the figures of how many people have been excused from the cost but I do know that we haven't changed the structure, so there is no more cost on it today than there was a year or two years ago.

I don't have those numbers — the people whose costs were waived — at my disposal at the moment.

**Mr. Inverarity:** One of the issues the opposition parties were concerned about is the desirability to access ministerial briefing notes. The opposition parties have been granted access to this information in the past. This issue is not specifically addressed in the amendments. Has anything been changed within these revisions to change our ability to gain access to those?

**Hon. Mr. Lang:** No, nothing has changed on that level for ATIPP availability.

**Mr. Inverarity:** Has any information that was available previously been restricted as a result of these amendments? It's sort of the same question, just asked a little differently. Is the answer still no?

**Hon. Mr. Lang:** No, not that I'm aware of. There haven't been any restrictions put on it.

**Mr. Inverarity:** Amendments to the *Health Act* — I'm just going to digress quickly here.

The purpose of this amendment is to provide legal authority for the government to share personal information with other jurisdictions, and I'll be addressing that too. This is part of the public health service panorama program or process that will be implemented, which is expected to be implemented over, I believe, the next year. Is that the time frame this new process will be put into place, or do we see a longer time frame for the panorama program to be in there? Perhaps the minister might elaborate just for the record on the whole program.

**Hon. Mr. Hart:** First of all, I'll respond to the member opposite's question and then I'd like to have an opportunity to explain my portion of this bill.

With regard to that, yes, that is our plan on the panorama, the one-year process, to work with our other three territories and deal with British Columbia.

I'm pleased to have the opportunity to explain the content of part 2 of Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*. Tabling this bill is a step forward in improving patient safety and quality of health care available to Yukoners.

As members are aware, this government is committed to bringing forward personal health information legislation, and we anticipate this bill to be tabled within the next 18 months. The amendment to the *Health Act* is an interim measure while legislation on personal health information is under development. This amendment will provide the legislation authority necessary for the Yukon to implement the public health program jointly with British Columbia.

Mr. Chair, the ATIPP act is the Yukon's primary statute that addresses privacy and access to personal information. However, ATIPP permits other statutes to deal with personal information where specifically necessary for the purpose of that other statute. In this case, the amendment to the *Health Act* authorizes the minister to collect and disclose certain personal information in a limited way. This amendment to the *Health Act* is completely consistent with ATIPP.

The *Health Act* amendment addresses two key issues: disclosure of personal health information and collection of personal health information from someone other than the person to whom the information relates. This is known as an "indirect collection".

With respect to disclosure, the minister currently has a general authority to disclose personal information under an agreement entered into under the act. The *Health Act* amendment limits that disclosure authority. Disclosure of personal health information under agreements will not be restricted to those circumstances set out in the amendment. As we go through the amendment in clause-by-clause debate, these restrictions will be detailed.

In a case of collection, while we currently have the general authority to collect personal information directly, the amendment will permit the collection of personal health information indirectly, but only under an agreement and only when a public

notice is provided to Yukoners so that they can be aware of the indirect collection.

Part 2 of Bill 80 allows the Minister of Health and Social Services to enter into information-sharing agreements or arrangements with specific parties for the purpose of administering particular health-related acts, for which the minister is already responsible, such as the *Public Health and Safety Act*. These agreements or arrangements can only be entered into with another public body in the Yukon, or another party outside the Yukon but within Canada, that operates under the same form of privacy legislation. This assures Yukoners that when their information is shared outside the territory pursuant to this type of agreement, Yukoners' personal information will remain protected. In these circumstances, instead of being protected by ATIPP, the protection will be given by a similar privacy statute in Canada that has all the reasonable checks and balances.

Bill 80 amends both the *Health Act* and the *Access to Information and Protection of Privacy Act*. Both amendments address the important issues of privacy and access to personal information. As part of the ATIPP act, the Information and Privacy Commissioner plays a critical role in overseeing the ATIPP legislation and generally the protection of and access to personal information.

My department has consulted with the Privacy Commissioner on the *Health Act* amendments and I am pleased to report that the Privacy Commissioner has indicated no concerns with the proposed approach.

The amendment to the *Health Act* provides an expanded role for the commissioner. The minister may enter into an agreement or arrangements with specified bodies that are covered by other privacy legislation in Canada. However, in the rare instance that the minister may wish to enter into an agreement with a party that is not subject to privacy legislation, the party must be authorized by the Privacy Commissioner. This new power of the commissioner is consistent with her existing powers and is included in the amendment under the ATIPP act.

Mr. Chair, the commissioner indicated to my department, that it is important for Yukoners to know when personal health information about them is being collected by the department and we fully agree. The amendment includes a provision that ensures this notice is provided to the Yukon public.

Over the past months, the Health and Social Services website has become an important and regular stop for Yukoners along the Internet highway. Yukoners are making increasing use of this site and benefiting from the wealth of information available. I am encouraged Yukoners are looking to this site for vital health information they need to make decisions. I intend to continue to use the Internet and to encourage Yukoners to look at the department's website as they seek health information.

I also realize that not all Yukoners have easy access to computers, so my department will continue to use a variety of forms for communicating important information about health and personal health information.

Part 2 of Bill No. 80 includes a provision that ensures Yukoners are provided notice of any agreements that may be entered into with other parties where personal health informa-

tion is collected indirectly by the department. In this way Yukoners can know when information is collected, under ATIPP or similar laws in other jurisdictions, and they can ask to see the information collected about them and can take steps to have the information corrected in the appropriate situations.

Finally, I want to stress that, while the amendment provides the authority to enter into agreements to share personal health information, this will only be done in circumstances where the Yukon would benefit from such an arrangement, and be absolutely assured that the information will be shared in its most limited manner. Agreements will be consistent with the Canadian Standards Association model code for the protection of personal information.

The code stresses, among other things, that only the most limited amount of personal information should be collected and then disclosed in only the most limited manner. This model code is being used across Canada by all jurisdictions.

I look forward to going through part 2 of the bill today. You will notice that, as we move through it clause by clause, each subsequent clause limits the general authority. I believe this is an effective approach to achieving the balance between protection of personal privacy and access to personal information by health care providers, so they can provide the best level of care possible. This is a balance that we will continually be trying to achieve as we move forward in the area of electronic health records. It is a balance that I believe we have been successful in reaching throughout this amendment.

Mr. Chair, I'll be going through the sections in more detail, and I look forward to answering the questions on the specific revisions, as requested.

**Mr. Mitchell:** I'll be dealing with some of the sections that relate to the changes in the *Health Act*. First of all, I thank the minister for that overview. I did ask some questions when we had the Department of Health and Social Services briefing about the health portions of this act, but at that time the people responsible for drafting it weren't available, so we couldn't get the answers there. I have seen that there are some background briefing notes specific to the bill that deal with this, which were later provided during the ATIPP portion.

My overall questions just have to do with satisfying ourselves — protection of personal privacy in dealing with people's personal health information versus the public good that is done by having this information exchanged — that we've hit the right balance point. Because when we're transmitting information of a personal nature from someone's health file to another jurisdiction, another body within Yukon or a health care professional, obviously these are very private things that we're dealing with and we're heading into sort of new territory here in Yukon as we move toward doing this electronically.

Specifically, clause 29 4.1(5), talks about the giving notice, "...the Minister shall cause public notice of the collection to be given..." and the minister made reference to that in his remarks "... by posting notice on the Internet website of the Minister's department or by any other means..." — some of the more traditional means that have been used in the past.

In each case when we're dealing with people's personal health information — besides letting the public know on the

website that this is going on — will there be direct contact with the individual to let an individual know that their personal information is being exchanged or transferred or made available to another health care professional or another body, or is it incumbent upon Yukoners to know and to sort of be checking this website to see if this is happening? In other words, how proactive will the government be in letting the individual Yukoners who are concerned be made aware of the fact that it is going on?

**Hon. Mr. Hart:** For the member opposite, no the notice will be given in the general context. People will be able to check on their own on the information that is being collected.

**Mr. Mitchell:** So just to clarify — this will require sort of an information campaign to let Yukoners know that this change has come about, and if they are interested or concerned that some of their information may be exchanged, they need to check this website to see if that might pertain to them. Is that the way it is going to be done?

**Hon. Mr. Hart:** Exactly.

**Mr. Mitchell:** To follow up on that then, if a Yukon resident were to follow up and be proactive and check the website and see that information having to do with a vaccination program or whatever is being exchanged and wanted to know if that specifically pertains to them as an individual, could they then follow up by contacting the department and make that request to find out if their records are included among those that are being exchanged?

**Hon. Mr. Hart:** Yes, they can make an access request to see if their information is included in that process.

**Mr. Mitchell:** Does the Department of Health and Social Services currently have any professionally certified health information management personnel on staff — people who have a certification?

**Hon. Mr. Hart:** Currently, I'm unaware if we have anybody specifically, but in the past we have hired those individuals on a contract basis.

**Mr. Mitchell:** I thank the minister for the answer. Just to be more clear, people with this sort of certification are professionals who are skilled in the dissemination of health records, and they know the issues around the automation and sharing of health records. Does the department intend — as opposed to contracting that out, where it has perhaps been sort of a less frequent activity in the past — to undertake such training to establish this level of expertise and professionalism within the department, rather than having it be on a contract basis?

**Hon. Mr. Hart:** When it comes to electronic information, we are currently working with all jurisdictions across Canada in being able to ascertain just the appropriate measures being taken in each jurisdiction. Also, the local Hospital Corporation has a professional who is administering their professional record system, which they plan to institute very shortly. It will be interconnected to approximately — hopefully — about 70 percent of the local physicians.

**Mr. Mitchell:** We have sort of a changing environment and I'm just trying to see how we're adapting to it. I think the minister made reference before — it sounded like he was

— to the Canadian Health Information Management Association or something similar to that. I have a document in front of me, which has a code of ethics and talks about how to address such matters.

The minister mentioned that we are dealing with all other jurisdictions.

I just want to encourage the minister to be proactive in looking toward getting more individuals at the departmental level certified — as I mentioned before, certified health information management personnel — and look at that code of ethics. It is only so that we can ensure that we are maintaining the highest standards as this act intends and to reassure the public who may naturally have some concerns about the privacy of their personal information. If the minister would perhaps undertake to pursue at least having some of this training made available to staff, I would take that as a positive step. Would the minister be willing to make that commitment?

**Hon. Mr. Hart:** Our main policy analyst is always undergoing training and upgrading their requirements for accreditation. In late October, I attended a specific conference with regard to electronic information in the health industry for Canada in Calgary.

I spent two days going over any of the information with regard to what type of information can be put over the e-mail process and what type of requirements are going to be required by the physicians. I can tell the member opposite that many of the concerns that he raised were raised at that particular forum also. Responses were provided and we are following up in the best practices provided by those jurisdictions. The professionals from universities, also from the United States, were also in attendance demonstrating how they implemented their electronic records and how they protected them.

I will assure the member opposite that Alberta is the front-runner right now, with regard to electronic information, but it has not come without some difficulty. We're watching our process and we basically hope to follow their lead.

**Mr. Mitchell:** I think the minister for that response. Earlier this fall when we debated Bill No. 77, an *Act to Amend the Public Health and Safety Act*, which we did pass in sort of record time because we were worried about possible ramifications with the outbreak of the H1N1 potential pandemic, and we wanted to have everything in place that might be required for the chief medical officer and all health officials to have as tools at hand.

One of the questions I asked related to the section in that act — I don't have it directly in front of me, but it was the section of Bill No. 77 that allowed third parties, so to speak, to report information on another individual. I do have it now; it's in sections 4.5(1), (2) and (3), where questions could be asked of another individual about a third party individual they believed perhaps were carriers of a particular illness or had some other medical condition.

The questions I had, had to do with how an individual would have the opportunity to gain access to what was reported about them by another party, who might not be a health care professional. It might be a teacher, a fellow worker or an employee who thought perhaps someone had a contagious disease.

How would the individual whose name was being reported get access to the records and then correct them, if they felt the information was erroneous?

The concern I have now is, if you take these two acts together, now we have a situation in Bill No. 80, where information is being electronically shared. It has sort of been left up to the people to be proactive enough to go on-line, look on the Internet, see that a particular type of information is being shared and then put in an access-to-information request to see if that information related to them. I think you can see where I'm going with this. The concern I have is the possible interaction of these two acts, where information is provided by someone who is not a health care professional at the beginning, about a third party without their knowledge, and then that information becomes part of a record and is shared with other health care professionals or other government bodies. Is there any thought of how these two acts will work together and whether the concern I'm expressing is being addressed in some way?

**Hon. Mr. Hart:** For the member opposite, with regard to his question, I will try to respond the best I can. ATIPP requires that every person makes a reasonable effort to ensure the information collected is as correct as possible. People have the right to request a correction of the personal information and can make that request through the regular ATIPP process.

With regard to Bill No. 77, and his question about the correction of the information — yes, they can apply under ATIPP in the regular process for that correction to be made. I will reiterate what I said previously when we discussed this bill and that is in the case of an emergency; it is also in a case where we are depending upon the information being provided by the chief medical officer. As I stated then and as I state now, I don't believe our chief medical officer is going to be looking at any unreasonable information regardless of the situation. He is going to be more than assured that the information he does put down is correct.

**Mr. Mitchell:** Just one follow-up question. We have every confidence in our chief medical officer and in his expertise.

The issue is that someone who is a non-health-care professional, based on Bill No. 77, albeit in emergency situations, could be able to provide or be asked to provide information about another party. That information then becomes part of their health record. Then by Bill No. 80, we've made provision to allow for the sharing of that health record by electronic means and are actually doing it in a way where it's up to the individual to decide to look into whether or not there are records about them that are going to be shared.

I'm only looking to see if there is a method whereby an individual can correct erroneous information if they do ask to see the information that is being shared and believe that the information is inaccurate. As long as there is a way for them to correct it, then we've addressed the issue.

**Hon. Mr. Hart:** I can answer his question. Yes, there is. There is a correction process through ATIPP that allows the record to be corrected.

**Mr. Hardy:** Just picking up a little bit on what the Member for Copperbelt was addressing and he did address one

of the concerns we in the NDP have. To boil it down a little bit simpler, what's the right of denial of allowing the sharing of your personal records? Does the individual have a right to deny that distribution of those records?

**Hon. Mr. Hart:** Currently, the individual doesn't have that process available to them, but that's something we're looking for in the next 18 months in the legislation.

**Mr. Hardy:** So just for clarification, is it the intent of the government at this present time to put in place, within the next 18 months, I would almost call it a patient's right?

**Hon. Mr. Hart:** We are very hopeful we'll be able to put in some sort of provision for patient rights in most circumstances.

**Mr. Hardy:** So for more clarification around this, on the other side of it are the rights of the medical professionals to access information. The Member for Copperbelt has already touched upon the chief medical officer — what bill was it that we passed?

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

**Mr. Hardy:** It was Bill No. 77 — and the right to access to information with regard to something such as the H1N1 situation that had arisen fairly recently. The huge challenge here of course is ensuring the privacy of an individual is kept in place, depending on the type of medical care they've needed or their health concerns — but then again, also the public good. If information that is necessary to deal with any kind of a virus or crisis that may arise within our society — can I assume right now that is what the department is working on? Trying to find that balance?

Even though we're looking at ATIPP access-to-information legislation right now, is that what the department is really trying to work on over the next 18 months?

**Hon. Mr. Hart:** As I stated in my preamble, finding the balance is very important. It is always important to balance the health of the individual versus the privacy information itself. I also stated that it was actually a very large discussion that I had when I was in Calgary in October with regard to the privacy of personal information from the client. Also the issue between the client and the doctor is a very important process, and that is a balance that has to be taken into consideration also.

**Mr. Hardy:** In those discussions you had down in Calgary then, was part of the discussion centred around the sharing of that information among provinces and territories or was it more particular with the sharing of information within a province and not necessarily a cross-border sharing?

**Hon. Mr. Hart:** During that conversation it was dealing with both. It was the specifics between a regional hospital and the area they're in, and the regional hospital, for example, within the province itself, as well as interprovincial agreements between provinces and territories.

**Mr. Hardy:** How would you define the sharing of that information? What level of information is given to what level of profession within the health care system? How far down does that go? I'm trying to think of an example. I'll use myself: my health condition, once it's shared — I'm just trying to get in my head how much privacy I actually have, or anybody has.

Is that information shared throughout all the professions within the health care system that would be treating the patient or needing that information? Or is there a point at which that information does not go beyond?

**Hon. Mr. Hart:** As I stated, that was a very heated discussion with regard to what's going to be available. This is where we came up with the client and doctor privilege aspect and also the protection of the privacy of the individual in being discussed. So, yes — and again, finding that balance between the best health care for the individual versus the privacy of the individual is something that has to be worked and that's what we hope to achieve sometime in the next 18 months.

**Mr. Hardy:** I see representatives of the Yukon Registered Nurses Association in the gallery here today and have to admit that my experiences within the health care system over the last three and a half years have made me appreciate their role in our health care system, but it also raises a question of how far that information goes and how much information does each level of treatment and the role that each health professional plays — and the privacy, of course, of the patient. I know my information was shared quite freely with everyone and I'm thankful because at least they understood what my situation was, but that might not be the case for a lot of people. That's a serious concern. I can imagine the challenges facing this access to information within the health profession are huge.

**Hon. Mr. Hart:** Yes, it is a big challenge we face right across the country.

The member will probably be fully aware of Infoway, which was the government's electronic health record, and it's gone a little bit sideways in a few areas. It's obviously something that's being looked at, and it's being taken into consideration.

The member opposite indicated that information is provided freely for his health care. For me, I could care less who gets the information, as long as I get better, but some other people don't want to disclose their information. Again, that becomes a very important aspect to be looked at and part of the balancing act.

As I said, we'll be looking into the process. We have a community group that's going to be identified, and they will be providing information and assistance as we develop this process. We look forward to the results of that consultation.

**Mr. Hardy:** I thank the minister in this regard. That's the last question regarding the health aspect of ATIPP. I have a few more questions that will go back to the minister responsible ATIPP itself.

I know this question has been asked, but why the six years? I know this question has been asked, but I just wanted the explanation of why the six-year review and not a four-year review.

**Hon. Mr. Lang:** Again, as I said to the Member for Porter Creek South, it means it has to be a comprehensive review every six years, so it would be every second government's responsibility to do the in-depth review of the act. It certainly doesn't stop any government, in any period of time, doing an internal review if they see the need to do that.

**Mr. Hardy:** I am glad the minister admitted that governments do change. I am sure that the NDP looks forward to a good review in the near future. That is not a very good justification from my perspective, and I do know that there has been a recommendation from the Information and Privacy Commissioner that every four years would be more appropriate, but I am not going to belabour that point.

The other question I have is with regard to the role of the Privacy Commissioner, who would be responsible for this act on one level. Does the minister recognize that we're probably adding a greater degree of workload for the commissioner, and how are we going to deal with that?

**Hon. Mr. Lang:** Mr. Chair, we certainly understand that the workload, as we expand the ATIPP coverage, would be handled by the corporations or by the departments in government who oversee the act. Compared to the workload the individual has now, I'm not sure whether there would be more. I'm not in a position to judge that.

**Mr. Hardy:** This is going to be pretty well my last question in this area. Hopefully, in some very quick period of time, we'll start to go clause by clause. There's no question that the amendments are talking about an increase in public bodies that will be ATIPP-able, and there is a substantial increase in the list. I suspect there will be more calls and work expectations for the ATIPP commissioner in dealing with the expanded public bodies that will now be covered under ATIPP. I think it will make it a bit more difficult for the public to access that information if they're not getting the information from the departments themselves. As a caution, maybe the government needs to take a look at the role of the ATIPP officer and the office itself and possibly the impact it will have on that office to ensure this information does flow freely for the public. Those are my final comments.

**Hon. Mr. Lang:** The Privacy Commissioner has been involved. The Privacy Commissioner only sees a very small fraction of the requests, if there are appeals or other issues like that. These are things that can be looked at as we move through. Every six years, we are committed to doing a complete review of the act.

We're the first government in how many years — since 1996 — to do a review, a modernization of the act. It was a big job. I would say that, as we move forward with the six-year review, it will be less onerous on the departments. Instead of a 13-or 14-year review, we'll be only looking at six years. I have made a commitment to do this six-year review, and it doesn't tie governments down to do a review at any time, but doing a review is time consuming for the departments. Six years does give the commitment to do the review, and we would look forward to those reviews being done on a regular basis. Again, a government of any stripe could do a review, but as I said on the floor here today, there hasn't been a review in 14 years, so this is the first step that has been taken to modernize the act in 13 years.

**Mr. Mitchell:** I have one more question for the Health and Social Services minister.

Just to clarify something — would this legislation, Bill No. 80, for example, allow all of an individual's personal health

information to be shared with the Workers' Compensation Health and Safety Board or would the information that would be shared be restricted to that information that is deemed to be directly pertinent to a particular workplace-injury claim. In other words, if somebody had put in a claim for a workplace injury, would access to their entire medical file be made available or simply that which is pertinent?

**Hon. Mr. Hart:** We are entering into general information on agreements and exchange of information. We are not doing it for individual one-on-ones.

**Mr. Cathers:** I'll rise very briefly in general debate. I have some specific questions, points and suggestions that I will raise later in clause by clause. However, I would like to commend all who have invested so much effort in developing this legislation. I realize the challenges in there.

Particularly, I'm most familiar with the issues from the health privacy side from my time as Minister of Health and Social Services, during which time we were dealing with some of these issues and planning to deal with the challenging issues in this new age we're in — how jurisdictions can effectively cope with the health privacy issues to take full advantage of the opportunities of the Internet and take full advantage of the opportunities to share information with other jurisdictions, particularly research and diagnostic centres, but at the same time protect health privacy while doing so, and the very challenging question: how do you share the information you need to share for better end outcomes without sharing too much or sharing it with the wrong people?

So I would like to recognize all the staff from Health and Social Services, Justice, Highways and Public Works and other departments who have contributed their time to this and the many people from organizations and individuals who provided their perspective for this legislation. Particularly with regard to part 2 of the act, I think that a good job has been done on the amendments to the *Health Act* in dealing with what is a legislative challenge at this point in time, recognizing that the situation is currently evolving nationally related to what rules are in place, what technology exists, what standards should be applied to that, and that there is ongoing national work today involving multiple jurisdictions in trying to deal with these complex issues.

I think a good job has been done in coming up with a very short amendment that provides an ability for adaptation, with the expectation, as the Minister of Health and Social Services indicated, of amending that at the appropriate time.

Specific areas, such as some of the e-health initiatives, tel-radiology, telehealth, other remote diagnosis opportunities and the ability to have quicker access to specialists in other jurisdictions — we would probably never be able to afford to have those specialists here in the territory; we would probably never have the volume of patients that would warrant their time here full-time, but we have the ability through electronic means to share health records, to share pictures, to share X-ray results, radiology, et cetera, various types of diagnostic imaging through that quick technology, and potentially get a diagnosis as quickly as if we were down in another jurisdiction — in some cases, perhaps even quicker due to some of the opportu-

nities we've had in the past with direct access in other jurisdictions.

So with that being said, I don't particularly have a question on this section, but more of a comment, noting that I think a good job has been done on section 2 amendments. I think they will stand us in good stead in this current time period, recognizing they will evolve as national work goes on in this issue.

**Chair:** Is there any further general debate? Seeing none, we will proceed clause by clause in Bill No. 80.

*On Clause 1*

*Clause 1 agreed to*

*On Clause 2*

*Clause 2 agreed to*

*On Clause 3*

**Mr. Cathers:** Mr. Chair, this is a good bill. There have been positive steps forward in addressing a number of areas. One area where it can and I believe should be strengthened is by specifically naming public bodies within the legislation while providing the ability to add others through regulation.

So, Mr. Chair, I have taken the draft regulations tabled by the Minister of Highways and Public Works — the October 19 draft that was tabled listing public bodies in regulation — and appropriately addressed wording around that to provide for the ability to include it in the legislation, thus providing a stronger piece of legislation, providing security to members of this Assembly and the public that a future government will not decide behind closed doors to amend the regulations or remove a public body from a section of the regulations to avoid an ATIPP request.

*Amendment proposed*

**Mr. Cathers:** Accordingly, I move

THAT Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, be amended in subclause 3(1) at page 2 by removing the word “and” at the end of paragraph (a) and inserting the following paragraphs following paragraph (a):

“(b) each of the following bodies:

(i) child and youth advocate;

(ii) a designated agency under the *Adult Protection and Decision-Making Act*;

(iii) First Nation service authority designated under the *Child and Family Services Act*;

(iv) Yukon College;

(v) Yukon Development Corporation;

(vi) Yukon Energy Corporation;

(vii) Yukon Hospital Corporation, including any hospitals and/or other facilities established, maintained or operated by the Yukon Hospital Corporation;

(viii) Yukon Housing Corporation;

(ix) Yukon Liquor Corporation;

(x) Yukon Lottery Commission;

(xi) Yukon Workers' Compensation Health and Safety Board; and

(xii) Yukon Medical Council;

(c) each board, commission, foundation, corporation or other similar agency established or incorporated as an agent of the Government of Yukon, and”

and renumbering subsequent paragraphs accordingly.

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

THAT Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, be amended in subclause 3(1) at page 2 by removing the word “and” at the end of paragraph (a) and inserting the following paragraphs following paragraph (a):

“(b) each of the following bodies:

(i) child and youth advocate;

(ii) a designated agency under the *Adult Protection and Decision-Making Act*;

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(v) Yukon Development Corporation;

(vi) Yukon Energy Corporation;

(vii) Yukon Hospital Corporation, including any hospital and/or other facilities established, maintained or operated by the Yukon Hospital Corporation;

(viii) Yukon Housing Corporation;

(ix) Yukon Liquor Corporation;

(x) Yukon Lottery Commission;

(xi) Yukon Workers' Compensation Health and Safety Board; and

(xii) Yukon Medical Council;

(c) each board, commission, foundation, corporation or other similar agency established or incorporated as an agent of the Government of Yukon, and”

and renumbering subsequent paragraphs accordingly.

Is there any debate on this amendment?

**Mr. Cathers:** Mr. Chair, I will again reiterate to members that this proposed amendment effectively takes the wording from the draft tabled by the minister earlier this sitting of the proposed regulations under this act. It lists the public bodies as outlined in the document tabled by the minister with the draft document date of October 19, 2009. It also lists the provision that was under that draft regulation to allow “each board, commission, foundation, corporation or other similar agency established or incorporated as an agent of the Government of Yukon...”

The only addition to this area is the addition of one body as a public body, and that is the Yukon Medical Council. This is an issue — as members particularly of the government caucus will know — that I'm familiar with from my time as Minister of Health and Social Services. Without getting into specifics, I will note that there's no reason that the Yukon Medical Council cannot be added under this area. It is simply a policy question of whether to add it or not. I think that the issue experienced several years ago by a Yukon physician — that being Dr. Allon Reddoch — highlighted the key arguments for why the Yukon Medical Council should be included under ATIPP. What I would just note for members is that the inclusion of the Yukon Medical Council would provide increased rights and clarity of rights for Yukon physicians dealing with an issue,

whether related to an investigation or other matter, related to their information.

It would provide increased clarity and rights for Yukon citizens — patients — particularly patients dealing with issues such as filing a complaint or following up on it, and provide clarity for the members of the Yukon Medical Council on what the laws are. Failing the provisions of this legislation, they are in contentious situations dealing with either doctors or with patients, to some extent, and are forced to take the position of protecting themselves, protecting the body, by limiting the type of information shared. This would provide them the clarity. The same provisions apply to government bodies, government agencies and the Hospital Corporation in that situation.

If there were a desire to provide the ability for other bodies that have regulatory powers to be added, they could be added through regulations, but the issue related to the Yukon Medical Council is one I'm very familiar with and have not had the opportunity to deal with the issues related to other bodies and the merits or downsides of adding them to that extent. There are certainly other examples such as the YRNA that have other complicating issues that would create an argument for not including them under the provisions of the ATIPP act, but again it is noted that the act does allow other bodies to be added. The amendment I am proposing does not change the provision that allows a public body to be added under section 68 through regulation.

Mr. Chair, again, the proposed amendment is to prevent a future government from deciding to repeal a section of the regulation and to remove a body from being deemed to be a public body to avoid an embarrassing situation and to potentially circumvent or block an ATIPP request. That then lists the bodies designated in the draft regulation tabled by the minister earlier this sitting and provides, as noted, the continued ability in the bill for others to be listed under section 68.

As we all know, regulations can simply be changed by Cabinet — by the government of the day — and I would point out to members sitting on all sides of the House, in all seats and all positions, that we should all remember very well that no matter where we are sitting today, we may be sitting in opposition some day, and the ability to access information through ATIPP is an opportunity available to members that provide some level of accountability.

Even when it's unpleasant being on the receiving end of the ATIPP request, ATIPP and similar legislation across the country are an important part of our democratic structure of our right to access information as citizens and as elected members on behalf of citizens.

I think with that, I look forward to comments from others on this proposed amendment which would strengthen what is a good piece of proposed legislation.

**Hon. Mr. Lang:** Addressing the member opposite's amendment, I don't see where that amendment is necessary. I do have confidence in our regulations. I do know that we have a commitment here working among our departments over the next 18 months to clarify some other agencies that would be covered by ATIPP.

My comments here on the floor will be very short. Regulations are very transparent. People have access to them, people understand them. As we move forward and manage this legislation, to run two parallel systems isn't the best way to do it.

I think by having our lists of affected agencies in regulation, it's transparent. As the minister, I have had great discussions on these issues. I feel this amendment would not improve the legislation and won't agree with it here on the floor.

**Mr. Inverarity:** First of all, I like to see things that have a high degree of clarity involved. When we talk about legislation and acts and things along this line, we're trying to be more inclusive, more clear on what we're debating in discussion in the House. Therefore, I feel supporting this particular amendment — I consider it a friendly amendment, actually, because it does provide that clarity we need. So often we see on this side of the House where regulations are amended and changed and we have very little ability to debate those changes in the House. This provides clear, concise information as to who will be included in the ATIPP. It allows for others to be added somewhere down the road.

I think all members of this House should support this particular amendment.

**Hon. Mr. Hart:** With regard to the amendment, as I indicated, we will be doing a review in the next 18 months to change the entire process with our *Health Act*. Many of the items that reflect health will be changed and included in the new *Health Act*, regardless. That's what will be taking place through that entity.

**Mr. Cathers:** I would encourage the government members to reconsider this. Perhaps they would even like to take a recess. I'd be happy to discuss it with them, if they wish — to provide the opportunity for officials to consider this and for the legal drafters to review it.

As members of all sides know, I did provide this proposed amendment earlier today by e-mail to all caucuses in the interest of providing an opportunity for it to be reviewed and to give the government the ability to share that information with policy people and legal drafters. I'm not going to spend a lot of time this afternoon getting into an argument with the minister or others on the government side. I would encourage them to not simply fall into the default pattern of "the government never accepts amendments to bills on the floor of the House because that shows weakness." Rather, I would encourage them to recognize this is a good amendment; this is something that can be added.

The drafting from a legal perspective should be in order. If they wish to have more time to consider that, we could take a recess and provide that opportunity. As members will note, the bulk of the text with the sole exception of a few procedural matters and how it is worded to be an amendment is identical to what was in the draft regulations tabled. It is simply the policy question of whether these matters should be protected with the act and incorporated within the legislation that provides the ability for members of this Assembly and members of the Yukon public to be confident that, in fact, no future government will choose to delete public bodies behind closed doors in Cabinet.

The entire purpose of the *Access to Information and Protection of Privacy Act* is to put in place a statute or law that must be debated by this Assembly, that changes to it must be debated for this Assembly, and that removes the discretion of government — whether at the elected level or the departmental level — to decide what information it wants to release and what information it refuses to release. This is a matter of providing the certainty and the legislation on the books of what bodies will be deemed a public body.

I would note to the Minister of Highways and Public Works, if he believes that listing these bodies would provide two parallel systems, he is mistaken in that and I would encourage him to talk to officials and gain the confidence that, in fact, the process for ATIPP would be identical, the ability to add other bodies in regulation would be unchanged and there is nothing about listing bodies in the act that prevents others from being listed in statute.

There are other pieces of legislation that provide for certain powers, provisions, abilities related to that statute — provide detail, provide specifics and have, at the very end, a general clause that allows for others to be added in regulation. This is identical in concept and structure to what is done in many other pieces of legislation.

With regard to the minister's suggestion that the public is familiar with regulations — well, yes, they are, just as they are with legislation. The average citizen also does not spend a lot of time reading legislation and regulation. The average citizen does want the ability to access information when they need that information, and to have those rights clearly outlined and protected in legislation.

The long-dormant Standing Committee on Statutory Instruments — which has not met since 1986, I believe it was — has a mandate on behalf of this Legislative Assembly to ensure regulations reflect the intent of legislation and do not stray from that. That committee has not been active.

They're not fulfilling their function, and that effectively means no committee of this Legislative Assembly is ensuring regulations even reflect the intent of legislation. Not to suggest there aren't people — the Department of Justice, of course, and others — who work to ensure it does fit within that — my point is this Legislative Assembly has a function, has a role and a responsibility that has not been exercised since 1986.

I will not belabour the point on this amendment further. I would encourage the minister to reconsider the response of "no" and would note that, if indeed "no" is the answer, we know why "no" is the answer here today. It's disappointing if the government doesn't seize this opportunity to strengthen this legislation, take the draft wording, the provisions related to public bodies, from the draft regulation the minister tabled, put it in the act and strengthen the ATIPP act. I believe this is beyond the time that any one of us will spend in this Legislative Assembly. It will strengthen the act if we make that change today.

**Hon. Mr. Hart:** With regard to the amendment, I have some major concerns with the last item, and that is the Yukon Medical Council. The Yukon Medical Council is not a

corporation. It is not an entity that this government is responsible for with regard to dealing with it.

I am just not in a position to — first of all, I'm sure that I would have to get some consultation with the council to even see if they're on here, but I just don't believe it's an applicable place to put them on and identify them as such with regard to the other items that are listed on there. So for that particular reason, I'm a little bit reluctant to go down this way with this amendment, and especially on that entity because I have not had any consultation with the Yukon Medical Council, where they even want to be included in this process.

**Mr. Cathers:** I think I can provide the Minister of Health and Social Services some comfort. If we were to perhaps have a 15-minute recess, the minister could check with the department. He would find that, although it has been a little bit of time since that work was done by officials, this was discussed and considered, and there is no reason why the Yukon Medical Council cannot be included. The issue of including bodies under here — the consultation did occur with a number and I would point out that not everyone necessarily wants to be included under ATIPP. If you ask departments, if you ask corporations whether they wanted to be included, some would probably give you the very frank answer of no.

Again, I would point out to the minister that the work has been done. It can be included. If he does have a burning objection to the Yukon Medical Council or wishes to have more time included, I would certainly with some reluctance accept an amendment as somewhat friendly to this motion. The minister could propose it to simply delete that item if it is his only objection to this and if it was this versus the issue of not including any bodies at all in the legislation, it would be better to leave one out than possibly include it later.

**Chair:** Is there any further discussion on this amendment?

Are you prepared for the question on the amendment?

**Some Hon. Members:** Count.

#### Count

**Chair:** Count has been called.

#### Bells

**Chair:** Order please. All those in favour of the amendment, please rise.

*Members rise*

**Chair:** All those who disagree, please rise.

*Members rise*

**Chair:** The amendment is defeated.

*Amendment to Bill No. 80 negatived*

**Chair:** Is there any further debate on clause 3?

*Clause 3 agreed to*

*On Clause 4*

*Clause 4 agreed to*

*On Clause 5*

*Clause 5 agreed to*

*On Clause 6*

*Clause 6 agreed to*

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*On Title*  
*Title agreed to*

**Hon. Mr. Rouble:** Mr. Chair, I move that Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, be reported without amendment.

**Chair:** It has been moved by Mr. Rouble that Bill No. 80, entitled *Act to Amend the Access to Information and Pro-*

*tection of Privacy Act and the Health Act*, be reported without amendment.

*Motion agreed to*

**Hon. Mr. Rouble:** Mr. Chair, I move that the Speaker do now resume the Chair.

**Chair:** It has been moved by Mr. Rouble 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:** Mr. Speaker, Committee of the Whole has considered Bill No. 80, *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, and directed me to report it without amendment.

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

**Some Hon. Members:** Agreed.

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

### GOVERNMENT BILLS

#### Bill No. 80: Third Reading

**Clerk:** Third reading, Bill No. 80, standing in the name of the Hon. Mr. Lang.

**Hon. Mr. Lang:** Mr. Speaker, I move that Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, be now read a third time and do pass.

**Speaker:** It has been moved by the Minister of Highways and Public Works that Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, be now read a third time and do pass.

**Hon. Mr. Lang:** I would like to thank everyone in the House for their input today, but I move that we move on with Bill No. 80.

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

**Some Hon. Members:** Division.

#### Division

**Speaker:** Division has been called.

*Bells*

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

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

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

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

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

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

**Mr. Edzerza:** Agree.

**Mr. Nordick:** Agree.

**Mr. Mitchell:** Agree.

**Mr. McRobb:** Agree.

**Mr. Elias:** Agree.

**Mr. Inverarity:** Agree.

**Mr. Hardy:** Agree.

**Clerk:** Mr. Speaker, the results are 13 yea, nil nay.

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

*Motion for third reading of Bill No. 80 agreed to*

**Mr. Nordick:** Mr. Speaker, I move that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

**Speaker:** It has been moved by the Acting 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:** Committee of the Whole will now come to order. The matter before the Committee is Bill No. 73, *Act to Amend the Registered Nurses Profession Act*. Do members wish to take a brief recess?

**Some Hon. Members:** Agreed.

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

*Recess*

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

### Bill No. 73 — *Act to Amend the Registered Nurses Profession Act*

**Chair:** The matter before Committee of the Whole is Bill No. 73, *Act to Amend the Registered Nurses Profession Act*. We will now proceed with general debate.

**Hon. Mr. Hart:** I am pleased to introduce Bill No. 73, entitled *Act to Amend the Registered Nurses Profession Act*, for debate in Committee of the Whole. The bill is the product of successful collaboration with the Yukon Registered Nurses Association, the regulatory body in Yukon for registered nurses, to modernize the RNP act.

The Yukon Registered Nurses Association has given their support to all aspects of the amendments. The bill before you today represents the Yukon government's continued commitment to ensuring public safety and protection throughout the health care delivery system.

YRNA, as the regulatory body responsible for registered nurses, supports being provided the tools enhancing their mandate and to regulate the profession as part of the provision of public safety and protection. The bill further demonstrates the government's commitment to ensuring that we have the best tools necessary to adequately manage the health care system, such as the amendments to create the nurse practitioner class of

registered nurses and the process to authorize NP-specific activities.

Nurse practitioners are registered nurses with advanced professional knowledge, skills and judgement. Once registered and licensed, they will be working with physicians, RNs and other health professionals to provide quality health care to Yukoners. Yukon nurse practitioners will be authorized within their scope of professional knowledge, skills and judgement to: make a diagnosis identifying a disease, disorder or condition; communicate a diagnosis; order and interpret specific screening and diagnostic tests; and select, recommend, supply, prescribe and monitor the effectiveness of specific drugs.

In drafting these amendments, we sought feedback from nurses, other health care professionals, regulators and governments across Canada. We carried out an extensive consultation to ensure that proposed amendments reflected current trends and needs with respect to the registered nursing profession. The result is a solid piece of modern legislation that will support the effective and efficient delivery of health care to Yukoners now and into the future.

I look forward to discussing the bill and answering the questions on specific provisions.

**Mr. Mitchell:** I thank the minister for his opening remarks and I also thank the department for the briefing and information that we had previously. I don't have a lot of comments to make on this bill, other than to repeat the comments I made at second reading, which are that all of us know the vital and important role that nurses play in our communities. They are the front-line workers. They are the health care professionals that we as Yukoners most frequently deal with and are aided by. They provide comfort, they provide the first line of care, and they provide emergency care, particularly in rural Yukon. I know from my experiences raising a family in rural northern British Columbia — in Atlin — they also provide prenatal care and, effectively, palliative care, of course, which they also provide here in rural Yukon as well as in Whitehorse.

I'm very pleased that following a successful consultation, the government has brought forward legislation that addresses all the issues, to our understanding, that the Yukon Registered Nurses Association, on behalf of nurses, wanted to see addressed. I'm particularly happy to see the move to authorize the class of nurse practitioners by defining the scope of practice and dealing with the additional educational requirements. This will also take some of the pressure off of other parts of our health care system. I think we've all seen in recent weeks and months during the H1N1 immunization process and the very successful process to head off a pandemic — albeit we had three deaths which are very tragic — just what kind of work our nurses do.

It was spoken about right across Yukon, everyone talking about how proud they were of Yukon's nurses. I do note in the 2008 annual report from the Yukon Registered Nurses Association that 56 percent of Yukon's active practising RNs are 45 or older, 42 percent are 50 or older, and the average age of a registered nurse in the Yukon is 45. Obviously, this is something that needs to be addressed. If this legislation, in any way, helps to encourage more nurses to move to Yukon and practice here

because of more advanced opportunities they will be able to take part in, then that will help in that area as well.

So, with that, I'm going to leave room for other people to put their comments on the record. But we will be supporting this legislation, which is a very positive step.

Thank you.

**Mr. Hardy:** I also would like to lend my voice to the support offered from this side — from the NDP — with regard to the amendments to the *Registered Nurses Profession Act*. Obviously, it has the fingerprints of the Yukon Registered Nurses Association all over it. I have to say, I defer to a much greater superior knowledge of what tools are needed by the nurses than any knowledge that I have, so I have to say that this is probably a very good thing.

I hope it's just a start of some of the changes that are desperately needed within our health care system. I'd like to thank the department for the work that they've done — and the minister, as well, in this regard. We are facing significant challenges within our health care system throughout Canada. The changes that need to happen that ensure the quality of service and delivery for people, when they do need assistance in their health, must always be protected. I hope that this is just one of those actions that will strengthen our health care system, and we keep moving forward in a manner that reflects what people of this country really want, and that is a public health care system. I hope this is not the limit of the changes that need to happen.

I hope the Yukon Registered Nurses Association continues to work on strengthening our health care system in Yukon, and through their actions here in collaboration set an example across the country.

I'd like to close with a little observation. A few months ago I visited a friend in the hospital who was in the last few days of his life. I went into the hospital to see him and sat by his bed. During the course of the time I was in there, three nurses came in. Each one was absolutely amazing in how they cared for the person and treated him like a human being. That is what is so desperately needed, not just for the patient but also for the family who surrounds the person — seeing that other people deeply care. It's indicative of the type of training and the type of people who become nurses. They are dealing daily with serious issues around health, but they still find the compassion to see the person as a human being and spend time with them to make their experience a little bit more comfortable, a little bit more enriching, as best as can be under very difficult situations. I thank the nurses for the tremendous care that they give to their patients.

**Hon. Mr. Hart:** I thank the members opposite for their comments.

## INTRODUCTION OF VISITORS

**Hon. Mr. Hart:** At this time, Mr. Chair, I would like to introduce Peggy Heynen, the president, and Patricia McGarr, the executive director, of the Yukon Registered Nurses Association, who are in the gallery today. I ask my colleagues to welcome them here.

**Mr. Hardy:** Peggy Heynen is the new president of the Yukon Registered Nurses Association, and I'd like to welcome Peggy.

**Chair:** Is there further general debate? Seeing none, we will proceed clause by clause in Bill No. 73.

**Mr. Mitchell:** At this time, pursuant to Standing Order 14.3, I request the unanimous consent of Committee of the Whole to deem all clauses and the title of Bill No. 73, *Act to Amend the Registered Nurses Profession Act*, read and agreed to.

### Unanimous consent re deeming all clauses and title of Bill No. 73 read and agreed to

**Chair:** Unanimous consent of the Committee has been requested to deem all clauses and the title of Bill No. 73, *Act to Amend the Registered Nurses Profession Act*, read and agreed to. Are you agreed?

**All Hon. Members:** Agreed.

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

*Clauses 1 to 55 deemed read and agreed to*

*On Title*

*Title agreed to*

**Hon. Mr. Hart:** Mr. Chair, I move that Bill No. 73, entitled *Act to Amend the Registered Nurses Profession Act*, be reported without amendment.

**Chair:** It has been moved by Mr. Hart that Bill No. 73, *Act to Amend the Registered Nurses Profession Act*, be reported without amendment.

*Motion agreed to*

**Hon. Mr. Rouble:** Mr. Chair, I move that the Speaker do now resume the Chair.

**Chair:** It has been moved by Mr. Rouble that the Speaker do now resume the Chair.

*Motion agreed to*

*Speaker resumes the Chair*

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

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

### Chair's report

**Mr. Nordick:** Committee of the Whole has considered Bill No. 73, *Act to Amend the Registered Nurses Profession Act*, and directed me to report it without amendment.

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

**Some Hon. Members:** Agreed.

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

## GOVERNMENT BILLS

### Bill No. 73: Third Reading

**Clerk:** Third reading, Bill No. 73, standing in the name of the Hon. Mr. Hart.

**Hon. Mr. Hart:** Mr. Speaker, I move that Bill No. 73, entitled *Act to Amend the Registered Nurses Profession Act*, be now read a third time and do pass.

**Speaker:** It has been moved by the Minister of Health and Social Services that Bill No. 73, entitled *Act to Amend the Registered Nurses Profession Act*, be now read a third time and do pass. Are you prepared for the question?

**Some Hon. Members:** Division.

### Division

**Speaker:** Division has been called.

### Bells

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

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

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

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

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

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

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

**Mr. Edzerza:** Agree.

**Mr. Nordick:** Agree.

**Mr. Mitchell:** Agree.

**Mr. McRobb:** Agree.

**Mr. Elias:** Agree.

**Mr. Inverarity:** Agree.

**Mr. Cathers:** Agree.

**Clerk:** Mr. Speaker, the results are 13 yea, nil nay.

**Speaker:** The yeas have it. I declare the motion carried and that Bill No. 73 has passed this House.

*Motion for third reading of Bill No. 73 agreed to*

**Mr. Nordick:** Mr. Speaker, I move that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

**Speaker:** It has been moved by the Acting 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*

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

### COMMITTEE OF THE WHOLE

**Chair:** The matter before the Committee is Bill No. 17, *Second Appropriation Act, 2009-10*. Committee of the Whole will now proceed with Vote 15, Department of Health and Social Services.

Do members wish a brief recess?

**All Hon. Members:** Agreed.

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

*Recess*

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

### Bill No. 17 — *Second Appropriation Act, 2009-10* — continued

**Chair:** The matter before the Committee is Bill No. 17, *Second Appropriation Act, 2009-10*, Vote 15, Department of Health and Social Services. We will now proceed with general debate.

### Department of Health and Social Services

**Hon. Mr. Hart:** Mr. Chair, this afternoon I will focus on activities undertaken by the Department of Health and Social Services this current year as we debate the supplementary budget for the year 2009-10.

In this budget we are requesting an additional \$7,663,000 in O&M expenditures and an offer and a planned decrease in capital expenditures of \$1.7 million.

On the revenue side of the equation, we predict an increase in O&M recoveries of \$723,000 and an increase in capital recoveries of \$1.29 million. These increases are offset by a decrease of just a little over \$1 million due to the amortization of deferred capital contributions, for a net increase in recoveries of almost \$1 million.

The department continues to face resource pressures from a number of different angles, including rising health care costs, an aging population, and an increase in our social assistance caseloads.

We face a constant, never-ending demand for the department's resources. New and worthwhile initiatives and needs are always being identified or being brought to our attention by various community groups, including the NGOs that we fund.

Balancing the demand for resources with the available budget is a constant challenge and we are simply not able to do everything we would like to do. In spite of these pressures, the department remains committed to investing in priorities aimed at improving the health and well-being of Yukoners. We continue to respond to the needs of our community, over and above the operation of our core services.

The operation and maintenance expenditures for this supplementary budget are some \$7.6 million. There are a number of areas that are using this money in the projects and programs and I will highlight just a few of them here. I will start with the money contributed to the Sundog carvers for their special dugout canoe project.

The government provided a total of \$104,000 to the Northern Cultural Expressions Society for the dugout canoe project. This project was quite an undertaking and has turned out to be a great success. The project entailed providing an opportunity for at-risk youth to participate in the creation of a dugout canoe under the tutelage of a master carver from Haines, Alaska, but this was more than simply a project to build a canoe. This was a lifestyle for a number of youth involved in the project. The project involved setting up a work camp on an island on the Yukon River. At the work camp, youth had the chance to pass their days and nights on the site. Youth worked during the day and stayed together at night cooking and taking care of their camp together under the leadership of the master carver.

I might add that I had the opportunity to go and visit the site where the carving was taking place and I must admit it was encouraging to see all the youth who are involved in that process with the mask-making and crafts that were going on, in addition to the work that was being handled with the actual canoe itself. It was a very productive sight, and I must say it was very impressive to watch.

Funding in the amount of \$80,000 for the first two years for the pre-apprenticeship program offered by the Youth Achievement Centre — another area that received funding is the treatment program for youth sex offenders. A total of \$100,000 was approved from Health Canada for a high-risk treatment program to provide detailed evaluation of services provided to youth sex offenders through the youth sex offender treatment program and the youth high-risk treatment program. This is an increase of \$91,000 to reflect increases in foster care rates. Foster care is an important component of our child and family services.

Again, a very important item here — foster care. We increased the rates for foster care, something that hadn't been done for well over 12 years. I would have to say that it was mostly very appreciated by those providing care to the children most in need.

There have also been increases to NGOs outside the government, including \$233,000 for emergency after-care hours outreach services for the youth at Skookum Jim Friendship Centre, and \$100,000 to the Help and Hope for Families Society for ongoing costs and \$155,000 for the Yukon Women's Transition Home Society for ongoing operating costs.

With the support of Health Canada we have commenced work on a four-year project that will assist alcohol and drug services in enhancing, creating and documenting systems that standardize detox and treatment services. This includes funding for a project manager, an administrative support as well as an additional \$258,000 for project O&M, communications and program materials.

An additional \$78,000 is also being provided by Health Canada to develop a comprehensive plan for strengthening alcohol and drug treatment systems in Yukon. There are also increases related to consumer price indexing, including an increase of \$75,000 to social assistance, an increase of \$9,000 to Yukon seniors' income supplement, and an increase of \$26,000 to the pioneer utility grant.

These particular increases are important to note for two reasons. The first is that these increases are the direct result of this government's action to build escalators in the rates of these programs so that Yukoners receiving these benefits will always see an increase that is tied to the inflation rate. These increases that I have just mentioned demonstrate how those escalators work and that there does not have to be any legislation changes to change the rates of these benefit plans.

The second reason to note is that these increases will result in monies flowing directly into the pockets of Yukoners. Those making use of these benefit programs will see the direct result of these increases. The Yukon has not escaped the impacts of the global economic downturn. During times of difficult economic challenge, the communities' most vulnerable popula-

tions are often those who are the first and most seriously affected. We have seen this impact as an increase in our social assistance caseload and in other areas.

To address these and the many associated issues related to poverty and social inclusion, the department is undertaking the development of a comprehensive social inclusion strategy. Over the next two years, the department will be working closely with key community groups and organizations in developing an approach to better understand and address the many issues related to poverty and social inclusion in our community.

In an area of continuing care, almost \$1 million is being requested to support enhanced services to home care, Macaulay Lodge and Copper Ridge Place. Eight new positions are required to provide additional support that will enhance services to seniors and others requiring services both in Whitehorse and in the communities. With Copper Ridge at full occupancy, increased O&M is also required to address pharmacy costs and volume increases.

I'm pleased to inform the members that the continuing care programs underwent an accreditation process this fall and early feedback indicates that our services are meeting or exceeding national standards in almost all areas.

With respect to health services, we are all acutely aware of the fact that this year is the final year for projects funded through the territorial health access fund and the tri-territorial operations secretariat. We are continuing our efforts to secure a new arrangement with the federal government for future funding and are optimistic about the success of those discussions. The majority of the funds requested in this supplementary budget for health services are associated with the completion of projects under these initiatives.

In addition to these projects, the pan-territorial oral health initiative requires \$121,000 to complete this two-year project and \$100,000 is required to operate the toll-free tobacco quit line.

Both of these initiatives are supported through separate contributions from Canada. The department also supports the Council of Yukon First Nations through the aboriginal health transition fund. \$246,000 is transferred to support First Nation pandemic planning, injury prevention, wellness support for First Nation health workers, and identification of health service access issues for First Nation citizens.

\$3.72 million is required to fund year 2 of the three-year operating contribution with the Yukon Hospital Corporation, and that amount is also reflected in this budget.

Mr. Chair, I would like to address some of the highlights related to the supplementary capital budget requests for this year. A number of the capital revote items related to childcare, young offenders facility, and residential service renovations are included, as well as a request for an additional \$340,000 for the children's receiving home replacement.

Renovations to Copper Ridge Place require a revote of \$125,000 to complete projects that could not be completed in 2008-09. Revotes for Macaulay Lodge and McDonald Lodge renovations, as well as planning for the replacement of

McDonald Lodge, make up the additional capital requests for continuing care.

A major capital adjustment required in this budget is a reduction of \$3.5 million with the new Watson Lake and Dawson hospitals, due to these facilities being assumed by the Yukon Hospital Corporation.

These are just some of the examples of what has been happening in the area of Health and Social Services. We're dealing with a pandemic situation, to providing day-to-day health care and social services to Yukoners. This government is committed to making a better quality of life for Yukoners. I commend this budget and urge all members to support this budget. These provide the highlights for the Department of Health and Social Services for this supplementary budget and I would be pleased to respond to questions at this point.

Thank you, Mr. Chair.

**Mr. Mitchell:** I thank the minister for his opening remarks. Certainly this minister is responsible for a department — it's the largest department of any government department, based on dollars — just under \$244 million now with this supplementary budget between O&M and capital and virtually close to 25 percent of the entire budget — the \$1 billion-plus budget — so obviously a huge cost and huge responsibilities.

I just want to start first of all by thanking the department for the briefing that we received, as always. There is a lot of information that we do get in the Department of Health briefing and it is much appreciated.

I also would like to put on the record publicly what I mentioned to the deputy minister and officials during the briefing, which is that all Yukoners owe a debt to the Department of Health and health care providers, the departmental personnel, the nurses and other front-line workers, the doctors right up to the top of the department at the deputy minister level, and certainly also the chief medical officer of health, for the professional and well-thought-out way in which Yukon responded to the H1N1 threat.

We were very well served. We were ahead of the curve of all the provinces in terms of the roll-out. Unlike most jurisdictions, Yukon did not have to triage, so to speak, by providing the vaccination first to pregnant mothers and young children or any other subclass of Yukoners, but simply said that it was available to one and all. Yukoners very much appreciate the job that was done.

I will also encourage those Yukoners who haven't yet gotten their H1N1 or their seasonal flu vaccine and may think that it didn't really hit that hard — one, it didn't hit that hard because of the vaccination program. Two, we still had three reported deaths that were either caused by or involved H1N1 — that's three too many. We need everybody to get vaccinated so that we don't have a second outbreak. So, for those who are listening: get your shots.

Having said that, we do have a lot of questions. They're not in any particular order. I'm not going to mostly be doing lengthy debate, but rather I'll ask questions — this minister is pretty good at giving fairly terse responses, so we should do just fine.

The minister mentioned in his opening remarks about being optimistic about concluding a successful territorial health access fund renewal agreement. I'm wondering if he can elaborate in any way on that. I recognize that obviously he doesn't have a signing to report, but if he could just provide us with any more information, because I know that when they last debated this — and I probably do have the information in front of me, but I'm not going to try to find it at this moment — the minister did give us a number of how many jobs actually related to this. It was quite a few. I think it was 50-some-odd or more jobs. I am not looking at it in terms of an employment issue, although that is always a serious issue, but rather that is a lot of health services to Yukoners who would be at risk if we had to scramble for alternative funding. If the minister can provide an update, that would be appreciated.

**Hon. Mr. Hart:** For the member opposite, yes, I did indicate some time back — I believe there are around 59 positions that are attributed to the process. But it's not so much the positions, Mr. Chair; it is the programming that is under this particular funding section. It is programming that we would not have otherwise within the Yukon and it is programming that has been developed for the Yukon specifically and it is also programming that is to enhance the health care for Yukoners.

With regard to the THAF funding, we have been working with officials with Health Canada for well over a year now. We presented our business case to them. I feel reasonably optimistic, as I stated. I just got back from Ottawa from a housing trip, where I also stopped in to check on this particular fund.

I must say that I was rather encouraged by the information I did receive. I think that one of the critical meetings that will take place between the Minister of Finance for Canada, as well as our Minister of Finance, later on this week, will be crucial. It will be also very important for us to bring forth our case and demonstrate why it's important for us to have the funding take place, and why it's important for all northerners to have this additional funding so that we can receive the care that's comparable to what's provided in the other jurisdictions in the south.

We have put a pretty good business case forward. As I said, we have the support of Health Canada, but the crunch will come when our two Finance ministers meet and discuss this issue. We look forward to some sort of indication early in the spring of next year.

**Mr. Mitchell:** Hopefully, Finance Minister Flaherty doesn't want to come all the way up here just to be the bearer of bad news, so hopefully that will succeed. As I recall, I think we even debated a motion in the spring sitting, where this House provided unanimous support to those efforts.

We do wish the Health and Social Services minister well in that endeavour.

H1N1 — just to go back to it — we were told we have enough vaccine for everyone. Some people have suggested that since we have surplus, so to speak, of the vaccine, we should send it to jurisdictions where they're lacking vaccine. I did have an opportunity to speak to Dr. Hanley directly about that and he assured me that they're under the belief that we should keep the vaccine here because the amount we have would not

make much of a dent in other jurisdictions. We still have Yukoners who are yet to be vaccinated.

Can the minister provide a progress report on the number of vaccinations that have been provided and what percentage that is of the total?

**Hon. Mr. Hart:** For the member opposite, I'm very pleased to report that a little over 52 percent of all Yukoners are vaccinated. I believe Dr. Hanley's goal is somewhere around 67 percent, which he stated at the Yukon Medical Association AGM. We are in the process of working with them to start a campaign to try to get vaccinated those who haven't been vaccinated yet.

As the member opposite knows, there are some people who will resist vaccination regardless of the information that we do provide. We have to be prepared for that.

With regard to the vaccine, yes, that is absolutely correct. The amount of vaccine that we have to provide another jurisdiction or a Third World country is really quite small. If we are to achieve our 67 percent, it would even be less of a process. I would like to first of all hang on to all of our vaccine until we finish our campaign and see where we get to. There is a possibility of a third strain coming through later on this year and if we can get our vaccinations up to that level, we would be more than prepared for that strain when it does come.

**Mr. Mitchell:** I thank the minister for that answer. In the briefing we were told that the new secure mental health ward at the hospital is almost completed. I have sort of a two-part question. First of all, just how many beds will this provide at the hospital when it is completed and when will it be completed?

Secondly, I have been told by many people that there is a need by people who are suffering from mental health diseases for something between the sort of acute hospitalization phase and outpatient treatment. Is the department looking at options for providing any sort of residential program for a safe place for people suffering from mental health diseases to live and receive treatment on more of an ongoing basis for some period of time, as opposed to just this sort of acute secure hospitalization?

**Hon. Mr. Hart:** Yes, we are looking into the situation for mental illness and the care. We are working through that process with the department to look at a wide range of services for mentally ill patients other than the hospital. We're hoping to get something shortly so we'll be able to look at the options that we will have for this facility. In the hospital, there will be six rooms, two padded — two tie-downs or "safe rooms", as we call them.

I've been advised by the CAO that the offers for the staff have been made and they are expecting to be in operation by the end of January.

**Mr. Mitchell:** That's good news that they'll be ready shortly. Just to clarify — these rooms are for people who are not in any way charged with or have been convicted of criminal offences, so is this separate from anything that Whitehorse Correctional Centre would have to undertake? Or, is there some opportunity for people who have been incarcerated but are suffering from mental health problems to be transferred there?

**Hon. Mr. Hart:** Yes, we're looking at the hospital to deal with the situation for mental illness for people who aren't a criminal aspect. We have an arrangement with the Royal Ottawa Hospital to deal with our most dangerous issues. That's all part of our review in dealing with the whole wide array of mental illness issues for our concerned citizens of Yukon.

As I said, with the recent passing of the legislation for psychiatric nurses, it has made it a lot easier for the hospital to hire the staff, because that was a stumbling block for them. With that being passed, we've been able to expedite that process for them. It has been a very positive line for the Hospital Corporation. As I said, we're looking forth to — because of the Christmas season, they don't anticipate anybody moving, shuffling around during this period of time. So, optimistically, they're looking for the end of January.

**Mr. Mitchell:** The children's receiving home replacement — the minister mentioned it in his opening remarks, and there's some \$340,000 in the supplementary budget. Can the minister provide us with an update on when that's expected to be completed, or is it completed? Where is the project at and when will it be in use?

**Hon. Mr. Hart:** The facility has a roof on it. It has been closed to the elements now. It has plywood on it.

They're working on the interior of the facility. I anticipate it will be probably another year by the time we can actually put the kids in there, but I will say to the member opposite the facility was designed for what it's going to be used for. We did it in association with the people who care for those people in that facility. We utilized their expertise in the design of the units, and it's designed so that supervision can be provided, and it can be done from a central point. We're very pleased with the facility, and we're also very pleased that the federal government provided us with the stimulus funding and we were able to put it to immediate use. We had the opening of the facility last month and some dirt shovelling. I actually had to bust up the dirt so we could actually throw it. It was monumental, and I was very happy to see that a local contractor is building that facility and making it work.

We're looking at completion in the summer of 2010 with probably, like I said, operation commencing in the fall — September.

**Mr. Mitchell:** I thank the minister for that information. Since we're speaking of buildings being used for the purpose that they're designed for, it seems that would naturally bring us to the Thomson Centre. Now we've had some discussion of this in Question Period and then last week, the minister put out a news release indicating — I thought it was going to be 20 beds, but I think it said 19 beds in the release. The minister has said several times that the renovations required in the Thomson Centre are going to be very expensive. I know that the minister's predecessor — the former Minister of Health and Social Services — also had spoken of the challenges in getting the Thomson Centre reopened. Nevertheless, it's a challenge that the government caucus gave to themselves in their last platform when they said that they would reopen 44 beds in the Thomson Centre, so I will ask about it.

I have a couple of questions. First of all, I know the minister is going to be putting out a RFP, but usually when we put out these RFPs, we have some ballpark figure that is being looked at as a likely amount. Can the minister provide us with any information on projected costs as well as the nature of the renovations that need to be made?

We know that the roof had to be redone. We have heard of issues of mould. The minister, in the past — or his predecessor — told us that air exchange issues were fairly severe and that there had to be new HVAC and other infrastructure put in place. I am wondering if the minister can provide us with some information. Since what is being looked at is 19 or 20 beds and not 44, what will be done with the rest of the building?

**Hon. Mr. Hart:** With regard to the Thomson Centre, one of the reasons we are looking at commencing with that facility is because we are able to work with the pod system there, similar to Copper Ridge Place. We do have the capability to deal with the pod. I thought the rooms were actually 18, but it matters not.

The issue is that we're looking at the pod. So we're looking at opening up the furthest pod on the process. Part of that is also a review of the RFP — to go in there and basically knock the roof off and figure out what's up there and what's not up there. Like you, we've all heard lots of stories, but now we want to have somebody go in there and tell us what it really is.

One of the big functions we had initially was working with our continuing care facility, Copper Ridge Place, to ensure the needs for continuing care are going to be there. In other words, the lifts have to be in place. One of the big issues of the Thomson Centre is the doors for the bathrooms aren't big enough for wheelchairs, so they will all have to be changed. Again, this is part of the code. Because the facility has not been used for continuing care, we have to bring in — you know, we can bring it up to code on the pod, one pod at a time. We can do it and work it that way, and that's why we're able to at least work along lines of the pod and have a good, positive relationship with the system.

But, as I stated, once the continuing care people work with our construction people on what's going to be required — in other words, we have to have a carrying facility from the bed to the washroom, which we do at Copper Ridge Place, and that's not in place. There's a false ceiling in the Thomson Centre, so we will have to put framing inside to operate the lift from the bed to the washroom to assist people going from the bed to the washroom.

Again, each and every room will have to have this done, because there is no lift in any of the rooms. We're also going to have to look at providing a call system in the Thomson Centre, because there isn't one there. So, there'll have to be a new one for each room. So, while we've got the wall off, we'll put that in there also, as well as computer technology, in addition to the required fire treatment in each of the rooms also, because of the space and because there is a false ceiling.

So, that's again a requirement under the new building code, because we haven't been using it as a continuing care facility. That's why we're taking it on in a phased-in approach. We're looking at dealing with this — the one pod, to deal with

our immediate issue and looking at phasing in that process. There are two other pods that we are looking at expanding into at a later date.

Of course, once we get a template for what we're looking for in this current pod, then it'll give us some good idea of what we're looking at for an extension for the other possible ward when the pressure comes for continuing care beds.

The area that's being utilized by the Hospital Corporation currently for its residence — nurses and that — at the end and physiotherapy will remain there, because physiotherapy will be a good combination with regard to continuing care facilities, so those facilities will remain there.

When the new residence is completed — which is expected sometime in September 2010 — the hospital plans to move their specialist clinic into that area and so that end of the pod will remain for the Hospital Corporation to handle their specialist in that one end of the building, which they already currently occupy.

In the meantime, we hope to expand from our current pod to the other two pods at a later date, but right now our main concern is to get Thomson Centre active and to find out what we're looking at and to concentrate on those 18 or 19 beds — whatever we've got to have there.

Some rooms have twin beds, so we might be able to accommodate a husband and wife, for example, in some of these areas. We want to look at that and find out what our real cost is. We are going to get moving on it ASAP and start moving and making renovations.

**Mr. Mitchell:** I thank the minister for that information. I do believe it was last week in Question Period that the minister said 20 beds in a response, but I think the news release did say 19 or perhaps 18. I guess it only makes a difference if you are those two people who fall into the situation where there is no room at the inn, so to speak.

I am a little shocked at some of what the minister has relayed. I do recognize that this building was designed and built under a previous government — under an NDP government — and the minister has inherited it as it is, but I am just looking for a little bit of clarification from the minister. Are the requirements to widen the doorways, change the doors, the fire-resistant walls, the call buttons that the minister just mentioned in his response — are those all a result of a code change since the building was designed and, because the building has not been used in recent years for that purpose, it must be brought up to the new code?

Or do we have a building that was improperly designed from the get-go in terms of things. I mean, I can appreciate that the computer situation the minister mentioned may be newer, but the doorways for bathrooms I would have thought would have been designed to be wheelchair-accessible right from the beginning, because that was the intended purpose of the building. So can the minister tell us: was this building never up to code or is it just because code has changed and the building has not been in use functionally for this purpose?

**Hon. Mr. Hart:** I don't think there's an occupancy permit for that place. I will try to answer the question as best I can. Yes, all the code requirements are part of the accreditation

for providing continuing care, 24 hours a day, 365 days a year. That is the main reason. A large part of the cost is in the fire protection — in other words, the sprinkler system that has to be put in throughout the building in each and every room. As the member opposite can imagine, that is a fairly expensive endeavour.

In addition, yes, at the time the building was built, wheelchairs probably could get through the door and they didn't have to lift patients from their bed to the washroom at that time. They could put them in a chair and move them around. That is no longer the case. Things have changed now. We can't expect, for example, a 98-pound nurse to pick up a 200-pound patient and take him to the washroom.

As I said, it's part of the accreditation. You have to have that facility in place. You have to have the ability to take a patient from the bed to the washroom. As I stated, all the washroom facilities' counters are too high. In addition to the doorways, the counters are too high to accommodate a continuing care facility and, in addition, they are not big enough. So all the washrooms will have to be expanded and the doors will have to be — and because of the constraints of the room itself — like the washrooms themselves and how close they are to windows makes it more difficult because of the way the building has been designed.

It has been very, very difficult. The building was designed for Hawaii and not the Yukon. That is the only thing that I can explain. Where else would you build windows with corners in them? Where else would you put heaters underneath windows? It makes no sense to me at all. We will have to make adjustments to that. We will have to make upgrades to the windows so we can deal with it. We'll also have to make adjustments to the mechanical so that the heat can come into the facility and we can still utilize it.

Yes, I was hoping, quite frankly, that the hospital could utilize that facility for some of its expansion needs but we just recently got their consultant's report that basically said, "No such luck." The best use is what it was originally designed for and that is continuing care. It is going to cost us a substantial amount of money to bring it up to code and to equip it. All the equipment that was in that facility was taken up to Copper Ridge — everything — beds, the whole nine yards. There isn't anything left in the Thomson Centre; it is a vacated building, period. There is nothing there.

We're looking at bed and, as I said, we're looking at lifts from the beds to the washrooms, we're probably looking at new washroom facilities right through. Again, to meet the accreditation code for continuing care, we have to have washroom facilities with bars for people who need assistance to get on to a toilet. These things all need to be done in each and every room — all 18 or 19 — whatever one it is.

It's going to cost us a substantial amount, but it's going to cost a lot less than trying to build a brand new facility, so we are looking at that particular aspect. Plus, we have the ability to expand in the other two modes further down the road. We are able to kind of stagger our funding for the facility over a period time, as the demand comes. As I said, once we sort of get our template for how we can fix this pod and go forth, then we can

move it over. Plus, we're also looking at trying to maximize our shared services with the hospital. So, we might be able to work something with the hospital with regard to the call system. In other words, they're looking at a call system for the hospital, too, and we might be able to piggyback on that system with them and maximize basically the purchase of that system for ourselves.

**Mr. Mitchell:** I think I thank the minister for that information. It's not the best of news, but he did answer one possible follow-up question. He said it's going to cost less than starting over. That was going to be the next question is. Would it be better to knock down a pod and start over? As anybody who knows who has ever been involved in renovations, sometimes that can get pretty expensive.

The minister mentioned the Hospital Corporation a couple of times in his response. When the Thomson Centre, pod by pod, is rejuvenated, renovated and reopened, is the intent for it to be managed by the department or by the Yukon Hospital Corporation, or has any decision one way or another been made?

**Hon. Mr. Hart:** Mr. Chair, it is our full intent to operate the Thomson Centre ourselves. We are in charge of continuing care in Yukon. I don't think it would be beneficial for us to carve off a piece and give it to the hospital.

Yes, we are using the facility next to the hospital. We can take advantage of some of the shared services of that hospital, which I think will, again, reduce some of our overall cost with regard to the Thomson Centre.

I think with us expanding into the Thomson Centre, it will assist the Hospital Corporation with their bed pressure, especially for continuing care patients. I think also that once we can work on the palliative care issue, it will also relieve a little bit of pressure there in that particular process.

So I look forward to working with the hospital to partner with them, wherever we can, to share and reduce our costs, as well as our O&M costs. But the facility itself will be operated by ourselves.

**Mr. Mitchell:** Since we're talking about the hospital, the minister mentioned the new nurses residence or medical professional and nurses residence. When we tried to get some information regarding the financing arrangement for that new building, we were directed to write to the chair of the Hospital Corporation. We did do that and the response we got back was basically, "Read our newsletter."

I did read their newsletter, but it didn't answer that question. It didn't say what the borrowing costs were.

I know that, based on the hospital corporation act, I'm pretty certain that the minister has to sign off on any authorization for the Yukon Hospital Corporation to go out and borrow money. He has to give them an initial letter of authorization — which I think he referred to last spring in debate — to go out and seek financing. And then he has to, in a sense, guarantee the financing by signing off on it.

Since we're not going to have the Hospital Corporation president and CAO appear during this sitting, I'll ask the minister if he can give us an update on the amount that is being borrowed, the term, the amortization, and the interest rate for that

facility. I'm pretty certain the minister would know that information by authorizing and dealing with the Hospital Corporation.

**Hon. Mr. Hart:** Yes, we did provide a letter to the corporation to allow them to seek financing for their residence. But in the interim, the Watson Lake and Dawson City situations came up.

As such, of course, they had to look at additional funds to get it. They did go out to tender and request for interest, I guess, for their financing. They went out. They haven't yet finalized exactly, from what I have been advised, totally which bank they've got. They have it narrowed down to two. What they are trying to work out is how they are going to work it with all three facilities and work out what is needed. We do have a price on the residence. Apparently it is around \$17 million. I think the bid is out there — the contract is there. So that is what is there. I have to say that the metal is going up. It is going to be looking like a building pretty soon here. It looks like they are on schedule, on time and within budget on the residence. I look forward to that facility being there.

I don't know if the member opposite saw the old facility or had been in the old facility. I never know whether it is No. 1 or No. 4 Hospital Road, but it was pretty embarrassing for me to go through that facility where we put doctors who make half a million dollars a year or specialists and we put them up in places — I have to be careful here — that are less than amicable for a person of that profession.

For me, it was very soul-searching to see the paint in the hallways flecking off, and here's a facility where we put our doctors and nurses who come in from out of town. It was pretty obvious that we had to change that to make the facility a little bit more likable to them. In fact, some of the doctors who came got their own facility. They stayed in their own rental apartments wherever.

**Mr. Mitchell:** Now that I know that the specialists are making a half-million dollars a year, I can see why my parents were so disappointed when I never got around to finishing and going back to medical school. Nevertheless, I have been in the building, and I can certainly concur with the minister that it was long past its best-before date and needed to be replaced. However, even when you get into residential construction, it's pretty hard to get a builder these days to throw up the building on a handshake and a promise.

As the minister says, the steel is up, things are proceeding and it's \$17 million. I'm certainly not disputing the veracity of what the minister is telling me, but rather the completeness of what the minister is telling me. I find it hard to believe that they're proceeding along on a wing and a prayer with no financing in place. Who is paying the bills? Somebody is paying for this. I'm really somewhat flabbergasted that we can have that building going up and the Hospital Corporation has not yet finalized from whom they're getting the money to pay for it. Maybe the minister could check his notes and see if he has a little more detail than that.

**Hon. Mr. Hart:** For the member opposite, the Hospital Corporation has its own budget, its own monies and is able to bridge many things. With regard to their assistance, the

board of directors has made that decision. We have provided the banking institution a letter of comfort, signed by me, to allow them to borrow monies, so they are out there. Now, I will say that, yes, the corporation is definitely out there to get the best deal, obviously, for the corporation itself in addition to getting it.

I will say that I was very pleased that the current facility came in underbudget when it was tendered. It was tendered and a local person did get it. I have to say that is a real positive plus not only for the hospital but for all those who are working on the facility and it provides steady employment for those working there. I look forward to the completion of that facility some time in September.

**Mr. Mitchell:** I thank the minister for that response. My understanding then is that the Hospital Corporation is self-financing at this stage but since they don't likely have huge excess surpluses of money, that means that they are spending money now that they had no doubt previously budgeted for other purposes and we'll have to replace the funds. We will just look forward to how this is being financed.

The minister mentioned the Hospital Corporation has, since then, become responsible for the Watson Lake hospital and the Dawson hospital. I hope the minister appreciates that I am only asking questions in response — the minister is leading me in the direction I'm going here.

Again, they are two institutions where the money will be borrowed by the Hospital Corporation. We have \$2.5 million in — I'm not sure if "lapses" is the correct word, because it's not lapsing; it is being adjusted back off the books — \$1 million for Watson Lake and \$1 million for Dawson City. I'm trying to connect the dots between the various amounts we've heard over time. For the Watson Lake facility, how much has been spent to date? We recognize it is being transferred out of the minister's department, so it will all eventually be part of the total expenditure of the Hospital Corporation — but the monies, over the last five years, were spent in Highways and Public Works and in Health and Social Services. I'm wondering if the minister has an update on that.

**Hon. Mr. Hart:** I guess I don't want to get into a shouting match or arguing match about whether it's \$4.5 million or \$5.2 million. I think we got into a discussion in the spring with regard to this.

I estimate it's somewhere around \$4.5 million that has been expended on the Watson Lake facility. We have a management arrangement with the Yukon Hospital Corporation for the Watson Lake facility, so currently we're in the process of moving this over to the Hospital Corporation, on the understanding that the Hospital Corporation will take over the facility on April 1. Then we'll deal with the property and those issues at that time.

**Mr. Mitchell:** It's a little difficult asking questions about these facilities because of this transitional period, but I know that there was a report commissioned to the architectural firm of Kobayashi & Zedda on converting the shell into a hospital and I believe when that report was concluded and provided, it was all still under the auspices of the Department of Health and Social Services. There was a further report that was

commissioned of a different firm down south — is it Options Consulting, I think — and I don't have the name in front of me, but it was an update on that and I'm not sure to whom that report went.

Can the minister provide us with a copy of that first report, the Kobayashi & Zedda report on converting the existing shell into a hospital?

**Hon. Mr. Hart:** For the member opposite, with regard to the Kobayashi & Zedda file, that was actually under Highways and Public Works. All those files are with the Hospital Corporation now. Anyway, regardless, I believe those reports are public and can be obtained from them. I don't see any reason why they shouldn't be. They have that.

There was a study — an independent study — done by the Hospital Corporation for the existing shell down in Watson Lake. An assessment was done and, yes, there was some structural work that had to be done for seismic reasons, or identified — but that was indicated to be a positive step in the right direction there, as well as enabling the facility to be converted into a hospital. They indicated it was.

So that's what the board is moving forward on. They were also waiting — the board was weighting very heavily that summary coming out of that consultant's report, in addition to the Kobayashi & Zedda report.

**Mr. Mitchell:** I didn't know that those reports were available publicly but perhaps we can contact the department directly and get them. I know that there was the original RFP that went out and that identified a series of issues or potential issues, including having to tear up the pad to relocate plumbing, water and sewer into the right location for its changed use into a hospital from its original use as a multi-level or extended care facility. There were issues having to do with the location of a kitchen, location of a potential emergency room or admitting area. There were a lot of issues and we would like to see how those issues are being addressed.

We have a lot more questions, Mr. Chair, but seeing the time, I would move that we report progress.

**Chair:** It has been moved by Mr. Mitchell that Committee of the Whole report progress.

*Motion agreed to*

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

**Chair:** It has been moved by Mr. Rouble that the Speaker do now resume the Chair.

*Motion agreed to*

*Speaker resumes the Chair*

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

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

#### **Chair's report**

**Mr. Nordick:** Committee of the Whole has considered Bill No. 17, *Second Appropriation Act, 2009-10*, 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.

The time being 5:30 p.m., this House now stands adjourned until 1:00 p.m. tomorrow.

*The House adjourned at 5:30 p.m.*