



Yukon Legislative Assembly

Number 150

1st Session

33rd Legislature

HANSARD

Wednesday, April 30, 2014 — 1:00 p.m.

Speaker: The Honourable David Laxton

YUKON LEGISLATIVE ASSEMBLY

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

DEPUTY SPEAKER — Patti McLeod, MLA, Watson Lake

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Hon. Elaine Taylor	Whitehorse West	Deputy Premier Minister responsible for Education; Women's Directorate; French Language Services Directorate
Hon. Brad Cathers	Lake Laberge	Minister responsible for Community Services; Yukon Housing Corporation; Yukon Liquor Corporation; Yukon Lottery Commission Government House Leader
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Stacey Hassard	Pelly-Nisutlin
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Jan Stick	Official Opposition House Leader Riverdale South
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Lois Moorcroft	Copperbelt South
Jim Tredger	Mayo-Tatchun
Kate White	Takhini-Kopper King

Liberal Party

Sandy Silver	Leader of the Third Party Klondike
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**Yukon Legislative Assembly
Whitehorse, Yukon
Wednesday, April 30, 2014 — 1:00 p.m.**

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

Prayers

DAILY ROUTINE

Speaker: We will proceed with the Order Paper.
Tributes.

TRIBUTES

In recognition of National Immunization Awareness Week

Hon. Mr. Graham: On behalf of all members of the Legislature, it's my pleasure today to tribute National Immunization Awareness Week, which was from April 26 and will continue through to May 3.

Mr. Speaker, 100 years ago, infectious diseases were the leading cause of death worldwide. Today in Canada, they cause fewer than five percent of all deaths. The drastic decrease in deaths is thanks mostly to immunization. Immunization protects individuals and communities by preventing the spread of disease. As more people are immunized, the disease risk for everyone is reduced. Immunization has probably saved more lives in Canada in the last 50 years than any other health intervention.

Immunization Week this year is from April 26 to May 3, as I mentioned, and "Vaccination: Your Best Shot" is the theme. A week is set aside every year to raise awareness about the importance of immunizing ourselves and our children and making sure our immunizations are up to date. The reason we have to promote awareness of this important topic is that too many Canadians do not immunize their children or immunize themselves fully.

Earlier this month, the Public Health Agency of Canada issued a warning that there has been a higher than usual number of measles cases in Canada since the beginning of the year. Since measles is a preventable disease, it is a little disheartening to see these outbreaks.

We can understand why polio makes a resurgence in war-torn countries like Syria, where public health is stressed for obvious reasons, but measles should be as rare in Canada as the bubonic plague. Instead, there have been recent outbreaks in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario.

As the Yukon is a land of travellers, we have been extremely fortunate to escape measles so far. The Public Health Agency of Canada states clearly that measles can cause a rash, high fever, cough, runny nose and watery eyes that could last one to two weeks, but those are just the mild symptoms. Measles can also cause pneumonia, convulsions, deafness, brain damage and even death. These complications are rare, admittedly, but with enough cases of measles we will see them again. Why take that chance when vaccines are

available to prevent our children from catching it or, at the very least, to ease the symptoms if they do contact measles?

I am old enough, Mr. Speaker, to remember when childhood illnesses like measles and mumps swept through our neighbourhoods here in the territory. I also remember the devastation of polio. A young fellow who I grew up with was afflicted with polio at a very young age here in the territory.

We have people in our communities today who are still dealing with the effects of polio, and that is not something that we would wish on anybody and especially not on a child.

These are only two of the diseases that are still around and that can be prevented by immunization.

I understand parental fears — I really do — but I urge parents to base their decisions on sound scientific evidence rather than on emotionally charged and often baseless arguments. Working with the Yukon chief medical officer of health and Health and Social Services vaccine program manager, the department has set up a website that provides scientifically accurate information on immunization, including links where Yukoners can obtain more information if they so desire. I encourage anyone with questions to visit www.yukonimmunization.ca and learn for themselves.

In recognition of Yukon College's mobile trades training trailer

Mr. Silver: I rise on behalf of the Liberal Party and the Official Opposition to pay tribute to the students participating in the first round of mobile trades trailer pre-apprenticeship certification in Dawson City.

According to the Yukon College's website the Centre for Northern Innovation in Mining's trades training trailer allows Yukon College to deliver trades courses in smaller communities across the territory as well as in operating mine sites. The state-of-the-art facility is just this week completing the examination process for its first round of participants for classes in welding up in Dawson City. I had the pleasure of being asked to say a few words at the ceremony at the Tr'ondëk Hwëch'in community hall for students last Friday and I wouldn't have missed that opportunity for the world.

Not only does the college do an amazing job of promoting this programming to the population at large, but there were students of my age from Dawson who participated and used this facility and received their pre-apprenticeship certification. Not only did the college move forward on dual credit courses, partnering with Robert Service School, but they also provided programming options for some of our more marginalized students. For that, I cannot thank them enough.

In my speech last Friday at the ceremony, I asked these students to reflect on why it was this particular program that worked. Everyone who started, finished this program. Was it because of the instructor, Ed Bergeron, and his ability to inspire? Was it the state-of-the-art facility itself? Was it the overwhelming support from the Tr'ondëk Hwëch'in education department or the amazing efforts of Chief Taylor to ensure that Dawson was the first to host this mobile trades trailer? Whether it was any or none of these things, I encouraged the students to believe that the success is theirs to own — it

comes from inside — and to use this confidence to continue down that road toward successfully developing their skills and also toward defining themselves as extremely valuable contributors to our community by filling important jobs in our territory and economy.

I spoke with Chief Taylor this morning and he wanted me to mention that this is the first time that a welding course was ever offered in the Klondike Valley and he looks forward to more opportunities with the College for us to continue to run our own economy in the Klondike Valley. He wanted me to mention that it is the leadership of Yukon College President Karen Barnes that helps to build these partnerships in the communities — that shows a lot of leadership. During the ceremony, a lot of the Yukon College folks were mentioning how happy they were with Chief Taylor's advocacy, so it is good to see that he is also giving that back to the college as well — a true partnership.

I would like to congratulate the inaugural class of the pre-apprenticeship graduates. Jayme Favron — who is a local celebrity and is appearing on history channels *Yukon Gold* with Karl Knutson's crew — also, Jake Duncan, Marvin Frost Junior, Jay Gagnon, Aaron Mendelsohn, Waylin Nagano, Jesus Panaligan, Andrew Taylor, and, jack of all trades, Spencer Wallace.

In recognition of Vision Health Month

Hon. Mr. Graham: On behalf of all Members of the Legislature, I would like to rise in tribute to Vision Health Month. Tomorrow — May 1 — marks the beginning of Vision Health Month, and I would like to invite my colleagues in this House to join me in recognizing the importance of eye health and the importance of getting the message out about sight loss.

It originally began as a collaborative public awareness campaign between the Canadian National Institute for the Blind and the Canadian Association of Optometrists. For the first time, the month is being recognized at the federal level, with the Canadian Senate declaring May as national Vision Health Month.

In Yukon, there are approximately 950 people living with blindness or partial sight and as a one-eyed referee I can sympathize with every single one of those people. These Yukoners face other risks, though — serious health risks associated with vision loss. They are three times more likely to suffer from clinical depression, twice as likely to fall and four times as likely to suffer a hip fracture. Seniors living with vision loss tend to be admitted into nursing homes three years earlier than their sighted peers. Vision loss can happen to anyone at any age. In fact, one in seven Canadians will develop a serious eye disease in their lifetime.

Thankfully, 75 percent of vision loss is avoidable through prevention and treatment. Prevention measures and early detection of eye disease through a comprehensive eye exam significantly lower one's risk of vision loss. Many serious eye diseases have no symptoms and can only be detected through an eye exam. Even someone who has 20/20 vision may be at

risk. After age 40, the number of cases of blindness or partial sight doubles. In fact, at age 75, it triples.

The Department of Health and Social Services continues to financially support the work of CNIB here in the territory, and also through the support we provide to other non-governmental organizations that provide a broader community service that includes those who are vision-impaired.

As a government, we promote good health. We tell people to make healthy school lunches for their children and themselves. We encourage them to be physically active and to see a health care professional regularly. We offer assistance to help them quit smoking. We also need to encourage them to take care of their vision, keep their eyes healthy and prevent loss of vision or blindness. This is a first step in preventing further deterioration of vision in the territory.

In recognition of the Northern Adult Basic Education Symposium

Hon. Ms. Taylor: I would like to rise in the Legislature today to pay tribute to a very important symposium that is currently underway at Yukon College. That is the very first inaugural Northern Adult Basic Education Symposium, which is currently running from April 28 to May 1.

This symposium is the first of its kind and it has gathered together some 200-plus educators, management experts and stakeholders from Yukon College, Aurora College and Nunavut Arctic College, as well as partner organizations, to discuss adult learning and literacy in the northern context.

Our government encourages students of all ages to continue to pursue new learning experiences and training throughout their lives to help them reach their full potential and in turn to help contribute to the ongoing success of our territory.

Supporting lifelong learning and success for each learner for all Yukon students — including adult learners — is our number one objective. Adult education programs enable Yukoners to continue to build upon their skillsets and to be able to more fully participate in and contribute to our workplaces and communities.

This symposium provides an invaluable forum for the front-line professionals and management in this field to network and share their knowledge, best practices, lessons learned and new initiatives. Over the course of the three days, participants will be attending round table discussions, focus groups, storytelling workshops, experiential learning sessions about improving the cultural competencies of programs, integrating technology and distributed learning options and building partnerships with industries and students.

The ideas and the discussion arising from this event will help those working in adult education to deliver better programming to northern, rural, First Nations, Métis and Inuit adult learners. Our adult students rely on these programs to be able to continue to pursue their education and access skill development and vocational training and in turn contribute to the overall success of our north.

I would like to recognize the fantastic work being done by all adult educators and the many educational organizations throughout the territory and throughout the north and to thank them for supporting adult literacy and learning through the many services to our communities.

I want to also thank Nunavut Arctic College, Aurora College, Yukon College, and the Northern Adult Basic Education organizers for putting this huge event — and a very important event at that — together. Of course, last but not least, to our own Yukon College for hosting this inaugural event. I would also like to thank the Government of Canada which announced back in February of 2012 an investment of over \$27 million over five years for the Northern Adult Basic Education program to be delivered by the respective territorial colleges across the northern territories.

I would like to also extend our heartfelt thanks to all of the delegates and a safe, successful and productive stay here in the territory this week. I understand there is a great trip to Klwane National Park and Reserve this afternoon.

Mr. Speaker, I also have the liberty and privilege of being able to extend a warm welcome to two of my northern colleagues — counterparts who I have had the opportunity to work with over the last number of months in my capacity as Minister of Education, Public Schools, Advanced Education and on the immigration file as well — starting with Hon. Jackson Lafferty, who is Deputy Premier for Northwest Territories, Minister of Education, Culture and Employment and also minister responsible for the Worker's Safety and Compensation Commission.

Accompanying him is Andy Bevan, who is the assistant deputy minister for — I believe it's the Labour and Income Security branch of the department. Forgive me if I got that wrong.

I also want to extend a warm welcome to Hon. Paul Quassa, who I would say is the “new kid on the block” in terms of being the newly appointed Minister of Education for the Government of Nunavut and also minister responsible for the Nunavut Arctic College, and his executive assistant who has also joined him as well. I just want to thank my colleagues for their ongoing leadership and certainly we'll look forward to our meetings next week in Yellowknife. I'm looking forward to collaborating on a multitude of different files of interest and importance to all northerners. I extend a warm welcome on our behalf to our counterparts.

Applause

Speaker: Introduction of visitors.

INTRODUCTION OF VISITORS

Ms. Hanson: I was just going to have the MLA for Vuntut Gwitchin introduce Agnes Mills, an elder from Vuntut Gwitchin, and welcome her to the Legislative Assembly today.

We also have Mike McCann, Executive Director of the Fetal Alcohol Syndrome Society Yukon and Gwenda Bradley and Jolene Waugh from the Human Rights Commission.

Applause

Speaker: Are there any returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Ms. Hanson: I have for tabling a consensus statement from the Institute of Health Economics, a consensus statement on legal issues of fetal alcohol spectrum disorder, dated September 2013. The electronic link will be provided for all members of the Legislative Assembly.

Hon. Mr. Istchenko: Today I have for tabling in this House the *Fleet Vehicle Agency 2014-2015 Business Plan*, Yukon Highways and Public Works.

Hon. Mr. Nixon: I have for tabling today the *Yukon Law Foundation Annual Report — November 1, 2012, to October 31, 2013*.

I also have for tabling today the *Workers' Advocate Office 2013 Annual Report*.

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

Are there any reports of committees?

Are there any petitions to be presented?

Are there any bills to be introduced?

INTRODUCTION OF BILLS

Hon. Mr. Graham: Pursuant to Standing Order 14.3, notwithstanding the provisions of Standing Order 74, I request the unanimous consent of the House to move that Bill No. 74, entitled *Act to Amend the Vital Statistics Act*, be now introduced and read a first time.

Unanimous consent re introduction and first reading of Bill No. 74, *Act to Amend the Vital Statistics Act*

Speaker: The Minister of Health and Social Services has requested the unanimous consent of the House, pursuant to Standing Order 14.3, notwithstanding the provisions of Standing Order 74, to move that Bill No. 74, entitled *Act to Amend the Vital Statistics Act*, be now introduced and read a first time.

Is there unanimous consent?

All Hon. Members: Agreed.

Speaker: There is unanimous consent. The minister may now move the motion.

Bill No. 74: *Act to Amend the Vital Statistics Act* — Introduction and First Reading

Hon. Mr. Graham: I move that Bill No. 74, entitled *Act to Amend the Vital Statistics Act*, be now introduced and read a first time.

Speaker: It has been moved by the Minister of Health and Social Services that Bill No. 74, entitled *Act to Amend the Vital Statistics Act*, be now introduced and read a first time.

Motion for introduction and first reading of Bill No. 74 agreed to

Speaker: Are there any other bills to be introduced?
Are there any notices of motions?

NOTICES OF MOTIONS

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

THAT this House urges the Government of Yukon, in recognition of the Yukon Party's platform commitments to promote Yukon's tourism economy, to continue to study the technical and economic business case of further capital upgrades, including paving the runway at the Dawson City Airport, as part of the Government of Yukon's work with Air North, Yukon's airline, and Holland America to promote tourism to Yukon and the Klondike region through the use of tourism cooperative marketing agreements and strategic marketing campaigns.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to host a website that answers common questions and provides statistics, news and information about immunizations, including the Yukon immunization schedule for children.

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

THAT this House urges the Government of Yukon to consult with stakeholders including, but not limited to, the agriculture industry, livestock owners and veterinarians in the development of regulations pursuant to the *Animal Health Act*.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to make changes to the permitting process under the *Environment Act* by:

- (1) eliminating the nominal fees associated with permits;
- (2) increasing the maximum duration of permits; and
- (3) formalizing the collection of review fees.

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

THAT this House urges the Government of Yukon to partner with the Canadian Centre for Child Protection to launch a campaign to promote safe and responsible use of communication technologies among youth.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to implement the 2013 *Management Plan for Yukon Amphibians*, which includes:

- (1) improving the knowledge of the distribution and abundance of amphibians;
- (2) identifying and maintaining key amphibian habitats;
- (3) assessing and mitigating threats to amphibian populations; and
- (4) increasing public appreciation of amphibians and their habitats.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to continue to explore opportunities to replace on-grid diesel electricity generation with lower carbon technology to fulfill that commitment of the *Climate Change Action Plan*.

Speaker: Is there a statement by a minister?
This then brings us to Question Period.

QUESTION PERIOD

Question re: Seasonal auxiliary employee layoffs

Ms. Hanson: Auxiliary-on-call employees provide a great service to the Yukon government. For example, they help departments meet short-term staffing needs and they provide opportunities for professional development. But not all auxiliary-on-call employees are being employed in this manner. Everyone knows an employee who works for the government and has been working as an auxiliary on call for years without the benefits and security of a more permanent status.

Will the minister tell this House how many Yukon government employees are employed on an auxiliary-on-call basis?

Hon. Mr. Dixon: As the minister responsible for the Public Service Commission, I am pleased to rise and respond to this particular question. Auxiliary-on-call employees are an important and valued segment of our Yukon government workforce. AOCs are called into work as and when required to replace other employees who are sick or on leave to provide coverage for peak periods or for special projects. They help us fulfill our public service obligations when departments determine there is an operational justification for regular employment hire.

People work as AOCs for a variety of reasons. Some choose it as a lifestyle choice because it affords employment flexibility and variety, while others prefer full-time employment. AOC work can be a stepping stone to a full-time job as well.

AOCs are covered by the collective agreement and we jointly monitor AOC use with the union. There has been only one grievance related to the use of AOCs in the last 11 or so years. My understanding is that, in total, there were over 700 AOC employees across all government departments as of the end of the calendar year last year.

Ms. Hanson: It is true that there are over 700 men and women working on an auxiliary-on-call basis with this government.

The hiring and staffing practices of this government were found to be lacking, according to an audit that was released by the Yukon Government Audit Services in February 2013.

The audit found that over 60 percent of the 1,900 staffing actions fell into the category of direct-hire exemptions and temporary and acting assignments. There was no regime to monitor the quality of these staffing actions.

When I raised my concerns about the lack of a monitoring regime and the fact that non-competitive hires outnumber

competitive hires, the minister assured me that he was working on it and taking it very seriously.

Can the minister tell us what he has done to address the concerns raised by the government audit on staffing branch services?

Hon. Mr. Dixon: We continue to work throughout our government departments to address this particular issue. I would note that auxiliary-on-call terms and conditions of employment are very important here. It is important to recognize that AOCs receive the same rate of pay as regular employees in the same classification. They generally have no set hours of work and are called on as needed. When they are called in to replace an employee, they work the scheduled hours of the employee being replaced.

They do receive overtime pay when they have worked more than the daily or weekly hours of work, as a regular employee with the same qualification, and when they worked for two consecutive shifts. As well, they receive overtime pay when they have worked more than the normal hours of work for their classification in a pay period. They receive vacation pay ranging from eight to 14 percent of regular pay. They are entitled to the Yukon bonus, paid based on hours worked, and they are entitled to leave without pay for illness and maternity parental needs. They do not get leave with pay for sick, special or annual leave, court leave or parental leave top-up.

Mr. Speaker, I would note that we continue to address the needs set out in the audit committee's report and the audit on this particular issue, and we take that particular report very seriously and are working across the department to address the suggestions and recommendations made therein.

Ms. Hanson: Fifteen months later, we're still taking it seriously. The fact of the matter, with respect to auxiliaries on call, is that not all auxiliaries on call are short term. Many people work them year after year, and being employed in an auxiliary-on-call position can be tough. There is no guarantee of work, meaning there is no guarantee of income. These individuals face the risk of losing their positions if they refuse work more than three times. So, auxiliary-on-call employees do receive financial compensation for benefits, but that comes twice a year in a flat sum. As the minister said — he is correct — they don't receive sick pay, and vacation pay is added to each paycheque, meaning that the employees don't receive pay while they are on leave. All of these factors contribute to a stressful situation for auxiliary-on-call employees. It is hard for them to settle into a community and invest.

Does the minister think it is appropriate for auxiliary-on-call employees to work full-time on an ongoing basis without the same employee benefits as other government employees?

Hon. Mr. Dixon: As I indicated previously, we value the contribution of auxiliary-on-call employees. They are an important and valued segment of our government workforce. I would note that individuals who work as auxiliaries on call do so for a variety of reasons. In some cases, some choose it as a lifestyle choice because it affords employment flexibility and variety, while for others who prefer full-time employment, AOC work can be a stepping stone to a full-time job.

AOCs are covered by the collective agreement, as I noted, and we jointly monitor AOC use with the Yukon Employees Union. There has been only one grievance related to the use of AOCs in the last 11 or so years but, as I noted, we have conducted the internal audit, as suggested by the member opposite. We continue to take the recommendations and aspects of that particular audit very seriously and are working across our government departments to ensure that we respect AOCs and use them when needed and ensure that AOCs remain an important and valued segment of our government workforce.

Question re: Burwash Landing policing

Ms. Moorcroft: Last week my colleague from Mayo-Tatchun asked a question about the lack of an RCMP presence in Burwash Landing. The minister informed this House that he thinks the lack of policing service in Burwash is just fine. The people of Burwash don't think it is just fine, and neither do I.

Having a community's first responder stationed nearly 200 kilometres away is completely unacceptable. Why doesn't the minister think the people of Burwash Landing deserve the same level of safety and police protection as other rural communities?

Hon. Mr. Nixon: In addressing the member opposite, we continue to work with the community of Burwash through the Department of Justice along with the RCMP and the First Nations to address community policing needs.

I will correct the member opposite. It is about 120 kilometres from the detachment in Haines Junction. Members responding to calls in the Burwash area — it could take them up to about an hour to get there. However, we do have reservists who are hired in the summer months who pay special attention to the Burwash area in busier times. The RCMP and the Department of Justice feel that the coverage is sufficient for that community.

I noted not too long ago — and we have members here from other territories — that other areas have fly-in communities that are unstaffed by RCMP members. We do believe that Burwash gets sufficient coverage through the RCMP. I would like to thank the RCMP for their good work in all Yukon communities.

Ms. Moorcroft: Mr. Speaker, doing the 120 kilometres that the minister has said the distance is between Haines Junction and Burwash in an hour or less would certainly be speeding, particularly with the condition of the road.

The Minister of Justice has spoken at length about the benefits that the part-time summer officer brings to the community. The minister's lack of coherence on this issue is startling. Does the community suddenly lose all need for the police to prevent crime and undesirable behaviour in Burwash when the weather starts cooling off? Perhaps the minister has determined that the only pressing need the people of Burwash have for police services is to enforce summer highway traffic. If the summer policing program is so needed and successful for the community, it stands to reason that the benefits of an RCMP station would be felt in the winter too.

Why does the minister think that Burwash benefits from policing service in the summer, but as soon as winter rolls around, they no longer need it?

Hon. Mr. Nixon: Clearly, the member from the NDP is not paying attention to what we are saying on the floor of this Legislature. The Department of Justice continues to work with the RCMP and the community of Burwash, including the Kluane First Nation, to ensure that there are sufficient policing services in the community of Burwash, as well as working with the RCMP through the Department of Justice to ensure that the policing needs of all communities are sufficient.

Again, I would like to thank the RCMP for their work with the Department of Justice and with all communities throughout the territory to ensure ample policing is covered. They have certainly come a long way, I believe. They have a very professional approach and I know that the leadership of the RCMP at M Division — it is very important to him to stay connected to Yukon communities to ensure that policing is sufficient. Thanks to the RCMP.

Ms. Moorcroft: The simple fact is that the community of Burwash is not getting the police services that it needs or deserves. People in Burwash are not calling the RCMP because they are worried that they will not come on time, if they come at all. In the best case, police response takes over an hour. In the worst case, it takes days, if not weeks.

The First Nation has requested a permanent police presence and has even offered to provide office space and housing. Several citizens have raised safety concerns due to the absence of police presence for most of the year in that community. It is the minister's job to agree to the number and location of detachments in Yukon. He has the power and the responsibility to respond to the community's needs.

Will this government do the right thing and commit to working with the RCMP to establish a police department in Burwash Landing?

Hon. Mr. Nixon: As I mentioned previously, the Department of Justice continues to work with the RCMP and Kluane First Nation and it was, in fact, through those discussions that they arrived at the solution, based on the community's policing needs, including an assessment of when calls for service are at their peak. In fact, community members reported that the presence of the RCMP resulted in a reduction in speeding on the highway and less drinking and driving for community events. They also reported that this police presence was a deterrent to crime and undesirable behaviour.

As I mentioned earlier, many small communities across Canada do not have a permanent police presence and they receive policing services through a hub detachment similar to the RCMP detachment in Haines Junction. The RCMP and the Department of Justice will continue to assess the needs of all Yukon communities to determine how the RCMP respond to those individual areas.

Question re: Mining regulatory uncertainty

Mr. Silver: I have a question for the Premier. During the 2011 election campaign, the Yukon Party committed to,

and I quote, "...work with industry, the federal government, and First Nation governments to establish greater certainty for access to resources, water licenses and permits by creating a clear permitting regime ..." During the first two and a half years of its mandate, the government has in fact gone in the opposite direction and, according to a recent Fraser report, actually increased the level of uncertainty by its actions and inactions.

During the Geoscience Forum held last fall in Whitehorse, the Premier told delegates, "Our government has also submitted proposed amendments to the Yukon Environmental Socio-economic Assessment Act or YESAA to the federal government."

Can the Premier tell Yukoners who developed these amendments and explain why they have not been made public yet?

Hon. Mr. Kent: When it comes to ensuring that we have a competitive permitting and licensing regime, that's something that I take very seriously as Minister of Energy, Mines and Resources, and all members of the Yukon Party caucus take seriously as well.

Members will remember last week we introduced adequacy timelines for quartz mining water licences, which were received very positively by industry. As mentioned by the member opposite, we have introduced suggested amendments to the YESAA legislation. Some were done as part of the five-year review. There were additional ones that were also introduced. As Minister of Energy, Mines and Resources, I also funded the Yukon Mineral Advisory Board to come up with suggestions to the government on how we can improve the licensing and permitting regime to make it competitive. This is something that I am very pleased that the Mineral Advisory Board took up on our behalf, and I look forward to receiving their annual report here in the next couple of weeks and tabling it in the Legislature.

Mr. Silver: Last fall, the government was heavily criticized by both First Nation governments and the mining industry alike when it unilaterally went forward on changes to the *Quartz Mining Act*. Instead of changing the way it does business, the government is continuing with its unilateral approach by developing these new YESAA amendments in a silo and not sharing them with anyone else in the development process. The Liberal caucus supports establishing greater regulatory certainty and has been asking questions about this for the last two years. Those changes must involve all of the players and should not be developed in secret by the Conservatives in Ottawa and the Yukon Party here in Whitehorse.

Why were the Government of Yukon-proposed amendments to YESAA not shared with the Yukon First Nations before they were submitted to Ottawa?

Hon. Mr. Kent: Just to correct the member opposite with some of his opening remarks, the changes that we made to the *Quartz Mining Act* last year came out of a Court of Appeal process. There were two declarations, and they were to deal with the class 1 notification. That's why we made the

changes to the *Quartz Mining Act*. Those weren't done unilaterally. They were court-ordered.

I know the members opposite don't take court orders very seriously, but we have to and we do. That is why those changes to the *Quartz Mining Act* and the *Placer Mining Act* were made at that time.

As I mentioned, we recently introduced changes to the water licensing process, as well as changes to the YESAA process, many of which emerged from the five-year review that was conducted by the three parties — First Nations, Yukon government and Canada.

The Government of Canada has suggested that they are looking to make further amendments and we have responded to those. The Yukon Minerals Advisory Board, which has representatives of the Chamber of Mines and the placer mining industry as well as a number of executives who are engaged in the industry, has also made recommendations to us to assist in ensuring that our licensing and permitting regime remains competitive, which is something that is incredibly important to me as minister and our Yukon Party caucus.

Mr. Silver: It is clear by the actions of this government that the only group that it is prepared to work on regulatory certainty with is the Conservatives in Ottawa. I asked the Premier to make these amendments public during the mineral Roundup and he refused. I have asked again today, and it seems that the same answer from the Minister of Energy, Mines and Resources is no. The government wants to change YESAA; that much is clear. They want to keep it secret and that is clear as well.

Why has the Government of Yukon decided to go it alone, instead of working with the Yukon First Nation governments to come up with a united position to present to Ottawa?

Hon. Mr. Pasloski: In response to the Leader of the Liberal Party, quite frankly, he's just wrong. Certainly, we have seen this many, many times with the Liberal leader. When he is talking to miners, of course he is supporting the mining industry; when he is talking to the conservationists, of course he is opposed to mining. We are certainly clear on what his position is on such areas as the Peel. It is an area that is as large as the Province of New Brunswick and larger than Nova Scotia and Prince Edward Island combined.

We are doing exactly what we said we would do during the election, which was that we would be seeking improvements to our regulatory and our permitting regime. We said that in our platform during the last election. We are showing again that we are doing what we said we would do and we will continue to do that. We are continuing to work together on changes to the YESAA legislation and regulations. First Nations have also been consulted and the YESA Board provided input. The industry has provided input as well. Certainly this is federal legislation. We know that the Leader of the Liberal Party doesn't like the answer so he'll continue to talk over top of it. What we are doing is exactly what we said we would do. This process is a federal process. We look forward to the completion of their consultation and moving forward with these legislative amendments.

Question re: Oil tank inspections

Ms. White: There are three main components to oil heating systems: the oil tank, the appliance that fires and the chimney. Last week, my colleague for Copperbelt South asked about oil tanks and all she got in return were answers about oil-fired appliances.

For clarity's sake, all of the following questions are about oil tanks, so I'm looking for answers about oil tanks. In his previous response, the Minister of Highways and Public Works said that whether it's the appliance, the fuel tank or the fuel lines, they are constantly inspected and have annual servicing.

Mr. Speaker, can the minister assure this House that during the constant inspections and annual servicing, all Yukon government oil tanks, whether owned or leased, are compliant and meet required codes? Do all of the oil tanks used by government meet required codes?

Hon. Mr. Cathers: First of all, I would point out to the member that the inspection that is conducted on installation is actually conducted by staff of Community Services, and then the ongoing maintenance is done by the competent staff of the Department of Highways and Public Works. Unlike the NDP, my colleagues and I have confidence in the staff and confidence in their competence to do their jobs and ensure the safety of employees and of the public.

Ms. White: It was hard to understand if that was a yes or a no.

For an oil tank to be compliant — but more importantly, to be safe — you have to know exactly how much oil is in the tank at all times. This can be accomplished through a number of components: spill whistles, visual gauges, dipsticks and dip charts. These safety features allow the people using, working on and filling oil tanks to know exactly how much oil is in the tanks, thereby avoiding spills that could be detrimental to the environment, to property and to public health. Will the minister confirm that every single oil tank owned or leased by the Yukon government has at least one of these fill-safety components?

Hon. Mr. Cathers: Again, as I noted to the member, in fact it is the Department of Community Services staff who conduct the inspections on installation for the permitting of oil-fired appliances and other parts of that system. They also issue the permits in areas including occupancy permits for private homes and for public facilities owned by private citizens.

What I would note to the member is that the equipment requirements, including equipment on the tanks, are decisions that are made at an operational level. The inspections are done by our competent staff, and the maintenance is done by the competent staff of Highways and Public Works. Once again, we see very clearly that the NDP does not have confidence in the staff, but I and my colleagues have confidence in the competence of our government staff in both Community Services and Highways and Public Works to fulfill their responsibilities in this important area.

Ms. White: I know that the members opposite think that ministerial responsibility is a strange thing, but it is actually

their job. They are the only ones who are speaking about government employees and they continue to hide behind them.

Mr. Speaker, it says a lot when a question that could be answered with a simple yes or no gets everything but a yes or a no as an answer. We have the utmost confidence in the government employees and the work that they do, but Yukoners have little confidence that this government takes the safety of oil-fired appliances and heating installations as seriously as they claim.

Within the last year, there have been two serious oil spills at both Macaulay Lodge and the Carcross Community School.

Can the minister assure Yukoners that those spills were not a result of oil tanks that are not in compliance with existing codes?

Hon. Mr. Cathers: First of all, I would point out to the member that her assertion that ministers should personally be out dealing with determining whether it is a dipstick or a whistle that is the appropriate way to test the level in a tank — that is a level of detail that would, quite frankly, be ridiculous for a minister to get into. We leave it to staff.

Some Hon. Member: (inaudible)

Hon. Mr. Cathers: Again we hear the constant heckling from the NDP, but I would remind the members that the standards are in place. Staff at Community Services do the inspection to issue the permit in the first place, and the competent staff of Highways and Public Works are responsible for the maintenance of those facilities.

The level of details — dipsticks and whistles on tanks. Ministers do not go out personally and run the dipstick down the tank, or check the whistle.

Again, we see that the NDP clearly doesn't appreciate the importance of this matter. Clearly we see again, from the Member for Copperbelt South, the clear demonstration of the lack of confidence in our competent government staff and, from the Member for Takhini-Kopper King, the lack of respect and lack of confidence in our very competent government staff.

Question re: Yukon Liquor Corporation social responsibility

Mr. Barr: Alcoholism is a worldwide disease that knows no boundaries. It affects all races, classes and ages of people. Alcohol is the number one date-rape drug and the highest contributor to trauma. We see the impact of alcohol in the emergency department, in the jails and in the incidents of violence. Alcoholism is recognized by the medical community as a family disease.

When will the Yukon Party government take their role as a distributor of alcohol seriously and start implementing a social responsibility strategy?

Hon. Mr. Cathers: Indeed, social responsibility programs are part of what the Yukon Liquor Corporation does. Certainly if the member has specific constructive suggestions of ways it could be improved, we take them under consideration. I do point out that our staff at Yukon Liquor Corporation liaise with all other Canadian jurisdictions and

take into account what they are doing in terms of social responsibility programs and consider what best to implement within a Yukon context.

Mr. Barr: The per capita consumption of alcohol in Yukon is the highest in the country. Liquor sales are the third-highest source of self-generated revenue for this government. The Yukon Liquor Corporation has had a static number of employees for several years. Each year the same number of hard-working employees is selling more and more alcohol. Having the same amount of staff resources processing more and more sales has led to the social responsibility role of the Yukon Liquor Corporation taking a back seat.

For instance, I visited the liquor store this morning, and the vast majority of the merchandise does not have fetal alcohol syndrome warning stickers applied.

Does the minister believe that preventing FASD is an important part of the social responsibility mandate of Yukon Liquor Corporation and, if so, will he ensure there are adequate resources applied to that mandate?

Hon. Mr. Cathers: It's interesting to hear again from the NDP. We hear the Member for Takhini-Kopper King expecting ministers to run out and run dipsticks down tanks or ensure that there are whistles in place on all tanks. Apparently now the Member for Mount Lorne-Southern Lakes would like the minister responsible for the Yukon Liquor Corporation to go out and personally put stickers on all of the liquor bottles.

Again, in this case, I would point out that, contrary to the member's assertions, there have been increases in recent years in the staffing complement of the Yukon Liquor Corporation. Those decisions, in terms of both the staffing complement required and the roles and responsibilities of each position, are personnel matters. They are operational decisions made by the president of the Yukon Liquor Corporation, not by me. I have confidence that she and her staff are continuing to do an excellent job in that area. They are continuing to liaise with other Canadian jurisdictions to determine best practices, including in areas of social responsibility programs.

I would remind the member that in areas such as support for Fetal Alcohol Syndrome Society Yukon and other valuable Yukon organizations dealing with the downstream effects of the misuse of alcohol, this government has put far more investment into supporting these valuable programs than any previous government, including the NDP and the Member for Copperbelt South —

Speaker: Order please. The member's time has elapsed.

Mr. Barr: Maybe the minister's attempt at jokes seems interesting to him but I'm sure people who have suffered from date rape do not find this a joke. Social responsibility is very important to those of us in the Yukon.

The Yukon Party boasts that they are leaders in diagnosis support for persons with fetal alcohol spectrum disorder but, with limited diagnostic capacity for children and next to none for adults, it is a hollow boast. FASD is 100-percent preventable. We want this government to show real leadership in FASD — eliminate FASD by preventing it. The stickers are but one baby step toward the goal. They do not touch the root

causes of drinking — the history of trauma, poverty and housing.

It is time the Yukon Liquor Corporation took their obligation to social responsibility seriously. It needs a designated position with a Yukon-specific program —

Speaker: Order please. The member's time has elapsed.

Hon. Mr. Cathers: I'm very disappointed by the member's attitude toward the work of our staff. I'm disappointed with the fact that the member thinks that he knows better than senior staff of the Liquor Corporation — what the staffing allocation is. I'm disappointed that the member fails to recognize the work that this government has done on our five-step FASD action plan, the significant investments — including the significantly increased investments to Fetal Alcohol Syndrome Society Yukon that occurred during my time as Minister of Health and Social Services — and the investments we've put into areas such as the Options for Independence and the recent opening of the Options for Independence building.

We've made significant investments in supporting our front-line staff. Through the early identification program, we have put in significant resources. Through the Child Development Centre — this is another area where we've significantly increased resources. I could go on.

Clearly, the NDP has no interest in the facts and has no respect for the good work that is done by our competent staff or the significant investments that government has made in supporting FASD programming, providing additional supports for those who have it and working with our valuable NGOs in these areas. We will continue to do more in supporting those valuable staff and those NGOs doing that good work.

Speaker: The time for Question Period has elapsed.

Speaker's statement

Speaker: It has now come time for me to make a comment on the heckling. Over the last couple of weeks or so, I've noticed, not necessarily the amount of heckling, but the tone and loudness of the heckling is getting to a point where I'm having a difficult time listening to either side. I would ask that, if you insist on heckling, you keep it down a little bit lower. I know you are impassioned about your statements.

Also within your heckling, I would caution you — because I can hear you quite clearly at times — to watch the language that you are using such as “lying”, “liars” or implying that somebody is in fact doing something intentionally to misrepresent the facts.

We will now proceed to Orders of the Day.

ORDERS OF THE DAY

OPPOSITION PRIVATE MEMBERS' BUSINESS

MOTIONS OTHER THAN GOVERNMENT MOTIONS

Motion No. 638 — adjourned debate

Deputy Clerk: Motion No. 638, standing in the name of Ms. Hanson; adjourned debate, Ms. Hanson.

Ms. Hanson: I will carry on from where I left off, which was on April 16. At that time, we were talking about a motion that the Official Opposition had brought forward:

THAT this House urges the Government of Yukon to demonstrate its support for Bill C-583, *An Act to amend the Criminal Code* (fetal alcohol spectrum disorder) by:

(1) urging the Government of Canada to support Bill C-583;

(2) urging the Government of Canada to schedule full committee hearings, including the testimony of expert witnesses, respecting Bill C-583;

(3) collaborating with the Government of the Northwest Territories and the Government of Nunavut to express pan-northern support for Bill C-583; and

(4) introducing to this House amendments to the Yukon's *Corrections Act* in order to better meet the needs of individuals with FASD, and to accommodate FASD as a disability in Yukon's corrections system;

Further, THAT this House directs the Speaker of the Yukon Legislative Assembly to convey the consensus of this House in support of Bill C-583 to the Speaker of the House of Commons of Canada, the Speaker of the Legislative Assembly of the Northwest Territories and the Speaker of the Legislative Assembly of Nunavut.

When I started to address this motion on April 16, I said that I was honoured and a bit daunted by the challenge of speaking to this motion. Today, that feeling remains.

As I indicated then, a lot has changed since my early career as a social worker, a time when there was not a lot of real information or understanding about fetal alcohol spectrum disorder. Preparing for this discussion, it is apparent that today we have significantly more information but we are still woefully short on understanding.

It bears repeating that the motion today provides all members of this Legislative Assembly with an opportunity to work together as representatives of all Yukon citizens to support an initiative that has the potential to change lives, not only in Yukon, but across Canada and, by our example, elsewhere in the world.

As the Leader of the Official Opposition, I stand here again to urge this House to set aside our partisan differences, to support the initiative of our Yukon MP Ryan Leef, who brought forward a private member's bill, Bill No. C-583, *An Act to amend the Criminal Code* (fetal alcohol spectrum disorder), and to commit to making amendments to the Yukon *Corrections Act* in order to better accommodate fetal alcohol spectrum disorder as a disability in the Yukon corrections system.

This motion is an ambitious one because it asks us to not only demonstrate our support for the necessary changes to our criminal justice and corrections systems and to recognize that fetal alcohol spectrum disorder is a permanent brain injury acquired before birth — a brain injury that sets in motion a broad spectrum of disability — but we are also being challenged to stand by our convictions, to work with our colleagues — and I was so pleased to see that there were some

colleagues from our sister territories, the Northwest Territories and Nunavut, here today. It's kind of special to be able to ask them to take this message back to their colleagues and ask them to join us in a pan-northern demonstration of support of these important changes to how we treat people born with fetal alcohol spectrum disorder.

I remind you that Bill C-583 received first reading on March 31, 2014. The bill would amend the *Criminal Code* to add a definition of fetal alcohol spectrum disorder and establish a procedure for assessing individuals who are involved in the criminal justice system and who are suspected of suffering from fetal alcohol spectrum disorder. It requires the court to consider — as a mitigating factor in sentencing — a determination that the accused suffers from fetal alcohol spectrum disorder and manifests certain symptoms. The act itself — or the amendment — does lay those out.

Bill C-583 is scheduled to go before a Parliamentary committee in early June. I think we all know that most private members' bills rarely get beyond the starting gate. To succeed, we can demonstrate clear unanimous support for the bill. We in this Assembly have an opportunity to clearly show that the Yukon Legislative Assembly believes that, although not perfect, Bill C-583 is important and that through a full committee hearing with the advice of expert witnesses, it deserves to be passed by Parliament. Our united voice can help our Yukon Member of Parliament make much-needed and widely supported positive changes to our criminal justice system.

The NDP Official Opposition in Ottawa has indicated their support for Bill No. C-583, as has — I am told — the federal Liberal Party. However, our job today is not simply to say: "Yes, we support changes to the federal *Criminal Code*." We must heed the call of the many experts from across many disciplines who point out the need to also make sure that the laws that fall within our control as Yukon legislators reflect the reality of fetal alcohol spectrum disorder.

The past president of the Canadian Bar Association, Rod Snow, in his speech at the National Biennial Conference on Adolescents and Adults with Fetal Alcohol Spectrum Disorder identified the need to ensure that one consistent principle guides both judges and jailers. The question posed by Mr. Snow was critically important. He said that if a judge decides to treat fetal alcohol spectrum disorder as a mitigating factor because she understands that the offender's disability is responsible for their behaviour, will our corrections system accommodate that person's disability when they arrive in jail, or will Corrections expect the offender to meet standards of behaviour that their disability prevents them from meeting? He said that we cannot be guided by one principle of justice, fairness and ethics in the courts and by a different principle of justice, fairness and ethics in our corrections system. Our judges and our jailers must be guided by one consistent set of principles applied both outside and inside our jails.

This is why this motion is so important. We are being challenged to apply the same principles of justice and fairness to the laws and policies over which the Yukon Legislative Assembly has control, as we ask the federal government to

apply laws and policies within its own jurisdiction. We have to walk the walk.

As Mr. Snow said, it is neither ethical nor just for the law to punish individuals for failure to meet a standard of behaviour that their disability prevents them from meeting. Yet that is what the law and our justice system institutions do when they fail to accommodate fetal alcohol spectrum disorder. In this way, our society criminalizes individuals with fetal alcohol spectrum disorder because of their disability.

He went on to say, "I believe that when a law is unjust, we have an obligation to change it." According to Mr. Snow, Ryan Leef's Bill C-583 will change the *Criminal Code* to allow judges to accommodate fetal alcohol spectrum disorder offenders where there is evidence that their disability contributed to their conduct. Judges will do this by treating fetal alcohol spectrum disorder as a mitigating factor in sentencing. They will understand that it is not ethical, fair or just to punish an individual for failure because of their disability to meet a standard they cannot meet. We do not do that for other disabilities and we should not do it for fetal alcohol spectrum disorder. That is why I believe we must support Bill C-583.

In his speech, Mr. Snow also said that Bill C-583 is guided by a single principle that explicitly accommodates fetal alcohol spectrum disorder as a disability in the *Criminal Code*. That same principle demands that we explicitly accommodate fetal alcohol spectrum disorder as a disability in the *Corrections Act*. Just as Bill C-583 gives judges the tool to deliver smart and effective justice to individuals with FASD or fetal alcohol spectrum disorder within the courtroom, we must give our Corrections staff the tools they need to be smart and effective when dealing with fetal alcohol spectrum disorder individuals inside the jails. That is our challenge and our opportunity here today, Mr. Speaker.

We do this, confident that Yukon is again leading the way in deepening our understanding, not just of the impact of fetal alcohol spectrum disorder, but also our obligation to address this serious legal, social, economic and moral challenges that this disorder presents to us all.

It has taken a long time for these challenges to be recognized. Today there is an abundance of research on the issue of fetal alcohol spectrum disorder, but it did not spring out of nowhere. It was, and is, a difficult struggle to sort out the complexities of fetal alcohol spectrum disorder. Today we have a name for it. In the not so distant past, it was not like that.

One of the medical pioneers in this field was Dr. Kwadwo Asante. Initially based out of Prince George, his expertise helped several generations of parents, advocates and helping professionals, including those within the justice system, understand the complexity of fetal alcohol spectrum disorder. The Asante Centre is now a renowned centre of expertise on matters related to fetal alcohol spectrum disorder.

We also owe a huge debt of gratitude to the persistence and the love that drove the families, often adoptive parents, to understand what it was that made their child different and to struggle to have those differences not only recognized but

addressed. Their stories were and often are heartbreaking. I think of Judy Pakozdy or Lesley Carberry and Ray Marnoch or Jenny Jackson, who captured the experience of both caregiver and a person with FASD through her book, *Silent No More!*, which combined poetry with simple interpretations of the daily living routines that we take for granted and that confound those with fetal alcohol spectrum disorder.

As well, I think of the hard work of groups like Fetal Alcohol Syndrome Society Yukon — FASSY — who have doggedly brought about greater awareness and an appreciation of the scope of the work still to be done. We have come a long way. When Dr. Asante first spoke in Yukon and elsewhere about fetal alcohol spectrum disorder, the reality that this is brain damage caused by alcohol use during pregnancy and it is wholly preventable — well, I can tell you that the reaction was negative. It was essentially denial, fear and shame. We are not there yet. We can only hope that the fear of stigma slowly erodes as we focus more on dealing with reducing the incidence of fetal alcohol spectrum disorder and understanding its prevalence in our communities.

What has changed is the amount and scope of research that has been carried out in the past 40 years or so on fetal alcohol spectrum disorder. Despite the knowledge we have accumulated about the causes of fetal alcohol spectrum disorder and the implications of this permanent brain damage on the day-to-day lives of those who have fetal alcohol spectrum disorder, we have been slow to change our interactions and expectations of people who often do not look very different from you or me.

Spreading understanding of fetal alcohol spectrum disorder for the Canadian justice system is due in no small part to the dedicated efforts of Yukon's own legal community.

I would like to recognize Fia Jampolsky, who is here today with the Yukon chapter of the Canadian Bar Association. I also see Lisa Rawlings Bird from YCOD — Yukon Council on Disability — and Heather MacFadgen who is the current president of the Yukon Bar association and also the executive director of the Human Rights Commission — people who have all had an instrumental part in creating a better understanding of the issues related to the justice system and fetal alcohol spectrum disorder.

As you know, in 2010, the Canadian Bar Association decided to elect — for the first time ever — a president from one of Canada's three northern territories, Rod Snow. Being chosen to lead a voluntary professional association representing more than 37,000 lawyers, judges, notaries, law teachers and law students from across Canada is a significant recognition. When the Canadian Bar Association elected a president from the north for the first time, he brought with him a challenge from the northern branches of the Canadian Bar Association — that is, to make fetal alcohol spectrum disorder a priority in their advocacy work. When Mr. Snow assumed his role as president of the Canadian Bar Association, he met with ministers, politicians and policy-makers across Canada. As he says quite proudly, he was lobbying to effect change in the justice system.

His commitment to working to get others to recognize that the time has come for the justice system to face up to fetal alcohol spectrum disorder and to understand that our legal system is failing those who live with the disorder was as evident then as it is now. When the Canadian Bar Association considered why so many people with fetal alcohol spectrum disorder were coming into the justice system time after time, they realized that the legal system has a fundamental problem when it comes to dealing with people with fetal alcohol spectrum disorder.

That problem is that criminal law is based on certain assumptions. It assumes that individuals make informed choices, that they decide to commit crimes and that they learn from their own behaviour and the behaviour of others. Another assumption is that people can be rehabilitated. However, each of these assumptions is frequently invalid for people with fetal alcohol spectrum disorder. Because of their permanent organic brain injury, people with fetal alcohol spectrum disorder often lack impulse control.

Words like permanent organic brain damage are clinically correct; however, sometimes we need graphic imagery to get the full picture.

I was reading a number of articles, and I came across one by a B.C. lawyer named David Boulding, who put it this way in a 2007 article. He said, "Briefly, alcohol in the womb acts as a solvent on the baby's developing brain, much like the effects paint stripper has on old furniture: alcohol dissolves brain cells — bubbles them away. As a result, brain functions are missing." Fetal alcohol spectrum disorder, he said in this graphic, if not clinically worded, description, "...is a physical disability because like an amputee, individuals with FASD are missing body parts called brain cells." So even if they know that something is wrong, a person with fetal alcohol spectrum disorder may be unable to resist the impulse to do it again. Therefore, a jail sentence often doesn't work. It does not deter and it does not rehabilitate, and it certainly does not keep people from re-offending.

This leads to a disconnect with the legal system; a disconnect captured by a candid statement by a prominent judge, who summed it up this way: What a judge sees is a defiance of court orders; what a judge sees is absence of remorse; what judges see is a criminal record of incorrigibility, calling of course for stiffer penalties in the cause of deterrence. What is missed is the cause of the apparent incorrigibility and, with it, the change to fashion a disposition that is responsive to the special needs of the defendant.

Lawyers who have worked with clients who have fetal alcohol spectrum disorder are often frustrated by the behaviours they see. In an article published by the Asante Centre, one lawyer talked about the mistakes he had made with his fetal alcohol syndrome clients.

He said his intention was not just to confess his mistakes, but to show that we can change how lawyers, judges, police, probation officers, prison guards and family members can work with people who have fetal alcohol spectrum disorder.

Reading his list of mistakes as a lawyer, one gains an appreciation of the challenges. Some of the examples he gave include — he said, “I assumed that my fetal alcohol spectrum disorder clients could tell the judge what happened in a way that made sense. I assumed that my fetal alcohol spectrum disorder clients would be able to demonstrate remorse to the sentencing judge. I assumed that after my clients were caught for the third or fourth time for the same offence and in the same set of circumstances that at least they would learn not to get caught for either another offence, wear gloves, or at least not be surprised when they were caught. I assumed that my fetal alcohol spectrum disorder clients understood the notion of consequences: if you steal from cars and are caught, you will go to jail. I assumed that my fetal alcohol spectrum disorder clients understood the notion of time — three days in jail is not the same as three months in jail. I assumed,” he said, “that my ... clients could be helped by using standard terms of probation orders in the provincial court.”

None of these assumptions held for his fetal alcohol spectrum disorder clients. He went on to set out how his assumptions then led him to fail his clients who had fetal alcohol spectrum disorder. He said, “I was always puzzled and failed to understand that there is a good reason why, in pre-sentencing reports of probation officers, my clients seemed to shoot themselves in the foot. My clients participated completely and without guile in their pre-sentence reports.”

He said, “I failed to understand that the reason they were so candid, up front, and straight with Probation Officers was that ...” his clients “... were impressionable, suggestible and easily misled and misunderstood.” They were simply “...eager to please.” He went on to say that “I failed to see that... To most judges, police officers, probation people... my clients did not present themselves as really bad people.” They tended to present themselves as first-time offenders who had made some silly one-time “mistakes.” The problem was they actually had long Criminal Records for those same “mistakes.”

He said, “I failed to notice that when my clients were telling their story, there were blanks in their memories or parts of the story were just not available. My clients did not remember important facts...I failed to see that jail had no effect on my clients’ behavior ... I failed to see that often within the aboriginal community, aunts distantly related to my FAS clients understood there was a problem and instinctively took care of my clients for various periods of their lives. It was during those periods of intense supervision that my FAS clients were crime-free. However, as soon as that supervision went away, leaving my clients alone, it was predictable that they would return to familiar criminal behavior.” They have no impulse control. They were not competent thieves. They did not plan. They were opportunistic and impulsive. He used as an example one client who spent 10 minutes breaking into a car while being observed by the police.

So what does this mean? It means and leads us to understand that a permanent brain injury is not like a mental illness. A mental illness can be treated, but there is no cure for

a permanent organic brain injury. Even though treatment outcomes can sometimes improve it, you can’t cure it.

Sending a person to jail will give them structure. It will often allow them to function better for a time, but it won’t rehabilitate them and it won’t cure them of fetal alcohol spectrum disorder. As the stories that I’ve just related reveal, if there’s no structure when they’re released from jail, they are at high risk of reoffending. Unfortunately, in Canada, the justice system works in what Rod Snow — and I believe Rod has joined us. Rod is the former president of the Canadian Bar Association and he shared with me a fair amount of information.

He described that the Canadian justice system worked in what he called a binary fashion. You are either criminally responsible or not criminally responsible — there is no in-between. The binary nature of the legal system makes for clarity, but some issues just don’t fit neatly into yes-or-no categories.

Fetal alcohol spectrum disorder is one such issue. The question he asked is: Could there be another option? A suite of alternatives? A third option? To that end, the Yukon chapter of the Canadian Bar Association developed a resolution that, as I said previously, was unanimously adopted by the Canadian Bar Association. The resolution has three key points.

It’s important to point out that this resolution was actually introduced at the national level twice. It was introduced in 2010, unanimously approved, and again in 2013, receiving unanimous sanction, because in the intervening period, despite the promises made post-2010, there were some delays in progress. The Canadian Bar Association felt it was important to bring it forward again.

That resolution — Canadian Bar Association Resolution 13-12-A — reads as follows: “WHEREAS a person whose mother consumed alcohol during a critical development period in her pregnancy may be born with a permanent organic brain injury which results in a cognitive disorder known as Fetal Alcohol Spectrum Disorder (FASD), a range of neurological and behavioral challenges that may affect an individual;

“WHEREAS disabilities of FASD reflect the underlying brain and central nervous system damage, including impaired mental functioning, poor executive functioning, memory problems, impaired judgment, inability to control impulse behavior, inability to understand the consequences of their actions, and inability to internally modify behavior control;

“WHEREAS the nature of behavior resulting from these disabilities means that persons with FASD frequently come into conflict with the law;

“WHEREAS in 2010 the Canadian Bar Association: supported the initiative of federal, provincial and territorial Ministers responsible for Justice with respect to access for justice for people with FASD; urged all levels of government to allocate additional resources for alternatives to the current practice of criminalizing individuals with FASD and develop policies designed to assist and enhance the lives of those with FASD and to prevent their persistent overrepresentation in the

criminal justice system; and urged the federal government to amend criminal sentencing laws to accommodate the disability of those with FASD;

“WHEREAS at the 2010 Canadian Bar Association annual meeting the federal Minister of Justice said that FASD is a ‘huge problem’ in the Canadian justice system and promised to put it on the agenda for the next Federal/Provincial/Territorial (FPT) Justice Ministers meeting ... and invited the CBA to engage in a dialogue with them on this issue;

“WHEREAS at the 2012 CBA Annual Meeting, the federal Minister of Justice reaffirmed his commitment to address the issue of FASD in the Canadian legal system;

“BE IT RESOLVED THAT the Canadian Bar Association urge the federal government to amend the *Criminal Code* and other legislation based on the following principles ...”

The first principle is that the legal definition of FASD “should define FASD by reference to generally accepted medical guidelines and protocols except that any requirements for evidence of maternal consumption of alcohol may be waived by the Court if there is a good reason why this evidence is not available, such as when the birth mother has died or cannot be identified or found.”

“Power to Order Assessments — Based on the precedent of section 34 of the *Youth Criminal Justice Act* which allows a judge to order an assessment of an accused youth, the *Criminal Code* should be amended to allow a judge to order an FASD assessment of an accused adult who is suspected of having FASD.

“Mitigating Factor — If an accused is found to have FASD, this should be a mitigating factor in sentencing the accused.

“External Support Order — A judge should be authorized to make an order approving an external support plan recommended by an FASD person’s probation officer that could be in effect after probation expires.

“Duty to Accommodate — The *Corrections and Conditional Release Act* should be amended to expressly require the Correctional Service of Canada to accommodate FASD as a disability when providing correctional services to inmates who have or likely have FASD.”

The CBA resolution was a call for action that was heard far and wide.

I referenced in the recitation of the resolution that was put forward in 2013 that the then Minister of Justice had put that on an agenda for a meeting of federal-provincial-territorial justice ministers from across the country. That joint CBA and federal-provincial-territorial coordinating working committee of senior officials made a number of recommendations and they are helpful in giving us a sense of the scope of the work to be done if we are serious about addressing fetal alcohol spectrum disorder.

One of the recommendations was allocating new resources or reallocating existing resources, as appropriate, for effective programs that avoid the unnecessary criminalization of fetal alcohol spectrum disordered individuals, including

community alternatives, supportive housing and social services. It is interesting to note that Yukon has recognized and supported community-driven initiatives like FASSY, options for independent living, and other NGOs that work with people with fetal alcohol spectrum disorder.

We have a good base to build on and a huge knowledge base of people, primarily from the non-government sector, who have built this up over the years.

A second recommendation was to explore and develop alternative measures and diversion programs that deal with individuals with fetal alcohol spectrum disorder who come into conflict with the law in a timely, effective manner that holds individuals accountable, consistent with their degree of responsibility.

Again, Yukon has been quite creative in this area. Going back to what I call the judicial activism of people like Heino Lilles and Barry Stuart — we have a good base to build upon. The Community Wellness Court was developed based on experience here in the Yukon, along with practices elsewhere.

A third recommendation of that CBA and federal-provincial-territorial working group was to educate justice system professionals, including RCMP, police services and probation officers, judges, Crown defence, courtworkers, corrections and victim services workers about fetal alcohol spectrum disorder and the implication for service provision.

The development of fetal alcohol spectrum disorder-specific training through the northern justice institute provided to front-line staff in the government is a good start. As we shall see, there is a need to ensure that the training is offered systematically on an ongoing basis.

The fourth recommendation was to amend the legislative framework within the *Criminal Code* to more effectively address the unique challenges that fetal alcohol spectrum disorder presents to the criminal justice system, which is where Yukon’s Member of Parliament’s Bill C-583 comes in. His amendments to the *Criminal Code* deal with some, but not all, of the issues identified by the Canadian Bar Association.

When I was reviewing this, it was interesting that, in a number of the documents, including the recommendations from this working group that met several years ago, as well as the consensus statement on the legal issues respecting fetal alcohol spectrum disorder, there was a recognition that the *Youth Criminal Justice Act* provides a legislative framework that could be applied to offenders with special needs, such as those with fetal alcohol spectrum disorder.

Some of the sections of that legislation offer special protection to youth under the *Youth Criminal Justice Act* that could be added to the *Criminal Code* to accommodate the unique challenges that individuals with fetal alcohol spectrum disorder present to the criminal justice system. This goes back and it links to the amendments that were being proposed by the CBA, including ordering assessments and the ability under the *Youth Criminal Justice Act* to have a right to counsel. Ensuring counsel is present in encounters with the criminal justice system is critical for people with diminished cognitive ability, such as with fetal alcohol spectrum disorder.

Another recommendation was to address the problems of people affected by fetal alcohol spectrum disorder through an interdisciplinary, multi-sectoral approach. Some jurisdictions effectively use collaborative or interministerial approaches between government ministries to share information and coordinate and integrate services. Yukon has made progress on this through efforts to have a multiagency approach, including other government departments and NGOs, and to start to work on developing individual plans and appropriate supports for people with FASD. The question here is whether there are adequate or any current resources available to complete diagnostic assessments in the Yukon.

The federal-provincial group also recommended that we create legislative authority to allow courts to obtain an accurate assessment of an individual's neurocognitive abilities. The youth criminal justice system has been used effectively to order assessments for fetal alcohol spectrum disorder. They suggested that the same provisions should be added to the *Criminal Code* for adults affected by fetal alcohol spectrum disorder. Currently the courts cannot order assessments for adults accused who, they believe, may have a cognitive deficit unless the accused is considered unfit to stand trial or not criminal responsible by reason of a mental disorder.

That provision of the *Criminal Code* dealing with mental disorder is generally not applicable to or appropriate for individuals with fetal alcohol spectrum disorder.

Bill C-583 addresses and amends the *Criminal Code* to provide for assessment in order to more effectively ensure access to justice for individuals with fetal alcohol spectrum disorder. Courts should be able to order an assessment at any stage in the proceedings, and as early as possible in the judicial process, to ensure that any diagnosis is properly considered through the individual's involvement with the court justice system.

They also stated that fetal alcohol spectrum disorder should be recognized as a lifelong disability distinguishable from mental illness. The distinction between permanent brain damage and a condition that may change with treatment is critical when considering the appropriate criminal justice system response, including in specialty courts and in sentencing dispositions.

Fetal alcohol spectrum disorder must be considered the primary underlying issue and any mental illness then be considered in the context of fetal alcohol spectrum disorder. It must be recognized that fetal alcohol spectrum disorder is not an illness but a permanent disability that requires appropriate legal and social accommodation.

We have heard much about changes to sentencing and sentencing laws and rules in this country, and the recommendation is that there is need to allow for all sentencing options to be available to judges to allow them to devise just and appropriate dispositions for people affected by fetal alcohol spectrum disorder.

It is important, they said, to remove barriers that constrain the exercise of judicial discretion including mandatory minimum sentences.

The final recommendation of this group was to minimize the possibilities for people with fetal alcohol spectrum disorder to accumulate unnecessary administration of justice breaches. They said that all justice officials should limit unnecessary conditions, bail conditions, terms of probation and sentencing conditions to accommodate the cognitive ability of individuals with fetal alcohol spectrum disorder and avoid the unnecessary accumulation of administration of justice breaches.

In Yukon, 28.6 percent of court cases in 2010-11, involved an administration of justice breach as the most serious offence. As we have heard, a leading characteristic of people with fetal alcohol spectrum disorder is an inability to organize their lives, meet deadlines, keep appointments, learn from experience and understand the consequences of the failure to do any of these things. These administration of justice breaches in effect criminalize those with fetal alcohol spectrum disorder by setting the person up for further charges — the revolving door.

This is a perfect example of the need for education and the types of policies and directives that can be established by our justice agencies for working with individuals with fetal alcohol spectrum disorder.

Mr. Speaker, the success of any program for dealing with fetal alcohol spectrum disorder offenders will depend on judges and lawyers being more aware of fetal alcohol spectrum disorder. I think that the interest in efforts to address the serious challenges posed by the motion we are debating today continues to grow with ever more focus and precision, building on the work that was in so many ways pioneered by community groups and individuals in Yukon — championed by the Yukon Bar association — and now Yukon's Member of Parliament.

In September 2013, an important consensus statement on the legal issues of fetal alcohol spectrum disorder, which I tabled earlier today, was developed as part of an Institute of Health Economics consensus development conference. The Hon. Ian Binnie, former Justice of the Supreme Court of Canada, led a 14-person jury that heard 20 presentations of evidence and scientific findings regarding the legal issues related to fetal alcohol spectrum disorder. They developed 62 recommendations that provide thoughtful, comprehensive guidance for parliament, for provincial and territorial governments, courts, lawyers and social workers — in short, the spectrum of people who come into contact and work with or on behalf of people with fetal alcohol spectrum disorder. I commend the report to all interested in this issue.

Just as ongoing training on fetal alcohol spectrum disorder must be incorporated into legal education and police curricula, we also need to define, develop and implement those third options that Rod Snow mentioned, as I mentioned earlier. Without an alternative to incarceration on the one hand, and unconditional, unstructured release from custody on the other, the criminal justice system may be tough, but it will not be effective and we will have failed in our duty to deliver public safety and justice for people with fetal alcohol spectrum disorder.

The reality is that there are currently no confirmed statistics on the number of people who have fetal alcohol spectrum disorder in Canada. The most commonly cited estimate is 9.1 per 1,000 live births, or roughly one percent of the population. It has also been estimated that here in Canada today there are some 200,000 undiagnosed cases of fetal alcohol spectrum disorder.

It has been suggested that fetal alcohol spectrum disorder may be the most common birth defect in Canada, affecting, as I said, about one percent of the population. Sadly, we do know that they are over-represented in the criminal justice system.

Based on the currently accepted prevalence rate of one percent, the annual cost of fetal alcohol spectrum disorder in Canada has been estimated at approximately \$7.6 billion a year, so we do need more insightful data. To get beyond anecdotes and individual cases, we need to better understand the prevalence. I would like to take a moment to acknowledge the work being led by the Minister of Justice in his effort to undertake an offender prevalence study at the Whitehorse Correctional Centre that will give us the hard numbers for that slice of our community — those who are sentenced to the correctional facility. It is a start to understanding the key question: How big is this challenge?

The *Consensus Statement on Legal Issues of Fetal Alcohol Spectrum Disorder (FASD)* offered a recommendation that would help address both the prevalence within the correctional system as well as provided a tool for people working within that system. They recommended, "... admission procedures in correctional centres (either on remand or on sentence) should include screening for possible FASD to ensure that prisoners are dealt with appropriately by staff trained in the problems associated with FASD. Again, the FASD diagnosis should not be used against the prisoner but should be used to help better accommodate and manage such persons within the correctional system."

The consensus statement observed: "Offenders with intellectual impairments or neurodevelopmental disorders such as FASD who are serving their sentences in custody are particularly vulnerable to exploitation and manipulation by other inmates."

If corrections officials know that an inmate has FASD, there are measures that can be taken to house the inmate in a secure area or a secure range. In addition, knowing that an offender has FASD could help corrections officers understand the inmate's behaviour in prison and could result in fewer disciplinary charges for the inmate. They went on to say, "Knowledge of an offender's FASD status is also critically important in developing an effective correctional plan. This is true for offenders who are serving their sentences in custody as well as offenders who are serving their sentence in the community. It makes little sense to have a correctional plan that involves a treatment modality that relies heavily on neurodevelopmental reasoning for an offender who has reduced executive functioning. Even more important, however, is developing an evidenced-based approach to effective correctional programming for offenders with FASD."

The jury — the 14 people I mentioned who produced this consensus statement — noted they had heard about a recent study that "found that 9- to 10-percent of 91 participants/inmates at Stony Mountain Penitentiary were identified with FASD, while another 16- to 18- percent were possibly affected by FASD." These data suggest that not enough is done to diagnose and provide treatment for FASD in prisons.

As one judge noted, if more residential facilities were available for people with FASD, "Fewer of these offenders would be incarcerated in jail; those who were incarcerated would not be incarcerated for as long, and, in the end, there is a very real likelihood that the revolving door of offending, often with increasing severity, would slow or be closed altogether for the individual fetal alcohol spectrum disorder offender."

These observations reinforce the need to ensure that we, as legislators, are open to reviewing the Yukon *Corrections Act, 2009* and related systems as well as the federal *Criminal Code*.

It has been noted that people with fetal alcohol spectrum disorder need an external brain. That external brain can be a parent, an auntie or an authority figure. We know that, in the right circumstances, people with fetal alcohol spectrum disorder can be happy and productive if they are given that external brain in the form of family or community support.

When looking at options in the justice system, we need to examine ways the community can provide support and be supported. Lawyers and judges will need the help of experts in fetal alcohol spectrum disorder to fashion appropriate third-option solutions. People on the front lines — lawyers, judges, health workers, parents, social workers and probation officers — all agree that our approach isn't working. Our justice system is not making society any safer, and we are not making a difference in the lives of individuals with fetal alcohol spectrum disorder.

Rod Snow — whom I quoted earlier — said that in Canada when something is not working and we think we can do better, we bring people together and we say that we have a problem. How can we do this better?

Passing this motion, working toward a full parliamentary committee hearing, and passage of Bill C-583 and amendments to our own *Corrections Act, 2009* does not mean that the going would be easy or quick, but we must all — members of this Legislative Assembly, justice ministers, judges and the legal profession, and community agencies — stay the course.

Why? Because there is no justice in labelling someone as a criminal simply because their disability makes them incapable of meeting the standard of behaviour required by the law. With the right resources and a sustained, collective effort, we can make the justice system more responsive to the needs of all Canadians, but especially to the needs of people with fetal alcohol spectrum disorder, both offenders and victims.

The Canadian Bar Association and others have begun the process of educating lawyers and judges. They have begun

looking for ways to make the criminal justice system more responsive to the needs of people with fetal alcohol spectrum disorder. Things are happening. In the Yukon and in jurisdictions elsewhere, judges are designing probation and sentences with fetal alcohol spectrum disorder in mind. Awareness is growing.

As I said, the former president of the Yukon chapter of the CBA told me that, when they thought their CBA resolution in 2010 would only serve to encourage those public servants within the federal Department of Justice who they knew were toiling away somewhere, deep in the bowels of official Ottawa, they were surprised by the amount of attention received by the Yukon chapter of the Canadian Bar Association and the Canadian Bar Association resolution on fetal alcohol spectrum disorder.

This should give us heart, because it tells us that people are ready to listen, that they are ready to act to ensure that people with fetal alcohol spectrum disorder are treated more fairly by the justice system. Our unanimous support for this motion today is another step in making this happen.

Hon. Mr. Nixon: I thank the member opposite for tabling this motion and bringing it back to the House today. This motion outlines and asks:

THAT this House urges the Government of Yukon to demonstrate its support for Bill C-583, *An Act to amend the Criminal Code* (fetal alcohol spectrum disorder) by:

(1) urging the Government of Canada to support Bill C-583;

(2) urging the Government of Canada to schedule full committee hearings, including the testimony of expert witnesses, respecting Bill C-583;

(3) collaborating with the Government of the Northwest Territories and the Government of Nunavut to express pan-northern support for Bill C-583; and

(4) introducing to this House amendments to Yukon's *Corrections Act* in order better meet the needs of individuals with FASD, and to accommodate FASD as a disability in Yukon's corrections system;

Further, THAT this House directs the Speaker of the Yukon Legislative Assembly to convey the consensus of this House in support of Bill C-583 to the Speaker of the House of Commons of Canada, the Speaker of the Legislative Assembly of the Northwest Territories and the Speaker of the Legislative Assembly in Nunavut.

I will be speaking to this motion in some detail. As I prepared for today's debate, I realized that we really do need to put on the record some facts and then have an informed discussion about FASD and the role of FASD in the correctional system.

To give you a road map for today's debate, I would like to begin by offering an overview of Yukon's work to date on the FASD file. I would then like to talk about the contents of Bill C-583, especially the parts around the definition of FASD, the ability of the court to assess FASD and the ability of a court to consider FASD in sentencing. I would then like to point out the response of the government and the courts to

FASD, as I really think that we need to correct the record, especially with respect to the fourth element of this motion that speaks to amending the Yukon's *Corrections Act, 2009*.

With that said, the Yukon Party has recognized that FASD is a serious affliction here in our territory. It was something that we committed to address in our 2002 platform. When the Yukon Party campaigned for office in 2002, one of the areas highlighted in our platform was the need to address substance abuse in Yukon. Part of that included the need to address FASD.

The five-step FASD action plan was set out in the 2002 Yukon Party election platform. The five steps are as follows: promote prevention programs to eliminate alcohol consumption of high-risk parents in order to foster the birth of healthy babies; early diagnosis of FASD before the age of six; supporting people and families with FASD through a wide range of services, such as professional counselling and foster homes in order to provide a stable, nurturing home environment; enhance supported living arrangements for adults with FASD; and form a diagnostic team of professionals trained in personal counselling and social work or health to provide services to Yukon schools in order to provide support for students with FASD and their families.

In June of 2005, the government of the day held a substance abuse summit. This summit resulted in the recognition that the old ways of dealing with substance abuse were not as effective as they could have been. The summit eventually led to the *Substance Abuse Action Plan*. Along the way, we've had FASSY at our side. Yukon has financially supported FASSY and we are so very grateful for their contribution, not only to our community, but to our territory.

Yukon funded two diagnostic teams. An adult diagnosis is performed in conjunction with the Fetal Alcohol Syndrome Society Yukon — FASSY. Yukon has education and awareness campaigns. The youth FASD diagnostic and support teams provide support for public school children based on identified need. Our platform indicated the Yukon Party's determination to address the issue of FASD. The administration of the day committed to address the need to deal with the Yukon's serious alcohol and drug problems as a matter of top priority. This included addressing the drug and alcohol rehabilitation package, including counselling offered to offenders. The government developed the *Substance Abuse Action Plan* as a way of addressing Yukon's substance abuse issues. The government of the day also committed to continue to implement the *Substance Abuse Action Plan* in 2006.

Madam Chair, I want to acknowledge the work of Yukoners in bringing this issue to the national agenda. It is in fact people like Rod Snow who used his capacity as president of the 37,000-member Canadian Bar Association, or CBA, to advocate for this issue.

One of the issues he flagged when talking about this leadership role was that, based on his experience of 17 years in the north and more than 25 years as a partner in a national law firm, he knew we can do more to improve access to justice for individuals with fetal alcohol spectrum disorder.

Mr. Snow used his time on the CBA executive to advance this file, and I believe his efforts were timely and very effective. Indeed, I note that MP Leef, in his introductory comments in Parliament, also acknowledged the contribution of Mr. Snow. One of the contributions he made was his September 20, 2010, letter to the then Minister of Justice and Attorney General of Canada, the Hon. Rob Nicholson, regarding fetal alcohol spectrum disorder and the criminal justice system.

Mr. Snow's letter acknowledged that fetal alcohol spectrum disorder is a big problem in the criminal justice system. He noted that the search for solutions will not be easy and may not be popular, but he was confident that, together, we can do better. Mr. Snow's letter expressed support for the initiative of the FPT Justice ministers on fetal alcohol spectrum disorder to date and urged governments to dedicate resources and develop programs and policies to assist and enhance the lives of people with FASD.

The CBA resolution called upon the government to amend the criminal sentencing laws to accommodate the disability of those with FASD. Madam Speaker, I want to acknowledge the work of the CBA in general, and Mr. Snow in particular, on this file.

As members of this House are already aware, our government has been a leader, both locally and nationally, in working to address the challenges that FASD presents to the criminal justice system.

Our government was very pleased to see the private members' Bill C-583, which was put forward by our very own Member of Parliament, Mr. Ryan Leef. We are very much in favour of working to improve the criminal justice system so that it responds more appropriately to those with FASD. We are supportive in principle of Bill C-583 and we encourage the federal government to support this bill so that it may move into Committee for a more fulsome review and analysis, not only by the officials at Justice Canada and the provinces and territories, but also provide the opportunity for input from the experts that work in this field on a daily basis. We believe this bill is a good starting point to generate this discussion. However, we have concerns with some of the provisions of the bill in its current form.

For example, I'm sure that my counterparts across this country would echo Yukon's concern with the inclusion of a provision that would allow courts to order assessments. This is not a simple fix. We must be clear on what we hope to accomplish by adding such a provision and ensure that any provision like this would achieve the intended outcome.

While we understand that knowing what we are dealing with is important when it comes to individuals who are involved in the criminal justice system, the real fact is that most jurisdictions in the country do not have the capacity to deliver adult diagnostic services. Yukon, as you are aware, has been working to address this issue locally through our prevalence study and capacity development project.

The inclusion of such a provision in the *Criminal Code*, in our opinion, must be accompanied by a commitment from the federal government to provide the necessary funding that

would allow the provinces and territories to develop and deliver such services on a consistent and timely basis. This bill is a good starting point. As a government, we encourage the federal government to move this bill forward so that it can receive a more fulsome review.

Mr. Speaker, one of the areas identified was the need for a more skilled workforce in the area of substance abuse, especially with respect to FASD. This led to the government developing the Northern Institute of Social Justice, because it would assist by providing more skill development and training opportunities for Yukoners. Yukon is working hard to address FASD at the national level. We have raised this issue as a matter of great concern. Yukon hosted The Path to Justice: Access to Justice for Individuals with Fetal Alcohol Spectrum Disorder (FASD) Conference, a conference of 130 government and non-government stakeholders. This investment of \$139,000 helped us find ways to address the reality that people with FASD who are engaged in the justice system as victims, offenders and witnesses have special and unique needs. Although that conference was in 2008, it set in motion initiatives and work that is ongoing today, including the FASD prevalence study that I will come back to in a few minutes.

Let me summarize again the five-step FASD action plan: we want to promote prevention; make diagnosis early in the child's life; provide support for families with children who have FASD; provide supportive housing for adults who have FASD; and support schools for students who have FASD.

These areas all require Yukoners with skills and training. Think about how the Northern Institute of Social Justice could support these activities.

As a government, we are committed to creating safer Yukon communities and to dealing with substance abuse in our communities. To do that, we are changing the way that we do corrections in Yukon. The previous administration consulted extensively on changing the approach to corrections. The feedback that was received indicated that public safety and holding offenders accountable were key principles that needed to be promoted. As a result of that consultation on corrections, the government changed our philosophy of corrections, developed a new act and built a new Correctional Centre. Clearly, one of the issues is that we have people in our corrections system who have FASD. My concern is that processing people who have FASD the same way we process other offenders may not be all that effective. The previous administration was successful in having FASD placed on the national agenda at both the justice and the health ministers' meetings. Yukon has been — and continues to be — the co-lead with Canada on the file of FASD.

One of the accomplishments of MP Leef's bill is that it defines what fetal alcohol spectrum disorder means.

I think many of us have a general idea of what FASD is, but I heard one of our staff who is retiring reflect on the changes she has seen in Yukon from when she started to when she retired. This file was one of the ones that she had commented on. She indicated that, early on, kids with FASD were diagnosed as FLKs, and that was short for funny-looking

kids. I would like to mention some of the background work that has been undertaken on advancing how society responds to FASD by talking about the Canada FASD Research Network. CanFASD is a collaborative interdisciplinary research network with collaborators, researchers and partners across the nation. It is Canada's first comprehensive national fetal alcohol spectrum disorder research network.

It started as an alliance of seven jurisdictions and operated for seven years as the Canada Northwest FASD Research Network. CanFASD's unique partnership brings together many scientific viewpoints to address the complexities of FASD with a focus on ensuring that research knowledge is translated to community and policy action. Their mission is "to produce and maintain national, collaborative research design for sharing with all Canadians, leading to prevention strategies and improved support services for people affected by Fetal Alcohol Spectrum Disorder."

In March 1998, the governments of Alberta, Manitoba and Saskatchewan formed the prairie province partnership on FAS. In November 1999, the partnership was expanded to include the Northwest Territories, Nunavut and Yukon. In 2001, the partnership expanded to include British Columbia and, in February 2003, the partnership's name changed to the Canada Northwest Fetal Alcohol Spectrum Disorder Partnership or CNFASDP.

CNFASDP conferences were held in 1999, 2000, 2001 and 2002 in Whitehorse, and 2003 and 2008. Symposia were also held annually for a number of years. Yukon hosted a symposium in Dawson City in 2005 and the most recent symposium was held in Manitoba in 2008.

In the fall of 2002, the Canada Northwest FASD Research Network was established. The partnership contracted with the provincial health services authority of B.C. to implement phase 1 of the network and appointed a 15-member board of directors. In 2005 and 2006, consultations on the research agenda and structure of the research network was undertaken. Network action items were established at that time. In 2007 and 2008, there was implementation of that research network.

At the Access to Justice for Individuals with Fetal Alcohol Spectrum Disorder (FASD) Conference held here in Whitehorse in September of 2008, Kent Roach and Andrea Bailey noted in their work that physical facial features are present in only some people with FASD. Roach and Bailey shared that fetal alcohol spectrum disorder is a non-clinical umbrella term that refers to a range of cognitive deficits associated with disabilities incurred when a mother uses alcohol during her pregnancy. Such disabilities are permanent and can result in a range of symptoms, including poor memory, impulsiveness, inability to appreciate fully the consequences of one's actions; being easily influenced and even perhaps abused by others.

In only some cases will FASD produce physical facial features, such as thin upper lips, short eye slits and the slightly recessed jaw that have been associated with fetal alcohol syndrome. Falling within the FASD diagnosis of fetal alcohol effects, or FAE, are also partial fetal alcohol syndrome,

alcohol-related neurodevelopmental disorder and alcohol-related birth defects. It is a significant accomplishment that MP Leef's bill looks to define what FASD is.

According to his bill, fetal alcohol spectrum disorder, or FASD, refers to any neurodevelopmental disorder that is associated with prenatal alcohol exposure and that is characterized by permanent organic brain injury and central nervous system damage that result in a pattern of permanent birth defects, the symptoms of which may include: impaired mental functioning; poor executive functioning; memory problems; impaired judgment; inability to control impulsive behavior; impaired ability to understand the consequences of one's actions; and impaired ability to internally modify behavioral control.

The MP's bill states that, "A court may, at any stage of proceedings against an accused, by order require that the accused be assessed by a qualified person, alone or with the input of other qualified persons, to determine whether the accused suffers from FASD and, if so, to indicate the relative severity of the disorder. The assessment may be ordered (a) with the consent of the accused and the prosecutor; or (b) by the court on its own motion or on application of the accused or the prosecutor, if the court believes a medical, psychological or psychiatric assessment in respect of the accused is necessary for a purpose mentioned in paragraphs (4)(a) to (d) and the court has reasonable grounds to believe that the accused may be suffering from FASD or a similar mental disorder or disability."

I would also like to note that Roach and Bailey reflected on obtaining assessments for FASD before sentencing. On pages 40 and 41 of their study, they observe that, "An FASD diagnosis is clearly very relevant to a court's consideration of the circumstances of a particular offender. Nevertheless, getting this information before the court is problematic. There are no provisions in the Criminal Code that would allow a judge to order an FASD assessment for sentencing purposes, and the question of who pays for such an assessment is often hotly contested."

One of the challenges that has often been noted in addressing FASD is the challenge of obtaining a diagnosis of FASD. I want to share a couple of definitions for diagnosis that I found. FASD is usually diagnosed by a multidisciplinary team consisting of a speech language pathologist, a psychologist, occupational therapist and a medical doctor.

The diagnosis is based on four areas. Each of the four areas is given a level of severity ranging from one to four — one being complete absence of the feature and four being strong classical presentation of the feature. The areas are: (1) maternal use of alcohol during pregnancy. If alcohol exposure histories are not documented or confirmation of use cannot be obtained from the mother, children cannot receive a diagnosis of FASD; (2) growth deficiency, which would be based on weight and height measurements; (3) facial features would be based on three key factors: small eye openings, flattened vertical columns in the upper lip and a thin upper lip; and (4) brain damage, which is based on three different areas: structural changes as seen in an MRI or a CAT scan — and I

should note that most individuals do not show abnormalities; neurological dysfunction — for example, seizures, muscle weakness, coordination deficits — and I should note that some, but not all, individuals show neurological dysfunction. Brain functioning is assessed by a multidisciplinary team, so that is the occupational therapist, a psychologist and/or a speech and language pathologist using standardized tests.

Mr. Speaker, I also consulted the Centres for Disease Control and Prevention and here is what they report. Health care professionals look for the following signs and symptoms when diagnosing FASD.

Abnormal facial features — so the person with FASD has three distinct facial features: smooth ridge between the nose and upper lip. Another feature is a thin upper lip and short distance between the inner and outer corner of the eyes, giving the eyes a wide-spaced appearance.

Growth problems — children with FAS have height, weight or both that are lower than normal, at or below the tenth percentile. These growth issues might occur even before birth. For some children with FAS, growth problems resolve themselves early in life.

Central nervous system problems — the central nervous system is made up of the brain and spinal cord. It controls all of the workings of the body. When something goes wrong with a part of the nervous system, a person can have trouble moving. They can have trouble speaking or learning. He or she can also have problems with memory, senses, or social skills.

There are three categories of central nervous system problems. The first is structural. FASD can cause differences in the structure of the brain. Signs of structural differences are smaller-than-normal head size for the person's overall weight and height, at or below the tenth percentile, and significant changes to the structure of the brain is seen on brain scans such as MRIs or CT scans.

There are also neurological problems — problems with the nervous system that cannot be linked to another cause. Examples include poor coordination, poor muscle control and problems with sucking as a baby. There are also functional issues, so the person's ability to function is well below what is expected for his or her age.

To be diagnosed with FAS, a person must have cognitive deficits — so a low IQ or a significant developmental delay in children who are too young for an IQ assessment, or problems in at least three of the following areas: a cognitive deficit or developmental delays. Examples would include specific learning disabilities — especially math — poor grades in school, performance differences between verbal and non-verbal skills, and slowed movements or reactions. Also, executive functioning deficits — these deficits involve the thinking process that help a person manage life tasks. Such deficits include poor organization and planning, lack of inhibition, difficulty grasping cause and effect, difficulty following multi-step directions, difficulty doing things in a new way or thinking of things in a new way, poor judgment and inability to apply knowledge to new situations.

There are also motor functioning delays. These delays affect how a person controls his or her muscles, and examples would include delay in walking, gross motor skills, and here would be difficulty in writing or drawing, fine motor skills, clumsiness, balance problems, tremors, difficulty coordinating hands and fingers — so dexterity — and, as I mentioned earlier, poor sucking in babies.

Attention problems or hyperactivity is also noted. A child with these problems might be described as busy, overactive, inattentive, easily distracted or having difficulty calming down, completing tasks or moving from one activity to the next. Parents might report that their child's attention changes from day to day — so there are on days and off days.

Also noted are problems with social skills. A child with social skill problems might lack a fear of strangers. They might be easily taken advantage of, and they might prefer younger friends, be immature, show inappropriate sexual behaviours and have trouble understanding how others feel.

Other problems that might be associated can include sensitivity to taste or touch, difficulty reading facial expressions, and difficulty responding appropriately to common parenting practices. An example of that would be not understanding cause-and-effect discipline.

Pertaining to a mother's alcohol use during pregnancy, confirmed alcohol use during pregnancy can strengthen the case for an FASD diagnosis. Confirmed absence of alcohol exposure would rule out the FASD diagnosis. It's helpful to know whether or not the person's mother drank alcohol during pregnancy but confirmed alcohol use during pregnancy is not needed if the child meets the other criteria. As you can see in one definition, maternal consumption of alcohol is a fairly important factor in determining a diagnosis of FASD. The MP's bill addresses this by stating — and this is in section 672.02 (3): "If the court is satisfied that there is good reason the evidence of alcohol consumption by an individual's mother while she was pregnant with the individual is not available, such as in circumstances in which the mother has died or cannot be identified or found, the cause of the FASD may be presumed to be the maternal consumption of alcohol."

I would now like to talk about what this means for the correctional system. The motion before us wrongly assumes that Yukon would have to amend our *Corrections Act, 2009* as it was drafted with offenders with issues like FASD in mind and, unfortunately, the members opposite do not seem to be acquainted with our legislation.

I would like to talk about the scope of the challenge before us. We are working to determine how many offenders have FASD. Yukon's Department of Justice implemented an FASD prevalence study in two phases. Overall, the study will determine the prevalence of FASD and identified mental health and substance abuse problems in Yukon's adult correctional population. Phase 1 completed the research methodology and the project plan. The study in its current phase, phase 2, includes obtaining formal ethics approval, recruiting adult Yukon offenders to participate in the study, assessments and diagnosis of the participants, data analysis and a final report outlining results and conclusions.

The University of British Columbia completed its ethical approval of the project in February of this year. Participant recruitment can now begin. The process for assessing adults for FASD requires a team of clinical professionals to administer medical exams, neuropsychological tests and multiple interviews. The study's research team has been assembled and trained. There is a principal investigator, a study manager, a psychologist, a physician, a research assistant, a supervising neuropsychologist and post-study coordinator. The next step is to launch a pilot assessment study with three to five participants to be run at the Whitehorse Correctional Centre.

How will the study help adult offenders with FASD here in our territory? The Department of Justice is trying to learn more about how many offenders have FASD to better meet their needs in the future.

FASD is not actually a diagnosis, but rather it's an umbrella word that describes permanent brain damage that is associated with prenatal exposure to alcohol. Persons with FASD experience difficulties, such as decision-making, problem solving, mental health problems or drug and alcohol abuse. There is very little data on the prevalence of FASD in the criminal justice system. The participants in the study will have an assessment of their specific needs and strengths, which may or may not include a finding of FASD. This report can help to inform service providers of where intervention should focus for that individual. This research does not actually target individuals who are suspected of having FASD or prenatal exposure to alcohol; rather, it will recruit a wide range of individuals with and without behavioural and health challenges to accurately determine the prevalence of FASD among the correctional population in Whitehorse and in Yukon.

Mr. Speaker, you may now be asking yourself: Just what are the costs of the FASD prevalence study? The Yukon Party government committed \$643,000 for the next three fiscal years for phase 2 implementation of the study — funds for this program, that I might add, all members opposite voted against. The funds will cover the costs of personnel to administer the tests, the purchase of neurological tests, clinical training for the local research team, administrative costs and knowledge translation. Justice Canada, the Northern Institute of Social Justice and Yukon College funded development of the research methodology in 2013 and 2014.

Funding from the Public Health Agency of Canada financed the study manager and the training of the clinical team until March 31 of this year. The need to better understand how many people are affected by FASD in Yukon's correctional population was first raised at the Access to Justice for Individuals with Fetal Alcohol Spectrum Disorder (FASD) conference in 2008 that was hosted by the Yukon Department of Justice and Justice Canada.

The Department of Justice recognizes that a number of people in the adult correctional population have cognitive impairments, along with mental health and substance abuse issues. The FASD prevalence study will be conducted over an 18-month period and approximately 150 offenders will be

assessed. All male and female offenders who are between the ages of 18 and 40 years old, who are serving territorial sentences or on probation, will be invited to participate. I might add that participation in this research study is completely voluntary.

The study is being conducted under the supervision of a principal investigator from the University of British Columbia. A 2013 research agreement between the University of British Columbia and the Government of Yukon outlines the university's role in the study, data ownership, data storage, data analysis, deliverables and overall research support. The University of British Columbia/Children's and Women's Health Centre of British Columbia Research Ethics Board approved this study methodology on February 18, 2014. Ethics approval from this respected source is crucial to the standards and procedures of the study. Colleagues across Canada in both justice and health and social services fields are looking forward to the results of Yukon's FASD prevalence study.

The FASD prevalence study is being conducted in collaboration with Health and Social Services. Justice leads the research study stream, while Health and Social Services leads the local capacity development and case management stream.

The prevalence project partners' board oversees the study. It includes Yukon Justice, Yukon Health and Social Services, Correctional Service Canada, Justice Canada, the Canadian Centre for Substance Abuse, the Northern Institute of Social Justice, Yukon College, Fetal Alcohol Syndrome Society of Yukon and First Nations Health and Social Development Commission.

Yukon's leadership role in this area began with the national conference that Yukon hosted with Justice Canada in September 2008, entitled *The Path to Justice: Access to Justice for Individuals with Fetal Alcohol Spectrum Disorder (FASD) Conference*. Officials from the department have been continually working on how we will address FASD and the challenges that it presents from a policy and program perspective, both internally and collaboratively.

This past November at our annual Minister of Justice meeting in Whitehorse, my colleagues and I discussed this very important topic and directed officials that this issue was to remain a priority item and to continue their work with respect to increasing access to justice for individuals with FASD. Yukon will continue to bring forward FASD as an access-to-justice issue to the federal-provincial-territorial ministers' and deputy ministers' levels and other agencies that have an interest in this issue, to ensure that work on this issue continues at a national level.

The Department of Justice has been working very hard on the development and implementation of a prevalence study of FASD and mental health and substance abuse issues in the Yukon adult corrections population. Our government had committed over \$600,000 to fund this important work so that we can have a full understanding of how FASD affects the correctional system.

This study is a significant undertaking and I am pleased to report that this project is moving forward and we look forward to the results. I was very pleased that the Canadian Bar Association once again recognized the importance of our efforts to improve access to justice for people with FASD at their recent meeting.

It is our belief that, in order to move forward in properly addressing this issue, due diligence is required to define this complex issue, which is why we have approved the work currently being done by the FPT officials. I can also assure you that we look forward to the opportunity to further dialogue with organizations such as the Canadian Bar Association and other justice system professionals to address this issue and develop appropriate solutions.

As I mentioned earlier, \$643,000 was committed by Yukon government for three fiscal years to implement the FASD prevalence study: \$228,000 in 2013-14 that the members opposite voted against; \$367,000 in the 2014-15 budget that the members opposite have indicated that they will vote against; and an additional \$45,000 in the 2015-16 budget that the members opposite will very likely not support. However, this study is only one piece of the larger access-to-justice initiative.

\$68,000 from the 2008-09 and 2009-2010 fiscal years was committed to the costs associated with developing and delivering curriculum on FASD for justice professionals through the Northern Institute of Social Justice.

The department has supported Justice staff who deal with clients who have FASD to attend a 12-day FASD certificate program. This 12-day program was designated for service providers working in a case management capacity with adults and youth with FASD. During the course, participants will gain a greater understanding of the nature and consequences of FASD for the individual, for their family and for their community. Participants will learn the skills and techniques necessary to effectively develop a community case plan for a person with FASD. The department will continue to commit resources to train staff who deal with individuals who have or may have FASD to ensure that they are well-equipped to work with these individuals in the most effective way possible.

I should note that the Department of Justice with partners — Yukon Health and Social Services, Justice Canada, Yukon College's Northern Institute of Social Justice and the Yukon Research Centre, the Canadian Centre on Substance Abuse, Correctional Service Canada, FASSY, and the First Nations Health and Social Development Commission — developed a research methodology to research the prevalence of FASD and mental health and substance abuse issues among Yukon's adult correctional population. The goal of this prevalence study is to determine the extent and the degree that FASD and other issues affect the Yukon correctional population.

The research methodology was developed in a way to conduct a study to provide functional and clinically meaningful feedback to participants while executing a methodology's sound, efficient and feasible research design. Justice Canada provided \$60,000 to carry out the methodology and project plan from 2009 to the 2013 fiscal

years, and the Northern Institute of Social Justice provided \$25,000 to develop the research methodology in 2012 and 2013.

Yukon Justice will oversee approximately 150 FASD assessments and will examine the rates of mental health and substance abuse problems reported in the Yukon corrections population. I should also note that there are a number of jurisdictions participating in the CCSO steering committee on FASD and access to justice. They are Yukon, Northwest Territories, Quebec, Justice Canada, British Columbia, Alberta, Manitoba, Saskatchewan, Ontario, Newfoundland and Labrador. Yukon, in partnership with Justice Canada, has been the lead in bringing the issue of FASD as an access-to-justice issue forward to the deputy ministers' and ministers' national agendas since the 2008 Path to Justice: Access to Justice for Individuals with Fetal Alcohol Spectrum Disorder (FASD) Conference in Whitehorse, which both governments co-hosted.

In 2009, federal, provincial and territorial ministers responsible for justice approved an initial FASD workplan prepared by CCSO criminal officials. FPT deputy ministers approved a second framework for a plan at their June 2013 meeting. This framework builds upon the initial workplan and remains focused on the same three theme areas of education, information sharing, and identification.

FPT ministers responsible for justice have continued to indicate support for this issue and have frequently identified it as a priority issue, including at the November 2013 justice ministers meetings held here in Whitehorse. There have also been external initiatives that have raised the profile of FASD as an access-to-justice issue recently. These include, in 2010, the Canadian Bar Association passing their resolution respecting the application of notions of criminal liability for those with FASD and the development of policies and solutions regarding FASD as an access-to-justice issue. In March 2011, the CBA met with representatives from the FPT FASD steering committee and identified a total of 10 measures that would increase access to justice for individuals with FASD.

In August 2013, the Canadian Bar Association passed another resolution on FASD and the justice system. This resolution was passed unanimously and urged the federal government to make several amendments to the *Criminal Code*. The September 2013 consensus conference on FASD and legal issues echoed many of the same recommendations as the CBA regarding changes to the *Criminal Code*, including provision for the ability of judges to order assessments and the inclusion of an escape clause to allow for judicial discretion in sentencing where mandatory minimum sentences exist, among other recommendations.

FASD is mostly talked about as a health or medical issue, but the conversation has started to shift to also think about FASD as a justice-related issue.

FASD impacts many Government of Yukon departments, other sectors and many countries. It is one of the most common disabilities in the world and is 100-percent preventable.

In 2009, the Institute of Health Economics reported that an annual economic cost of FASD in Alberta alone is estimated to be between \$130 million to \$400 million per year. These costs include educational costs, medical costs, addiction and drug treatments, additional costs to families, social services, supportive housing, loss of productivity and other justice system costs.

Unfortunately, there are not concrete numbers telling us how many people have FASD in Canada. Even less is known about the prevalence of FASD among Canadians in the criminal justice system. This is true for Yukon and it is true for other jurisdictions as well.

In 2008, our department put the wheels in motion to understand more about FASD as a justice-related issue. Yukon's Department of Justice, together with Justice Canada, hosted the Access to Justice for Individuals with Fetal Alcohol Spectrum Disorder (FASD) Conference. One of the recommendations from the conference was the need for research to determine the prevalence of FASD in the adult correctional population. The need for the development of adult diagnostic capacity was also identified.

Following the conference, the Yukon departments of Justice and Health and Social Services launched a collaborative FASD project to better understand and determine the prevalence of this specific disability. The FASD project is divided into two streams: Justice leads the prevalence study and Health and Social Services leads the adult diagnostic capacity development as well as the case management stream.

Both of our departments recognize that a number of people in the adult correctional population have cognitive impairments, along with mental health and substance abuse issues, that may be hindering their ability to benefit from treatment as well as programs. We also recognize that clients often access the same type of services in Health and Social Services and Justice.

I would like to take this opportunity to thank both the minister and the staff of the Department of Health and Social Services for their important collaboration on the FASD project. Health and Social Services has taken on the critical task of increasing Yukon's capacity in adult diagnostics, improving case management and case coordination.

Our front line employees understand that individuals who have FASD sometimes fall through the cracks. This is in part because individuals with FASD have brain-based disabilities that cause difficulties with decision making as well as problem solving. They also often have secondary mental health issues or problems with drug and alcohol abuse.

Simply put, FASD is a permanent brain disability. Societies and governments recognizing this disability and exploring a means to respond to it — it is issues like this that made me decide to get involved in government.

Many Yukoners have shared with me the challenges that they have experienced with respect to issues they, or a loved one face because of intellectual disabilities, including FASD. Those same people also indicated that the same challenges

decreased during this nearly 12 years under a Yukon Party government.

As someone who has well over 10 years of experience in the social sector — not to mention that I have a child with a disability — I can verify this. There were challenges regarding access to tests, treatment and therapies. There were challenges with accessing initiatives to make adaptations to their home or to accommodate a family with a physical disability.

As many of the members in this House are already aware, my youngest son Jack has autism and as a parent, I know firsthand the challenges that we face and I know that helpless feeling that a parent with a child with a disability can have. I have to say thank you to this Yukon Party government. Our family is very fortunate to have had the supports that we have had over the years. My drive as a father and always ensuring the best for my child — along with the support of the previous Yukon Party governments — our son and our family have put together an incredible team of professionals who have helped in more ways than can be described.

Just last week here in this Legislature, we were paying tribute to Principal Marj Hlady from Christ the King Elementary School. I have to extend my sincere thanks to her and the staff from Christ the King Elementary School for their dedication and support to children who have intellectual disabilities, including FASD. They have made an incredible difference in many people's lives.

I know of other programs that Yukon government has incorporated for people with intellectual disabilities, including FASD and autism, just to name a couple. The healthy families program is a voluntary program that provides support to families prenatally or at birth, and continues until the child is school age. It has been offered in Whitehorse since 1999.

I have had parents share with me how helpful they find this program. In fact, one foster mom of a child with FASD explained that, with her child, she didn't know what to expect; she didn't know if her child's development was on track or not. It was comforting to have someone knowledgeable she could talk to about her baby's development.

The healthy families program — which is free of charge, I might add — will explore what's important to various families. It will explore what you want for your child. It will support you to build a safe and healthy environment, and it will provide interesting information and fun activities to strengthen your child's growth and development. I know firsthand how early assessment and early intervention can make a world of difference in a child's life.

Once a family finds out that their child has a disability, the support they receive from the government is through the family supports for children with disabilities program. Parents can make a referral to the program, or they can give their permission for someone working with their child, such as a doctor or a teacher, to do so.

This very important program provides support to Yukon families to care for their child with a disability, including children with FASD. It supports early intervention to increase the child's lifelong learning potential. It provides coordinated access to supports and interventions. It promotes inclusion of

children with disabilities in community life, but perhaps it can be expanded to do more.

My comments thus far have been focused on the supports that are available. As a parent of a child with special needs, I can tell you that finding out that your child has complex medical issues can be very, very challenging for families. I've spoken previously about the impact that it had on my family and on myself. It's important for me to share the comparison from my experience being a parent of a child with autism, as it pertains to potential resources to those being diagnosed with FASD.

I can think of parents I know who are raising children with extraordinary needs, including a diagnosis of FASD, and taking care of them is a full-time job. In fact, it's more than a full-time job, because most full-time jobs end after 40 hours a week and you get two weeks of vacation every year. Adult children with disabilities who stay at home are not uncommon. In fact, adult children who are of an age of more than 40 years old and still living with a parent are not uncommon. These incredible parents also need increased supports for their families and their adult children living at home.

I can give you a brief overview of what it might be like to be such a parent — and I've shared this in the Assembly before but I think in the context of resourcing issues pertaining to FASD, it's important to reiterate, because parents and caregivers are on call and available for work 24 hours a day, seven days a week, 365 days a year, without holidays and without pay.

It can take hours and hours of planning to attend a simple 15-minute appointment or just to go to the grocery store. What about buying that new outfit you have been wanting? Not likely — your funds have been overextended to provide for your adult child with a disability or with FASD. That nice, peaceful glass of wine at the end of the day while sitting on the front porch watching the sunset is replaced by sitting outside the bedroom of your adult child while they tantrum for hours because they aren't able to communicate their needs or how they are feeling.

Mr. Speaker, you know that my son doesn't really speak and, when he does, it is difficult to understand his communication because it only has to do with what he wants in that moment of time. Don't get me wrong, we feel very fortunate to have that, but before Jack could communicate verbally or through the iPod touch that he uses now — or an iPad — he would frequently have five-hour tantrums because he couldn't communicate his needs. This is common with people with a wide variety of disabilities, including FASD. As an assisted device, we incorporated the iPod touch that has an app that Jack can use to flip through pictures to identify his wants and needs. Jack does not know — nor have we found — a way to help him tell us how he feels. We don't know if he is happy or if he is sad, tired or stressed unless we look at the obvious physical attributes.

Another area of concern for me as a father is that my son would literally walk in front of a bus without understanding or being able to comprehend the consequences of such an action.

Consequences are often something that individuals with FASD can't fully grasp.

On the subject of FASD as it pertains to me as a parent of a child with a disability, it's important to note where we came from. When my son, Jack, was diagnosed at age two, there were very few services available for him, let alone for other children with autism or other disabilities. Because of my background in health, I knew that early intervention was the key, as it is with a diagnosis of FASD. I remember in the early days sitting around a table with just two other families that were in the same boat as us. Their children were older than Jack. I even recall another family refusing to meet with us because they had attempted to obtain services for their child through the previous Liberal and NDP governments. They were met with closed doors. As a result, their child received very few supports.

This is relevant because the history is similar with providing services to people with FASD and making amendments to our legislation during the time of the Yukon Party being in government. I'm glad that I'm a bit stubborn and I know that there are a few people in the department that will attest to that, especially when it comes to my child and working on something that I believe in.

For the record, it was indeed this Yukon Party government that initiated support services for my son and other children with autism, Asperger's, with Rett's, FASD and other developmental disabilities. This Yukon Party government's decision to provide ABA therapy to people like Jack and others has had a profound impact on their lives. The Health and Social Services minister and the Premier, in 2002, truly stepped up to the plate and made a very bold move and should forever be commended for their work. We were also quite fortunate when the Health and Social Services portfolio was handed to our current Minister of Community Services on December 12, 2005 — fittingly two days after Jack's birthday.

To focus more specifically on the FASD prevalence study, I would like to outline three main goals for the justice stream of this particular project. First, the research team is going to determine the prevalence of FASD and other neurocognitive disorders in Yukon's adult correctional population. Second, the team is going to identify mental health and substance use problems in that very same population. Third, the team will test and assess certain FASD screening tools for use in the adult corrections population.

The study is being conducted under the supervision of a principal investigator from the University of British Columbia. A research agreement between the University of British Columbia and the Government of Yukon —

Some Hon. Member: (inaudible)

Point of order

Speaker: Member for Copperbelt South, on a point of order.

Ms. Moorcroft: On a point of order, I believe that the member opposite is reading into the record the same information related to the prevalence study at the Whitehorse Correctional Centre that he read into the record just a few

moments ago. I am sure that I heard him reading that previously, and I would point to Standing Order 19 regarding the unnecessary repetition in the course of a speech. I would like to ask the minister to refrain from reading into record material he has already spoken and to move on to some new ground that is relevant to the motion that we are debating.

Hon. Mr. Cathers: I believe that the minister was simply reading in comments that he believes are relevant to the subject matter at hand and I don't think that is any different from what other members have done, including the member herself.

Speaker's ruling

Speaker: There is no point of order. The member may continue.

Hon. Mr. Nixon: The University of British Columbia's Children's and Women's Health Centre British Columbia research ethics board approved this study methodology in February, which is crucial to the standards and procedures of this particular study. We are currently in phase 2, which includes obtaining formal ethics approval, recruiting adult corrections client volunteers to participate in the study, assessing and diagnosing participants, analyzing data and finally, reporting the results in the conclusions.

I should point out that the study does not target individuals — and I need to point this out again — that the study does not target individuals who are suspected of having FASD or prenatal exposure to alcohol. Rather, it will recruit a wide range of individuals with or without behavioural and health challenges to accurately determine the prevalence of FASD among the adult correctional population here in our territory.

Helping guide this study is a prevalence project partners' board, whose members represent Yukon departments of Justice and Health and Social Services, Correctional Service Canada, Justice Canada, Canadian Centre on Substance Abuse, Northern Institute of Social Justice, Yukon College, FASSY and the Yukon First Nations Health and Social Development Commission.

Again, I would like to take this opportunity to thank our partners. A project of this size does not happen on its own. The department is very, very grateful to have the guidance and direction from the prevalence project partners' board. The study research team consists of the principal investigator, the manager, the psychologist, the physician, the research assistant, a supervising neuropsychologist and a post-study coordinator. I can't thank them enough for their work.

As I have mentioned before, all participation from adult correction clients is 100-percent voluntary. After the FASD assessments are completed, participants in the study will receive a report outlining their results from the assessments. These results include a profile of their strengths and limitations, any diagnoses and recommendations regarding the program or any potential referrals. Study team members will meet with each participant and help him or her understand the results.

Following the end of an assessment, Justice will make available the services of a post-study coordinator to connect and navigate participants to services here in our territory. The cost of this prevalent study is approximately \$640,000 over the three fiscal years.

The current model for assessing and diagnosing adult corrections clients and other referrals in the territory is to contract a local organization to organize the assessments on an annual basis. In turn, they hire a team capable of conducting these types of assessment. Under this model, an assessment team travels to Yukon once a year to conduct assessments.

The estimated cost of assessing one adult corrections client is approximately \$5,000 to \$6000 per adult. Assessing and potentially diagnosing a person with FASD can be expensive. This is because assessing adults for FASD requires a team of clinical professionals to retrieve personal records, conduct multiple interviews and administer neuropsychological and medical exams. The study's budget has to cover the costs of the clinical professionals, plus the cost of the neurological tests, dedicated management of the project logistics, travel for team members who are not based in our territory, administration and finally knowledge translation costs.

We already know that people who have FASD may require many supports and services from different sectors and different government departments. These supports and services often include, but are not limited to, housing, life skills, extra help in school, neuropsychological assessments, drug and alcohol counselling, social assistance, medical attention, mental health services, navigation through the justice system and community outreach. This is in part why other Canadian jurisdictions estimate that FASD costs between \$130 million and \$400 million a year.

A person's quality of life, safety, success and happiness obviously can't be fully measured in dollar amounts. However, we need to be aware of the costs of FASD as we move forward. The benefits to finding answers to deal appropriately with persons with FASD stem from both an economic and a social justice perspective. In a project of this scale, the complexities, research protocols and different understandings of FASD can bring challenges to timelines and goals.

I would like to highlight some of these challenges now and illustrate how the Department of Justice is addressing them. First, during meetings with our stakeholders, partners and service agencies, we consistently heard that FASD assessments must go beyond a clinical diagnosis and include a strength-based functional assessment. This is because functional assessments provide more potential benefits for individuals, their caregivers and their caseworkers. We listened to these requests and responded. As I mentioned earlier, after participants are assessed, they will receive a functional assessment outlining their results, including a profile of strengths and limitations, any diagnosis, and recommendations regarding programs or referrals.

Second, the department understands the importance of both protecting personal information and providing better

service. In the study protocols, any FASD diagnosis or other information gathered about an offender will only be known to the research team. The decision to share diagnostic information will be made by the study participants. The team will point out the benefits of sharing a diagnosis with persons such as a caseworker in order to improve service delivery. However, the decision to share information is solely up to the participant. The team will assist any participant who wishes to share their diagnosis information by helping them communicate that particular information.

Third, our stakeholders and our partners often stress how important it is to be mindful of the stigmas related to an FASD diagnosis. The department has responded and built these messages into employee training and study presentations. FASD is neither a First Nation issue nor just an issue in northern Canada. FASD affects people around the world and from many different socio-economic levels. In an attempt to break through these FASD stigmas, department staff will be holding awareness sessions for participants and corrections staff.

The final challenge I would like to discuss today is that improved diagnostic and assessment services must consider post-diagnosis service provisions. As I mentioned earlier, a post-study coordinator will be available to meet with participants following the end of assessments. This person will connect and help guide study participants to our services in Yukon and will facilitate referrals and recommendations from the research team.

I want to stress how important it is to first understand the extent of FASD in the justice system. The Department of Justice wants to gather good, strong evidence that will contribute to improved decision-making now and in the future. We intend to keep FASD and its challenges at the forefront of our priorities.

By doing so, the department leaders and service workers can continue to work toward providing the necessary responses to FASD in the justice system. I am very proud of the work that department staff has accomplished, both locally and nationally, to address the complex challenges that FASD presents. I am truly inspired by their commitment.

I need to talk about how Yukon is responding. First, we've developed the Community Wellness Court. This court was implemented as a pilot project in June 2007 in response to the call for the creation of a therapeutic court in Yukon in the *Yukon Substance Abuse Action Plan*. In March 2009, the pilot project was extended for three years to allow for an evaluation of the project and to further develop that court. In 2011, the Canadian Research Institute for Law and the Family, which is a non-profit, independent research institute in Calgary, evaluated the court and provided comments to support a further three years of pilot project funding. This report is available on the Yukon court's website.

In February 2012, the project was extended again until the end of the 2014-15 year to allow further assessment of the achievement of the court's objectives. The Community Wellness Court is currently being evaluated by Dr. Joe Hornick. This evaluation will be completed this year. Since

implementation, over 2,000 charges and 208 offenders have been referred to the Community Wellness Court, 104 offenders were accepted into the program, and 80 offenders have graduated from the program, receiving either full or partial credit for their participation. Currently there are 24 active clients.

Following several assessments, an in-depth wellness plan is tailored to the needs of that individual client. The wellness journey can take up to 18 months before sentencing and may include things like individual or group therapeutic counselling and treatment, assistance with employment, housing and other basic needs. It may include medical assistance including psychiatric services; it may include assistance from agencies such as Fetal Alcohol Syndrome Society of Yukon and Many Rivers Counselling and Support Services, or intensive supervision and support by a probation officer working closely with that particular individual; and it may include assistance with building family and community supports.

Community Wellness Court participants are given priority placement for risk assessment in offender programming. In February 2012, Management Board approved \$459,000 in operation and maintenance funding until the end of the 2014-15 year to allow for further assessment of the Community Wellness Court in the achievement of its objectives.

I also want to talk about the *Corrections Act, 2009* for a few minutes, as the members opposite seem to think we should amend it. The *Corrections Act, 2009* represents one of the pillars that have come out of the original corrections consultation initiated by the Yukon Party government in its first mandate of 2002 to 2006. The government continued to make Yukon communities safer by dealing with Yukon's serious alcohol and drug problems as a matter of top priority. The government committed to offer a drug and alcohol rehabilitation package to offenders who opted to seek that treatment. We delivered on those commitments.

In 2006, the Yukon Party committed to Yukoners to implement the corrections action plan that included measures to address the construction of a new correctional facility or facilities. I am pleased to report that, as all members of this Legislative Assembly know, we have delivered on that commitment.

The Yukon Party also committed as part of our clear vision for a bright future to look at governance issues, including new legislation. New legislation passed in 2009. That is one more commitment that we have completed. In looking over this work, I'm impressed by its quality. I think this is in large part due to the time the government took to consult Yukoners.

In terms of working together, in 2004 the government of the day began an exhaustive consultation that canvassed Yukoners on what they thought the future of corrections should look like. Clearly the old approach needed to change. Flowing out of that consultation is the *Corrections Act, 2009*.

Work began immediately on the new *Corrections Act, 2009* and public consultation began in late 2007, finally finishing in January 2009. Due to the good work of all the

participants in the consultation, we have a modern, sophisticated, robust and useful tool to address our correctional system. Their input was very important in creating that final product.

I want to note the comments in the *What We Heard* document that was generated in response to the consultation on corrections. The document stated that the Whitehorse Correctional Centre is not the best place for those with FASD. There should be perhaps another facility or at least a separate place within Whitehorse Correctional Centre for offenders with FASD. Inmates with FASD have a range of needs that must be identified and addressed while they are in the Correctional Centre. After they are released, they will need follow-up support and a range of other programs and services. Front-line staff need training to better understand clients who have FASD.

I also want to mention some other comments that we received that were made by Yukoners. The document also stated that more doctors are required to deal with medical and mental health issues. Inmates need to be treated by people who know the situation. We must accept responsibility for creating support for those who suffer from FASD and work toward breaking that FASD cycle.

I can appreciate the NDP's misunderstanding of what is in the *Corrections Act, 2009*. I went back and reread the debate from April 2009 when this bill was debated here in the Legislature.

What struck me as incredible was the complete disinterest by the Opposition in debating it. The NDP critic didn't want to discuss it and I see that they are noticeably absent from the debate on this bill. In fact, I notice that when it came time to vote, no one from the NDP showed up to vote.

Some Hon. Member: (inaudible)

Point of order

Speaker: Leader of the Official Opposition, on a point of order.

Ms. Hanson: There is a rule in this House, I believe, about not making — I don't know the reference but making reference to absences during votes. If he will look at the record, he will find out that the person was very ill — terminally ill.

Some Hon. Member: (inaudible)

Speaker: Are we done?

Some Hon. Member: (inaudible)

Unparliamentary language

Speaker: The debate across the floor is interfering with my ability to actually give a ruling here. I ask the member to retract the statement, apologize profusely and immediately and refrain from referring to anybody's absence or presence in this House or at a vote.

Withdrawal of remark

Hon. Mr. Nixon: Mr. Speaker, I retract the statement and I apologize. I misinterpreted the rule as being a

current legislative sitting, so I do apologize for making those comments.

Speaker's statement

Speaker: I will add that it is still inappropriate, whether it is this sitting or any other sitting, now or in the future, to mention the presence or absence of anybody, particularly in the case of a vote.

Minister of Justice, please carry on.

Hon. Mr. Nixon: Thank you, Mr. Speaker. The *Corrections Act, 2009* and the companion regulations represent a new way of doing corrections. This section, entitled "Principles of corrections", clearly expresses this new approach. The paramount consideration is in the protection of society. I spoke about our commitment to work together. High on this list is collaboration with First Nations, who make up a majority of inmates held at the Correctional Centre or on probation. There is an onus on government to provide programming that is culturally relevant for Yukon First Nations. In addition, there are objectives calling for specialized programming for women.

We have changed the way we deal with complaints at the facility. The principles section gives the policy direction for the rest of the act and regulations, and it sets the tone for the whole regulatory framework. Our new program integration section puts Yukon at the leading edge of corrections legislation in our country. The focus of our legislation is on protecting Yukoners and on helping those in the correctional system get the help they require, especially in the area of drugs and alcohol.

Amendment proposed

Hon. Mr. Nixon: I move:

THAT Motion No. 638 be amended by deleting clause (4).

The amended motion would then read:

THAT this House urges the Government of Yukon to demonstrate its support for Bill C-583, *An Act to amend the Criminal Code* (fetal alcohol spectrum disorder) by:

(1) urging the Government of Canada to support Bill C-583;

(2) urging the Government of Canada to schedule full committee hearings, including the testimony of expert witnesses, respecting Bill C-583; and

(3) collaborating with the Government of the Northwest Territories and the Government of Nunavut to express pan-northern support for Bill No. C-583.

Further, THAT this House directs the Speaker of the Yukon Legislative Assembly to convey the consensus of this House in support of Bill No. C-583 to the Speaker of the House of Commons of Canada, the Speaker of the Legislative Assembly of the Northwest Territories and the Speaker of the Legislative Assembly of Nunavut.

Speaker: Order please. The amendment is in order. It has been moved by the Minister of Justice:

THAT Motion No. 638 be amended by deleting clause (4).

Minister of Justice, you have 20 minutes on the amendment please.

Hon. Mr. Nixon: I don't need to go on at great length about the amendment. I think it clearly is self-explanatory and it should be clear to all members but, in conclusion, I've spoken to this motion in some detail and I've put on record some facts and have informed this House on the decision about FASD and the role of FASD in the correctional system. I've provided you with a road map for today's debate and I've given you an overview of Yukon's work to date on the FASD file.

I've taken some time to talk about the contents of Bill C-583, especially the parts around the definition of FASD, the ability for a court to assess FASD and the ability for a court to consider FASD in sentencing. Following that, speaking to the amendment, I've pointed out the response of the government and the courts to FASD and have corrected the record, especially with respect to the fourth element of this motion, which speaks specifically to amending Yukon's *Corrections Act, 2009*.

Ms. Hanson: On the amendment, I will be very brief. I just want to say that I've rarely been as disappointed as I have been this afternoon at a missed opportunity. When I introduced this motion, my very first comments were to the effect that it was an opportunity for us to rise above — "set aside" were the words I used — our partisan differences and to support the initiative of our Yukon Member of Parliament. I made every attempt to acknowledge and accolade the Yukon government for the work that they have done, pointing out that there is — and it's blind to suggest that there is not work still to be done.

I will only point out that, when I quoted the past president of the Canadian Bar Association, he said that there is the need to ensure there is one consistent principle that guides both judges and jailers. We cannot be guided by one principle of justice, fairness and ethics in the courts and by a different principle of justice, fairness and ethics in our corrections system. Our judges and our jailers must be guided by one consistent set of principles applied outside and inside our jails.

Unfortunately, what we have heard this afternoon and what we have just seen demonstrated as the road-map — as the minister refers to it — is the same as we have had repeatedly tossed across this way: it is our way or the highway. That is unfortunate. We had an opportunity here to actually talk to each other, as opposed to having a series of multiple attacks and multiple repetitions of the same material.

I think if people go back and check the Blues, that is what they are going to find tomorrow. It is very unfortunate and very disappointing, but we will not be supporting this amendment.

Mr. Silver: I just want to voice my concern here with the amendment. I will absolutely not be supporting the

amendment. I want to give credit to our MP Ryan Leef for bucking the trend to begin with. What we are seeing here today is just not something that I can support. I would like to also commend the NDP for bringing forth the motion to begin with.

I will not be supporting this amendment.

Ms. Moorcroft: On the amendment, I prepared my remarks this afternoon with great hope that we in this Assembly would express unanimous agreement on this motion to accommodate the needs of people with fetal alcohol spectrum disorder and other alcohol-related neurodevelopment disorders in the correctional systems in Yukon and in Canada.

Just to briefly speak about the needs in the correctional system for accommodating people with FASD, those needs need to be accommodated. Many things happen in the correctional system, including internal disciplinary charges and proceedings. We have the deep concern that there is no accommodation of that disability once people are in a correctional service if they cannot meet the behavioural code that is established in the jail.

When doing programming of any kind, it is very important that those programs are adapted to the needs of the population that it serves. FASD is one of the disabilities that needs to be accommodated at Whitehorse Correctional Centre and across Canada.

The government will use its majority to pass that amendment, so I won't be able to speak to it further, but I was going to urge the Minister of Justice to consider the need to accommodate people with FASD in the correctional system because — in 2013 — a woman with mental illness reached a landmark settlement with Correctional Services Ontario because it discriminated against her by failing to accommodate her mental health-related needs. Christina Jahn alleged she had been placed in segregation for 210 days at the Ottawa-Carleton Detention Centre because of her mental health disabilities.

So the government will not introduce amendments to the Yukon *Corrections Act, 2009* to accommodate FASD as a disability. We in the Opposition will continue to advocate that the government direct the correctional services to accommodate people with FASD in the corrections system, using the *Human Rights Act* and other statutes as the basis for that.

To close, I do not support the amendment.

Speaker: Does any other member wish to be heard on the amendment?

Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Madam Deputy Clerk, please poll the House.

Hon. Mr. Pasloski: Agree.

Hon. Mr. Cathers: Agree.

Hon. Ms. Taylor: Agree.

Hon. Mr. Graham: Agree.

Hon. Mr. Nixon: Agree.

Ms. McLeod: Agree.

Hon. Mr. Istchenko: Agree.

Hon. Mr. Dixon: Agree.

Mr. Hassard: Agree.

Mr. Elias: Agree.

Ms. Hanson: Disagree.

Ms. Stick: Disagree.

Ms. Moorcroft: Disagree.

Ms. White: Disagree.

Mr. Tredger: Disagree.

Mr. Barr: Disagree.

Mr. Silver: Disagree.

Deputy Clerk: Mr. Speaker, the results are 10 yeas, seven nays.

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

Amendment to Motion No. 638 agreed to

Speaker: Is there any further debate on the motion, as amended?

Hon. Mr. Graham: On the motion, as amended: I was quite interested to listen to the debate, but I was also interested in listening to the Member for Mount Lorne-Southern Lakes in his righteous indignation during Question Period stating that there was virtually no — and I think I wrote down his quote quite accurately — that there was no diagnostic program available for adults in the territory. I just think that when people make those kinds of statements without actually understanding or knowing the true facts, they should be made aware of those facts.

FASD diagnostic clinics for school-age and preschool-age children have been delivered by trained in the Child Development Centre and the Department of Education for a number of years. We have trained teams that can diagnose up to 10 children per year — each team. We also have a contract with the Fetal Alcohol Syndrome Society of Yukon every year, for a number of years now, to provide that same diagnostic services to adults in the territory.

When the member for Mount Lorne-Southern Lakes talked about the difficulty of diagnostics for adults in the territory, it's simply not accurate. We've had that contract for a number of years. We've provided that service. As part of the program, the prevalent study that is going on — we're expanding that service. We're attempting to enhance Yukon's capacity to provide additional diagnostic services for adults across the territory. We're working on that. We're improving the service, but it has been available for a number of years.

He also mentioned prevention. He went on at great length about the lack of prevention and what we are doing as a

government, so I thought I'll tell you. The Alcohol and Drug Services prevention unit develops and delivers universal FASD prevention. We first of all do a broad-scope approach, intended to anticipate and prevent substance abuse. This approach involves promoting awareness and influencing healthy behaviours and activities.

They include: FASD education and awareness presentation; program developments; and consultations in communities and schools. We work with the Department of Education to build FASD prevention information into the school curriculum for children around the territory.

We've also worked with other territories in the development of a pan-territorial FASD prevention media campaign about the importance of supporting women to have alcohol-free pregnancies. We also developed a public awareness campaign about Canada's new low-risk drinking guidelines, entitled "What's YOUR Normal?", promoting a culture of moderation.

That was only last year. We also distributed women and alcohol booklets that explained how alcohol affects women differently than it does men. The prevention unit also develops and delivers selected FASD prevention focused on populations at risk of alcohol-related disabilities — retrain and —

Some Hon. Member: (inaudible)

Hon. Mr. Graham: Mr. Speaker, obviously the Leader of the Official Opposition knows everything that is going on in the department and still chooses to criticize what is going on. Unfortunately, they obviously are unaware of what is going on within the department.

Speaker's statement

Speaker: Order please. I would ask the minister to speak to the motion and not to the harassment coming from the other side of the House.

Some Hon. Member: (inaudible)

Point of order

Speaker: Member for Takhini-Kopper King, on a point of order.

Ms. White: On a point of order. Standing Order 19(b)(i) speaks to matters than the question under discussion.

The minister right now is responding to the perceived comments from the Member for Mount Lorne-Southern Lakes and is not speaking to the amended motion.

Speaker's ruling

Speaker: It's difficult for the Chair to know where and how the member is going to tie the comments to the question at debate until such time as it is done. I would caution the member to make an effort at this point to try to indicate to the House how this ties to the motion at hand please.

Hon. Mr. Graham: Immediately, Mr. Speaker — in fact, I probably would have summed up by now if it wasn't for the interruption opposite.

What I'm trying to point out here is that there's a great deal of activity in the ADS division supporting FASD clients here in the territory. We're making that effort but we think more effort is needed. We believe that the motion being put forward by our Member of Parliament is a good motion, and I think it can be improved. I hope this is accepted by the members opposite as a friendly amendment, because that's what it's intended to be.

Amendment proposed

Hon. Mr. Graham: I move:

THAT Motion No. 638, as amended, be further amended in clause (1) by adding after the phrase "Bill C-583" the phrase: "by providing the provinces and territories with increased funds to fully cover all additional costs to implement the legislation;"

Speaker: It has been moved by the Minister of Health and Social Services:

THAT Motion No. 638, as amended, be further amended in clause (1) by adding after the phrase "Bill C-583" the phrase: "by providing the provinces and territories with increased funds to fully cover all additional costs to implement the legislation;"

Minister of Health and Social Services, you have 15 minutes and two seconds on your amendment.

Hon. Mr. Graham: It will only take a moment. We know the costs of providing services such as OSFI and we know the cost of providing housing for these individuals with FASD. We suspect that if they are being diverted from the correctional institute and from the justice system, we would like to be able to provide them with the appropriate accommodation and supervision that is needed in order for them to live — what we would term — very difficult lives. Consequently, we believe that it is in everyone's best interest if the federal government is able to provide these funds for provinces and territories across the country.

Ms. Hanson: The Official Opposition will essentially remain agnostic on this one. If we are talking about a government acting as a mature government, one would assume that in a mature federal-provincial-territorial relationship, the matters of costing and how that is dealt with would come out in that forum.

We are talking about the fundamental issues of amendments to the *Criminal Code* here. Unfortunately, we have a government that acts like an immature government that wants to go cap-in-hand all the time. I think if you are talking from a position of strength and you are supporting this motion, you would be supporting going as an equal to that table and not having to go as a supplicant.

So we will be agnostic. If you want to put that in there, go for it.

Speaker: Does any other member wish to be heard on the amendment?

Amendment to Motion No. 638, as amended, agreed to

Speaker: Member for Copperbelt South, on the motion, as amended.

Ms. Moorcroft: Mr. Speaker, notwithstanding the events preceding — having an opportunity to speak to the motion and the amendment, I do still hope that we in the Assembly today will reach unanimous agreement on the motion to accommodate the needs of people with fetal alcohol spectrum disorder and other alcohol-related neurodevelopment disorders in the correctional system in Yukon and in Canada.

This motion is being brought forward today because we know that people with fetal alcohol spectrum disorder, without criminal intent, often end up in conflict with the law. Both in society and across the criminal justice system, generally people do not understand the disorder. People with FASD are locked up in jails or other institutions and correctional systems and social programs fail to meet their needs.

I will speak today about this disability, about how leaders and all members of society can address the problems contributing to FASD, and about how actors in the criminal justice system can respond. I will make the case for legislative changes to the *Criminal Code* of Canada and, closer to home, the need to amend Yukon's *Corrections Act, 2009*, which could help support people struggling with FASD and prevent the over-incarceration of people with fetal alcohol spectrum disorder — a cognitive, organic brain disorder.

I want to acknowledge the initiative of the Canadian Bar Association and past president Rod Snow of Whitehorse, who is present in the gallery, for a lead role working with the federal Minister of Justice and the federal, provincial and territorial ministers responsible for justice with regard to the need to provide access to justice for people with FASD.

People with FASD need access to justice at all points of the criminal justice system — being taken into custody, being held in remand custody before a bail hearing, at various court appearances, and during the time they may be held in correctional facilities. I will also speak to better approaches and the need to find new ways to support stable living standards and conditions that could divert people with FASD away from jails.

What is FASD? Fetal alcohol spectrum disorder denotes a range of neurological and behavioural challenges that may affect an individual. The underlying brain and central nervous system damage may include impaired mental functioning, impaired judgment, inability to control impulse behaviour, inability to understand the consequences of their actions and the inability to internally modify behaviour control. All of these behaviours contribute to the criminalization of people with FASD.

We know that FASD is a preventable disease. A person whose mother consumed alcohol during the critical development period in her pregnancy may be born with fetal alcohol spectrum disorder. We know that substance abuse is a

deeply rooted social problem that affects everyone regardless of race, sex, class or age.

Alcoholism is recognized by the medical community as a family disease. It's a worldwide disease that knows no boundaries. FASD is something anyone can get, and I want to emphasize at the outset that it is counterproductive to shame and blame women for drinking. Families and communities must recognize and address underlying problems of substance abuse, such as poverty, lack of housing, violence, abuse or trauma and cultural dislocation by supporting women and by ensuring women do have their basic needs met and by helping women who are pregnant — educating them on the potential consequences of drinking alcohol during their pregnancies.

We need to understand the problem is not one that affects aboriginal populations exclusively, but that affects everyone. I have a big concern that governments and institutions do not stigmatize people with FASD, or their mothers.

We do know that nationally and in the northern territories, aboriginal people and people with FASD are over-represented in the criminal justice system. According to the Office of the Correctional Investigator, while aboriginal people make up four percent of the Canadian population, as of February 2013, 23.2 percent of the federal inmate population is aboriginal. In the Yukon, 70 to 90 percent of the correctional population is aboriginal, and Northwest Territories and Nunavut have very large numbers of aboriginal people in their correctional systems too.

Speaking about the institutionalization of persons with FASD and mental health problems, I need to emphasize the correctional system is a bad place for those with mental health illnesses and far too many people with FASD and mental health problems end up in jails. The federal Office of the Correctional Investigator has reported that, between 1997 and 2010, symptoms of serious mental illness reported by federal offenders at admission increased by 61 percent for males and 71 percent for females. That information comes from a 2010 report by Sorenson. I'm certain that at the federal level where MP Ryan Leef is attempting to make some limited changes to the *Criminal Code* of Canada, parliamentarians will take into account the full picture, the prison population, the numerous reports that have been done for and about the Correctional Service Canada and people with FASD and mental health disabilities in that system.

Michelle Mann's report, *Good Intentions, Disappointing Results*, states that the offending circumstances of aboriginal offenders are often related to substance abuse, intergenerational abuse and residential schools, low levels of education, employment and income, and substandard housing and health care, among other factors. Aboriginal offenders tend to be younger and to have more mental health problems, including fetal alcohol spectrum disorder and mental health issues. We know this is something we are dealing with in our correctional system.

While in recent years Yukon began to recognize the challenges of dealing with fetal alcohol spectrum disorder, we must be mindful of colonial practices that dislocated Yukon First Nation families and communities. As I have learned from

Yukon elders, being told by priests that your spiritual practices are heathen, by the Indian agents and the courts that your ceremonies and cultural practices are against the law, by missionaries that your home and your children are unclean, by social workers that you are an unfit mother, by police that your children are being lawfully taken to "residential school" and that you will go to jail if you don't hand over your children are all practices that have caused deep pain.

This deep sense of loss reaches to generations of today. These injustices are a root cause of alcohol abuse and we cannot begin to right those wrongs until we understand that history.

I would like to thank many elders who have shared with me their thoughts about what is needed today to respond to these problems. I have been told that what government can do is to meet with — and listen to — Yukon First Nation elders and leaders to spend time to truly understand and respect their cultures.

In the past, the settler community and governments tried to take the Indian out of the child and to destroy aboriginal cultures and practices, but First Nations are strong — they resisted those attempts and their culture thrives today. Land-based treatment and healing programs that are directed by First Nations and supported by the Yukon government are a significant way to respond to the social problems that contribute to FASD. People with FASD may be found in group homes, foster care, the youth justice system and the correctional system, and there is a lack of programming for people with this disability.

The Leader of the Official Opposition spoke today about early efforts in Yukon to diagnose FASD, and the Minister of Health and Social Services seemed quite indignant when he put on the record that there are supports, both in the Department of Health and Social Services and contracts to the Fetal Alcohol Syndrome Society Yukon to provide diagnostic services for children and results.

I would like to know for the record how many of those diagnoses have occurred for children and for adults on an annual basis over the past dozen years that this government has been in office, and over the last year and the current year.

Mr. Speaker, members of the Yukon judiciary have long recognized the problem of FASD and have addressed it in their sentencing decisions and encouraged government to act. More recently, Canadian Bar Association resolutions to address FASD in the criminal justice system resulted in the federal Minister of Justice and federal, provincial and territorial ministers making it a priority to deal with FASD in the correctional system.

I am going to acknowledge the work here in the Yukon on the prevalence study on the incidence of FASD, mental health and substance abuse problems that will most likely reveal what we already know: that many people who are held at Whitehorse Correctional Centre do have FASD and need accommodation. I want to urge the government to work with Yukon First Nations and to also consult with and work with experts and consultants in the communities, such as the Yukon Council on DisABILITY, the Yukon Association for

Community Living and FASSY, which work with people with FASD. I would like to thank the representatives of those organizations who have been here today.

Prisons are dangerous and damaging places for mentally ill people. Canadian statistics will show, as I've read into the record previously, that there is a rising population of people with mental illnesses in the correctional systems.

A 2003 Human Rights Watch report states that there are three times as many men and women with mental illnesses in U.S. prisons as in mental health hospitals. They make the following comment as well: "Prison staff often punish mentally ill offenders for symptoms of their illness — such as being noisy or refusing orders, or even self-mutilation and attempted suicide. Mentally ill prisoners are more likely than others to end up housed in especially harsh conditions, such as isolation or separate confinement, that can push them over the edge into acute psychosis... Woefully deficient mental health services in many prisons leave prisoners undertreated — or not treated at all."

Our Member of Parliament's proposed amendments to the *Criminal Code* of Canada would establish a procedure for assessing people in the criminal justice system who it suspects suffer from FASD. It requires the courts to consider, as a mitigating factor in sentencing, a determination that the accused suffers from FASD and manifests certain symptoms.

The resolution also speaks to the need for judges to have the power to order assessments as is currently provided for in section 34 of the *Youth Criminal Justice Act*.

The CBA resolution calls for an external support order that a judge should be authorized to make an order approving an external support plan recommended by a FASD person's probation officer that could be in effect after probation expires.

The resolution speaks to the duty to accommodate. The *Corrections and Conditional Release Act* should be amended to expressly require Correctional Service Canada to accommodate FASD as a disability when providing correctional services to inmates who have or likely have FASD.

I do hope that all members in this House will support the motion before us. People with FASD need to have their disabilities accommodated in the correctional system. A more comprehensive approach to the mental health and criminal justice system would address prevention, diversion, treatment and rehabilitation needs of people with mental illnesses. For Yukon residents and communities, taking a comprehensive approach would mean the full direction and participation of Yukon First Nations in developing and delivering program models for healing, for after-care supports and for supportive housing.

Before I close, I want to comment to the members opposite and in particular to the Minister of Justice, that the overrepresentation of people with FASD in the correctional system and the overuse of separate confinement does a grave disservice to the population held at Whitehorse Correctional Centre and to the staff there and to the family members and community members of those who are incarcerated.

I think that this government needs to acknowledge the requirements in the Yukon *Human Rights Act* for accommodating people with disabilities, and that includes mental health and people with FASD.

Before I close, I want to say that I support the motion's procedural direction that in the event of support from all members for the bill, that this House directs the Speaker to convey the consensus of this House in support of Bill No. C-583 to the Speaker of the House of Commons of Canada, the Speaker of the Legislative Assembly of the Northwest Territories and the Speaker of the Legislative Assembly of Nunavut.

Mr. Speaker, I trust that you will reflect in your communication of the consensus some of the arguments that I have made today in support of this motion and some of the important matters that we are dealing with here today.

Mr. Silver: I rise to speak to this motion as amended. I do believe that the intent of the original motion coming forth from the NDP is still intact and I congratulate them for standing up for this important issue today.

It is of huge significance to all Yukoners. It is also admirable for the Yukon's Member of Parliament Ryan Leef to buck the trend and table legislation that actually looks to help people in the Canadian justice system, rather than handcuffing them with a mandatory minimum sentence.

In speaking also to former MP Larry Bagnell, I know that this was something he was also working on prior to leaving office in 2011. I'm glad to see our MPs, despite being from different parties, have common goals when it comes to issues that face Yukoners.

I would like to read from a consensus statement found in our Member for Parliament's act to amend the *Criminal Code* of Canada in respect to fetal alcohol spectrum disorder, FASD — and I quote: "The failure to have a full diagnosis of FASD should not be an excuse for ignoring relevant neurological impairments that may be associated with FASD. The imprisonment of an innocent man or woman, because of misunderstandings created by a condition over which an accused has no control, should shock the conscience of society."

There is still much research that needs to be done on FASD. The Canadian FASD research network notes that no two cases are identical and that the effects that alcohol has on brain development can vary widely. There are no statistics on how many people in Canada have FASD, but research indicates that in some other western countries it may be as high as five percent of live births.

I would like to take this opportunity to echo some of the other MLAs today thanking FASSY, the Fetal Alcohol Syndrome Society Yukon, for the hard work that they do to create an accepting and educated community in the Yukon for those whose cases have been identified, as well as the work that they do to prevent FASD. I know from my many years teaching that children born with fetal alcohol spectrum disorder do require special attention and the Yukon government did publish an education strategy on this in 2006.

It stands to reason that if a government is acknowledging FASD as an issue in the education system, then they should also be doing that in the judicial system. FASD is a complex issue that requires compassion. My office has been in contact with our federal Liberal counterparts and is encouraging them to support Bill C-583 should the private member bill ever make it to the floor of the House of Commons. I will be supporting this motion today. Once again, I would like to thank the members of the NDP for bringing it forward today.

Ms. White: Speaking to this motion today, I'm not going to go through studies and I'm not going to go through clinical diagnosis. What I'm going to talk about are two people that I'm really lucky to know quite well.

Back when I owned a coffee shop, there was a young man who would come by, probably three or four times a week and ask me if he could get a job. I told him, "When you turn 14 and you come back, I will give you a job."

This young man was exceptional in a lot of ways and it didn't take very long for me to realize that some of his exceptional qualities were ones that I was really going to have to learn to work with. When he started working with me, it was — he and I worked together because of some of those difficulties that he was going to have — not that he was going to have them, it just turned out that he had them when he came to work. When he came to work, I needed to learn how to ask him to do things in a way that he could understand. I couldn't expect him to understand things in a way that the other teenagers would. I needed to figure out how I needed to communicate, and the communication was different.

There are examples. I almost paid my rent at the Canada Games Centre in cookies — \$1 cookies — and those \$1 cookies had to get wrapped. But when we were wrapping cookies, we would wrap hundreds of cookies at a time — and it was a process — and it was a production line. Well, he got frustrated with the cookie-wrapping because there was a clear start, but there was never a clear end. He always had to leave the shop before we were finished, so he never got to see the task completed. I learned that cookie-wrapping was not something that he could do.

What I learned is that scrubbing the sink and making it shine like I had never seen before was something he could do — or cleaning the refrigerator was something he could do. What I also learned was that there was no cause and consequence. So every time that he would make a mistake and we would correct it, I had to learn that when he came back — even the next day — there was no recognition that that mistake was a mistake and couldn't be done. There was no cause and consequence. It never clued in for the next day.

I learned things like there was no caffeine when he worked. I learned that we wouldn't have sugared drinks. These are all things that I had to learn about him so that he could be successful, and he was successful because I gave him the opportunity and because I also listened to what his needs were. I didn't expect him to behave like other people because he didn't behave like other people. The thing is I worried about him always, because one of his traits is that he is a

people-pleaser. He wants to be liked and he wants to be normal — whatever normal is. He would go to great lengths to be accepted by people.

I always worried about him being victimized when he got older because — when I met him — his family had hired a caregiver, and 100-percent of that caregiver's concentration was on the one son — and they had three sons. I always worried about what would happen when he got to an age where the caregiver wasn't going to be able to keep up. There are examples. He loved remote-controlled cars but he was unable to stop himself from clipping the wires in the remote-controlled cars. That would make the radio antenna not work.

So it didn't matter that every time he clipped the wire on a car, the car wouldn't work, and he was always sadly disappointed that it wouldn't work again, but he couldn't stop himself from that compulsion. That all had to do with his disability.

In 2009, when I got my job in corrections, I said to my boss shortly after I got there that I worried that one day he would come in — that I worried that, after he turned 18, he was going to be doing something to try to please people, and he was going to get arrested. That actually happened when I was there. He was brought into the correctional facility. He is a bit smaller than men his age — he is a man now.

The correctional facility inadequately dealt with his needs. At the beginning, they were able to keep him out of general population because they recognized that he was small and he would be victimized. He would be the one with the bad behaviour; he would be the one to be encouraged to do those things. They kept him apart at the beginning, but they couldn't do that forever, so when he moved into the general population, he learned all sorts of skills that he never had when he went in — and they are not skills that we should be congratulating him on having. He developed behaviours that he didn't have before, because he was a constant people-pleaser — and when he left corrections, he came back in.

The second example when I was in corrections, in the two years I was there, there was only one single person who went through the diagnosis process for FASD. It took eight months for the manager of my unit and the woman's sister to convince her to go through that process. Part of the reason why it was so long is because she didn't want to have the title. She did not want the stigma that was associated with that.

So in the two years that I was there, I only saw one person go through the process of that and it was not an easy process. It took eight months of convincing before she actually started that.

We talk about the prevalence study and we talk about trying to identify people. This will not be easy, but just because it's not easy — I think we still need to go forward with it. There is so much still attached to it — so much stigma is still attached to the title — that we have to be really aware that this is not an easy process. We need to make sure that people have all the supports. When we talk about changing and what Bill C-583 is suggesting, it's actually about putting the human face behind those actions and behind those mistakes.

I hope that the Government of Canada does what I consider is the right thing and I hope we follow suit.

Mr. Tredger: Mr. Speaker, I rise in support of this motion. I was full of hope when we entered the afternoon and I'm still hopeful, but I also want to scream. It's high time that we as legislators, as members of our communities, have this conversation. This is a first step in a long and challenging journey. I want to thank the Member for Whitehorse Centre and our Member of Parliament Ryan Leef for bringing this to the fore — for bringing this long-awaited discussion to the light of day.

I want to congratulate and thank the members of the Canadian Bar Association. I am proud of them and the work they are doing, for recognizing that there was a problem — that there is a problem — and continuing to do the same thing would not work. They have become champions for justice for people — not just in the justice system, but for people in all of our communities — Whitehorse, rural, and across Canada.

We do have a problem. Dealing with FASD is a serious problem. It is challenging. The consequences of not dealing with it far outweigh the challenges of dealing with it. Front-line workers in the justice system, in the education system, in the health and social services system have known this. Community members, parents, friends and family have known this. They've been struggling; they've been bewildered; they've been frustrated.

I can remember first becoming aware of FASD. Teachers would come to me crying, angry, not knowing what to do. Parents would come to me at their wits' end. They were embarrassed. They couldn't manage their children. Courtworkers would come to me, saying, "What can we do?" We were fortunate to have been introduced to a book called *The Broken Cord* by Michael Dorris that put words to some of our frustrations that brought ideas to us. Further along, Dr. Asante gave us hope and inspiration and helped us as we worked together.

We know we can't do this alone. We know we have a problem. We know that the cost of diagnostics and appropriate supports are minuscule compared to the costs of ignoring the situation. The cost of family, the cost of community, the cost of friends and parents, the cost to our front-line workers and the monetary costs are huge if we don't deal with this.

I will keep my comments briefer than I had intended because I think it is important that we get this to a vote. When I look at all the legislators in here, I will say to each and every one of you that we don't need gate keepers. We need leaders. We need risk takers.

We need people to work together with people throughout our territory. We need compassion. We need hope. We need to build on the inspiration from this debate. The courtworkers, the judges, the teachers, the parents and the community members are counting on us.

Our Member of Parliament and the CBA are champions. We need to all be champions. We need to follow their lead. We need to realize that what we're doing now is not working. We need to put our heads together and come up with creative

solutions. We need to recognize our responsibility. If we recognize that jails are not the place for people with FASD, then we must also recognize that it is our duty not to pass on that responsibility, but to accept that responsibility to ensure that they have appropriate supports in place.

In conclusion, I thank everyone for their contributions to the debate. I thank our Member of Parliament, I thank the Member for Whitehorse Centre and I thank the Canadian Bar Association for having the courage to show us the way. I ask each and every one of us in this Legislature to take their lead and follow.

Speaker: If the member now speaks, she will close debate. Does any other member wish to be heard?

Ms. Hanson: When we came into the Assembly this afternoon, I think we all came in — certainly I did — I came in with a good heart and hoped that collectively we would find a way to set aside our partisan political consideration and basically show support for Bill C-583, a private member's bill introduced by our Yukon federal Member of Parliament and, at the same time, the humility to recognize, as I said earlier when I was quoting Rod Snow, the notion that we can't be guided by one principle of justice, fairness and ethics in the court and a different principle of justice, fairness and ethics in our correctional systems. I firmly believe that our judges and our jailers must be guided by one consistent set of principles applied both outside and inside our jails.

There is a lot of work to be done on that front. There's nothing in the many, many words that I heard this afternoon that has dissuaded me of that. I do believe that the motion that was brought forward by the Official Opposition today recognizes, as the past president of the CBA said, that it's neither ethical nor just for the law to punish individuals for failure to meet a standard of behaviour that their disability prevents them from meeting, and that is what the law and our justice system's institutions do when they fail to accommodate fetal alcohol spectrum disorder. In this way, our society criminalizes individuals with fetal alcohol spectrum disorder because of their disability.

I firmly believe and concur with him. He said that when a law is unjust, we have an obligation to change it. I believe that by passing this motion today — at least for those who are not present today to actually witness the proceedings — they will only view the outcome, which I am hopeful is the support of Bill C-583 — the support, if not the difficult and often unpleasant discourse. We will at least have done our small part to encourage the federal government to take seriously the initiative that is Bill C-583.

As I said at the outset, the federal New Democratic Party Official Opposition and the federal Liberals will support this. I have made personal calls to the Northwest Territories, but not yet to Nunavut — to members of the Legislature there — to seek their support. We now look to you, Mr. Speaker, presuming — and I suppose one should not presume the will of the House, but I'm hopeful — that you will take the news of the passage of this motion, which urges the federal

government to amend the *Criminal Code* with respect to fetal alcohol spectrum disorder, to your federal and territorial counterparts.

I commend this motion to the House.

Speaker: Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Madam Deputy Clerk, please poll the House.

Hon. Mr. Pasloski: Agree.

Hon. Mr. Cathers: Agree.

Hon. Ms. Taylor: Agree.

Hon. Mr. Graham: Agree.

Hon. Mr. Kent: Agree.

Hon. Mr. Nixon: Agree.

Ms. McLeod: Agree.

Hon. Mr. Istchenko: Agree.

Hon. Mr. Dixon: Agree.

Mr. Hassard: Agree.

Mr. Elias: Agree.

Ms. Hanson: Agree.

Ms. Stick: Agree.

Ms. Moorcroft: Agree.

Ms. White: Agree.

Mr. Tredger: Agree.

Mr. Barr: Agree.

Mr. Silver: Agree.

Deputy Clerk: Mr. Speaker, the results are 18 yeas, nil nays.

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

Motion No. 638, as amended, agreed to

Motion No. 659

Deputy Clerk: Motion No. 659, standing in the name of Mr. Silver.

Speaker: It has been moved by the Leader of the Third Party:

THAT this House urges the Government of Yukon to meet with all stakeholders following the 2014 tourism season to ensure the Dawson City airport is adequately serving the needs of all users.

Mr. Silver: Last year it was announced that Holland America would be partnering with Air North to provide a direct flight between Dawson City and Fairbanks, Alaska. Since then, we have seen ups and downs in whether these new flights would actually happen. The flights present new opportunities, clearly, for Dawson's tourism economy and I am excited to hear what the Klondike Visitors Association will have to say after the end of the tourism season here in

October about these impacts. It will also be interesting to see what the Klondike Development Organization has to say.

There are a number of stakeholders for whom this year will be make-or-break and this could have long-term ramifications for the Yukon tourism economy and the City of Dawson.

I rise today to speak to the following motion:

THAT this House urges the Government of Yukon to meet with all stakeholders following the 2014 tourism season to ensure that the Dawson City airport is adequately serving the needs of all users.

There are innumerable stakeholders these flights will effect, but specifically I would encourage the Government of Yukon to meet with the City of Dawson, the Klondike Visitors Association, the Dawson City Chamber of Commerce, the Klondike Development Organization, Wildland Fire Management, the Klondike Valley Fire Department, and of course Air North and Holland America.

The timeline of events have been filled with uncertainty since the announcement that Air North and Holland America would be partnering on this endeavour. In early November it was made public that U.S. Customs would not be accommodating new flights and that the manpower from the Top of the World border crossing would not be moved. A few weeks later, thanks to pressures from the industry and from Alaskan Senator Lisa Murkowski, the U.S. Customs reversed its decision and the flights were able to go ahead.

We also heard that there were delays with the Customs office construction. The original purposed customs structure was a wall tent, which neither the Canadian Border Services nor United States Customs and Border Protection saw as an adequate building for international security screenings. We are now days away from the first flights leaving, and although construction appeared to have started since I was in Dawson on Saturday, the Customs building is not quite ready as of yet.

During the budget speech, the Premier was proud to announce that the budget would include Yukon's largest transportation budget ever, providing \$85.264 million overall for airports, highways and bridges. We know that there will be a shortfall already in this, seeing as how the Nisutlin River bridge would not be moving forth this summer, but within this was the \$16.316 million that was earmarked for airports.

Nothing major for the Dawson Airport was in that, despite it seeing the largest increase in traffic this summer. Even the Customs building was not properly allocated for, and my understanding is that the structure being used for the 2014 season will once again be a temporary building, a temporary solution.

As well, the 737s cannot land and take off with full capacities because of the gravel runway. As the minister himself said to the *Yukon News* on Monday, flights can only take off with 60 passengers and land with 80.

On Monday, the Minister of Highways and Public Works reminded the House of the needs assessment that had been completed on the airport. The document was published in October yet no activity was taken in this budget.

Mr. Speaker, with so much hinging on the Dawson City Airport this summer, it leaves us to wonder why this was not budgeted as a major capital project. When this summer is over, it will be incredibly important that all of the tourism operators and stakeholders are brought to the table to dissect how the summer went. The obvious stakeholders to be at the table will be Holland America, Air North and the City of Dawson. They can provide us with the successes, the shortfalls, and if the summer indicates the long-term potential for flights between Dawson and Fairbanks.

I also encourage the Klondike Visitors Association, the Klondike Development Organization and Dawson City Chamber of Commerce to also be included at this table. As the associations that represent businesses in Dawson, they will be the ones who can best tell us whether the hotels, restaurants and small businesses saw an increase in business.

Finally, Wildland Fire Management and the Klondike Valley Fire Department should also be included in this round table. An issue that I raised on April 15 of this sitting was the state of readiness for local firefighters due to the increased traffic to come as a result of Holland America's decision to fly passengers through the Dawson City Airport. Last fall, the minister said: "Don't worry — Wildland Fire Management has a station right at the airport." As I've previously stated, the firefighters in Dawson I have spoken to weren't too excited with that response, to say the least. Wildland firefighters are not trained to handle airport fires or airplane fires, for that matter — also, for that matter, neither is the Klondike Valley Fire Department. With these flights only weeks away, why has no training taken place to ensure that there is adequate fire protection at the ready?

In response to my question, the Minister of Community Services informed the House that — and I quote: "... we don't take anything that comes out of the mouth of the Leader of the Liberal Party at face value." I can see that the member over there agrees with himself again — imagine that. But the fact remains — and this is the fact — that proper training has not been facilitated in Dawson for firefighters who have to meet and deal with incidents at the airport. Once again, we will be encouraging the members opposite to look into this serious issue and maybe get serious about fire protection at the Dawson City Airport.

The final point that I would like to make is about my concerns regarding the Kluane region. Last spring, I asked the minister about the impacts of the changes to the Kluane region as a result of Holland America rerouting away from the Alaska Highway. As the Member for Klondike, I am naturally happy to see more business being shuttled into Dawson this summer. However, I don't want to see the growth at the expense of another region. What steps has this government taken to ensure that impacts of this change are minimized? I am hoping we can have that conversation today.

It is good to see that the department is going to be visiting Haines Junction on Friday, but it is too late to mitigate any negative impacts in that region with the summer tourism season kicking off within the next three weeks. Kluane has seen a lot of businesses turn over in the last couple of years.

Holland America not providing tours in the region can only hurt those attempting to provide new life to the tourism sector.

Earlier this week, the Minister of Tourism and Culture stood up and presented this motion:

THAT this House urges the Government of Yukon, in recognition of the Yukon Party's platform commitments to promote Yukon's tourism economy, to continue to study the technical and economic business case of further capital upgrades, including paving the runway at the Dawson City airport, as part of the Government of Yukon's work with Air North, Yukon's airline, and Holland America to promote tourism to Yukon and the Klondike region through the use of tourism cooperative marketing agreements and strategic marketing campaigns.

I am happy that the minister is committed to capital upgrades at the Dawson City Airport but we have many questions. For example: What is the status of the study for the technical and economic cases? When will this paving happen? I hope the minister will be sharing some of his timelines with the House today or very soon.

Mr. Speaker, the NDP Member for Copperbelt South asked the Minister of Tourism and Culture and the Minister of Highways and Public Works about the airport on Monday as well. The Minister of Tourism and Culture presented his motion on the topic. It seems to me that we have support for the success of the Dawson City Airport across all party lines but, once again, the intent of the motion on the floor today is: What are the next steps?

I do urge the government to sit down in the fall with the City of Dawson, the Klondike Visitors Association, the Klondike Development Organization, Dawson City Chamber of Commerce, the Klondike Valley Fire Department, Wildland Fire Management, Holland America, Air North and all other stakeholders to ensure that the Dawson City Airport is meeting the needs for the tourism industry. This motion was written so that it was pretty straightforward. I think it needs support. It doesn't necessarily need amendments, but we'll see what happens on that front.

I don't think there's a member in this House who doesn't think that tourism is an extremely important industry and, in the spirit of cooperation and in the spirit of actually getting this debate to continue — I mean, I could sit here and talk for another five minutes and therefore have my turn continue later on, but I'm not going to do that. I'm intentionally going to sit down and allow somebody else to have the floor. This will be brought up again when we have our turn at the end of the session and I hope to continue the debate there.

Once again, I'm just putting it to the floor. I would like to thank everybody for listening to my comments and I hope that we get unanimous consent to this extremely important motion for my district.

Hon. Mr. Nixon: In my comments today, I want to talk for a few minutes about how we're working with stakeholders in Dawson City and the Klondike region to address and promote tourism. I would then like to talk about the changing market and how that influences travel options,

including the Dawson City Airport. Then I would like to talk about the importance of Air North, Yukon's airline, in responding to the changing market demands for transporting tourists to and within our territory.

I want to acknowledge the key role that Air North, Yukon's airline, contributes to the Yukon's social and economic development. As members know, the issue of tourism in the Klondike region is one that I care about very deeply. Members may recall that, when Parks Canada implemented some significant changes to the way their sites were made available to the public, my colleagues and I stepped up and worked with our MP to address that issue. I'll come back to that in a bit.

In response to this motion, I can say that the Government of Yukon is very proactive in actively communicating and working with the tourism industry stakeholders. Together, the tourism industry and the Department of Tourism and Culture continue to make notable and significant progress in raising global awareness of Yukon as a year-round travel destination. This progress is being made despite the competitive market challenges that Canada's tourism sector is seeing as a whole. Visitor and economic data demonstrates the success of this partnership.

Data from the Yukon visitor tracking program, from the border crossing statistics and from the 2013 Yukon business survey all confirm that tourism in Yukon is enjoying a period of growth. In fact, according to the visitor tracking program, visitation to Yukon is up 26 percent since 2004. Visitor expenditures are up 31 percent and average spending per party is up 95 percent. Canadian visitation increased by 127 percent and the overseas market increased by 79 percent. For reporting on an annual basis, border crossing statistics continue to be a consistent and reliable indicator of visitation numbers. 2013 saw an all-time record with more than 345,000 people crossing Yukon's borders, which was an eight-percent increase over 2012. This includes 17-percent more Canadian visitors and seven percent more U.S. citizens in 2013 over 2012.

Growth in tourism has also been confirmed in the recently released 2013 Yukon business survey, which is produced by the Yukon Bureau of Statistics. This survey shows that the private sector revenue attributable to tourism is an estimated \$250 million, up from \$197 million reported in 2009. Similarly, tourism's contribution to the GDP was \$113.8 million in 2012, which was up from \$92.5 million in 2009.

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

Debate on Motion No. 659 accordingly adjourned

The House adjourned at 5:30 p.m.

The following Sessional Paper was tabled April 30, 2014:

33-1-117

Yukon Law Foundation Annual Report - November 1, 2012 to October 31, 2013 (Nixon)

The following documents were filed April 30, 2014:

33-1-81

Fleet Vehicle Agency 2014-2015 Business Plan (Istchenko)

33-1-82

Workers' Advocate Office 2013 Annual Report (Nixon)