



# Yukon Legislative Assembly

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Number 20

1<sup>st</sup> Session

35<sup>th</sup> Legislature

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## HANSARD

Monday, October 25, 2021 — 1:00 p.m.

Speaker: The Honourable Jeremy Harper

# YUKON LEGISLATIVE ASSEMBLY

## 2021 Fall Sitting

**SPEAKER** — Hon. Jeremy Harper, MLA, Mayo-Tatchun  
**DEPUTY SPEAKER and CHAIR OF COMMITTEE OF THE WHOLE** — Annie Blake, MLA, Vuntut Gwitchin  
**DEPUTY CHAIR OF COMMITTEE OF THE WHOLE** — Emily Tredger, MLA, Whitehorse Centre

### CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Sandy Silver	Klondike	Premier Minister of the Executive Council Office; Finance
Hon. Tracy-Anne McPhee	Riverdale South	Deputy Premier Government House Leader Minister of Health and Social Services; Justice
Hon. Nils Clarke	Riverdale North	Minister of Highways and Public Works; Environment
Hon. John Streicker	Mount Lorne-Southern Lakes	Minister of Energy, Mines and Resources; Public Service Commission; Minister responsible for the Yukon Development Corporation and the Yukon Energy Corporation; French Language Services Directorate
Hon. Ranj Pillai	Porter Creek South	Minister of Economic Development; Tourism and Culture; Minister responsible for the Yukon Housing Corporation; Yukon Liquor Corporation and the Yukon Lottery Commission
Hon. Richard Mostyn	Whitehorse West	Minister of Community Services; Minister responsible for the Workers' Compensation Health and Safety Board
Hon. Jeanie McLean	Mountainview	Minister of Education; Minister responsible for the Women and Gender Equity Directorate

### OFFICIAL OPPOSITION

#### Yukon Party

Currie Dixon	Leader of the Official Opposition Copperbelt North	Scott Kent	Official Opposition House Leader Copperbelt South
Brad Cathers	Lake Laberge	Patti McLeod	Watson Lake
Yvonne Clarke	Porter Creek Centre	Geraldine Van Bibber	Porter Creek North
Wade Istchenko	Kluane	Stacey Hassard	Pelly-Nisutlin

### THIRD PARTY

#### New Democratic Party

Kate White	Leader of the Third Party Takhini-Kopper King
Emily Tredger	Third Party House Leader Whitehorse Centre
Annie Blake	Vuntut Gwitchin

### LEGISLATIVE STAFF

Clerk of the Assembly	Dan Cable
Deputy Clerk	Linda Kolody
Clerk of Committees	Allison Lloyd
Sergeant-at-Arms	Karina Watson
Deputy Sergeant-at-Arms	Joseph Mewett
Hansard Administrator	Deana Lemke

**Yukon Legislative Assembly  
Whitehorse, Yukon  
Monday, October 25, 2021 — 1:00 p.m.**

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

*Prayers*

**Withdrawal of motions**

**Speaker:** The Chair wishes to inform the House of a change which has been made to the Order Paper. The following motion has been removed from the Order Paper as the action requested in the motion has been taken: Motion No. 143, standing in the name of the Member for Porter Creek North.

**DAILY ROUTINE**

**Speaker:** We will proceed with the Order Paper.  
Introduction of visitors.

**INTRODUCTION OF VISITORS**

**Hon. Mr. Mostyn:** This afternoon, we have Nick O’Carroll of the Whitehorse Firefighters Association, and Chris Gerrior, who is with the Association of Yukon Fire Chiefs. They are here for the Yukon *Workers’ Safety and Compensation Act* introduction. Please give them a rousing welcome.

*Applause*

**TRIBUTES**

**In recognition of flood response volunteers**

**Hon. Mr. Mostyn:** I rise today to pay tribute to all the volunteers who contributed to this year’s flood response in the Yukon. In the Southern Lakes, our government mounted the largest flood response in the territory’s history. Hundreds of public servants worked tirelessly alongside Canadian Armed Forces, incident management teams from outside of the territory, and thousands of volunteers. It was the volunteers who truly brought the Yukon spirit to the response.

The Little Salmon Carmacks First Nation, Teslin Tlingit Council, and the municipalities of Carmacks and Teslin also undertook significant flood relief efforts in their respective communities.

Across the territory, thousands of Yukoners stepped up to help their friends, their neighbours, and strangers alike through a very difficult time. At sandbagging stations across the Yukon, volunteers of all ages showed up in force for weeks on end to fill sandbags for residents in need. Others helped homeowners to build berms or other protective structures on their properties. Volunteers unable to do physical labour found other meaningful ways to contribute. Some recruited additional volunteers and directed them to specific properties in need. Others brought food and refreshments to fellow volunteers and members of the incident management team, who were working long days filling and moving sandbags. It was remarkable to see the amount of time and energy that Yukoners dedicated to helping those in need. Thank you.

Hon. Speaker, the Yukon is a special place. We are so lucky to live here where the boreal forest collides with towering mountains and rushing rivers and to be able to recreate on these lands. The territory is also remote and rugged. This makes this place special, but it also poses challenges for people who live here. We feel the impacts of climate change and related extreme weather strongly in the north, as demonstrated first-hand by this year’s flooding. When things go sideways, help is often far away, but it is comforting to know that Yukoners are always ready to help each other out. Yukoners are resilient and take each challenge in stride and are always willing to face the challenges posed by living in the north head on. Through every challenge that arises, Yukoners never fail to check on their neighbours, always asking, “How can I help?” That, to me, is the true spirit of the Yukon, and it became abundantly clear this summer.

So, to everyone who volunteered their time and energy to help residents, neighbours, friends, and family impacted by the floods, thank you for reminding us what it means to be a Yukoner.

*Applause*

**Mr. Cathers:** I rise today on behalf of the Yukon Party Official Opposition in tribute and recognition of all those who dedicated their time, knowledge, and effort to the 2021 Yukon flood response. This year saw unprecedented flooding in a number of areas in the Southern Lakes, Lake Laberge, as well as flooding on the Yukon River and the Takhini River. I would like to acknowledge that those involved in that response included volunteers, government staff, local businesses, the military, Yukon government, First Nations, municipalities, federal government, and, of course, flood specialists from Manitoba who assisted as well.

From June to September, people dealt with flood preparation and flood response, with the peak of those efforts in late June, July, and part of August. At one point, local stores were completely out of sandbags, and private contractors were delivering sand and gravel as quickly as they could, every day, seven days a week.

There was also a remarkable response from many Yukon citizens. Hundreds of people volunteered — some of them for many, many hours — to help their fellow Yukoners. These volunteers filled sandbags, delivered them, helped homeowners with berm construction, and did many other things in assisting with the flood response. Some delivered water, iced tea, and other refreshments. Local businesses were instrumental in helping to keep the strength of volunteers up by delivering flats of water and juice, along with sandwiches and snacks, and much of that, of course, was donated.

Mr. Speaker, this effort from volunteers across the territory was true Yukon spirit in action, and I don’t think that anyone has a full count on just exactly how many people took time from their lives to help their fellow Yukoners. So, to everyone who helped out, thank you.

*Applause*

**Ms. White:** I stand on behalf of the Yukon NDP to thank the thousands of Yukoners who showed up to help their neighbours in their time of need. The 2021 flood season was a doozy. It touched shores as far south as Teslin and saw the river cutting banks as far away as Carmacks. We saw the highest water levels on record in the Southern Lakes and Lake Laberge, and we know that Mother Nature threatened hundreds of homes in a way that we weren't entirely prepared for. There are certainly lessons to be learned, but the biggest takeaway is that Yukoners — they showed up.

Hundreds of people turned up to do the heavy lifting of filling and moving sandbags and whatever else was needed. They built ingenious fillers to help ease the work. They brought shovels, snacks, and music, but more than anything, they brought heart. Yukoners showed up day after day, and businesses sent their entire staff. Yukon government staff showed up when they were able, and folks kept turning up where they were needed, when they were needed.

I know that those facing the rising water dealt with incredible stress and worry, but I also know that when they needed it, Yukoners showed up to help. Thank you to all those who did what you could to show our community how much you care.

*Applause*

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

### TABLING RETURNS AND DOCUMENTS

**Hon. Mr. Pillai:** Pursuant to section 7(7) of the *Historic Resources Act*, I have for tabling the Yukon Heritage Resources Board 2020-21 annual report.

**Speaker:** Are there any reports of committees?  
Are there any petitions?  
Are there any bills to be introduced?  
Are there any notices of motions?

### NOTICES OF MOTIONS

**Mr. Dixon:** I rise to give notice of the following motion:  
THAT this House urges the Yukon government to ensure COVID-19 vaccinations for children five years old and up are available to Yukoners immediately following their approval for use in Canada.

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

THAT this House urges the Yukon government to follow the lead of provinces and territories that have already made COVID-19 booster shots available to senior citizens by immediately making third doses available to all Yukoners aged 65 and older who want to receive it.

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

THAT this House congratulates Mayor Laura Cabott, as well as councillors Mellisa Murray, Michelle Friesen,

Dan Boyd, Jocelyn Curteanu, Ted Laking, and Kirk Cameron for the City of Whitehorse.

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

THAT this House congratulates Mayor Chris Irvin, as well as councillors Lauren Hanchar, Dale Burdes, Thomas Slager, and Denina Paquette for Watson Lake.

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

THAT this House congratulates Mayor Jack Bowers, as well as councillors Leif Nyland, Taylor Fetterly, Sarah McHugh, and Paul Medvid for the Town of Faro.

I also give notice of the following motion:

THAT this House congratulates Mayor Gord Curran, as well as councillors Luc Johnstone, Juanita Kremer, Trevor Sallis, and Jeff Myke for the Village of Teslin.

I also give notice of the following motion:

THAT this House urges the Minister of Highways and Public Works to delay the implementation of the new weigh scale exemption requirements scheduled to come into effect on November 1, 2021 until proper consultation with industry takes place.

I also give notice of the following motion:

THAT this House urges the federal government to ensure that the company that holds the Faro mine site remediation contract:

- (1) consults regularly with the Ross River Dena Council and the Town of Faro, provides them with project updates, and listens to their concerns;
- (2) employs local contractors to the fullest extent;
- (3) supports local businesses to the fullest extent; and
- (4) ensures that all local businesses are paid in a timely fashion.

**Mr. Istchenko:** I rise in the House to give notice of the following motion:

THAT this House congratulates new Mayor Bruce Tomlin, as well as councillors Vicky Maynes, Diane Strand, Angie Charlebois, and Mark Nassiopoulos for Haines Junction.

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

THAT this House urges the Government of Yukon to establish a public inquiry into the handling of the sexual assault at Hidden Valley Elementary School from 2019 to 2021 that will be tasked with reviewing information and recommendations on:

- (1) decisions made around the communications to parents by the Department of Education, the Department of Justice, and the Department of Health and Social Services;
- (2) communications between the former Minister of Education and the current Minister of Education and their staff; and

(3) communications and decisions made once the information regarding the sexual abuse became public in the media in July 2021.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to appoint a technical working group, co-chaired by the Government of Yukon and First Nation governments, to build consensus on Yukon wetland policies and land use planning.

I also give notice of the following motion:

THAT the terms of reference for the Special Committee on Electoral Reform, as established by Motion No. 61 of the First Session of the 35<sup>th</sup> Legislative Assembly, be amended by changing the special committee's reporting deadline to the House from March 31, 2022 to the 2022 Fall Sitting of the Legislative Assembly.

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

THAT this House urges the Government of Yukon to review the social assistance rates.

**Speaker:** Is there a statement by a minister?

## MINISTERIAL STATEMENT

### Great Yukon Summer Freeze program

**Hon. Mr. Pillai:** This year, our government introduced a number of new incentives to inspire Yukoners to explore the incredible opportunities and experiences available in our own backyard.

One important initiative was the Great Yukon Summer travel rebate program. The program provided Yukoners a 25-percent rebate for package tourism experiences offered by our local tourism businesses. This campaign helped Yukoners explore new places while supporting our local businesses in a safe and responsible way. Over 170 tourism packages from 62 businesses were shared with Yukoners. As of October 19, more than 1,800 Yukoners have participated in the Great Yukon Summer, spending over \$1.3 million with Yukon tourism businesses. So far, there have been 760 applications for rebates totalling over \$320,000.

This initiative not only provided opportunities for Yukoners to travel, explore, and have new experiences close to home, it created new ambassadors and champions of Yukon businesses. Yukoners now know more about the territory and have more experience of all that our tourism sector has to offer. They can tell their friends and family about their experiences and promote the many world-class opportunities available throughout the territory. This program has been good for Yukoners and good for Yukon businesses. That's why, in September, we extended the program so that Yukoners could continue to book experiences with Yukon businesses through the month of October. The deadline to submit summer rebate applications has been extended to November 30, 2021.

We also announced that the Great Yukon Summer Freeze rebate program, which builds on the success of the Great Yukon Summer, will allow businesses to offer Yukoners a wide range

of winter experiences. The Great Yukon Summer Freeze will function like the summer program, with Yukoners paying for eligible tourism packages offered by local operators and applying for a 25-percent rebate. Given the popularity of the summer rebate program, expanding it to include unique winter experiences only made sense. This will support winter operators to participate and encourage Yukoners to get out and experience winter in a whole new way. These packages are now available for booking at [greatyukonsummer.ca](http://greatyukonsummer.ca), and more will be added in the coming weeks. Great Yukon Summer Freeze experiences will be available from November 1, 2021 to March 31, 2022.

The rebate program will continue to be administered by the Yukon Chamber of Commerce, which has done a wonderful job and has been an indispensable partner in making this program happen. In May, we declared 2021 the year of the Great Yukon Summer. In true Yukon fashion, we wouldn't let the weather get in the way as we look forward to the Great Yukon Summer Freeze. Thank you to everyone who has made the Great Yukon Summer a success. I encourage everyone to check out the experience packages and show our local tourism operators some love and support by taking part in a new and different winter experience this season.

**Ms. Van Bibber:** Thank you for the opportunity to respond to this ministerial statement. We know that tourism was hit especially hard during the pandemic, as many people around the world were under various levels of restrictions and lockdowns. Those measures not only resulted in border closures, but in many parts of the world, people were encouraged to stay home to prevent the spread of COVID.

As a former tourism operator, I know that disruptions like the pandemic can have serious consequences for our Yukon tourism businesses. Many had to make the hard decision of trying to ride out the pandemic or close shop. However, tourism operators are resilient. When one door closes, another one opens. Yukoners who were accustomed to travelling outside of the territory for vacations had a chance to explore their own backyard. The Great Yukon Summer campaign gave them a little extra incentive to do just that. Tourism operators whom I spoke with said that it was great that there was at least something to encourage Yukoners to vacation in their home territory.

As border restrictions are now lifting, there are greater opportunities to travel Outside. I know that tourism operators are grateful that this summertime campaign is being extended through the winter — to continue the momentum of travelling close to home — because winter tourism operators are looking for any help that they can get. A few customers are better than no customers. Thanks to this program — which, I have to add, is being administered by the Yukon Chamber of Commerce — tourism operators have something to look forward to this winter. I thank the chamber for the work that they are doing on this program.

Now, this brings me to tourism recovery. With borders reopening and vaccination rates climbing, more people would be inclined to plan a vacation and pack their bags.

I mentioned earlier that people were staying home during the pandemic. They probably spent a little too much time on the Internet — thus the great opportunity to stumble upon anything mentioning the Yukon. I am wondering when the Yukon government will be transitioning to more external tourism marketing in our key market areas, because tourism operators like to fill their bookings well in advance and they need assurances of a marketing plan. They need to know how many visitors they can expect so that they can plan for staffing and prepare other aspects for their businesses, which will hopefully turn out to have a very busy summer season.

While this Great Yukon Summer Freeze campaign focuses on over 40,000 people in the territory, tourism operators need access to millions of potential travelers in national and international markets to not only survive but to thrive.

I know that Yukon tourism operators appreciate the business of Yukoners; however, it is travelers from elsewhere that provide the number for businesses to meet their bottom lines.

**Ms. Blake:** We know that tourism numbers will remain low this winter as COVID-19 continues to keep travellers home. Tourism is the single biggest private employer in the Yukon, and the pandemic has been devastating for this critical sector.

Making trips with local operators more accessible to Yukoners has been an effective tool to blunt the worst impacts of COVID-19 on this sector. However, when searching the list of available programs, many cultural tourism operators seem to be left out. Tutchone Tours, located in Pelly Crossing, provides tourists the opportunity to learn the history of the Northern Tutchone people as they tour Fort Selkirk by riverboat. Josie's Old Crow Adventures also connects tourists with traditional Gwitchin knowledge through storytelling and land-based tours along the Porcupine River, as well as dog-sledding adventures.

There are no packages to visit Watson Lake, which is the gateway to the Yukon. Many classic Yukon trips are available through the program: flightseeing at Mount Logan, dog sledding, aurora viewing, as well as paddling the mighty Yukon River. Perhaps the missing operators were not interested in working with the department, or maybe they were once again overlooked.

On the Great Yukon Summer website, only two results are listed under "Arts, Heritage & Cultural Experiences". Both are just outside of Whitehorse and neither feature indigenous arts or culture. So, the department, while it works to release its overdue cultural industry strategy, needs to be asking itself why these types of operators aren't reflected in this program. I hope that this program has been a success for those who chose to access it and helps to ensure that some of our many amazing tourism businesses survive these challenging times.

I am glad that this program has been extended for the winter season, and I hope that Yukoners continue to take advantage of it. I also hope that the department is working to be more inclusive of indigenous operators who are located in communities outside of Whitehorse, Dawson City, and Haines Junction.

**Hon. Mr. Pillai:** Just to respond to some of the questions and comments from the opposition — and thank you for your questions and comments. First, I think it's important to know that this program was about supporting Yukon tourism businesses — and continuing to support them. I think we've done a good job in the departments — Tourism and Culture and Economic Development — in putting very significant programs in place that I think have been very effective through the Yukon business relief program as well as our accommodation and non-accommodation programs, which have now been extended until March.

It was really about ensuring that we provided opportunity for cash flow for these organizations so that they could start to tool up and get their staff in place. It was also about, for many years — the Department of Tourism and Culture wanted to get operators to put packages together and to put them online, and there were challenges with that. Now we have almost 200 packages from over 60 businesses. That's something that we can continue to use into the future.

It also was about ensuring that Yukoners who didn't have a chance to see or experience certain things became ambassadors. As we open up over the next year, we will have that opportunity to share with friends and family and to talk about over 1,800 new ambassadors.

Concerning the questions from the opposition and the comments, I would just say thank you to the Member for Porter Creek North. I think we'll have a good opportunity during supplementary debate to maybe talk about how we're deploying our finances right now.

We have a multi-platform approach that started on October 18. If anybody was watching Hockey Night in Canada the other night, you would have seen great commercials highlighting the Yukon. We have a digital strategy that we're working with Cossette and Aasman on. We have a TV strategy or a network strategy, as well as multiple publications. They are all focused on a domestic market at this particular time across the country and really identifying a strong strategy. We've heard from industry players across the country that the Yukon has done very well in ensuring that our brand placement continued on, where others had starts and stops.

We met with Destination Canada as well. We're looking at, in Q1 of 2022, a very significant strategy that is going to go into some of those key markets that my critic already touched on — where we are getting the biggest bang for our buck, which is really in that European market.

I think that we are very well-positioned. We are going to continue to try to help here at home — build more ambassadors for winter products and, at the same time, make sure that we refocus and get those other, higher end clients coming back in, who are so, so important to our local businesses.

As for the other questions — this has really been driven by individuals. We don't choose who gets to be here. We are just here to help folks. We were also providing up to \$2,000 for any operator who wanted to put together a bit of a strategy and package. So, I would challenge my critic from the Third Party to please reach out to Mr. Josie and let them know what is there.

We will reach out to the First Nation tourism and culture group — we have a very strong relationship. I think that anybody — some of the comments that were made — who would say that we are not supportive of indigenous tourism and cultural product — that would be a big departure from the actual facts. My colleague, the previous minister, did a tremendous amount of work, working at a national level and, again, at the Yukon level, to ensure that we're highlighting those.

So, please, for any of us in the House, if you have tourism operators in your riding, please reach out to them. Let them know that this is a good opportunity. I know that in the Kluane riding, some of the biggest uptake came from operators in that riding.

Again, if anybody has any other questions, please reach out to the department. We want as many operators as possible having that opportunity to show their packages this winter.

**Speaker:** This then brings us to Question Period.

## QUESTION PERIOD

### Question re: Sexual abuse within elementary school

**Mr. Kent:** So, in response to questions from the opposition about additional supports for students and staff at Hidden Valley school, the Minister of Education made some very strong promises. The minister made a clear promise to ensure that additional supports are available to schools, including on-site social workers and coordination supports, as well as health and wellness resources.

However, in a letter last week, the president of the Yukon Teachers' Association responded to this promise with a very strong rebuke to the minister. I will quote from that letter: "I work closely with our Yukon schools. There are no reports of meaningful additional supports being provided, there is no Yukon Education plan shared with schools, and I understand there has been no communication of this initiative prior to the promise being made to the legislature."

So, who should Yukoners believe: the minister, who has admitted that she was not aware of certain happenings in her own department for over two months, or the Yukon Teachers' Association, who works closely with, and is familiar with, what is happening in our schools?

**Hon. Ms. McLean:** I am happy to stand again to speak about Hidden Valley and the situations that have unfolded there since 2019. I have been clear about the situation, the seriousness, and the attention that is being given.

I have spoken about some of the changes that have happened in the Hidden Valley school, and I am happy to do so again.

In terms of supports, we have made supports available, of course, to families and staff, including on-site support coordinated via the school community consultant, who is a trained social worker. I think that the opposition may be mixing up some of those facts.

Referrals to other supports and services are being facilitated as needed. I know that the president of the Yukon Teachers' Association did write a letter — and wrote a letter to

me as well. I am responding to that letter and have a meeting set with him tomorrow. I would be happy to continue on with my answer as we move forward.

**Mr. Kent:** It is clear from that letter that the president of the YTA doesn't agree with the minister's assessment of what is happening on the ground at Hidden Valley. The minister has raised expectations of additional supports for Hidden Valley school, but the unfortunate reality is that the minister has not delivered.

According to that same letter from the YTA to the minister last week, I will quote again: "It is my view that trying to make good on this promise, during a serious staffing shortage, will make the professional lives of schools Administrators and Educators untenable. The expectations of the public have been raised, but we see no plan to properly resource the solutions to meet those expectations."

What is the minister doing to ensure that she can live up to the expectations of additional supports for Hidden Valley that she has raised?

**Hon. Ms. McLean:** Again, the supports to Hidden Valley are incredibly important, more so than ever given the challenges that the school has faced this year. Referrals to other supports and services are being facilitated as needed, such as through Family and Children's Services, Mental Wellness and Substance Use Services, and Victim Services. Some examples include: child and family rapid access counselling, as well as long-term individual and group counselling support for children and their families; assistance with how to talk to children about abuse and how to support children's personal safety; helping parents to determine family needs and obtain referrals for appropriate supports and services locally; and other direct supports from Victim Services, Mental Wellness and Substance Use Services, and/or the Department of Education services.

Again, I want to thank the dedicated staff for their sincere work at the Hidden Valley school through their administration and staff, who are going above and beyond their usual responsibilities to ensure that children feel safe and supported, including monitoring the emotional well-being and psychological safety of the Hidden Valley school community.

**Mr. Kent:** The minister does a long laundry list of additional supports, but in the October 19 letter, the president of the YTA said, "There are no reports of meaningful additional supports being provided..."

Last week in the Legislature, we asked the minister to commit to prioritizing Hidden Valley school for teachers on call to help ensure that staff there are able to access the necessary counselling support that they need.

We asked that the minister ensure that the school had enough specialty teaching supports, such as educational assistants and learning assistance teachers, to ensure that students were adequately supported. At that time, the minister refused to answer clearly. Now the YTA has weighed in and suggested that the current staffing shortage will make it nearly impossible to live up to the promise that the minister made to the school community.

How will the minister ensure that the promise she made to the Hidden Valley school community will be kept?

**Hon. Ms. McLean:** We will absolutely continue to work with the Hidden Valley school community to ensure they have the supports that they need.

I will pivot over and just speak a little bit about the staffing challenges that we have had this year. Effective teachers are one of the most important factors in a student's success at school, and we work to attract and retain our best educators.

Teachers on call fill in as needed when staff are absent from work. We know that this has been an incredible challenge this year and is a very big part of our COVID-19 pandemic response. We are actively increasing the numbers of teachers on call. As of October 18, we had 176 registered, 32 applications are pending, and most of those are in Whitehorse. We acknowledge that increased staff absenteeism due to COVID-19 and the requirement to stay home when sick is an additional challenge. We continue, of course, to work closely with Hidden Valley school to ensure — as we do with all schools — that we are making best efforts to fill those positions as they are needed.

#### **Question re: Sexual abuse within elementary school**

**Mr. Cathers:** We know that the Deputy Premier became aware of sexual abuse at Hidden Valley school in 2019. She did not share this information with parents. As a result, several children went without justice for almost two years and went without support.

In an attempt to further hide and distract from the Deputy Premier's inaction, the Liberals have launched a smokescreen of a so-called independent review. Last week, in a briefing with the Deputy Minister of Education, my colleague was told that officials believe the contract for the so-called independent review was actually held with the Department of Justice. That department reports to the Deputy Premier.

Can the minister confirm that what we were told is true and that it is indeed the Department of Justice that holds the contract with the lawyer who will be looking into the scandal that was created under the Deputy Premier's watch?

**Hon. Ms. McLean:** I have spoken about this many, many times — again, a devastating situation that unfolded in 2019. There are a number of reviews underway, one of which is one that I have launched as an independent review of the Government of Yukon's response to the situation at Hidden Valley Elementary School. This is, of course, a commitment that I made to the parents of Hidden Valley Elementary School. I really do not agree with the members opposite casting a shadow and putting into question this review.

This is an important process for our families, for our children, and for Yukoners overall, and I believe that this is where the answers will come. The independent review will look into our internal and interdepartmental processes in 2019 when the allegations of child abuse were brought forward to the Department of Education, as I have said time and time again. I will continue to say that because it is an important message for the families, most of all — that this is a very comprehensive,

broad review and will answer the questions that have been posed through this session.

**Mr. Cathers:** Well, the minister didn't answer the question. This is a very important point, Mr. Speaker. The so-called independent review was already blatantly a smokescreen meant to kick the issue down the road and try to save the political career of the Deputy Premier. It is clearly designed to look only at 2019 and only look at actions by departments. It makes no mention of looking at why the Deputy Premier swept this information under the rug and chose to let children go without justice or support for almost two years.

Now, according to the Deputy Minister of Education at last week's briefing, the contract for the so-called independent investigation is actually held under the authority of the Deputy Premier's own department. Yukoners need to know if that is accurate or not, and the minister didn't answer the question.

Were Education officials correct when they told the opposition last week that the contract for the so-called independent investigation is actually held by the Deputy Premier's department?

**Hon. Ms. McLean:** Again, I have launched this incredibly important independent review, which is being conducted by Amanda Rogers. She has been on the ground over this last week and has started the work that's necessary to bring light to the questions that have been posed many times in this legislative Sitting. I am committed to ensuring that the work is done in a transparent — and in a way that brings the answers to Yukoners.

I tabled the document with the terms of reference earlier in the Sitting, which brings us to the target date of January 31 as a delivery date. This is a review that I have launched as the Minister of Education. This is a review that will look at the departments of Education, Justice, and Health and Social Services and the interaction with the RCMP as a result of the situation involving child sexual abuse in 2019.

**Mr. Cathers:** The Deputy Premier admitted to media that she was aware of the sexual abuse that took place at Hidden Valley school and knew about this in 2019, yet a decision was made not to tell parents, which directly led to children going without justice and support for nearly two years. Nearly 350 Yukoners have signed a petition demanding that the Deputy Premier explain her actions. So far, she has refused to answer even basic questions about her role in this. Instead, the government has launched a smokescreen of a review to try to kick the issue down the road and save the minister's political career.

Yukoners want answers now. Why did the Deputy Premier not share the information that she had in 2019 and 2020? Why are they hiding this information now? Is it because they are worried that the NDP will become uncomfortable propping up their government if the truth about the minister's actions were revealed?

**Hon. Ms. McLean:** Again, I always go back to this in the beginning, because I think it's really important that, at the heart of this, we acknowledge that, of course, there was a breakdown in trust between families of Hidden Valley and the Department of Education. At the heart of this are our children.



We have acknowledged it was a mistake that other parents were not made aware of the situation and that steps could have been taken at that time to better inform and support families.

I want to remind the opposition that there is an investigation going on from the RCMP as well to determine their role in this and the lack of investigation and contact with other parents. Both the previous Minister of Education and I have apologized to parents for that, and we are taking action to improve our system going forward.

I am incredibly proud to be the Minister of Education even during these difficult times, Hon. Speaker. I take my role and my commitments, particularly to the families, children, school community, and Yukoners, very seriously. I am looking forward to the results of this review, the child advocate review, and the RCMP review.

### Question re: Safe at Home plan

**Ms. Blake:** Alcohol use is associated with many diseases and conditions, including cirrhosis, fetal alcohol spectrum disorder, and cancer, among others. We know that alcohol abuse also contributes to increases in family violence, violence against women and children, and our ever-increasing rates of drunk driving.

The 2017 Safe at Home community action plan calls for the exploration of a managed alcohol program. It has been over four years since that plan was released. Has the minister directed her department to develop a managed alcohol program in the Yukon?

**Hon. Ms. McPhee:** I think that it is an important question raised by the opposition. In this instance, of course, alcohol is a serious concern here in the territory. We have noted that in many of the policies through Health and Social Services, but I would like to speak about *Putting People First* and the fact that this is a plan going forward that will include many of the services that are contemplated by the question that was noted. There was lots of information in there. The implementation of *Putting People First* and the recommendations through that plan and report to Yukoners, which was independent as well, is an incredibly important path forward for people-centred health services for individuals.

In short, I have not directed the Department of Health and Social Services to implement a managed alcohol program, but that doesn't mean that work is not happening on the issues that have been noted in the question and are being done under the umbrella of *Putting People First* and the implementation going forward.

**Ms. Blake:** The Yukon Medical Association, the RCMP, and many NGOs have all expressed support for a managed alcohol program. The former Member for Mayo-Tatchun supported the program. The former Minister of Health and Social Services also visited a managed alcohol program in Ottawa. She said in this House that we need — and I quote: "... to support the needs of all of our communities. This is a key reason why we are exploring the possibility of a managed alcohol program."

Will this minister listen to experts and commit here and now to opening a managed alcohol program in the Yukon?

**Hon. Ms. McPhee:** There isn't anything in the preamble to that question that I disagree with. We clearly have a challenge before us. We are implementing the recommendations of *Putting People First*, which was a comprehensive, independent report about the Yukon's health care system and how we can better serve Yukoners, how we can put Yukoners — every single patient — at the centre of that care. That includes the concepts of managing drugs and alcohol and the effects that they have on individuals.

I'll stop there.

**Ms. Blake:** In June of this year, the federal government announced funding for programs to address alcohol-related harms, including alcohol-use disorder. This program explicitly included managed alcohol programs. The Government of Canada has offered to pay for it. All that this government has to do is apply.

Has the department applied for this funding, and if not, why not?

**Hon. Ms. McPhee:** I have noted that *Putting People First* will help us to address — there are 76 recommendations from that report, and implementation of those recommendations is critical to changing and improving the health care system here in the territory for Yukoners. It's an exciting opportunity for that to happen.

I should also note that the government has opened a supervised consumption site for safe drug use for individuals here in Whitehorse and others who are visiting. It is our partnership with Blood Ties Four Directions and their expertise — and the operation of the safe consumption site in Whitehorse supports people who use drugs to do so safely. I do not have the specific answer with respect to the question regarding federal funding, but I can respond to the member opposite in writing.

### Question re: Affordable housing

**Ms. White:** Despite this government regularly patting itself on the back when it comes to housing, Yukoners are still in a housing crisis and tenants are dealing with the worst of it. Folks who rent can be evicted from their homes without reason, and this is an issue that we have raised in this House time and time again. It is an issue that renters and organizations like Yukon Anti-Poverty Coalition have called out for years, and still the government is pretending that everything is fine and renters are happy, so I just wanted to check something.

Does the minister believe that the status quo is protection enough, or does he believe that tenants deserve better protections from eviction?

**Hon. Mr. Mostyn:** I appreciate the question this afternoon and my first opportunity to rise in this House during Question Period. In response to the member opposite, I would say that tenants who feel that their landlord is not compliant with the act should apply for dispute resolution with the residential tenancies office. If the application fee is a hardship, or if any fees or any hardship applies to tenants, they can apply to the residential tenancies office and actually find relief there. They will mediate disputes between landlords and tenants. We know that there are issues in the territory right now with the availability of housing. Our government is working very hard

on multiple fronts to provide the housing that Yukoners need to go about their lives and run their businesses.

**Ms. White:** The problem is that the act allows for evictions without cause; that's the problem. Recently, one mobile home park forced new tenancy agreements on mobile-homeowners living in that park. The residential tenancies office sided with the tenants who brought this issue forward and directed the owners of the park to withdraw the new agreements.

But this is where it hurts: Other parks have also been forcing similar illegal new agreements on their tenants. The residential tenancies office doesn't make their decisions public, which means that other mobile-homeowners are not aware of their rights and are being forced into illegal agreements.

When will the minister stand up for mobile-homeowners and direct the residential tenancies office to make their decisions public?

**Hon. Mr. Mostyn:** Many of the Yukon's mobile home parks offer a discount on pad rent if the tenant pays their rent on time. Often this is called a "rent incentive". In a recent decision, the residential tenancies office found that, when the rent incentive is a term of the tenancy agreement, the landlord may not charge the amount of the incentive without the written consent of the tenant.

The residential tenancies office will continue to uphold the act and issue decisions informed by their experience and expertise in this evolving area of Yukon law.

Again, Mr. Speaker, tenants who feel that their landlord is not compliant with the act should apply for dispute resolution with the residential tenancies office. If the application fee — that is coming up in the House this afternoon — is a hardship, the tenancies office can waive that fee.

**Ms. White:** The problem is that those decisions aren't public, so no one knows about them. My colleague, the MLA for Whitehorse Centre, recently met with the landlord association, and they also asked that those same decisions be made public. Publishing the decisions of the residential tenancies office is good for renters and it's good for landlords. Let's be honest: A little more transparency would be good for the RTO itself. It's something that both renters and landlords have asked for, and it's not even that hard — just a matter of adding a new page on the RTO website.

So, again, will the minister commit to transparent decision-making at the residential tenancies office and direct the RTO to make its decisions public?

**Hon. Mr. Mostyn:** Once again, if a landlord serves a tenant with a notice to end a tenancy because the tenant filed a complaint or attempted to exercise a right, the residential tenancies office can refuse to allow the landlord to remove the tenant from the rental unit or mobile home pad. That is, the residential tenancies office will stand up to landlords who evict without cause in required cases. Tenants who feel that their landlord is not compliant with the act should apply for dispute resolution with the residential tenancies office. If the application fee is a hardship, the residential tenancies office can waive the fee.

I am fully in agreement that we have to have transparency within the government. I have defended that for many, many years now, as the member opposite knows. I'm not sure why the decisions of the residential tenancies office are not public, but if, within the realm of ATIPP and the access to information that we guarantee our citizens of this territory, a decision can be made public, I will certainly ask the office to do so, but I have to look at the laws regarding how these arrangements are made, public or not.

#### **Question re: COVID-19 vaccination requirement rollout**

**Mr. Dixon:** Ten days ago, in an attempt to distract Yukoners from the growing scandal related to the sexual abuse at Hidden Valley school, the Liberals rushed out a poorly thought-out vaccine mandate announcement. They did this with absolutely no details and no information. The result has been confusion and concern across the territory as Yukoners try to understand why this announcement was made with no idea at all about how it will work.

In the words of the YEU in a letter to its members, this announcement has sent a chill through the Yukon. In their rush to make this announcement, the Liberals also forgot to consult with the YEU. The result has been that the union has filed a grievance.

Can the Minister responsible for the Public Service Commission confirm that the YEU has filed a policy grievance due to the arbitrary nature of the announcement and the Liberals' failure to consider any of the serious issues with actually implementing this announcement?

**Hon. Mr. Streicker:** The way the question first started off was asking why. The reason that we talked — and the Premier discussed that with the public — was because we had recommendations from the chief medical officer of health. Those recommendations have always been about protecting the health of Yukoners. That is the first piece of the answer — that we are focusing on protecting the health of Yukoners. I thank the Yukon Employees' Union and the Yukon Teachers' Association for their work as well to protect Yukoners' health, including our staff, but also the public that comes and works with us on forward-facing offices.

As always, we have been following the science and the recommendations of the chief medical officer of health, and this is also in alignment with other jurisdictions across the country to combat the Delta variant and increase vaccinations. Yes, we have been working with the unions — thank you, Hon. Speaker. I know that the Public Service Commissioner advised the unions as the announcement was going out. I know that the Public Service Commission has been sitting down in meetings with the unions. I myself met with the unions this past Friday.

I will follow up with further answers, Mr. Speaker.

**Mr. Dixon:** Mr. Speaker, the letter sent from the YEU to its members paints a pretty damning picture of just how little thought the Liberal government put into its rushed and politically motivated vaccine mandate announcement. The letter states that there were two meetings last week with the

government — and I quote: “In both meetings, the Union asked for a detailed plan and in both meetings it was clear; there is no plan. Policy writers are scrambling to draft policy language while the goalposts move regarding vaccination best practices.”

It is clear that the Liberals are making this up as they go to suit their political needs. Will the Liberal government stop making policy up on the fly and drop this half-baked attempt to distract Yukoners from the mounting scandal related to the Hidden Valley school?

**Hon. Mr. Streicker:** Mr. Speaker, what we will not do is interfere with the chief medical officer of health’s recommendations to us, and what we will also do, at all times, is: Once we get those recommendations, we will share them with the public. That is what happened.

Two Fridays ago, we shared them with the public, and right at that same moment, the Public Service Commissioner shared that information with unions and let them know that this was coming. What we have said, in working with those unions, is that we would sit down with them to work through the details of how this will unfold, and we have been at the table with them since that time and working closely.

I sat down with the president of the Yukon Employees’ Union this past Friday. It was, of course, a tough conversation because there is a lot of interest in trying to make sure that we get the requirement for vaccines to protect the public’s health done well and that we’re rolling it out by — we said by November, but as there are other announcements that have come from the National Advisory Committee on Immunization, which may address the date — but what I have said is that we want to work with them on developing that.

**Mr. Dixon:** I can appreciate that it was a difficult conversation for the minister because, of course, the YEU thought that it was so arbitrary that they had to file a policy grievance against the government because of it. When the Liberals first made this poorly thought-out announcement, we called it for what it was: rushed, politically motivated, and intended as a distraction from Hidden Valley School. But now we are getting a glimpse of just how poorly planned and how rushed it was. They have no details, they have no plan, and they have no idea.

Last week the Premier told CHON-FM that they were fully committed to implementing this on November 30, but just today, it seems that the minister responsible for the Public Service Commission is considering a delay to deal with the issues raised by the union. Can the government confirm that they are reconsidering the date of implementation?

**Hon. Mr. Silver:** Hon. Speaker, what I can reconfirm here in the Legislative Assembly is that we don’t interfere with the recommendations from the public health office. This has been what we have done for the last almost two years now, when it comes to the recommendations.

It should come as no surprise to the members opposite that, as soon as the recommendations are ready to come out, they come out. That’s from the independence of the chief medical officer of health. We know that the members opposite would rather pick and choose which ones are politically expedient for themselves as far as the chief medical officer of health’s

recommendations — we’ve seen it over the last 18 months — but we will continue, on this side of the government, to make sure that we get that information as soon as possible and then work out the logistics. There is a reason for the time between the announcement and the deadlines of those mandatory situations. It’s to have these conversations.

I know that every single department, whether it is Economic Development, Public Service Commission — as the members opposite talk and don’t want to hear the answers clearly.

There’s a full court press as far as all of our departments working out the logistical challenges of the recommendations as the members opposite make it seem like these are politically motivated decisions. They are not, Hon. Speaker. They are from science; they are from the chief medical officer of health, and in Yukon, we’ve been very clear that this is where we’re going to get our direction from, whereas the opposition has decided that they will pick and choose which ones of those recommendations are good for them politically.

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

## ORDERS OF THE DAY

### GOVERNMENT BILLS

#### **Bill No. 8: *Workers’ Safety and Compensation Act* — Second Reading**

**Clerk:** Second reading, Bill No. 8, standing in the name of the Hon. Mr. Mostyn.

**Hon. Mr. Mostyn:** I move that Bill No. 8, entitled *Workers’ Safety and Compensation Act*, be now read a second time.

**Speaker:** It has been moved by the Minister responsible for the Workers’ Compensation Health and Safety Board that Bill No. 8, entitled *Workers’ Safety and Compensation Act*, be now read a second time.

**Hon. Mr. Mostyn:** Hon. Speaker, it is my pleasure to introduce Bill No. 8, *Workers’ Safety and Compensation Act*, for the Legislative Assembly’s consideration.

In doing so, I fulfill a specific directive given to me in my mandate letter from the Premier. To quote from that letter, I am to: “Introduce modern, comprehensive legislation that provides for safe workplaces and a fair system of compensation for workplace injuries.”

The bill before us will enhance prevention statutes along with recognizing community inputs. I thank the Premier for entrusting me with this important responsibility.

I also want to thank my colleague, the current Minister of Education, for all the work that she did putting together this piece of legislation and shepherding it to the House earlier this year.

The *Workers’ Compensation Act* was last updated in 2008, and although —

**Speaker:** Order, please. The Member for Watson Lake, on a point of order.

**Ms. McLeod:** I am wondering if we can ask the member to speak into the microphone so that we can all hear what he has to say.

**Hon. Mr. Mostyn:** Thank you very much, Mr. Speaker, and I thank the member opposite for letting me know that she couldn't hear me. I appreciate that.

The *Workers' Compensation Act* was last updated in 2008, and although many issues were identified at that time, only select issues were addressed. In addition, since 2008, new and emerging issues have surfaced. The *Workers' Compensation Act* needs to be modernized to bring the legislation in line with modern workplaces. The same can be said of the *Occupational Health and Safety Act*. Yukon's health and safety legislation has remained largely untouched since it was first drafted in 1984. At that point in time, it was sewn together piecemeal from other legislation across the country. This has resulted in a lack of clarity, misinterpretation, difficulty in compliance, and obstacles to effective enforcement, resulting in difficulty interpreting and applying the legislation.

This government has set forth a number of priorities that have guided our mandate. Two of these priorities — that Yukoners live healthy and happy lives and that Yukon communities are healthy and vibrant — made clear that the legislation governing the Yukon Workers' Compensation Health and Safety Board needed modernization.

In the fall of 2019, our government asked the Workers' Compensation Health and Safety Board to undertake a public engagement to understand the views of stakeholders and members of the public about a range of policy issues related to the *Workers' Compensation Act* and the *Occupational Health and Safety Act*. The board received feedback on a host of issues, ranging from coverage for work undertaken outside of the territory, to the appeals and reconsideration framework, and to the composition and training required for workplace health and safety committees.

Issues around compensation, assessments, appeals and reconsiderations, and occupational health and safety were brought forward during this engagement. The board visited four communities outside of Whitehorse, held 10 targeted engagement sessions, and sought feedback through public open houses, written submissions, and surveys.

Hon. Speaker, an awful lot of work has been done trying to sort out and reconcile these two pieces of legislation into a cohesive whole. Throughout the engagement, our goal was to enable ways for stakeholders and members of the public to contribute to the development of legislation that meets the needs of Yukon's workers and employers now and into the future.

I am proud to say that the bill before you today showcases these efforts, and I would like to take this opportunity to thank the Yukon Workers' Compensation Health and Safety Board staff, who have worked so diligently, for so long, on this issue. I acknowledge the work of the Department of Justice and other key government departments that contributed time and effort to ensure this legislation is comprehensive and comprehensible.

I would also like to thank the many Yukoners and stakeholders who participated in the public engagement and contributed their ideas and time in advancing Yukon's workplace safety and compensation systems. In doing so, we make meaningful change for the workers and employers of today and into the future, along with creating a positive impact on Yukon's economy in a time when this issue matters so very much.

The Yukon *Workers' Safety and Compensation Act* enhances safety in Yukon workplaces in line with modern workplace health and safety practices. This act builds upon the core principles of workers' compensation, improves compensation benefits, and reduces red tape.

The *Workers' Safety and Compensation Act* reflects gender-neutral language, ensuring that all Yukoners can see themselves reflected in the law. The changes put forth in the *Workers' Safety and Compensation Act* can lead to enhanced worker safety, a reduction in the number of workplace injuries, fewer appeals, faster return to work, and potentially lower employer assessment premiums.

At a high level, the *Workers' Safety and Compensation Act* will expand the PTSD presumption to cover all workers, recognizing that all Yukoners have the potential to suffer from PTSD as a result of being exposed to traumatic events due to their employment. We are proposing to add nine cancers to the list of cancers eligible under the presumption, including three cancers that primarily affect women.

We will improve fairness and earnings-loss benefits for low-income workers. We will increase the maximum duration of earnings-loss benefits for older workers. We will no longer reduce earnings-loss benefits as a result of Canada pension plan disability benefits. We will provide payment of retirement and permanent impairment benefits as a lump sum, allowing individuals to control their finances.

We will provide an additional benefit to spouses or other estates of a deceased worker in the amount of \$15,000 to reflect the costs associated with funerals and cultural practices of First Nations.

We will reduce red tape associated with workers who perform work outside the territory for temporary periods of time. We will: clarify and update general health and safety duty statements, including duties of persons with multiple roles in a workplace; clarify employers' responsibilities in larger workplaces requiring health and safety management systems and establish minimum requirements; clarify responsibilities related to health and safety committees; clarify the process triggering the right to refuse unsafe work, allowing opportunities to remedy the situation internally; update, clarify, and strengthen provisions prohibiting reprisals and provide an administrative process to resolve complaints; and simplify the appeals process by having all compensation, assessments, and occupational health and safety appeals go through an internal reconsideration, as well as an external tribunal, if required.

Hon. Speaker, throughout the public engagement, we heard that Yukoners want change. We heard that Yukoners want to bring Yukon in line with other Canadian jurisdictions. We heard that Yukoners want legislation to be clear, simple,

and accessible. We heard that Yukoners want legislation that reflects and accommodates the diversity of Yukon's workplaces and workers. Bill No. 8 addresses these issues. We have listened and we have acted.

I bring before you today a bill that, when passed, will: bring Yukon in line with other jurisdictions; a bill that is clear, simple to understand, and accessible to all; a bill that supports and promotes workplace safety for all Yukoners; a bill that reflects Yukon's diverse and vibrant workplaces; a bill that, at the heart of it all, will enhance safety systems in our workplaces while taking a compassionate approach to helping our workforce if they are ever injured while in the course of their employment.

I stand before the House today with pride and excitement for our future — a future where the Yukon's workers and employers of today and tomorrow are supported under: legislation that is fair, responsive, and clear; legislation that puts the safety of our workplaces first; and legislation that will make a positive impact for years to come.

Hon. Speaker, I thank you for this opportunity, and I look forward to hearing now from the other members of the Assembly present today.

**Ms. McLeod:** I am happy to rise to speak to Bill No. 8, *Workers' Safety and Compensation Act*, which replaces the existing *Occupational Health and Safety Act*, modernizes the *Workers' Compensation Act*, and amalgamates the two.

I will start by saying that we do have some questions that we will raise with the minister responsible during Committee of the Whole, but we feel overall that it was a positive step to bring the two acts together. According to the "what we heard" document and in conversation with individuals or businesses that have taken an interest in this legislation, there has not been much negativity expressed around the consultation or the drafting process.

According to the board of directors in the "what we heard" document, not everyone who participated agreed on all the issues, but that is to be expected. The important thing is whether the proper balance was applied during the drafting of this legislation and whether concerns that were identified were investigated and addressed during the process of identifying that middle ground of worker and employer interests. There has been concern expressed around whether they will be consulted on regulations or whether it will be considered that there has already been adequate consultation done during the initial review process. I would flag this for the minister to ensure that he is aware of the fact that there are certainly a number of businesses and individuals who would like to be part of the process prior to the writing or adoption of regulations.

I will have questions around the extent of consultations with businesses during the review phase. For instance, can the minister explain how businesses were consulted, how many businesses were contacted versus how many responded, and the nature of concerns businesses have, if any? Did they see the text after it was drafted and before it was tabled here in the Legislature? How much will businesses be directly affected as a result of changes made to this act during the modernization

and amalgamation process? What are the changes to compensation that they must be aware of? How will these changes be rolled out to businesses to ensure that they understand the full extent of how this new act affects them, their business, and their employees?

I want to take a moment to thank the Whitehorse Fire Fighters Association, Local 2217, for the brief they provided around the inclusion of new firefighter cancers into the presumptive cancer legislation. Whereas the Yukon government is prepared to increase the number of cancers covered under the presumptive, there is a request being made to include two additional types of cancer, those being thyroid and pancreatic cancers, which now have a clear scientific connection to firefighting.

I thank the association for making the argument that much scientific information has come to light since the Yukon Party government passed the original presumptive legislation for firefighters in 2011, which allowed for 10 cancers that were identified at that time — an additional 10-plus years of research that identified an additional seven cancers, which are to be added, but in total nine cancers that actually have a connection to the profession of firefighting. As mentioned in the argument made by the Whitehorse Fire Fighters Association, it is becoming evident that firefighter cancer risk is greatly underestimated. Firefighters go from having a 30-percent chance of cancer due to their health and fitness to a doubled risk as compared with the general public in as little as five years for some cancers.

Now, I just want to quote here, Mr. Speaker: "In dealing specifically with Thyroid and Pancreatic cancer we are seeing many Canadian firefighters being diagnosed with these two cancers and science believes it is because of 2 products we have historically used to help us fight fires — Fire retardants and firefighting foam contain PFAS foam. The nature of the exposure dangers for these 2 cancers were likely late to be studied largely because studies were more concentrated on the fire scene itself and not the chemicals used by firefighters to fight these fires."

Again, thank you to the Whitehorse Fire Fighters Association for their comprehensive brief, and I look forward to hearing more from the minister on the government's plans going forward in response to this information.

Again, thank you, Mr. Speaker, for the opportunity to speak today. While we will have some questions in Committee, the Official Opposition will be voting in support of Bill No. 8 at second reading.

**Ms. White:** Today, in speaking in response to the second reading speech of Bill No. 8, it's a pleasure to be here.

It's also a really big deal to have firefighters in the back row because, a number of years ago when we were talking about presumptive PTSD legislation, I had to tell a room full of firefighters that it wasn't far enough and that it wasn't that I didn't acknowledge what you did as your job, but that we needed to make sure that it was covered for all employees — that was the former Leader of the Yukon NDP and I. We spent

a long time talking about how important it was to include all workers.

To be here today, knowing that we're on the cusp of having all workers covered for presumptive PTSD legislation, is huge. What it means is that people will have access to the help that they need sooner. It means that they will have the support sooner, and that's a really big deal.

To echo both the minister and my colleague from Watson Lake, it's really important — the advocacy that we have seen from Whitehorse firefighters about presumptive cancers. It's really important to know that Yukon is leading. We have this real opportunity in such a small place to literally lead the country — in some cases, leading North America in what actions we choose to take.

In a lot of cases, we make those decisions based on the respect and the honour that we want to show these people who do these hard jobs. So, when the firefighters approached all three political parties in the territory to talk about the importance of adding these extra cancers, from my standpoint, it was about honour, and it was about respect. It's understanding that it's not instantaneous. There is a whole slew of calculations that have to be put in place — the number of years serving, and it goes on and on and on.

Mr. Speaker, in a tribute last week, I asked the question: If we feel that way about folks who fight structural fires, why don't we echo it when we talk about wildland fires, forest firefighters?

It is interesting to hear my colleague from Watson Lake talk about the foam and about the suppression systems, because that has been highlighted as being an issue with wildland forest firefighters. It is not necessarily so much the smoke but the actual tools that are being used.

I am going to bring it up here right now that Yukon wouldn't be first. We would follow behind British Columbia to honour those folks, to bring wildland forest firefighters up, to hold them up with other firefighters, to make sure they are included in the legislation as opposed to excluded in the legislation. Because right now in the legislation, when we talk about the description of "firefighter", it says, "... firefighter' means a worker who is a full-time firefighter, a part-time firefighter or a volunteer firefighter..." Then it goes on to say, "... but does not include a wildland forest firefighter". We totally take them out of the mix.

It shouldn't surprise anyone that I am signalling right now that I think that is an important change that we have an opportunity to make. I have said it in other situations, and I am saying it again here now. If we recognize the importance of firefighters, then let's talk about firefighters. Let's talk about all of them; let's not separate them. I think the folks who are here in the House right now — again, because I had to apologize to them last time — today I am saying, "You are leading." If we raise the tide for firefighters, we can raise the tide for all firefighters. Raising the tide floats all boats, and I think that this is a real opportunity for Yukon to lead. I think we have seen that we lead in so many ways. We bravely take a step forward and say that people matter and we are going to show them that they matter. I want to highlight that.

I want to thank the Workers' Compensation Health and Safety Board for their consultation. They went out and they asked lots of questions and they got lots of feedback, and they did a really good job of bringing it together and merging our *Occupational Health and Safety Act* and the *Workers' Compensation Act*, and I don't think that it was easy. I would never guess that it was easy. Having everything in one place that you can go through makes it easier and it is more comprehensive. It was a really — I mean, we talk about briefings, and I know that is kind of lame, and it is a little bit inside baseball, but we got one of the greatest briefings ever with this legislation, where every point that was added, I could ask for the clause, and between the two officials, I have every clause, so I can print them up as we go through it. I really appreciate that.

I also really appreciated the candour of the conversation because it is important that, when we are talking to the folks who are behind it, we can ask honest questions and get honest answers. So, I did appreciate all that as well.

Standing here and speaking to this before we go into Committee of the Whole — and I appreciate Committee of the Whole because it is an opportunity for a back-and-forth — I do just want to highlight that there are a lot of times that we make decisions based on the respect or the honour that we want to show people, so here is our opportunity to show that respect and that honour to wildland forest firefighters. Instead of excluding them, we can open up firefighters to include everyone who fights fires in the territory, and I think that is really important. I am looking forward to having those conversations with my colleagues here, especially the minister, and I'm looking forward to the Yukon Party weighing in on that. Mr. Speaker, I just really look forward to having those conversations and getting into this legislation and, of course, making those changes that we know are so important and getting this on the go.

Thank you to the minister and thank you to the Workers' Compensation Health and Safety Board for recognizing the importance of expanding the presumptive cancers for firefighters. I think that here is an opportunity for us to expand the definition of "firefighter".

**Speaker:** If the member now speaks, he will close debate.

Does any other member wish to be heard?

**Hon. Mr. Mostyn:** Hon. Speaker, I want to thank my colleagues on the other side of the House for their support for this bill. It is an extremely important piece of legislation that has gone through many, many people over the course of many, many years to get to this point.

It is one of the most — I would argue probably the most — progressive pieces of workers' compensation legislation in the country — in a country that leads in this field. By association, that means that this is probably one of the most progressive pieces of legislation in the world, but it is certainly in the country. I don't shy away from leading in this field or any field in this territory. I think that it's important that we stand up and

do the very best job that we can for our citizens regardless of the subject. I've always felt that way. I felt that way when I was in the private sector. I felt that way when I was working for the Yukon Workers' Compensation Health and Safety Board, and I felt that way when we were in government. I will say that the people working at the Yukon Workers' Compensation Health and Safety Board have struggled under the old legislation for years. The retooling of the *Occupational Health and Safety Act* is so very important to bring clarity to both workers and business about what the rules are when they're trying to protect people's lives on the job. To have this new act — one of the most progressive acts in the country, if not the most progressive bill in the country, that my good colleague shepherded through 99.9 percent of the work with the board — is absolutely extraordinary. I'm bringing it to the finish line, but I'm driving a car that was already well-built and beautifully constructed.

The amount of work that went into bringing this piece of legislation before this House was extraordinary, and I've heard that from both of my colleagues on the other side of the House — the consultation, the work inside the board, trying to figure out how to address and best serve Yukon employers and workers in this absolutely incredibly diverse and difficult field, so much work trying to cost and figure out what the implications of all of the thousands of decision points in this document — the effect on business, on labour, on governments, on municipalities, on Yukoners in general — it has been an extraordinary amount of work. I have to compliment the board for the work that it has done on behalf of Yukoners and also the Yukoners who fed into this process, which has been absolutely extensive. I look forward to having that conversation in Committee.

The Leader of the Third Party has talked about honouring people, but really, at its heart, this legislation isn't about honouring people; it's about protecting workers and making sure that, in doing so, we are making the best decisions based on science. I have had that discussion with my colleagues on the other side of the House for months now. I have had that conversation with firefighters. Like my colleague, I appreciate the evidence that they provided in helping us to make a decision on the presumptive cancers. There is an evolution happening in that field, and right now, we are leading with the list of presumptive cancers in this territory more than any other place in the country. But in a matter of months or years, there will be another change or new approach to WCB where maybe they take presumptive cancers — all of them — and just say that if you are working in any field, this is where it goes.

We will see how that evolves over the coming years, but right now the approach we have taken serves the territory, serves firefighters, and serves the way we do business. But it is based on evidence, Mr. Speaker, not on respect, although we do respect, and I will talk until the cows come home about the respect that I have for first responders in many fields throughout this territory. When we take decisions in this House on pieces of legislation that have been years in the making, I have a reluctance to change on the fly and make decisions on the fly without actually costing out and seeing what the implications of those decisions are before taking them.

I have no problem asking my colleagues in the department to look into matters to figure out what the implications of those decisions are, but after years and years of consultation, drafting, and careful consideration of everybody involved in this piece of legislation, I think that we honour the system and we honour the people who put so much time and effort into this from so many different sectors if we actually do the legwork before making decisions. This is not out of respect, although, as I said, we do certainly respect first responders throughout the territory who protect our homes and our lives, but we have to do that in a considered way with a full assessment of the implications of what we are doing this afternoon.

So, with that caution, I look forward to the debate in Committee. We have a huge piece of legislation before us to go through. I look forward to the conversations we have together to make sure that we understand this piece of legislation better. I will take your thoughts and considered opinions into consideration as we move through with the officials later this afternoon.

With that, Hon. Speaker, thank you very much, and I will relinquish the floor.

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

**Some Hon. Members:** Division.

#### Division

**Speaker:** Division has been called

#### Bells

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

**Hon. Mr. Silver:** Agree.

**Hon. Ms. McPhee:** Agree.

**Hon. Mr. Streicker:** Agree.

**Hon. Mr. Pillai:** Agree.

**Hon. Mr. Clarke:** Agree.

**Hon. Ms. McLean:** Agree.

**Hon. Mr. Mostyn:** Agree.

**Mr. Dixon:** Agree.

**Mr. Kent:** Agree.

**Ms. Clarke:** Agree.

**Mr. Cathers:** Agree.

**Ms. McLeod:** Agree.

**Ms. Van Bibber:** Agree.

**Mr. Hassard:** Agree.

**Mr. Istchenko:** Agree.

**Ms. White:** Agree.

**Ms. Blake:** Agree.

**Ms. Tredger:** Agree.

**Clerk:** Mr. Speaker, the results are 18 yea, nil nay.

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

*Motion for second reading of Bill No. 8 agreed to*

**Ms. White:** Mr. Speaker, I request the unanimous consent of the House to move, without one clear day's notice, and notwithstanding Standing Order 12.2, a motion that the terms of reference for the Special Committee on Electoral Reform, as established by Motion No. 61 of the First Session of the 35<sup>th</sup> Legislative Assembly, be amended by changing the special committee's reporting deadline to the House from March 31, 2022 to the 2022 Fall Sitting of the Legislative Assembly.

**Unanimous consent to move without one clear day's notice Motion No. 167**

**Speaker:** The Leader of the Third Party has requested the unanimous consent of the House to move, without one clear day's notice, and notwithstanding Standing Order 12.2, a motion that the terms of reference for the Special Committee on Electoral Reform, as established by Motion No. 61 of the First Session of the 35<sup>th</sup> Legislative Assembly, be amended by changing the special committee's reporting deadline to the House from March 31, 2022 to the 2022 Fall Sitting of the Legislative Assembly.

Is there unanimous consent?

**All Hon. Members:** Agreed.

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

**Motion No. 167**

**Ms. White:** Mr. Speaker, I move:

THAT the terms of reference for the Special Committee on Electoral Reform, as established by Motion No. 61 of the First Session of the 35<sup>th</sup> Legislative Assembly, be amended by changing the special committee's reporting deadline to the House from March 31, 2022 to the 2022 Fall Sitting of the Legislative Assembly.

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

THAT the terms of reference for the Special Committee on Electoral Reform, as established by Motion No. 61 of the First Session of the 35<sup>th</sup> Legislative Assembly, be amended by changing the special committee's reporting deadline to the House from March 31, 2022 to the 2022 Fall Sitting of the Legislative Assembly.

**Ms. White:** I thank my colleagues for agreeing unanimously today to be able to debate this, and now that you and I have both read this five times, I think that we are pretty clear about what we are debating right now.

I have to say that, in all the committee work that I have done, I have never been more proud of the committee work that I am doing right now on the Special Committee on Electoral Reform. We have met seven times, and we are working on a consensus basis. We have the Minister of Energy, Mines and Resources, we have the Member for Lake Laberge and me, and we are working. If we hadn't met yet, I would never have brought this motion forward, but we have met over and over and over again.

We made the decision by consensus that we wanted to make sure that what we brought forward was not just adequate, but that it was good. We wanted to make sure that we had the opportunity to consult with Yukoners where they are at — to go out to communities and to do a full survey — but that meant that our timeline was a little bit tight. I am happy to say that the three of us — after discussion and working our way through it — have agreed on everything that we have done to this point. There has been great conversation and great debate, but it also highlighted the fact that we would need more time, so today I am here to ask my colleagues to please vote in favour of this motion to allow us a bit more time so that, instead of just tabling a report in the spring of 2022, we can table something really, really strong in whatever the recommendation is for the fall of 2022.

I said, during the meeting, that I wasn't interested in just bringing something forward; I wanted to make sure that it was something that was good, and that is going to require a bit of time. So, that is why I am here today asking the House to grant us more time.

**Mr. Cathers:** Mr. Speaker, I will just be brief in speaking to this and noting that, although electoral reform was not something that the Yukon Party had committed to, as part of this committee, what we are continuing to focus on is the importance that, if this discussion is occurring, Yukoners had the opportunity to be well-involved and consulted before a report is made by the committee, because ultimately the Yukon's democracy belongs to all Yukon citizens.

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

**Some Hon. Members:** Division.

**Division**

**Speaker:** Division has been called.

*Bells*

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

**Hon. Mr. Silver:** Agree.

**Hon. Ms. McPhee:** Agree.

**Hon. Mr. Streicker:** Agree.

**Hon. Mr. Pillai:** Agree.

**Hon. Mr. Clarke:** Agree.

**Hon. Ms. McLean:** Agree.

**Hon. Mr. Mostyn:** Agree.

**Mr. Dixon:** Agree.

**Mr. Kent:** Agree.

**Ms. Clarke:** Agree.

**Mr. Cathers:** Agree.

**Ms. McLeod:** Agree.

**Ms. Van Bibber:** Agree.

**Mr. Hassard:** Agree.

**Mr. Istchenko:** Agree.

**Ms. White:** Agree.

**Ms. Blake:** Agree.



**Ms. Tredger:** Agree.

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

**Speaker:** The yeas have it. I declare the motion carried.  
*Motion No. 167 agreed to*

**Hon. Ms. McPhee:** I move that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

**Speaker:** It has been moved by the Government House Leader that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

*Motion agreed to*

*Speaker leaves the Chair*

## COMMITTEE OF THE WHOLE

**Chair (Ms. Blake):** I will now call Committee of the Whole to order. The matter before the Committee is general debate on Bill No. 8, entitled *Workers' Safety and Compensation Act*.

Do members wish to take a brief recess?

**All Hon. Members:** Agreed.

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

*Recess*

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

### Bill No. 8: *Workers' Safety and Compensation Act*

**Chair:** The matter before the Committee is general debate on Bill No. 8, entitled *Workers' Safety and Compensation Act*.

**Hon. Mr. Mostyn:** It is my pleasure this afternoon to host Committee of the Whole debate on Bill No. 8, the *Workers' Safety and Compensation Act*.

Before I begin, I want to introduce and welcome my colleague, President Kurt Dieckmann, who will be providing me with information this afternoon. This is Kurt's first time, I believe, putting a piece of legislation through the House. It will be a pleasure to actually have him here. We have worked together for many, many years in the past. This is certainly going to be, I would think, a great chapter in the work that we have done together.

I really appreciate him being here with me this afternoon to assist with this debate. It is a very important piece of legislation for the people of the territory, as I alluded to in my remarks earlier. The old act, especially the *Occupational Health and Safety Act*, has really needed a rewrite for many, many years. To bring forward such a progressive piece of legislation to the territory will certainly help workers who, tragically, are injured on the job. It will help employers understand the rules and will help manage their workplaces in a more measured way.

So, I look forward to — it's a big piece of legislation. We have a few hours this afternoon ahead of us open, so I will just close my opening remarks on that and let the opposition start to

field the questions they have about this extraordinary piece of legislation.

**Ms. McLeod:** I wanted to start off by thanking the representatives of the workers' compensation branch for the excellent briefing that they provided us. During second reading debate, I had referenced the two additional cancers that we would like to see included, and the president has clarified for me that those two cancers are, indeed, included, and so I thank him for that.

I do have a few questions for the minister that I referenced during second reading. This is a fairly hefty piece of legislation. It's not exactly light reading, so, I have a concern about how many Yukoners and — because most Yukoners are going to be affected by this legislation, so, I have a bit of a concern about how widely spread the information is.

Can the minister tell us how businesses were consulted on this legislation? Were they included in consultations on the final drafting of the legislation after the initial review but prior to the actual putting together of the drafting process?

**Hon. Mr. Mostyn:** Years ago, we asked the Yukon Workers' Compensation Health and Safety Board to engage the public on our behalf with regard to modernizing and amalgamating the *Workers' Compensation Act* and the *Occupational Health and Safety Act*. Multiple channels were available for all Yukoners to provide feedback and input, including local public meetings, community visits, online surveys, written submissions, targeted stakeholder meetings, and opportunities for one-on-one sessions with board staff.

The "what we heard" document was compiled and released on October 20, 2020, and is available on the Engage Yukon website, [engageyukon.ca](http://engageyukon.ca). The government is striving to create a culture of safety and prevention of both physical and psychological injuries in the territory, and the engagement process was an opportunity for all Yukoners to influence and enhance the future of workplace safety and compensation in the Yukon for years to come.

The legislation was tabled in the spring of the former session. After it was tabled, there was an opportunity then for labour, for business organizations, and for the firefighters to come forward after having actually read the bill, because it had been tabled to make suggestions to us. That opportunity was available. They could also reach out to the minister — myself — after I was put in charge of this portfolio. We did actually hear from one business group. I had a meeting with them. We also heard from the firefighters, whom I had asked for more information and evidence on the presumptive cancers, because they had a couple of suggestions they wanted to add to the list.

Because we would be the first jurisdiction in the country to add those cancers to the list, I asked for the evidence they had. They provided it. There were several reports in the package. The department actually reviewed the submission, and we, in the end, decided that there was enough evidence to support adding those two cancers to the presumption, and we have done so. While the legislation is almost entirely the same as it was in the fall, there were a few very, very small changes, one of which was adding those two presumptive cancers to the list of presumptions we already had.

So, we have heard from the National Air Transportation Association, Whitehorse Motors, Yukon Women in Trades and Technology, WTAY, Yukon government firefighters, Tom Luxemburger, Gary Pettifor, Gerard Tremblay, and the Women's Directorate, among others. We have had extensive consultation with business, labour, and Yukoners. The result is one of the most progressive pieces of legislation in the country.

**Ms. McLeod:** While I can appreciate that there was what seems to have been an extensive ability for people to comment, I didn't hear the minister say whether or not the public were presented with a copy or a draft prior to tabling this bill.

**Hon. Mr. Mostyn:** As I mentioned in my initial response, we tabled this piece of legislation in the spring, earlier this year. Since then, we have had all sorts of opportunity to hear from business and labour groups. We heard from very little, once the legislation was publicized, and I take that as a good sign.

**Ms. McLeod:** I thank the minister for that. How will businesses be affected as a result of changes made during this modernization and amalgamation process? I will start with that.

**Hon. Mr. Mostyn:** The question from my colleague opposite is enormous. It is a big question, and I am glad that it was asked this afternoon. We can start about the red tape. I mean, at its heart, I think — there are changes, but at its heart, workers' compensation legislation and the occupational health and safety component remain the same.

It's incumbent upon everybody in a workplace to identify hazards when you are working and come up with reasonable mitigations to those hazards so that everybody's safety is looked after. That doesn't change. It's a responsibility on us all to make sure that we identify the hazards and then actively and thoughtfully deal with the hazards and make sure that everybody gets home safe at the end of the day.

In the actual application of the act, there are lots of improvements, less red tape. You are not having to register with the board when you leave the country to go work for a short period of time outside the territory; that no longer has to happen. The occupational health and safety duties are clarified so that it's clearly noted who has responsibility on a workplace, which will make it easier for contractors to understand who is responsible. It was confusing in the past.

We have a streamlined appeal process. Previously, a lot of companies and workers thought that the board was in a conflict in the hearing of these appeals. Now we have a clear process that takes the board out of it. It actually has a third-party independent appeal process, which is something that we should have probably had for a very long time.

There are a few changes — less red tape, a little bit more clarity about who is responsible for what. The definitions within the occupational health and safety world are now aligned with that of the workers' compensation world, so there's more clarity there. The act itself will work synergistically between the compensation system and the occupational health and safety system. So, there is an awful lot in this act to make it easier for business and labour to understand and to make sure that, when they are working to protect the safety of workers on the jobsite, the roles and responsibility are clearer, but that role has not

changed. It's incumbent on all of us to make sure that we identify the hazards on a workplace and be thoughtful and diligent in mitigating those hazards.

**Ms. McLeod:** I guess that when I think about this piece of legislation, the concern that comes to my mind is that there are employers of varying sizes throughout the territory. I am a big fan, actually, of one rule for everyone, but I am wondering if there are some unintended consequences as a result of putting processes and requirements into play that a government may find easy enough to do, but a small business owner might find them quite burdensome.

Has there been any determination as to the amount of additional administrative burdens that a business might experience due to these legislative changes?

**Hon. Mr. Mostyn:** I am going to ask the member opposite for more specific information if she could provide it — the unintended consequences of what? We have a fairly comprehensive piece of legislation here. In order to properly answer the question, I would really like some more context as to what sort of unintended consequences or fears she has heard from the business community specifically that we might be able to address this afternoon on the floor of the House.

**Ms. McLeod:** When I read through some of this documentation, there are references to various reporting mechanisms and policies that must be in place where government might find it very easy to put a 50-page document into play but where a small business might find that quite a burden.

So, those are the sorts of consequences to small business that I am inquiring about, because, of course, as I said, it is one thing for government to put the health and safety plans on paper and into effect — and do they do constant daily monitoring? — but it is quite another thing for a small business to do that or a single operator. That is the sort of consequence that I am referring to.

**Hon. Mr. Mostyn:** I want to begin by saying that the changes in this — while the act itself has been clarified, streamlined, and made easy to understand, the changes between what constitutes a large business and what constitutes a small business are almost insignificant. In the new act, safety management or safety systems still only apply to shops of 20 or more employees. The larger shops have more — because they are larger — resources and they have more moving pieces, so the safety management pieces apply to those larger shops. Smaller shops with fewer employees — fewer than 20 — are, like the old act, governed under much less stringent — they have fewer obligations under the act to do that. It doesn't relieve the obligation for small business people and their employees to identify hazards on the job and identify things that may be physically or psychologically hazardous to their employees and to mitigate those hazards, but the reporting and all the obligations under the act don't apply in the same way as they would to a much larger shop.

It is the same thing for the obligation to re-employ. A large organization will have a lot more opportunity to be able to re-employ someone who was injured on the job. We will seek to have those organizations find spots for an injured worker on

their staff, but a small place with one, two, or three people may have a much more difficult time integrating an injured worker back into the workplace, so that obligation does not flow to a smaller employer as it would with an employer of more than 20 employees. I hope that answers the question for the member opposite.

**Ms. McLeod:** It does clarify things to a degree. I still would be concerned about an employer with 20 employees versus someone like the Yukon government with 3,000 or 3,500 employees, but I will move on. Thank you for that.

Are there any changes within this bill to the compensation that businesses should be aware of and perhaps are not?

**Hon. Mr. Mostyn:** I appreciate the opportunity to answer this question. Once again, it's a fairly open-ended question with a lot of possibilities, but I will hit a couple of highlights.

First of all, I think that employers should know about workers' compensation coverage outside of Canada. When I was working at the board, we had an awful lot of questions coming to us when an employer started to work outside of the country and whether or not they were covered. We now automatically cover workers travelling outside of Canada for a period of up to 14 days. Employers travelling outside of Canada for a limited period may still apply for extended coverage. This is a much easier process than under the old act.

Psychological injuries, I think, should be highlighted as well.

Work-related injuries will continue to include: chance events, willful and intentional acts; disablements; and occupational diseases. Work-related injuries will continue to exclude chronic mental stress, but will now include injuries resulting from chronic mental stress. I clarify that work-related injuries will continue to exclude those injuries resulting from employment-related decisions such as change in work, promotions, demotions, transfers, disciplines, et cetera.

So, we're actually putting a focus now on psychological injuries in the workplace. This is a huge shift for the board and for society, frankly. We've heard how debilitating psychological health in a workplace can be. I think that some business groups have estimated the cost to business in Canada to be in the billions of dollars. We're now recognizing that and making sure that workplaces are healthier psychologically as well as physically. When I spoke earlier in the day about identifying hazards in the workplace, that means mental and physical hazards and dealing with them.

We also have director liability. The *Workers' Compensation Act* already holds an officer or director liable as a party to an offence committed by a corporation. So, what we're proposing is to add a provision that would make directors jointly liable for amounts owing to the corporation under this act.

This proposal is consistent with directors' liability for other corporate obligations such as income tax and employment standards and will bring the Yukon Workers' Compensation Health and Safety Board in line with other jurisdictions relating to collections for WCB premiums. So, this is another place where we are changing some of the focus of the act — with

directors' liability. Again, this was an issue that I know the board has struggled with for years — certainly the years I was there. This was an issue that came up with directors quite frequently. We have taken an approach in this act that is consistent with the rest of the country, and it should make things a lot more easily understood by directors in the territory.

**Ms. McLeod:** How is it that the WCB organization will — how will they ensure that these changes will be rolled out to businesses to ensure that they fully understand the extent to which the new act affects them, their business, of course, and their employees?

**Hon. Mr. Mostyn:** Well, should this bill pass the House this session, there is actually a six-month implementation period to make sure that all businesses understand the implications of this legislation that is coming into force in the summer.

There will be materials available online, there will be training and information sessions for labour and business, and policy decisions will have to be investigated and extensive consultation with stakeholders done. Those policy position papers will be available for feedback online as well. I think that it is not just the implementation immediately. There will be a period through which the Yukon Workers' Compensation Health and Safety Board and its officials reach out to both business and labour to make sure that the community understands the implications and rules that are being put forward under this new piece of legislation.

**Ms. McLeod:** The “what we heard” document reflected a need to ensure that mental health is an integral part of the workers' compensation and occupational health and safety systems and, in turn, emphasized that as an intrinsic part of healthy and safe workplaces. I will just use the minister's term here: “healthier psychologically”.

Can the minister elaborate on how this importance of mental health in the workplace is reflected and integrated in this new act?

**Hon. Mr. Mostyn:** Probably the largest piece in this bill is the expansion of the PTSD presumption. In 2017, when the act was amended to introduce the PTSD presumption, it did so for emergency response workers. The presumption has made a positive contribution to mental health efforts in the Yukon by raising awareness of the issue and promoting discussion.

During the 2017 public engagement — and again in the 2019 act's modernization and public engagement — the Yukon Workers' Compensation Health and Safety Board heard that other occupations — such as nurses, social workers, and corrections officers — should also be included under the PTSD presumption. Bank tellers — my mother worked in a bank. She was robbed at gunpoint and suffered years after the fact. She wouldn't have been covered. She would have been exempted, but now she would be included under the presumption of PTSD in the Yukon. You never know when trauma is going to affect a workplace, and I am happy to say that the presumption for psychological injuries has now been extended to all workplaces that suffer a traumatic event.

I want to talk about the presumption for just a second, because we talk about “presumptions” and it clouds the whole

compensation system in a way. Workers who are not covered by presumption are still eligible for workers' compensation; they are just not immediately put in that category. There are still adjudication processes used for 90 percent of workers' compensation claims successfully. It assesses the injury that the person has suffered on the job and then provides compensation for that individual through the compensation system. It is very, very important that it be done right, and it is done right so often by a lot of very compassionate people who work for the Workers' Compensation Health and Safety Board.

The presumption is there. It's done so that it speeds — once a traumatic, psychological injury has been determined by a medical professional — immediately. If you were working when that event happened, you would be covered, but if something happened that was a little murkier, you would still be assessed by the board and still be eligible for compensation. I think that it is really important that we remember that when we're talking about presumptions.

Presumptions are sort of a catch-all in some cases — for firefighter presumption, for cancers, for example — it speeds that, because we have seen scientific evidence that firefighters working in certain environments have a much higher prevalence of cancers in the workplace, so we just presume that, if they have one of those cancers, they got it on the job. But somebody else working in a dump fire — say if you were a mail clerk who happened to be at the dump and were caught in some sort of fire and inhaled gases, you might be able to get compensation for that event if it was work related — if they were on the job when the event happened. So, they wouldn't be presumed to, but there is still a very robust adjudication process to make sure that workers are covered when they are injured while at work.

**Ms. McLeod:** Can the minister elaborate on what changes were made to simplify the review process for claims and compensation matters and to provide a less formal reconsideration process?

Along with that — I guess if the minister could tell us whether he expects that decisions will be made within a shorter time frame.

**Hon. Mr. Mostyn:** I will say to everybody listening — everybody in the House today — that if you are injured on the job, make sure that you document the injury. That is the step. It is every worker's responsibility that, when they are injured on the job, they should actually file a claim for that injury, and that will speed the process dramatically. Make sure you document it. That goes for all occupations.

This government recognizes the statutory rights of employers and workers to file an appeal on any decision rendered by the Yukon Workers' Compensation Health and Safety Board.

This bill proposes two changes to the current appeals processes: first, to simplify the internal appeals processes for compensation claims and to have workplace health and safety appeals and employer assessment appeals follow the same simplified process so that it's now consistent; second, to amend the time period to appeal decisions to support timely return to health and work to promote the primacy of workplace safety.

Again, we recognize that, in the compensation system, the faster you get somebody treated, the faster you identify the injury, the faster you get treatment, the faster they get back on the job, and that's important for the worker's psychological health, for their well-being, for their economic health as well.

The simplification of the appeals process for all matters will enhance fairness and consistency by providing two levels of appeal — one internal level and one external level of appeal. This process will also reduce complexity and improve efficiency, making the appeals process easier for workers and employers to navigate.

Amending the time period to appeal decisions benefits workers and workplaces and reduces costs to employers. By streamlining processes, access to compensation is improved and red tape is reduced. Believe you me, reducing red tape in the compensation system is a worthy goal. These proposals align with this government's enduring priority that focuses on a people-centred approach to wellness that helps Yukoners to thrive. That is to say that the faster we get the appeals process finished with, the faster we can get care to people and that's integral.

**Ms. McLeod:** I'm just going to ask one more question, and then I am going to allow my colleagues to ask their questions. I may return.

However, I wanted to ask a question about section 205 of the bill, because this has come up from the public — this question about the minister's abilities under the act. So, if the minister could please explain to me what section 205 means in real terms.

**Hon. Mr. Mostyn:** Section 205 may be understood by my predecessors on the other side of the House, because this section of the act has not changed in this new iteration of the act. It is the same clause that existed before. What it says is: "The Minister may, by order, require the board of directors to investigate any matter under its jurisdiction in the manner requested by the Minister."

If a constituent or a Yukoner came to a minister, we are not allowed to get involved and start to meddle in the OH&S decisions or the claim or compensation decisions of the board, so this clause allows the minister of the time to actually hand the information to the board and ask: "Can you please investigate this properly?" — and then step away and allow the board to do the work in a way that prevents the minister from getting directly involved in a matter that they really shouldn't be involved in. That is really what clause 205 in the current act allows.

**Ms. McLeod:** So, yes, of course, section 204 flat out says that the minister can't direct compensation and direct the outcome of an investigation, of course. Yes, that makes sense.

Section 205 — I know this was put to the test when a Yukoner wrote to the minister — not this minister, the previous minister — and asked the minister to direct the board to investigate a thing. The minister wrote back and said, "It has nothing to do with me", which prompts the question as to what the intent of that section is, if the minister is saying that they cannot direct the board to investigate a thing.

**Hon. Mr. Mostyn:** The member opposite may have me at a bit of a disadvantage, having some detailed information that I am not party to. That said, we will talk in abstract about clause 205 in this bill. It is: “The Minister may...” — not “shall” but “may” — “... by order, require the board of directors to investigate any matter under its jurisdiction in the manner requested by the Minister” — “may”.

The minister has discretion when hearing a concern raised by someone in the public — a citizen of the territory — and may choose to direct the board to investigate. It doesn’t say that the minister “shall”, upon receiving these things, do this, so, it is a discretion. I don’t know what the concern was or what the circumstances were that were brought to my predecessor’s or any predecessor’s attention. All I can say is, as the current sitting minister responsible for the Yukon Workers’ Compensation Health and Safety Board, that I will assess complaints or concerns that are raised by the public as they come in, and I will respond in kind, either directing the matter to the board, as allowed under section 205, or in certain circumstances, I guess — given this — I may tell them that I can’t get involved and not refer to the board, because I don’t feel that it should go to the board. That is the discretion afforded me by the legislation before us, and it has not changed from the last act to this act.

**Mr. Dixon:** I appreciate the opportunity to rise and speak to this in general debate. I would like to thank my colleague, the MLA for Watson Lake, for allowing me to chime in with a few questions. I would like to begin, also, by thanking the officials for joining us here today, as well, and note that some of my questions were covered by the department’s briefing to my colleague, but there are a few issues that I would like to go over with the minister to ensure that they are on the public record, and they do, in some cases, relate to some of the comments that the minister has made already, and I would like to dig in, on a little bit more detail, to some of those things.

Without too much more preamble, Madam Chair, I will begin to get into the specifics. The first issue I would like to talk about is the nature of the issue related to directors’ liability. The minister has indicated that there is a change in legislation with regard to directors’ liability, and I would like to begin by giving the minister an opportunity to provide a bit of an overview of the changes being made in the legislation, and then I will get into my specific questions about it.

**Hon. Mr. Mostyn:** I welcome the Leader of the Official Opposition to the debate on this bill this afternoon.

The *Workers’ Compensation Act* already holds an officer or director liable as a party to an offence committed by a corporation. The government is proposing to add a provision that would make directors jointly liable for amounts owing by the corporation under this act. This proposal is consistent with directors’ liability for other corporate obligations, such as income tax and employment standards, and would bring the Yukon Workers’ Compensation Health and Safety Board in line with other jurisdictions, relating to collections for WCB premiums. This proposal will provide an effective tool for the Yukon Workers’ Compensation Health and Safety Board to collect unpaid assessment premiums from the director or

directors of a corporation. Corporations that are struggling are encouraged to contact the board for further information and assistance. This proposal was received positively by stakeholders at the public engagement, as other employers are not subsidizing the debts of delinquent employers through higher assessment rates.

That is the key piece here, Madam Chair. The proposal was received positively by stakeholders at the public engagement, as other employers are not subsidizing the debt of delinquent employers through higher assessment rates. We saw recently that a mining company went out of business and left the Yukon Workers’ Compensation Health and Safety Board holding many debts that were unpaid. Under the old system, the existing — let’s say there were 10 people in the rate group, and one of them goes under and doesn’t pay their debts; the other nine then shoulder the burden for those unpaid debts.

What this does is allows the Yukon Workers’ Compensation Health and Safety Board to actually claim the money that is owed the system from a director of a company. Before that, they weren’t allowed to do that. I am sure that the member opposite will have other questions.

**Mr. Dixon:** If I understand that correctly, my understanding would be then that the Workers’ Compensation Health and Safety Board could, in the event a business is delinquent, go after the directors of the company, rather than the corporation itself. I’m wondering if this represents what, in the legal world, we would consider a piercing of the corporate veil. Does it allow for the board to go beyond the corporation itself and to the directors individually as persons — as individual persons — so that those directors would have their own personal assets in play, as opposed to just those of the corporation itself?

As we all know, the fundamental structure of a limited liability company is to protect the directors from debts or obligations occurring as a result of the conduct of the business. If this allows for the piercing of that corporate veil, for the board to go after individual directors, that would be something that I would like explained a little bit more.

In the event that a corporation is either bankrupt or ceases to exist, what sort of steps would the board take to go after that individual director, or those individual directors, and can they go after their personal assets to address delinquent obligations to the board?

**Hon. Mr. Mostyn:** The *Workers’ Compensation Act* currently does not include a provision that allows the Yukon Workers’ Compensation Health and Safety Board to collect unpaid assessments of corporations from their directors. Similar types of legislation, such as the *Income Tax Act* and the *Employment Standards Act*, do have these kinds of provisions. This is not cutting edge in any way, shape, or form. If a corporate entity fails to pay the required assessment premiums, because it becomes bankrupt or has financial difficulties, the Yukon Workers’ Compensation Health and Safety Board may not be able to collect unpaid assessments, premiums from the corporation, and the result is that other employers in the system bear these costs. The drafted legislation proposes to add a

provision to make directors jointly liable for the amounts owing by a corporation under this act.

This will provide an effective tool for the compensation board to collect unpaid assessment premiums from the director or directors of a corporation. It strengthens the current provision, 110(2), which holds an officer or a director liable to the punishment as a party to the offence committed by a corporation. Personal accountability for directors can aid in employee compliance. It is consistent with the directors' liability for other corporate obligations, such as income tax and employment standards. Other employers will not be subsidized, as I said earlier, in the debts of delinquent employers through higher assessment rates. It reflects what we heard through the public engagement. It's in line with similar provisions across Canada relating to collections for WCB premiums and does not affect the volunteer directors of a registered society who fall under the *Societies Act*. There would be an exemption for volunteer directors under the *Societies Act*.

That is a lot of the background behind this and some of the rationale. The bottom line is yes, the Yukon Workers' Compensation Health and Safety Board would be able to go after the assets of a director in the event of a bankruptcy — as the member opposite calls it, I guess, “piercing the veil”. It is a common practice in other pieces of legislation and would now be allowed to be done through the Yukon Workers' Compensation Health and Safety Board, and the policy within the board to actually do this will have to go through a process with employers to draft that policy.

**Mr. Dixon:** The minister started to answer the next question I had at the tail-end of his previous response. I was curious about the process by which the board would seek the personal assets of a director of a company for either unpaid assessment premiums or other obligations before the board.

I may have understood that the policy is yet to be developed, but I would like the minister to offer an explanation of how the board, or the government, would go about that process of piercing the corporate veil and going after a director of a company for the obligations of the company itself.

**Hon. Mr. Mostyn:** Yes, the member opposite — as I indicated both to his colleague and to him earlier, the policy work is going to be developed with the stakeholders that the Workers' Compensation Health and Safety Board has assembled — including directors in the territory — to find out how best to do this. As I mentioned, currently, the Yukon Workers' Compensation Health and Safety Board is unable to perform this type of thing to reclaim the money that it is owed from delinquent directors involved in a bankruptcy or whatever. I have been consulting with President Dieckmann. They still don't know how other agencies do this. That policy work will be developed in the coming months, before the act actually takes effect later in 2022.

**Mr. Dixon:** The minister has indicated that, at present, the board, or the government, isn't aware of how they will do that, so, I am looking for just a little bit of guidance from the minister: Is he anticipating that this would be a process done by policy, or would the process by which we go after directors of companies that have delinquent debts be something that would

be set out in regulation? Just to recap the question: Would it be done by policy or would it be done by regulation? If he could answer that, it would be appreciated.

**Hon. Mr. Mostyn:** I appreciate the question from the Leader of the Official Opposition. I am told that it will be done through policy.

**Mr. Dixon:** At this point, I guess I would just, by way of advice, provide some comments to the minister that I think will be an important issue to review closely with the business community here in the Yukon. Obviously, it will directly impact a director of any business in the Yukon who may be subject to obligations as a result of their ownership or holding of shares or directorship in a company. I know that, oftentimes, the limited liability corporation is viewed as a sort of sacrosanct matter that protects those individuals, but if this is piercing that and moving into going after the personal assets of a director of a company, that is something that I am sure many directors of companies in the territory will have great interest in, because all of a sudden, the activities of their corporation now impact their own personal finances and their own personal assets. So, that is something that I do think merits a significant and thorough amount of consultation with the business community.

Having said that, I will move on. The next subject area I would like to speak about is the compensation fund. I know that, in the public documents, the public consultation, and the subsequent “what we heard” document, the document indicated that feedback was shared by participants in the public engagement, who were seeking to clarify and legislate certain circumstances that would require the YWCHSB to provide rebates to employers. There was a question around maintaining the current fund range of the compensation fund.

I am wondering if the minister can first provide us with an update as to what level the fund is at, in terms of financing. I know that the range it is required to be is between 121 and 129 percent. I am wondering if, while he has his officials with him, he can provide an update on where that fund is at and whether or not consideration was given to legislating what that level is.

**Hon. Mr. Mostyn:** The board of directors of the Yukon Workers' Compensation Health and Safety Board manages the compensation fund in accordance with the policy direction that it arrives at in consultation with stakeholders. It establishes certain parameters to ensure that the rates remain steady. It's not — I guess the short answer is: Is it in legislation? Did we consider it? No, we didn't put it in legislation. We did that intentionally, because setting a rate in legislation would fetter the discretion of labour and the employers' businesses in the territory and the board to come up with funding policies that meet the needs at the time.

Policy directions, as we all know, can change — the fiscal situation in the territory — or the way that we manage workplace health and safety can change. Leaving it as a target set by the board, in close consultation with the business community, labour, and its stakeholders, allows us to meet those policy directions as they develop.

**Mr. Dixon:** So, is the minister able to tell us what the current rate is right now? What is the fund capitalized to right

now — what level of percentage? Is it within that current range, or is it beyond?

**Hon. Mr. Mostyn:** The Leader of the Official Opposition is pushing the item, and I totally understand that; I respect that. I was hoping to leave some tidbit that might be applied to the officials when they come into the House in a few weeks and address their questions directly. At the moment, all I can say is that the fund position as we know it is what it was last year — at 130-odd percent. It's enough to warrant the paying back of a dividend because it was above the chosen range, but we don't know what it is today at this very moment. It fluctuates dramatically with the goings on in the market, so that fund is invested and is subject to the vagaries of the market.

It is also dependent on the decisions that we take this afternoon — or have taken — with respect to the compensation legislation, because decisions — like adding a couple of presumptive cancers because of the evidence — do have real-world effects on the costs to the system and costs to businesses. Until we actually find out what this whole bill encapsulates, we won't be able to say exactly what the effects on the compensation fund are. The actions, additions, or subtractions that we make to the bill before it's passed have real-world effects and will affect the business community in what could be profound ways, so that's why I will wait and leave that question on the table for when the officials come in. It is a good flag for the Chamber that the decisions we take today do have real-world effects on businesses in the community, and we should take those decisions with the research and deliberations that the officials have put into this act. It was years in the making, so we should add to those things on the fly as little as possible.

**Mr. Dixon:** I take the minister's point that the board will be before the Legislature at some point in the next few weeks — at least before the end of this Sitting — so I won't spoil too much, I hope, by asking a few of these questions. The reason I asked that question, Madam Chair, is that as the Premier has indicated, we do know that the fund is beyond the current parameters set out by policy. I know that this is so often the case, as it has been at least over the last several years.

The minister indicated that it is in the — “130-some-odd percent” is the phrase that he used. That is, of course, beyond the policy direction that is provided. I know that this is the reason why there is some interest among some in the business community to see that amount legislated so that it didn't get beyond that amount. Part of why that is important is because, when it does go beyond there, we know that this necessitates the need for rebates to employers. Sometimes, when the rebates are occurring years after the fund has reached that level, there is a bit of a lag between the activities of those businesses that paid into it to get it to that level and the rebates that are enjoyed by businesses who come after the fact.

That was my point — so the reason I asked whether or not it made sense for the government to consider adding that amount into the legislation at whatever level they deemed to be appropriate. Perhaps I will let the minister respond to that before I move on to my next point.

The funding amount of the compensation fund is something that we often hear about from the business

community, and so I was curious as to whether or not the minister had explored the idea of adding a legislative limit to that, but I do appreciate the point that the market does adjust where the fund is added on a day-to-day basis and the fact that it is invested means that we lose control of it to a certain extent once it is in the market. It could go beyond that without us intentionally having a higher than anticipated return or something like that.

Maybe I will just let the minister respond to that — if they did consider the proposal to legislate a limit on the compensation fund and whether or not they would consider that going forward.

**Hon. Mr. Mostyn:** Once again, I thank the Leader of the Official Opposition for the question this afternoon. It's a good discussion.

I will say, in response to his latest question, that, yes, we did consider legislating the fund parameters and we rejected it. We felt that it was much better to work in consultation with our stakeholders — with labour and business — in setting those parameters so that it is flexible enough to meet the needs of the board, especially given potential market fluctuations, et cetera. That is how we decided to do it, but we did consider it and then rejected that idea.

As far as employers getting paid out the rebate and that type thing, I think the deep dive could probably be directed to the officials when they come into the House in the next little while.

I was in the compensation board when we set up the policy when it first came to our attention back in the day. It was set on a three-year time horizon, so employers who had paid into the fund for three years got the largest share of the rebate, and those who just came on board in the previous year would get a smaller rebate because they only paid into it for a single year. Those who just came into the fund, who hadn't paid in over the previous three years, would not get anything because they hadn't paid into the fund that resulted in the surplus that was getting paid out. If you were a newcomer, a new business that had just started up, you wouldn't get a share of the fund that you hadn't paid into.

That's basically the way the policy was developed and the way it has worked over the last several years. I hope that answers his question. If it doesn't, of course, he can direct much more spirited and pointed questions to the officials when they get into the House.

While I'm on my feet, I'm going to ask if we might have a brief break.

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

**All Hon. Members:** Agreed.

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

*Recess*

**Deputy Chair (Ms. Tredger):** Committee of the Whole will now come to order.

The matter before the Committee is continuing general debate on Bill No. 8, entitled *Workers' Safety and Compensation Act*.

**Mr. Dixon:** I thank the minister for his answer prior to the break. I appreciate that some of the more detailed questions about that matter are best placed for when the board appears before the Legislature. I will certainly take the minister's advice and bring those forward then.

I do appreciate that some of the detail there, in terms of the structure of the payments to employers when the fund is overfunded, as well as which businesses receive that rebate and which do not as a result of the timing by which they have been paying into the fund, is something that I can discuss with the board. I do appreciate the minister's acknowledgement that they did consider the idea of a legislated limit and ultimately rejected that decision and proceeded with what we have before us today.

I think it is something that I would like to see revisited at some point, but it certainly is not an issue that I think holds up this legislation. It certainly won't affect my support for the bill, but I did want to note that I think that there is a possibility of a future conversation about whether or not that limit could be revisited and whether or not that limit should be considered in legislation.

I will move on to the next area that I wanted to discuss with the minister, which is the PTSD presumption clause. As the minister noted, this was initially changed several years ago just for first responders. Over the course of the last few years, upon reflection on that section and upon consideration and consultation, the government has decided now to expand that to the list of occupations included in this bill.

I would like to ask the minister if he can provide a little bit more information about how that decision was taken, why the current list of occupations is as it is, and whether or not other occupations were considered and subsequently rejected — basically, if the minister can offer any sort of further thoughts on the expansion of that list to other occupations and what that might mean from the perspective of cost and the impact on the compensation fund itself.

I note that the minister, in his previous comments, did note that decisions about expanding the eligibility, or the presumption, shouldn't be taken lightly and that we need to consider the implications of the cost, and so I would ask him what sort of implications they have determined could come as a result of this expansion of the PTSD-presumption clause to other occupations.

**Hon. Mr. Mostyn:** I will reiterate the question posed by the Leader of the Official Opposition and that was about the costs coming into this.

I will say that, in earlier remarks, I have spoken about costs and cautioned about making decisions on the fly — dare I say it: fast and loose — that may add to the cost without having the board go through what's involved with the decisions taken today.

In terms of PTSD, the consideration has been made. Society has acknowledged that dealing with mental health in the workplace is important, so the board staff have gone

through and actually examined this issue and have studied what the effect of the decisions that we took in 2017 were for psychological injuries and what would be the effects of expanding it to all industries. I will talk about that in a few minutes.

The PTSD presumption came into effect when amendments were made to the *Workers' Compensation Act* in November 2017. At the time, it applied to emergency response workers, including police, firefighters — the presumption applied to firefighters and paramedics. It eased the evidentiary burden and simplified the claims adjudication process for emergency response workers diagnosed with PTSD. A diagnosis of PTSD by a registered psychologist or psychiatrist was required and is still required today.

Emergency response workers are at least twice as likely as the general population to suffer from PTSD as their employment routinely exposes them to traumatic stressors. Claims for psychological injury may be denied because the worker does not have a diagnosed psychological injury as required by the act and policy or the injury was found to be caused by something other than work duties.

Introducing the PTSD presumption in 2017 increased awareness of psychological injuries in the workplace. The number of claims for PTSD and other psychological injuries levelled off in 2019. During that 2017 public engagement, the board heard that other occupations such as nurses, social workers, and corrections officers should also be included under the presumption.

Again, "presumption" doesn't mean that, if you have an incident at work or an injury at work and are outside the employees covered by a presumption, you won't be covered; you can still get presumption.

I saw the Leader of the Official Opposition nodding his head earlier, and I think he greatly understands that presumption eases the adjudication process, but it doesn't preclude others from getting coverage, if they are indeed suffering from a mental illness or a physical injury or a disease.

Introducing the PTSD presumption in 2017 helped to increase awareness of psychological injuries in the workplace. Expanding it to all workers will continue to aid in these awareness efforts. Any worker who has been exposed to a traumatic event at work has the potential to suffer from PTSD as a result of their employment. The presumption eases the evidentiary burden and simplifies the claims adjudication process for workers exposed to a traumatic event at work. A diagnosis of PTSD by a registered psychologist or psychiatrist is still required.

So, if something happens at work, you get a diagnosis from a psychiatrist or a psychologist who says that, yes, you're suffering from post-traumatic stress; then the presumption immediately kicks in. If the medical professional says that you are not suffering from PTSD, there is no coverage, of course.

Jurisdictions including Saskatchewan, Manitoba, PEI, and Newfoundland include a general PTSD presumption for all workers. So, we're not the first in the country to do this. The regulations for preventing workplace violence and harassment came into effect on September 4, 2021. Two areas of change



are a new regulation that addresses violence and harassment as workplace hazards and enhancements to existing regulations about hazard assessment. These regulations are one way to promote psychological health and safety in the workplace.

I did say that I would talk about some of the numbers, and I think that these are telling, actually. In 2017, we had 20 psychological injury claims accepted by the board. Of those, nine were for PTSD, and none were a presumption. In 2018, we had 15 psychological injury claims accepted; four of those were for PTSD and only one was a presumption. So, three were PTSD outside of the presumption. In 2019, we again had 20 psychological injuries. Ten were accepted for PTSD and only three were a presumption. In 2020, we had 24 psychological injury claims — so they are going up, as we have seen a 20-percent increase — and 14 were for PTSD and only one was where a presumption was applied, so 13 of them were outside the presumption. This year to August, we've had nine psychological injuries; five were accepted for PTSD and only one was a presumption.

So, you can see we're accepting an awful lot of claims for psychological injuries, and these claims are legitimate. They reflect our growing awareness of psychological injuries in the workplace, and they should be covered. The workers injured, as a result of some psychological injury in the workplace, should be compensated. It's good to see that they are being compensated. You can see that not all of them are PTSD — there are an awful lot that are not for PTSD — and they are a cost to the system, but they are a legitimate cost.

People are getting injured, and because of our growing awareness of these injuries, we are actually now putting a figure to the cost on society of these injuries. We were told by business groups five or six years ago that the cost of psychological injuries in the workplace in Canada could be costing, in lost time and lost productivity from the workplace — it could be in the billions of dollars. I think the number I heard at the time was \$20 billion. Now we are looking at helping these poor souls who have been injured on the job and are getting compensation and medical help for those injuries.

**Mr. Dixon:** I appreciate the minister's response and the numbers. I'll have to go through the Blues and extract the actual numbers. I wasn't able to write as quickly as I needed to, but one of the fundamental questions that I wanted to address was that, regardless of this change in the legislation, a worker who undergoes a psychological injury still needs a diagnosis in order to be eligible for damages under the fund. So, I would like to ask the minister about that. What is required in order for the board to consider a psychological injury as having occurred, and what is required for someone to be deemed to have suffered a stress injury like PTSD? If the minister could explain that — what sort of diagnosis is necessary or what sort of process does the worker need to go through in order to be eligible for support from the fund?

**Hon. Mr. Mostyn:** I thank the Leader of the Official Opposition for the question this afternoon. The more we talk about these things, the more understanding there is, and I think that is a good thing,

Basically, something happens to you at work — some psychological stressor — and you go to a doctor. The doctor confirms: "Yes, I think something may have happened to you." It comes down to filing a claim. Again, if you are injured at work, make sure that you file a claim and document what happened so that there is a record of what has happened. We cannot stress that enough.

You see a doctor, and the doctor says, "Yes, I think that something has happened." Doctors are not qualified, often, to assess a psychological injury. We then go to a psychologist or a psychiatrist, who then goes through the process of assessing a person's mental state, and at that point, if they deem that there is a psychological injury and that it did happen out of, or during the course of, work, then you will be covered. That is how it works, but it starts with a doctor and then goes to the professional who is qualified to assess a mental injury, and then, if that results unfortunately in a positive result, you will be covered.

**Mr. Dixon:** Just to confirm: A diagnosis from a psychiatrist or a psychologist is required? Is that correct?

**Hon. Mr. Mostyn:** That is correct.

**Mr. Dixon:** As the minister may be aware, with one of his other hats on, psychology is not something that is regulated in the territory, and so anybody can claim to be a psychologist, at this point, given that psychology is not a regulated profession in the territory. If I wanted to hang a shingle tomorrow — and call it Currie's Psychology Services — I would be permitted to do so.

I am wondering what kind of scrutiny the board provides for that, given that a diagnosis needs to come from a psychologist, which, as I have indicated, is an unregulated profession in the Yukon.

**Hon. Mr. Mostyn:** I appreciate the question from the Leader of the Official Opposition. It is a good question. He is absolutely right. There is a potential hole in the territory — under the professional regulations — and it is one that I am, with my other hat on, as he noted, seeking to plug. It is actually in part of my mandate letter, so it is something that I take as a serious issue. I have heard from my constituents about it. I am sure he has as well. It is something that we have to address, but that is for another time.

What we are talking about right now is WCB and what rigour is brought to the people treating psychological injuries within the workers' compensation system. The board has service agreements with all of the psychologists and psychiatrists used, and it vets those people themselves. If they can't get immediate assistance within the territory, they can actually send them to a professional out of the territory and perhaps to a multidisciplinary clinic or somewhere so that they can get the help that they need. It is a tremendous strength of WCB that the collective fund that the member and I were talking about earlier funds the services that injured workers need to get the services needed to get them back on their feet. That is employed, and we have a vetting process to make sure that we are dealing with qualified psychiatrists and psychologists in the territory and outside of the territory.

**Mr. Dixon:** Thanks to the minister for that answer and for the acknowledgement that there is a serious hole in our professional regulations with regard to psychology. I will leave it there and leave it as an informal, roundabout way for making the plug for, indeed, moving quickly to regulate psychology in the territory. I encourage the minister, with his other hat on, to advance that as soon as possible. This is just one example of an area where that lack of regulatory framework for psychology has an implication beyond just the regulation of the profession. It does affect, in this case, the ability for workers to access a proper diagnosis.

I would also make the point that the availability of psychiatrist services is something that the Legislature should be aware of, as it can be an inhibiting factor for individuals to seek a diagnosis. I'm glad to hear that the minister has acknowledged that individuals may need to go Outside or rely on capacity from outside the territory to seek that diagnosis.

I'll leave it there. That's just a point I wanted to make.

I will move on to the next issue that I wanted to address. I realize that our time is elapsing quickly, so I will be as brief as I can.

The next issue that I want to discuss is third-party actions, in particular, the issue of subrogation. I know that the minister is probably aware of this because at least one industry group has raised this with all of us — the minister included as well. As the minister is aware, the current legislation has an exemption that allows action against another employer or co-worker if a vehicle is involved and there is negligence.

As a general principle, the WCB system is set up to protect the legal liabilities of an employer so that a worker who, through the course of their work, is injured and is eligible for damages. So, the worker doesn't sue the employer or doesn't take legal action against the employer; they go to the fund and are paid for the damages through the fund. This is a unique complexity to the legislation and to that general principle that the employee doesn't take legal action against the employer.

One can conceive of a scenario where employees could face an injury in the course of their work and, under this exemption, take legal action against an employer — not their employer, but another employer. So, a scenario that one could conceive of would be if a transportation company was transporting employees from one place to another — perhaps from home to a job site, from Whitehorse to a mine, or from a community to an exploration site in a remote part of the territory. What that exposes those transportation companies to is an added level of liability that doesn't exist for other employers and other types of employers. The definition of "vehicle" is such that it includes pretty much any conveyance of people.

So, employers who operate vehicles — whether it's an aviation company, a transportation company, or a bus company — face a different level of liability when it comes to injuries.

What the subrogation section allows for is the board to step into the shoes of the injured employee and take legal action against the employer. So, what we have is a fairly — somewhat unique situation. I know that, in the "what we heard" document, the board, or the department, provides a bit of an overview of

what the different jurisdictions do. It's noted that the status quo for Yukon — the current situation that I'm talking about — is only in effect in Yukon, Newfoundland, and New Brunswick. It's a very different situation in Alberta, BC, Saskatchewan, Ontario, and Québec where no action against an employer or worker is permitted. It's a very different situation in the Northwest Territories and Nunavut where there is a limiting clause in their legislation that limits the amount of recovery to employers' insurance.

This is related to the question that I raised earlier about the directors' liability. What this means is that, if an owner of a company that conveys employees of another company to and from a workplace — or in the course of their work — those employers are subject to a different degree of legal liability.

I don't want to play out the various hypothetical situations, but it is conceivable that a situation could arise where the damages that are needed to pay out to the potential victims of an accident could supersede the amount of legal liability that a company has bought under their insurance requirements.

In that situation, given the ability of the board to pierce that corporate veil and go after the assets of the company's owner, that does create a lot of consternation for a lot of Yukon businesses. We have seen that expressed by the NATA organization, the Northern Air Transport Association. Obviously, the aviation industry, in particular, would be concerned about this, but I would expand that group to groups like any business that conveys workers to and from a project or a work site.

So, I wanted to raise that as a concern. I think that the model employed in the Northwest Territories and Nunavut is one that the minister should consider. I think that limiting the amount of liability to the level of the insurance liability that the business has is a reasonable compromise between what the industry is asking for — which is no liability — and what the government is currently proposing, which is that the board can go after the employer for the full amount of the damages.

I will leave it there and perhaps let the minister respond and correct me if I am wrong or provide his perspective on that. That is an issue where I do think that there is room for reconsidering the approach that the government is taking on this piece of legislation.

**Hon. Mr. Mostyn:** Once again, I want to thank the Leader of the Official Opposition for the question. So often this afternoon, we have been agreeing with each other. I know that I had conversations with Doug Graham many, many years ago when we started agreeing with each other, and it made both of us very uncomfortable, but I do appreciate the conversations that we are having this afternoon on these matters.

This government, the board, and I have met with representatives of the Northern Air Transport Association, and we have been in conversation for some time regarding the issue of third-party claims. By "some time", I think it goes back to 1998 — decades in fact. In 1998, they brought this concern forward to the then-New Democratic government, which decided not to make the changes that were being suggested. I believe that the issue came up again in 2007 or 2008 with the former government. Again, that government had every tool at

its disposal to make the change and again decided not to. Here we are again in 2021 with a new government and a new minister, and it's the same issue and same circumstances, I think.

I hear the concern from the community about this. We committed during the stakeholder review that we would listen to the stakeholders' concerns and recommendations. We took this issue to the stakeholders as part of the comprehensive public engagement under the act review. The stakeholders recognized the complexity of the issue — and it is complex, and I think the member opposite did a nice summary of the issues, and I commend him on his understanding. Although there were concerns that no third-party action should bankrupt an employer, ultimately, stakeholders agreed that the current provision should remain in place. What that status quo does is that it protects and makes sure that injured workers can get access to the most resources that they require in the event of an incident. It also protects employers, because, in this small territory roughly the size of Campbell River and operating in some of the most geographically harsh conditions — certainly in the country and arguably elsewhere — should an incident occur and negligence is involved — we are talking about negligence. There has to be negligent behaviour on behalf of the employer to be able to go after a third-party piece.

So, it is not just a typical incident. There has to be negligence involved in the whole incident. Provided that somebody was involved in an incident and horribly injured in a negligent incident, then we could go to bat for them through the insurance company and be able to have a pool of insurance money drawn from the entire country to support the people of this territory — that has roughly 40,000 people — a very, very small pool of people, and the reserve of that for a business community is onerous. So, by having this ability, we could, in a situation of negligence, actually pull on a much larger pool of insurance coverage for the entire country.

I want to say, as well, that we have had many, many cases of damages exceeding the insurance amount, but never have we had an award of more than the insurance payable, ever — never happened. I know that it is a “what if”, and we have heard the “what if” from some of the people who are concerned about this, but that “what if” has never materialized.

The question is that if you limit just the value of the insurance, what do you do in the case of a company that is negligent, who underinsured themselves? If they decided not to get the amount — maybe they are shortchanging a number of different things that led to something and then they are also shortchanging their insurance and didn't get the amount of insurance that they really should be having — they underinsured themselves. What do you do in that situation?

So, I mean, on balance, in looking at this in the act and going over the history and realizing that it is an exceedingly complicated issue, the bottom line is that we are a very small territory with a very small number of funders, and I want to make sure that our injured workers get the compensation that they deserve, and I want to make sure that the compensation fund is protected — that our employers are protected and don't

get subjected themselves to onerous, devastating cost and rate increases because of an accident by a negligent operator.

That is where I came down to. I am happy to continue the conversation, but I think, on balance, that the system has worked well for the territory. Nobody has been put out of business as a result of the current situation. It has been examined and sustained by governments of all stripes. Now it is our turn. We have looked at it. We agree with the decisions made by our forebearers in both the Yukon Party and the NDP. We think that it is a good way to go with the territory — that the status quo is acceptable, it provides the best compensation for our injured workers, and it also protects businesses from a potentially catastrophic rate increase. We are doing that by pulling on the insurance resources of the entire country.

**Mr. Dixon:** I appreciate the minister's response. In some instances, though, I would respectfully disagree. I think that it is important to note that the employer is protected here, regardless of which policy decision we make in this legislation, because even if we were to take a model from another jurisdiction — either way, if an injured worker is eligible for damages, they will receive it from the fund. What we are talking about is that, after that, when the board tries to recoup some of those costs from the employer — either from their insurance or from their personal assets as is possible with the directors' liability provision —

I appreciate that the minister said that this has never happened before in the Yukon. I agree. I hope that it never happens. It would be quite a terrible instance where the amount of damages would supersede the insurance, the liability, that a company would have. But if that were to be the case, that would result in the board going after the personal assets of the directors of a company. That is something that we discussed earlier when we talked about the piercing of the corporate veil.

I note that, in the “what we heard” document, in discussing this, the conclusion was that generally support was for pursuing third-party actions without bankrupting employers. There was a sense among those consulted that we should be protecting workers and that we should be ensuring that they have access to the funds, but we should be doing so while making policy decisions that allow for a system that doesn't bankrupt employers or create the perception that the possibility could exist and it hangs over the head of a particular industry.

I note that in other jurisdictions — like Alberta, BC, Ontario, Saskatchewan, and Québec — action is not allowed against an employer or co-worker if a vehicle is involved and there is negligence.

That unique feature — the addition of an exemption specifically to vehicles and to the degree that it is allowed right now — is relatively unique to the Yukon. It's only Yukon and two other jurisdictions that have this legislative structure.

My suggestion is that, pursuant to the “what we heard” document — what that document outlines is that a solution should provide for optimum flexibility to enable Yukon Workers' Compensation Health and Safety Board decision-making while balancing reasonable protection for employers — there should be the consideration to limit subrogation to the extent of an employer's insurance, the award to the

government-regulated standards for insurance, and the ability to subrogate to cases where negligence has been determined by other government bodies.

There is also the suggestion that the outcome of actions could cause financial hardship to employers, including bankruptcy, and that the workers' compensation system is supposed to be no fault, and this contravenes that founding principle.

I don't think we're going to resolve it here today, Deputy Chair, but suffice it to say that I believe that a different model would be better and that the model perhaps employed in the other territories would be a superior framework, given our circumstances.

While I don't suggest that we remove the vehicle exemption all together, although that is certainly being advocated by NATA and by others in the industry, perhaps a compromise could be the limiting of the amount to the employer's liability insurance amount. That's something that I think the minister should consider. I think that it would be a welcome change from the perspective of the employers of the territory, particularly those who operate "vehicles" and particularly those who convey, for a living, the employees of other businesses who are operating in the Yukon. That is the specific subsector that we're talking about when we're talking about this particular section.

Deputy Chair, like I said, I don't think that we're going to resolve it today, but I would note, just for the record, that I think that there is an alternative approach that should be considered and I hope that the minister would consider in the future to look at one of those other jurisdictions and consider whether a better approach might exist, perhaps in Northwest Territories and Nunavut.

But recognizing that we are probably not going to have too much time to go into this today, I will let the minister perhaps respond and offer any sort of thoughts in response to my comments.

**Hon. Mr. Mostyn:** For a second, I thought that we were going to agree on everything this afternoon, and then I would really be in a pickle, but we don't. On this one, we don't agree, but that's okay. I heard the member opposite make his case, and I am open. I have heard this. It is a complicated issue, but I will say that he didn't answer the question about: What if a negligent operator is uninsured? It is a difficult one.

I will also note that Nova Scotia, Prince Edward Island, and Manitoba don't have a limit on the insurance claims. They do restrict it to motor vehicles and exclude aviation, but they don't have a limit on third-party liabilities, and neither do Yukon, Newfoundland, and New Brunswick — smaller provinces. The bigger provinces, which have vastly more resources than most of these smaller provinces and certainly this tiny territory — they are right. They have restrictions in place, but some of those larger provinces allow workers to opt out entirely with no limit on damages — none. So, there is a different system. You are not dodging away from this. BC, I believe, is one that will allow a worker to opt out of the workers' compensation system and go whole hog after a negligent operator. It's nuanced.

I have heard the concerns that the member opposite has raised this afternoon. I have heard it from NATA specifically, in its own words. I appreciate the advocacy that is being brought to the Assembly this afternoon. I will also say that we have heard through years of consultation with employers and labour on this issue. I have gone back and confirmed — and the groups that we consulted stand behind the decision that we have taken to not limit third-party behaviour, and that was a consultation done with many Yukoners. After all that consultation was said and done, we came to a decision, made a decision, and took a decision. That was informed by, as everybody has noted this afternoon, a very robust and comprehensive system. At the end of it, they were happy with the decision that we took on this issue.

So, I understand that there are stakeholders out there who are concerned about this, but on balance, I think that the larger constituency of businesses and labour in the territory are comfortable and support the direction that we have taken, and I think that is something that we should consider — the wider constituency, the silent majority who are supportive of making sure that our injured workers are cared for in the most robust way possible after an incident and that our business community is protected from grievous and crippling rates in the future, from the behaviour of a negligent operator in the territory.

All right. Seeing the time, Deputy Chair, we should wrap this up. I move that you report progress.

**Deputy Chair:** It has been moved by Minister responsible for the Workers' Compensation Health and Safety Board that the Chair report progress.

*Motion agreed to*

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

**Deputy Chair:** It has been moved by the Minister of Energy, Mines and Resources that the Speaker do now resume the Chair.

*Motion agreed to*

*Speaker resumes the Chair*

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

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

### Chair's report

**Ms. Tredger:** Mr. Speaker, Committee of the Whole has considered Bill No. 8, entitled *Workers' Safety and Compensation Act*, and directed me to report progress.

**Speaker:** You have heard the report from the Chair of Committee of the Whole.

Are you agreed?

**All Hon. Members:** Agreed.

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

**Hon. Mr. Streicker:** Hon. Speaker, I move that the House do now adjourn.

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

*Motion agreed to*

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

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

**The following sessional paper was tabled October 25, 2021:**

35-1-23

*Yukon Heritage Resources Board Annual Report April 1, 2020 — March 31, 2021 (Pillai)*

**Written notice was given of the following motion October 25, 2021:**

Motion No. 169

Re: Resignation of Deputy Premier from Cabinet (Cathers)