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HANSARD

Thursday, October 10, 2024 — 1:00 p.m.

Speaker: The Honourable Jeremy Harper

YUKON LEGISLATIVE ASSEMBLY

2024 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 — Lane Tredger, MLA, Whitehorse Centre

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

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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
Lane Tredger	Third Party House Leader Whitehorse Centre
Annie Blake	Vuntut Gwitchin

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Yukon Legislative Assembly
Whitehorse, Yukon
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Speaker: I will now call the House to order.
 We will proceed at this time with prayers.

Prayers

Speaker's statement

Speaker: Yesterday during Introduction of Visitors, the Minister of Community Services introduced the Member for Mount Lorne-Southern Lakes and the Member for Riverdale South by name. The Member for Lake Laberge rose on a point of order to correctly point out that MLAs should not refer to one another by name.

I would also like to remind all members that, as stated in a report of the Standing Committee on Rules, Elections and Privileges, which was concurred in by this House: "The rubric Introduction of Visitors in the Daily Routine should be reserved for introducing visitors present in the gallery and introductions should be brief."

DAILY ROUTINE

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

INTRODUCTION OF VISITORS

Speaker: Introduction of visitors.
Visitors introduced

Speaker: Tributes.

TRIBUTES

In recognition of Women's History Month

Hon. Ms. McPhee: Mr. Speaker, I rise today on behalf of the Yukon Liberal government to recognize Women's History Month and, in particular, the fundamental contribution of women in the Royal Canadian Mounted Police. This year marks 50 years since the Royal Canadian Mounted Police announced that the organization would begin accepting applications from women for regular police duties. The first troop of 32 female RCMP recruits, Troop 17, arrived at Depot in September 1974 and graduated in March 1975.

Troop 17 was a group of women who, despite encountering challenges and systemic barriers, made a real and trail-breaking difference in their communities and this country. While many women had support at their first postings, many also encountered significant challenges, including gender-based harassment, discrimination, and violence. Their resilience and perseverance led the way to make the RCMP become a more inclusive and representative organization.

Over the last 50 years, women in the RCMP have inspired, innovated, and worked to build a safer and more diverse community. Significant milestones of women in the RCMP include: the first group of women to join the Musical Ride in 1981, the first woman detachment commander in 1990, the first

three women to receive officer commission in 1992, the first woman to join in the emergency response team in 2004, and the first woman to serve as RCMP commissioner in 2006, although the next and only other female commissioner wasn't named until 2018.

Nationally, approximately one-fifth of RCMP members are women, with an increasing number of women in leadership roles. Here in the Yukon, 22 percent of our members in M Division are women. We have a female Whitehorse detachment commander, a female member of our emergency response team, and a female superintendent currently acting in the role of commanding officer.

Thank you to the women working for the RCMP in the Yukon and those over the decades for your service and for making the communities that you serve a better place to live. Your work has been a true example of the vital role that women play in the RCMP and in our community.

Let us celebrate all women and girls during this Women's History Month and all of those choosing a career in the RCMP over the last 50 years. If anyone doubts the impact of this kind of evolution and contribution, we should turn to the first female RCMP commissioner and a member of Troop 17, Bev Busson, when she said — quote: "The day they announced they were taking women in the RCMP they were calling my name. I literally applied that day in the RCMP detachment in my hometown in Nova Scotia."

Applause

Ms. McLeod: Mr. Speaker, I rise on behalf of the Yukon Party Official Opposition to recognize October as Women's History Month. We stand in celebration of women and girls who have contributed so much to the history of Canada and the Yukon.

This year, Women's History Month is focused on women at work, economic growth — past, present, and future. We recognize and honour the achievements and contributions of women across the workforce. Over the last number of years worldwide, we have seen a growing number of women entering more non-traditional fields of employment. These include trades and technology, law enforcement, politics, science, business, and more.

They are not women in a job but leaders and experts in their chosen fields, and they are continuing to pave the way for our children to grow up and realize that they too can be who they want to be: firefighters, doctors, carpenters, engineers. We recognize the trailblazers who have made it possible for girls to dream big, pioneers whose contributions have shaped the Yukon we know today.

We would like to thank all of those who work to give girls the opportunity to recognize their full potential to become the women whom we tribute for their accomplishments.

As we commemorate the International Day of the Girl Child, we are reminded that there are generations of women to come, and with them will be many more contributions to our territory.

Applause

MLA Tredger: I rise on behalf of the Yukon NDP to celebrate Women's History Month. I have always loved the footnotes in history books, and I think it might be because, when I was younger, that's where you would find the stories about women. Little asides in books that were about their husbands passing reference to their so-called "assistance" in discoveries by men — their lives and accomplishments were generally afterthoughts to the main story.

I don't want to say that this is not true now, but this morning, I started looking up women in Canadian history online and I did not have to resort to reading footnotes. I found a treasure trove of articles, stories, poems, and videos celebrating Canadian women. If, like me, you love learning about women's history, I have a few recommendations for you.

I was on the website for the National Film Board of Canada. Every time I go there, I think that I have to spend more time watching this library of films, but today I discovered a short film from the 1980s featuring the Yukon's own Margaret Commodore, which I cannot wait to watch. I was also on the website for Canadian heritage moments. I didn't know that they were still making those, but I'm really excited to find out. That is a rabbit hole that I could fall down for a long time. I only had time to scratch the surface this morning, but they have stories of some pretty amazing women and I can't wait to watch them.

I don't want to pretend that the work of Women's History Month is done or that all women are equally represented or equally heard in our understanding of history. The reality is that there are many who are still silenced and that has to change. There is so much left to do. I hope that, as we celebrate our progress today, it can fuel us for the fight ahead. In that spirit, I will finish by sharing a poem by Canadian poet Rubi Kaur entitled *Legacy*:

i stand
on the sacrifices
of a million women before me
thinking
what can i do
to make this mountain taller
so the women after me
can see farther

Applause

In recognition of International Day of the Girl Child

Hon. Ms. McLean: Mr. Speaker, I rise today on behalf of our Yukon Liberal government to recognize the International Day of the Girl Child and this year's theme of "Girls' vision for the future". This year's theme raises awareness of the urgent needs of girls who are disproportionately impacted by global emergencies, including conflict, poverty, climate change, and the pervasive threats to their human rights and gender equity. At the same time, the theme also draws upon the determination, spirit, and hope of girls and their dreams for the future.

In many regions of the world, the dreams of girls seem so far out of reach. Many just want enough food and shelter to know they are safe and their family is safe, and they want to be educated.

It is an unacceptable tragedy that the life and dreams of so many of these girls are so restricted. If they were given appropriate supports and resources, imagine their potential and the impact they would have on their own lives and the impact they would have on their families, communities, and across the world.

UNICEF named five solutions for adolescent girls globally: health services; a life without malnutrition; a quality education and agency over their own futures; safety from violence and harmful practices; and economic security. These are such basic human rights, and yet millions of girls around the world continue to face barriers to their own freedom. We must also remember that here in the Canada, in the Yukon, we also need to continue the work to support girls. Actions that support Indigenous girls are woven throughout *Changing the Story to Upholding Dignity and Justice: Yukon's Missing and Murdered Indigenous Women, Girls and Two-spirit+ People Strategy*.

We have many organizations supporting the rights of girls in the Yukon. Collectively, they provide safe spaces, places to connect and learn new skills, and a place to go when they need help and resources. Let's value the roles that these organizations play in the lives of Yukon girls and support them in the work they do, whether through donation, volunteering, or sharing their work.

Today and always, we have an opportunity to reflect on the impact that girls have when they are well-supported to reach their potential and make their dreams a reality. Technology is an easy and practical way to raise awareness and support the efforts around the world for the rights of girls. I encourage members of the Assembly and all Yukoners to share the Government of Canada's digital toolkit through their social media channel to help raise awareness and to honour girls everywhere and to follow the United Nations Women on social media, where you can learn and share.

Applause

Ms. Clarke: Mr. Speaker, I rise on behalf of the Yukon Party Official Opposition to recognize International Day of the Girl Child.

Today is set aside to reflect on issues affecting the girl child across the world. In many countries, girls continue to face inequality in areas such as access to education, health care, and opportunities for leadership. As per UNESCO data, did you know that nearly one in five girls are still not completing lower secondary and nearly four in 10 girls are not completing upper secondary school today? Many girls are simply not afforded the same opportunities as their male peers. Arming our girls with education and opportunities will go a long way in helping them through adolescence into adulthood.

They face issues such as dating violence, body image disorders, bullying, and mental health issues. Worse, in some areas, they face reprehensible acts of gender-based violence. Raising awareness that these gender-specific issues and violent practices still exist is an important step to making them stop. Teaching our children about respect from a young age can help to tackle some of these issues that girls face. As systemic

discrimination persists for many, there have also been significant achievements toward gender parity and advancing girls' rights. Girls continue to make an impact in their communities around the world. Investing in girls is not only the right thing to do for them, but it also brings positive impacts to their families, communities, and societies as a whole. They are standing up to the violence and inequality and making monumental changes in their communities. Girls have the right to a safe, educated, and healthy life. They have the right to realize their full potential.

It is our job as parents and as community leaders to ensure that all of our children have a safe environment and the tools that they need to reach their full potential, because girls cannot realize this vision alone. They need allies who listen to and respond to their needs.

Salamat po.

Applause

MLA Tredger: I rise on behalf of the Yukon NDP to celebrate tomorrow as the International Day of the Girl Child. Today I am thinking of all the young women and girls who I am so lucky to know. These fierce, kind, creative, and determined people inspire me every day.

When we make decisions here in the Legislature, I believe we should always be asking ourselves these questions: Does this decision make the world better for young women and girls? Does this decision respect their voices, their visions, their needs? Does it make it easier for them to step into roles of leadership and guide us toward a better future?

There are so many challenges that our young people are facing today. Some of those are shared by all of us, but often girls are the ones who are most impacted. The long years of the pandemic disrupted their education and social lives. The impacts of climate change are already being felt, but even heavier is the knowledge of what is still to come.

So many youth bear the weight of intergenerational trauma and ongoing colonialism and racism. 2SLGBTQ+ youth face the threat that the few rights they have won will be clawed back. The same is true for young women and girls when it comes to their rights to make decisions about their bodies.

It is our job as leaders to stand with girls as they face these challenges. It is our job to make sure that they have the protection and support that they need to thrive; it's what they deserve. It's also for all of us, because our world needs them. We need their strength, their skills, and their leadership. We need them to lead us into the future.

When I think of the young women and girls I know, feeling hopeful for the future is easy.

Applause

Speaker: Introduction of visitors outside of the usual proceedings.

Visitors introduced

Speaker: Are there any returns or documents for tabling?

Are there any reports of committees?

Petitions.

PETITIONS

Petition No. 24 — received

Clerk: Mr. Speaker and honourable members of the Assembly: I have had the honour to review a petition, being Petition No. 24 of the First Session of the 35th Legislative Assembly, as presented by the Leader of the Third Party on October 9, 2024.

The petition presented by the Leader of the Third Party meets the requirements as to the form of the Standing Orders of the Yukon Legislative Assembly.

Speaker: Accordingly, I declare Petition No. 24 read and received. Pursuant to Standing Order 67, "The Executive Council shall provide a response to a petition which has been received within eight sitting days of its presentation." Therefore, the Executive Council response to Petition No. 24 shall be provided on or before October 24, 2024.

Are there any petitions to be presented?

Are there any bills to be introduced?

Are there any notices of motions?

NOTICES OF MOTIONS

Hon. Mr. Pillai: Mr. Speaker, I rise to give notice of the following motion:

THAT this House congratulates Harris Cox as the recipient of the 2024 International Snowmobile Groomer of the Year award.

I also give notice of the following motion:

THAT this House congratulates Dalton Moore, hip hop artist Mobb Diggity, for his nomination for songwriter of the year at the International Indigenous Hip Hop Awards for his single *Hayley's Comet*.

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

THAT this House urges the Government of Yukon to replace play structures with fully accessible playgrounds in schools where play structures need to be updated and add accessible play structures to schools with newer play structures.

Speaker: Is there a statement by a minister?

MINISTERIAL STATEMENT

Victoria Gold Eagle Gold mine heap leach failure

Hon. Mr. Streicker: Mr. Speaker, the Government of Yukon recognizes the seriousness of the heap leach failure that occurred at Victoria Gold's Eagle Gold mine on June 24.

Prior to June 24, Eagle Gold mine produced gold by leaching a heap of crushed ore with cyanide solution. When the failure occurred at the heap leach facility, it caused a landslide that moved about four million tonnes of material. About half of that material escaped the facility's containment embankment and slid into Dublin Gulch. As I have said repeatedly, this situation is catastrophic. In large part, that's because the main

contaminant that we are dealing with — cyanide — is extremely toxic.

In this unfortunate situation, our priorities are to ensure the health, safety, and well-being of Yukoners and to protect the environment. The Government of Yukon cannot solve this problem alone. Technical experts with the Yukon government and the First Nation of Na-Cho Nyäk Dun meet regularly to inform remediation work and monitor fish and animal health. PricewaterhouseCoopers, the court-appointed receiver, is now in control of the mine site for the purpose of carrying out remediation efforts.

The receiver is undertaking mitigation work and is responsible for implementing all directions issued by the Government of Yukon and federal regulators. Yukon government leadership remains in communication with businesses and former employees who are owed money by Victoria Gold, and we are helping them to recover some of these debts.

We are also grateful for the Yukon government experts in the departments of Environment, Energy, Mines and Resources, and Health and Social Services.

I want to correct some of the confusion that seems to live across the aisle. The Government of Yukon does not own the mine site, nor has it acted in a way that would put Victoria Gold out of business. Victoria Gold executives must take some accountability for their actions in that respect.

We are in a critical time as winter approaches. The joint Yukon government and First Nation of Na-Cho Nyäk Dun fisheries monitoring program recently concluded summer work and has shifted efforts to a monitoring program that focuses on winter habitat availability and fish monitoring in 2025.

Work is progressing on the safety berm that is being built across Dublin Gulch to offer protection from a possible secondary slide of the heap. The berm access road has been completed and the construction of the berm proper is now underway.

Eighteen groundwater monitoring wells have been installed farther below the slide area. In samples taken from these wells, we are seeing high levels of cyanide and dissolved metals in the groundwater — not surprisingly — at testing sites closest to the slide in Dublin Gulch. This information helps us to understand the groundwater pathways and to inform mitigation strategies.

Fortunately, we are not yet seeing unsafe levels of cyanide in the downstream environment. The receiver's water treatment contractor has been hard at work upgrading the water treatment plant and conducting tests to determine the best means to discharge water safely. Creating contaminated water storage capacity remains a serious challenge. Two additional storage ponds have been constructed under the receivership, providing nearly 150,000 cubic metres of storage. Work is nearly complete on an additional 50,000 cubic metres of storage and additional work is underway to continue to expand water storage on-site.

In my response, Mr. Speaker, I would be happy to further discuss the independent review board as well as how we are keeping the public informed.

Mr. Kent: Mr. Speaker, the heap leach failure at Eagle Gold is about the environment, the economy, and the people of the Yukon, and I believe that it is okay to be concerned about all three at the same time. I do have a number of questions for the minister that I am hoping he can answer in his response today.

I want to ask about why the urgency around the environment that existed in the first weeks following the failure has faded since YG and the receiver have taken over the site, leading some to infer that there exists a double standard. The timelines for building the water storage were five days for the company but changed to approximately five weeks for the Yukon government-appointed receiver. The minister just told us that this continues to be a challenge.

YG took over responsibility for the berm construction in late July, a couple of weeks after directing the company to build it. Once they decided to do that, all of a sudden, the urgency disappeared. Months later, the berm still isn't complete and we're not sure when it will be.

I'm also hoping the minister can tell us when PricewaterhouseCoopers was retained to begin the receivership process. The Liberals continue to say that the company still exists in spite of the receivership, but here's what we heard from Keith Halliday in his August 25 column about the decision to force the company into receivership — quote: "To my knowledge, this is by far the earliest a government in Canada has moved in to remove management after a mine disaster.

"As reported in the *News...*" — the Justice minister — "...told the media the action was not intended to put the company out of business.

"Which is strange, since if you wanted to put a company out of business, a good way to do it would be to use the courts to put a receiver in charge, causing regulators to halt trading of the company's shares and the entire board to resign."

Perhaps the minister can tell us why he is right about the company still being in business and a respected local economist is wrong.

When it comes to the former employees of Victoria Gold, many were laid off when the failure happened; then the YG-appointed receiver terminated them and stated that, due to the receivership order, they would not be paid things like severance and vacation pay. So, why did YG include this in their application to the court?

Officials also told us at one of the briefings that there will be an independent review done of Yukon government's role in the failure, so does the minister have an update on when he expects that work to begin? Hopefully, the minister can answer some of these questions in his response, and I will have many more questions that we can get into during EMR debate at the appropriate time.

I did want to finish today with some thoughts about the fallout from this failure. I think of the employees, many of them Yukoners, who have lost their jobs and have been denied payment of things like severance that was owed to them. I think of the suppliers and contractors who are owed millions of

dollars and the staff they had to lay off when the failure happened and operations ceased. I think of the charities, events, and organizations that are scrambling to fill the void left by the millions in generous donations made by Victoria Gold when they were in operation.

I also think of the small business owners who have had to cut back hours or lay off employees as the indirect revenue from the mine has disappeared. I also think of the many Yukon shareholders who have seen their investments evaporate when YG placed the company in receivership and trading ceased on the stock, in spite of the Finance minister's assertions that the company is still publicly traded.

I think of the First Nation of Na-Cho Nyäk Dun and the residents of Mayo who are on the front lines of environmental and economic impacts of this failure. Despite what they have said about the shell of Victoria Gold holding the responsibility, Yukoners all know that the Liberals have chosen a path that leaves the responsibility for this project ultimately on the shoulders of Yukon taxpayers.

I want to close my remarks with another quote from that Keith Halliday article that was directed toward Yukoners: "Have you always secretly wanted to own a mine? ... It doesn't matter. You now effectively own Eagle Gold anyway."

Ms. White: Mr. Speaker, June 24, 2024 will be a day etched in the memories and hearts of many. The heap leach failure at Victoria Gold's Eagle mine will have lasting effects not just on the surrounding environment but on the people on whose land the mine sits, Yukoners' confidence in mining and its regulators, businesses that worked to support the industry, and the mining industry itself. This disaster is devastating in so many different ways.

Trust is built on transparency and accountability. The government did not address or inform the public for over a week after the initial disaster and it took months for any information to be available online. This was not transparent.

This disaster has been devastating for the First Nation of Na-Cho Nyäk Dun. They continue to grieve for their land and to look to an uncertain future for what this will mean for the land, the animals, and the water. Na-Cho Nyäk Dun's territory has been forever affected by this disaster.

This catastrophe and the aftermath of it has led many Yukoners to question the future of mining in the territory. It has affected the mining industry's reputation. It has meant the loss of jobs for Yukoners working in this industry and left many Yukon contractors and businesses with huge unpaid bills. The mining industry has been making strides to build confidence in its work. The Victoria Gold failure and the handling of its aftermath has tarnished these efforts and set the whole industry back.

In order to move forward, we must look inward at the role of the government as regulator. We know that Victoria Gold was allowed to continue to operate despite not having sufficient water storage or treatment. What we don't know is why. A government-appointed review board cannot go far enough. If we truly want to avoid a disaster like this from ever happening again, we must be open and honest about what went wrong, and

that includes the role of the Yukon government. It's not just Yukoners and the First Nation of Na-Cho Nyäk Dun who want to know what happened at Victoria Gold. Industry also wants to know what happened and how we can prevent this going forward.

Not only do we need a public inquiry into the failure of Victoria Gold, I suggest that we actually need to go further. Victoria Gold isn't the first company that has closed a mine since the Yukon government became solely responsible for approving and permitting mines. We need to look at the closure of the Wolverine, Minto, and Eagle mines as a systemic issue. We need to understand both industry's and the government's role in these mine failures.

There are so many questions that remain unanswered, and it leaves the Yukon public wondering if this government cares about being a regulator at all or if they just intend to let the mines do as they please where there are non-renewable resources.

A public inquiry is the only way to ensure that these questions and more are answered and that faith in the regulator and the mining industry is restored. If this government has nothing to hide, then there should be no concern with a public inquiry.

Hon. Mr. Streicker: Mr. Speaker, the facts are pretty simple. Victoria Gold was unwilling or unable to follow the government orders to protect the environment and the health and safety of Yukoners. Their response and self-acknowledged lack of financial resources made it clear that receivership was the best way forward. The receivership allows the court — not the Yukon government — to take control of the mine site and ensure that critical work to protect the environment is completed.

By the way, I encourage members of the Yukon Party to listen to the judge, not to a well-known columnist.

It does this while protecting taxpayers' dollars and prioritizing environmental recovery, not profits. Yukoners can judge the response on-site. The receiver has already installed 18 groundwater wells, commissioned water storage ponds, added water treatment infrastructure, and begun construction of a safety berm.

Victoria Gold didn't increase water storage capacity. They didn't do groundwater monitoring. Their water treatment efforts were unsuccessful. They disagreed with building a berm, and when the Yukon government sought to bring in our own contractors to do so, Victoria Gold refused to grant them safe access to the site.

Victoria Gold leadership claims that they weren't given enough time to carry out directions, but I ask, Mr. Speaker: If they were as committed to the environment as they claim, why did they need to be directed to take actions to protect it through our orders?

The Official Opposition continues to challenge the receivership. They challenge it even though Victoria Gold publicly admitted that they intended to file for bankruptcy protection. They challenge it even though PricewaterhouseCooper's publicly available review shows that

Victoria Gold would have run out of money by the end of November and even sooner if you consider the cost of employee severance.

It's clear that the Yukon Party disagrees with this court decision and with this judge.

The Yukon Party has indicated that Victoria Gold should be business as usual, just like how they dealt with Wolverine. The heap leach failure at the Eagle Gold mine has significant impacts on the territory and we understand there is a lot of public interest in learning what happened, what contributed to the failure, and how an event like that can be avoided in the future.

By the way, it was two days after when I put out the first statement and we did put that online. I'll continue to say that for the Leader of the NDP. I'm not sure why that isn't catching.

We share that interest in learning from this event as best we can. Our first focus remains on responding to the event and supporting the required mitigation work. At the same time, an independent review board has been established under the receiver and is currently working to understand the causes of the failure. The purpose of the board is to provide independent expert oversight.

The final report of the independent review board's work will be publicly available. This approach is similar to what BC did following the 2014 Mount Polley mine collapse.

It's too early to say what we'll learn from this, but we do know that our findings will be an important part of our path forward.

By the way, the receiver has sought and obtained an extension from Service Canada to comply with the wage earner protection program. As such, all former eligible employees are automatically granted an extension up to December 26 — roughly two months — to submit their applications, eligible for up to \$8,500 under the wage earner protection plan.

Yukoners expect their government to step up. Receivership was not our first choice, but we believe it is the best, most fiscally prudent path to address the environmental risk and damage. We will not apologize for continuing to work tirelessly to resolve this issue on behalf of Yukoners.

Speaker: This then brings us to Question Period.

QUESTION PERIOD

Question re: Health Human Resources Steering Committee

Mr. Cathers: Yesterday, the Minister of Health and Social Services told reporters that she thinks the decision to leave the Health Human Resources Steering Committee was a bargaining tactic by two unions representing health care workers. Here is a quote from the minister: "I appreciate that they have given notice to the Yukon government that they intend to start bargaining for the contract that will end in March of 2025 and, as a result, that might be influencing them."

Mr. Speaker, these unions have made it clear why they left the steering committee: because they didn't feel their contribution was valued. To quote from their press release: "Labour's inclusion in the [HHRSC] is largely symbolic, and

the interests of health-care workers are not being adequately considered."

So, why is the minister of health suggesting to local media that their decision was a bargaining tactic?

Hon. Ms. McPhee: Mr. Speaker, I appreciate the opportunity to rise again to speak to Yukoners about their primary concerns about access to health care and improvements to our health care system here in the territory.

The decision of the Yukon Employees' Union and the Professional Institute of the Public Service of Canada's employees to step away from the Health Human Resources Steering Committee is disappointing, and we certainly see that the unions were a vital part of shaping solutions for health care workers here in the territory. We believe that our health workforce challenges will be best addressed from a broad and diverse set of opinions and participants.

From the outset, our goal has been to include a range of representation to include the Yukon Medical Association, the Yukon Medical Council, the Yukon Registered Nurses Association, Yukon University, Kwanlin Dün First Nation, the unions that I have noted, and others to develop an integrated solution to meet the territory's health human resources challenges that we face. Those unions came to the table upon invitation and helped us to come up with the strategy for health human resources.

Mr. Cathers: The minister was clear with media yesterday. One reporter asked a direct question: "Are the unions using this table as a negotiating table?" The minister's response was that they have given notice to the Yukon government that they intend to start bargaining for the contract that will end in March of 2025 and, as a result, that might be influencing them.

The minister was very clearly implying that the action in relation to the steering committee was nothing more than a negotiation tactic for their next contract.

Why would the minister dismiss the concerns expressed by health care workers as nothing but a bargaining tactic?

Hon. Ms. McPhee: Mr. Speaker, I don't dismiss anything and, more importantly, nor do the individuals who have come to this table — these organizations — to join together to develop our *Health Human Resources Strategy* — a unique approach here in Canada. Committee members confirmed that they remain united and committed to moving forward to achieve the goals of the *Health Human Resources Strategy*. They have also confirmed that the door remains open for continued dialogue with union leaders, and there are plans to meet with them in the near future to discuss their committee-related concerns.

As I mentioned the other day, the first notice of those kinds of concerns came when they attended the meeting a few days ago and brought their news release. We firmly believe that we are stronger with them at the table, that the committee is, in fact — had been responsible for developing the *Health Human Resources Strategy*, and the implementation of it will be better if all parties are participating in that work. That committee brings together diverse voices and experiences from across the health care system. We certainly hope that the unions will return to helping with this work.

Mr. Cathers: The press release issued by YEU and PIPC makes it clear why the unions left the HHR Steering Committee. It was because they didn't feel that input was valued and that the government was only interested in them participating for symbolic reasons. They said that they didn't want to be, in their words, "tokenized", and they called out the minister for misrepresenting their involvement in developing the HHRS, but now the minister is telling local media that what the union said isn't true and claims the real reason that they took this action is because of upcoming contract negotiations.

Why is the minister of health picking a fight with health workers by suggesting that what the union said publicly was not true and that it was all just a negotiating tactic?

Hon. Ms. McPhee: I think we need to be clear that the only one picking a fight here is the member opposite. These are facts, Mr. Speaker. We are very disappointed by the decision of the unions to step away from the Health Human Resources Steering Committee table. We have expressed that disappointment to them. We believe that our health workforce challenges will be best met — and have been best met to date — by having a diverse group of participants with broad voices representing the workers of the health and human resources fields here in the territory. Having all of them at the table, developing this strategy, and working together to implement it is by far the best opportunity for Yukoners.

From the outset, we encouraged a wide range of representation. We invited them to the table. They did the work to develop a strategy that is absolutely critical. Mr. Speaker, it's also working. We have reduced vacancies; we have increased hires with respect to front-line health care workers, which is something that the members of the opposition say that they want but continue to vote against in the budgets. I hope that they will change their minds and help us address these challenges.

Question re: Yukon Association of Education Professionals collective agreement bargaining

Ms. McLeod: Throughout this week, we have seen multiple ministers pick fights with the public service. On Tuesday, the Minister of Finance said that Yukon teachers provided inaccurate information to the public. In fact, he even said that what the YAEP provided to the public was — quote: "misleading". In response to that, the president of the YAEP told CBC Yukon that the minister was — quote: "... speaking out of both sides of his mouth."

Mr. Speaker, why is the minister picking a fight with the YAEP and accusing them of misleading Yukoners when he should just be going back to the bargaining table?

Hon. Mr. Silver: In my former role as Premier and current role as Public Service Commissioner, I have been at the table on the caucus side of things for many negotiations. During most or all of those, I have been very quiet, actually, leaving things to the negotiators, which is absolutely where it should be. When we were presented with information that is misleading, we felt we had to respond to that, and we did.

Now, suffice to say, we recognize and absolutely respect the work, the expertise, and the devotion of our education

professionals and also the union professionals, and we really hope that we can get an agreement together that guarantees, once again and continuously, that Yukon teachers will be among the highest paid in all of Canada.

Ms. McLeod: Unfortunately, the Minister of Finance wasn't the only minister to pick a fight with the public service union this week. As my colleague pointed out a few minutes ago, the minister of health has decided to allege that the decision of unions representing health care workers to step away from the HHR Steering Committee was done simply as a bargaining tactic.

So, why is the minister accusing these unions of having an ulterior motive and picking fights with health care workers instead of getting them back to the steering committee table so that their views can be heard?

Hon. Ms. McPhee: Mr. Speaker, I didn't say "simply", so maybe we can check that quote. Secondly, I think it is incredibly important that the Health Human Resources Steering Committee and the strategy that was developed by that steering committee that is working to help some of the issues with respect to challenges in the health human resources field with respect to Yukoners' health care have the opportunity to work with all participants.

The unions that have stepped away from the table are being encouraged — we hope. We are disappointed by their decision to do so. As I have said in previous answers to this question, we will be meeting with them very soon — we hope — at our invitation to address their concerns. The committee members confirmed that they remain united and committed to moving forward to achieve the goals of the *Health Human Resources Strategy*, and we look forward to having the unions participate in that extremely important work. And let's remember: That work is being done on behalf of Yukoners and front-line health care workers, and that is incredibly important, and we expect and hope that our invitation will be able to bring them back to the table.

Ms. McLeod: Now, Mr. Speaker, in just one week of the Fall Sitting, we have now seen two different ministers of this Liberal government pick a fight with three different unions. It's becoming a pattern, and it's hard not to see this as deliberate.

So, why is the Liberal government deliberately picking fights with public sector unions representing health care workers and teachers?

Hon. Mr. Pillai: Mr. Speaker, I want to first say, look, I think when it comes to folks in the education profession, we greatly appreciate the work, and having a child who is still inside the system, I thank them every day for the support they give. As a child where both parents were health care professionals, I have incredible respect, and I think that table has been — fantastic work that has been done.

But if we're going to have this discussion with the Official Opposition, I think the other question is — this summer, we added more jobs to the public service, and the Official Opposition came out and attacked us for adding those union members. We know full well that the Yukon Party wants to privatize a number of areas of government. So, if we really want to have a discussion right now, it would be good to know which

areas. Is it just Crown corporations? Or which areas? Because, I'll tell you, that's what unions want to know.

Question re: École Whitehorse Elementary School replacement

Ms. White: Mr. Speaker, a few days ago, the Minister of Education said this to the media — and I quote: “A couple of years ago now we made the determination that we would replace École Whitehorse Elementary School and that we would place it in the Takhini educational land reserve.”

So, I'm curious; if the decision had been made a couple of years ago, why are they just now talking about doing a traffic study?

Residents of the neighbourhood have been very clear about their concerns about existing traffic, let alone what will happen when Whitehorse's largest elementary school is placed in their neighbourhood. This government made a decision, launched the project without any forethought, and is now doubling down on what was already a bad choice.

So, why didn't this government do a traffic study before they decided to put Whitehorse's largest elementary school into an already busy neighbourhood?

Hon. Mr. Clarke: The selected location for the new École Whitehorse Elementary School site is the highest scoring in our consultant's assessment report. Compared to other options, it scored higher due to: (1) having a low impact on the Takhini Elementary School, as it does not encroach on to the school space, protects existing programming, and provides them with a new soccer field; (2) has a lower impact on traffic on Range Road by having access to the new school located on University Drive and provides appropriate queueing space; (3) closer to the biomass facility at Whitehorse Correctional Centre across the road for potential connection, which would contribute to *Our Clean Future* goals; (4) requires smaller ground upgrades, which saves costs, due to location being outside of the poor drainage and flood-prone tree area; (5) the proximity to existing municipal services; (6) the location outside of the treed area also allows for more of the healthy trees on-site to be kept; and finally, (7) having the staging and construction across the lot from the Takhini Elementary School will mitigate impacts to the school while the new École Whitehorse Elementary School is being built.

The next phase of the project will involve several critical assessments, such as a comprehensive traffic study and detailed environmental site. Following completion of these assessments, we will move into the conceptual design phase, where the plan for the school will start to take shape.

Ms. White: So, the minister's answers make me wonder if the minister has ever been on Range Road in the morning or in the afternoon.

Here we are yet again with another question about why this government is fundamentally unable to listen to or hear its partners.

We have talked about the teachers' union, doctors, the YEU, PIPSC, community transfer stations, and the misrepresentation of the Takhini Neighbourhood Association.

When this government talks about “consultation”, I have to wonder what the word actually means to them. There is a pattern here of incredible disrespect for the people of this territory. Every one of these groups has publicly called out this government for ignoring, dismissing, downplaying, and downright misrepresenting what people are saying to them.

Yukoners expect their government to step up, so when will the Minister of Education amend the department's press package and remove the expression of approval for the school by the Takhini Neighbourhood Association?

Hon. Ms. McLean: Mr. Speaker, I am happy to rise today to talk about important infrastructure that we are building in our territory for our youngest citizens. I am happy to have so many of them here today watching the proceedings.

Our government firmly believes in the importance and role of consultation and engagement. We open the door to feedback at every opportunity because we know that hearing from Yukoners is a foundation to good decision-making, whether it is on land planning, economic development, environment, education, or other areas. We are consistently inviting input and weaving what we hear from our communities into our decisions. This is incredibly important to us.

While there may be differing opinions on final decisions — and the engagement approach taken here is notably more extensive compared to other governments. Sometimes, this approach means that things take a little bit longer, but we are very committed always to ensuring that we are doing things in the right and good way and that we are gaining that feedback and having good dialogue. Yes, we have disagreements with our partners from time to time and that sometimes spills over into the public eye, but we are still committed to having those —

Speaker: Order, please.

Ms. White: Mr. Speaker, all of those words and no commitment to amending the department's press package.

So, I find myself in the curious position of repeating a message from my colleague from the Yukon Party. Earlier in this session, the Member for Copperbelt North described fears that the Liberal government would charge ahead regardless of what anyone tells them about École Whitehorse Elementary School replacement. The unholy alliance on this side of the House has heard a lot of complaints from the Liberals about how we have shut down the democratic process by denying them their ministerial statements, but their actions regarding so-called “consultations” seem to be accomplishing that shutdown quite nicely on their own.

Yesterday in the Assembly, the Minister of Education said — and I quote: “... we're constantly inviting input and weaving what we hear from communities into our decisions.” So, if she is so open to hearing from communities, when will a full public consultation on the relocation of École Whitehorse Elementary School be held?

Hon. Ms. McLean: Mr. Speaker, again, I'm happy to rise to talk about important infrastructure for education in our territory.

I will be meeting with the Takhini Neighbourhood Association later this month along with my two colleagues from Highways and Public Works and Community Services.

After listening to all of the debate, it's important to return to our first principle. We are building this school to benefit children. Let's be clear about that. Upgrading school infrastructure is something that we do for children. We owe them the best opportunity — the chance to learn in an enriching facility, to experience lessons that can be learned in nature.

We get more and more into discussions about where to put the school. We seem to be talking less and less about the students. They are and always will be the top priority. That's why we are investing in schools across the territory — building a new school in Burwash Landing, opening Whistle Bend Elementary School; we built the francophone high school. It's confusing to me why the leader of the Yukon NDP, who benefited from French immersion herself — and we all know that and it's amazing — would want to prevent the children in her own constituency from receiving bilingual education so close to home.

Question re: École Whitehorse Elementary School replacement

Mr. Kent: Mr. Speaker, my colleague from the NDP couldn't get any answers, so maybe I'll give it a try.

Despite the concerns that have been raised by just about every stakeholder affected by the decision to locate a new school in the backyard of Takhini Elementary — from the Takhini Neighbourhood Association to Softball Yukon — the minister has insisted that this is the best location for the new school.

Earlier this week, she said that — quote: “To look at a different site would entail having to go through a lengthy territorial and municipal rezoning process...” She went on to say — and I'll quote again: “This is not viable given the urgent need to replace school infrastructure.” In a public statement this week, the Liberal Cabinet Office said that it would be irresponsible to delay beginning construction until after the election next year.

So, I will begin by asking whether or not the Minister of Education stands by those comments that she made earlier this week.

Hon. Mr. Clarke: As I said in a previous response, our preferred option minimizes the impact on Takhini residents, lets Softball Yukon keep using parts of the education land reserve, allows for the building of more gym space — yes, more gym space — and, most importantly, replaces aging school infrastructure with a brand new, state-of-the-art facility that will be used to educate generations of Yukoners to come.

While the chosen location will be a change for Takhini residents and members of the École Whitehorse Elementary School community, they will see benefits in new playgrounds, recreation facilities, safer streets, and the improvements to community health and well-being that are seen when more young people are present in the community.

Mr. Speaker, I appreciate that many Takhini residents already feel that their neighbourhood is doing its part to host

infrastructure in the community. With federal, territorial, and municipal infrastructure, including Takhini Elementary, the Whitehorse correctional facility, and Yukon University, with recreational infrastructure like the Takhini arena and Softball Yukon's many fields and the new housing complexes like Normandy Living and 420 Range Road, this is a bustling neighbourhood that still remains underserved by local businesses and restaurants.

The neighbourhood's many forest trails, as well as McIntyre Creek, provide solace from the hustle and bustle of city life. The traffic impact study will follow and will ensure that, as our population grows, Takhini residents are well-served by the road and cycling infrastructure that serves the community.

Mr. Kent: Mr. Speaker, so, my question was for the Education minister, not for the Minister of Highways and Public Works to give an infomercial about the Takhini neighbourhood.

The reason I asked the minister this is because, earlier this week, a reporter with the *Yukon News* asked the City of Whitehorse about the city's process for approving the Liberals' planned new school. In a written statement, the city confirmed that there are three major steps that would need to be taken: the official community plan would need to be changed; a master plan would be needed; and, yes, the lot would need to be rezoned.

Each of these steps would require approval from city council and would include opportunity for public input. So, why did the minister suggest earlier this week that looking at another location wouldn't be possible because it would need rezoning when the lot that she and her colleagues have chosen must also be rezoned?

Hon. Ms. McLean: Mr. Speaker, again, I'm happy to rise today about our government's commitment to building new, modern infrastructure for education. We are aware of the requirement to request a zoning change from the City of Whitehorse and will engage in the process at the necessary time. As the project is in early phases, prior to initiating the process with the city, we wanted to hear from stakeholders and work with folks, as we are doing now.

The project is currently in its initiation and planning stage. A key part of the phase of the project is to bring all the stakeholders together so that options can be presented. This approach enabled each stakeholder to hear each other's views, preferred options by stakeholders — among the three options presented. Option one is also a more fiscally responsible option, although, of the three options, it's also one that would require some rezoning. We are prepared to do that work. As we work toward the conceptual design phase, we will also begin discussions with the necessary officials at the City of Whitehorse, which I have said many times. Part of that will include this discussion around some of the rezoning that needs to happen. It still is an educational reserve.

Mr. Kent: Mr. Speaker, I would like to recap. As far as we can tell, there are zero stakeholders outside of the Liberal Cabinet Office who think this is a good idea. The local neighbourhood is concerned about losing greenspace and

increased traffic, Softball Yukon is concerned about losing two of their most well-used diamonds, and the only response the minister has given for why it has to go in this location is that any other location would take too long to rezone. But now we have learned that not even that is an accurate statement.

Can the minister tell Yukoners why this site makes any sense at all for a new school?

Hon. Ms. McLean: Mr. Speaker, again, thank you so much for the question, because it gives us an opportunity to stand and talk about our commitment to modernizing school infrastructure. We have made this commitment to Yukoners and to young people.

The Takhini Educational Land Reserve is a large parcel of land and, yes, I just talked about some of the rezoning that will need to happen in the new location for the École Whitehorse Elementary School, which is, in my view, a good choice for this school. I will continue to have the conversations with all of the stakeholders that were just mentioned. We have three meetings scheduled for this month. We are working closely with Softball Yukon. We are working closely with Sport Yukon as well. I have a meeting with the Takhini Neighbourhood Association and will continue to do the good work to ensure that we are able to move forward on this important infrastructure.

Again, this will be an important and valuable asset for the Takhini neighbourhood and for our young —

Speaker: Order, please.

Question re: École Whitehorse Elementary School replacement

Mr. Dixon: Mr. Speaker, I think that I will weigh in on this as well. The fundamental question here is: Why are we choosing to put this school in the Takhini neighborhood despite significant concerns from the neighbourhood? The only answer the minister has been able to give up to this point as to why is because she said that other locations in the City of Whitehorse wouldn't be acceptable because they would need rezoning. Of course, what we learned from the City of Whitehorse this week is that they have said that there is a need for changes to the OCP, a master plan, and for the lot to be rezoned. Given my conversations with municipal officials in the past, it would seem to be, at the most generous, a year-and-a-half to two-year timeline for that process.

Can the minister explain why her office issued a statement this week saying that it would be irresponsible to hold off on awarding a construction contract until after the election when there is no chance that a construction contract could be awarded before the next election anyway?

Hon. Mr. Clarke: It's difficult to take lessons from the members opposite on school infrastructure builds. The Member for Copperbelt South, I am sure, as the Minister of Education, did great work at times; however, I did feel sorry for him during the completely misguided initial plan with respect to F.H. Collins when he was in an absolute hornets' nest when they were going to build F.H. Collins on top of F.H. Collins, basically, and that did not go so well. So, lessons about consultation from the members opposite are a little bit rich. When they did get around to it, because of the extreme pressure,

they built a cookie-cutter middle school straight from Alberta, and when the F.H. Collins school was opened, it was immediately overcapacity. This government, in its role of being the leader in school infrastructure builds, will have to remedy that problem.

It's interesting to hear this, and, of course, we are going to work with stakeholders. We are going to work with Softball Yukon; we're going to work with Sport Yukon and with the Takhini residents association and with all other stakeholders, but we are going to create a state-of-the-art elementary school, and we are going to have a lot of new sport infrastructure for all Yukoners.

Mr. Dixon: The Minister of Highways and Public Works doesn't need to take advice from us; they should take advice from Yukoners. Every single stakeholder has told this government that this location is not the right location for this school. The neighbourhood has expressed concerns that they have; Softball Yukon has expressed concerns that they have. We have now heard from the City of Whitehorse that this will require a multi-year approval process from the City of Whitehorse, involving multiple stages of public consultation.

My question for the government is simple: Why not just look at another location?

Hon. Mr. Clarke: Thank you for the question from the Leader of the Official Opposition. So, I'll just keep going.

So, during our mandate, we have completed the CSSC Mercier. We have completed and now just opened this fall the state-of-the-art Whistle Bend Elementary School. There is a commitment now to build the Kêts'ádañ Kù in Burwash Landing, which is making good on a 100-year commitment that was made to the Kluane First Nation.

In addition to that, we have added a significant addition to the Robert Service School in Dawson at approximately \$7 million and a state-of-the-art, energy-efficient retrofit at the Elijah Smith School with a significant biomass system. As well, we have worked with Christ the King Elementary, Selkirk Elementary, and Holy Family to improve their parking lot access and improved active transportation features with respect to all these, and we have gotten this done.

Will there be some heavy lifting to do right now? Will there be important conversations that will have to be engaged in with all stakeholders? Absolutely. And we will engage in those difficult conversations; we will get it done, and our record speaks for itself.

Mr. Dixon: I'm sure all the stakeholders who are listening right now who heard the minister list off their education accomplishments will be very satisfied to learn that they will not, in fact, take their advice and not consider another location.

So, my question for the government, yet again, is very simple: Why not just look at another location for this school? Nobody thinks it's a good idea for this school to go in this location. Why not pick a different location?

Hon. Mr. Pillai: Mr. Speaker, first, I want to just talk about Whitehorse Elementary School. I think it's important to put on the record that, as a former member of the school council at Whitehorse Elementary, I can tell you there are incredible

challenges — incredible challenges that were there in the school under the previous government. It's just that this government has actually taken on the building of new schools, which didn't happen, as we know, for elementary schools for 25 years.

Secondly, in the discussions that I've had — and in the discussions of our team — I think that the sport bodies are saying: We need more sport infrastructure; it's important. It hasn't been built in a long time. So, can you add it to a school?

My understanding was that, with Softball Yukon, there were ideas about building new fields and supporting that work. So, again, those are ongoing conversations.

Actually, looking at what is happening from our work, we are looking at protecting the whole area of McIntyre Creek, which nobody did before, which adds to the back of that particular neighbourhood. And I think that it adds for learning space; it adds for greenspace and things that folks in that neighbourhood have wanted to see for decades that the previous government hasn't taken on.

Our team will sit down, and we will have the appropriate conversations — we will continue to have those conversations and see where we can mitigate. I think that, no matter what spot we pick, the opposition would be against it, and I think, at this point in time, we will be looking for another location, because we are also looking to build another school downtown.

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

ORDERS OF THE DAY

Hon. Mr. Streicker: 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): Order. Committee of the Whole will now come to order.

The matter before the Committee is continuing general debate on Bill No. 44, entitled *Traffic Safety 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. 44: *Traffic Safety Act* — continued

Chair: The matter before the Committee is continuing general debate on Bill No. 44, entitled *Traffic Safety Act*.

Is there any further general debate?

Hon. Mr. Clarke: Madam Chair, I am just inviting our officials back into the Assembly.

It is a pleasure to be back in Committee of the Whole in relation to questions related to Bill No. 44, the *Traffic Safety Act*.

Once again, I welcome to the Assembly, to my right, Deputy Minister Tracy Allen and, to my left, senior advisor Vern Janz and, to DM Allen's right, Melanie Fortunato, who is a policy analyst at Highways and Public Works and who has been very much involved in the policy work surrounding the *Traffic Safety Act*.

I believe I have a little bit of time left, but in any event, I will sit down and look forward to answering questions this afternoon.

Mr. Hassard: Thank you to the officials for being back today to help us to wade through this rather large act that we are dealing with.

I would like to begin this afternoon's discussions around section 215, which, of course, is the section that would allow for facial recognition. Now, obviously, I'm sure that everyone is aware that there are members of the territory — or citizens of the territory — who have serious concerns about the ability of the government to use facial recognition, and I had intended to talk about this, but this morning, I received a letter from someone else who is concerned about facial recognition, and, of course, that is the Information and Privacy Commissioner.

Now, according to this letter that I received this morning, on October 4 of this year, the privacy commissioner had it brought to his attention that Committee of the Whole was reviewing Bill No. 44, and he felt compelled to reach out and provide comment prior to its third reading. The reasons for that are as follows — and I'll quote: "In March of 2024 my office was provided with four draft provisions of the *Traffic Safety Act*. In response, my office provided written comments in which we outlined concerns with the broad language for collecting, using and disclosing personal information without sufficiently defining the purpose(s) for the collection, use and disclosure. We never received a reply to our comments.

"I would like to clarify that my office was not informed or consulted about the contemplated authorization for use of facial recognition technology as part of Bill 44. Other jurisdictions have found that facial recognition software constitutes 'biometric information.' Biometric information is personal information, and in our view, is highly sensitive. While use of such Biometric information has been approved by other Privacy Commissioners, the use case for it was generally very narrow.

"Under the *Access to Information and Protection of Privacy Act* (ATIPPA), public bodies can only collect, use, and disclose personal information to the extent that it is reasonably necessary to carry out their stated purpose. The stated purpose must be well defined and discernable. As well, public bodies must consider the sensitivity of the personal information they

collect, use, and disclose — the more sensitive the information, the more scrutiny should be applied to whether the collection, use, and disclosure of this personal information is reasonably necessary to a well-defined purpose.

“Pursuant to section 11 of the ATIPPA, public bodies are required to complete a privacy impact assessment (PIA) before carrying out a significant change to the manner in which an existing program or activity collects, uses or discloses personal information. Our office would be happy to review the Department’s PIA and provide comments and feedback upon request.”

That, of course, is signed by Jason Pedlar, Information and Privacy Commissioner.

So, Madam Chair, why would the government not have taken into account these concerns from Mr. Pedlar, and why would they not have responded to his concerns?

Hon. Mr. Clarke: Firstly, I will provide the House with some details about the communication that occurred in the spring of this year, but at the very highest level, we agree with the interpretation of the Yukon Information and Privacy Commissioner. We recognize the importance of safeguarding personal information and the services and responsibilities of the Office of the Information and Privacy Commissioner. We provided clauses on collection and disclosure of personal information to the OIPC in March of 2024. The clauses or the issues with respect to biometrics may not have been shared in HPW, or we concede that may have been an oversight at that time.

The clauses related to the collection of personal information encompass biometrics and facial recognition technology. We agree that biometric information is personal information. The limitation for use of information is limited only to purposes defined under the TSA. Our interpretation is that the use of the personal information is for the purposes for which it is collected, which is the administration and enforcement of the *Traffic Safety Act* and regulations, which is consistent with the *Access to Information and Protection of Privacy Act*, sections 19 and 20(a) and (b).

Similar to other aspects of the TSA, we plan to develop regulations that govern the specifics of how facial recognition technology is implemented operationally. As part of this work, we do plan to update the privacy impact assessments that were developed as part of this project, which includes the privacy impact assessment related to facial recognition technology.

We appreciate the important role the OIPC has in maintaining and upholding the use of personal information gathered by government and commit to engaging with the office of the IPC in the updates to the privacy impact assessments planned.

So, we do agree with the — we accept Information and Privacy Commissioner Jason Pedlar’s office, which is as follows: that their office would be happy to review the department’s privacy impact assessment and provide comments and feedback upon request. We agree that their office has an important role to play as we move forward with respect to enabling regulations after the hopeful passage of the act.

The rationale for putting this information directly in the act, rather than in the regulations, was to be transparent in the application of personal information. The use of personal information is limited only to the purposes defined under the TSA. The limitations of the use of facial recognition technology is narrower than the use of other forms of personal information. These limitations are to verify or confirm the identity of a person who applies for or holds a driver’s licence or a general identification card and to maintain the integrity of the registry or prevent the abuse of the registry — in other words, to prevent against identity theft. This is to future-proof the act and to be nimble to the application of new developments and technologies that could be evolving.

With respect to the specific question from the member opposite with respect to the communication, I am advised that HPW received comments from the OIPC on March 28, 2024 and considered their comments in the development of the final draft of the act. We acknowledge receipt of comments from them and will continue to engage with them in the development of the privacy impact assessment in the regulation development phase. The department acknowledged receipt of the e-mail from the OIPC the same day that it was sent.

Mr. Hassard: There were some concerning points in what the minister just said. He talked about being transparent, but it would appear to me that it would be much more transparent to have all of the information before passing the act, rather than getting the information after the act is already passed, so I have to question the minister’s rationale behind that. I also am curious — it kind of went back and forth a few times about the response to the privacy commissioner and when that happened. Were these concerns brought forward by the privacy commissioner actually responded to in March? Is that what the minister is telling us? Let’s start there.

Hon. Mr. Clarke: Madam Chair, I would just confirm that the Information and Privacy Commissioner’s observations, specifically with respect to the biometric information component — my officials advise that this element was not shared and that it may well have been an oversight. I will get some information with respect to the other communication.

The *Traffic Safety Act* builds off the firm foundation for the protection of privacy as defined under the ATIPP act. These protections include the clarification and limitations on the use of personal information, such as the use of information only for the purposes for which it was collected.

In 2018, our government introduced an amended *Access to Information and Protection of Privacy Act*, and in 2021, both the act and the regulations came into force. This legislation is one of the strongest access-to-information regimes in the country and represents our commitment to increase government transparency.

As we work through ATIPP requests, both the departments and the ATIPP officials are always balancing privacy with access to information and transparency. This is particularly relevant in small jurisdictions such as ours.

Just for people who may be listening at home, with respect to facial recognition technology, in 2019, nine jurisdictions had included facial recognition technology in their traffic safety

acts. Facial recognition programs to verify the identity of people applying for and renewing drivers' licences are being used in nine provinces. Facial recognition programs enhance the security of driver's licensing systems, detect and deter identity fraud, and protect people from identity theft, which is one of the fastest growing forms of consumer fraud.

Identity fraud occurs when someone uses a fictitious name, backed by matching genuine and frequently stolen or counterfeit breeder documents, to obtain a genuine credential or other documents that contain false information. Identity theft occurs when someone uses the personal identifying information of another individual. Nine jurisdictions in Canada over the last 15 years have implemented facial recognition technology for their driver's licence credentialing. The Northwest Territories will be implementing facial recognition software in all department of motor vehicle offices in the near future. In 2018, Nova Scotia amended the *Motor Vehicle Act* to allow the registrar to use facial recognition software to verify the identity of a person who has applied for a driver's licence or identification card.

The *Traffic Safety Act* enables the potential for automated enforcement such as red light cameras or photo radar in the future; however, the act prohibits incorporating facial recognition technology into an automated enforcement regime. This prevents unnecessary collection or disclosure of a person's personal information, such as a photo of that person. Facial recognition technology may be used to verify the identity of a person who fraudulently uses a different photograph to obtain a driver's licence or registration. The collection of this kind of personal information through facial recognition technology is in alignment with other jurisdictional practices and supports the enforcement of the *Traffic Safety Act*.

So, to answer the question of the member opposite specifically, the OIPC indicated that it would be available for further questions, but at the time, it was determined by HPW that it was not required at that time. We will continue to work with the OIPC in the development of regulations.

Mr. Hassard: I guess I would have to ask the minister, then: Who was it who made the decision and felt that the information or the questions from the Information and Privacy Commissioner were not important enough to look at before moving forward with this bill?

Hon. Mr. Clarke: Just to be clear, there will be no operationalization of this section prior to completing that which the Information and Privacy Commissioner suggests, which is the privacy impact assessment. So, the relevant regulations would not be operationalized and Highways and Public Works and I agree with the Information and Privacy Commissioner's assessment there.

Facial recognition programs can provide an important tool for identifying and addressing traffic safety issues. One intended use of a facial recognition system is to prevent individuals who have lost their driving privileges from committing fraud to obtain another driver's licence credential in order to continue driving. There is some data supporting a correlation between individuals holding multiple records and

increased risk to highway safety. That is the *AAMVA Best Practices 2019*, page 10.

Yukon's facial recognition for driver's licence credentialing would be consistent with the December 2019 *American Association of Motor Vehicle Administrators Best Practices and Standards*, including seeking stakeholder support and ensuring that there is public education ongoing in order to explain how Yukon government will address Yukoners' privacy concerns. This program will be incorporated into a privacy impact assessment for the new legislation in order to address privacy, technology, and identification concerns.

The feedback from the OIPC was considered and further information was not required at that time. However, as we develop the regulations, we fully intend to engage with the Office of the Information and Privacy Commissioner going forward. We take no issue with the observations and ultimately the final suggestions made by the Information and Privacy Commissioner.

Mr. Hassard: So, then, why was that information not conveyed to the privacy commissioner so that he would have known that and would not have sat here for many months being concerned as to why his recommendations have not been listened to?

Hon. Mr. Clarke: Just for the purposes of discussion this afternoon with respect to the modern drafting style and the enabling legislation, the *Traffic Safety Act* has been crafted using a modern and enabling drafting style that reflects a forward-thinking approach to legislation. This contemporary approach aims to create a legal framework that is not only functional but also adaptable to future needs. This means that the act encompasses broad general rules, authorities, and prohibitions establishing a comprehensive framework that serves the primary objectives of the new law. By setting clear expectation and boundaries, it provides the clarity to both lawmakers and citizens about what is permissible and what is not.

Structuring the act in this manner allows for the specific rules and procedures necessary to implement the law to be articulated in regulation rather than being embedded directly within the act itself. This separation enhances clarity and provides the legislation on its core principles, while allowing for detailed guidance to be included in the regulatory framework.

The advantage of this approach is that regulations can be updated more swiftly and efficiently compared to the process of amending the act. This flexibility is crucial in a rapidly changing environment, enabling government to respond to emerging issues without being bogged down by lengthy legislative processes.

Ultimately, this design makes the overall legislation more responsive to the evolving needs and concerns of Yukoners in the future. By ensuring that the framework can adapt over time, it demonstrates a commitment to public safety and the well-being of the community, allowing the government to act proactively in addressing challenges as they arise.

With respect to the communication, once again, at the time, we acknowledged the communication from the OIPC but determined that we did not need to engage more comprehensively until more regulation development occurred. This government takes the protection of personal information seriously. We wrote the *Access to Information and Protection of Privacy Act* in 2018 in order to include stronger protections of personal information. We worked closely and collaboratively with the OIPC throughout the process, and we will work closely and collaboratively with the OIPC with respect to emerging technologies.

Once again, on the record, I agree with the observations made by Information and Privacy Commissioner Pedlar. Could there have been better communication between the parties over the course of the last months? Yes, I would concur that was the case. Of course, we have now received correspondence on October 10, 2024, so it's likely — it was possibly incumbent upon both parties — both the officials at Highways and Public Works and perhaps persons at the Information and Privacy Commissioner Office — to reconnect as deemed advisable, but I certainly take the — we take the concerns raised by Information and Privacy Commissioner Pedlar seriously, and we have every intention of working with his office going forward. As I have indicated in my various comments about the technology that is available, we would, of course, be following best practices and for limited circumstances — which I could repeat — but in limited circumstances, the technology is available in nine provinces. We would — yes, we would tread carefully, but certainly, it would always be employing best practices.

Mr. Hassard: The minister talked about openly and collaboratively working with the privacy commissioner, but I'm not so sure how open and collaborative that actually sounded.

You know, we hear a lot in this Assembly about the importance of consultation and getting the information correct, and you know, we have heard from the Minister of Education — on more than one occasion and again today — about the need for the consultation to be done, and sometimes it holds the process up or slows the process down I believe were her words — but to ensure that we get it right. I don't disagree with that statement.

Now, we know that this act has been several years in the making, and most of the consultation was done pre-COVID. I'm curious why we haven't continued to do more consultation post-COVID, because obviously, it's getting to be quite a few years now since this act was — the rewriting of it began.

But in regard to the consultation, I'm curious: If the privacy commissioner wasn't consulted regarding the facial recognition aspect of this act, then who was consulted regarding facial recognition?

Hon. Mr. Clarke: I'll endeavour to get the answer to the member opposite shortly, specifically with respect to facial recognition technology, but as I perceive it, part of the question was about consultation. So, I'll start to sort of lay a bit of the foundation for the Assembly and for those listening at home

with respect to the path of this bill and where we were and where we are today.

Public and stakeholder input has been instrumental in the development of the new *Traffic Safety Act*. The Department of Highways and Public Works has conducted several public and targeted engagements since 2019 in order to gather input from Yukoners to inform policy direction. The project team has also maintained ongoing discussions with the RCMP and other key stakeholders for the duration of the project.

In April and May of 2019, the project team undertook a widespread public engagement on several topics related to the new *Traffic Safety Act*, including impaired driving, vulnerable road user safety, and automated enforcement technology. As part of this engagement, the Yukon Bureau of Statistics hosted an online public engagement survey on behalf of the Department of Highways and Public Works. Over 2,800 Yukoners responded to the survey, and we received over 5,000 comments. At the time, this was the second highest response rate ever received in a Yukon government public survey.

We also sent letters to 23 Indigenous governments and organizations, 30 community organizations — including municipalities and community associations — as well as several other key stakeholders, such as members of the business community. Both in-person and virtual meetings were held with a number of these groups. The project team hosted community open houses in 13 Yukon communities, which provided an opportunity for community members to meet with staff, ask questions, and provide feedback on key issues.

I can advise for the benefit of the House that I do have a detailed consultation record, which I could read into the record at some point. Additional responses with respect to the updated consultation in June and July of 2023 — the project team once again engaged with key stakeholders in order to share policy and proposed policy shifts being considered as part of the new act and regulations. As part of this round of engagement, the department sent packages to municipalities, Indigenous governments and organizations, and several other stakeholder groups. These packages were intended to update stakeholders on the progress of the project, share proposed changes, and invite further discussion. Sharing policy shifts with select stakeholders was intended to bring forward any new policy or implementation concerns that may have arisen since the 2019 public engagement.

The department held meetings with those organizations that requested further discussion — including two municipalities, one First Nation government, one community association, and four other stakeholders — to present proposed policy shifts and answer further questions.

The department has exchanged correspondence and met with the City of Whitehorse several times since the outset of this project. Members of the project team also met with representatives from Dawson, Faro, Mayo, Haines Junction, Old Crow, and Teslin during community visits in 2019.

There were often joint meetings with local RCMP members, and in some cases, representatives of local First Nation governments were present as well. Municipalities were also engaged in 2023, and representatives from both the City of

Whitehorse and Town of Faro attended meetings over the summer to discuss proposed changes in the new act and regulation.

Much of the feedback from municipalities so far has focused on the scope of bylaw-making authorities, speeding in communities, abandoned vehicles, automated enforcement technology, vehicle equipment issues, fine levels, and off-road vehicles. The Association of Yukon Communities has also advocated for automated enforcement to be implemented in municipalities.

The new *Traffic Safety Act* is responsive to several requests from municipalities, including enabling automated enforcement and increasing fines and deterrents for speeding and other dangerous driving behaviour. Additionally, the act includes broad regulation-making authorities to enable regulations to address vehicle equipment issues, off-road vehicle requirements, and more.

We could also advise, Madam Chair, that the project team has continuously engaged with the RCMP for the duration of the project. In the spring of 2019, the team hosted a series of open houses in communities and met with several local RCMP detachments to gain insights into the challenges that they face in enforcing the current *Motor Vehicles Act*. Since then, the team has met several times. They maintain correspondence with the traffic safety division of the Whitehorse RCMP. This has included significant engagement over 2022 and 2023 on the operational aspects of the new administrative sanctions regime to enforce impaired and high-risk driving. We will continue to work closely with the RCMP during the development of regulations, particularly those with enforcement implications.

I am just asking the team as to specifically whether there was engagement with respect to section 215, and I don't have that answer, but I can get back to the member opposite.

Mr. Hassard: I certainly look forward to receiving that information, because I think it is quite important that we know who was consulted with before we actually have to vote and pass, or not, this act. The minister talked about the consultation with municipalities and he listed a few things that they had concerns with, but he did not mention facial recognition as a concern for them.

So, my question is: Did section 215 come up in the consultation with municipalities, or was that left out of that consultation?

Hon. Mr. Clarke: Madam Chair, as I indicated to the member opposite, I will get back to the member opposite with respect to that specific question.

Mr. Hassard: As I mentioned in my previous question, I think it is very important to have this information before we are expected to vote to pass this act or not. I guess I am rather concerned as to when the minister plans on getting that information back to us. In the meantime, I will move on.

When the minister was talking about the consultation, most of what he talked about was 2019 — in the spring of 2019 — so that is five and a half years ago, and that was targeted consultation five and a half years ago. We know that this act is over 200 pages long. It's not a small act; this is a significant piece of legislation. Then he talked about, in 2023, there were

two months of consultation with key stakeholders. So, I guess I'm curious — for a government that talks about the importance of consultation and having all of the information and getting it done correctly, my question for the minister is: Does he believe that this act has been consulted on properly so that Yukoners can feel fully informed and that we as legislators can, in good faith or in good conscience, vote for this act?

Hon. Mr. Clarke: The answer to the member opposite's question is yes. I will start the process of providing some information to Yukoners and to the members opposite as to some of the additional consultation that occurred. But I would just, before I get going, provide a shout-out to the hard-working team at HPW, and likely, the anchor or the cornerstone of that team is the individual sitting to my left, Vern Janz. This has been going for many years, basically since the beginning of this mandate, and it likely was at least a glimmer in the eyes of the prior government — the Yukon Party — during their mandate of 2011 and 2016.

But, of course, this was a herculean task and it's absolutely overdue. I would commend all the persons at Highways and Public Works — whether it was the people who actually did the community outreach, attended the communities, or turned their minds to and reviewed all the best practices from across the country — as it pertained to many important issues done in a very systematic manner with an incredibly high degree of professionalism. So, the answer is an emphatic yes — that the hard work has been done. The cross-jurisdictional scans have been completed.

I'm in a position to answer questions with respect to what may be of more interest to Yukoners as far as the certain sections of the act that have been done in a thoughtful way to present the most up-to-date, forward-looking legislation in Canada when it becomes the law of the land.

Just briefly before I go into, I suppose, some detail, we also received feedback from other organizations over the course of this project, including the Yukon Conservation Society, the Whitehorse Urban Cycling Coalition, the Human Rights Commission, Mothers Against Drunk Driving, and several others. Input from these organizations was essential in the development of policy in several areas, including the new administrative sanctions regime, which was designed to address high rates of impaired and high-risk driving in the territory.

Feedback on several topics also included cyclist safety, off-road vehicle regulation, and fine levels, which will continue to be considered during the development of regulation on those matters. We also continue to discuss proposed policy changes with stakeholders, including non-profit organizations and members of the business community, during the development of the regulations.

Additionally, the project team regularly discussed proposed policy direction with key stakeholders such as the City of Whitehorse, the RCMP, federal prosecutors, and other impacted government departments.

The department has committed to continuing engagement on the development of these regulations. I reiterate that this is an enabling piece of legislation that requires the development

of regulations to implement. I affirm my commitment to further engagement as we develop regulations. We performed two rounds of engagement, one in 2019 and the other in 2023, in addition to the ongoing consultation that took place with the key stakeholders. This was comprehensive, and we will continue to work with stakeholders as we go forward.

During the summer of 2023, Highways and Public Works sent out packages to First Nations, municipalities, and other stakeholders. As part of that package, several policy shifts were outlined for stakeholders, including indicating that this act will authorize the use of facial recognition technology strictly for identity verification and the prevention of identity fraud and errors. At the time, First Nations, municipalities, and other stakeholders were invited to join workshops and meetings and ask questions about the proposed policy shifts, including facial recognition.

I have the details of the organizations, the First Nation governments, the villages, and the other organizations that took Highways and Public Works up on the offer for either an in-person meeting or additional e-mail correspondence back and forth.

The summary is: extensive engagement in 2019; the survey of 2,900 respondents in person at that time and then the ongoing with the major stakeholders and then an inquiry of lots of organizations for follow-up in 2023, as well as the ongoing drafting process and continuing the cross-jurisdictional scan in order to draft with the absolute best practices from across the country.

Mr. Hassard: I would certainly like to remind the minister that we all respect the work of Mr. Janz and all of the rest of the officials who have poured their lives essentially into this legislation or into this act, but we also have to remember here in this Assembly that this act isn't about us; it is about citizens of the Yukon. It is about all of the taxpayers, all of the people throughout the entire territory. That is why I stand here today asking these questions. It is not about my concern of whether the department was diligent or worked hard enough or long enough; it is just about ensuring that Yukoners have the answers to the questions that we are asking. It has been a bit of a challenge, we'll say, obviously today trying to get those answers.

Madam Chair, we have to move on. When we last spoke, I was talking about roadside suspensions and impoundments of vehicles. It was interesting that the minister talked about this new way of writing laws — "It gave clear expectations" was one of his statements. I have to challenge that a little bit. I am curious that, when we are talking about roadside suspensions in particular, there are no clear expectations. It appears to me that it is very much at the discretion of the officer, which can be troublesome in my mind, because if one person feels that this person has had two drinks and blows below the legal limit, that is okay — maybe a 24-hour suspension is warranted or no suspension — but another officer feels that is maybe a 30-day suspension. I guess I have problems — or I am curious as to why there wouldn't be some "clear expectations" — the minister's words — rather than leaving it open-ended and to the interpretation of essentially anyone.

Hon. Mr. Clarke: Of course, the member opposite will know — I recognize that it's likely an unintended comment at the very end, but it's obviously not just anybody who has discretion; it's a Royal Canadian Mounted Police officer in the Yukon. So, that's the starting point. And, of course, RCMP officers in the Yukon and indeed across Canada exercise discretion in all manner of matters on a daily basis with respect to all manner of fact patterns, allegations, concerns — you know, whether criminal or quasi-criminal. So, that discretion has been with the RCMP and with police forces across Canada, you know, since the establishment of police forces in Canada. The member opposite, of course, knows that.

The new administrative sanctions are complemented by provisions in the act that promote procedural fairness and work to protect a person's Charter rights. For instance, the procedural protections available to a person under the *Criminal Code*, as well as relevant case law, also apply to administrative sanctions under this act. Drivers who are sanctioned under the roadside administrative regime can also apply to the Traffic Safety Board for a review of sanctions. Adjudicators with the necessary knowledge and training will conduct reviews. If the applicant is dissatisfied with the board's decision, they have the option of seeking a judicial review of the decision in court.

Then, specifically to the member's question with respect to administrative sanctions and potential immediate suspensions, we're empowering the RCMP to apply immediate sanctions at the roadside if they have reasonable grounds to believe that a person has committed one of the following *Criminal Code* offences: criminal negligence by motor vehicle causing death; criminal negligence by motor vehicle causing bodily harm; manslaughter by motor vehicle; dangerous operation of a motor vehicle; failure to stop a motor vehicle after a collision; and flight from a peace officer in operation of a motor vehicle while prohibited from driving. Those decisions were made, once again, based on best practices and what the developing consensus is in all Canadian provinces and territories.

This will provide the RCMP with an additional tool that they can use to safeguard the public by removing dangerous drivers from the road immediately, right on the spot, by impounding the person's vehicle and disqualifying them from driving. This is responsive to complaints we have received from the RCMP that they do not always have the tools that they need to address dangerous drivers promptly, even after the driver has potentially injured another road user or engaged in conduct such as those that I have set out.

So, I think to answer the member opposite's question, the standard is always going to be: Were there reasonable grounds to believe that a person has committed one of the *Criminal Code* offences? There will be a fact pattern, and there will be a police report. At some point, that fact pattern, that police report, can be challenged as to whether, in fact, there was reason to believe or reasonable grounds to believe that one of these enumerated offences has actually been committed. So, that is a protection that would have existed with respect to different allegations or different *Criminal Code* or traffic motor vehicle act — or now *Traffic Safety Act* — allegations, as they do now.

The modernizing aspect is to recognize some of the more serious *Criminal Code* allegations — which include, as I said, criminal negligence by motor vehicle causing death, criminal negligence by motor vehicle causing bodily harm, manslaughter by motor vehicle, dangerous operation of a motor vehicle, failure to stop after a collision, flight from a peace officer, and operation of a motor vehicle while prohibited from driving — and the best practices across Canada indicate that the RCMP would benefit from being provided with additional tools in order, first of all, to address what most Yukoners would agree is dangerous and unacceptable behaviour, which, of course, can be reviewed by a judge at some point in the future.

The other new development that I will perhaps get into in a subsequent response is the new roadside administrative sanctions overview. I am told that it is very similar to the British Columbia regime. There are rules for that as well. I guess I can get into it briefly. An administrative sanction is a penalty that is imposed outside of the court system in response to a contravention of a law. Unlike criminal prosecutions, which require a filing of charges and a conviction before penalties can be applied, administrative sanctions can be imposed immediately in response to a contravention.

Under the new *Traffic Safety Act*, officers may impose sanctions immediately at the roadside upon forming reasonable grounds to suspect that an individual has committed certain contraventions. The contraventions to which these sanctions are applicable are under part 8, division 2 of the act and are high blood alcohol or drug content, low blood alcohol or drug content, zero-tolerance alcohol or drug content for new drivers, zero-tolerance alcohol or drug content for commercial drivers, criminal dangerous driving, driving while disqualified, and high-risk driving.

Examples of administrative sanctions in a road safety context include: driver's licence disqualifications, vehicle impoundments, monetary penalties, education and remedial programs, ignition interlock programs, and licence reinstatement fees. The specific sanctions applicable to each above contravention will be outlined in future regulation.

Roadside administrative sanctions regimes, such as the one proposed in the new *Traffic Safety Act*, exist in other jurisdictions across Canada. The experience of our neighbours in British Columbia and Alberta indicates that immediate roadside administrative measures are less time-consuming, allowing the RCMP to allocate their time and resources to other enforcement activities. Furthermore, by handling these sanctions outside of the court system, the pressure on judicial resources is significantly reduced. Studies of roadside administrative sanctions in British Columbia, Alberta, and Saskatchewan have shown significant success in reducing impaired driving rates and fatalities. In fact, the administrative sanctions regime in British Columbia was implemented in 2010 and they saw a 36-percent drop in impaired driving rates from 2011 to 2018 and a 54-percent drop in impaired driving fatalities from 2010 to 2018. This evidence highlights the effectiveness of immediate administrative measures in promoting road safety and deterring dangerous driving behaviours.

Mr. Hassard: Just a question around that — the minister is talking about these roadside administrative sanctions — I am curious: Does the department anticipate that this will create more work? Will the department need to hire more staff to deal with these?

Hon. Mr. Clarke: I will endeavour to get that specific answer to the member opposite.

The other element that I just wanted to highlight, which I may have brought to the Assembly's attention when we last met — but this would be also a very significant departure from the current regime in the Yukon and it is also part of the British Columbia or Alberta administrative models, which have been implemented. And the stats, which I just indicated, saw significant drops in impaired driving incident rates and drops in impaired driving fatalities, which is, of course, what we want to accomplish in the Yukon — a jurisdiction that in some years has — the Minister of Justice can likely help me with this one — but it was something like 10 times the national impaired driving rate, which is obviously scandalous, I would say, and really avoidable.

The *Traffic Safety Act* provides the ability for a peace officer to sanction under this act for 0.08 or higher blood alcohol content or for criminal-level drug content contraventions instead of proceeding with a charge under the *Criminal Code*. In very limited circumstances, the officer's ability to proceed with a roadside administrative sanction rather than a *Criminal Code* charge is only available when certain aggravating factors are not present.

For this suite of sanctions to be available to them, the driver must meet all of the following criteria: no prior administrative sanction or *Criminal Code* conviction for impaired offences for the past 10 years, no reason for the officer to suspect that the driver has contravened any other provision of the *Traffic Safety Act* or the *Criminal Code*, no passengers under 16 years of age, and not driving a zero-tolerance commercial vehicle, which will be defined in the regulations.

One of the key reasons for granting police officers discretion in specific situations is to impose appropriate sanctions on first-time impaired drivers without subjecting them to a criminal record for their initial offence, which, of course, could have a crippling impact on their future prospects — their future employment prospects and possible international travel, which, of course, could be compromised or, in fact, prohibited.

This approach encourages first-time offenders to reflect on their unsafe driving behaviour and learn from their mistakes. If they are stopped for impaired driving again, the officer does not have the discretion to proceed with a roadside administrative sanction. In such cases, the driver will face a charge under the *Criminal Code*, which could result in a criminal record. The decision to allow officer discretion for roadside administrative sanctions in this particular circumstance was supported by feedback from Mothers Against Drunk Driving during engagement. The measure is also aligned with practices in other Canadian provinces, including British Columbia and Alberta, which have adopted similar approaches to addressing impaired driving.

The short answer with respect to the question on resourcing these hopefully innovative and indicated measures is that the costs of the roadside administrative sanctions regime is to be considered currently within existing budgets. That said, more work needs to be done to determine if any additional resources are required.

Some parts of the act that are anticipated to generate costs to government include: necessary enhancements to the existing IT system to support the new regulatory framework, development, and implementation of procedures to manage abandoned and impounded vehicles effectively; shifting responsibilities from the current Driver Control Board to the new Traffic Safety Board, which includes the appointment of adjudicators; updating court services systems and policing processes; and providing training for personnel responsible for administering the act in order to ensure that they are well equipped to implement the changes effectively.

Mr. Hassard: So, the minister was talking about the people blowing between 0.05 and 0.08 and the fact that the work that was done through Mothers Against Drunk Driving — and certainly everyone in this House appreciates all of the hard work that they do on behalf of everyone in the country.

But I'm curious: Just in regard to the consultation piece, was that part of the act discussed on a broader level? Who else was consulted with in regard to that section?

Hon. Mr. Clarke: I'll be brief, and if the member opposite wishes details, I can ask my team to provide those details. I'm advised that consultation was broad on the topic that the member opposite indicated with respect to low alcohol at 0.05 to just below the *Criminal Code* legal limit.

Mr. Hassard: I appreciate that, but can the minister tell us what the results of that consultation were? Were people mostly in favour or opposed to such a change?

Hon. Mr. Clarke: We worked closely with the RCMP in the development of this legislation. We specifically consulted with the RCMP and the Public Prosecution Service of Canada on the blood alcohol levels. This was part of the *Motor Vehicles Act* public survey in 2019.

In Yukon, a driver may receive an immediate 24-hour suspension if an officer has reasonable grounds to believe that the driver is impaired by alcohol or drugs. However, there are currently no specific penalties for levels below the criminal limit, i.e. blood alcohol concentration of 0.05 percent to 0.08 percent or failing a field sobriety test due to impairment with drugs, which is inconsistent with the law in most Canadian jurisdictions.

Once again, I will repeat myself. Whatever successive Yukon governments have tried to do in order to reduce impaired driving either by alcohol or drugs has been, at best, creating behaviour changes, I would say, at the margins. In the process of bringing this act forward and the regulations that will follow, attempts are being made to align more with other Canadian jurisdictions that have significantly lower impaired driving — either by alcohol or drug — rates in Canada. They have adopted enforcement measures between 0.05 and 0.079 or whatever the decimal is.

Our view is that, in our discussions with — well, mainly the enforcement arm and, of course, the survey of 2,800 or 2,900 Yukoners that something, notwithstanding the decades of roadside stop programs, whether it is during holidays or just unannounced roadside stop programs, all of the public education, all of the absolute carnage on our roads on a per capita basis — a slightly positive note — and they are not angels either, but I think that the current generation of young Yukon adults is starting to understand this perhaps better than generations that went before them as far as designated drivers and just not drinking at all — like, zero alcohol.

I said — you know, some of us have young adults who are in this cohort. I just get the sense that they might be the first generation who are actually starting to get it with respect to the complete avoidability of creating tragedy — completely avoidable tragedy — on the road.

With respect to the specific question, it is a MADD — Mothers Against Drunk Driving — recommendation, and administrative sanctions are imposed for impairment at this level in every single other jurisdiction in Canada. This new authority is necessary, because a growing body of evidence shows that even blood alcohol levels below the legal limit can impair driving ability. At 0.05 percent blood alcohol concentration, a driver may experience impaired judgment and reduced coordination. According to Transport Canada, a blood alcohol concentration of between 0.05 percent to 0.08 percent increases accident risk up to four times compared to sober driving.

The time has come, and as I said, successive territorial governments, including governments of the member opposite, have likely had initiatives, have had plans, have had policies that have had, unfortunately, pretty limited impact on reducing impaired by alcohol and impaired by drug serious injury and death accidents. So, the time has come, and I certainly once again applaud the — kudos to the team for doing their work with respect to these administrative sanctions. It is unfortunately fairly starkly obvious and starkly necessary.

Mr. Hassard: I certainly hope that the minister is correct in his assertions that the younger generation may be the first generation to “get it” — in his words. I have some questions around that next, but I just had one more question on that line of questioning.

The minister talked about federal prosecutors were consulted about this section. Knowing that the minister was a public defender in a former life, I'm curious if there was any targeted consultation with the local legal community and what their response was to this section.

Chair: Do members wish to take a brief recess?

All Hon. Members: Agreed.

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

Recess

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

The matter before the Committee is continuing general debate on Bill No. 44, entitled *Traffic Safety Act*.

Is there any further general debate?

Hon. Mr. Clarke: I think that the final question before the break from the Member for Pelly-Nisutlin was about collaborating with those darn lawyers. I do have an answer. We collaborated closely with a solicitor as well as territorial and federal prosecutors at every stage of the project. This partnership was essential for ensuring that we navigated the legal complexities effectively and aligned our efforts with existing laws and regulations.

From the initial planning phases, solicitors provided invaluable insights into legal frameworks and best practices, helping us identify potential challenges and develop strategies to address them. Their expertise assured that our approach was not only legally sound but also practicable and achievable within the constraints of the law. Throughout the project, we maintained open lines of communication with territorial and federal prosecutors. Their involvement was crucial for understanding the prosecutorial perspective, particularly in how our initiatives would impact the enforcement of laws. By engaging them early and consistently, we were able to gather feedback and shape our processes, ensuring that they would be compatible — it says compatible with the judicial system, but I guess that's actually compatible with the law.

Yes, it seems like there were ongoing conversations over the course of the last six or seven years with the territorial and federal prosecutors and, as I indicated previously in my various responses, also cross-jurisdictional analyses with respect to best practices and best approaches with respect to the innovative new sections that are being proposed.

Mr. Hassard: Earlier, I had said that I wanted to talk about the younger adults. I had a question regarding — the minister talked about how he feels — and I agree — that maybe this generation is the first generation that gets it, and I hope that we are correct in that thought. But one of the concerns I have is that — let's say a younger person — an 18-year-old — is acting as a designated driver, not drinking, doing what he or she believes is the right thing and not consuming anything at a party so that they can safely transport their friends home or to wherever. That driver gets pulled over and the vehicle reeks of marijuana and booze, so the officer checks the young driver and, lo and behold, there are some — finds that maybe there has been some consumption of marijuana by the driver. Now, the driver, in all fairness, hasn't smoked any marijuana, hasn't drank anything, but just being in the environment, has consumed.

I'm curious if that idea has been considered, and if it has been considered, what thoughts were around that.

Hon. Mr. Clarke: This is a — of course, this is a hypothetical question, and we could go back and forth on hypothetical scenarios all afternoon. Believe me, I've been involved — I've defended a lot of scenarios since 1992.

In this one, it almost — as good defense counsel, I would almost have some follow-up questions for the member opposite with respect to the specificity on the facts, but this sounds like — and secondly, I would say that there certainly is relevant case law that will exist probably in the Yukon and is certainly going to exist in western Canada. Good defense counsel would be

looking at this. I would hope that one of the first questions or maybe the mid-range questions that the Member for Pelly-Nisutlin would want to ask was about officer discretion.

Without binding any further future officer in any way, shape, or form, this might very well be a scenario where an officer would exercise the discretion, as I said, as they are able to exercise discretion in all manner and have done so largely, well, since the formation of the Royal Canadian Mounted Police. This sounds a little bit like a Ross Rebagliati kind of scenario, but in any event, I really don't want to go down — you know, whether Ross Rebagliati ought to have kept his gold medal or not.

In any event — but I hear the member opposite's questions. In all seriousness, there could be — there are lots of different scenarios. I would hope that, in this case — you know, as defense counsel, I would have further questions as to the fact pattern but ultimately would hope that discretion would be exercised in that circumstance — and would commend that hypothetical 18-year-old for being the designated driver, understanding the potential seriousness of impaired driving, either by alcohol or drug, and the possible absolutely tragic consequences thereof.

Once again, I am heartened by the member opposite's perhaps recognition or a bit of consensus that, you know, this generation of young Yukon adults might be starting to get it, and for that, I absolutely commend those of us who have young adults in that demographic.

Like I said, calling for a hypothetical, but all I would say to Yukoners who are perhaps listening today is that I commend all Yukoners who take on the responsibility of being designated drivers and that I think the message is slowly seeping — being drilled down — although there is still an awful lot of work to be done.

Mr. Hassard: I certainly hope that we have some good public defenders out there to defend that poor 18-year-old when this comes to trial.

Madam Chair, I have some questions regarding section 164.

Now, it was indicated that 164 is a duplication of section 257 of the current *Motor Vehicles Act*, but there is a significant change with the addition of the words "fatigue" and "medical condition", which do seem to significantly change the nature and the meaning.

I know that, during the briefings, the officials said that, under section 164, an officer who does not have a breathalyzer unit can use this section of the bill. I'm wondering if the minister can explain the significant expansion of the 24-hour roadside suspension powers? Again, was this specific provision consulted on, and what were the results of that consultation?

Hon. Mr. Clarke: My sense is that this is once again making the Yukon consistent with the rest of Canada. I'm just waiting for a response with respect to the consultation on the issues of medical condition or fatigue. But in my experience, this would have been — on the flipside — my understanding and knowledge actually was that this was basically unenforceable, but it would have been obvious to a peace officer forming reasonable and probable grounds to believe that

the driver was suffering from some sort of medical condition so as to impair that person's ability to drive safely or that it was obvious that they were fatigued and that they ought not to be driving — but the ability to not necessarily sanction that but to tell the person that they can no longer drive that vehicle.

I'm just waiting to get a determination on the consultation or anything else that was considered with respect to adding those two sections.

Impaired driving remains a pressing public safety issue in the Yukon. Some of the data that was used in the discussion was that, according to the Traffic Injury Research Foundation, being awake for 18 hours can result in impairment that is approximately equal to a blood alcohol concentration of approximately 0.05 percent.

According to the Traffic Injury Research Foundation, driving above the speed limit or too fast for conditions increases the risk of crashing, injury, or death. Driving 10 kilometres above the speed limit more than doubles crash risk, while driving 20 kilometres above the limit increases this risk up to six times.

Between 2016 and 2022, extreme fatigue or falling asleep contributed to 1.8 percent of all collisions and 4.9 percent of all single-vehicle collisions in the Yukon.

Between 2016 and 2022, driving too fast for road conditions or exceeding the speed limit contributed to 28 percent of Yukon's on-road fatalities. It is also important to note that this is a short-term, 24-hour suspension. The addition of this is to enable RCMP to get overly fatigued persons off the road in the short term, which is consistent to what I said prior to receiving some guidance from the team.

I don't have any specific information with respect to how widely that was consulted upon, but the data does support this. I suppose the concern would be — I mean, the driver could push back and say: I wasn't overly fatigued and that was an overreaction and I ought not to have been suspended for 24 hours. The fatigue is certainly a public safety issue, as is sort of an objective or reasonable ground analysis as to whether the person is impaired by medication. It provides the RCMP with short-term powers to improve road safety.

Mr. Hassard: I look forward to finding out about that consultation as well.

I have some questions — or a question or two — about the first offences or the fine levels for first offences under this bill around driving an uninsured ATV or snowmobile. Of course, it says that it is on a road. Now, of course, if we go to the definition section, a "highway" includes road, sidewalk, ice road, and right-of-way.

Those fines have been increased for a first offence under section 21(h) — a minimum of \$1,000 and a maximum of \$25,000 and six months in jail. So, I guess it leads one to wonder why it would be necessary to fine someone \$25,000 and give them six months in jail for driving an uninsured ATV or snowmobile in the ditch. I am just curious if the minister can provide a little bit of context around that.

Hon. Mr. Clarke: This would be a response with respect to the general fining principles that would govern the new *Traffic Safety Act*. Driving without insurance — my

recollection forever has been somewhere in the range of \$400. It really was viewed, in my experience in defence practice, as being sort of — not expressed, but I think a lot of Yukoners would view it, unfortunately, as the cost of doing business. It wasn't a significant disincentive or punishment. The second offence — it's up to a certain amount and a possible six-month jail sentence. So, it's largely going to be a Territorial Court Judge — and the Territorial Court Judge has discretion to impose all manner of fines. Of course, the maximum fine and/or any sort of jail would only be imposed on the worst fact pattern for the worst offender in the worst circumstances. So, it would be on a complete continuum, but it would provide a Territorial Court Judge with discretion.

We want Yukoners to be insured first and foremost, because, of course, uninsured drivers in the Yukon are just a nightmare for — well, for making people whole, providing significantly higher rates to those persons who are actually impaired, because there is the uninsured motorist protection for those persons who do have legal insurance for a vehicle in a given year. So, this was a pretty large hole in prior legislation where the fine for driving an uninsured vehicle was nowhere close to what some persons would have had to have paid for yearly insurance, particularly if it was a young, inexperienced driver with a certain vehicle with no driver training.

The cost of insurance would be — I don't even know what it would be these days, but it would be a lot. It would be \$3,000, \$4,000, or \$5,000 a year. The additional potential fine that a Territorial Court Judge could impose, hypothetically, once he, she, or they were apprised of the facts — they would make a determination and could certainly bump the fine up if the facts warranted that imposition of a fine. There are a lot of instances in the new *Traffic Safety Act* that provide for that judicial discretion which didn't exist previously.

I will just see if there is anything further here. It seems that the team agrees with me, generally. So, that is the overarching principle with respect to driving without insurance, and there are other examples as well. It's highly unlikely that, in the scenario provided by the Member for Pelly-Nisutlin, that off-road vehicle driver would be fined, subjectively or objectively, an exorbitant amount if the facts didn't warrant it. If the facts didn't warrant it and the fines were imposed, that fine would be appealed. Hopefully, that is the process of a fair, open, and transparent judicial system.

Mr. Hassard: I can understand the justification more so on the vehicles and the understanding that it is often cheaper for young drivers to take the fine rather than buy the insurance, but this particular question was more about an ATV or a snowmobile, so it's a lot less likely to be on the highway. I am pretty sure there are a lot of uninsured ATVs and snowmobiles in the Yukon.

I guess that the other interesting fact about the minister's response was that, again, he talks about discretion. Earlier, he talked about how this new way of writing law gives clear expectations. I guess, to me, there is a bit of a contradiction in clear expectations yet so many things have so much discretion tied to them too, but we won't split hairs on that one. It's just an observation from me and from others.

I had a question regarding the use of photo radar. I know that we talked about this during the briefing, but I'm just curious: What kind of consultation was done regarding the use of photo radar, and what were the results of that consultation as well?

Hon. Mr. Clarke: During engagements regarding the new *Traffic Safety Act*, many participants expressed concerns about the perception that traffic safety rules, particularly those related to speeding and red-light offences, are not being adequately enforced. In light of this, the use of automated enforcement has been proposed by various stakeholders as a promising solution to enhance enforcement, particularly within municipalities.

Automated enforcement systems utilize cameras and measuring devices to detect and capture images of vehicles committing offences, such as speeding or running red lights. This technology has been effectively employed in several Canadian jurisdictions, including British Columbia and Alberta.

While the new *Traffic Safety Act* will allow for the adoption of automated enforcement technology, specific regulations detailing its implementation will be necessary before it can be rolled out on Yukon roads. As this regulation is not strictly necessary for the act to come into force, the department is planning to begin the development of an automated enforcement regulation after those regulations necessary for the coming into force of the act have been completed. By considering automated enforcement, we aim to address public concern about traffic safety, ultimately creating a safer driving environment across the Yukon and fostering a culture of responsible driving.

The new *Traffic Safety Act* enables the use of automated enforcement technology but constrains it within certain parameters to ensure that it is used to mitigate public risk rather than as a source of revenue generation. These parameters include requirements for clear signage indicating the presence of enforcement cameras and restricting their use to designated high-risk areas where traffic violations are more prevalent. The parameters set out in the act will guide the development of the associated regulation, which in turn sets out additional rules on the use of this technology. The structured approach aims to foster transparency and accountability in this act. Importantly, the act is designed to provide a high degree of flexibility in the regulatory framework, allowing the automated enforcement system in the Yukon to adapt quickly to evolving traffic safety needs.

The Association of Yukon Communities passed resolutions both in 2018 and 2024 requesting the ability for municipalities to utilize automated enforcement technology and collect the associated fines. All 10 provinces in Canada enable the use of automated enforcement in their jurisdictions, although the scheme for each jurisdiction is unique. Neither the Northwest Territories nor Nunavut allow it at present.

The topic of automated enforcement has also arisen in meetings with other municipalities during various engagement efforts, including with Dawson City and the Town of Faro. I think it's fair to say that my observations were that the general

public has concerns, if automated enforcement is used, what might be perceived by the general public to be an unfair butterfly net where, you know, persons are — their speed is indicated to be excessive right after speed limits change — like within meters of speed limits changing — and those types of scenarios.

I will just have a look here as well — the overall survey says that 47 percent are opposed to the use of photo radar in the Yukon. At the time, 37 are supportive, while 15 percent are neutral; however, 49 percent of respondents are supportive of red light cameras at intersections, while 38 percent are opposed, and 12 percent are neutral. Speed on green cameras see 32-percent support and 46 percent opposing the idea, with 17 percent remaining neutral.

As I have said a number of times this afternoon, of course, it is enabling legislation. We are also going to be providing some additional — we propose, if this act is passed, providing some additional enforcement powers for municipalities, which has been requested by Yukon municipalities. Those individual municipalities, at some point in the future, can make the call as to whether they wish to have automated enforcement within their village or town boundaries.

To repeat myself once again for the record, it's also important to note that we are still going to engage on this topic before developing this regulation. As we know, people have strong opinions on enforcement.

Mr. Hassard: I am not sure if I heard the minister correctly, so if I could just get him to clarify if he said that, on the photo radar, 47 percent of respondents were opposed and 37 percent agreed?

Hon. Mr. Clarke: Yes. In that survey of persons who participated, 47 percent opposed photo radar, 37 percent were supportive, and 15 percent were neutral. I don't think that adds up to 100 percent, but I'm not sure what other opinions one could have. It's close at 99 percent.

Mr. Hassard: I guess the question has to be asked, then: If so many more people were opposed to it than agreed with it, why did the government choose to move forward with it?

Hon. Mr. Clarke: As I've stated a number of times this afternoon, this is the *Traffic Safety Act*. All attempts will be made to improve the experiences that all Yukoners are having on Yukon highways. As I also indicated, this will be, once again — it provides a tool in the toolbox, enabling legislation. It's not — anyway, I'll leave it at that.

It's enabling legislation; the municipalities can make the call in the future. They've asked for it at least to be considered. We are — I and the hard-working and diligent Minister of Community Services, in his discussions with the municipalities, are listening to them. But just briefly for the record, because it's always important to bring this back to the safety component, from 2018 to 2023, there were a total of 1,071 collisions at intersections across the Yukon. Data from Motor Vehicles indicates that between 2016 and 2022, factors such as driving too fast for road conditions or exceeding the speed limit contributed to 28 percent of the on-road fatalities in the Yukon.

Research conducted by traffic — we said this before — by the Traffic Injury Research Foundation shows that driving just 10 kilometres per hour over the speed limit more than doubles the likelihood of a crash, while exceeding the limit by 20 kilometres per hour can increase crash risk by up to six times. A passive speed collection project carried out in various locations in Whitehorse over a span of 22 weeks, from 2020-21, revealed that, in certain areas, more than 50 percent of drivers were exceeding the speed limit. Transport Canada has estimated that the social cost of collisions in the Yukon is considerable, with figures reaching \$95.7 million in 2007.

One potential solution to mitigate risk associated with speeding on Yukon roads is the implementation of automated enforcement. Perhaps just to indicate what the act actually says, the act does specify some parameters for the use of automated enforcement as follows: prescribing the types of locations in which technology can be used, such as high-collision or high-offence areas or school zones; requiring posted signage if automated enforcement is used in an area; and prohibiting the use of facial recognition technology or enforcement of pedestrian offences. Other parameters and further details about an automated enforcement regime are intended to be set out in the regulations at a later date after further discussion and research — so, once again, enabling — and it's a tool in the toolbox for most other Canadian jurisdictions as well, and certainly aware that Yukoners would understandably have some misgivings about this enforcement mechanism or additional tool, but the stats — the collision stats and the speeding stats — in the Yukon are unenviable.

Mr. Hassard: Madam Chair, I just have one final question. Just in closing, I would again like to thank everyone who worked on this act and the officials for being here today and helping the minister as we work through this.

This last question is just something that came out of the briefing. An example was used as something that could be done through regulation, and the example was the use of mandatory snow tires. So, I'm just curious: Is this something that the minister anticipates being done? I mean, does the government anticipate making snow tire use mandatory, and again, is that something that was actually consulted on? I also wondered if that was mandatory on bicycles.

Hon. Mr. Clarke: Thank you for the questions from the Member for Pelly-Nisutlin over the course of the last two afternoons.

We are considering the requirements for different types of tires in the regulations. Requiring a minimum of mud-and-snow-rated tires over winter is expected to enhance road safety, while minimizing the financial burden to Yukoners but not necessarily requiring them to purchase two sets of tires, since I am advised that mud-and-snow tires can be used year-round. This is consistent with a motion put forward by the Third Party on October 24, 2022: restricting studded tires to the winter months can help maintain the integrity of Yukon's highways and reduce dust emissions.

During public engagement on the *Motor Vehicles Act* rewrite, a slight majority of respondents was in favour of winter tire requirements. A higher proportion was in favour of

seasonal restrictions on studded tires. Québec is the only jurisdiction that requires winter tires province-wide. Eight jurisdictions restrict studded tires to certain times of the year, typically from October to April or May.

If any changes are made to tire requirements, we will ensure that drivers, retailers, and manufacturers are given sufficient time to plan for and implement the changes. Once again, there would be further discussion prior to implementation, but that is at a high level what this government is considering with respect to that. We recognize as well that it would represent somewhat of a financial burden on some persons, so we certainly recognize that.

Ms. White: I thank my colleague for his questions and his interest in this act.

Before we get started, full disclosure, I have been hit by three drunk drivers. One of them was underage with a stolen car and no insurance. The process that I had to go through to get support post-car accident was atrocious. It was long, drawn out, and unfair because I was not intoxicated, my car had insurance, and I was following the law. Anytime that we can make these changes so that people can be more protected — the worst part is that the driver did it twice. It was me first and someone else the second time, so a \$500 fine to save yourself and \$4,000 a year on insurance is not enough. There should be consequences to your actions. Driving is a privilege; it is not a right. Having a car is a privilege; it is not a right.

When we talk about snow tires, I have a friend whose partner was killed by a car with bald tires in the winter. The person who was in that accident survived, but his partner did not. Driving is a right; it is not a privilege. You have a responsibility to other people on the road. If people won't live up to that responsibility, there need to be consequences.

We can talk about whether there was consultation and we can talk about whether people liked it. I am pretty confident that there were people who disagreed when we said that you couldn't drink and drive at the same time. I am sure there were people who were opposed to seat-belt laws — 100 percent. If we asked them, you know — we are going to say that you can't have a six-pack of beer between here and Teslin. And there were some people who said: No — it doesn't matter; I actually don't care.

When we talk about safety, I am all for safety. I just want that out there. Three car accidents. Three times I have been hit by drunk drivers. Twice, I was seriously injured. None of those were my fault. All of them happened before I turned 20. So, when we talk about safety and we talk about consultation, I don't necessarily know that one negates the other. I just wanted to get that out there.

There have been lots of conversations and I think that the minister has probably covered all aspects of this right now. I was going to hit a couple of other areas, but I've actually just decided that I'm going to move on.

A lot of this legislation isn't going to be anything without regulations. Can the minister tell me the engagement plan for the development of the regulations going forward? So, what does that look like? Are we doing targeted sections? How is that going to happen on the way forward?

Hon. Mr. Clarke: As I've mentioned a few times, this legislation operates as an enabling act, meaning that while it establishes the foundational framework, the majority of specific rules and procedures will be detailed in the accompanying regulations. In other words, the heavy lifting on how this law will actually function day to day will happen in the regulations, not within the text of the act itself.

Before most of the act can officially come into force, there will need to be no fewer than 11 sets of regulations developed. These regulations are anticipated to cover about 400 pages of detailed rules and processes. Process is a significant amount of work, but these rules are essential to operationalizing the law in a way that reflects both the intent of the legislation and the realities on the ground. The project team is already deeply engaged in the task of drafting these regulations, and the groundwork laid so far through public and stakeholder engagement has addressed both the act and the upcoming regulations.

This isn't just about creating laws in isolation. It's about working through the practical details to ensure that the regulations meet the needs of those affected.

Given the substantial amount of content expected to be packed into these regulations, there is a recognition that this process will take time. Further research, careful analysis, and ongoing discussions with relevant stakeholders are planned for the months ahead and even beyond as we continue to shape and fine tune the regulations. It's a long road, but it is necessary to ensure that all voices are heard and regulations are robust.

In the end, this is about creating a regulatory framework that works for everyone not just in theory but in practice. That means taking the time to get it right, ensuring that all voices are considered, and that the regulations can stand up to challenges ahead.

Full implementation of the *Traffic Safety Act* will occur after the necessary regulations are passed, and a robust communications campaign will be essential for sharing the many challenges resulting from the new legislation coming into force. We understand that some Yukoners may be concerned about the breadth and depth of these changes and the potential for being penalized for laws that they may not have known had changed. To that end, they will be developing a large-scale, multi-pronged communication campaign to ensure that Yukoners everywhere are made aware of these changes no matter where they get their news from. We will be looking at using a variety of methods for communicating what the new laws will be, whether that is through radio announcements, mailers to individual residences, newspaper and social media ads, and other means of advertising to make sure that the news is received far and wide.

Certain stakeholder groups, including enforcement officials, will benefit from a more targeted approach to implementation. We will work closely with our partners to ensure that they are apprised of the changes well before the laws come into force. We anticipate that a smaller campaign will be required to make the public aware of the more immediate changes arising from specific parts of the act coming into force

early — that is, fines for unsafe driving behaviours and municipal bylaw-making authorities.

Ms. White: I thank the minister for that answer. The follow-up was what the education was going to look like, and I believe that he has answered that already.

I have a curiosity about section 59, which is: "Assistance to a peace officer". It says, "A person may assist a person who appears to be a peace officer in the carrying out of the duties of a peace officer under this Act ... if requested to do so by the peace officer; and ... if the person to whom the request is made reasonably believes that the person making the request for assistance is in fact a peace officer."

So, can the minister help me understand clause 59?

Hon. Mr. Clarke: Sorry, could the Member for Takhini-Kopper King please repeat that question?

Ms. White: So, clause 59, on page 80, says: "Assistance to peace officer". I'm curious as to — I'm actually curious about this, and I'm sure that it exists in other places or it exists here already, but the idea that the RCMP could ask me to help and then I would be covered by the same provisions as them is of interest. I do appreciate that it says that they can't ask me to participate in a high — they can't ask me to drive a vehicle in pursuit of another vehicle. I think that's important, but I'm curious about this specific clause.

Hon. Mr. Clarke: I have some notes about this section, and if the team has any follow-up, that would be great.

Should a peace officer request assistance from a person to carry out their duties, the person can choose to assist the officer. The person may also decline the request should they wish — for example, if they are not physically capable or do not feel comfortable assisting the officer.

Then on (3), the person assisting the peace officer has the same protections that the peace officer would have while carrying out duties that were requested by the peace officer. A person providing assistance also cannot be held responsible for any loss or damage that occurs during the time that they are assisting the peace officer so long as they are acting in good faith while carrying out the officer's request. This is codified in section 216 of this act. I'll just see whether there is anything further.

It is a provision that is a carry-over from the existing MVA section 111. The section indemnifies a person helping the officer from liability in the circumstances provided. Clarification from the MVA with greater protections for the person was requested.

Ms. White: I thank the minister for that. That was just one of interest.

So, I know at this point in time that there has been a lot of conversation around the letter that was received both by the minister and opposition parties from the Yukon Information and Privacy Commissioner. I recognize right now that facial recognition is listed 12 times in the legislation. The first time is in the table of contents; the second time is in section 81(2), where it says: "An automated enforcement system must not be used (a) if the automated enforcement system incorporates facial recognition technology..." So, I do not think that reference is what the Information and Privacy Commissioner is

concerned about, but I do recognize that they're concerned about clause 215.

So, my question to the minister is: Understanding that we're not necessarily using that technology at this point in time, are there consequences to removing section 215 right now in order to have more agreement in this Assembly about the *Traffic Safety Act*?

So, what does he see as consequences of removing 215 right now?

Hon. Mr. Clarke: I will seek guidance and advice as to the possibility of eliminating section 215. I mean, certainly, one would prefer — I think we would prefer it to remain within the current *Traffic Safety Act*, but I certainly recognize that there are some — it's forward — it's generally going to be forward-looking legislation or a section of this new legislation and that one could amend a future act.

So, I'm not opposed — well, to the member opposite's question, I'm not opposed to investigating this possibility and reporting back to the member opposite with the possibility that this section could not form part of this current bill.

Ms. White: I thank the minister for that. I'm going to say that there are many pieces of legislation that we do amendments to and have done amendments to since the very first session I was in many moons ago in this Assembly.

I am signalling right now that I believe that, at a future date, this same section can be brought forward. But in my interest in both respecting the letter from the Information and Privacy Commissioner and hearing the concern raised by my colleagues, it will be my intention to drop clause 215, and I just wanted to signal that to the House.

With that, Madam Chair, I have no further questions in general debate.

Chair: Is there any further general debate on Bill No. 44, entitled *Traffic Safety Act*?

Seeing none, we will now proceed to clause-by-clause debate.

Ms. White: Pursuant to Standing Order 14.3, I request the unanimous consent of Committee of the Whole to deem clauses 1 through 214 of Bill No. 44, entitled *Traffic Safety Act*, read and agreed to.

Unanimous consent re deeming clauses 1 through 214 of Bill No. 44 read and agreed to

Chair: The Member for Takhini-Kopper King has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to deem clauses 1 through 214 of Bill No. 44, entitled *Traffic Safety Act*, read and agreed to.

Is there unanimous consent?

All Hon. Members: Agreed.

Chair: Unanimous consent has been granted.

*Clauses 1 through 214 deemed read and agreed to
On Clause 215*

Mr. Hassard: Just briefly on this, the minister and I had quite a discussion regarding section 215 and I agree with the Leader of the Third Party. We would certainly not be able to vote in favour of section 215 in this bill as well.

Hon. Mr. Streicker: Madam Chair, this is all moving very fast. I would request that you just call for a brief adjournment.

Some Hon. Member: (Inaudible)

Hon. Mr. Streicker: Thank you — if I could just finish speaking.

We would look to carry this over as we have done in previous clauses when there was an attempt to change things quickly. I just think we should be careful here, as colleagues, as we adjust legislation on the fly.

I just think there's a moment here for everyone — just to allow for a moment — if there's going to be a change to this — there's a chance to assess what the implications are for this piece of legislation.

Chair: Would members like to take a brief recess?

Some Hon. Members: Agreed.

Some Hon. Members: Disagreed.

Chair: There is not unanimous consent for a recess.

Hon. Mr. Streicker: Madam Chair, I move that we stand over clause 215.

Chair: It has been moved by the Member for Mount Lorne-Southern Lakes that Committee of the Whole stand over clause 215.

Are you agreed?

Some Hon. Members: Count.

Count

Chair: A count has been called.

Bells

Chair: All those in favour of the motion for Committee of the Whole to stand over clause 215, please rise.

Members rise

Chair: All those opposed to the motion for Committee of the Whole to stand over clause 215, please rise.

Members rise

Chair: The results are 17 yea, nil nay.

Clause 215 stood over

Chair: We will now proceed to clause 216.

On Clause 216

Hon. Mr. Clarke: With respect to pilot projects, part 2 of the act provides authority to establish regulations that address new technologies and practices. This includes the ability to conduct test drives of innovative technologies or explore novel methodologies through pilot projects. It is a forward-thinking approach that recognizes the importance of adapting to advancements in technology. For instance, we could initiate a pilot project that evaluates the performance of electric transportation modes, such as e-scooters, in cold weather conditions. This would give us critical data on their operational viability in the Yukon climate.

Additionally, another pilot project might focus on assessing the safety of self-driving vehicles as they navigate the Yukon's road network. This kind of research is crucial as we

look forward toward the future of transportation. Each pilot project will be governed by specific regulations that outline the participants, objectives, and scope of the initiative. This ensures that every project operates within a defined framework and maintains accountability.

The act imposes a maximum duration of five years for pilot projects. This limitation is essential, because in certain situations, a pilot project may necessitate a temporary override of other provisions in the act to be executed effectively. It's a safeguard to balance innovation with regulatory integrity.

While this area of law is still developing, we see that other jurisdictions have successfully initiated pilot projects within their motor vehicle legislation. In 2016, Ontario launched a 10-year pilot program aimed at testing automated vehicles on its roads. This initiative was carefully crafted with strict terms and conditions, including a requirement for a driver to be present at all times to ensure safety. As technology advanced, the project was updated in 2019 to reflect those changes.

In Saskatchewan, the *Traffic Safety Amendment Act, 2020* was enacted to establish regulations for autonomous vehicles, though the provisions concerning their use are not yet active. Manitoba took a significant step in 2022 by amending its *Highway Traffic Act* to allow for pilot projects, opening the door to innovative testing in the province. In British Columbia, amendments to the *Motor Vehicle Act* in April of 2024 created opportunities for four-year pilot projects, which will be established through regulation. Prince Edward Island also made strides by allowing for pilot projects on its off-highway vehicle legislation, while Nova Scotia's new *Traffic Safety Act* will govern the use of autonomous vehicles.

It is crucial that we leverage pilot projects to test emerging technologies and enhance roadway safety, especially as advancements in transportation continue to evolve. This is how we prepare for a future that embraces innovation while prioritizing the safety of our citizens.

With respect to the act specifically, in 216(1), "The Commissioner in Executive Council may, by regulation, authorize or establish a project for research in relation to any matter to which this Act or the regulations relates." This could include pilot projects related to, for example, researching or testing different technologies, equipment, or rules, such as autonomous vehicles, scooters, or hoverboards.

Section 216(3): "An authorization or requirement referred to in subsection (2) may be limited to any class of persons, class or type of vehicles, class of equipment, devices or highways, parts of the Yukon, time of year or day, activities, matters or any other things." This pilot project may create rules regarding the class of persons, type or class of vehicles, type of devices used in the project, place in the Yukon, or seasonal restrictions that apply. This is intended to give maximum flexibility to the pilot project.

Section 216(5): "If there is a conflict between a regulation made under subsection (4) and this Act or the regulations or a municipal bylaw, the regulation made under subsection (4) prevails to the extent of the conflict." It is unusual for a regulation to prevail in the event of a conflict with the act; however, in the case of pilot projects where government is

testing and evaluating new ways to regulate certain vehicle types, there may be occasion for rules in the pilot projects to prevail in the event of a conflict, and I spoke about that on Tuesday. If I could just have a moment, please.

Section 216(6): "A regulation made under this section is repealed five years after the date on which the regulation comes into force and effect." The time limit for pilot projects is five years. After that period of time, government may amend the act and/or the regulation to incorporate permanent rules regarding the subject of the pilot project.

Chair: Is there any further debate on clause 216?

Clause 216 agreed to

On Clause 217

Hon. Mr. Clarke: This refers to modifications to the *Summary Convictions Act*. I'll just highlight a few of the sections for the benefit of the Assembly.

Section 217(1) states: "A ticket issued under section 10 of the *Summary Convictions Act* in respect of an automated enforcement offence must, in addition to the requirements of paragraph 10(1)(a) of the *Summary Convictions Act*, set out in the complaint..." So, the impact of that is that section 10 of the *Summary Convictions Act* sets out requirements for the issuance of tickets, including the information required to be included in the ticket. In addition to the requirements specified in that section, the following are also required to appear on tickets for offences enforced by an automated enforcement section.

Section 217(4) states: "When service of a ticket is made in accordance with section 12 of the *Summary Convictions Act* as modified by subsection (3) of this section, the enforcement officer is only required under subsection 16(1) of the *Summary Convictions Act* to complete an affidavit of service referred to in paragraph (b) of that subsection." The impact of that is that, when a ticket is served on a person as set out in the regulations under this act, the officer is not required to certify that they delivered the ticket to the defendant personally as is currently required in paragraph 16(1)(a) of the *Summary Convictions Act*. Instead, the officer is only required to complete the affidavit of service as required in paragraph 16(1)(b).

Madam Chair, I look forward to completing the final sections of the *Traffic Safety Act*, hopefully, in the near future. However, seeing the time, I move that you report progress.

Chair: It has been moved by the Member for Riverdale North that the Chair report progress.

Motion agreed to

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

Chair: It has been moved by the Member for Mount Lorne-Southern Lakes that the Speaker do now resume the Chair.

Motion agreed to

Speaker resumes the Chair

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

Chair's report

Ms. Blake: Mr. Speaker, Committee of the Whole has considered Bill No. 44, entitled *Traffic Safety Act*, and directed me to report progress.

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

Are you agreed?

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

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

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

Motion agreed to

Speaker: It's a long weekend this weekend. I hope everyone has a happy Thanksgiving.

This House now stands adjourned until 1:00 p.m. Tuesday.

The House adjourned at 5:28 p.m.