

CABINET MAKING IN THE NWT: ALTERNATIVE APPROACHES

ISSUE

Few parliamentary democracies select their executive leadership solely on the basis of merit. There is an element of politics and balance in all cabinet making. In the Northwest Territories, both before and after Division, cabinet selection has been structured on the basis of geography; East/West and, now, North/South. Is geography really what drives politics in the Territory? Or is this structure an effective cover for the underlying tensions that define politics in the NWT such as race, community size, representation by population and the centralization of power and resources in Yellowknife and other regional centres? If this is the case, is there a more effective way to address these tensions in the structure of cabinet selection and still maximize the appointment of the most qualified and experienced members? This options paper examines some modifications to the way cabinets are structured in the NWT and their effect on this delicate balance.

BACKGROUND

The current North/South/Yellowknife (2-2-2) composition of cabinet was adopted at the commencement of the 14th Legislative Assembly following Division. Prior to Division, the eight member Cabinet was structured along geographic lines as well. Once a Premier was selected, the region from which the Premier came was entitled to another three Cabinet members and the remaining region four members. Neither East nor West was overrepresented on Cabinet by virtue of having a Premier from their region. This ensured a balanced Cabinet and eliminated strategic voting (see Note 1) for the position of premier. Cabinet members from each region were appointed at large. In other words, the four cabinet seats for the Western Arctic were not allocated to any specific region or community. All Western Arctic MLAs were eligible for each of the available cabinet appointments.

Following Division and the NWT Supreme Court ruling on the “Friends of Democracy” case, the size of the new western Legislative Assembly was increased from 14 to 19. After many rounds of consultation, it was agreed that the new Cabinet would be structured along geographic lines as well. Two Cabinet seats were reserved for Yellowknife Members and two each for Members representing constituencies roughly south and north of the capital.

Selecting Region	Seats on Cabinet	# of Ridings in Region	Population 2014	Residents per MLA
North	2 (29%)	6 (32%)	12,432 (28%)	2,072
South	2 (29%)	6 (32%)	10,721 (25%)	1,787
Yellowknife	2 (29%)	7 (36%)	20,470 (47%)	2,924

Unlike the pre-division cabinets, the selection of the premier did not reduce the number of cabinet seats available in that particular geographic region. Currently, the region from which the premier is selected automatically enjoys increased representation on cabinet (see Note 2). This system has remained in place, virtually without change, since Division. A roll call of each cabinet since Division is provided in Table 1. Table 2 provides an analysis of

the representativeness of each cabinet from the perspectives of race, community size and gender.

Advantages of the status quo (2-2-2):

1. Limits the ability of a single region or urban centre to dominate cabinet;
2. Has provided acceptable levels of small and medium community representation on cabinet without guarantees; and
3. Is well understood by Members and the public.

Disadvantages of the status quo (2-2-2):

1. Encourages strategic voting for premier (see Note 1);
2. Does not necessarily result in the “most qualified” cabinet (see Note 3);
3. Region from which the premier is selected automatically gets three seats on cabinet;
4. No guarantee of small community representation on cabinet;
5. Yellowknife constituencies underrepresented on cabinet in terms of population

Options for Discussion:

Cabinet making is a science and an art. No system is perfect and all changes come at a cost. The following options are provided to generate discussion and debate. There are many others. Please note that these are not “either / or” options. Aspects of each can be combined with others.

A) 2-2-2-1: “The Floater”

- 2-2-2 based on current North/South/Yellowknife approach
- Seventh member selected at large from the remaining 12 members. The seventh position, or “floater,” could be used to adjust for a representation deficiency falling out of the 2-2-2, (e.g. no cabinet members from a small community, no women on cabinet) or simply elected from the pool of remaining MLAs.
- Premier selected at the end of the process from amongst the seven appointed cabinet members (premier is still elected by all Members but only those appointed to cabinet under 2-2-2-1 are eligible for nomination)

Advantages:

- Retains existing regional balance
- Reduces strategic voting for premier (see Note 1)
- Allows more flexibility in the composition of cabinet to capture talent and experience
- Allows use of “at large position” to make up for any 2-2-2 deficiencies

Disadvantages:

- Creates the appearance of a “consolation seat” on cabinet
- Limits the pool of eligible nominees for premier

B) A new take on 2-2-2 (Community Size):

- Premier selected first and at large
- 2 members representing predominantly small community constituencies (7)
- 2 members representing regional centres (5)
- 2 members representing Yellowknife (7)

Advantages:

- More closely reflects the factors that define politics in the NWT (Note 4)
- Guarantees small community and regional centre representation on cabinet

Disadvantages:

- Creates possibility that one of the current regions (north or south) is left out of cabinet;
- Yellowknife constituencies underrepresented on cabinet in terms of population;
- Does not necessarily result in the “most qualified” cabinet (see Note 3);

Urban/Rural Character	Seats on Cabinet	# of MLAs	Population 2014	Residents per MLA
Small Communities	2 (29%)	7 (36%)	13,532 (31%)	1,933
Regional Centres	2 (29%)	5 (28%)	9,621 (22%)	1,924
Yellowknife	2 (29%)	7 (36%)	20,470 (47%)	2,924

C) 2-3-2 (Representation by Population)

- Two (2) from the North; Three (3) from Yellowknife; Two (2) from the South
- Premier selected at the end of the process from amongst the seven appointed cabinet members (Premier is still elected by all Members but only those appointed to cabinet under 2-3-2) are eligible for nomination)

Selecting Region	Seats on Cabinet	# of MLAs	Population 2014	Residents per MLA
North	2 (29%)	6 (32%)	12,432 (28%)	2,072
South	2 (29%)	6 (32%)	10,721 (25%)	1,787
Yellowknife	3 (42%)	7 (36%)	20,470 (47%)	2,924

Advantages:

- Addresses Yellowknife's underrepresentation in terms of population
- Reduces strategic voting for Premier (see Note 1)

Disadvantages:

- Does not necessarily result in the “most qualified” cabinet (see Note 3);
- Relative increase in Yellowknife’s real and perceived power;
- Limits the pool of eligible nominees for Premier;
- No guarantee of small community representation on cabinet;

OBSERVATIONS

- The current 2-2-2 system has been remarkably effective at ensuring aboriginal and small community (with their option of the current Assembly) representation on cabinet despite the absence of structural guarantees.
- One or a combination of the options presented above could improve the overall qualifications and experience of the Members appointed to cabinet and reduce the incidence of strategic voting for the position of Premier.
- Unless the Premier is from Yellowknife, that region is underrepresented on cabinet in terms of its population. Option C addresses this without creating the possibility that one region could ever hold the balance of power on cabinet.
- There do not appear to be structural impediments to the appointment of women to cabinet. Both the 14th and 16th Assemblies had women in cabinet commensurate with the number of women elected to the Assembly (two in the 14th, 15th, 17th, 18th and three in the 16th). The major impediment seems to be the number of women elected to the Assembly who are then eligible for appointment to cabinet.

NOTES

1. In the context of this paper, “strategic voting” refers to the potential motivation that a Member might have to vote for a Premier from his or her own region in order to improve their chances of winning one of the Cabinet seats from that region. In other words, the motivation exists for a Member to cast a vote for Premier based on self-interest as opposed to who they think is best qualified to do the job.
2. It should be emphasized that although the Cabinet selection method currently uses regional categories, a Member, once appointed to Cabinet, is appointed to act on behalf of the territory as a whole. In other words, there are no “Yellowknife”, “North” or “South” members on Cabinet. Cabinet members, once appointed, are expected to put the interests of the territory as a whole before the interests of their respective constituency or region.
3. Very few parliamentary democracies select their Cabinets based purely on merit or qualifications. There is an element of politics and balance in all Cabinet making. The point here is that a less qualified or experienced Member may be appointed to Cabinet over a more qualified or experienced Member based purely on the geographic region they represent.

4. This paper argues that the factors that define the NWT Legislative Assembly from a political point of view are not predominantly geographic. For example, does a resident of Fort Resolution feel a special kinship with a resident of Trout Lake simply because they live “south of Yellowknife?” Can a resident of Paulatuk take comfort that a Cabinet minister from Whati will protect the interests of his or her community at the Cabinet table simply because they both live “north of Yellowknife?” This paper argues that the predominant factors that define politics in the NWT Legislative Assembly are:
- Tension between small communities, regional centres and Yellowknife;
 - Race (aboriginal vs. non-aboriginal representation);
 - A desire to limit the centralization of power and resources in Yellowknife;
 - A desire in more populous constituencies for representation by population.

Table 1: Cabinets Since 2-2-2 Convention

14th Assembly**14-1**

Kakfwi (P)
 Allen (N)
 Steen (N)
 Ootes (YK)
 Handley (YK)
 Antoine (S)
 Groenewegen (S)

14-2

Kakfwi (P)
 Allen (N)
 Steen (N)
 Ootes (YK)
 Handley (YK)
 Antoine (S)
 Miltenberger (S)

15th Assembly**15-1**

Handley (P)
 Roland (N)
 Zoe (N)
 Bell (YK)
 Dent (YK)
 Miltenberger (S)
 M. McLeod (S)

15-2

Handley (P)
 Roland (N)
 Krutko (N)
 Bell (YK)
 Dent (YK)
 Miltenberger (S)
 M. McLeod (S)

15-3

Handley (P)
 Roland (N)
 Krutko (N)
 Bell (YK)
 Dent (YK)
 Menicoche (S)
 M. McLeod (S)

16th Assembly**16-1**

Roland (P)
 Lafferty (N)
 Yakeleya (N)
 Lee (YK)
 R. McLeod (YK)
 Miltenberger (S)
 M. McLeod (S)

16-2

Roland (P)
 Lafferty (N)
 R.C. McLeod (N)
 Lee (YK)
 R. McLeod (YK)
 Miltenberger (S)
 M. McLeod (S)

17th Assembly

R. McLeod (P)
 RC McLeod (N)
 Lafferty (N)
 Abernethy (YK)
 Ramsay (YK)
 Beaulieu (S)
 Miltenberger (S)

18th Assembly

R.R. McLeod (P)

R.C. McLeod (N)

A. Moses (N)

Abernethy (YK)

Cochrane (YK)

Schumann (S)

Sebert (S)

CONFIDENTIAL

Table 2: Analysis of Post-Division Cabinets

	North	South	Yellowknife	Aboriginal Members	Small Community	Regional Centres	Women
14-1	3	2	2	5 (71%)	3 (43%)	2	1 (14%)
14-2	3	2	2	6 (86%)	3 (43%)	2	0
15-1	2	2	3	5 (71%)	2 (29%)	2	0
15-2	2	2	3	5 (71%)	2 (29%)	2	0
15-3	2	2	3	5 (71%)	3 (43%)	1	0
16-1	3	2	2	6 (86%)	3 (43%)	2	1 (14%)
16-2	3	2	2	6 (86%)	2 (29%)	2	1 (14%)
17-1	2	2	3	5 (71%)	2 (29%)	2	0
18-1	2	2	3	5 (71%)	0 (0%)	4	1 (14%)

Constituencies by Classification

North (6)

Nunakput
Inuvik Boot Lake
Inuvik Twin Lakes
Mackenzie Delta
Sahtu
Monfwi

South (6)

Deh Cho
Hay River North
Hay River South
Tu Nedhe-Wiilideh
Thebacha
Nahendeh

Yellowknife (7)

Frame Lake
Kam Lake
Range Lake
Yellowknife North
YK Centre
YK South
Great Slave

Small Community (7)

Deh Cho
Mackenzie Delta
Monfwi
Nahendeh
Nunakput
Sahtu
Tu Nedhe-Wiilideh

Reg. Ctrs. (5)

Hay River North
Hay River South
Inuvik Twin Lakes
Inuvik Boot Lake
Thebacha

Rules of the Legislative Assembly

- | | | |
|----|---|---------------------------|
| 87 | (1) The Committee of the Whole shall report to the Assembly on progress regarding bills and other matters under consideration. | Report of progress |
| | (2) The report of progress from Committee of the Whole shall be received and the motion for concurrence shall be disposed of without debate or amendment. | Motion for concurrence |
| 88 | (1) A motion that the Chair of Committee of the Whole leave the Chair to report progress shall always be in order, shall take precedence over any other motion, and shall not be debatable. | Motion to report progress |
| | (2) If a motion referred to in Rule 88(1) is defeated, it cannot be reintroduced unless some intermediate proceeding has taken place. | Motion defeated |

STANDING AND SPECIAL COMMITTEES

- | | | |
|----|---|---------------------------|
| 89 | (1) Standing Committees are established by each Assembly and continue in existence unless otherwise ordered. | Standing Committees |
| | (2) At its first sitting after a general election, the Assembly shall appoint a Striking Committee of five Members to report and recommend, with all convenient speed, Members to comprise the following Standing Committees of the Assembly: | Appointment of Committees |
| | on Economic Development and Infrastructure;
on Government Operations;
on Priorities and Planning;
on Rules and Procedures;
on Social Programs; | |
| | and any other Standing and Special Committees as directed by the Assembly. | |
| | (3) The terms of reference for each Standing Committee shall be set out in Appendix 3 – Committee Terms of Reference. | Terms of reference |
| 90 | At its first sitting after a general election the Assembly shall appoint a Board of Management in accordance with Section 36 of the <i>Legislative Assembly and Executive Council Act</i> . | Board of Management |
| 91 | (1) A Committee established pursuant to Rule 89(1) shall consist of not more than six Members with the exception of the Standing Committee on Priorities and Planning, which shall consist of eleven Members. | Number of Members |

Rules of the Legislative Assembly

- | | | |
|----|---|---|
| | (2) Each Standing Committee, with the exception of the Standing Committee on Priorities and Planning, shall also have three alternates, each of whom may be called upon by the Chair to take the place of an absent Committee Member when the absence of a Committee Member results in a lack of quorum. When called upon by the Chair to participate in Committee business, the alternate shall be entitled to vote on any matter arising during that meeting. | Alternate Members |
| 92 | (1) At any time, the Assembly may appoint a Special Committee for any purpose or to consider any matter referred to it by the Assembly. | Special Committees |
| | (2) A Special Committee established pursuant to Rule 92(1) shall consist of not more than five Members unless otherwise ordered by the Assembly. | Number of Members on Special Committees |
| 93 | The Rules and procedures of the Legislative Assembly shall be observed in Committees in so far as they are applicable. | Rules of Committee |
| 94 | The Clerk shall distribute to every Member a list of the Members comprising the Committees and the Board of Management. | List of Members |
| 95 | (1) The Member first named in the motion establishing the membership of any Committee shall call the first meeting of the Committee. | First meeting |
| | (2) At the first meeting, the Committee shall elect a Chair and Deputy Chair, or Co-Chairs, who shall act at the pleasure of the Committee. | Election of Chairs |
| | (3) The quorum of a Committee shall be a simple majority of Committee Members. | Quorum of Committees |
| | (4) Notices of all Committee meetings shall be posted in the Legislative Assembly office and circulated to all Members. | Notice of meetings |
| 96 | (1) A Member of a Standing or Special Committee who is absent from Committee meetings without cause may be removed from the membership of the Committee by a motion adopted by the Assembly. | Removal of Members |
| | (2) In the case of a vacancy in the membership of a Standing or Special Committee, the Striking Committee provided for by Rule 89(2) shall propose a successor to the Assembly. | Filling vacancies |
| 97 | [The Chair shall maintain order in Committee and shall decide all questions of order subject to an appeal to the Speaker. | Maintaining order in Committee |
| 98 | The Chair of the Committee shall not vote except to cast the deciding vote in the case of a tie. | Chair casts deciding vote |

Committee shall decide

Rules of the Legislative Assembly

- 99 (1) A Member who is not a Member of a Committee may attend Committee meetings and may address the Committee after its Members have spoken, according to any limits imposed by the Chair. Members may attend meetings
- (2) Only Members of a Committee shall vote on any question to be decided by the Committee. Only Committee Members vote
- 100 (1) Every report of a Standing or Special Committee shall be in writing, signed by the Chair, and shall be presented by the Chair or a Committee Member under the appropriate item in the daily order of business of the Assembly. Committee reports
- (2) The Member presenting the report shall move that the report be received by the Assembly. Motion to receive report
- standing reports* (3) A report from a Standing or Special Committee may be Report adopted or referred
- (a) adopted by the Assembly;
- (b) referred to Committee of the Whole; or
- (c) referred back to the Committee which presented it.
- (4) A report from a Standing or Special Committee shall not be taken into consideration in Committee of the Whole until two sitting days have passed from the presentation of the report. Report not considered for two days
- (5) Within 120 calendar days of the conclusion of consideration of a report presented under Rule 100(1) and (2), the Executive Council shall, upon motion of the Committee, table a comprehensive response that addresses the Committee report and any related motions adopted by the House. Response to report
- 101 (1) Standing and Special Committees have the power to call for persons and documents and to examine witnesses. Powers of Committees
- (2) Standing and Special Committees may meet at any time. Meetings of Committees

COMMITTEE DOCUMENTS

- 102 (1) All documents which come into the possession of a Committee or which come into existence in the course of the conduct of Committee business belong to that Committee before it reports to the Assembly and belong to the Assembly after the Committee reports to the Assembly, subject to any direction of the Speaker acting on an order of the Assembly. Committee documents

Parliamentary Group Model for NWT Consensus System

Special Committee on Transition Matters

Introduction to Parliamentary Groups

A parliamentary group, also called a parliamentary caucus or parliamentary party, is a group consisting of members in a legislative assembly such as a parliament or city council. A parliamentary group is sometimes called the *parliamentary wing* of a party, as distinct from its *organisational wing*.¹

In Canada, parliamentary groups are called *caucuses* and generally have independence from the wider party organisations. It is often thought improper for elected MPs to take instructions solely from non-elected party officials, non-partisan legislative staff or from the small subset of the electorate represented by party members and supporters. In any case, the exigencies of government, the need to cooperate with other members of the legislature and the desire to retain the support of the electorate as a whole often preclude strict adherence to the wider party's wishes.

In Westminster systems, caucus can be quite powerful, as it can elect or dismiss the party's parliamentary leader. The caucus also determines some matters of policy, parliamentary tactics, and disciplinary measures against disobedient MPs.

A parliamentary group is typically leader by a parliamentary group leader or chairperson; though some parliamentary groups have two or more *co-leaders* (e.g. Québec Solidaire has two co-leaders²). In some parties, the leader is elected solely by the members of the parliamentary group; in others, some or all the members of the wider party participate in the election. The parliamentary leader is the public face of the party. Parties that are not in government often choose the party's political leader as the chairperson. Parliamentary groups often have one or more whips, whose role is to support the leadership by enforcing party discipline.

De Facto Parliamentary Groups in Consensus Government

In consensus government systems in the NWT and Nunavut there are arguably two parliamentary groups: Caucus and Cabinet. Cabinet or the Executive Council has formal standing in the House through its Ministerial appointments and functions in a manner similar to other Westminster systems in

¹ Mary Durkin and Oonagh Gay, *Her Majesty's Opposition*, (8 February 2006), 2.

² Quebec Solidarite, "Député.e.s", accessed October 23, 2017. <https://quebecsolidaire.net/page/depute-e-s>

Southern Canada. Caucus also functions very similarly to its southern counterparts in that it is used to discuss matters of political importance to members and provides an opportunity for free and frank discussion. Caucus also serves an important function in scheduling sittings of the House and deciding on legislative and corporate matters that affect the institution as a whole.

These bodies, caucus and cabinet, are both functional and effective tools for parliamentary function in the NWT. They serve as organizational management systems for political representatives and allow parliamentary cohesion inside and outside of the legislative assembly.

Members are well informed on the operations and functions of caucus and cabinet, and it does not bear repeating those aspects in this paper. What is important to note is that both of these groups are given formal standing by the Legislative Assembly as an institution and therefore have resources and formal roles in consensus government.

Parliamentary Groups as a Management Tool

Establishing a parliamentary group outside of the existing caucus and cabinet would create a distinct parliamentary group of regular members that operate as their own parliamentary organization, without ties to an external political party or similar group. This group would need to be given formal standing in the legislative assembly and to access funding required to support its members. A parliamentary group established in this way would be free to determine its own organization, including leadership decisions and establishing parliamentary roles (e.g. house leader, whip, critic portfolios, etc.). There would be no burden of transparency on meetings of a parliamentary group, unlike that of a Standing Committee which by convention must have all meetings in public by default.

Using this model the Standing Committee on Priorities and Planning would be replaced by a Regular Members Caucus, a parliamentary group for Regular Members that would act as a deliberative body with explicit decision making role on political matters. Additionally, the caucus would be the primary means of formal communication between the Executive Council and Regular Members in political matters. The caucus, through its officers (see below), would have standing in the House and all caucus deliberations would be protected by parliamentary privilege. Membership would be automatic for all Regular Members but the Caucus would reserve the right to control its membership at all times, without formal motion in the House (which is the current circumstances for SCOPP). Such a caucus would require adequate financial and staffing resources to perform its functions within and outside the Legislative

Assembly, for example strategic retreats in communities outside the capital and staff persons providing strategic advice, communication services and procedural advice/house planning support.

It should be noted that membership of such a caucus would be voluntary and would in no way limit a member's parliamentary privilege. Support for the decisions of the caucus and continued participation in its work would be ensured through access to the additional resources provided by the caucus to its members. Discipline and more direct measures of ensuring compliance within the caucus would be an exception to the rule and reserved for serious matters involving the membership of the caucus.

Proposed Features of a Caucus Structure

1. Improved Parliamentary Cohesion of Regular Members

The current form of consensus government provides for few incentives to encourage good behaviour on the part of Regular Members as it relates to working effectively in Standing Committees, ensuring good attendance and in working collaboratively with other Regular Members. On occasion Regular Members have failed to act in accordance with previously agreed to political accords on votes in the House or support for committee business that requires political action. Under the current system of organization through the standing committee on priorities and planning there are no consequences for this behaviour, nor for poor attendance or a lack of contributions to the work of the committee. These examples of poor performance can be especially frustrating for Regular Members who are contributing to the collective work of the committee, particularly in discussions of house strategy and voting matters, with many members not feeling able to discuss these matters freely with some of their peers in fear that Cabinet will be informed of what was discussed.

In forming a parliamentary group or caucus, Regular Members will be able to control membership in that group and enforce some form of discipline by controlling access to parliamentary resources and caucus funding. This will ensure cohesion between the Regular Members and create new incentives to work with group in an effective and efficient manner. This will in turn result in better performance outcomes and allow for better discussion free of real and perceived outside political influence.

2. Improved House Strategy

Procedure in consensus government is often understood as a means to an end, rather than the other way around. That means that procedural tactics are rarely used to delay legislation or challenge the government's agenda. A caucus of regular members could make better use of parliamentary procedure

to delay controversial legislation, to block spending measures, and to debate important issues of public policy. It bears mentioning that all of these tactics are currently available to MLAs through the rules of the legislative assembly but are rarely used due to the organization required to use them effectively. Mandatory attendance in the house, clear leadership roles and some form of party discipline are required to use them effectively. A caucus could make effective use of parliamentary procedure to achieve better outcomes for the collective goals of Regular Members.

An organized caucus could also serve to better support coordinate of house business planning between the government and Speaker's Office, resulting in better outcomes to ensure the smooth functioning of the legislature and that procedural matters are dealt with efficiently and effectively.

3. Teamwork and Morale

Another advantage of establishing a Regular Member caucus is that will create a stronger sense of teamwork and *Esprit de corps* between the Regular Members who form part of the group. The divisions that already exist in the House will become clarified and formalized, with each member clearly understanding what side that they are on and what tools are available to them to pursue the aspirations and objectives of their constituencies. This does not mean that there won't be occasional disagreement between members of the caucus, nor does it mean that Regular Members and Cabinet won't work together on issues of public policy. However, having a clearer sense of identity within the Legislative Assembly and being part of a team with a strong work ethic encourages better morale and better outcomes for Regular Members who work together to achieve common goals.

4. Leadership

The Chair of the Caucus would play a key role in maintaining the proper functioning of the caucus and ensuring its members continue to support its goals and objectives. This role would be an expanded form of what is currently the Chair of Priorities and Planning and should be considered to receive formal standing in the House through changes to the Rules of the Legislative Assembly. Additional powers of appointment should be considered as well, for example House Officers to represent the interests of Caucus and manage its parliamentary business, and representatives to the board of management. This power of appointment could be extended to committee assignments as well should there be interest from the caucus to do so. Having a clear political leader for Regular Members will benefit the collective leadership roles and responsibilities in the Legislative Assembly and creates a clear parallel between the Premier and the new equivalent on the Regular Member side.

An Official Opposition is Not Party Politics

Caucuses, or parliamentary groups, are longstanding features of Westminster democracies and although prominent features of the legislative branches of political parties, caucuses is a separate parliamentary concept that is not incompatible with consensus government. Political parties are anchored to an ideology and typically supported by an organizational wing external to the parliament or Legislative Assembly. Establishing a parliamentary group in consensus government is a distinct proposition from establishing a political party and does not change the non-partisan nature of politicians in the Consensus System.

Summary of Features

- Relieves the burden of transparency from the political deliberations of Regular Members
- Relieves non-political support staff from conflict or the appearance of conflict in providing political advice to Regular Members.
- Creates clear delineation of roles and responsibilities between Government/Executive Council Members and Regular Members.
- More effective disciplinary procedures to ensure good behaviour and effective collaboration between members.

Parliamentary Group Model in Consensus Government

On reflecting on the term of the 18th Legislative Assembly many regular members have commented that there is a need for stronger cohesion between regular members, tools to support their work in holding government to account and the ability to act effectively within the formal proceedings of the House.

The Standing Committee on Priorities and Planning is the current organizational tool for the political affairs of regular members. This tool has proven inadequate to address many of the concerns raised by its members over the past three years.

Reasons for this include:

- Inability to effectively coordinate political cohesion during formal proceedings of the House
- Inability to direct membership on the committee or effectively take disciplinary action
- Lack of resources to support the political activities, goals and support for alternate policy development
- Lack of dedicated political staff, instead relying on nonpartisan institutional staff (i.e. clerks and research advisors) who are often placed into the role of providing political advice to members, conflicting with their role as non-political legislative staff.

It is recommended that a more flexible caucus or parliamentary group model be adopted for incoming legislature assemblies to enhance the organizational capacity of regular members and limit the role of non-political staff in political deliberations between regular members.

Caucuses or Parliamentary Groups

A parliamentary group or caucus is a group consisting of members of the same political alignment in a legislative assembly such as a parliament or city council. Caucuses do not have formal standing in a legislature but serve as an important organizational tool for members to ensure the issues important to the group are acted on, both inside and outside of the institution. Many caucuses receive funding through the legislature to support their operations, hire staff and conduct research and analysis on behalf of the group.

In many legislatures, caucuses are composed of members of the same political party and form the parliamentary wings of those parties, which are distinct from the organizational wings of the party that operate outside of legislative and government institutions.

Caucuses are also formed to represent special interests and regional concerns. These caucuses frequently extend their membership outside of one political association to encompass the broader membership of the legislature. These caucuses are often focused on a particular issues of concern to its members and work to address those concerns collaboratively through legislative proceedings and engagement with civil society.

Examples of special interests caucuses:

- Indigenous Caucus (Parliament of Canada)
- (Various) All-party Parliamentary Groups (Parliament of the United Kingdom)
- Congressional Black Caucus for African Americans (United States Congress)

Role of Caucus

Caucuses serve as an effective way to bring parliamentarians together to support common interests and goals. Access to financial resources and the political support of other caucus members serve as incentives to work cooperatively in pursuit of the shared interests of the caucus. Caucuses facilitate improved political cohesion in a legislature and allow for better coordination of house business through clear points of institutional management that can come together on a daily basis to discuss house planning and procedural issues that require a coordinated approach to resolve.

Caucuses also allow parliamentarians to better engage with interested parties outside of government and are effective means to allow for civil society and interest groups to become involved in political discussions and decision making.

Caucuses can also raise the profile of issues that the group is formed to represent, for example women or Indigenous Peoples. These areas of special focus can become key points of public policy development and have an impact on the business of the legislature through the actions of a caucus.

Other Features of Caucuses

- Relieves the burden of transparency from the political deliberations of Regular Members
- Relieves non-political support staff from conflict or the appearance of conflict in providing political advice to Regular Members.
- Creates clear delineation of roles and responsibilities between Government/Executive Council Members and Regular Members.
- Allows for more effective disciplinary procedures to ensure good behaviour and effective collaboration between members.
- Clearly delineates the role of cabinet ministers and regular members to the general public and makes clear the separation of the executive and legislative branches of government.

Resources

To ensure effective caucuses in the Legislature, additional financial resources are required to support the work of the caucus and allow its members incentives to participate in the group discussions and share in its decisions.

Most legislatures allocate funding based on the number of seats or members represented by the membership of the respective caucus. This system is a reasonable and standard practice that ensures a balanced approach to caucus funding. Many legislatures set a minimum threshold for official caucus funding, which encourages more collaboration between smaller interests to access the requirements for funding support.

Leadership

Caucuses should be free to establish their own leadership rules and procedures. Typically chairs of caucuses are voted on by the members of the caucus and can serve as important leaders inside and outside the legislature.

In cases of caucuses representing political parties, the leader of the caucus is often also the Leader of the party. This is especially true in the case of smaller parties in a given legislature.

In consensus government the Chair of the Standing Committee on Priorities and Planning can be thought to serve as the *de facto* political leader for Regular Members and is often asked to engage directly with the Premier to resolve issues of common concern to all regular members.

This precedent could be reflected in the standing of a new caucus for regular members and be strengthened by affording the caucus chair additional powers of appointment and some form of formal standing in the proceedings of the House.

Recommendation #1

That the Standing Committee on Priorities and Planning be dissolved and a new caucus established with mandatory membership for all regular members.

Recommendation #2

That the policies and/or legislation governing the Legislative Assembly be amended to provide for fair and effective funding for caucuses and establish minimum thresholds for caucuses funding.

Recommendation #3

That the rules of the Legislative Assembly be amended, where appropriate, to give formal standing to the Chair of the Regular Member Caucus, allow for certain discretionary appointments over legislative assignments and increase remuneration of the role commensurate to these new responsibilities.

DISCUSSION PAPER

**IMPROVING THE BUSINESS PLANNING AND MAIN ESTIMATES
REVIEW PROCESS**

ISSUE

The transition interviews conducted with MLAs in April 2015 indicated a high level of support for the continued production and review of business plans. However, concerns were raised with the existing process, notably in terms of the amount of time it takes to review the business plans and budget and the opportunity for public input.

The Special Committee should decide whether to recommend changes to the business planning and budget review process in its report to the 19th Assembly.

BACKGROUND

Two substantial reviews of the business planning and budget review processes have occurred in the last 15 years. The most recent, conducted in 2008, focused on procedural matters, notably the order in which the estimates document and an appropriation bill are considered in the House.

Prior to 2005, the business plan and budget review process occurred in three separate stages: a two week, in camera review of business plans in the fall; a two week, in camera, department by department review of draft main estimates in January; and a five week review of the main estimates in Committee of the Whole in February. Generally, members were of the view that this process involved a serious duplication of effort, made poor use of cabinet and committee time, and offered little opportunity for public input. Caucus agreed to three changes:

1. Eliminate the review of the draft main estimates in January and replace it with a two day briefing with the Minister of Finance to update members on how their input during the business plan reviews had, or had not been incorporated into the final budget.
2. Initiate pre-budget consultations by standing committees in advance of the business plan review in the fall.
3. Amend the hours of sitting and orders of the day during the budget session to make better use of time and avoid lengthy sitting days. Options included commencing the sitting day at 10:00 a.m. on three days a week, eliminating statements and oral

questions on certain days, increasing the length of the budget session with a one week break part way through, and recessing the sitting on Thursday every three weeks.

Caucus rejected an option to refer the main estimates to standing committees for public, department-by-department review after tabling the budget in February. Potential advantages included input from witnesses as well as the Minister. A select number of departmental estimates would be referred back to the House for review and potential amendment in Committee of the Whole. This option was rejected largely because it would delay the final approval of the budget beyond April 1.

The elimination of the draft main estimates review and the adjournment of the House every second Thursday continued into the 16th and subsequent Assemblies. Pre-budget consultations and revised “budget orders of the day” were discarded after the 15th Assembly. It should be noted that the Minister of Finance initiated a pre-budget consultation process at the beginning of the 17th Assembly.

OPTIONS TO CONSIDER

Members of the current Assembly have continued to express concern about the repetitive nature of our budget review process and the lack of opportunity for public input. Some members view the main estimates review in Committee of the Whole as the only opportunity for detailed public scrutiny of the budget prior to approval. Others view such detailed scrutiny so late in the process as a waste of time and effort. The following options provide a menu of potential changes that could be made to the process to address both these approaches.

1. Select specific departments for detailed review in Committee of the Whole

For example, each standing committee other than Rules and Procedures could select one department’s estimates from their respective mandates for detailed review in Committee of the Whole. The Standing Committee on Priorities and Planning could select a 4th department if felt necessary. One week could be dedicated to the detailed examination of each of the selected departments’ estimates. The remainder would be concurred with *en masse* at the end of the four week review.

The selection of departments by each committee could take place following the January meeting with the Finance Minister when the government’s response to the business planning input is communicated.

A more focused review of the selected departments would allow research staff to do more preparatory work for the committees, increase the potential for more

meaningful dialogue and change, and signal areas of specific and substantial concern to cabinet. It would eliminate the temptation to “run every department thought the mill” on an annual basis.

2. Make Proper Use of Replies to Budget Address

Few Members make use of the twenty minute opportunity to reply to the Budget Address in formal sitting. Rather, general comments on the budget are typically reserved for Committee of the Whole when the proceedings are no longer broadcast outside Yellowknife and the public gallery and media booths are vacant. Replies to Budget Address are an important opportunity to focus attention on general and specific concerns with the government’s budget. If Option 1 above were implemented, members would have an opportunity address concerns with those departments not selected for detailed review in Committee of the Whole.

3. Concurrent Review of Departmental Business Plans

Standing committees allow individual members to focus their energies and develop expertise in specific areas of government operations. They are the most important way that the House delegates authority and takes advantage of the division of labour and specialization of expertise.

Prior to the 16th Legislative Assembly, standing committees conducted concurrent (at the same time) reviews of departmental business plans in the fall. One set of plans would be reviewed by a committee in Committee Room A while another would be reviewed at the same time in the Caucus Room. This ended when some members decided they wanted to sit on multiple committees or at least attend all meetings. This has resulted in an extended business planning process where less time can be dedicated to each department’s business plans particularly in the critical wrap up phase.

4. Concurrent Review of Main Estimates

Similar to Option 4 above, this process would involve Committee of the Whole dividing into two separate meetings to review departmental business plans. One department’s estimates would be reviewed in the Chamber while another’s would be reviewed in Committee Room A at the same time. Each meeting would be chaired by a Deputy Chair of Committee of the Whole and would report progress back to the House. This process is used effectively in Saskatchewan and British Columbia. It allows members to attend the estimates reviews that interest them most without unduly slowing down the progress of business. Care must be taken to ensure that a quorum is maintained in each meeting. This would be an alternative to the specific department review outlined in Option 1.

5. Refer all Main Estimates to Standing Committees for Public Review

Following the tabling of the main estimates in February, they would be referred to specific standing committees for review. The House sitting would adjourn for two or three weeks to allow this review to take place. Concurrent meetings of standing committees would be held in Committee Room A and the Caucus Room. In addition to the Minister and their officials, the committees could hear from interested members of the public as well. The estimates of each department would be reported back to the House in similar fashion to bills. A select number of estimates could be reviewed again in Committee of the Whole if desired. This process is used effectively in the House of Commons and other provincial legislatures but is not typically completed until May or June. This necessitates the passage of an annual Interim Appropriation Bill. This could be avoided in the NWT with introduction of the budget in late January.

6. Amend Sitting Hours and Orders of the Day During the Budget Session

Once the Main Estimates have been referred to Committee of the Whole, the House would commence to sit at 10:00 am on specific days. With the exception of Fridays, the daily hour of adjournment would continue to be 6:00 pm. On these days, certain items would be removed from the Orders of the Day or shortened considerably. These include Ministers and Members Statements, Acknowledgements, Oral Questions, Written Questions, Replies to the Opening Address, Reports of Standing and Special Committees, Motions and Second Reading of Bills. This option was used successfully during the 15th Legislative Assembly and could be combined with other options detailed herein.

7. Introduce Time Limits on Debate

Partisan legislatures typically employ strict time limits on the debate of departmental estimates whether in Committee of the Whole or standing committee. These could include overall limits on the number of days the budget can be debated prior to the introduction of an appropriation bill, limits on the number of days a specific department's estimates can be debated prior to being reported or limits on the number of times individual members may speak to an individual item or department's estimates. These types of time limits are an effective way to ensure the budget is debated and voted on in a timely manner but are generally not consistent with the practice of consensus government.

8. Pre Budget Consultations

Standing committees of the 15th Legislative Assembly conducted widespread budget consultations in the late summer and early fall. The results were considered during the business plan reviews and reported back to the House publically. Staff of the Department of Finance were invited to travel with the committees to observe the consultations.

The Minister of Finance initiated pre-budget consultations at the commencement of the 17th Assembly. Some manner of pre-budget consultation by either committees or the Minister could be formalized by way of a consensus government protocol. Matters to be addressed in the protocol could include timing, reporting and participation.