



# **NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY**

**3<sup>rd</sup> Session**

**Day 87**

**18<sup>th</sup> Assembly**

## **HANSARD**

**Tuesday, August 20, 2019**

Pages 6187 – 6288

**The Honourable Jackson Lafferty, Speaker**

# Legislative Assembly of the Northwest Territories

## Members of the Legislative Assembly

### Speaker

**Hon. Jackson Lafferty**

(Monfwi)

---

**Hon. Glen Abernethy**

(Great Slave)

*Government House Leader*

*Minister of Health and Social Services*

*Minister Responsible for Seniors*

*Minister Responsible for Persons with Disabilities*

*Minister Responsible for the Public*

*Utilities Board*

**Mr. Tom Beaulieu**

(Tu Nedhe-Wiilideh)

**Mr. Frederick Blake**

(Mackenzie Delta)

**Hon. Caroline Cochrane**

(Range Lake)

*Minister of Education, Culture and*

*Employment*

*Minister Responsible for the Status of*

*Women*

**Ms. Julie Green**

(Yellowknife Centre)

**Hon. Bob McLeod**

(Yellowknife South)

*Premier*

*Minister of Executive and Indigenous*

*Affairs*

**Hon. Robert McLeod**

(Inuvik Twin Lakes)

*Deputy Premier*

*Minister of Finance*

*Minister of Environment and Natural*

*Resources*

*Minister Responsible for the Northwest*

*Territories Power Corporation*

**Mr. Daniel McNeely**

(Sahtu)

**Hon. Alfred Moses**

(Inuvik Boot Lake)

*Minister of Municipal and Community*

*Affairs*

*Minister Responsible for Northwest*

*Territories Housing Corporation*

*Minister Responsible for Addressing*

*Homelessness*

*Minister Responsible for Youth*

*Minister Responsible for the Workers'*

*Safety and Compensation*

*Commission*

**Mr. Michael Nadli**

(Deh Cho)

**Mr. Herbert Nakimayak**

(Nunakput)

**Mr. Kevin O'Reilly**

(Frame Lake)

**Hon. Wally Schumann**

(Hay River South)

*Minister of Industry, Tourism and*

*Investment*

*Minister of Infrastructure*

**Hon. Louis Sebert**

(Thebacha)

*Minister of Justice*

*Minister of Lands*

*Minister Responsible for Public*

*Engagement and Transparency*

**Mr. R.J. Simpson**

(Hay River North)

**Mr. Kieron Testart**

(Kam Lake)

**Mr. Shane Thompson**

(Nahendeh)

**Mr. Cory Vanthuyne**

(Yellowknife North)

---

### Officers

**Clerk of the Legislative Assembly**

Mr. Tim Mercer

**Deputy Clerk**

Mr. Glen Rutland

**Committee Clerks**

Mr. Michael Ball

Ms. Cynthia James

Ms. Jennifer Franki-Smith

**Law Clerks**

Ms. Sheila MacPherson

Ms. Alyssa Holland

---

Box 1320

Yellowknife, Northwest Territories

Tel: (867) 767-9010 Fax: (867) 920-4735 Toll-Free: 1-800-661-0784

<http://www.assembly.gov.nt.ca>

Published under the authority of the Speaker of the Legislative Assembly of the Northwest Territories

## TABLE OF CONTENTS

<b>PRAYER</b> .....	<b>6187</b>
<b>MINISTERS' STATEMENTS</b> .....	<b>6187</b>
233-18(3) – Strengthening the Arctic (B. McLeod).....	6187
234-18(3) – Improving Access to Services for Residents of the Northwest Territories (Sebert) .....	6188
235-18(3) – Caribou Range Planning (R. McLeod).....	6189
236-18(3) – Early Childhood Development: Access, Affordability and Inclusion (Cochrane).....	6190
<b>MEMBERS' STATEMENTS</b> .....	<b>6191</b>
Recognition of Leo Konge, Western Canada Summer Games Medallist (Testart) .....	6191
Family Violence (Green) .....	6191
Improving P3 Contracts for Northern Benefits (Vanhuynne).....	6192
Anniversaries of Deh Cho Constituents (Nadli).....	6192
Mine Reclamation along Great Bear Lake (McNeely).....	6193
Recycling in Nahendeh (Thompson).....	6193
Child Care in Fort MacPherson (Blake) .....	6194
Strategic Oil and Gas Ltd. (O'Reilly) .....	6194
Health Care in Nunakput (Nakimayak).....	6195
<b>RECOGNITION OF VISITORS IN THE GALLERY</b> .....	<b>6195, 6212</b>
<b>REPORTS OF STANDING AND SPECIAL COMMITTEES</b> .....	<b>6195</b>
<b>ACKNOWLEDGEMENTS</b> .....	<b>6212</b>
<b>ORAL QUESTIONS</b> .....	<b>6213</b>
<b>TABLING OF DOCUMENTS</b> .....	<b>6218</b>
<b>CONSIDERATION IN COMMITTEE OF THE WHOLE OF BILLS AND OTHER MATTERS</b> .....	<b>6219</b>
<b>REPORT OF COMMITTEE OF THE WHOLE</b> .....	<b>6279</b>
<b>THIRD READING OF BILLS</b> .....	<b>6280</b>
Bill 39 – Environmental Rights Act.....	6280
Bill 42 – An Act to Amend the Petroleum Products Tax Act.....	6280
Bill 43 – An Act to Amend the Income Tax Act .....	6286
Bill 46 – Public Land Act .....	6286
<b>ORDERS OF THE DAY</b> .....	<b>6287</b>



**YELLOWKNIFE, NORTHWEST TERRITORIES****Tuesday, August 20, 2019****Members Present**

Hon. Glen Abernethy, Mr. Blake, Hon. Caroline Cochrane, Ms. Green, Hon. Jackson Lafferty, Hon. Bob McLeod, Hon. Robert McLeod, Mr. McNeely, Hon. Alfred Moses, Mr. Nadli, Mr. Nakimayak, Mr. O'Reilly, Hon. Wally Schumann, Hon. Louis Sebert, Mr. Simpson, Mr. Testart, Mr. Thompson, Mr. Vanthuyne

The House met at 1:33 p.m.

**Prayer**

---Prayer

**SPEAKER (Hon. Jackson Lafferty):** Good afternoon, Members. Item 2, Ministers' statements. The Honourable Premier.

**Ministers' Statements****MINISTER'S STATEMENT 233-18(3):  
STRENGTHENING THE ARCTIC**

**HON. BOB MCLEOD:** Mr. Speaker, international interest in the North has been increasing steadily over the past few years. As the effects of climate change increase access to the Arctic, the global geopolitical context for the region is changing.

With enormous untapped opportunities for shipping, research, and resource development, many countries are looking to influence the development of policies and international agreements that will benefit them and their interests in the region. Global powers like China, Russia, and the United States are deliberately ramping up their presence and level of activity within their own borders and across the circumpolar world in an effort to secure and further their national priorities.

Of particular interest to these nations is the potential for new and shorter shipping routes through the Arctic Ocean. There is also distinct interest in the resource potential of the Arctic as changing sea ice and climatic conditions make previously stranded resources more accessible.

Other countries are investing heavily in infrastructure, developing national plans, and trying to influence international policies in anticipation of new opportunities in the Arctic so they can better pursue their national interests. Canada, so far, has not kept pace with its own efforts to establish its role or interests in the Arctic, let alone ensure that the people of the Arctic have the same or even a similar quality of life as southern Canadians.

For its part, Canada has interests in the Arctic beyond simple geographic sovereignty, even if, as

a nation, we are not entirely clear about them. Resource potential is maybe the most obvious one. We already know there are substantial reserves of onshore and offshore oil and gas in the region that are not being developed. These reserves are only going to become more strategically significant as China, for one, continues to look to lock in secure energy forces to fuel its economic growth.

We are also home to many of the minerals that will fuel the global green economy, including cobalt, gold, lithium, bismuth, and rare earth elements. The makers of batteries, solar panels, wind turbines, hand-held electronics, and computers rely on these minerals to make their products more efficient.

The North also has significant potential as a hub for international trade and transportation. The polar route can cut as much as 20 days off the time it takes to reach Asia from Europe, and airports in the territories are closer to Beijing, Tokyo, Moscow, and other European capitals than southern cities.

As a nation, Canada should be looking to capitalize on these advantages and start capitalizing on the opportunity to capture a piece of the global trade that is currently passing through our airspace and waters. These investments, if made strategically with proper consultation, consideration, and decision-making with Indigenous, territorial, and federal governments at the helm will be instrumental in bringing prosperity and jobs to our communities. They are opportunities to grow local and regional economies, build wellness, and shape the future of Canada from the Northwest Territories.

While the case for northern development might be clear to us here in the Northwest Territories, we are competing with a lot of other priorities on the national stage, and we need to make sure we are doing our part to promote our interests in southern Canada.

While Canada likes to think of itself as a northern country, Mr. Speaker, the North continues to be a bit of a mystery to many Canadians. Educating them and their leaders about the realities of the North, the people who live here, and our needs and priorities is an important part of generating support for national action to strengthen Canada's position in the Arctic. That is why I have been calling for the creation of a national plan for strengthening

Canada's position in the Arctic in my meetings with my fellow Premiers. I have also been taking my message to the public and to influential academics and policy makers who are involved in thinking about the Arctic.

As part of these efforts, the Government of the Northwest Territories co-hosted a national mini-conference on this topic with the Institute for 21<sup>st</sup> Century Questions in Toronto. Speakers at the conference included Nunavut Premier Joe Savikataaq, former Quebec Premier and federal Cabinet Minister Jean Charest, former Minister of Foreign Affairs and Minister of National Defence Peter Mackay, and former federal Member of Parliament Martha Hall-Findlay, as well as a number of leading academics. Attendees included a number of other political figures, business leaders, senior government officials, and academics. Later today, at the appropriate time, I will table a copy of remarks made by me and by Premier Savikataaq at the event.

The feedback I have been getting nationally, Mr. Speaker, has been positive. My fellow Premiers and others I have been talking to in the South are very interested in the potential of the North and agree that Canada needs a plan.

Turning the massive potential of the North into sustainable northern communities and jobs and opportunities for ourselves and all Canadians will take determination, commitment, and significant investment in nation-building projects. As Northerners, we need to keep the discussion going, Mr. Speaker, and do our part to make sure that our territories and our people are the beneficiaries of the new international interest in the Arctic. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Ministers' statements. Minister of Justice.

MINISTER'S STATEMENT 234-18(3):  
IMPROVING ACCESS TO SERVICES FOR  
RESIDENTS OF THE NORTHWEST  
TERRITORIES

**HON. LOUIS SEBERT:** Mr. Speaker, the Department of Justice, under the Community Justice and Policing Division, has been leading an innovative "whole of government" pilot program in Yellowknife called Integrated Case Management or ICM. This program has been designed to understand and fundamentally reform the way social envelope services are accessed and delivered in the NWT by identifying the barriers and challenges residents face when obtaining services. ICM works from a person-centered, strength-based approach, with strong equity-based principles that acknowledge that not all members of our community start from the same place. This means

we may need to use different approaches to reach the goal of equal access to services for all community members.

Throughout the life of the ICM pilot program, our government has learned various lessons and identified systemic barriers to service provision in Yellowknife. In 2017, a third-party program evaluation was conducted and found success in the provision of person-centered services with significant individual positive outcomes for program participants. The ICM program is currently undergoing a second evaluation that includes a robust analysis of system-level impacts, including targeted data analytics and a social return-on-investment analysis. Although we know system change takes time, we are looking forward to this evaluation shedding some light on early indicators of success and providing recommendations for moving forward in our efforts to improve service integration and access in the NWT.

Mr. Speaker, one of the biggest lessons learned from the ICM program and its "whole of government" approach is that complex social challenges cannot be addressed in a siloed, system-centered service-provision environment. It is not enough that our services are available. They must be accessible and delivered in a timely and supportive manner that ensures all members of our community feel respected and are treated with dignity. We need to do things differently. We need to work together to provide integrated, person-centered services that facilitate wellbeing and self-sufficiency for all community members, that create better opportunities for people to succeed.

To this end, I wish to advise Members of the Legislative Assembly that deputy ministers from the social envelope departments have committed to working together to look at the feasibility of reforming service delivery throughout the NWT through the development of a territory-wide Integrated Service Delivery model. This initiative will look at the findings, recommendations, and lessons learned from the ICM program, while also incorporating various service-reform efforts currently under way. The initiative will focus on addressing systemic and structural issues across all government departments and work to enhance the capacity of the system to respond in a timely, effective, integrated manner that meets the needs of all residents of the NWT.

It is time to commit to acting on a common agenda that puts the needs of our residents at its core. In fact, Mr. Speaker, this is the role of government. Officials are prepared to embrace the challenges that come with this commitment and present the next government with a roadmap for service delivery reform. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Ministers' statements.  
Minister of Environment and Natural Resources.

MINISTER'S STATEMENT 235-18(3):  
CARIBOU RANGE PLANNING

**HON. ROBERT MCLEOD:** Thank you, Mr. Speaker. This government has made a commitment at the beginning of this Legislative Assembly to support the effective co-management of our caribou herds. As you know, many of our herds are experiencing rapid declines, and it is our shared responsibility as a government and a territory to promote their recovery.

Range plans are a vital part of how we work together to co-manage our caribou herds and provide guidance to decision makers, developers, and communities to manage activities on the land in a way that supports healthy caribou populations.

Mr. Speaker, today, after years of work, I am pleased to officially release two new range-planning documents, the Bathurst Caribou Range Plan and the Framework for Boreal Caribou Range Planning. These documents provide important tools to protect the habitat of our vulnerable caribou populations and fulfill an important mandate commitment made by this Legislative Assembly.

Barren-ground caribou populations have historically experienced periods of highs and lows, but, of all the barren-ground herds, the Bathurst caribou herd has suffered the most dramatic decline, from a high of 450,000 animals in the mid-1980s to a current low of about 8,200 animals. This is despite extensive efforts to support conservation and promote herd recovery.

The Bathurst caribou range plan is a response to calls for action to help the herd recover and ensure its habitat remains healthy. It includes guidance for managing the overall disturbance on the land and tools to reduce and manage impacts to caribou and caribou habitat. It is also an attempt to balance these recovery efforts with the benefits of industrial development. Human activities and land use need to be managed carefully, Mr. Speaker, particularly when caribou numbers are low and more vulnerable to disturbance. Range planning helps establish certainty around land use, which is critical to achieving both conservation and development goals, and contributes to a strong and prosperous territory.

Twenty-one organizations and co-management partners worked together to develop the Bathurst caribou range plan over five years, Mr. Speaker. This included all levels of government and Indigenous organizations, as well as co-management boards, industry, and environmental groups. The plan is based on knowledge and

perspectives grounded in both traditional knowledge and science, and I am very grateful to everyone involved for their hard work and dedication.

The range plan for Bathurst caribou looks to Northerners as caribou guardians and recognizes the shared responsibility for managing development to support the recovery of the herd. Applying this plan effectively as part of land use decisions will require a genuine commitment from governments, organizations, developers, communities, and individuals across multiple jurisdictions.

In the next few days, we will also be releasing a framework for boreal caribou range planning. This document will guide the development of five regional range plans for boreal caribou in the Northwest Territories. These are the caribou that live in the forest east of the Mackenzie Mountains. They are listed as a threatened species under federal and territorial legislation.

The framework was developed with our co-management partners, and includes a "made in the North" approach to managing boreal caribou and their habitat. While the Northwest Territories population of boreal caribou is currently considered stable overall, careful management of habitat disturbance will be important to maintain a healthy and sustainable population for the future. The regional range plans developed under this framework will help ensure there is enough forest across the Northwest Territories to support a healthy and sustainable population of boreal caribou.

The framework is a critical step, but is just the beginning. Work to develop regional range plans can now get under way and will begin in the southern Northwest Territories and Wek'eezhii regions, where there is wildfire and industrial activity, followed by the Sahtu, Gwich'in, and Inuvialuit regions. Each plan will be developed in collaboration with our co-management partners, and is expected to take at least two years to complete.

The Government of the Northwest Territories remains committed to managing the land and natural resources of the Northwest Territories in a way that is sustainable, responsible, and responsive, relying on shared tools like this framework and range plan to make effective decisions within our strong co-management and regulatory system.

I am confident both of these documents provide effective tools and approaches for protecting caribou in the Northwest Territories, and I look forward to seeing them in action as we work with

our partners to help implement them successfully. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Ministers' statements. Minister of Education, Culture and Employment.

MINISTER'S STATEMENT 236-18(3):  
EARLY CHILDHOOD DEVELOPMENT: ACCESS,  
AFFORDABILITY AND INCLUSION

**HON. CAROLINE COCHRANE:** Mr. Speaker, the early years, from birth to age five, are among the most critical for a child's development. The Department of Education, Culture and Employment recognizes the need to support safe and high-quality early learning environments for children to grow into healthy adults and fulfill their potential as capable people.

We know that parents and caregivers have the greatest responsibility and influence on their children's development. An effective and integrated early childhood system that provides the necessary services, supports, and resources to families with young children is essential to ensure that our children have the best support possible to help them succeed.

Accessible and affordable early childhood services in every community are a critical part of the department's mandate and necessary to support working caregivers. We have been enhancing our programs, services, interactions, and support for early childcare operators and working with communities to ensure that there are options available for families.

As all families with four- and five-year-old children now have the option to access early learning programming within their local schools, there is now a focus on childcare for children from birth to three years old. We know the level of childcare required across the territory varies from year to year depending on birth rate, employment status, and the needs and preferences of families. Understanding unique community needs for childcare is an important factor for developing approaches across the territory; a one-size-fits-all approach will not serve our families or our communities.

Mr. Speaker, the Supporting Access to Childcare Action Plan provides a vision for accessible childcare in the Northwest Territories and outlines a phased-in approach to making childcare more accessible and affordable for families throughout the Northwest Territories. I will be tabling this document later today.

As Members of this House know, the department received funding through a bilateral agreement under the 2017 federal Early Learning and

Childcare initiative. Our new plan expands upon the right from the start early childhood framework and action plan. It provides an overview of six key elements, with goals and actions that contribute to accessible early learning and childcare in the NWT. The plan highlights current work and provides additional actions specifically related to infrastructure and affordability.

Mr. Speaker, in spite of efforts to increase the number of communities with licensed early childcare programs, there remains 11 communities without them. We are currently working with the communities of Colville Lake, Detah, Enterprise, Jean Marie River, Kakisa, Lutselk'e, Nahanni Butte, Norman Wells, Sambaa K'e, Wrigley, and Tsiigehtchic to determine their needs and what the community can support. For some, sustainable early childhood programming may take the form of parent and child drop-in opportunities or support groups; and for others, there may be a need for and interest in opening licensed early childhood centres or family day homes. We have invited representatives from each of these communities to the early childhood symposium happening August 21<sup>st</sup> to 23<sup>rd</sup> to discuss their specific needs and how we may help. Mr. Speaker, I seek unanimous consent to conclude my Minister's statement.

---Unanimous consent granted

**HON. CAROLINE COCHRANE:** Although we continue to face challenges in this area, I know that the work done during this Assembly will have a lasting positive impact. We have increased rates for all licensed spaces, from infant to preschool, increased the number of early childhood scholarships up to 30 this year from 10 and remodelled our funding programs for licensed early childhood programs.

The supporting access to childcare action plan outlines our way forward. It addresses challenges and suggests solutions to meet childcare needs across the territory. We are focusing on community-driven programs, increasing available spaces, exploring infrastructure potential, stabilizing parent fees, increasing the number of early childhood staff with postsecondary credentials, and providing specific funding to support children with complex needs, including those with developmental challenges.

The types of quality early childhood experiences available will vary greatly across the territory, but we are committed to working with all communities to improve access and ensure a tailored approach that will meet the needs of families and children. Mahsi cho, Mr. Speaker.

**MR. SPEAKER:** Masi. Colleagues, I'd like to draw your attention to visitors in the gallery. We have



with us Mr. David Ramsay, former Member of the 2015, 2016, and 2017 Assembly. Welcome to our Assembly again. Of course, we have with us Morven MacPherson, my EA, my CA, as part of my office. Welcome. Item 3, Members' statements. Member for Kam Lake.

### Members' Statements

#### MEMBER'S STATEMENT ON RECOGNITION OF LEO KONGE, WESTERN CANADA SUMMER GAMES MEDALLIST

**MR. TESTART:** Thank you, Mr. Speaker. Today I would like to speak on the Team NWT's recent participation in the Western Canada Summer Games.

First off, I would like to congratulate all members of Team NWT for their performance. Our athletes were excellent ambassadors of our northern spirit and territory, but I want to specifically celebrate the outstanding accomplishments of Leo Konge, one of my constituents. He pushed hard and brought home gold in 50 metre butterfly, as well as two bronze medals in the 100 meter and 200 meter butterfly, at this year's games in Swift Current, Saskatchewan. Leo's dedication to sport, teamwork, and personal excellence serves as a model example of what we can achieve when we dedicate ourselves to realizing our goals. Leo has literally set a gold standard.

The Western Canada Summer Games were first held in Regina in 1975 and provided western and northern athletes the opportunity to compete at a high-performance level, and meet and interact with fellow athletes their age. Every four years, the year before the Summer Olympics, nearly 2,300 athletes representing the four western provinces and three territories meet to compete in 23 summer sport disciplines.

I want to recognize all Team NWT volunteers, officials, parents, and support networks. They have all demonstrated a dedication to go that extra mile to ensure that the athletes have the best experience possible and who all support their athletic pursuits. Their dedication of time and monetary support to the training and skills development of our next generation is so very important.

All of us have an obligation to build the foundation for future generations by promoting healthy and active living among children and youth. Sports and physical activity have a proven effect of improving the physical and mental well-being of participants. The NWT will be hosting the Western Canada Summer Games in 2027, and I hope that we all play our part to ensure that we send the biggest team yet from the NWT to these games.

Mr. Speaker, again, I would like to congratulate all of Team NWT on their fine performance, and I am sure the Members will join me in acknowledging how proud we are of Leo and his teammates. We wish them all the very best as they progress in their chosen sports and in future competitions. Thank you, Mr. Speaker, and thank you, Leo.

**MR. SPEAKER:** Masi. Congratulations. You make the NWT proud.

---Applause

Masi. Looking forward to more medals. Members' statements. Member for Yellowknife Centre.

#### MEMBER'S STATEMENT ON FAMILY VIOLENCE

**MS. GREEN:** Mahsi, Mr. Speaker. In our mandate, we describe community and family violence as a crisis and determined to take action. Four years on, it's still a crisis, and our efforts have flagged. According to Statistics Canada, the national incidents for intimate partner violence is 313 people per 100,000 population. In the Northwest Territories, the rate is an astonishing 2,906 people per 100,000 population, or about nine times as high. These are 2017 numbers, but they have been at this level for 10 years.

When the Coalition Against Family Violence was still active, it had three priorities. The first was to prevent and address the normalization of family violence. The ask here was to make intimate partner violence as unacceptable as drinking and driving, or smoking, or deciding not to wear a seat belt. My pleas to repeat the Family Violence Survey conducted in 2007 fell on deaf ears. A new survey would have produced valuable and updated information about prevailing attitudes to family violence so that messaging could be targeted to specific groups of residents.

The second priority of the Coalition Against Family Violence was to ensure an adequate emergency response. I am pleased to say that there has been some movement in this area. Funding for family violence shelters has increased, and operating standards are going to be rolled out this fall. I advocated for a safe house pilot project in one of the 11 communities without police, but to no avail. If you are a woman looking for safety in one of these communities, help may still be hours away.

The final Coalition Against Family Violence priority was healing. Women have asked for healing for their partners because they believe that the whole family will benefit. The evaluation of the A New Day men's healing program said it was effective, but that didn't stop the Department of Justice from revamping it and narrowing its scope. As a result, a

fraction of people are enrolled compared to number who took part in the previous Tree of Peace program. I am disappointed with this outcome. We need more healing, not less.

The government has taken an important step by creating an interdepartmental committee on family violence. They need to start by looking at the priorities outlined by the Coalition Against Family Violence. Mr. Speaker, I seek unanimous consent to conclude my statement. Mahsi.

---Unanimous consent granted

**MS. GREEN:** Mahsi, colleagues. Thank you, Mr. Speaker. They need to start by looking at the priorities outlined by the Coalition Against Family Violence, because they are still relevant. Their challenges to create policies and programs that demonstrate that family violence is not normal, and there is something that we can do about it. Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Members' statements. Member for Yellowknife North.

#### MEMBER'S STATEMENT ON IMPROVING P3 CONTRACTS FOR NORTHERN BENEFITS

**MR. VANTHUYNE:** Thank you, Mr. Speaker. I would like to talk today about P3 contracts. Public-private partnerships have been used to achieve some of our large infrastructure projects here in the North, like the new Stanton Territorial Hospital, and will be the method used for the Whati road.

The benefit of P3s is that projects that would otherwise not have funding can be completed using long-term payments that don't require an increase in taxes. That way, government funds can be used elsewhere for other priorities, but, Mr. Speaker, our government has policies to support northern businesses. To be consistent, I think that we need better rules for P3s.

We need to ensure that, in each case, there is a strong benefit component to Northerners. For example, we have a detailed Business Incentive Policy. It ensures that the northern businesses bidding on government contracts have an advantage when BIP is applied. As the government conducts operations, northern businesses can successfully be awarded government work.

Similarly, our Negotiated Contracts Policy is described to provide benefits to northern businesses and communities. Negotiated contracts are intended to create growth in non-market communities or regions, providing jobs for Northerners, support for new and developing businesses, and opportunities for on-the-job

training and apprenticeships. A good example is the recent Norman Wells health centre. There, the negotiated contract provided not only substantial work for northern businesses, but also trades training and life skills development in all Sahtu communities.

When it comes to P3s, BIP doesn't apply, and northern benefits aren't always negotiated. An example is the company managing the new Stanton Hospital. When the hospital opened, the contract for coffee throughout the hospital went to a southern company. Needless to say, Yellowknife coffee suppliers were not happy. The complaint was resolved, and we now have a northern coffee supplier at the new hospital.

The lesson is clear: BIP and our Negotiated Contracts Policy make sure that northern businesses, communities, and individuals gain the most benefits from the government conducting business. In that same way, if we keep using P3s, Northerners need to reap the benefits of substantial public spending. We have policies that already work for Northerners, injecting them into the P3 contracting process is the way that we must go in the future. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Members' statements. Member for Deh Cho.

#### MEMBER'S STATEMENT ON ANNIVERSARIES OF DEH CHO CONSTITUENTS

**MR. NADLI:** Mahsi, Mr. Speaker. Three couples of the Deh Cho riding celebrated long-term anniversaries with family get-togethers, dinners, and dances. The loving couples were treated like royalty by their families and created lots of love and happiness in their community.

The union of two people in love and major is a special moment in life. Living and building a life together commonly brings the joy of children and family. Of course, there are the low points and the challenges, but working through those moments together only make you stronger. I am happy to recognize the following married couples who celebrated their anniversaries.

Fred and Veronique Sabourin of Fort Providence were married July 27, 1954. Veronique's maiden name is Sambele. They met Leshamie, a village down from Fort Providence. They have 11 children, 32 grandchildren, and one great-grandchild. Fred and Veronique can often be found at their cabin about three quarters of the way downriver to Horn River.

Daniel and Emily Squirrel of Fort Providence were married January 6, 1959. Emily's maiden name is Bonnetrouge. Daniel asked Emily's grandfather for

Emily's hand in marriage. They have five children, five grandchildren, and one great-grandson. Daniel and Emily actively attend local events and often are at their cabin at the winter crossing.

Sarah and Gabe Chicot of Kakisa were married July 6, 1959. Sarah's maiden name is St. Pierre. They met at the old community. They have five children, four grandchildren, and four great-grandchildren. Both Sarah and Gabe continue to be active in their community, often helping their son fish and making dryfish.

I would like to once again express my congratulations to these married couples. Congratulations, and may you have many more years of love and happiness. Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Members' statements. Member for Sahtu.

#### MEMBER'S STATEMENT ON MINE RECLAMATION ALONG GREAT BEAR LAKE

**MR. MCNEELY:** Thank you, Mr. Speaker. Resource development in the Northwest Territories dates back to original mineral exploration in the 1930s in the Sahtu region. The mining industry is the main economic driver of the Northwest Territories economy, an industry that sustains government, direct benefits, and contributes to a supply chain that includes a vast amount of Northerners and businesses.

Mr. Speaker, a new era has shown new potentials in the region's abandoned sector and great wealth for economic opportunities from yesterday's federal announcement on the Government of Canada's new Northern Abandoned Mine Reclamation Program. One of the listed areas is the Great Bear Lake, consisting of multiple smaller sites in close proximity to each other.

This is welcoming news while we attribute to modernizing industry legislation from the days of its original rights issuances, legislation that we hope will provide confidence and certainty.

Mr. Speaker, advancing and acknowledging the devolution resource development responsibilities provides me with confidence that our government recognizes the potential for enhancing economic opportunities by engagement with all northern stakeholders. I look forward in participating on the process of this modernization legislation and viewed as economic sustainability support. Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Members' statements. Member for Nahendeh.

#### MEMBER'S STATEMENT ON RECYCLING IN NAHENDEH

**MR. THOMPSON:** Thank you, Mr. Speaker. In my riding, like others, there are no recycling facilities for paper, cardboard, and metals. With increased consumerism, waste reduction and recycling issues are essential. Our neighbours in the south in Edmonton, Alberta, have a world-renowned waste management facility. For us to not even have a recycling depot for cardboard and paper is unacceptable. We are further behind that we should be reducing pollution and waste.

Mr. Speaker, if you go to the dump in Fort Simpson, you will see piles and piles of waste cardboard and paper that could be recycled. Starting up a recycling facility would reduce our contribution to the landfill and the negative impact that the waste has on the natural environment. If government had a recycling program for paper and cardboard, we would increase the lifespan of our dumps, which in turn would help the environment.

In addition to the benefit of the environment recycling has, a new facility would provide a new industry for employment in my riding. Perhaps we could have a handler in each community, with the main facility being in Fort Simpson, where all the recycling for the riding is sent out. This possible structure could create at least one position in each community of my riding, as well as more positions at the main facility in Fort Simpson.

Mr. Speaker, we currently have a bottle depot in Fort Simpson for recycling cans, plastic, glass bottles, and electronics. We have a smaller bottle depot in the surrounding communities. The recycling depot in Fort Simpson could be expanded to become a crushing facility. Material could be sorted, crushed, and then sent out rather than being sent out sorted but not crushed. This would provide more employment in my riding.

Highlights from the NWT Waste Reduction and Recovery Program 2013-2014 Annual Report said, "An electronics recycling pilot project was initiated in September 2013 and collected over 7 metric tonnes of electronics." These results are astonishing. It would be great to introduce more recycling facilities in ridings for different materials so that the NWT can contribute to yielding such great results in recycling.

Mr. Speaker, the results of this pilot project were proven to be successful and electronic recycling has been implemented across NWT. Why not introduce a program for paper and cardboard now? Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Members' statements. Member for Mackenzie Delta.

MEMBER'S STATEMENT ON  
CHILD CARE IN FORT MACPHERSON

**MR. BLAKE:** Thank you, Mr. Speaker. As summer nears its end, so does the summer school break. Parents have been planning for the children heading back to school, and parents with young ones at home are planning for babysitters or daycare. In smaller communities such as Fort McPherson, we don't have the option for daycare.

Mr. Speaker let me note a few points about the benefits of daycare:

- The emotional well-being by sending our children to daycare at a young age: they become comfortable in social situations.
- The developmental opportunities: daycare staff are trained and can teach our children developmental skills.
- Attending daycare in the early stages of life helps our children with physical, emotional, social, language, and cognitive development.

Mr. Speaker, there is a house specifically for daycare use, with inspections on a regular basis checking for safety and health hazards. This house sits empty. Last March, funding was cut and the daycare was closed indefinitely.

Daycare is necessary for most parents, both of whom are working. Having your child in daycare is much better than having to worry about if the babysitter will show up.

Single parents who want to go back to school or find employment rely on daycare opportunities. Just having the option, knowing that daycare is a viable source, believe me, has less stress.

Mr. Speaker, let me add that daycare helps children develop skills to make them successful for junior kindergarten, having a structure in place with teachings in a fun setting adds to our children enjoying school and wanting to learn.

Parents in Fort McPherson are requesting daycare. They want this in place as soon as we can in order for them to have a steady, reliable place for their children. Thank you, Mr. Speaker. I will have questions later today.

**MR. SPEAKER:** Masi. Members' statements. Member for Frame Lake.

MEMBER'S STATEMENT ON  
STRATEGIC OIL AND GAS LTD.

**MR. O'REILLY:** Merci, Monsieur le President. In February 2015, Strategic Oil and Gas Ltd. stopped production in the Cameron Hills field in the

Northwest Territories. It bought the operations from Paramount Resources a couple of years before that, and GNWT approved the assignment of regulatory approvals to the new owner. The field consists of 50 wells, winter roads, summer all-terrain vehicle trails, a gas and oil gathering system, a central battery, temporary and permanent camps, airstrips, borrow pits, and bridges. A class A water licence and a type A land use permit cover its activities in the NWT.

It also holds an operations authorization from the Office of the Regulator of Oil and Gas Operations, 15 production licences, and 11 significant discovery licences in the Northwest Territories.

Following some research, it looks like there has never been an approved closure and reclamation plan for Cameron Hills. Three different versions of a closure and reclamation plan have been submitted, and all have been rejected as inadequate. More recently, a workshop was held in Hay River in February 2019 on closure of the field and a new plan is due tomorrow, August 21<sup>st</sup>.

Trading was halted in Strategic Oil and Gas in April 2019 on the Toronto Stock Exchange, and some directors have resigned. Strategic Oil and Gas is now in creditor protection with KPMG, a large international accounting and audit firm, as the court-appointed monitor.

On May 9, 2019, the Alberta Court of Queen's Bench granted a revised stay of proceeding until September 30, 2019. Further, the court approved a process to begin the sale of its assets.

In June I asked a series of written questions on the status of Strategic Oil and Gas holdings in the NWT, its liabilities, and what our government is doing to protect our interests. I found out that only about \$3 million is held in financial security and that there did not appear to be any estimate of its liabilities.

On the KPMG website, there is a document showing a list of unsecured creditors, including one from the NWT and an estimate of \$12.375 million for the end-of-life obligations from OROGO, although the executive director tells me they had no input into this figure. This would leave a shortfall of over \$9 million for environmental liabilities from a company that is in creditor protection. Needless to say, I will have questions for the Minister of Industry, Tourism and Investment on what our government is doing to protect taxpayers and the environment. Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Members' statements. Member for Nunakput.

MEMBER'S STATEMENT ON  
HEALTH CARE IN NUNAKPUT

**MR. NAKIMAYAK:** Thank you, Mr. Speaker. Back in February of this year I did a Member's statement on healthcare in relation to elders, where I talked about multiple system-related issues that Nunakput residents have brought to my attention. Today I would like to expand on the subject of healthcare in relation to Indigenous peoples.

Among the issues I mentioned in my previous statement on healthcare, I talked about the need for more culturally safe and appropriate healthcare to be offered to the people of the Northwest Territories. Ironically, the day after I made the statement, the Department of Health and Social Services came out with a cultural safety plan which I was very glad to see addressed some of the core issues on healthcare.

Moreover, Mr. Speaker, there are other issues which my constituents have experienced recently in relation to the health department, particularly with medical travel. For example, there was one case where a medical patient was required by their doctor to have an escort travel to Edmonton with them for an appointment. However, the medical travel personnel viewed the situation differently and left the patient in need without any escorts at all.

Mr. Speaker, I understand that every patient has different medical circumstances and that our health department must address each situation accordingly. However, my biggest concern with medical travel is that, when some patients require translators, that option does not seem to be made readily available all the time.

Situations like these should not be occurring anymore in this day in age, where patients are faced with language barriers upon receiving healthcare in the Northwest Territories. After all, we are a territory that recognizes 11 official languages. Therefore, it is imperative that all of our government services, not only healthcare, be made available in each of our official languages when they are needed. I would like to have assurance that all of our citizens across the Northwest Territories, regardless of their identity, language, or where they live, are well-informed of their medical situations and the options of care that are available to them, especially when it comes to medications and when surgery is involved.

Mr. Speaker, we as a government need to ensure that our healthcare system is looking after the needs of both Indigenous and non-Indigenous peoples equally. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Members' statements. Member for Kam Lake.

**MR. TESTART:** Thank you, Mr. Speaker. I seek unanimous consent to move to item 6, recognition of visitors in the gallery, on the orders of the day. Thank you, Mr. Speaker.

---Unanimous consent granted

**MR. SPEAKER:** Member for Kam Lake.

### Recognition of Visitors in the Gallery

**MR. TESTART:** Thank you, Mr. Speaker. I would like to recognize some Kam Lake constituents today, Mr. Leo Konge, Kelso Neils Konge, and Caitlin Cleveland(ph). Thank you very much.

**MR. SPEAKER:** Recognition of visitors in the gallery. Member for Yellowknife South.

**HON. BOB MCLEOD:** Thank you, Mr. Speaker. I would like to recognize a resident of Yellowknife South, Gaeleen MacPherson. Gaeleen just announced that she will be a candidate in the Yellowknife South riding. I wish her every success, Mr. Speaker.

**MR. SPEAKER:** Masi. Member for Yellowknife North.

**MR. VANTHUYNE:** Thank you, Mr. Speaker. I would like to take this opportunity to recognize former Member and former Minister and resident of Yellowknife North and understood to be a candidate in the upcoming election, Dave Ramsay. Thank you for being here, and welcome.

**MR. SPEAKER:** Masi. Recognition of visitors in the gallery. Member for Mackenzie Delta.

**MR. BLAKE:** Thank you, Mr. Speaker. I would like to recognize a couple of friends in the gallery, Dr. Danny Gaudet (ph) and also former Member and Minister Dave Ramsay and also Ms. MacPherson. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Recognition of visitors in the gallery. Item 4, reports of special and standing committees. Member for Nahendeh.

### Reports of Special and Standing Committees

#### COMMITTEE REPORT 34-18(3): REPORT ON THE REVIEW OF BILL 45: CORRECTIONS ACT

**MR. THOMPSON:** Thank you, Mr. Speaker. Your Standing Committee on Social Development is pleased to provide its report on the review of Bill 45, Corrections Act. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Reports of standing and special committees. Member for Yellowknife North.

**MR. VANTHUYNE:** Thank you, Mr. Speaker. Your Standing Committee on Economic Development and Environment is pleased to provide its report on Bill 34, Mineral Resources Act. Mr. Speaker, I move, seconded by the honourable Member for Hay River North, that Committee Report 33-18(3) be deemed read and printed in Hansard in its entirety. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. The motion is in order. The motion is non-debatable. All those in favour? All those opposed? The motion is carried.

---Carried

Committee Report 33-18(3) is now deemed read and printed in Hansard in its entirety.

COMMITTEE REPORT 33-18(3):  
REPORT ON BILL 34: MINERAL RESOURCES  
ACT

### Introduction

Bill 34: Mineral Resources Act (MRA) is stand-alone legislation to govern mineral rights administration in the Northwest Territories. The bill proposes to manage mineral interests in the Northwest Territories (NWT) within the existing co-management of land, water, and resources. The existing legislative framework includes the Northwest Territories Lands Act, which governs surface use; the Mackenzie Valley Resource Management Act (MVRMA), which manages environmental and socio-economic impacts; and the Mine Health and Safety Act (MHSA), which sets occupational health and safety standards. Bill 34 proposes that the modern comprehensive land rights agreements existing in the NWT take precedence over the MRA where applicable, and the regulatory framework for the Inuvialuit Settlement Region will not be impacted.

Committee commends the department for taking this first step towards the creation of modern legislation and improvement of transparency of mineral resource exploration, development and production in the Northwest Territories. Mineral resources are currently administered by the Mining Regulations under the authority of the Northwest Territories Lands Act. The Government of the Northwest Territories inherited the Mining Regulations from the federal government with Devolution in 2014.

Bill 34 received second reading and was referred to the committee on February 22, 2019. Public hearings were conducted during May and June 2019, and the clause-by-clause review was held on

August 15, 2019. During the review, the committee passed 40 amendments to address concerns identified by Indigenous governments, stakeholders and committee.

The work of the standing committee to amend Bill 34 is set out in this report, provides rationale for the motions brought forward by committee and recommends several courses of action. Motions are listed in order of their appearance in the bill in Appendix 2, and are referred to in this report by the number assigned.

The responsiveness shown by departmental staff has impressed committee members and the committee thanks the department for the level of cooperation shown during the review process of Bill 34.

### Co-Development of Legislation

The department of Industry, Tourism and Investment employed a co-development process in the creation of Bill 34. This process aligns with the legal requirements of the Devolution Agreement, the Intergovernmental Agreement and constitutionally protected rights of land claims, and accords with the requirements of section 35 of the Constitution Act (1982).

Submissions received from Indigenous governments and organizations stressed the importance of using a co-development approach, and requested that this process be respected and supported.

Committee is very supportive of the co-development process that is being created post-devolution. As committee learned during the public hearings and through written submissions, the department created Technical Advisory Panels which acted like working groups on specific topics, allowing Indigenous organizations as well as the department to have those with the best expertise participate.

It is the committee's understanding that the department has committed to take the same approach and work with Technical Advisory Panels to co-develop regulations enabled by Bill 34. The committee understands that this process can be time-consuming, resource-intensive, and potentially frustrating for all parties involved. Patience and negotiation skills are required from all participants. Paramountcy of self-government and lands rights agreements is understood and accepted.

### Public Consultation

The committee held public hearings in Inuvik, Norman Wells, and Yellowknife. Scheduled hearings for Fort Simpson and Behchoko were cancelled on request of these communities. The

Tlicho Government made arrangements for a separate appearance before committee in Yellowknife. Numerous representatives of Indigenous governments, non-governmental organizations, and individuals made public presentations to the committee, either in person or via written submission. Written submissions are attached as Appendix 3.

Committee received written submissions from Indigenous governments and stakeholders, including:

- Alternatives North, Ecology North, Canadian Parks and Wilderness Society NWT Chapter, joint submission
- Council of Canadians
- Dehcho First Nations
- De Beers Canada Inc.
- The Information and Privacy Commissioner of the Northwest Territories
- Katlodeche First Nation
- Nickerson, Dave
- North Slave Metis Alliance
- NWT Metis Nation
- NWT Association of Communities
- NWT Chamber of Commerce
- NWT and Nunavut Chamber of Mines
- Pocklington, Mark
- Sahtu Secretariat Incorporated
- Slack, Todd
- Tlicho Government
- Vail, Nancy

The standing committee heard from many reviewers that Bill 34 successfully implements the shared goal of the creating a legislative framework that encourages positive relationships between regulators, developers, the Government of the Northwest Territories, and Indigenous governments by fostering early engagement and a greater commitment to transparency and accountability. Indigenous governments and organizations expressed broad support for the bill while emphasizing that the collaborative process of co-developing this bill serves to reinforce inter-governmental relationships and "sets a national example for how reconciliation can be achieved".

Committee also heard that Bill 34 requires further work to improve its transparency and accountability fully modernize the mineral tenure system, and maximize benefits for the Northwest Territories.

Most parties were supportive of the bill overall, however, had difficulties comprehending several sections, where details are left to regulations. Since the regulations have not been drafted yet, and supporting policy documents are not available, this absence in reference was noted to have created great uncertainty for everyone.

Committee thanks every individual and organization who attended these meetings to share their views on Bill 34.

The committee appreciates the plain language materials supplied by the Minister's office for the public hearings.

### **What We Heard**

This part of the report is organized around the key themes or subject areas raised during the committee's public hearings and in the written submissions received.

### **Purpose Statement**

Committee heard from some reviewers that Bill 34 should include a preamble. Bill 34 includes a purpose statement which identifies the bill's goals and principles. Committee discussed both tools as they can be of value to legislation by assisting to describe the intent of the legislation and help with judicial interpretation. Preambles and purpose statements differ, in that a preamble to bill does not form part of the bill, and therefore is not a legislative requirement once a bill is passed. A purpose statement, on the other hand, forms part of the bill and is likely to be more practical in its application, than a preamble, which tends to be aspirational in nature. In the case of Bill 34, a purpose statement is already present.

### **Transparency and Public Registry**

Transparency is a broadly accepted feature of good governance that is intended to work in balance with privacy such as proprietary and competitive information, and security. The GNWT's Open Government Policy commits government to make government data, information and decision-making accessible in a way that is responsive to the needs and expectations of NWT residents; and "access to government data, information and dialogue should be timely, simple, and available across multiple platforms."

Committee received several submissions which commented on the proposed management of information, expressed a desire for an "open by

default" design that guarantees open access to information and transparent decision making, and proposed guaranteed online accessibility and prescription of the information required to be made public.

Currently, the Mining Recorder's Office, as the administrator of mineral tenure in the Northwest Territories, maintains a registry. The registry links to a map application and visually presents the areas where individuals or companies have mineral interests in the territories. This Mineral Tenure Map Viewer is accessible online.

Committee heard concerns from the public that there needs to be clarity on the type and scope of information that will be made public. Many asked in their submissions to improve the transparency of government decisions by setting out where the notices should be published, considering that the Gazette cannot be considered widely used. While the views of what should be included on a public registry did differ, there was broad consensus that making the registry, or portions of it public would contribute to more clarity.

Committee believes the creation of a public registry component is the best and simplest way to ensure information is accessible, available, and can be achieved without extra cost or workload. Motions 2, 3, 4, 5, and 39 are concerned with the creation of the public registry component and require making a substantial amount of information publicly accessible, and that the information should be made available by posting it on a website or through another online electronic publication that is available in the Northwest Territories.

Committee holds the view that clarity is important to achieve balance between confidentiality and disclosure of information. In consideration of the Access To Information and Protection of Privacy Act, committee moved motion 45 to bring forward protection for proprietary information, agreements with governments and traditional knowledge in the public component of the registry, and allows for the protection of such information for more than 15 years. The Minister may direct that information falling into these categories not be disclosed. Building in these protections for limited categories of information, in the discretion of the Minister, was felt necessary because of the proactive requirement to disclose a broad range of information.

### **Annual Report Requirement**

A commitment to improve accountability and transparency is one of the key priorities of the 18<sup>th</sup> Legislative Assembly. Public information is expected to be clear, concise, and easily understood. Committee agreed with comments received that making information available will

increase public confidence in the regulatory process.

Having the information, year over year, compiled in one place, proves of interest and value in the context of accountable and transparent governance. The value of an annual report is the ability to have flexibility around how information is presented so as to allow the reader to put it clearly in context.

Currently, the Mining Recorder does not prepare an annual report and is not being required to do so by legislation. The committee is of the view that the requirement for the preparation of an annual report should be set out in legislation. Therefore, committee moved motion 44 to create a new subsection in Bill 34. The amendment requires the Minister to report on a number of prescribed activities such as all licences issued for each instrument and notices given, and to table this report before the Legislative Assembly. The motion was concurred with by the Minister and Bill 34 will be amended accordingly.

A private member motion proposed that the annual report, in addition to the elements proposed in the committee motion, contain information on inspections, investigations, and seizures. The Minister concurred with the motion. A similar amendment to the same reporting effect had been made and was accepted under to Bill 46: Public Land Act.

### **Prospecting Training Requirements**

The Prospector's Licence is required under the Mining Regulations to prospect and to attain any type of mineral instrument in the Northwest Territories. Bill 34 proposes the ability for the Minister to require that individuals take awareness courses and other training before a Prospector's Licence is issued. The purpose is to offer awareness and refresher training to ensure prospectors and exploration proponents are informed before activities are commenced.

Committee commends the department for this step in the modernization of the rules for exploration in the Northwest Territories. Committee understands that the details for such a training program for Prospector Licence applicants are proposed to be set out in regulations.

Committee was advised that the content will focus on awareness of context to the Northwest Territories, and that the department intends to determine the final curriculum and timing in collaboration with Intergovernmental Council Secretariat, Indigenous governments and organizations, industry representatives and other stakeholders where necessary.



Committee heard from some that they wish to be involved in the curriculum development for the new training. Committee believes it is important to ensure partners with subject matter expertise are engaged in the design of the curriculum development and makes the following recommendation:

### **Recommendation 1**

The Standing Committee on Economic Development and Environment recommends that the Government of the Northwest Territories develop the curriculum for Prospector Training, working with Aurora College, the Mine Training Society, and in consultation with industry experts who can offer expertise in the applied content subject matter.

### **Designation of a Restricted Area**

Under clause 22 of Bill 34, the Minister has the authority to designate lands to be temporarily removed from issuance of mineral interests for up to one year, with a further one year extension. The restriction prohibits acquisition of subsurface interests and does not prevent surface access. The Minister is able to designate lands as restricted where such lands are applied for on the grounds of unique cultural, geological or ecological significance, and where the Minister considers that the designation is required urgently and for a temporary period.

Committee received several submissions from Indigenous governments and organizations who welcomed this ability to designate restricted areas as a useful tool to protect Indigenous and Aboriginal and treaty rights from infringement in the short term. In the long term, this mechanism was seen as a tool that can help avoid conflicts that could impact on exploration or mining projects.

Committee identified an issue determining a gap in the process and suggested that during the time before a final decision is made, additional rules are applied. The designation of an area as restricted is intended to allow removal of an area temporarily based on proposal. The time between the proposal and the Minister's decision leaves a gap before protection as a designated restricted area is in place. A similar gap in protection had already been identified and included in Bill 38: Protected Areas Act. Considering that this gap should be closed, committee suggested addition of a sub-clause that would ensure interim protection while the decision to designate an area as restricted is pending, and that the Minister's decision be final, and therefore proposed motion 13.

One submission expressed the desire that the Minister should publish the full text of any written

decision made on the designation of an area as restricted. While committee agreed that the public should be informed of the Minister making such a decision, we determined that there is need for protection of confidential or sensitive information. Therefore, committee proposed that the designation of an area require that the Minister provide written reasons for his or her decisions, and moved motion 14. Minister Schuman concurred with motions 13 and 14 and Bill 34 will be amended accordingly.

Committee agrees that providing the Minister with discretion to restrict the disposal of interests in minerals in specific areas will provide a flexible and responsive mechanism to address conflicts that might otherwise arise over important geological and ecological sites or cultural areas and artefacts. However, committee finds that municipalities should be given a similar consideration in the application of this tool.

### **Consideration of Municipalities**

Bill 34 provides that Indigenous governments and organizations are to be provided with notice of staking or mineral leases within or adjacent to their boundaries. Committee contemplated a provision to give similar notice to local governments and municipal corporations. Research provided to committee identified that two jurisdictions in Canada have moved, or are in preparation to move toward, notification of municipalities when resource development is proposed.

Committee holds the view that municipal boundaries need to be respected and that community government should be given the same tools to be informed. Committee discussed that notice to municipalities should also be included in the section on regulation making with respect to the requirement for public notice and notice to Indigenous governments and organizations.

Clauses 24, 28, 41 and 42 could also require giving notice to municipalities. In the past, claim staking within municipal boundaries has been an issue when minerals were staked under an active gravel pit in Inuvik. In Resolution RA-19-11-02, the NWT Association of Communities requested of the GNWT that mineral staking be not allowed without approval of the municipality. Committee was informed that the department believes this to be an access issue that would not fall under Bill 34. The department suggested that if one were to see the issue as quarry rights versus mineral rights, then the issue is with the Quarry Regulations and not a municipal issue.

Committee believes that municipal governments should be recognized as a legitimate order of government and entitled to notice, to avoid land use conflicts. Committee subsequently proposed

amendments to this effect in several sections of Bill 34. In motion 22, we asked the Minister to give early notice of application to record a mineral claim to municipalities and the public. In motion 24 we asked to include municipalities in receiving notification on intended work. The Minister did not concur.

Committee proposed motion 12, to provide municipalities with a tool to request protection for areas of municipal significance such as important infrastructure. Committee heard from the department that notice giving to municipalities for reasons to protect municipal infrastructure would not be consistent with the intent of the tool of designated areas and not in scope with Bill 34. The Minister did not concur and Bill 34 was not amended to include this requirement.

Committee urges the government to investigate and identify how to prevent this type of land use conflict on municipal lands, and makes the following recommendation:

### **Recommendation 2**

The Standing Committee on Economic Development and Environment recommends that the Government of the Northwest Territories work with the NWT Association for Communities and municipal governments in the Northwest Territories to develop solutions to resolve the challenges of rights issuance that overlaps municipal boundaries, in order to better protect municipal infrastructure and ensure public interest is protected. Efforts should also be directed at protection of lands and waters where critical municipal infrastructure is located or planned.

### **Zones**

Under Bill 34, the Minister will be able to create zones that can allow for distinct processes, incentives, or the implementation of other tools on a local and regional level to encourage mineral exploration and development, at the request of Indigenous governments or on the Minister's own initiative. Zones may establish additional terms for a specific area beyond the exclusive right to prospect. These terms will be determined through discussion between Indigenous governments and organizations and the department.

Several questions were raised about the use of the term "favourable" and others wanted to see more clarity on what activities are to be expected to be allowed in the zones. Others were concerned about how the Minister plans to make the establishment of zones known, and other submissions saw zones as an incentive for investment. Committee also heard concerns about zones represent a mixing of

the objectives to regulate and promote mining at the same time.

The department informed committee that a zone may be defined by a sponsoring Indigenous government or organizations and is used to draw special attention and encouragement for interested prospectors and exploration companies to explore a specific area. The specific attributes to zones will be determined by regulation. Zones which under the current system are created through prospecting permits, are intended to modernize the system by replacing the existing prospecting permit and allowing for greater flexibility in terms of setting "favourable" terms.

Committee determined that Bill 34 is unclear about the design and application of the concept of zones, and sought additional information from the department. The department confirmed that the purpose of zones is to attract investment in exploration by identifying desired geographic areas, and that it is important to note that zones cannot change the environmental protection and regulatory requirements that would apply under other legislation.

The committee appreciates the discussions held with ITI staff to attempt to find a reasonable compromise on bounds to the Minister's discretion in setting zones.

Committee heard concern expressed in some submissions about the degree of power and discretion the Minister has under the applicable sections of the bill, and a desire for assurances that there be quality control in the process.

Committee identified that the concept of a zone in Bill 34 has been left very broad and would benefit from application of baseline criteria for the purpose of quality control and increased clarity. Committee proposed the following criteria that provide more clarity on the concept of zones:

- Have the establishment of zones decided by the Commissioner in Executive Council, where all the interests of various Ministries can be considered, rather than the Minister developing the regulations herself/himself;
- Prohibit use of royalties as an incentive;
- Make zones for a time-limited period (Committee suggested 15 years based on that time-limit established for Significant Discovery Licences under Bill 36: Petroleum Resources Act);
- Require the Minister to provide written reasons when establishing a zone;
- Ensure that information provided in confidence

remains confidential;

- Has rules for an option for renewal;
- Permits the interested party the choice under which regulations to apply for mineral instruments; and
- Provides an opportunity for the public to comment on draft regulations.

Committee developed and moved motions 19, 20, and 21 to affect this change and incorporate them into the bill. Committee moved motion 41 to give decision making powers over creating regulations on the establishment of zones to Cabinet, thereby increasing the accountability and transparency of the process. Minister Schumann concurred with these four motions. The Minister did not concur with a motion that would incorporate amendments to require public notice and an opportunity for public comment.

### **Mineral Rights Review Board**

Bill 34 had proposed to create a Mining Rights Panel as part of the bill's dispute resolution mechanisms, together with the Supervising Mining Recorder and the process proposed under Part 5. Its purpose is to replace section 84 of the Mining Regulations and does not intend to deal with disputes that fall under enforcement or decisions on actions under the Minister's discretion.

Committee received concerns on the number and qualifications of panel members, the length of term, and the decision-making process. Committee heard that the panel members should have additional expertise of areas such as experience in co-management systems and Indigenous government rights. After discussion, committee agreed that these areas of expertise would be expected from panel members as they are core knowledge of governance in the Northwest Territories.

Committee had serious concern with the proposal of the panel being comprised of at least three individuals with one person hearing the mining dispute. Given the possible significance of mining disputes, committee finds that dispute resolution should be fair and accountable, and should not rely on one person only.

Detailed discussions with committee led the department to reconsider the approach to the panel and several changes were proposed. The name of the dispute resolution body was changed to Mineral Rights Review Board, with members holding office for a term of up to three years, with possible reappointments for two terms, a chairperson who is not a member of the board, to be designated for no more than three consecutive years. Committee moved motions 5, 6, 7, 8, 9, and 10 to include this

amendment into the bill. Motion 8 was moved with the intent to strike the right balance in appointment and length of term in consideration of the possible capacity issues and challenges to find board members. Motion 9, similarly, has the purpose is to avoid stagnation of board membership.

Committee moved motion 11 with the intent to require that the board prepare and table an annual report. Minister Schumann concurred with these six amendments.

### **Royalties**

Committee received several submissions on Part 6 of Bill 34. Some expressed that they support the creation of royalties with the rates applied through regulations as in the current system. Others commented that there is no requirement for public process and urge that all partners be included in discussions over future regulations and review of royalties. One submission recommended focusing on corporate income tax and increasing the transparency on the gross revenues generated by each mine.

Committee was informed by the department on plans for a fiscal review of mining. The department is expecting to complete phase one of a comprehensive review of the Northwest Territories mining fiscal regime during fall of 2019. The second phase will include an analysis of NWT specific taxes to see how these impact the competitive position of the NWT in respect to other jurisdictions.

Committee commends the department for its effort to commence a review of the existing royalty system. Committee supports a review of the royalties system carried out by an independent body that is external to government, and therefore, makes the following recommendation.

### **Recommendation 3**

The Standing Committee on Economic Development and Environment recommends that the Government of the Northwest Territories appoint an independent panel to undertake a review of the system for charging royalties to mining, petroleum and natural gas companies operating in the Northwest Territories. This review should include a comparison of the NWT's system with that used in other jurisdictions and should make recommendations on system improvement, while providing opportunities for public input

In order to provide clarity and transparency on reporting revenues from mineral extraction, committee suggests that the department consider using best practices models for reporting, and consider, for example the international "Extractive Industries Transparency Initiative," or the Canadian "Towards Sustainable Mining" commitment of the

Mining Association of Canada and its principles. Both initiatives require that member companies agree to and comply with principles and protocols concerning reporting, publication and verification of company payments and government revenues.

#### **Recommendation 4**

The Standing Committee on Economic Development and Environment recommends that the Government of the Northwest Territories assess, develop and adopt a set of principles, tools and indicators to drive performance and ensure greater transparency and accountability, such as those contained in the Extractive Industries Transparency Initiative (EITI), or the 'Towards Sustainable Mining' (TSM) commitment of the Mining Association of Canada.

#### **Statistical Returns**

Bill 34 creates the legislative requirement for mine operators to annually file a statistical report with the Government of the Northwest Territories. Statistical returns are generally based on surveys used by government to collect data for the purpose of strategic planning. Types of information generally include reporting on production and sales, and type of mineral produced. Committee strongly believes that such detailed reporting helps improve economic forecasting and grow understanding of the NWT's geology and economy. The Mining Regulations currently provide detailed royalty reporting requirements for mines and not statistical returns.

Committee further discussed the use of discretion in the disclosure of information contained in a statistical return, and questioned the rationale for the timing of disclosure at 15 years after filing of the report. The department had concerns that the potential content of statistical returns may contain commercially sensitive information and therefore intends to avoid mandatory disclosure of information in the required statistical returns.

Committee holds the view that improved clarity and balance between confidentiality and disclosure of information can be achieved by allowing disclosure of a statistical return after 15 years or sooner, if the lease holders agree, and not allowing disclosure if the information could reasonably be expected to prejudice the commercial interest of the operator. Committee moved motion 27 to this effect and to amend the bill accordingly.

#### **Regulation-Making**

Bill 34 provides the Minister the authority to make regulations such as defining words, when to give notices, and many actions addressed in this legislation. Committee heard that government

should develop regulations in collaboration and allow public review of proposed regulations.

Committee wanted to require that Indigenous governments and organizations are engaged in regulation-making and proposed motion 42 to this effect, but the Minister did not concur and the bill was not amended to include this requirement.

Committee moved motion 43, asking that Cabinet publish proposed regulations in the Northwest Territories Gazette, allow that presentations be made to the Minister and require that the proposed regulations be published once. The Minister did not concur with the motion committee had prepared and therefore Bill 34 was not amended to include this requirement.

Committee is of the view that government should be open and transparent in developing regulations and take into consideration that seeking public input on proposed regulations has evolved as a common practice in Canada.

#### **Recommendation 5**

The Standing Committee on Economic Development and Environment recommends that the Government of the Northwest Territories develop an implementation plan for the Mineral Resources Act that identifies short and longer-term objectives, such as the development of regulations, and which identifies how key stakeholders will be engaged. The standing committee further recommends that the GNWT return to the appropriate standing committee in the 19<sup>th</sup> Legislative Assembly with a copy of the draft implementation plan for committee input.

#### **Drill Core**

The collection and analysis of drill core obtained from mining exploration programs are the principal components of core storage programs in Canada. Core preservation is costly but allows for future study and saves duplication of expenditures. Bill 34 makes it an offence to tamper with, transport, dispose of or damage drill core, cutting or sample.

Committee heard that it is important that the Government of the Northwest Territories be able to protect drill core. Committee members are of the view that drill core should not be abandoned and left on unused or terminated exploration sites, and moved motion 25 to this effect.

Committee identified that there exists a gap in the regulations in regards to the requirement of removing drill core. Currently, none of the regulations under the Mackenzie Valley Resource Management Act or under Government of the Northwest Territories legislation (e.g. Waters Act, Environmental Protection Act, or Northwest

Territories Land Act) or regulations appear to contain requirements to remove drill core after exploration. Committee therefore makes the following recommendation:

#### **Recommendation 6**

The Standing Committee on Economic Development and Environment recommends that the previously noted implementation plan identify how the regulatory gap related to the matter of removing drill core be resolved.

Bill 34 further provides the Minister with the discretion to determine that drill core is abandoned and to take possession of the core samples. Drill core provides a source for contribution to the geoscience knowledge of a region and to geological knowledge in general. It is in the public interest to retain this information to help build our geological knowledge base. The Northwest Territories Geological Survey Geological Materials Storage Warehouse and viewing facility allows clients to access and study GNWT's core and rock collections.

Committee holds the view that government, once it has possession of drill core, make the core accessible to the public. Therefore, committee moved motion 26 to amend Bill 34. The Minister concurred with both amendments concerning drill core.

#### **Offences and Punishment**

Bill 34 sets out a section on offences and punishment, in which failure to comply with the act or regulations is made an offence punishable on summary conviction. Unless otherwise provided, a corporation is liable to a fine not over \$1 million; for any other person the maximum fine is \$100,000. Committee heard that imprisonment should be included, given some of the serious matters regulated by Bill 34. It was pointed out that other Northwest Territories' legislation with similar offences sections, include imprisonment as punishment.

Committee moved motion 36 to add imprisonment to ensure consistency with the prevailing approach to enforcement and deterrence and the Minister concurred.

#### **Departmental Employees**

Departmental employees are prohibited to hold interests in minerals in respect of lands under the control of the Commissioner if they are for exploration or mining purposes. Bill 34 contemplates the ability of a deputy minister to waive this prohibition.

Committee had serious concerns of how the government would maintain the public's confidence in the integrity of the system, when departmental employees could hold mineral interests in lands while at the same time being involved in the administration of those mineral interests. Committee held discussions with the department on how section 23 would prevent the potential use or trade of insider knowledge by employees or family members of employees.

Committee agreed with the department that the prohibition exists under the Public Service Act, and the GNWT employee Code of Conduct to use or benefit from insider knowledge. However, committee is of the view that to better protect employees and provide guidance on how employees should conduct themselves, a general prohibition in the statute should be inserted. Therefore, committee moved motion 15, including those who hold interests to the existing prohibition, and motion 16, inserting an express prohibition on sharing insider knowledge for personal benefit or the benefit of another person. In total, committee moved four motions to amend clause 23 and the Minister concurred.

#### **"Bad Actor"**

Committee heard representations from the public to include in Bill 34 what has become known as the concept of "Bad Actor" provisions. "Bad Actor" provisions proposed to committee exist in Montana (USA) since 1989. The Montana provisions prevent those with serious infractions or who owe money to the State from applying for further mining authorizations.

The goal is to have a measure that will help protect the Government of the Northwest Territories and taxpayers from rule-breakers that have taken advantage of the system before. A "Bad Actor" clause in resource legislation would send the signal that the NWT is serious about protecting its properties and identifies "bad" conduct, especially in light of a number of serious public liabilities, most notably, Giant Mine.

Clause 106 provides the Minister with the authority to suspend, cancel and prohibit authorizations, and prohibit new authorizations. The intent is to capture applications by corporations who have officers or directors who (a) have previously been convicted of an offence under this act or regulations, or (b) have been previously associated with a company as a director or officer which company has been convicted of an offence under this act or regulations.

Committee specifically clarified the provision under (b) so that a company that employs an individual as officer or director, who has committed an offence

while employed at another corporation, may be rejected issuance of authorization. Committee passed motion 38 to clarify this provision and the Minister concurred.

### Requirements Relating to Benefits (Part 5)

During the public hearings, committee noted some level of confusion between agreements, terminology and purpose of Part 5 of the bill that relates to benefits. Socio-Economic Agreements, which are agreements between the Government of the Northwest Territories and mineral development companies, and Impact and Benefit Agreements, Partnership Agreements, and the proposed term of benefit agreements. In the submissions received, preferences for one or the other term were mentioned in several cases, most often referring to Impact and benefit agreements.

Committee also heard that the provision of public benefits as set out in clause 51 of the bill is particularly vague, without an actual trigger and any specifics as to what might be expected. One submission suggested tying benefits to commercial production and providing a non-inclusive list of benefits based on the most recent socio-economic agreement for the NICO Fortune Project.

Mineral industry stakeholders proposed that Part 5 of Bill 34 be removed and Bill 34 be advanced without it. Industry expressed serious concerns about the proposal to legislate benefit agreements, in particular because these are private agreements negotiated between Indigenous parties and mining companies, and without involvement of public government. Industry expressed that Part 5 could be perceived as government intervention, and that mining companies may fear this may lead to court challenges and discourage investment in projects in the Northwest Territories.

Industry asked to be involved in the further development of Part 5 to improve it and reduce the uncertainty that it now creates as perceived by the mining sector. Industry further noted that agreements are a common practice for the mineral industries and that they likely will continue without being legislated.

Committee notes the following input received on this matter from mineral industry stakeholders:

De Beers - "The legislation indicates that all lease holders must negotiate these benefit agreements if a) the Minister considers it appropriate, b) if a production project for the mineral lease meets the prescribed threshold and c) when also in accordance with the regulations. The circumstances under which the Minister would consider it appropriate are not defined. The prescribed threshold and the regulations are also

not yet defined. These aspects matter hugely but without understanding the limits of each, it is difficult to support the enabling legislation."

NWT & Nunavut Chamber of Mines - "Send Part 5 back for further study and more comprehensive discussion with industry and investors to reduce its risks, and to consider other approaches to provide benefits to people and communities. Pre-eminent among these innovations is our recommendation to share other mineral industry revenues with Indigenous governments on whose land exploration and mining occur."

Committee received considerable comments from Indigenous governments and organizations, commenting that Bill 34 is an important step forward from the existing Mining Regulations. Submissions from several Indigenous governments and organizations made it very clear that they are in support of Bill 34 in the way it has been referred to the standing committee.

Committee also heard that clause 52 of Bill 34 is the most critical component of the bill from an Indigenous government perspective. The requirement for a benefits agreement between a developer and Indigenous governments, although common in today's age, are not required in legislation anywhere in Canada.

Committee notes the following input received on clause 52:

K'atlodeeche First Nation – "To be clear, KFN believes that Part 5 is a fundamental component of the overall integrity of Bill 34 and should not be amended or delayed from moving forward."

Dehcho First Nation – "We also strongly support the requirement for benefit agreements to be concluded with affected Indigenous governments before a mine can go into commercial production."

NWT Metis Nation – "We are very concerned that the conditions for the requirement of an IBA are punted to regulations. Ideally, the MRA would contain more prescriptive language for the process on substance of IBA requirement."

North Slave Metis Alliance – "NSMA is supportive of the concept of the legislated requirement that a holder of a mineral lease enter into benefit agreements with Indigenous governments and organizations."

Sahtu Secretariat Incorporated – "The SSI supports the provisions of Bill 34, in particular, the SSI confirms its support for specific provisions of Bill 34 that address issues that it raised, including: [...] b) the requirement for a mineral lease holder to enter into a benefit agreement with the affected Indigenous group or organization; [...]"

Tlicho Government - Tlicho Government has no specific comment on the Mineral Resources Act that require the attention of SCEDE as it reviews this draft legislation. Tlicho Government does emphasize, however, that many of the key aspect of this legislation, including the operationalization of benefits agreements and issues around access to land and notification of staking, will be further developed in the yet-to-be-drafted regulations. These are critical pieces of the legislative framework and, as such, Tlicho Government emphasizes its point above that the inclusion of provisions in the legislation that require IGO engagement around the development of regulations under the act is imperative."

Committee members found Part 5 very vague. Being provided with limited clarity, committee considered it difficult to understand and debate what each section is intending to achieve. Some motions were moved by a member of the committee to attempt to clarify expectations in relation to triggers and benefits. These motions were carried by committee; the Minister did not concur.

#### **Clause-by-Clause Review of Bill 34**

The clause-by-clause review of the bill had been scheduled for August 13, 2019, however, was postponed on short notice and on request by committee. Due to the large number of bills under review at the end of this Assembly, and the Committee Room already being reserved for review of another bill, this short-term change resulted in a change of location for this review.

On August 15, 2019, the clause-by-clause review of Bill 34 was held in the Great Hall of the Legislative Assembly, from 7:00 p.m. to 11:30 p.m.

At this meeting, the committee moved 46 separate motions to amend Bill 34. These motions are set out in Appendix 1.

Minister Schumann concurred with 40 of the committee's motions. The Minister also concurred with a private Member's motion that proposed, in complement to committee's motion 44, to add detail to the annual reporting requirement.

The committee thanks the Honourable Wally Schumann, Minister of Industry, Tourism and Investment, and members of his staff, for their appearance before the committee.

#### **Conclusion**

The committee commends the Minister for his willingness to work with committee to further amend Bill 34 in response to public interest and working collaboratively with committee on the amendments.

The committee thanks all those who took the time to appear before committee to share their thoughts on this legislation.

Following the clause-by-clause review, motions were carried to report Bill 34: Mineral Resources Act, as amended and reprinted, as ready for consideration in Committee of the Whole.

Rule 100(5) of the Rules of the Legislative Assembly of the Northwest Territories requires Cabinet, in response to a motion by Committee, to table a comprehensive response that addresses the committee report and any related motions adopted by the House. As required by this rule, committee usually includes a recommendation in each report, which is moved as a motion in the House, requesting a response from government within 120 days. Given that the 18<sup>th</sup> Legislative Assembly will dissolve prior to the conclusion of the 120-day time period allowed by the rules, committee has opted to forego this recommendation. Committee nonetheless requests, to the extent it is possible before the dissolution of the 18<sup>th</sup> Assembly and for the public record, that government provide a response to this recommendation, even of a preliminary nature, that committee may publicly disclose.

This concludes the standing committee's review of Bills 34.

**MR. SPEAKER:** Reports of standing and special committees. Member for Yellowknife North.

**MR. VANTHUYNE:** Thank you, Mr. Speaker. I move, seconded by the honourable Member for Hay River North, that Committee Report 33-18(3), Standing Committee on Economic Development and Environment Report on Bill 34, Mineral Resources Act, be received by the Assembly and moved into Committee of the Whole for further consideration. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. The motion is in order. The motion is non-debatable. All those in favour? All those opposed? The motion is carried.

---Carried

Committee Report 33-18(3) on Bill 34 has now moved to Committee of the Whole for further consideration. Reports of standing and special committees. Member for Yellowknife North.

MOTION THAT COMMITTEE REPORT 33-18(3)  
BE MOVED TO COMMITTEE OF THE WHOLE,  
CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Speaker. I seek unanimous consent to waive Rule 101(4) and to have Committee Report 33-18(3) moved into

Committee of the Whole for consideration later today. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. The Member is seeking unanimous consent to waive Rule 100(4) and have the Committee Report 33-18(3) moved into Committee of the Whole for later consideration today. Are there any nays? There are no nays.

---Unanimous consent granted

The Committee Report 33-18(3) is now moved to Committee of the Whole for further consideration later today. Reports of standing and special committees. Member for Nahendeh.

COMMITTEE REPORT 34-18(3):  
STANDING COMMITTEE ON SOCIAL  
DEVELOPMENT REPORT ON THE REVIEW OF  
BILL 45: CORRECTIONS ACT

**MR. THOMPSON:** Thank you, Mr. Speaker. The other side of this.

### Introduction

Bill 45: Corrections Act, sponsored by the Department of Justice, received second reading in the Legislative Assembly on March 11, 2019, and was referred to the Standing Committee on Social Development (committee) for review, the results of which are reported below.

Bill 45 is intended to repeal and replace the existing Corrections Act. The bill intends to focus less on punishment and more on the rehabilitation and reintegration of offenders into their communities, and to reflect various operational improvements in the Northwest Territories' (NWT) corrections system.

### What We Heard and What We Did

#### Public Review of Bill 45

To assist in our review of Bill 45, committee invited input from an extensive list of stakeholders, including community governments, and Indigenous organizations, as well as individuals and non-governmental organizations specializing in civil liberties, criminal law, or corrections.

Between May 13 and May 17, 2019, committee traveled to the communities of Fort Smith, Hay River, Fort Providence, Behchoko, Inuvik, and Tuktoyaktuk to hold public hearings on Bill 45, followed by a public hearing in Yellowknife on May 23, 2019. In addition to these meetings, committee received five written submissions on Bill 45, copies of which are attached in Appendix B.

#### General Comments

Upon first review, committee was concerned Bill 45 did not adequately reflect the unique cultural background, historic legacy, and experience of offenders in the NWT and the reforms expected in the current era of Truth and Reconciliation and after 40 years of evolving approaches in the field of corrections.

The bill did not appear as thorough as recent comprehensive reforms elsewhere in Canada, including in Newfoundland and Labrador, Ontario, and most recently Nunavut. These acts, while not yet in force, went much further than Bill 45 in aspiring to provide for the rehabilitation and reintegration of inmates so that they may go on to lead productive lives, inmates and victims may heal, and residents and communities may be safer.

Committee also heard that aspects of Bill 45, specifically its provisions relating to the confinement of inmates, were not reflective of recent case law. Principles of procedural fairness were also absent from the bill, including a mechanism for inmate complaints. Other submissions advised that international standards relating to incarceration should be incorporated into Bill 45.

Committee was concerned about not only the content of Bill 45, as outlined below, but also how the bill was developed. The department of Justice received limited input into Bill 45, resulting in a bill that was framed from the perspective of the persons operating and administering the corrections system rather than that of persons who are directly impacted by the system, including inmates, victims, and Indigenous peoples. A lack of engagement by members of the public and Indigenous and other organizations does not equal a lack of concern, committee believes, and this was reflected in the submissions committee received.

In addition, with substantive details missing from Bill 45, the structure of the bill was a concern for committee, as well as experts. While the department planned to address these details in regulations and policies, matters such as separate confinement, the use of force and discipline, or corrective measures are not merely operational or practical details. Instead, they relate to essential rights and responsibilities that should be subject to the full legislative process, including public debate, consultation, and accountability for elected officials.

On bringing our concerns to the Minister of Justice, departmental and committee officials commenced a collaborative effort to develop several substantive amendments, including reducing the bill's reliance on regulations, policies, and procedures and capturing substantive rights and responsibilities in the bill. We can say with confidence that our combined efforts have resulted in a vastly improved bill, one that looks much less like a framework for



operations and much more like a modern framework for legal obligations and protections reflective of the NWT.

At this time, Mr. Speaker, I'd like to turn the report over to the honourable Member for Deh Cho.

**MR. SPEAKER:** Masi. Member for Deh Cho.

**MR. NADLI:** Mahsi, Mr. Speaker.

### **Purpose and Principles**

On reviewing Bill 45, it was not clear to committee what the bill was trying to achieve. In collaboration with the Minister, committee developed Motion 3 in Appendix A to articulate clear aspirations for the NWT correctional system and to establish principles for guiding the Correctional Service.

### **Community Advisory Boards**

Sections 4 and 5 of Bill 45 authorized the Director of Corrections to establish community advisory boards and appoint members (CAB). Among other things, CABs are meant to provide observations and advice on the day-to-day operations of correctional centres and liaise between facilities and the public to facilitate responsiveness to inmates' needs.

It appeared to committee that appointments to CABs by the Director of Corrections, a member of the public service, may have the unintentional effect of compromising their independence. For that reason, committee felt it would be more appropriate for the Minister to establish CABs and appoint their members, as reflected in Motions 5 and 6 in Appendix A. Committee suggests that membership of CABs be determined using an existing model, such as that used for Regional Wellness Councils.

### **Correctional Centres**

#### **Corrections Staff**

Section 10 authorizes the Director of Corrections to adopt a code of professional conduct for all staff members. Committee and the Minister agreed that the adoption of a code of professional conduct should be an obligation rather than a discretionary power, as reflected in Motion 7 in Appendix A. We also agreed that the guiding principles created under Motion 3 should highlight the importance of staff training and the importance of a positive work environment.

Committee heard concerns from the public about the suitability of personnel working in the corrections system. Non-Indigenous persons working in front-line service positions may lack an understanding of the experience of Indigenous people, including the legacy of the residential school system, and a resident made the point that

inmates should be working with people they can trust.

Committee believes that the personnel working in our corrections institutions should have the background and skills necessary to be able to address the challenges and needs underlying the unique circumstances of their inmates. We encourage the department to offer the relevant training anticipated under Bill 45 to its corrections staff on an ongoing basis. We also urge the department to increase its efforts towards filling corrections positions with candidates who reflect the demographics of the inmates they oversee.

### **Volunteers**

Section 17 of Bill 45 allowed the Director of Corrections to appoint volunteers to provide or assist in the provision of correctional services for offenders, inadvertently excluding other inmates such as those remanded in custody from working with volunteers. Motion 11 in Appendix A remedies this error.

### **Probation Officers**

Section 16 sets out the duties and responsibilities of probation officers, mostly in relation to their role with respect to the courts and in correctional centres. The Canadian Bar Association Northwest Territories Branch - Criminal Justice Section (CBA-NT) recommended Bill 45 detail the specific responsibilities of probation officers vis-a-vis their clients. Motion 10 in Appendix A elaborates on the role of probation officers in assisting offenders post-release.

### **Programs and Services**

The public expressed their support for programming and services that reflect local culture, languages, and experiences to support the reintegration of inmates into their families and communities. Residents told committee that inmates should be able to interact with people they can trust, and on-the-land programs should be a priority.

Committee felt Bill 45 should go further to account for these concerns. Among other improvements, Motion 14 clarifies that programs and services may be offered in a facility, a community, or on the land. This motion, developed in collaboration with the Minister, also provides for the services of an Indigenous elder or spiritual advisor to support the healing, rehabilitation, and reintegration of inmates. In addition, Motion 19 amends section 30 of the bill to allow for the eventual possibility that communications between an inmate and Indigenous elder or spiritual advisor under Motion 14 could be made privileged.

Mr. Speaker, I now pass on the reading of the following section to my honourable colleague from Yellowknife Centre.

**MR. SPEAKER:** Masi. Member for Yellowknife Centre.

**MS. GREEN:** Mahsi, Mr. Speaker.

### **Recommendation 1**

The Standing Committee on Social Development recommends that the department of Justice explore the possibility of allowing for private interviews between an inmate and a facility's Indigenous elder or spiritual advisor, subject to reasonable restrictions.

Residents told committee that programming should be available to all inmates, including those remanded in custody, who make up more than half the inmate population in the NWT. Remanded persons, including those who are eventually convicted, are frequently released without having accessed rehabilitative programs. Even of those who are sentenced, the Auditor General of Canada found that, for inmates with sentences of less than 120 days, only 36 percent had access to general rehabilitation programs, and none had access to offence-specific programs. For those with sentences longer than 120 days, 87 percent had access to general rehabilitation programs, but only 63 percent had access to offence-specific programs.

In an effort to promote the uptake of programming by remanded persons, committee worked with the Minister to develop Motion 14 in Appendix A. This motion amends the programs and services provisions in section 21 of the bill to make a distinction between general programs aimed at all inmates and rehabilitation programs targeted at convicted offenders. Motion 14 specifies that all inmates are entitled to participate in these various programs and services.

Committee would like to see the correctional needs and appropriate programs to meet those needs as set out in section 29 of the bill identified for every inmate rather than only for offenders, to ensure their time in custody is as constructive as possible. Further, needs-based assessments should be delivered in a timely manner. While we recognize that it may be a challenge to engage remanded individuals in programming, as they are presumed innocent and cannot be compelled to participate, committee recommends that the department provide adequate incentives to promote the development and betterment of all inmates.

### **Recommendation 2**

The Standing Committee on Social Development recommends that the Department of Justice conduct needs-based assessments for all inmates, that the assessments be conducted in a manner that is timely relative to an inmate's release eligibility, that the assessments take into account Gladue and other factors such as an inmate's disabilities, and that the department explore additional measures to encourage all inmates to participate in suitable programming, including offering new incentives.

### **Living Conditions**

Section 26 of Bill 45 contained few references to living conditions, and experts advised committee that Bill 45 did not go far enough to ensure that inmates receive living conditions reflective of Canadian human rights standards. Committee and the Minister developed Motion 15 in Appendix A to establish minimum living conditions and standards and to ensure inmates have the rights to peaceful assembly and religious expression, subject to reasonable limits.

Motion 24, discussed below, prohibits the deprivation of food, water, and healthcare as punishment for disciplinary offences.

### **Inmate Communications**

Committee heard that Bill 45 should include provisions requiring corrections centres to guarantee inmates reasonable access to adequate means of communications with the outside world, as reflected in Motion 15. In addition, committee worked with the Minister on Motion 19 to expand the list of individuals with which an inmate may engage in "privileged communication" under subsection 30(1). The list would include individuals with the Office of the Ombud, the Human Rights Commission, and the Human Rights Adjudication Panel, as well as other prescribed persons.

### **Work Programs**

Residents told committee they want to see corrections centres offering work programs, and for these work programs to operate in communities. Committee recognizes the challenges that work programs pose for the department, including in relation to high risk offenders, but committee sees the value in providing inmates with work skills and reacquainting them with society to assist in their rehabilitation and reintegration.

### **Recommendation 3**

The Standing Committee on Social Development recommends that the Department of Justice prioritize work programs that are responsive to community needs, subject to necessary safety and security restrictions.

Mr. Speaker, I now turn the report over to the Member for Mackenzie Delta.

**MR. SPEAKER:** Masi. Member for Mackenzie Delta.

**MR. BLAKE:** Thank you, Mr. Speaker.

### Services at Correctional Centres

Section 50 of Bill 45 authorized the Minister to provide inmates with services for personal phone calls, entertainment, canteen, and other services. Motion 28 clarifies that the Minister is required to provide these services in all correctional facilities, subject to reasonable restrictions on individual inmates.

### Rules and Information for Inmates

Bill 45 requires the person in charge to make rules respecting inmate conduct, inmate activities, and other matters. Motion 16 replaces section 27 of Bill 45 with a new section to provide that, on an inmate's admission to a facility and in a form he or she understands, the person in charge must inform the inmate of the institution's rules and the inmate's rights and responsibilities, to assist the inmate with adapting to his or her surroundings.

### Security Assessments

Knowing an inmate's risks is essential to effective safety, security, rehabilitation, and reintegration. Motions 17 and 18 in Appendix A clarify the distinction between the security classification process and the enhanced supervision program used by the Correctional Service. The security classification process is used for assessing and reassessing inmates and determining the level of security required for an inmate and their appropriate placement within a facility. Inmates may be assigned to an enhanced supervision program, where they may be assigned to a specific level of security, access restrictions, and other conditions of confinement.

Committee received several suggestions to make the risk assessment process as it relates to security classification effective and fair to Indigenous inmates.

### Recommendation 4

The Standing Committee on Social Development recommends that the security assessment tools used by the Correctional Service be objective, structured, and empirically defensible, and that a risk assessment tool that considers the unique realities of Indigenous inmates be developed and used.

### Searches

The Information and Privacy Commissioner outlined several privacy-related concerns with Bill 45 for committee. A specific area of concern we shared with the Information and Privacy Commissioner was the lack of detail in Bill 45's search provisions. We agreed with the Information and Privacy Commissioner that sections 33 through 35 of the bill did not do enough to protect the privacy and dignity of those subject to search. For this reason, committee worked with the Minister to develop Motions 21, 22 and 23, set out in Appendix A, to specify that strip searches of inmates, staff, and visitors must be conducted by staff of the same gender and in a place and manner that respects the person's dignity.

### Use of Force

Section 19 of Bill 45 included broad parameters for the use of force on inmates, authorizing certain persons to use a "reasonable degree and means of force on any inmate" to prevent injury or death, prevent property damage, prevent an inmate from escaping, and maintain inmate custody and control. Committee agreed with a submission that more detail around the use of force was needed. Motion 17, developed in collaboration with the Minister and set out in Appendix A, serves to replace section 19 in Bill 45. This motion clarifies that de-escalation techniques must be employed where possible and force may be used only as a last resort. The means and the amount of force must be reasonable and not excessive, and they must have regard to the nature of the threat posed and other circumstances of the particular case.

Also contained in Motion 17 are clear restrictions on the use of physical restraints. Section 19 left decisions, such as the devices that may be used to physically restrain an inmate and the manner and circumstances in which they may be used, to the discretion of a sole individual. Due to the highly intrusive nature of these devices and the risk they pose for causing injury, pain, and humiliation to inmates, committee believes the circumstances in which physical restraints may be used, such as the length of time and procedures for their use, should be prescribed in regulations and subject to independent scrutiny. As an additional safeguard, Motion 24 specifically prohibits the use of restraint devices as punishment for disciplinary offences.

In those instances where force is used, Motion 17 requires corrections employees to report the pertinent details of the incident to senior staff.

Mr. Speaker, I will now pass this on to the Member for Yellowknife Centre. Thank you.

**MR. SPEAKER:** Masi. Member for Yellowknife Centre.

**MS. GREEN:** Mahsi, Mr. Speaker.

### **Adjudicators**

While committee was pleased to see the introduction in Bill 45 of concepts such as community advisory boards, an Investigations and Standards Office, and adjudicators, experts in the fields of corrections and civil liberties shared our concerns that the oversight structures established in Bill 45 were not fully impartial or independent. While we recognize the need to ensure a measure of corrections expertise in the bill's oversight processes, we believe the degree of impartiality and independence necessary for serious and high risk matters such as separate confinement or disciplinary segregation must be higher than that initially established in Bill 45. To that end, Motion 26 in Appendix A enhances the independence of adjudicators by having the Minister rather than the Director of Corrections appoint adjudicators and prohibiting the appointment of corrections staff as adjudicators.

Committee had concerns about the independence held by the Director of Investigations and Standards, as a member of the public service pursuant to section 2 of the bill with the power to review the decisions of adjudicators under section 38. Elsewhere, public officers in a similar role appear to have more independence than anticipated for the Director of Investigations and Standards under Bill 45.

Committee encourages the department to continually underscore the independence of the Director of Investigations and Standards and the adjudicators.

### **Separate Confinement**

Several submissions advised committee that they believed the separate confinement provisions set out in sections 32 and 40 of Bill 45 were vague and not consistent with recent case law. The separate confinement provisions appeared to permit prolonged, indefinite confinement and failed to distinguish between the confinement practices envisioned under Bill 45 and the practice of solitary confinement.

A matter as serious and high-risk as confinement requires substantive treatment in legislation, including hard caps on duration, provisions for independent adjudication, and guaranteed access to programs and services, with more specific, operational details going into regulations.

Motion 2 in Appendix A creates a category of confinement referred to as "separate confinement," referring to the holding of an inmate apart from other inmates for the purposes of safety and security rather than for disciplinary or corrective

purposes. Motion 20 further clarifies the meaning of separate confinement, specifying that inmates in separate confinement get to maintain their living conditions and standards as well as access to programs and services, adapted to the circumstances of separate confinement. Motion 20 also clarifies the decision-making process in relation to separate confinement and the role of the adjudicator in the case of separate confinements exceeding 96 hours. Motion 27 sets out a process for those adjudicative reviews including inmates' procedural rights.

### **Discipline or Corrective Measures**

The CBA-NT advised committee that they believed the process set out in section 38 of Bill 45 with respect to the imposition of discipline or corrective measures against an inmate violated the inmate's rights to procedural fairness. Improvements to section 38 by way of Motion 24, developed in collaboration with the Minister and set out in Appendix A, include:

- making a distinction between disciplinary segregation and separate confinement;
- setting parameters around the use of discipline and corrective measures, including providing for the use of informal resolutions and setting hard caps on consecutive and aggregate days in disciplinary segregation;
- changing the powers of the Director of Investigations and Standards with respect to an appeal of an adjudicator's decision to impose a disciplinary or corrective measure so that he or she may confirm, quash or reduce but not increase that disciplinary or corrective measure; and
- establishing additional obligations and rights with respect to disciplinary hearings.

### **Complaints**

The CBA-NT pointed out that Bill 45 failed to establish a clear grievance procedure or guidance on how complaints will be handled. Committee collaborated with the Minister to develop Motion 30, set out in Appendix A, to enshrine a fair and expeditious grievance mechanism to adjudicate grievances raised by inmates, offenders or persons on probation, conditional sentence or judicial interim release.

### **Victims**

Section 11 of Bill 45 required the Director of Corrections to establish, administer and maintain a victim notification program consistent with the principles of the Canadian Victims Bill of Rights.

In reviewing Bill 45, committee determined Bill 45's provisions related to the notification of victims could be strengthened to protect victims of crime. For this reason, committee collaborated with the Minister to develop Motion 8, set out in Appendix A, to provide clear obligations on the part of the corrections system and clear entitlements on the part of victims or their designates to have access to certain information about their perpetrators, such as the date of their release from custody, where the disclosure would benefit the victim and their interest in disclosure outweighs any invasion of privacy that could result from the disclosure.

While the notification of the public in similar circumstances will continue to be under the purview of the Royal Canadian Mounted Police, committee shares the concern we have heard about the risks faced by victims whose perpetrators have not been convicted.

### **Recommendation 5**

The Standing Committee on Social Development recommends that the department of Justice invest adequate resources into Victim Services to ensure public awareness of these programs and that Victim Services staff are in a position to inform victims of details pertinent to their well-being and safety, including cases where a person remanded in custody is released by the courts.

Motion 8 also authorizes the Minister to establish programs that employ restorative justice principles, such as victim-offender mediation, to help address root causes of violence, reduce recidivism, and support healing.

Mr. Speaker, I'd like to turn the reading of the report over to the Member of Nahendeh. Mahsi.

**MR. SPEAKER:** Member for Nahendeh.

**MR. THOMPSON:** Thank you, Mr. Speaker.

### **Special Accommodations**

#### **Persons with Disabilities**

Various experts submitted that the bill did not adequately provide and protect offenders with specific mental health needs or disabilities. Committee agreed that the bill should go further to address some of the challenges faced by inmates. Motions 9, 14, 16, 20 and 24 in Appendix A, developed in collaboration with the Minister, each contain provisions that provide for additional services or the reasonable accommodation of inmates with specific needs, such as those with illnesses, injuries, disabilities or for whom the English language or literacy is a challenge.

#### **Female Inmates**

Bill 45 contained little in the way of acknowledgment of the unique circumstances of female inmates, including that women are more susceptible to abuse and sexual misconduct by corrections staff and other inmates, have reproductive healthcare needs, and may have children for whom they are the primary caregiver. Committee felt new corrections legislation should reflect international standards in this area, namely the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) adopted by the UN General Assembly in 2010, as well as the recent Calls for Justice arising from the Missing and Murdered Indigenous Women and Girls Inquiry. In collaboration with the Minister, we developed Motions 15, 17, 21, 22 and 23 in Appendix A to provide additional standards addressing the specific characteristics, needs and susceptibility of female inmates in relation to physical restraints, healthcare, strip searches, and where they may be housed.

### **Reporting**

Pursuant to Motion 31, committee is pleased with the addition of an annual report provision developed in collaboration with the Minister and set out in Appendix A. The motion requires the Minister to table a report each year outlining important details relating to the administration of the Act, such as the number of inmates held in disciplinary segregation and the number of inmate complaints.

### **Clause-by-Clause Review of Bill**

The clause-by-clause review of Bill 45 was held on August 15, 2019. At this review, committee moved a total of 32 motions, attached in Appendix A. Committee thanks the Minister for his concurrence with the motions to amend Bill 45 that were moved during the clause-by-clause review.

Following the clause-by-clause review, a motion was carried to report Bill 45, as amended and reprinted, as ready for consideration in Committee of the Whole.

### **Conclusion**

Committee wishes to thank every individual and organization who participated in the review process for Bill 45. Committee also again wishes to acknowledge the collaborative efforts of the department and committee officials in the development of Bill 45.

Rule 100(5) of the Rules of the Legislative Assembly of the Northwest Territories requires Cabinet, in response to a motion by committee, to table a comprehensive response that addresses the committee report and any related motions adopted by the House. As required by this rule, committee

usually includes a recommendation in each report, which is moved as a motion in the House, requesting a response from government within 120 days. Given that the 18<sup>th</sup> Legislative Assembly will dissolve prior to the conclusion of the 120-day time period allowed by the rules, committee has opted to forego this recommendation. Committee nonetheless requests, to the extent it is possible before the dissolution of the 18<sup>th</sup> Assembly and for the public record, that government provide a response to the recommendations contained in this report, even of a preliminary nature, that Committee may publicly disclose.

This concludes committee's report on Bill 45: Corrections Act. Committee reports are available on the Legislative Assembly website at [www.assembly.gov.nt.ca](http://www.assembly.gov.nt.ca). Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Reports of standing and special committees. Member for Nahendeh.

**MR. THOMPSON:** Mr. Speaker, I move, seconded by the honourable Member from Yellowknife Centre, that Committee Report 34-18(3): Standing Committee on Social Development Report on the Review of Bill 45: Corrections Act be received by the Assembly and moved into Committee of the Whole for further consideration. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. The motion is in order. The motion is non-debatable. All those in favour? All those opposed? The motion is carried.

---Carried

Committee Report 34-18(3): Standing Committee on Social Development Report on the Review of Bill 45: Corrections Act is now moved into Committee of the Whole for consideration. Masi.

Reports of standing and special committees. Member for Nahendeh.

**MR. THOMPSON:** Thank you, Mr. Speaker. I seek unanimous consent to waive rule 100(4) and to have Committee Report 34-18(3): Standing Committee on Social Development Report on the Review of Bill 45: Corrections Act moved into Committee of the Whole for consideration later today. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. The Member is seeking unanimous consent to waive rule 100(4) to have Committee Report 34-18(3) moved into Committee of the Whole for later consideration today.

---Unanimous consent granted

Committee Report 34-18(3): Standing Committee on Social Development Report on the Review of Bill 45: Corrections Act is now moved into Committee

of the Whole for further consideration later today. Reports of standing and special committees. Item 5, returns to oral questions. Member for Yellowknife South.

**HON. BOB MCLEOD:** Mr. Speaker, I am seeking unanimous consent to go back to item 6, recognition of visitors in the gallery, please.

**MR. SPEAKER:** Masi. The Member is seeking unanimous consent to move to item 6 on the orders of the day.

---Unanimous consent granted

Member for Yellowknife South.

### Recognition of Visitors in the Gallery (Reversion)

**HON. BOB MCLEOD:** Thank you, Mr. Speaker, and thank you, Members. I am pleased to recognize my wife, Melody, of 45 years; my grandson Carter McLeod, who has to leave tomorrow to go to Moose Jaw to play some hockey; and my youngest grandson, Cooper McLeod, who is here to watch the proceedings and learn about some politics. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Recognition of visitors in the gallery. Item 7, acknowledgements. Member for Frame Lake.

### Acknowledgements

ACKNOWLEDGEMENT 26-18(3):  
LYDA FULLER – ORDER OF THE NORTHWEST  
TERRITORIES INDUCTEE

**MR. O'REILLY:** Merci, Monsieur le President. I rise today to acknowledge Frame Lake constituent Lyda Fuller, who received the Order of the Northwest Territories for the huge, positive impact she has had on the lives of NWT girls, women, and families. Over two decades, Lyda Fuller has led the YWCA NWT in its delivery of transitional housing; the introduction of the first Housing First Program; in programming to address intimate partner violence through research and treatment programs; the creation of a territory-wide network of women's shelters; and through the GirlSpace program. She is a leader, mentor, determined champion of the disadvantaged, and a tireless problem solver. Please join me in congratulating her on this celebration of her achievements. Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Acknowledgements. Item 8, oral questions. Member for Nahendeh.

### Oral Questions

#### QUESTION 833-18(3): RECYCLING IN NAHENDEH

**MR. THOMPSON:** Thank you, Mr. Speaker. Earlier today I did a Member's statement about recycling and that. I have some questions for the Minister responsible for ENR: has the Department of ENR looked into the possibility of developing a paper and cardboard recycling facility for regional centres across the NWT?

**MR. SPEAKER:** Masi. Minister of Environment and Natural Resources.

**HON. ROBERT MCLEOD:** Thank you, Mr. Speaker. As outlined in the recently released Waste Resource Management Strategy and Implementation Plan, ENR, in partnership with MACA, is looking at a number of options to reduce, recycle, and better manage solid waste across the Northwest Territories. Materials recycling facilities, like the one in Edmonton the Member is referring to, they operate on much larger economies of scale than can be found in NWT communities. Given our small population base spread out over a very large area, the NWT will need to look at solutions. It is a lot different than those in southern jurisdictions. Thank you, Mr. Speaker.

**MR. THOMPSON:** Can the Minister advise this House if any communities in the Northwest Territories actually do have a paper/cardboard recycling program being utilized presently?

**HON. ROBERT MCLEOD:** Yellowknife is the only community in the Northwest Territories to operate a paper and cardboard recycling program, funded through municipal taxes. It has recently encountered challenges in finding markets for these materials. My understanding is the city is currently stockpiling these materials onsite in the hopes that markets improve in the future. Packaging and printed paper are identified in the strategy as target material for waste reductions and diversion efforts over the next 10 years.

**MR. THOMPSON:** I appreciate the Minister for his response here today. My final question for the Minister here in regards to this concern that I have brought forward is: will the Minister work with his department to look at establishing a pilot project in Simpson and work with the village and the band in the region there to develop a paper and cardboard recycling program?

**HON. ROBERT MCLEOD:** As it is laid out in the strategy, ENR and MACA will work with the communities over the next 10 years to prevent, recycle, and better manage our waste. Through the strategy, we have committed to finding solutions for

a number of waste materials over the next 10 years. Beyond packaging and printing paper, target materials to be addressed include household hazardous waste; tires; additional electronic and electrical products; used oil; large appliances; scrap metal; construction, renovation, and demolition waste; organics; paint; mercury-containing products; and batteries. In addition to establishing a three- to five-year waste reduction or diversion program over the next 10 years, the strategy aims to develop a territory-wide backhaul program to reduce some of the logistical, financial, and technical challenges associated with removing hazardous and recyclable materials from NWT communities.

**MR. SPEAKER:** Masi. Oral questions. Member for Yellowknife Centre.

#### QUESTION 834-18(3): YELLOWKNIFE ADULT DAY PROGRAMMING

**MS. GREEN:** Thank you, Mr. Speaker. My questions are for the Minister of Health and Social Services. Each sitting, I ask the Minister about progress on creating an adult day program in Yellowknife, a program for elders to assist them with social inclusion needs and to provide respite for their families. I realize the Minister has looked at various options, but the fact is there is still nothing in place. I note that the department is surveying seniors about their social activities. Can the Minister tell us more about the survey and what its purpose is? Thank you.

**MR. SPEAKER:** Masi. Minister of Health and Social Services.

**HON. GLEN ABERNETHY:** Thank you, Mr. Speaker. Yes, the department is currently conducting a survey of potential stakeholders, potential clients, individuals who have an interest in this area, so that we can get a sense of what type of program the people and the seniors of Yellowknife really want with respect to an adult day program. That survey has gone out. We are shutting that survey down at the end of the month. I expect to have some results forwarded to me and shared with me by the department, at which point we will be able to give some direction on how to move forward.

Timing-wise, we will provide direction in this Assembly, but ultimately, it will be the next Assembly where this rolls out, but we will get that information by the end of the month. Thank you, Mr. Speaker.

**MS. GREEN:** Thank you to the Minister for that answer. What is the Minister expecting for a response rate? What would be, in his view, a statistically valid response?

**HON. GLEN ABERNETHY:** We have encouraged as many people as possible to fill out the survey. We are getting decent numbers at this point, but we need to see what we get by the end of the month. At this time, I would certainly like to take the opportunity to encourage everybody who hasn't to please get out and fill out that survey to help us design programs that will meet the needs of the residents of Yellowknife.

**MS. GREEN:** Can the Minister confirm that there is money available to implement a solution for the adult day program without having to wait for the next budget process?

**HON. GLEN ABERNETHY:** Yes, there are dollars allocated for this program. We had, obviously, hoped that we would be able to deliver this program almost two years ago, but we have had difficulty getting interest in delivery, but yes, there is money in the budget for this service.

**MR. SPEAKER:** Masi. Oral questions. Member for Yellowknife Centre.

**MS. GREEN:** Mahsi, Mr. Speaker, and thank you to the Minister. Is there any chance of action on solutions before this Minister leaves office? Mahsi.

**HON. GLEN ABERNETHY:** I have been following this file closely. As I indicated, this survey will be completed by the end of this month. I have asked the department to have a summary ready for me to look at. That will probably be in September, at which point we can provide direction on how to move forward. I hope to do that in the life of this Assembly, but at the end of the day, the rollout will be in the next Assembly. Hopefully, there will be a program that meets their needs, meets the needs of this Assembly, meets the needs of the residents, early, very early, in the life of the next government. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Oral questions. Member for Yellowknife North.

QUESTION 835-18(3):  
IMPROVING P3 CONTRACTS FOR NORTHERN  
BENEFITS

**MR. VANTHUYNE:** Thank you, Mr. Speaker. Today my questions are for the Minister of Finance. Earlier I spoke about P3 contracts and how these are becoming maybe a bit of a new norm here in the Northwest Territories, but right now they don't necessarily include northern benefit policies, such as BIP, to be applied to them or similar types of aspects of, let's say, negotiated contracts. I would like to ask the Minister: is there anything built into the negotiated process when you are negotiating with a proponent with P3s that brings northern benefit to the NWT in terms of employment or

having to use local contractors and suppliers? Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Minister of Finance.

**HON. ROBERT MCLEOD:** Thank you, Mr. Speaker. As the Member pointed out in his Member's statement before, P3 projects have allowed the government to allow their dollars to go further and make further investments in infrastructure, which is a benefit to the people of the Northwest Territories.

When a project is undertaken as a P3, a specific part of the agreement is negotiated with respect to local and northern content. A good example of this is our latest P3 project that we just completed where there was \$71 million of that particular amount that was spent on northern businesses. Thank you very much, Mr. Speaker.

**MR. VANTHUYNE:** I appreciate the Minister's reply. I guess one of the other aspects that I would like to ask the Minister is that we have another opportunity where we have to negotiate contracts sometimes where we don't go out for a public offering per se. That negotiated process allows for some added-value northern benefits to be had for training, for potential apprenticeships, for hiring, and that sort of thing. Is there any kind of requirement that we can build into our P3 negotiating process that would for sure ensure that we have northern benefits such as those that we see when we do negotiated contracts in the Northwest Territories?

**HON. ROBERT MCLEOD:** It is always our priority in the Legislative Assembly to try to make as many benefits available to Northerners as possible, and we do try to build that into a number of the projects that we have. An example of this would be the upcoming P3 project we have, the Tlicho All-Season Road. There were specific thresholds established for the private partner to meet northern and Tlicho business for construction costs, labour requirements, and local business operation requirements. As we go forward, I think that those will be built into many of the projects that the Government of the Northwest Territories would implement.

**MR. VANTHUYNE:** Thank you to the Minister for his reply. I am wondering, when we award P3 contracts, is there any opportunity thereafter where we can expect that the proponent or the operator would have a requirement that they have to put out, say, a public offering or a public tender to local and northern suppliers and contractors so that we are not just letting these operators use their previously southern contacts, and that we're ensuring at least the opportunity for northern companies and suppliers to bid on work that these operators. In the



instance of the hospital, I used an example earlier about coffee supply. Can we find a way to make sure that northern companies, northern suppliers, are going to be ensured the opportunity to bid on this type of work?

**HON. ROBERT MCLEOD:** As I said before, we will work with the proponents to try to build some of these requirements into the contract. Again, it would be up to the proponent where they will get their supplies from, but if we were able to come to sort of agreement that would benefit, the proponents obviously want to do things fairly quickly and use people that they are familiar with. Having said that, though, we need to build some of these requirements in. One of the benefits of the P3 projects, and we have seen that, I think, with the Stanton Territorial Hospital, is that they come in on time and on budget. That is a benefit of the P3 process.

**MR. SPEAKER:** Masi. Oral questions. Member for Yellowknife North.

**MR. VANTHUYNE:** Thank you, Mr. Speaker. Thank you to the Minister for the reply. I guess that, lastly, I would be looking towards opportunities where we could solidify and ensure a little bit more as it relates to local hiring and local training. Is there a way in which we could add a feature into negotiating P3 contracts that would ensure that we are going to hire locally and that have the opportunity for those operators to train people locally for the jobs that are coming forward after a P3 has been awarded? Thank you, Mr. Speaker.

**HON. ROBERT MCLEOD:** As I said earlier, we do want a lot of the benefits from these projects to go to Northerners, be it training, business opportunities, job opportunities, and it is expected in our negotiations with the proponents that these are built in so that Northerners will benefit from the money that the government spends on a lot of these infrastructure projects. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Oral questions. Member for Mackenzie Delta.

QUESTION 836-18(3):  
CHILDCARE IN FORT MCPHERSON

**MR. BLAKE:** Thank you, Mr. Speaker. In follow-up to my Member's statement, I have a few questions for the Minister responsible for ECE. As I mentioned, there is no childcare in Fort McPherson at this time. I would like to ask the Minister: how much funding is available for childcare, for setup and operations? Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Minister of Education, Culture and Employment.

**HON. CAROLINE COCHRANE:** Thank you, Mr. Speaker. There is funding available, and we are trying to get people to know that, so I am glad to actually answer that on the floor. We have start-up funding, and it goes up to, I believe, about \$25,000 just for starting their business up, and then we have health and safety funding on top of that. That is up to \$10,000, and that is for making sure that you have the proper things, fire extinguishers, et cetera, that you need to actually provide services in a daycare.

We will work with any daycare provider that wants to be licensed. We need more, and we will provide whatever services that we can to support licensed family homes or centres. Thank you, Mr. Speaker.

**MR. BLAKE:** The Minister answered a part of this, but I will ask it anyway: is the department willing to work with a provider in the community to start a daycare before the school year begins?

**HON. CAROLINE COCHRANE:** Absolutely, yes. We want daycare providers in every community. Fort McPherson does have the Aboriginal Head Start currently, but it is only a couple of hours every day and it's not enough. One of the big things we need to do, though, in every community, because every community is different, is find out how many children might be interested. That's the critical question. Does it make sense to open up a centre if you've only got two or three kids in a community who might want daycare, or does it make sense to promote a licensed family home? We are more than willing to go in to work with their community to figure what would be best for the situation.

**MR. BLAKE:** There is a big demand for childcare in Fort McPherson. A lot of people want to get back into the workforce. We are always trying encourage, especially women, to come back to the work force. I would like to ask the Minister: can someone start off out of a private home if there is no space available?

**HON. CAROLINE COCHRANE:** Yes. As a mother, even as a social worker, I think I would advocate to maintain that as it is. There are a lot of people. We do want people licensed. The ideal world would have licensed family care homes. We have grandmothers, and we have mothers, and we have like people, our sisters and stuff who are providing really good care. That means to me, as a mother and as a woman, that we need to be flexible in how we do that, so we don't penalize people for being unlicensed, but we do have additional support and financial support for people that are licensed. Anyone out there who is not licensed and figures that they could use the additional financial support, contact ECE. We would love to help you.

**MR. SPEAKER:** Masi. Oral questions. Member for Frame Lake.

QUESTION 837-18(3):  
STRATEGIC OIL AND GAS LTD.

**MR. O'REILLY:** Merci, monsieur le President. In my statement earlier today I noted that the publicly available end-of-life obligations for Cameron Hills fields seems to be over \$12 million. Even if the Minister did not provide that information when I asked back in June, can the Minister tell us who provided that information on the end-of-life obligations for Cameron Hills, as found in the creditor protection proceeding, and how it was calculated? Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Minister of Industry, Tourism and Investment.

**HON. WALLY SCHUMANN:** Thank you, Mr. Speaker. I can tell you that no GNWT department provided any input into the figure provided in the list of creditors. I am therefore unable to provide any information about what this figure includes or how it was calculated.

**MR. O'REILLY:** I want to thank the Minister for that information. I'm not sure how I can find out, but yesterday this House rolled back provisions for mandatory financial security in the Public Land Act. Now, I'm here to talk about what seems to be a shortfall in financial security for Cameron Hills. Can the Minister explain whether this apparent shortfall in financial security for Cameron Hills is going to leave taxpayers on the hook, as the owner is in creditor protection?

**HON. WALLY SCHUMANN:** I am unable to speculate on the outcome of the creditor protection process as the matter is the subject to the proceedings under the Companies' Creditor Arrangements Act. I can confirm that Strategic Oil & Gas is required to submit a revised closure and reclamation plan to the Mackenzie Valley Land and Water Board today for review and approval. During the review of that plan and upon its approval, financial security will be assessed to ensure that security held by the Government of the Northwest Territories is sufficient to cover the work required to remediate.

**MR. O'REILLY:** I want to thank the Minister for that. That is exactly what I said in the House earlier today. Unfortunately, it comes a little bit late, as the company is now in creditor protection. This happened again under our watch. Can the Minister tell us, though, whether there is any way we can turn the liabilities from Cameron Hills field back to the federal government under the Devolution Agreement?

**HON. WALLY SCHUMANN:** Under the Devolution Agreement, the Government of the Northwest Territories released the federal government from historic liabilities for sites that met criteria set out in the agreement. Factors considered were whether the site went through a modern regulatory process, compromising environment assessment regulatory and decision-making, including decisions around securities and in material compliance with the authorities. Prior to devolution, the Government of the Northwest Territories conducted due diligence on Canada's listing the sites, and could find no evidence that the Cameron Hills operation did not meet the criteria. Therefore, the site was listed as a release site. The Cameron Hills site met the criteria, and is therefore considered a release site. Therefore, under the terms of the Devolution Agreement, meaning the Government of the Northwest Territories does not appear to be able to turn the liabilities back to the federal government.

The Government of the Northwest Territories has written to the federal government outlining the situation at Cameron Hills, and the Government of Northwest Territories actions in relation to protecting taxpayers from liabilities in event that there is another mechanism to have Canada take on some responsibility.

**MR. SPEAKER:** Masi. Oral questions. Member for Frame Lake.

**MR. O'REILLY:** Merci, Monsieur le President. I want to thank the Minister for that. It sounds like we are clearly on the hook now, and this happened post-devolution. I don't know, Mr. Speaker. Our government really doesn't have a very good track record in terms of managing resources in the post-devolution world. In an unprecedented move, a Minister turned back a decision on a water licence, and then, following a request by a diamond company, unilateral changes were made to measures arising from an environmental assessment of the Tlicho all-season road. There are financial security gaps for Canton, Prairie Creek, and now Cameron Hills. Can the Minister tell the House how this government can possibly convince the federal government to turn over the Mackenzie Valley Resource Management Act in light of this poor resource management track record? Mahsi, Mr. Speaker.

**HON. WALLY SCHUMANN:** The MVRMA system provides a transparent process to review closure plans for sites and updates securities as required, and as such, a process is under way for the Cameron Hills site. The Government of the Northwest Territories has confidence in the modern system as it was envisioned in the claim and implemented through the MVRMA and institutions of public government, and we'll use all tools at its disposal to protect the public interest.

Our technical experts will continue to participate in the ongoing process by the Land and Water Board to review the closure plan and associated securities for this site. The Devolution Agreement provides for the review of the transitional provisions related to the MVRMA following the [microphone off]. Pursuant to the Devolution Agreement, the review will be conducted by the parties to the agreement, and this review is expected to commence early in the life of the next government. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Oral question. Member for Hay River North.

QUESTION 838-18(3):  
SOUTH MACKENZIE CORRECTIONAL CENTRE  
THERAPEUTIC MODEL

**MR. SIMPSON:** Thank you, Mr. Speaker. Earlier this sitting the Minister of Justice spoke about the transition of SMCC, the correction centre there, to a therapeutic model based loosely on, or rather inspired, I guess, by the Guthrie House model in Victoria. I think this is one of the most exciting things that is happening right now in corrections, if not in the entire government of the NWT.

We realize that we can't just send people into jails and expect them to come out fully rehabilitated and ready to integrate into society, and so this is an attempt to address some of those issues. It's a short time frame that people are in correctional facilities in the territories, so that is one of the challenges. I just want to get some information from the Minister about how they are addressing that challenge.

I would like to know what type of education is going to be provided to inmates attending the therapeutic model in terms of getting them ready for work, because a lot of people, they just need basic work skills. They need to know that they have to get up on time to get to work. They need to know how to punch a time clock, and that kind of stuff. Can the Minister please explain, or give us some details about, the type of education that is going to be provided in the therapeutic model? Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Minister of Justice.

**HON. LOUIS SEBERT:** Yes, thank you, Mr. Speaker. There are certain steps that have to be developed in the therapeutic community at SMCC and, of course, these are being worked on. There are such things as developing a classification criteria for residents, inclusion in the program, contingency planning, and off-grounds activities, developing lesson plans for orientation and pre-treatment healing, and also developing a structure for educational and locational programming. That is

part of the therapeutic program. However, I do not have more details than that, but we do recognize this is an important part of the program.

**MR. SIMPSON:** I understand that things work slowly in government, so hopefully the next Member to ask that question can get a little more detail. Part of the therapeutic model or, rather, the Guthrie House model requires that inmates, once they leave, they have some sort of job, that they have somewhere to go and work. Because a lot of people have gone through that model, a lot of the former, I guess, "residents" they are called, have their own businesses and they employ a lot of the people who are released from the program. We do not have that in the territory yet, but we do have a lot of businesses willing to work with people who are fresh out of corrections, so what sort of relationships and maybe agreements with the private sector has the department pursued?

**HON. LOUIS SEBERT:** I will seek some more detail on that question from the department. We do realize, of course, that that is an important part of the Guthrie House phased approach, is that, upon release, residents there have continued contact with outreach support, so what happens after the person gets released is clearly a part of the therapeutic community approach. I will attempt to provide more detail to the Member opposite.

**MR. SIMPSON:** One of the reasons that I think SMCC was chosen for this is because there is some private industry there. However, not everyone who is released is going to live in Hay River, so what type of supports are going to be provided for those people who go through this program in their home communities once they return?

**HON. LOUIS SEBERT:** That will depend, of course, on the person, the resident, being released and the ability of his home community to provide those types of supports. It will likely be different depending on the resident being released, his character and background, and also the community to which he is going.

**MR. SPEAKER:** Masi. Oral questions. Member for Hay River North.

**MR. SIMPSON:** Thank you, Mr. Speaker. It sounds like it's still to be determined, still a work in progress. Again, like I mentioned, Hay River was seen as a good place to try this model out because there is industry and there is access to all of the facilities that are needed. Was there consideration given to having a place where the inmates or residents, once they clear the program, can stay in Hay River, something like a halfway house but one that is a safe space where people can live so they do not have to go back to the conditions that brought them there in the first place? This way, the

partnerships with industry can be developed in the community, and they can have access to all of those supports. Was this idea considered? Because I know there is an opportunity to do this in Hay River.

**HON. LOUIS SEBERT:** I can advise that there was some discussion or thinking about a halfway house model in Hay River. One of the issues that concerned us, however, was that not that many of the residents at SMCC would likely have as a home community Hay River, so that was seen as an issue, but certainly we did think about it. Thank you.

**MR. SPEAKER:** Masi. Oral questions. Item 9, written questions. Item 10, returns to written questions. Item 11, replies to the Commissioner's opening address. Item 12, petitions. Item 13, reports of committees on the review of bills. Item 14, tabling of documents. The Honourable Premier.

### Tabling of Documents

TABLED DOCUMENT 504-18(3):  
TOWARD A PLAN – STRENGTHENING  
CANADA'S POSITION IN THE ARCTIC

**HON. BOB MCLEOD:** Thank you, Mr. Speaker. I wish to table to following document entitled "Toward a Plan – Strengthening Canada's Position in the Arctic." Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Tabling of documents. Minister of Infrastructure.

TABLED DOCUMENT 505-18(3):  
COMMUNITY ACCESS PROGRAM 2018-2019  
RESULTS REPORT, DEPARTMENT OF  
INFRASTRUCTURE

**HON. WALLY SCHUMANN:** Mr. Speaker, I wish to table the following document entitled "Community Access Program 2018-2019 Results Report, Department of Infrastructure." Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Tabling of documents. Minister of Education, Culture and Employment.

TABLED DOCUMENT 506-18(3):  
SUPPORTING ACCESS TO CHILD CARE IN THE  
NWT 2019-2020 SUPPLEMENTARY ACTION  
PLAN

**HON. CAROLINE COCHRANE:** Mr. Speaker, I wish to table the following document entitled "Supporting Access to Child Care in the NWT 2019-2020 Supplementary Action Plan." Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. Tabling of documents. Minister of Health and Social Services.

TABLED DOCUMENT 507-18(3):  
GOVERNMENT OF THE NORTHWEST  
TERRITORIES RESPONSE TO COMMITTEE  
REPORT 23-18(3): REPORT ON THE REVIEW OF  
BILL 40: SMOKING CONTROL AND REDUCTION  
ACT AND BILL 41: TOBACCO AND VAPOUR  
PRODUCTS CONTROL ACT

**HON. GLEN ABERNETHY:** Mr. Speaker, I wish to table the following document entitled "Government of the Northwest Territories Response to Committee Report 23-18(3): Report on the Review of Bill 40: Smoking Control and Reduction Act and Bill 41: Tobacco and Vapour Products Control Act." Thank you, Mr. Speaker.

TABLED DOCUMENT 508-18(3):  
LEGISLATIVE ASSEMBLY RETIRING  
ALLOWANCE FUND FINANCIAL STATEMENT  
FOR THE YEAR ENDED MARCH 31, 2019

**MR. SPEAKER:** Masi. Tabling of documents. Pursuant to section 21 of the Legislative Assembly Retiring Allowances Act, I wish to table "Legislative Assembly Retiring Allowance Fund Financial Statement for the Year Ended March 31, 2019."

Item 15, notices of motion. Item 16, notices of motion for first reading of bills. Item 17, motions. Item 18, first reading of bills. Item 19, second reading of bills. Item 20, consideration in Committee of the Whole of bills and other matters: Bill 34, Mineral Resources Act; Bill 45, Corrections Act; Committee Report 29-18(3), Standing Committee on Economic Development and Environment Report on the Perceptions Held by Northern Businesses toward the Government of the Northwest Territories' Procurement Processes; Committee Report 32-18(3), Standing Committee on Economic Development Committee Report on the Process Used for Devolution Legislative Initiatives; Committee Report 33-18(3), Standing Committee on Economic Development and Environment Report on Bill 34, Mineral Resources Act; Committee Report 34-18(3), Standing Committee on Social Development Report on the Review of Bill 45, Corrections Act; Minister's Statement 151-18(3), New Federal Infrastructure Agreement; Minister's Statement 158-18(3), Developments in Early Childhood Programs and Services; Minister's Statement 211-18(3), Addressing the Caribou Crisis; Tabled Document 442-18(3), 2030 NWT Climate Change Strategic Framework 2019-2023 Action Plan. By the authority given to me as Speaker by Motion 7-18(3), I hereby authorize the House to sit beyond the daily hour of adjournment to consider the business before the House, with the Member for Hay River North in the chair.

### Consideration in Committee of the Whole of Bills and Other Matters

**CHAIRPERSON (Mr. Simpson):** I now call Committee of the Whole to order. What is the wish of committee? Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. Committee would like to review Committee Report 33-18(3), Standing Committee on Economic Development and Environment Report on Review of Bill 34, Mineral Resources Act; and Bill 34, Mineral Resources Act. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Vanthuyne. Does committee agree?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. We will consider the documents, but first, a brief recess.

---SHORT RECESS

**CHAIRPERSON (Mr. Simpson):** I will now call Committee of the Whole back to order. Committee, we have agreed to first consider Committee Report 33-18(3), Standing Committee on Economic Development and Environment Report on Bill 34, Mineral Resources Act. I will turn to the chair of the Standing Committee on Economic Development and Environment for opening comments. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. Bill 34, Mineral Resources Act, was referred to the Standing Committee on Economic Development and Environment on February 12, 2019. On August 12, 2019, the committee was granted an extension to continue its review. The committee sent letters inviting input from an extensive list of stakeholders, including municipal and Indigenous governments in the Northwest Territories, as well as a number of non-governmental organizations and stakeholders.

The committee travelled throughout the territory and held public hearings in Inuvik, Norman Wells, and Yellowknife. The committee thanks everyone who attended these meetings or provided written submissions sharing their views on Bill 34. The committee concluded its review of Bill 34, Mineral Resources Act, on August 15, 2019 with a public clause-by-clause review held in the Great Hall of the Legislative Assembly building.

The committee carried 46 motions to amend Bill 34, of which 40 received concurrence from the Minister. The Minister also concurred with an individual Member's motion that was moved at the clause-by-clause review and carried by the committee. The committee thanks Minister Schumann and his officials for their collaboration in the development of

those motions. I will have committee motions to move with regard to recommendations in the report at the appropriate time. Individual Members may have additional comments or questions on the report. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Committee, I will open the floor to general comments on the report on Bill 34. This is not the bill. This is the report on the bill. We will be considering the bill after consideration of the report. General comments on the report on Bill 34. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. As many Members know, I am a committee meeting junkie. I go to all of the different committee meetings that I can, so I had the privilege of attending many of the social envelope reviews of bills, participated in the SCEDE reviews of environmental resources legislation, as well, or bills. I think it would be fair to say that my impression, my takeaway, was that, on the social envelope side, it was often easier to work with Ministers and departments in making progress on improving bills, and I think it was a very difficult process on the resource and environmental side with the bills that SCEDE had to deal with. Of course, this all culminated in the four-and-a-half-hour, monumental clause-by-clause review of this bill that took place last Thursday evening. It's now available for viewing on the YouTube channel for anybody who wants to relive that great event.

You know, I think it's fair to say that committee spent a very significant amount of time reviewing this bill and working very, very hard to improve it. There is obviously a lot of strong public interest in this bill. There were very detailed submissions from Indigenous governments, industry, and NGOs. I don't think that I have seen that level of interest in another bill before this Legislative Assembly, so I want to thank everyone for their very detailed and helpful input.

I also want to note that, at the beginning of the process, there was a lot promised with this legislation, and not all of those promises have been delivered on. Things that were promised included a review of royalties, map staking, all kinds of things, some of which just have not been delivered on, and I think that we probably bit off too much to chew, really. One of the key things that I think did cause some differences between the Minister and the committee when we were undertaking the review was the mixed roles of Industry, Tourism and Investment. Clearly they have a role in promoting mining resource development, and I have always given the department and the staff a lot of credit for the work that they have done. They are very good promoters of resource development, as they can and should be, but they also have a role, under this bill, to regulate mineral rights, and that is what this

bill is about. It is not about promoting mining; it is about mineral rights administration, to try to reach a fair compromise in terms of the public interest and the interest of the industry, and I'm not sure that we always achieved the right balance.

This was the kind of mixed roles and responsibilities that the department often brought to the bill in trying to understand the vision that people have with regard to where they want to go with mineral rights and administration management. It was difficult to understand at times, and I think that sometimes there are differences of what that vision can and should look like, and how the balance between the public and private interests should be achieved.

A lot has been promised. There are some things that have been delivered on, and I do want to go over some of the good things and some of the things that I think still need a lot more work. A lot of the work has been left to details. A lot of the very important policy work decisions are left to future regulations. This will take years to roll out. This is not going to be everybody's solution, and it can't even be brought into force right away, because a bunch of other changes need to be made. There needs to be a detailed implementation plan, and we are going to talk a little bit more about that.

There are some good things that this bill does. This is the kind of lens that I think that committee, and certainly myself, have always brought to this legislation: how can we improve transparency and accountability? There will be a public registry or at least portions of a registry that is available to the public. There will be detailed annual reporting. There is some clarification on how dispute resolution is going to be handled; instead of through a panel, it is now going to be a mining rights review board. I think that there have been some improvements made in the bill as a result of committee's review, but I think that there are also some very key sticking areas that have not received the consideration that they deserve. If we had had more time, I think that we, perhaps, could have reached some compromise on a number of areas.

As hard as committee tried, we were not able to reach any agreement with the Minister and the department over what role municipal governments can play and how they can be informed so that we can encourage good working relationships and treat them with the recognition and respect that they deserve. Committee was not able to reach any kind of a compromise or agreement with the Minister on that matter, and that is a huge disappointment to me personally.

I think that there are some issues, still, around zones and whether these are in the public interest and represent good public policy. Royalties haven't

been dealt with; that has been punted off to the 19<sup>th</sup> Assembly. We have some bad actor provisions in the bill, and I think that they are quite weak, quite frankly. We could have done more work to improve them. Montana actually has much stronger provisions based on a whole series of abandoned mines in that jurisdiction. We are not that far different from what is happening in Montana in some ways, and I think that we can and should have done a lot more on that to make them stronger provisions.

I am not going to say a lot about benefits, because I think that that is going to be a big part of the discussion as we move all the way through the bill, but I do think that the benefits provisions, particularly in terms of public benefits, are very vague and uncertain and create not the kind of clarity that this bill had promised. I think that that can and should have received a lot more attention and work to try to fix that up.

I think that those are all the remarks that I have for now, Mr. Chair, but I do want to congratulate the committee for the fine work that they undertook in reviewing this bill, and particularly the chair, who had to deal with an unruly mob at times amongst the committee Members alone. His chairing of the monumental clause-by-clause review meeting was much appreciated and helped to keep things moving along, so I do want to recognize his efforts and thank him personally for that. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I am going to try to confine my comments as much as possible to the substance of the report and the committee's experience in reviewing the bill.

Not getting into the substantive merits, flaws, or concerns around the actual piece of legislation, committee's process was, I think, an interesting one, where the steps were taken to collaborate with the sponsoring Minister on how we could find common ground on improvements to the bill, but there were some very hard lines that were established in our process. That kind of intransigence is very difficult to deal with in a system of government where the Minister is ultimately the gatekeeper of changes made to the bill.

Oftentimes, the lack of certainty and clarity were really the fundamental concerns of committee, and it took a lot of public engagement to address some of those concerns with substantive changes to the bill and the necessary improvements. I think that should be a reminder of how important public engagement is and how important public views are

in shaping the legislative process in this House. We have to constantly endeavour to ensure that that takes place, because sometimes both governments and Members can miss the point of things that are important to Northerners and to our partner governments and, of course, in this case, to industry as well.

I still think that we could have had a smoother process if committee had been more engaged and involved with the drafting of the bill and had a better understanding of how that was managed. The committee will be bringing forward a more comprehensive report on this, but in the case of this bill, in particular, the co-drafting exercise, which I think is a necessary step in the evolution of governance in the Northwest Territories and establishing a very clear role for Indigenous partnership in drafting public laws, there still needs to be a role of legislative oversight and the ability of both the public and of Members of this House and appropriate standing committees to alter, change, improve, or otherwise make amendments to sections that have been previously agreed-upon at the drafting level.

I think that that needs to be a very clear part of our process that intransigence and hard lines drawn on changes to bills really have to be carefully considered. The viewpoints that are shared with the committee need to be carefully considered by government Ministers as well, because, again, they are the ultimate gatekeepers on what can be changed at the committee stage, and if the committee feels very strongly that changes need to be made and that is backed up by public viewpoints, it can be a very frustrating experience to not be allowed to make those changes, even when your convictions say that they ought to be made.

That being said, there were plenty of other areas of common ground that the committee was able to find with the sponsoring Minister and direct relationships with staff on both ends of the table, that helped make some of those compromise adjustments to the bill. It's not all bad, but certainly the largest concerns I do not think really found the cooperation necessary to address them in a timely fashion, which is one of the reasons by the clause-by-clause was a four-hour review, late into the night. I hope we can avoid this in the future, especially around pivotal pieces of legislation like the Mineral Resources Act, and I hope we can broaden our engagement at all times when we are passing laws like this, that are fundamental to our economy, fundamental to our territory, that involve as much public input and stakeholder engagement as possible.

That should be an important lesson learned for all Members of the House, but in particular

governments who are bringing forward legislation: do it early; don't do it late; give time for committee to request extensions when needed to do their due diligence; and make sure that bills are ready to go forward so that we are not in a situation where we have to go back later on and make improvements after all of this process has gone by and that the public feels like there is actual opportunity for this House to change bills in a way that the public supports because that fundamentally is our role. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Further? Mr. McNeely.

**MR. MCNEELY:** Thank you, Mr. Chair. I will reserve my opening comments once we get into the actual bill itself, not the report. I just want to put that on the record. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. McNeely. A bit of a teaser there from Mr. McNeely. Anything further? Mr. Vanthuyne.

COMMITTEE MOTION 206-18(3):  
STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND ENVIRONMENT REPORT  
ON THE REVIEW OF BILL 34: MINERAL  
RESOURCES ACT - CURRICULUM FOR  
PROSPECTOR TRAINING,  
CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Chair. I move that this committee recommends that the Government of the Northwest Territories develop the curriculum for prospector training, working with Aurora College, the Mine Training Society, and in consultation with industry experts who can offer expertise in the applied content subject matter. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. It is being distributed. The motion has been distributed. To the motion. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chairman. This is a motion where we felt that part of what the government will be undertaking is that, when prospectors or potential prospectors and explorers are applying for a prospector's licence, part of that process now will include that they take some courses that have to do with providing some degree of awareness so that prospectors and explorers can and will be informed with regard to the activities that would be taking place, and especially if they are not from around the Northwest Territories, that they receive some degree of awareness as it relates to certain sensitivities, let's say, with regard to prospecting and exploring in the Northwest Territories. So that is the intention behind this. The Mine Training Society, Aurora College, and others,

and in particular industry do have a history here in the Northwest Territories of working collaboratively to put forward programs that are relevant to exploration and mining. We have seen in the past some prospector programs. We have seen a geoscience field technician-type program. We believe that this is a good motion to support. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. While I support the motion, I think it needs to be clearly stated on the record that there were others who felt that they had expertise to offer in terms of prospector training. I think Indigenous governments, Indigenous elders, would have some perspective, some expert knowledge that they could share in terms of cultural awareness and awareness of the land rights agreements and our co-management system that mining is required to operate within. I know NGOs also expressed an interest in having an opportunity to look at whatever kind of curriculum was developed.

I note that, in Ontario, there are already online training modules that people have to walk through and pass a test, essentially. I have looked at that information myself, and I think we can and should adopt some of the ideas that Ontario already has in place. However, it's not just industry experts that I think have something to offer here. There are other parties that can and should be engaged in the development of training materials, and they have asked for that opportunity, so I am sure the Minister will ensure that they have an opportunity to get engaged in the development of this information, as well. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Further general comments on the report or, rather, sorry, we are on a motion here. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Thank you. Mr. Vanthuyne.

COMMITTEE MOTION 207-18(3):  
STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND ENVIRONMENT REPORT  
ON THE REVIEW OF BILL 34: MINERAL  
RESOURCES ACT - SOLUTIONS FOR RIGHTS  
ISSUANCE OVERLAPPING MUNICIPAL  
BOUNDARIES,  
CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Chair. I move that this committee recommends that the Government of the Northwest Territories work with the NWT Association of Communities and municipal governments in the Northwest Territories to develop solutions to resolve the challenges of rights issuance that overlaps with municipal boundaries, in order to better protect municipal infrastructure and ensure public interest is protected; and further, efforts should also be directed at protection of lands and waters where critical municipal infrastructure is located or planned. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion. The motion is on the floor and in order. To the motion. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. I think that the motion sort of speaks for itself. What we discovered when we were travelling with the bill in a lot of the regional centres and in particular Yellowknife is that there is a genuine concern with regard to making sure that the public's interests are protected, especially as it relates to the critical infrastructure. A couple of good examples are things like quarries and say for example water intake lines. These are areas of interest to the city that they are concerned with when it comes to people being able to put some kind of claim or stake over these particular interests, and so, you know, we made some certain attempts to try to address this through way of various motions to this bill. Unfortunately, none of those passed, and so this is a recommendation on behalf of committee that says that the government needs to pay attention to these needs that municipal governments have as it relates to protecting the best interests of their citizens, especially as it relates to those critical pieces of infrastructure that they need to basically protect and promote the interests of their residents. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. So, yes, committee did hear concerns around the impacts of mineral exploration and development within municipal boundaries and where this has led to some issues of land use conflicts, particularly in Inuvik. I am certainly well aware of a number of prominent cases that have been in the media around land use conflicts in Dawson around Placer Mining. Although committee tried to work with the Minister on this to try to find ways to provide notice and opportunities for temporary restrictions linked to municipal interests and purpose within communities boundaries and so on, we weren't able to make any progress because amendments required ministerial concurrence and he was not prepared to go there. So this is an attempt to try to



get the Minister to address this issue and our government to address this issue on a policy basis going forward.

You know, realistically, what you would expect to happen is, once a community has identified key municipal infrastructure, like potable water, that there be a way to protect potable water sources permanently from activities that could impact potable water, source water. I think that was even some efforts that were being done by Environment and Natural Resources to protect potable source water for municipal governments. As municipalities grow and change, they may need to look at areas outside of their boundaries for sewage treatment, municipal landfills, recreational opportunities, that are even outside of their own boundaries.

We want to make sure that our communities have the ability to make sure that their investments are respected and so on. The efforts that committee was trying to go through were to try to prevent land use conflicts from happening in the first place and encouraging good neighbour relationships. TerraX has a great relationship within Yellowknife, but we wanted to find ways to try to instill that into the bill. Unfortunately, they weren't successful, so here is an attempt to try to get our government to deal with these issues on a policy basis going forward. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I agree with the intent of this motion, and this is not a hypothetical situation where there is a problem with the interaction between the challenges of rights issuances within municipal boundaries. This is a live issue. It has happened in Inuvik, and the committee was told about it in Inuvik. During the clause-by-clause, there wasn't support from the sponsoring Minister to resolve this issue the way that the committee thought would be a reasonable way to address it.

That being said, I think that there is a lot of merit to this, and the motion does more or less speak to itself, but what we have heard so far is that the concern is, when you are dealing with Indigenous governments and Indigenous organizations, that they have inherent rights that are protected by the charter and rights over lands and resources. Those rights need to be addressed in legislation and by government policy.

I don't disagree. That's really not a question; that's the reality. It is good that the legislation governs that, but when it comes to municipalities, they have the rights that we give them as a territorial government. They are creatures of statute, and if we change the statute to reflect a different role for

them, especially in regards to solving this problem, it is not removing rights from someone else or an inappropriate issuance of rights. It is what we have decided is appropriate to strengthen local governance in the Northwest Territories.

Our Ministers are very, very proud of their times served in the bear pit over the years. All of our MACA Ministers talk about that, but we have to do more than just take their concerns. We actually have to address these fundamental issues of local governance when we have the opportunity to do so. I think that that is what the committee tried to do.

I already know that, most likely, the response to this motion will be that they will do the workarounds as best as possible, but sometimes these require going to court, which adds additional costs to both industry and municipalities, and when it comes to municipalities, it is taxpayers who foot that bill at the end of the day. If we can find any way to resolve that through legislation and through reasonable applications of things like restricted areas, I think that it is something that we ought to be doing.

Again, these are creatures of statute. By granting them additional powers to request things like a restricted area, it's not taking away rights from Indigenous governments, and it's not impinging on the rights of Indigenous governments. It's creating new authorities for municipalities to better exercise control over their boundaries and to preserve vital public infrastructure for public purposes.

I really hope we don't see another response like that and that we can change the government's perspective on these issues and start actually giving meaningful changes to our municipal partners. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Mr. Vanthuyne.

COMMITTEE MOTION 208-18(3):  
STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND ENVIRONMENT REPORT  
ON THE REVIEW OF BILL 34: MINERAL  
RESOURCES ACT - INDEPENDENT PANEL TO  
REVIEW ROYALTIES SYSTEM,  
CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Chair. I move that this committee recommends that the

Government of the Northwest Territories appoint an independent panel to undertake a review of the system for charging royalties to mining, petroleum, and natural gas companies operating in the Northwest Territories, and further, this review should include a comparison of the Northwest Territories system with that used in other jurisdictions and should make recommendations on system improvement while providing opportunities for public input. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Vanthuyne. The motion is in order. To the motion. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. I will let other Members elaborate a little bit more on this, but generally, the genesis of where this motion comes from is recognizing that, while this particular bill didn't undertake any detailed specifics as it relates to royalties, there was a sense out there from folks who partook that they wanted to see some degree of a review on royalties and, also, as it relates to other mining financial or fiscal aspects.

I think that we recognized that the department is willing to undertake a two-part review of the financial or fiscal regime of mining and oil and gas and royalties in general and taxation in general. We commend them in that regard. This motion speaks to starting an independent panel that would be a part of undertaking that process. Of course, this would allow an opportunity for some public input. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. Mines in the Northwest Territories or the minerals industry in the Northwest Territories pays a lot more than just royalties. Our fiscal regime is very unique in that we charge rents and other forms of revenue-generating fees to active mines that produce revenue that is used for public purposes outside of that royalty regime. I think that what I learned, at least, and I won't speak too much for committee here, but this is a much larger issue than just royalties. It is how we deal with public benefits by raising revenues from the minerals industry across the board.

If we are going to address this, we need to address all aspects of the system, not just one approach. This is, I think, a sound amendment, because it addresses that and asks that it be an independent review. It is not an in-house review that comes forward in the form of a document that is laid on the floor of the House, but it is actually an independent review that can give a fair assessment and a transparent assessment of the benefits of extractive natural resource industries in the Northwest Territories. I think that that would settle a lot of the

questions that people have of the benefits of the minerals industry in particular, and the oil and gas industry as well. It needs to be undertaken, but we have to make sure that it is done right, and that it is done in a way that people aren't going to criticize because it was an in-house review that perhaps doesn't have the best terms attached to it. Clear terms of reference; independent panel; that's the way to go.

I think that we will get answers to a lot of the questions that have been raised. We will get the facts as to how much these industries contribute to our economy and contribute to our government. We can make those adjustments that a lot of people have been calling for over the years and ensure that we have a sound system. I think that there is, again, way too many moving parts here to just confine it to royalties. This process is going to greatly improve on how we manage our fiscal regime if it is done right and if it goes to an independent panel. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Nakimayak.

**MR. NAKIMAYAK:** Thank you, Mr. Chair. I don't agree with this motion. This takes away from the mining industry, working out those agreements that they have with Indigenous governments, and also with the GNWT. I think that this motion kind of undermines that and their working parts. They are doing things already to take care of this, and this seems like an expensive add to what is going on here. I think this takes away from the negotiating capabilities from Indigenous groups, the mining industry, and the government-to-government relationship that the GNWT has with industry and with Indigenous groups. It doesn't really make sense to me, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. When ITI went out the first time to talk about the Mineral Resources Act, the idea of royalties was part of the scope of those original consultations. They said that they were going to conduct a review of the royalty regime. That was what was promised. We didn't get it. I think I understand why: because it is very complicated. That is what they promised, and they didn't deliver. It is part of the post-devolution promise of "We are going to devolve and then evolve."

Now that our government has taken over something as significant as mineral resources and how we manage those, I think we owe it to our citizens to look at the revenues that accrue to this government as a result of mineral extraction. That is what any reasonable jurisdiction would do. The federal

government didn't really do a very good job of this. That is not going to change under this government, at least during the 18<sup>th</sup> Assembly.

Of course, this doesn't take away from Indigenous governments' rights, and so on, because they already have rights in their own agreements that enable and entitle them to be involved in any kind of review, and that that could be a separate, bi-lateral discussions, negotiations, and so on. I am sure that our government will do its best to respect that. In no way will this take away from the inherent rights of Indigenous governments.

Certainly, when the department talked about this initially, I said, "This is going to be very complicated." It is not just royalties. It is about taxation. It is about the property taxes that mining companies pay, and the general taxation area, as well. It is also about taxes that the workers pay, and that is usually the biggest amount of revenue that accrues to our government.

I understand that this is complicated, but that shouldn't prevent it from happening. That is what the public deserves.

I talked about the mixed role of this department in promoting mining and regulating it at the same time. There is an inherent conflict there. I don't think that this kind of review is something that should be handled internally by the department. That is why this recommendation has suggested that there should be some independent experts who can be brought to bear on this and give advice with public input. The review really does need to be conducted by an independent panel, not an internal review conducted by the department.

The last part of this of this motion is about making sure that there are opportunities for public input. That should include, of course, the mining industry itself who obviously has a stake in this, NGOs, the public, businesses, the business community. They should all have an ability to participate in this kind of review.

I think this is a sound recommendation. I will support it. I look forward to the 19<sup>th</sup> Assembly dealing with this matter, ensuring that it is independent and there is expert advice brought to bear on this and that there are opportunities for public to be engaged. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Mr. Vanthuyne.

COMMITTEE MOTION 209-18(3):  
STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND ENVIRONMENT REPORT  
ON THE REVIEW OF BILL 34: MINERAL  
RESOURCES ACT - PRINCIPLES, TOOLS, AND  
INDICATORS FOR PERFORMANCE,  
TRANSPARENCY AND ACCOUNTABILITY,  
CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Chair. I move that this committee recommends that the Government of the Northwest Territories assess, develop, and adopt a set of principles, tools, and indicators to drive performance and ensure greater transparency and accountability, such as those contained in the Extractive Industries Transparency Initiative (EITI), or the 'Towards Sustainable Mining' (TSM) commitment of the Mining Association of Canada. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. It is in order. To the motion. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. Some of this was touched on just in our last motion here. I won't elaborate too much. I think this goes to show that there is still a continued desire for public to understand exactly what contributions mining makes to the Northwest Territories in its various forms. There is this desire for more transparency in that regard. We see here in this recommendation and we are encouraging the government to use best practices. Some of the models that we do see are some of the ones that have been named in this recommendation.

Frankly, these are ones that the mining industry generally supports. The Mining Association of Canada, a number of their members already undertake these initiatives on their own volition. We are simply asking our government to use what is considered to be some of the best practices with regards to models of reporting and apply them to the Northwest Territories. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I support this motion. I have made statements in the House already about Extractive Industries Transparency Initiative and how I believe our government should adopt this as a number of other governments around the world have. I have made statements in the House about how some of the mining companies that operate here have already

accepted this initiative and the kind of reporting that would be required.

The federal government already has in place something called the Extractive Sector Transparency Measures Act. The problem with that act is that it is based on self-reporting by companies. They have different reporting entities. They use different financial years. There seems to be some confusion between what constitutes a royalty versus a fee versus taxes. There is no quality assurance/quality control that I can detect in terms of the reporting that is done via the Natural Resources Canada website.

We had discussions with the department, the Minister about that. I think there is even some wording in the bill around this. This does not constitute a proper reporting transparency measure of the federal legislation. I think our citizens deserve to know how much royalty each mine pays. That is just a very simple fact. Yet, our government has refused to disclose this to our citizens.

This motion is an effort to try to move us a little bit more towards greater transparency and accountability. I support it. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. Again, I think that we have heard a commitment from the government that there is going to be this comprehensive financial review of everything that is at play with natural resources, including royalties, including transparency, including reporting.

I have great confidence that the 19<sup>th</sup> Assembly will be dealing with this issue. I view these recommendations as more of guidance to the next Assembly on what this committee's experience was and to take those lessons on in building that review and ensuring that it addresses the concerns that we have heard and the evidence that we have considered.

I do think these tools, again, which are indicated in the motion, have broad support from civil society, from industry, and from governments. I think they are a good way forward. I support this motion. I hope the future government will be reminded of our work and take that on as they conduct this public review in the future. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Mr. Vanthuyne.

COMMITTEE MOTION 210-18(3):  
STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND ENVIRONMENT REPORT  
ON THE REVIEW OF BILL 34: MINERAL  
RESOURCES ACT - IMPLEMENTATION PLAN  
FOR MINERAL RESOURCES ACT,  
CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Chair. I move that this committee recommends that the Government of the Northwest Territories develop an implementation plan for the Mineral Resources Act that identifies short and longer-term objectives, such as the development of regulations, and which identifies how key stakeholders will be engaged; and further, that the Government of the Northwest Territories return to the appropriate standing committee in the 19<sup>th</sup> Legislative Assembly with a copy of the draft implementation plan for committee. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Vanthuyne. There is a motion on the floor. The motion is in order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Committee was made aware of how Quebec and Ontario, two major jurisdictions in Canada, carried out major reviews of their mining rights legislation. Ontario, the roll-out of that actually took about a decade to achieve. I know that we did have some discussions with the Minister and his staff around this. This is not going to happen quickly. There's a whole variety of regulations that need to be developed and some very serious policy discussions that need to take place with Indigenous governments, and hopefully the public and the industry.

The intent of this is to try to make sure that there is an implementation plan so that we can clearly communicate how long this is going to take, and establish some milestones, some indicators of progress and some accountability as this rolls out. That's the purpose of this motion, Mr. Chair, and I look forward to the Minister responding.

**CHAIRPERSON (Mr. Simpson):** To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Mr. Vanthuyne.

COMMITTEE MOTION 211-18(3):  
STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND ENVIRONMENT REPORT  
ON THE REVIEW OF BILL 34: MINERAL  
RESOURCES ACT - REGULATORY GAP  
REGARDING REMOVAL OF DRILL CORE,  
CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Chair. I move that this committee recommends that the previously noted implementation plan identify how the regulatory gap related to the matter of removing drill core be resolved. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. Through this process, I think that we recognize that there, of course, is one of the most important aspects of mining and exploration is drill core, and that it can be a little bit challenging and costly at times to store and/or move drill core, but that its preservation is very important due to what it can provide for history and for future exploration opportunities.

We felt that there was certainly a need to be able to address those challenges that we have as it relates to making sure that we are safeguarding drill core, and making sure that it's going to have some opportunity in the future to be accessible to those who might have some interests in exploration or prospecting in the Northwest Territories, or even for mines. That's the basis of it, but I think others might want to talk around this as well. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Anybody who has hiked around Yellowknife knows that you can stumble across drill cores out in the bush that have been left there. As my colleague from Yellowknife North mentioned, we want to ensure that the money they expensed, the effort that has gone into drilling and retrieving core and storing it, that geological knowledge is protected. In some cases, drill core, when it's left out in the open can present a safety issue, a public safety issue, when cores start to fall over and so on. Some of the core may have the potential to generate acid, leach metals, so that there can be some environmental issues around some of the cores that might be brought above ground. I'm happy to say that we did work with the Minister and the department to make a couple of changes to the bill so that abandonment is now subject to regulations at the Minister's discretion.

What we did discover is that drill core is not actually dealt with in any way through something like the

Mackenzie Valley Land Use Regulations, Territorial Land Use Regulations. The thresholds and items covered in those regulations don't really cover drill core. This is a policy recommendation around making sure that we close up that regulatory gap in the other regulations that deal more generally with reclamation and restoration of lands so that we capture the geological knowledge to make sure that there is no safety or environmental issues in the future. I support this. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Mr. Vanthuyne.

COMMITTEE MOTION 212-18(3):  
STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND ENVIRONMENT REPORT  
ON THE REVIEW OF BILL 34: MINERAL  
RESOURCES ACT - GOVERNMENT RESPONSE  
TO RECOMMENDATIONS, CARRIED

**MR. VANTHUYNE:** Thank you, Mr. Chair. I move that this committee recommends, to the extent it is possible before the dissolution of the 18<sup>th</sup> Assembly and for the public record, that the government provide a response to these recommendations, even of a preliminary nature, that committee may publicly disclose. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Seeing nothing further, does committee agree this concludes our consideration of Committee Report 33-18(3)?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. This concludes consideration of Committee Report 33-18(3). Committee, we will move onto consideration of Bill 34 after a very brief recess.

---SHORT RECESS

**CHAIRPERSON (Mr. Simpson):** I will now call Committee of the Whole back to order. Committee, we have agreed to consider Bill 34, Mineral Resources Act. I will turn to the Minister responsible for opening comments. Minister Schumann.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. I am pleased to introduce Bill 34, Mineral Resources Act. Bill 34 is part of our government's work to improve the Northwest Territories land and resource management regime to ensure Northerners are able to make decisions that support sustainable, responsible development and protection of the environment while respecting Indigenous rights.

Today I would like to speak with you about its purpose and our vision for what it can achieve. First and foremost, this legislation is the foundation upon which our management of the mineral industry can be built. Its defining goals are to give our government the ability to respond to the wants and needs of our people, bring clarity and certainty where it is lacking, modernizing how we govern mineral resources, and codifying our current best practices. The new authorities proposed in this act will give us the ability to establish regulations to match those ambitions. We believe the Mineral Resources Act defines a vision for managing exploration and mining in a way that makes sure Northwest Territories residents benefit, fosters positive relationships, and advances the public interest while maintaining a balanced approach and encouraging investment.

Contained within this bill are provisions which would ensure benefits for Indigenous governments and organizations for major mining projects that enter the operations phase of a mine. It is our firm belief that it is good public policy to codify our territory's longstanding commitment to bringing benefits to Indigenous communities from resource projects. While this is the first in legislation for Canada, the intent is to simplify and translate the practice of negotiating with Indigenous governments, which mining companies are either already doing or are expected to do in some form, wherever they do business into law. We think that this requirement can have a positive impact on investment decisions, as there is a growing movement toward sustainable financing by large investors with benefit to and support from Indigenous governments increasingly seen as a necessity.

Bill 34 also addresses benefit-generating tools for all Northwest Territories residents. The bill will clarify an approach that has existed in practice in our existing socio-economic agreements. As a government, we work collectively with our producers toward shared goals, but at the same time, provide the flexibility to allow evolution in

these agreements or to use other appropriate tools to generate benefits for the territory in the future.

For Indigenous governments, communities, public government, and those looking to do business here, there are measures in this bill which will benefit each of them as they work to build mutually beneficial relationships in the mining industry. We believe that this bill will encourage early engagement, better communication, and predictable dispute resolution. This bill defines new authorities, reducing conflict by addressing gaps around sensitive lands and local awareness amongst those exploring for minerals.

We have proposed zones to create a method for Indigenous governments to drive where and how they could attract exploration investment within their lands by recommending them to the Minister. We also believe that they will create certainty by providing clarity on where IGOs wish to encourage exploration and where exploration is welcome.

We are also proposing a tool for Indigenous governments to quickly access protection of areas or sensitive cultural, ecological, or spiritual considerations facing imminent harm exists and were previously unknown. This would be a short-term measure to bridge the gap on a way to a permanent solution.

The Mineral Resources Act will enable our exploration regime to move into the 21<sup>st</sup> Century with online map staking. This will actually help facilitate and improve communication and transparency once implemented. We recognize that geological information is key, and that a whole lot about it is collected through the mineral exploration to mining activities. This bill will give us the authorities to collect more geoscience information through all stages of the mineral development cycle. Such measures would add to our understanding of the territory's geology, and when that information is made public, it has the potential to encourage economic development in the future. The act also respects the need for reasonable confidentiality to protect commercial interests.

Bill 34 is one of the most significant pieces of legislation introduced in the Northwest Territories since devolution in 2014. The department completed extensive legislative research, multiplatform engagement campaign where the public, Indigenous governments, industries, NGOs, and other interested stakeholders were invited to comment, feedback from those on Standing Committee on Economic Development and Environment, and close collaboration with intergovernmental council throughout the policy development process.

The department produced and promoted plain language materials to assist in informing the public. The Department of Industry, Tourism and Investment has worked with the legislative division of the Department of Justice on this bill. The department has been clear that many regulations, along with the accompanying awareness materials, must be completed to bring provisions of this act into force should it pass.

We are committed to moving forward in the spirit of collaboration with our partners on the intergovernmental council, our industry, and of all our affected stakeholders, and we recognize how important that collaboration will be in getting implementation right. Everyone involved in the making of this bill wants improved investor confidence, and we also want to maintain increased investment in the Northwest Territories.

The bill will not come into force until necessary regulations are in place for the act's general function. The implementation of the Mineral Resources Act will be a phased approach. This is consistent among other jurisdictions that have done similar overhauls of their mining legislation.

I wish to commend the Standing Committee on Economic Development and Environment on their continued engagement with the public as this bill has moved through the legislative process. It is an important bill, and I appreciate how much time and effort has been dedicated by all parties. I hope that the plain language materials that the department has produced and promoted since introduction were helpful in informing the public.

I welcome any questions that Members may have. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Does the chair of the committee that reviewed the bill have any opening comments? Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. I appreciate the Minister's opening comments. I think that he spoke well to the bill in general. I just do want to touch one more time on committee's experiences to some degree and just say again that we agree with the Minister that, clearly, this is one of those laws for this territory that is certainly incredibly important for the success of our territory going forward. The undertaking of this review was reflective of that. I think that it was extensive, and we are incredibly appreciative of all of the input that we have received up and down the entire valley as it related to this bill and from all of the important stakeholders and their contributions that they have made.

Committee, again, wants to extend a thank you to the Minister and his staff for the very collaborative

approach that we had between us. There were a couple of unique circumstances where we really felt that there was an opportunity to sit face-to-face with the Minister and his staff, along with the committee and our staff, and I think that that really made a difference and allowed for some progress to be made where it may not have otherwise.

There might be other Members who want to speak to the actual bill itself, but I just wanted to share a little bit more about the process that we experienced and that, while it had bumpy roads at times, I am sure that there might be a few more bumps that could be experienced this evening over the next couple of hours, at the end of the day, the result is going to be a world-class piece of legislation that the territory can certainly show off to the rest of the country and others. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. I understand that there are witnesses. Sergeant-at-Arms, please escort the witnesses into the chamber. Minister, you may take your seat at the witness table. I see that we have a couple of visitors in the gallery who have joined us. I would like to welcome Mr. Tom Hoefer, the executive director of the NWT-Nunavut Chamber of Mines. Welcome. The Minister is ready. Would you please introduce your witnesses for the record.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. On my left is Pamela Strand, assistant deputy minister of ITI. On my immediate right is Laura Faryna, senior legislative advisor for ITI. On my far right is Kelly McLaughlin, legislative counsel with the Department of Justice. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Welcome to the witnesses. I will now open the floor to general comments on Bill 34. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I agree wholeheartedly with the Minister that this is one of the most significant, if not the most significant, pieces of legislations that has come forward that has been driven by this government's priorities and not in response to the priorities of other governments.

However, I think that we have a long way to go until it is world-class. That is because so much of this legislation is dependent on the regulations, which will come after the bill has passed, should it be passed, and those regulations are crucial on how this is going to operate. If the intention here is to create a positive environment for investment, then we need to ensure that those regulations are given the appropriate amount of both scrutiny from this House, but also engagement from Indigenous governments and organizations and from industry and civil society in general. Currently, the bill has

no requirements for that. We know that the department has signalled that there will be at least some role for public engagement, at least in the regulatory process, but there is no certainty that that will occur. That is a key concern of mine in reviewing this legislation. You know, I think it's almost too much to ask to say, "Trust government will figure it out," when we have the opportunity to ensure that some things happen by changing statute through amendments, so this is an area of key concern for me moving forward.

As to other issues I have concerns about in this bill, the first would be the concept of zones. I think there is much confusion, both on the side of industry and what we have been told by the department on what zones are, how they will work, what is the policy intention of zones, and how they will ensure we have consistency across our mineral tenure regime in the Northwest Territories. The legislation does not provide much clarity. There have been some amendments that were brought forward, but I think we have to be very vigilant to ensure that there is a standard set for this regime, this regulatory regime, that is reliable, predictable, and effective and that zones are not a way to circumvent that, because, if we have a patchwork of regulatory environments competing with each other in the Northwest Territories, that is not what I think is best serving the public's interest, and, unfortunately, I do not think the bill answers many of those questions. Perhaps the regulations will, but this tool, I think, is one that could put us in a very uncomfortable situation if not managed effectively.

Second is part 5, which deals with benefit agreements. Now, I will say I commend the courage of the Minister to introduce legislation that is the first in Canada to do something. We have heard many a debate in this Chamber about how we cannot do things because the rest of the country has not moved forward on it. Banning genetic discrimination is one example. There was another one yesterday. You know, these are common refrains in this government, that we cannot be the first movers on major policy shifts, so the fact that we are doing that with this legislation is something to be commended. The question is: are we doing it in the most effective way, that does not concern all of our partners?

The committee received a great deal of feedback from industry on this concern, and, when we approached the department to explain what their intentions were with part 5, all the contents for legislated socio-economic agreements and other benefit agreements, the response we got early on was: this section was intentionally left vague. That caused a whole host of issues. I know the Minister is keen to resolve these, and perhaps we will have more resolution beforehand, but I think what is imperative as we close this process is that the

government's policy intent is clearly stated in this House and on the public record so there is no confusion when the regulations are developed, because this legislation cannot be something that creates uncertainty, and this area of the legislation is creating uncertainty. All we have are clear signals of policy intent and a hope that that policy intent carries through the regulatory process, where most of these decisions are going to be made. So I still have some pretty significant concerns around part 5, and, if there are no changes today, it may affect my support for the bill.

Another significant issue is around the role of supporting local governments and municipalities in regard to mineral tenure conflicts in the act. The committee felt very strongly that we need to create a place in statute for municipalities to be able to exercise some degree of authority in protecting the public's interest within municipal boundaries and also receiving notice of when work is going on. This is something that has been consistent throughout our consultations on the post-devolution bills, as well. Unfortunately, we are not there with this bill. I spoke about it earlier, when we discussed the committee's recommendations, but, if there is a way to enshrine this in statute, again we are not taking rights away; we are ensuring local governance is sound, strong, and effective, and I think that is another fundamental flaw with this bill that needs to be corrected. Today is the opportunity to correct that.

Finally, there is uncertainty around the role going forward of Indigenous governments, industry, and civil society in the development of regulations, and that is a fundamental concern that must be addressed. So, ultimately, it's a better bill than what we started. I think the government has done its best to answer a lot of these uncertain questions, but, with so much to do with regulations, we need to get very clear answers on the record today, and I hope the Minister and his staff will oblige that. However, I will comment to say that the contentious issues and the inability to move forward in some cases was not for lack of trying. It should be noted that Members, the Minister, staff from the department, staff who support our committee worked very hard on this, and they should be commended for their efforts. It does take a lot. Sometimes there is just no way to move forward on fundamental differences of opinion, and that is where we found ourselves. So we will see how it goes today, but I hope the Minister can at least provide very clear rationale for the areas of concern that I have with this bill. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. General comments on the bill. Mr. McNeely.

**MR. MCNEELY:** Thank you, Mr. Chair. I, too, am glad to hear the Minister's address and feel in



support of those comments and add mine. Mr. Chair, I comment on today's largest piece of legislation faced by this Assembly on post-devolution. As we modernize history in the spirit of balancing Indigenous engagement, stakeholder confidence, environmental concessions and protection, and the remedial process, it comes to the point in telling ourselves: do we society all stakeholders and produce valued legislation? Looking at the legislation that is going to govern the industry and looking at the industry itself and the huge presence of benefits by industry in this territory has over the course of our deliberations on the last four years have really given me a different perspective on the length of benefits created by industry's presence.

The Northwest Territories natural resource sectors are bedrocks of foundation of our economy. Our mining sector in particular is widely recognized as a global destination for mineral investment, as identified by the recent Fraser Institute report. The Abacus 2016 report identifying 86 percent of the Northwest Territories residents say that the mining sector is important to the economy, while 82 and 83 percent say regulation works well and would like to see more projects. I am confident that number will go nothing but higher given the fact that we are modernizing legislation.

Now, Mr. Chair, we have the benefits of our northern supply chain vendor system, a system that includes businesses and residents. As I mentioned earlier, this mining industry and the supply chain is truly the backbone of our economy outside of the PFF. At a time of global economic situation, drafting legislation and supporting our regulation regime is our responsibility, a post-devolution responsibility I personally take seriously, knowing the benefits of its production. On the federal level, the mineral legislation, particularly Bill C-69, has been welcomed by the Mining Association of Canada, which sees it as an improvement on the status quo. The status quo is not sustainable for Canada nor the NWT, where we have mines coming to an end and a few options to replace them. It is my hope that Bill 34, the Mineral Resources Act, will provide greater certainty to the mining industry on how to operate in the Northwest Territories, ensuring that our economic foundation remains firm.

I add those words, Mr. Chair, and look forward to making history on modernizing our Mineral Resources Act in confidence that we are providing confidence to the industry that we recognize there is a big economic driver in our Northwest Territories and the huge amounts of benefits provided to individuals, businesses, and government. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. McNeely. We are making history here, and I want to

take a moment to thank all the Pages who have been with us this past couple of weeks while we've been making history. Whoever said history was boring? Thank you guys all very much for the hard work that you've been doing for us.

---Applause

Seeing nothing further, I guess we can move to -- oh, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I did want to take time to respond to a few things that the Minister mentioned in his opening remarks, and then I'd like to ask a couple of lines of questioning, if I can.

I know that we held a lengthy clause-by-clause review the other night. There were a lot of intentions offered by the Minister on some of the language in the bill, but the language itself doesn't really reflect a number of the things that I think the Minister has said, even in his opening remarks here. I'll just pick up on a few of these.

The Minister is right that there was extensive research conducted by the department. It took a long time to get that information out of the department to the committee; in fact, it was not a good working relationship. I had to apply under Access to Information and Protection of Privacy to get some of that information out of the department. I think the relationship did improve over time, but I just continue to contrast that with what happened on the social envelope side of the legislation that I witnessed and saw, and I think it can and should have been a much more collaborative process. Committee tried to work, and we did achieve some compromises.

The Minister talked about how there is going to be some public benefit provided in the bill, and I only wish that the process and the ideas were as clear as they are on the Indigenous government side, in terms of benefit agreements. I do support those, and the Minister knows well my views on those, and I do support provisions from section 52 on, but the public benefits are extremely vague and weak, and it's not why I came to this Legislative Assembly. It's now why, I think, we're all here, to look at the public interest. So I have some ideas to suggest on the public benefits side, as well.

The Minister mentioned that the zones can be created at the request of Indigenous governments. The Minister also has the ability to establish zones on his or her own initiative. I have yet to see anything in writing where Indigenous governments, maybe I missed it, have specifically requested zones. Certainly, the industry submissions I saw, they wanted some clarification of what zones were about and that the prospecting permit process

would continue, but I didn't see any specific requests for zones, either.

I'd like to turn, though, to three areas that I'd like to ask some questions about. We've heard some discussion of the royalty review, or some sort of fiscal regime review, that the department seems to have already started, so can someone please outline very clearly what the scope and substance of that review is? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Mr. O'Reilly. Next, we have Mr. Simpson. Sorry about that; I'm slipping, trying to encourage history. Minister, do you have a reply to Mr. O'Reilly?

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Can I get Mr. O'Reilly to repeat the exact part of the question? Not his opening comments, but the question?

**CHAIRPERSON (Mr. McNeely):** Thank you, Minister Schumann. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Yes, the clock is ticking. Can the Minister clearly outline what the scope and substance of the fiscal regime is that his department seems to have already started? Thank you.

**CHAIRPERSON (Mr. McNeely):** Thank you, Mr. O'Reilly. Minister Schumann.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. We have said that we will support a review of the NWT's Resource Royalty Framework and a review of the Northwest Territories Resource Royalty Framework will need to consider the Northwest Territories' total fiscal context, as well as our general operating environment. ITI, in partnership with the Department of Finance, has started the benchmarking work for such a review. There will be no public consultation at this stage in the process, as it is currently in a third-party research contract to benchmark the Northwest Territories against other jurisdictions, both nationally and internationally, and we anticipate and support this being a priority of the 19<sup>th</sup> Legislative Assembly. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Minister Schumann. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. While the Minister was providing lots of reassurance around some of the concepts that the department wants to pursue through this legislation, can the Minister clearly state whether there is any intention to make this review open to the public at some stage and ensure that there are independent experts retained as part of it? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Mr. O'Reilly. Minister Schumann.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. This is a multi-departmental review, as I've just said, and that's going to be up to the 19<sup>th</sup> Legislative Assembly, what they want to do. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Minister Schumann. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. That's not the kind of reassurance I was hoping for and that I think the public deserves, so I'll continue to pursue that. The regulation-making process is not set out in the legislation. We had one Indigenous government, Sahtu Secretariat Incorporated, actually bring to our attention that there was some preliminary work being done on developing a memorandum of understanding or some sort of an agreement on what level of engagement they would have moving forward in the regulations. Can the Minister clearly state on the record what that process is going to look like, beyond what he has already said in his opening remarks, and whether there is going to be an opportunity for Indigenous governments, the public, industry to have some level of involvement in drafting or at least the review of regulations? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Mr. O'Reilly. Minister Schumann.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. For the record, I will say what I said the other night, too, just so it's on the record. We will continue to move forward in the spirit of partnership as we develop regulations should this bill pass. That means we are going to take the time to get this thing right, and that's how the Government of the Northwest Territories operates, Mr. Chair. We will continue to work closely with Indigenous governments as we move through the process, as is their right and our responsibility, and we will engage with industry, who is the most affected by these regulations. We will engage with Members of this Legislative Assembly, as has been our policy throughout this process, and we believe that is the right way forward. As I said today, I am confident that we are leaving the 19<sup>th</sup> Legislative Assembly the flexibility to find its own approach to regulation development. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Minister Schumann. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. While I appreciate all of that, I just wish it was stated somewhere clearly in the bill.

Mr. Chair, we had this raised with us during the review. Can someone provide a clear definition of what "prospecting" is, and what can happen on a mineral claim, and what kind of prospecting or

mineral exploration can happen off a mineral claim? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Mr. O'Reilly. Minister Schumann.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. I need him to clarify the question again just so it is very clear.

**CHAIRPERSON (Mr. McNeely):** Thank you, Minister Schumann. Mr. O'Reilly, could you [microphone turned off] please. Thank you.

**MR. O'REILLY:** Why is there no definition of "prospecting" in the bill? I would like someone to clearly explain what kind of exploration can happen on a claim versus off a claim, what kind of work. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Mr. O'Reilly. Minister Schumann. Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. Just to clarify, the rights that are granted under a mineral claim, the nature of that is the exclusivity. It is about who can do work on that claim and who cannot. The claimholder is the only one who can do work on the claim. Whether activities are authorized or not on that claim in terms of land use is under the Mackenzie Valley Resource Management Act. Whether or not the work done on the claim is given credit under an act is under the work assessment regulations currently under the mining regulations, which would be reflected in the regulations under the Mineral Resources Act. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Ms. Faryna. Next, we have Mr. Simpson.

**MR. SIMPSON:** Thank you, Mr. Chair. I was going to say, "I will keep my comments brief because they have been extensively canvassed," but I have to remind myself that, despite the fact the committee has spent countless days considering this bill, the only real public consideration of it has been in the clause-by-clause as well as some of the public meetings.

I think that this bill cleans up a lot of the issues that have been lingering in the industry. I think that there are some very progressive ideas in here. The idea of including benefit agreements in legislation is one of those things that we can claim is world class. I think that, in the end, it is going to work out to be a model for other jurisdictions.

My concern is that that section of this bill, which could be the most important section of one of the most important pieces of legislation that this Assembly is going to see, is that it doesn't quite seem to be ready for primetime. It is still quite

vague. When I look at it and when committee looked at it, we had more questions than answers. I know that industry felt the same.

I am a little confused by why that is. I understand that this co-development process was tough, and it wasn't necessarily always fast. You can only get so much done in a certain amount of time. Just because we are coming to the end of an Assembly doesn't mean that all the work has to stop and you have to hand in your homework right now because it is the deadline because that is not the case. This work could have gone on for another year. Perhaps we could have fleshed out this section.

The regulations where this information that we are looking from part 5 will be kept are generally reserved for more technical details. The information in part 5 that we would like to see is of a much grander nature. It is really broad public policy. I think that, as Legislators, we need to have a look at it. I think that that is sort of a difference of opinion, maybe, between Cabinet and the Regular Members because I was struck that, in the clause-by-clause, when certain Members were explaining the reasons why they thought this wasn't ready to be put forward, the Minister used those exact reasons to demonstrate why it was ready to be put forward.

I think that, when we are passing broad legislative policies, it needs to come to us as representatives of the public and as the people who bring it out to the public for comment. I had a very difficult time trying to come up with any way to amend section 5 in order to make it more clear because it was so broad that you would just be making guesses in the dark, essentially, by trying to amend it.

We also heard from at least one Indigenous government, I believe two, but I know for sure one, that, if a single word was changed in part 5, they would pull their support for the bill. While we still had the ability to make those amendments, it was very difficult, especially when we are not subject-matter experts necessarily. I think this should be a lesson for future Assemblies on how to put forward legislation and how not to put forward legislation.

I guess I would like to try to address some of those issues that we are all a little confused about. Like I said, my concerns are around part 5. I would like to ask the Minister if he could get on the record, and I will point this out, as well, that the most clarification we have had about part 5 happened at about 10:00 p.m. last Thursday out in the Great Hall. When we were in the middle of a four-and-a-half-hour meeting, the Minister made some statements which I think would be great to have on the public record, but the fact is that that meeting, while it was public, it wasn't transcribed and it wasn't really attended by members of the public necessarily. I think there were industry representatives there, but there was

no media there. It was not streamed live, as well. It only exists in video format somewhere on YouTube or the Legislative Assembly website.

What I am getting at is: I would like to see if the Minister has that information for us again. I would like the Minister to, if he can, state the objectives of part 5 and provide clarification on the questions raised by industry, including the types of agreements that would satisfy the benefit agreement portion of the bill, at what point between exploration and production such an agreement would be required, and any other concerns that the Minister thinks need to be addressed here. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. McNeely):** Thank you, Mr. Simpson. Minister Schumann.

**HON. WALLY SCHUMANN:** Mr. Chair, I do have what I read out there. I will read it out. I am going to run the Member's time probably, so he is going to have to get back on the list. I will read this out.

Mr. Chair, I would like to take a moment to discuss part 5 of the Mineral Resource Act, which refers to the new requirement for benefit agreements in the proposed legislation. We have heard from Indigenous governments and organizations that codify the territory's longstanding commitment to bringing benefits to Indigenous peoples in part 5 is of great importance to them.

Companies here have done a good job working with Indigenous communities to realize these kind of benefits in recent decades, leading across the country, in fact. We want to set that for the baseline for the future.

The Department of Industry, Tourism and Investment has been clear that Bill 34 is the enabling act. While the process and procedures for regulation development will be set by the 19<sup>th</sup> Legislative Assembly, we are committed to moving forward in the spirit of partnership with Indigenous governments, industry, and other stakeholders as we develop regulations, should this bill pass.

The department has been clear that the Mineral Resource Act will not come into force until appropriate regulations have been developed and a level of comfort has been achieved with stakeholders prior to the implementation of the act. We will get it right.

We recognize a need for balance and also a need to attract and maintain investment in the mineral sector. Nevertheless and considering the feedback received, I believe there is value in clarifying the department's intentions around part 5 as outlined in the proposed bill.

I would like to walk you through some of them now and set the record straight.

Mr. Chair, I would like to first address the perception that this provision will deter investment. When we speak with major investors, we hear a growing trend towards socially conscious investing. Increasingly, whether projects have buy in from and to provide benefits to Indigenous peoples and their governments is a major consideration, we believe enshrining this requirement can enhance investment by preparing the Northwest Territories to lead in the sustainable investment movement.

Second, I wish to address the concern that legislating benefit agreements could deter small-scale mining operations at the grass-roots level from investing in the territory. The act outlines a benefit agreement requirement would only be triggered for those projects that meet a prescribed threshold. The intent is that only significant, major mining projects would meet this threshold. The exact ways to be determined will be defined in regulations.

Third, such major mining projects will be required to enter into agreements with Indigenous governments, organizations that the Minister considers appropriate for the specific project. The Minister will provide the proponent a list of these Indigenous governments and organizations. This means that, if the Minister identifies two Indigenous governments which should benefit from a project, a major mining proponent will be required to conclude an agreement with each of them. Whether there is a priority among various Indigenous governments and organizations in the distribution of benefits is a matter to be determined in negotiations between Indigenous governments and the organizations and the proponent because priority concerns the substance or contents of the benefit agreement is not a matter in which the GNWT would be involved.

Fourth, the requirement for a benefit agreement also does not mean the parties need two agreements. Duplication is not the intent here. An existing impact agreement, benefit agreement, participation agreement, or any other agreement whereby benefits are provided to Indigenous government and its members would suffice. It is intended that the regulations will only require a proponent to show that an agreement has been concluded which provides fair and proportional benefits in the context of the project.

Fifth, with regard to timing, the intent is for the requirement to be flexible to all major mining proponents to enter into these agreements at any time, as long as it is prior to commencing production from a mine or the operation phase of a mine. The benefit agreement requirement is not intended to affect or to be connected to the external

regulatory process for a mining project, such as those that run through the territory's regional land and water boards.

Sixth, we have also heard concerns about perceived risk and uncertainty relating to the requirement for major mining proponents to negotiate satisfactory benefit agreements before entering into production and the impacts this might have on potential investors. Bill 34 has built in three components that will address such risks. The first component could be used where neither the proponent nor the Indigenous government or organization wish to enter into a benefit agreement for a proposed project. In this case, the two parties may approach the Minister and request that the requirement be waived. This can be done as long as both parties are in agreement.

The second component is the creation of a dispute resolution mechanism. If a proponent and an Indigenous government or organization does not wish to waive the requirement for a benefit agreement and have done everything in their power to negotiate an agreement, they may request that this dispute resolution body resolve the issue. The dispute resolution body here negotiates related issues and not benefit agreement implementation disputes. Parties can enforce implementation through contract law. The regulations will ensure that the dispute resolution is only used if negotiations break down significantly.

The third component is ministerial waiver power. This power is not expected to be exercised often, only in exceptional circumstances. The vast majority of issues will fall under the dispute resolution body's jurisdiction. Cabinet must also support any proposed waiver.

Mr. Chair, in closing, the department has heard the concerns about the need for the clarity around part 5 and a recognition of these concerns, and I am prepared to bring forward two motions during Committee of the Whole review of Bill 34 that will amend this part. I believe that these will add greater clarity around the requirement of benefit agreements, and I hope this will provide some confidence to Members about the department's intention. Once again, I look forward to continuing to work with our partners and Indigenous governments, industry, other stakeholders to provide further details around this section and others in the bill during regulation development, and, as we develop our execution plan with milestones and timelines, we will work closely with our key stakeholders while leaving room for our future government to define and implement a consistent process moving forward.

**CHAIRPERSON (Mr. Simpson):** Thank you, and I will just once again remind all Members of the rule

against anticipation. Do not speak to motions that are yet to be moved, as they are to be spoken to once they are moved. Next, we have Mr. Nakimayak.

**MR. NAKIMAYAK:** Thank you, Mr. Chair. I will not comment too much. The Minister had spoken a lot about section 5. You know, coming from an Indigenous government and having our land claim signed, I definitely have been around the activities from the beginning and closing of exploration. I am a firm believer that we must attract investment in our territory and in fact attract it safely and responsibly, and I believe that this act will do that. I will not have much to add. A bunch of my colleagues have mentioned a lot about it, so I will not reiterate. However, I would like to ensure that my concerns are definitely around benefit agreements with Indigenous governments, impact benefit agreements, as well as investor confidence, as well as partnerships.

Mr. Chair, as we move forward, the government must ensure that industry and Indigenous governments actually work together on some of the regulations on some of these so that we can actually work out some of the kinks that will likely occur moving forward. Nothing ever comes out perfectly. It will never please everybody. This is the government's bill, and the government own, but we must ensure that this looks at industry and Indigenous governments, and safe mining is what it comes down to, Mr. Chair, so let's get drilling. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Further general comments. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I was in the process of trying to get some clarification about why there is no definition of "prospecting" in the bill. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. So, at this time, because we do not govern land use authorizations and activities and because there is a process in terms of reasonable prosecutions, we do not believe that at this time we need to define "prospecting" as there is an industry understanding of what that means. I think across Canada and across the globe, you can see that there is an industry understanding of what that means. Should there be a need in the future to define "prospecting," we do have the enabling authorities to do that. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. There may be an industry understanding of what "prospecting" is, but it's not outlined in the bill. It requires a licence. You have to get a prospecting licence to do prospecting, but I cannot get a clear answer as to what it really means and what work. I understand, if somebody stakes a claim, only they can do prospecting on the claim, but what if you have a prospecting licence? What can you do off of a mineral claim? Can someone tell me that? Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. With a prospector's licence, you can do activities that are below threshold, and those thresholds are set out in the Mackenzie Valley Resource Management Act and the regulations. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Yes, this is just going in circles, so I think I will stop it there. It's not clear to the public, it's not clear to me, what prospecting necessarily is as authorized under this act. Somebody has to get a licence to do it. It's not clear what it is, where it can be done, whether you have to have a mineral claim to do it or not. I think this is part of the problem here. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Seeing nothing further, does committee agree we move to the clause-by-clause consideration?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. There are 116 clauses in the bill. As I accept there may be a number of amendments that Members wish to move, I am going to take each clause one by one. Committee, we will consider the bill number and title after consideration of each clause. I will begin calling out the clauses one by one. If committee agrees or disagrees with the clause, please respond accordingly. Each Member may get my attention if they wish to speak to any particular clause. The first clause is found on page 10. To clause 1, does committee agree? Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I have a number of motions to make on behalf of the Minister responsible. Shall I proceed with Motion 1? Thank you, Mr. Chair.

COMMITTEE MOTION 213-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
CLAUSE 1 TO REPLACE DEFINITION OF  
"SETTLEMENT LANDS",  
CARRIED

I move that clause 1 of Bill 34 be amended by deleting the definition "settlement lands," and adding the following definition in alphabetical order:

"Settlement area" means:

(a) the area within the Northwest Territories as described in appendix A to the Gwich'in Comprehensive Land Claim Agreement entered into between Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, on April 22, 1992, as amended;

(b) the area within the Northwest Territories shown in annex A and described in annex A(1) of the Inuvialuit Final Agreement entered into between the Inuvialuit and the Inuvialuit Settlement Region and the Government of Canada on June 5, 1984, as amended;

(c) the area within the Northwest Territories as described in appendix A to the Sahtu, Dene, and Metis Comprehensive Claim Agreement entered into between Her Majesty the Queen in right of Canada and the Dene of Colville Lake, Deline, Fort Good Hope, and Fort Norman and the Metis of Fort Good Hope, Fort Norman, and Norman Wells, as represented by the Sahtu Tribal Council, on September 6, 1993, as amended;

(d) the area within the Northwest Territories described in parts 1 and 2 of the appendix of chapter 1 of the Land Claims and Self-government Agreement among the Tlicho and the Government of the Northwest Territories and the Government of Canada signed on August 25, 2003, as amended; and

(e) other areas prescribed as settlement areas for the purposes of this act.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister. There is a motion on the floor. The motion is in order. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. The intent of this motion is to change clause 1 of Bill 34 so that the definition of "settlement lands" to "settlement areas," which is intended to clarify that the term captures all areas covered in land claim agreements in the Northwest Territories. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Thompson.

**MR. THOMPSON:** Thank you. I just need clarification. I understand that there is nothing in the Dehcho, Akaitcho, and Acho Dene process. I understand that it is under (e), other areas prescribed as settlement areas for the purpose of this act. When they finalize this process, where are they going to be? Are they going to be in the act, or are they going to be in regulations? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Thompson. As this is a motion, there is no question and answer period. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Thank you, committee. To clause 1 as amended. Does committee agree? Mr. Thompson.

**MR. THOMPSON:** Thank you. Can I get clarification from the law clerk on where land claims where the settlement is not done would be fitting into this? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Madam Law Clerk.

**LAW CLERK:** Thank you, Mr. Chair. The definition of settlement area in this motion would allow for those claims to be included through regulations that would be adopted under the act. You can see that in sub (e) of the definition of settlement area, which allows for other areas prescribed as settlement areas. Prescribed is lawyer's language for "by regulation."

**CHAIRPERSON (Mr. Simpson):** Thank you, Madam Law Clerk. Anything further, Mr. Thompson?

**MR. THOMPSON:** Just to clarify, when it gets to regulations, then they can bring it forward to make an amendment to this act to include those prescribed areas that we were talking about? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Madam Law Clerk.

**LAW CLERK:** Thank you very much, Mr. Chairman. An amendment would not be necessary, as the settlement areas could be added by regulation, and that would have the same effect as if they were listed in this legislation. However, if he thought it would be more helpful to have a complete

list right in the act, the Minister could also choose to amend the act at the appropriate time to include any future land claim settlements.

**CHAIRPERSON (Mr. Simpson):** I will note that, as we are discussing clause 1 as amended, you can direct questions to the witnesses, meaning the Minister. Mr. Thompson, anything further?

**MR. THOMPSON:** No. Thank you, Mr. Chair. We've clarified what I was trying to understand. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To clause 1 as amended. Mr. Nadli.

**MR. NADLI:** Thank you, Mr. Chair. I would like to seek clarity from the law clerk as well. Just an observation, fundamentally, I think it goes to the heart of this proposed legislation that there is distinction between settlement areas and areas that don't have a land claim that could be perhaps referred to as regions or treaty areas. My question is: would settlement areas also mean treaty areas? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Madam Law Clerk.

**LAW CLERK:** Not as the definition is current set out, Mr. Chair. The definition includes the four claims that are set forth in (a) to (d), and then anything else that might be added by regulation. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Nadli.

**MR. NADLI:** Thank you, Mr. Chair. This is supplementary. Why is it, then, we put a lot of effort in terms of formalizing recognition of settlement areas, but we don't also, in the same effort, recognize unsettled areas, say, like the Dehcho region or the Akaitcho region and their communities? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. That is a question for the Minister. I will direct it to the Minister. Mr. Nadli.

**MR. NADLI:** Just for the record, if maybe the law clerk could clarify for me that point, I think that it is a legal question. In my own mind, I want to understand the certainty of the language. Mahsi.

**CHAIRPERSON (Mr. Simpson):** Thank you. Madam Law Clerk.

**LAW CLERK:** Thank you, Mr. Chair. I am happy to do so. The use of the word "settlement area" in the Mineral Resources Act is used in a very specific context throughout the act, and it is often used to refer to issues and occasions where notice is required to be given. As a consequence, it is very

important to know where notice is required to be given, and it is in that context that the definition of settlement area is used.

I also note that, and again, being aware of not jumping ahead too much, but section 3 of the act does provide a statement that the act is not meant or is to be interpreted in a fashion consistent with the recognition of Indigenous and treaty rights.

Of course, there is also the usual conflict provision saying that Indigenous and treaty rights would prevail over this act if there is an inconsistency, because we are not able to detract from Indigenous rights. They are constitutionally guaranteed rights. However, in this context, the use of the word "settlement area" is often used to allow for the decision-maker to know to whom notice must be given under the act of various steps that are taken throughout the mineral process.

I hope that helps the Member, Mr. Chairman. It may also be that the Minister would be able to further elaborate on why the Minister wanted to amend this bill to include this specific definition. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Further, Mr. Nadli?

**MR. NADLI:** Yes, it's concerning that unsettled areas are not recognized. There have always been aspirations of First Nations of being recognized. There are always challenges in recognition of committees or First Nations, and this legislation basically spells that. That is, perhaps, the next step. Maybe the Minister could clarify for me, at least, my concerns that I have, perhaps he could maybe clarify in those regions, like in the Deh Cho and the Akaitcho, because they're not explicitly recognized in this legislation. It doesn't mean that the legislation will never apply to their lands. Mahsi.

**CHAIRPERSON (Mr. Simpson):** Mahsi. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. Just to clarify, this definition only defines settlement areas, those under the land claim agreements as listed. However, every provision in MRA that refers to settlement areas in terms of engagement or notice also has a similar accompanying parallel provision for unsettled areas in terms of traditional territory. There is no difference in what this bill discusses. It's just a technical term in how to refer to the different areas, and should those lands have a settled agreement as we previously discussed, it could be added to this list, but effectively, this bill treats all those areas the same way. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Nadli.

**MR. NADLI:** Just for the record, First Nations have to be recognized is to have a settled land claim. Is that how it will be recognized? Yet, at the same time, we don't recognize treaty areas?

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. I just want to clarify what I previously said, so they are recognized in the bill. Any provision that has an engagement or a notice for settlement areas also has a very parallel provision for traditional territories that is that would recognize the types of lands and peoples that you are speaking of, so they are absolutely recognized in the same way within this piece of legislation. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Nadli.

**MR. NADLI:** Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Nadli. I think I had Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. While we're on the subject, I guess I'm not allowed to look forward. Where are the occurrences in the bill where settlement areas are referred to? I just can't find any. I don't have my computer opened to do a keyword search, but why was it necessary to include a definition of settlement area in the bill itself? Because I can't find any instances of it at my fingertips. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. McLaughlin.

**MS. MCLAUGHLIN:** Thank you, Mr. Chair. The definition of "settlement area" that was just inserted, replaced a definition of "settlement lands." The settlement lands terminology, it can be found in the bill, and it has been replaced with a definition for settlement area. I understand we can't speak to matters that come, but I understand that there are adjustments that are made flowing out of that change. In that case, settlement area will be referred to in multiple provisions. Now, the Member could look to where it says "settlement lands" and anticipate a settlement area. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** I guess I just anticipate too much, Mr. Chair. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. To clause 1 as amended.

**SOME HON. MEMBERS:** Agreed.



**CHAIRPERSON (Mr. Simpson):** Thank you, committee. One hundred and fifteen to go.

---Clauses 1 through 6 inclusive, approved

Clause 7. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I do want to commend the department for the work that they did with the committee and our staff to prepare this rather extensive list that is now clause 7 in the bill about a registry, and particularly 7(3), which is going to create a public registry. The public is going to be guaranteed access to a lot more information under this bill than currently exists under the mining regulations. This is a good thing.

The list of things that are here, there is one important matter that's not listed, and that's this notice of intended work. As I understand it, notice of intended work is going to be defined through regulations, and is basically to help encourage good working relationships, as the Minister mentioned in his opening remarks, and the definition of that is going to be worked out through regulations collaboratively with industry, hopefully the public and Indigenous governments, as well. I'm just wondering: why is that not included in the public registry? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. A question for the Minister. I guess, technically, the Minister is directing me to Ms. Strand. Ms. Strand.

**MS. STRAND:** Thank you, Mr. Chair. We've heard from the Ministry that there were concerns related to confidentiality. As stated, this is a notice of intended work, so at this time, a wider disclosure of these notices of work could be detrimental on their intellectual property. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Well, we are going to deal with this issue. It is contained in the bill. In fact, the Minister has the ability to exclude information, is required to exclude information that could be detrimental to business interests that even go above and beyond what's in the Access to Information and Protection of Privacy Act. The Minister has extensive powers there that go above and beyond what we've already legislated. The Minister has the ability to prescribe what this notice of intended work is going to look like. In fact, good companies already do this. TerraX already does it here. They tell people what they're going to be doing each winter.

It is my understanding that, in Ontario and in Quebec now, companies do this. They tell people what they are generally going to do at a high level

in terms of exploration, and this just makes for good neighbours. It helps avoid land use conflicts and so on, and I have every confidence that the department is going to work with industry to make sure that no detrimental information is going to be disclosed. We're going to be doing five drills around Prelude Lake, or something. Why can't that kind of information be put on a public registry? Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. I will take the comment as noted, but we will certainly have a look at this as we develop regulations. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** I think there was a question made in the comment. Mr. O'Reilly, could you please repeat?

**MR. O'REILLY:** Thanks, Mr. Chair. Given that the Minister already has the discretion to define what is in this notice, the good practices that are already in place, is shown by TerraX here locally, why can't this information about intended work be filed on a public registry? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Confidentiality, as we said, was identified as an issue, so we chose to tailor this provision to have a provision obligation to circulate the notice to Indigenous governments as a way to demonstrate our commitment to their inherent rights and relationship to the land. As I have said earlier, we will look at this in the regulations. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I understand that this is going to be dealt with by regulation, what a notice of intended work is going to look like, but we are talking about a requirement that it actually be disclosed on a public registry after the Minister negotiates some kind of an arrangement through a regulation to protect business interests. This is about encouraging good working relationships, good neighbours, and avoiding land use conflicts. I am trying to understand what the problem is in saying that that should be part of the public registry now. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. This is a bit of a red herring, as most observations,

example of TerraX, who have acquired a vast majority of mineral interests surrounding where they are doing business. In this particular instance, there may not be a concern related to intellectual property. If certain companies wish to do so, that is their prerogative, and we encourage it. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I have yet to hear any good reason why this cannot be included now. The Minister has the authority to develop regulations that define what this notice of intended work is going to look like, and the Minister is required in the act to keep information confidential that could be detrimental to business. I just have heard no good reason why this cannot be put on the public registry. I understand that there may be another Member who would like to speak to it. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. To clause 7. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I am keenly interested in some of the rationale that we have heard from the Minister. I would just like to pursue that further. Does the Minister agree that there are sufficient protections included in the act to allow the Minister of the day or the government to prevent the disclosure of information that would be harmful to business interests in the public registry? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Some of the concerns that we have around this is what and where activities are happening on a claim and what could potentially come about from that activity. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you. I would appreciate if the Minister could answer my question. Is it the position of the government that the Minister has adequate ability to protect the confidential business interests of industry from being posted in the public registry? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Strand.

**MS. STRAND:** Thank you, Mr. Chair. What we heard was that this was a very sensitive discussion point with industry. What we are trying to do is strike a balance here. Until we have that further conversation on content and what areas this intended work might apply to, we are

recommending that we, at this point, do not make them public until we have that secondary engagement and discussion. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you. I have reviewed the clause that allows the Minister to provident unintended disclosure in the public registry, and I am satisfied that it has broad powers for the Minister to prevent disclosure of information that would be harmful to business interests. I hear what the witnesses are saying, but I also heard them talk about inherent rights. Could the witnesses walk us through how a disclosure of intended work would impinge on the inherent rights of Indigenous peoples? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. I would just like to request clarification. Because these are circulated to Indigenous governments and organizations based on recognition of their inherent rights and status, I don't believe that the bill reflects that it impinges on their rights. Maybe I misunderstood the question. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Sure. I just want to make sure that everyone checks their light in front of them before they begin speaking. Sometimes it takes a second to change the microphones. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. When questions were being put to the Minister by the honourable Member for Frame Lake, one of the responses was that the reason that the government has declined to include intended work in the public registry is concern, A, around confidentiality, which we have discussed, and B, that it would somehow impact or limit or infringe upon the inherent rights of Indigenous persons. I would like the government to walk me through that about how, and I will be very precise here, including a provision that intended work would be provided in the public registry infringes on section 35 rights. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. ROBERT MCLEOD:** I think what we need to do is clarify, because I think he is thinking that I said something which I didn't say. Let's read this exactly here again so that everyone is quite clear on it. Confidentiality was identified as an issue, so we chose to tailor this provision to have a positive obligation to circulate the notice to Indigenous governments as a way to demonstrate our commitment to the inherent rights and relationship to the land. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you for that clarification. How is including a provision on the public registry for a notice of intended work related to providing direct notice to Indigenous governments and organizations? I am fine with that. I think that that is a pretty good choice. It is a separate issue. That is not the public registry; that is direct notice, which is another provision governed by the act. How does that matter impact at all with what is being raised here today? We already know that confidentiality issues around business interests can be protected by the Minister by preventing that disclosure on the public registry. That's a section of the act. That's another section that the Minister just quoted.

Let's get back to the real issue here. Why can't this be done in this section? If we could have a very clear answer that is not related to other parts of the bill. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Strand.

**MS. STRAND:** Thank you, Mr. Chair. This provision was to ensure Indigenous governments have an idea of what is going on in their settlement lands, which can be vast. As the Minister and we have stated, there have been concerns from industry about the confidentiality of that data, if it was public until we have the conversation about the content and how we would be asking them to report on that information. At this point, we need to leave that space to have the conversation with industry before we commit to making these notices public. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** So, if industry filed an objection, let's say there was a notice to be made public, what would be the process there? Would the Minister work with industry to prevent the disclosure of that information, or would the Minister just insist that disclosure take place? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. That was a hypothetical, and those are not the kind of questions that we pose here, but, if the Minister cares to respond, I will let him. Minister. The Minister has indicated he does not care to respond. Mr. Testart.

**MR. TESTART:** Thank you. You know, I am not trying to frustrate process here, Mr. Chair. We are trying to get clear answers, and what we heard was rationales referencing other parts of the bill that do not really relate to the point the Member raised, so, you know it's going to be a long night if we continue along this road. These are important questions that

have not been satisfactorily answered. Nothing more, thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. I think we are in for a long night regardless. Clause 7. Mr. O'Reilly.

COMMITTEE MOTION 214-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
CLAUSE 7(3)(R) ADDING (R.1),  
DEFEATED

**MR. O'REILLY:** Thanks, Mr. Chair. I move that clause 7 of Bill 34 be amended by adding the following after paragraph (3)(r):

"(r.1) any notices of intended work filed under subsection 42(1) and any waivers made under subsection 42(4); " Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. There is a motion on the floor. The motion is in order. It is being distributed. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I am kind of in this awkward situation where I wanted to get some clarification about what the intent of the registry was and so on and why the list of intended work, at least in the Minister's and the Minister's staff's view, could not be put on the registry. This motion would require that it be put on the public registry, subject to the confidentiality requirements in the act. There are confidentiality requirements even in this section of the bill. There are other provisions further down in part 8 of the bill. I have heard concerns around that industry might be worried about what's in here, but the Minister already has the authority to define through regulation what this notice of intended work is going to look like, so the Minister already has that authority.

The Minister has an obligation to protect confidentiality in other parts of the bill. If this bill is about doing some of the things that the Minister talked about in his opening remarks, about encouraging good relationships and transparency, all of those good things, why shouldn't people know in general terms what's happening in their back yard? I believe that Indigenous governments should be entitled to that information, but I do not see where the problem is in sharing that information more broadly. Maybe even it's different kinds of information. The Minister could define that through regulations. This is what happens now in places like Ontario and Quebec, so why can't we get with it and do the same things here? You know, all of this is going to be at the discretion of the Minister, anyways, because the Minister is going to have the authority to define what this notice of intended work is going to be in regulations, so I think this is perfectly reasonable.

I haven't heard any reason why this can't be done. I am sorry we had to walk everybody through this, but I think people get a small taste of some of the frustration the committee had in trying to work with the Minister and his staff on what we felt were some reasonable things to bring us up to best practices in other parts of Canada, so I don't see what the problem is in doing this. All of this is going to be up to the Minister's discretion at any event in the future, so I hope that Members would support this. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. So a key component of this motion is how it relates to the parent clause, and, to quote from that, there is an exception section that says nothing in this act requires a document to be included in the registry under subsection 3 that is or may be prohibited from disclosure by any other act of the Northwest Territories or Canada or contains information that is provided implicitly, explicitly, in confidence to a person or body exercising powers, performing duties or functions in this act.

So that means, if a third party, including a business interest, came forward and said, "This is confidential information," that it could not be disclosed. You know, the rationale I would have liked to hear is: look, if we put this in the public registry, because everything is so confidential, there is no way we can get it in there, so why put it in there, because it's all going to be blocked by confidentiality concerns anyway? That is something that would be clear to me. Well, don't do it, then, because we are creating false expectations as a result. So the real crux of this is: why can't this be done? Again, we have a Minister who is willing to be the first in Canada to put forward legislated socio-economic agreements even after the objections of industry, you know, the continuing objections of industry, over a lack of clarity. However, this we have to hold fire on; this can't be done because of objections from industry. If we can do part 5, we can do this, and Members should support this motion. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Nakimayak.

**MR. NAKIMAYAK:** Thank you, Mr. Chair. Earlier on at the opening remarks of the Minister, I spoke about Indigenous governments and industry, and this is just a side door. You know, if the Members are concerned about or anybody in the general public is concerned or interested people, they can approach the Indigenous organization where if it's on their lands or industry or the government, I think this is just, I think this would scare away industry, and also I do not think this would be approved by

Indigenous governments, so I am not going to approve this motion. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. I will allow the mover to close debate. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I don't have anything to add other than I request a recorded vote. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. The Member has requested a recorded vote. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: four in favour, 12 opposed, one abstention. The motion is defeated.

---Defeated

To clause 7, does committee agree?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. Mr. O'Reilly.

COMMITTEE MOTION 215-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
PARAGRAPH 17.1(1)(Q),  
DEFEATED

**MR. O'REILLY:** Thank you, Mr. Chair. I move that clause 7 of Bill 34 be amended by adding the following after paragraph (3)(r) -- I am sorry, Mr. Speaker. My motions are out of order.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. We will be taking a dinner break in about 16 minutes, just in case anyone is wondering. I know we are all getting a little tired and confused. To clause 7, committee already agreed. Thank you.

---Clauses 8 through 17 inclusive approved

**CHAIRPERSON (Mr. Simpson):** Clause 17.1. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Yes, I have a question I'd like to start with, and I want to commend the department, again. This took a lot of work. The annual report requirements are new. This was something that committee worked hard on with the department, and it's definitely an improvement.

So 17.1(1)(q) says the total amount of royalties paid the Government of the Northwest Territories. I understand that, right now, this actually doesn't happen, the public reporting of total royalties. We do get public accounts where there are combined figures for oil and gas and mining royalties, so can someone with the department confirm for me that this is actually an improvement and that it is going to require greater disclosure on our part as a government? Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. The answer is yes. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. That's great. Is there anything that would prevent the reporting of royalties by each mine? I'm not talking about the calculation of those royalties, but disclosure to the public of an actual figure of the royalties remitted to our government by each mine? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Presently, it's confidential under the Mining Regulations, but as part of our broader context, like we said, going forward the review and reporting will be part of the discussion. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Some of our mining companies here actually are required under the Extractive Sector Transparency Measures Act, federal legislation, to disclose on an annual basis what they pay actually to our government in the form of taxes, fees, royalties. Part of the issue is

that there is no consistent reporting period, but can someone confirm for me that, indeed, the royalties paid by those companies that do business in the Northwest Territories, portions of that may actually already be disclosed under the federal legislation? Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Yes, it might, but it's a self-reporting mechanism. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Ah, now we're getting somewhere. I raised these issues right at the beginning in some of my remarks on the bill, that it is a self-reporting mechanism, and there are different reporting periods, and there are different reporting entities. Are there any reasons why we couldn't disclose the royalties paid by each mine to the public? Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. That's a conversation that we have to have with our producers going forward, and we've talked about this many times with the committee. This is a complex issue, as I've said before in this House, and it's a conversation that deserves its own time. We need to have those discussions going forward on how that's going to work. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I'm trying to understand what the problem is, here. It's okay to report an aggregate amount of royalties paid, but it's not possible to report that as a breakdown because of some larger fiscal review that the Minister and his department want to undertake? Look, companies file, or will be filing, an annual royalty return. They remit money to our government. What is the problem in disclosing to the public what that figure actually is? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. As I have said before, royalties is a subject of a conversation we've had many times in this House. As another Member's opening comments said, there needs to be a wider context of what is actually included in what the mineral industry contributes to the Northwest Territories, such as property tax and

these such things. That's a discussion that needs to take place, and that's why we've separated it from this act to have that conversation at the 19<sup>th</sup> Legislative Assembly. That work has already begun, to look at that process. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Look, I don't want to debate the benefits that the mining industry provides to the Northwest Territories. I've acknowledged them openly in this House. They pay property taxes, they pay taxes, their employees pay taxes. That's all great, but what is the problem with disclosing to the public the amount of royalties paid? That's just a calculation. This is not the entire picture, but I'm trying to understand what the rationale is to prevent disclosure of the royalties that are paid. I just haven't heard a good reason why that amount can't be disclosed.

The other benefits, that's great, that can be part of a discussion, but why can't the royalties paid to this government be disclosed to the public for each mine? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** The question has been asked and answered, Mr. O'Reilly.

COMMITTEE MOTION 216-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
CLAUSE 20 BY SUBSTITUTING PARAGRAPH  
(G),  
CARRIED

**MR. O'REILLY:** Thanks, Mr. Chair. I understand the Minister is under no obligation to respond, here, of course, so I move that paragraph 17.1(1)(q) of Bill 34 be amended by adding ", and a breakdown of the amount of royalties paid by each mine," after "under Part 6". Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. There's a motion on the floor. It is in order and it is being distributed. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. What I heard from the earlier discussion was that, in fact, in some cases the actual royalties paid to our government are disclosed under federal legislation. There are problems with consistency, reporting entities, and so on. Some of this information may, indeed, already be disclosed. This is not a debate about what the benefits are from the mining industry; this is a debate about why a calculation of a figure of an amount paid to our government under mining legislation, you know, I guess the intent of this is to require that it be disclosed on a per-mine basis. I don't think that has any effect whatsoever on the

broader discussion of the fiscal benefits of this industry. This is about providing for greater disclosure, revenues that our government gets, and a breakdown.

I'm trying to understand what the problem is with this, and I have not had an adequate explanation from the Minister, so I would hope that, in the interest of transparency and greater accountability, Members of this House would support the reporting of this information. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Ms. Green.

**MS. GREEN:** Thank you, Mr. Chair. I want to make a point for the record about why I abstained from the last motion and I plan to abstain again. This report on the Mineral Resources Act landed on my desk today, still warm from the photocopier, 2 centimetres thick. I haven't had an opportunity to go through it, and I am not part of this committee, so I haven't been in the discussions of the act itself and the development and modification of it. The clause-by-clause review was held on the same evening as the clause-by-clause review for the Corrections Act.

The point that I want to make is that there is very limited communication between the Economic Development and Environment Committee and Members who are not on that committee about the development of this bill. I don't feel that I have the information available to make informed decisions about it, and so I am not going to either support or oppose this motion. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Ms. Green. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. We are all pressed for time, so we are doing the best we can, I think. The House is doing the best it can.

On the motion proper, I think that there is a need for a more global transparency environment that kind of governs how we do this across the board, not just for the minerals industry, but also for oil and gas, and that might be a standalone piece of legislation. It might be consequential amendments, a bill that amends several pieces of legislation to deal with this, but just putting the cart before the horse in regards to what we know is coming, a comprehensive review, I think that this is too soon.

My fear with this is that, if these royalties don't come in to a degree that provides public confidence, let's say, that mines are paying their fair share, because it is only judging royalties and not judging the other revenues we face, we could politicize this issue to a point where it becomes unhelpful. I would suspect that that might be the Minister's concern at this point as well. If we do a complete picture, we take a holistic look at all of the

fees, all of the taxes, everything that has been done, because we do things differently in the Northwest Territories, then we can come to a clear picture of the costs and benefits of the mining regime and make a plan to deal with transparency.

If anyone knows me, it's that I stand for transparency, but we have to do it in the right way, and I would like to see a more comprehensive approach to our extractive sectors across the board. Again, whether that is a new piece of legislation or a new act that provides consequential legislation, that is the way to go, so that we are not coming back to this factor.

At this point, I can't support this motion. I think that it is a commendable effort to raise this again, but I think that we need to wait for that more global approach to everything that is wrapped up into this issue. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Nakimayak.

**MR. NAKIMAYAK:** Thank you, Mr. Chair. I am going to reference the previous motion, 17.1, here as well, too. I think this, again, would scare away industry. I think that this would also, Indigenous governments, there could be unsettled claims. Look at Yellowknife for an example. They have agreements, and they have a great education system. I think that we need to protect that and preserve that so that industry can continue to explore and invest in our territory.

This is one that would scare away industry, and I think that this is a ridiculous motion. I won't support it. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Nakimayak. To the motion. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chairman. Again, I think that committee has the purview where this is maybe one of those crossroads where we are going to have a difference with the Minister and the department in general perspective, at least based on the way that some committee Members view this. I think that we genuinely feel that we want to serve the best interests of the public. I think that, if the public knows that royalties shall be paid to this government, the government that represents them, certainly there should be the obligation to report it on a mine-by-mine basis.

If we were to just leave this in here as it stands right now as it relates to subsection (q), the total amount of royalties paid to the Government of the Northwest Territories under part 6 for that reporting year, if all we were left with was one mine in the territory, then we would know the total amount of royalties coming from that one mine. It's not as though it's not an impossibility to know that. Quite

frankly, you would think that mines, to some degree, each individual mine would kind of want the public to know what their contribution is to our royalties, so that the public is aware of what the mines' contributions are.

I am going to be supporting the Member here. We tried to move this motion as committee, and as chair, I was somewhat neutral, but now that it is here before us, I will be supporting the motion. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. McNeely.

**MR. MCNEELY:** Thank you, Mr. Chair. On the principles of balancing transparency and investor confidence, industry certainty, seeing the benefits of the encouragement to have industry remain here, and understanding the environment of the industry, there are certain areas of confidentiality. I respect that, having experienced some of the confidential records in some of the projects that I have participated in in my home riding. If the information is disclosed, and I believe that the regulations, as Ms. Strand had mentioned earlier on the previous bill, would look after that. It may seem that regulations should be legislated, but there is a certain level of accommodation that should be taken into account.

Given that and my other thoughts, in the spirit of confidence and certainty, I can't support this motion. Thank you.

**CHAIRPERSON (Mr. Simpson):** To the motion. Mr. Nadli.

**MR. NADLI:** Thank you, Mr. Chair. Again, maybe I am trying to seek a legal opinion on the matter. It relates to process. I have heard the term loosely thrown around with this that a lot of these matters that we are seeking detail on have been deferred to regulations now. As a legislature, our primary task is to legislate changes and legislate government initiatives. It is perhaps unprecedented that we find ourselves moving towards the impression or expectation as legislators that we will be involved with regulations as well.

Could I get an opinion from legal counsel if that is perhaps where we might find ourselves in terms of the legislative process? I am seeking an opinion in terms of the legislative process, whether regulations are part of this process as well. Mahsi.

**CHAIRPERSON (Mr. Simpson):** Thank you. Madam Law Clerk.

**LAW CLERK:** Thank you very much, Mr. Chair. For this particular motion, what it does is it tries to have included in the annual report the royalties that are paid by each mine rather than the royalties that are

paid generally. There is a broader issue of the amount of requirements that are going to be found in the regulations.

Typically, requirements are either in a bill or they can be in regulations. This bill sets a structure and a lot of the detail will, in fact, be set forth in regulations. Regulations are generally an executive function. They are generally done either by Cabinet or by Ministers, not by Legislative Assemblies on the floor of the House. Some jurisdictions have committee scrutiny of regulations. We are not one of those jurisdictions.

That is really just the broad process, but this particular motion from Mr. O'Reilly really doesn't deal with regulations. It simply deals with compelling the Minister to include the amount of royalties in the annual report that is required under the new clause 17.1. I hope that is helpful, Mr. Chairman.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Nadli. To the motion.

**MR. O'REILLY:** Thank you, Mr. Chair. I think that makes it clear for me.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Seeing nothing, I will allow the mover to conclude debate. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. This is going to be a long evening. Sorry for that. I haven't heard a commitment out of the Minister to actually make this fiscal regime review that he has talked about actually open to the public. He talks about how he is willing to make sure that the regulations that are developed in the future are going to be open to the public but not the fiscal regime review.

I have also heard some arguments that this somehow is ridiculous that this kind of disclosure might be required and that payments to Indigenous governments might have to get disclosed or something. Actually, the federal legislation does require that now. If you go and look, you can find out how much Diavik paid to the Indigenous governments on an annual basis. That is disclosed in the Extractive Sector Transparency Measures Act webpage. That is a requirement.

This is part of a worldwide movement towards greater corporate transparency. I mentioned the Extractive Industry Transparency Initiative. This is part of global requirements that industry becomes more transparent about the payments that they make. Governments should get more transparent about the payments they receive. I don't and I have yet to hear any good reasons from the Minister why this information cannot be disclosed.

I would hope that Members will support this. I would request a recorded vote, Mr. Chair. Thank you.

**CHAIRPERSON (Mr. Simpson):** The Member has recorded a recorded vote. All those in favour, please rise.

#### RECORDED VOTE

**CLERK OF THE HOUSE:** The Member for Frame Lake, the Member for Yellowknife North, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**CLERK OF THE HOUSE:** The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu, and the Member for Kam Lake.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**CLERK OF THE HOUSE:** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote: three in favour, 12 opposed, one abstention. The motion is defeated.

---Defeated

It is time for dinner. I am calling a recess. Thank you, committee.

---SHORT RECESS

**CHAIRPERSON (Mr. Simpson):** I now call the Committee of the Whole back to order. Committee, to clause 17.1 Does committee agree?

---Clauses 17.1 through 19 inclusive approved

**CHAIRPERSON (Mr. Simpson):** Clause 20. Minister Abernethy.

#### COMMITTEE MOTION 217-18(3):

BILL 34: MINERAL RESOURCES ACT – AMEND  
CLAUSE 22,  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I have a motion that clause 20 of Bill 34 be amended by deleting paragraph (g) and substituting the following:

(g) lands that have been designated by the Minister as restricted under section 22, except for those



interests as described as unaffected by a designation in subsection 22(12) .

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister. There is a motion on the floor. The motion is in order. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Mr. Chair, this motion is intended to clarify that mineral interests that existed in an area prior to an area, its designation as restricted, under section 22 are unaffected by the restricted area designation. Thank you, Mr. Speaker.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

To clause 20 as amended. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair, when I look at clause -- sorry, we're on clause 22, or sorry 20. I am trying to determine why the wording in 22(12) which says, "For greater certainty, a designation made under this section does not affect any interests in minerals issued in respect of the area in the designation before the designation is made, including any right of." I'm trying to understand why we needed to make that change, Mr. Chair. Can I get an explanation from the Minister's staff? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. It's just a for greater clarity clause that accompanies 22.12, because section 22 is the process; 22 sets out the designation of the restricted area and how the designation happens, but it's actually section 20 that affects the prohibitions during the time of the designation, so it's just an accompaniment to 22.12 for greater clarity. They're both for certainty and clarity. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I am all for providing clarity, so I'm okay with this. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Clause 20 as amended.

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. Clause 21.

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Clause 22. Minister Abernethy.

COMMITTEE MOTION 218-18(3):  
BILL 34: MINERAL RESOURCES ACT –AMEND  
CLAUSE 22(2),  
DEFEATED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I have a motion that clause 22 of Bill 34 be amended by:

(a) striking out "settlement lands" in (1), and substituting a "a settlement area";

(b) deleting paragraphs 3(b) and substituting the following:

(b) if an area is within or overlaps with a settlement area or the asserted traditional territory of an Indigenous government or organization after the Minister engages with all applicable Indigenous governments or organizations; and

(c) striking out the "settlement lands" wherever it appears in paragraph 4(b) and substituting "a settlement area."

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister Abernethy. There is a motion on the floor. The motion is in order. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. The intent of this motion is to change the term "settlement lands" to "settlement areas" as we did in motion 1. This motion would ensure language in the bill is consistent with my previous motion to change the definition of "settlement lands" to refer "settlement areas." Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

To clause 22 as amended. Mr. O'Reilly.

COMMITTEE MOTION 219-18(3):  
 BILL 34: MINERAL RESOURCES ACT – AMEND  
 CLAUSE 22(7.1),  
 DEFEATED

**MR. O'REILLY:** Thanks, Mr. Chair. I move that paragraph 22(2)(b) of Bill 34 be amended in each of the subparagraphs (i) and (ii) by striking out "or historical" and substituting "historical or municipal." Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. There is a motion. The motion is in order and is being distributed. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. This section of the bill is all about this idea of restricted areas. This gives Indigenous governments the ability to request temporary restrictions on areas of up to one year, that can be extended to two years, for a number of purposes including areas that might have unique, archaeological, cultural, ecological, geological, or historical significance. Of course, they have to cover the minimum area, and the area can be no larger than something that might be prescribed by regulations.

This would add in to those reasons why an Indigenous government may want to seek protection of an area so that it could serve municipal purposes. Of course, some Indigenous governments actually serve as municipal governments; one being the First Nation Council in Lutselk'e or Samba K'e or Wrigley. I think even in Tsiigehtchic, the council is basically the First Nation government.

What this would do is give those Indigenous governments the ability to say, if there is something that serves a municipal purpose, say, water or sewage treatment or a landfill, that they could request that that area receive temporary protection and that they could request that of the Minister. It is about extending this to include municipal purposes. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question

**CHAIRPERSON (Mr. Simpson):** Question has been called. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I would request a recorded vote. Thank you.

**CHAIRPERSON (Mr. Simpson):** The Member has requested a recorded vote. All those in favour, please rise.

RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote: four in favour, 11 opposed, one abstention. The motion is defeated.

---Defeated

Clause 22 as amended. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Before I go on to something else, I would like to ask the Minister a question about: is there anything in this section that gives municipal governments, community governments the ability to request temporary protection of areas within their boundaries that might be covered by key municipal infrastructure? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. No, there is not. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Can the Minister explain why that isn't in here? Is there a rationale? Is there some reason why this could not be extended to community governments? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. The intention of what a restricted area is to be is more to protect sensitive areas that are set for a set amount of time for the long term and find long-term use solutions. Moreover, restricted areas are

justified by unique attributes, fragile attributes that could face irreparable harm, significance tied to ethical values rather than public utilities or economic worth, urgent need for temporary protection until long-term measures may be secured. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Are there any sort of legal impediments here to providing this ability to request restricted areas to municipal governments? Are there any legal impediments to doing that? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. It is not the intention of this motion. As I have said, I laid out the intention of it. Municipal infrastructure is not any of these. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. That wasn't my question. Is there anything in law that the Minister can cite that would be used as justification to exclude community governments from being able to request restricted areas? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. Just to answer the direct question about whether there is a legal possibility or not, I think that is not the question at hand. There may or may not be a legal possibility to build legislation. The intent of this provision is to patch the gap between a permanent production, permanent land-use tool and the time that it takes to apply for it. That was not something that we felt municipal infrastructure fit within this provision. When you develop legislation, you have to fit within the intent of the provision. We did not build a municipality infrastructure here. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. We did hear from the Northwest Territories Association of Communities. Sorry. I just can't recall now whether there was specific requests from the individual community governments for this ability to ask for temporary restricted areas. Were there any conversations like that between the department and community governments in developing the bill? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. During the public engagement session, this wasn't a concern that was raised, but maybe it was possibly raised with the SCEDE's engagement. I am not sure. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I can certainly assure the Minister that it was raised with committee. It is in the committee report. Committee tried to work with the Minister and his staff to reach some kind of resolution, compromise on this, and we were unable to. That is why it is here again before us.

I understand that this section actually deals with written reasons for why restricted areas would be declined and this would insert municipal governments into that process. It is probably not the best place where this fits. The point is that municipal governments just were not accorded the kind of recognition and place in the bill that they could and should have gotten.

Sorry. I am speaking to a motion. I shouldn't have done that. Sorry, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Pardon me. Could you repeat that? Sorry, Mr. O'Reilly.

COMMITTEE MOTION 220-18(3):  
BILL 34: MINERAL RESOURCES ACT – MOTION  
TO AMEND CLAUSE 22 BY ADDING AFTER (7.2),  
DEFEATED

**MR. O'REILLY:** Mr. Chair, I move that that subclause 22(7.1) of Bill 34 be amended by adding "or municipalities" after "governments or organizations." Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. There is a motion on the floor. The motion is in order and is being distributed. The motion has been distributed. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. This would extend the ability to receive written reasons to municipal governments on if the Minister declines to accept a restricted area. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. Again, I think this is a very important section or important change because we have heard this concern from municipalities. For whatever reason, that might have not been the case with the government's early

discussions with the public engagement around this, but it is certainly something the committee found. I think it is important that we respond to this in a meaningful way. If we are unable to, if the government can't support this amendment for whatever reason, we still need to find a solution.

I am not going to reflect on the outcome of previous matters, but a number of debates have occurred over motions that have been raised so far. I have yet to hear my colleagues, my friends across the way raise their voices to debate in a parliament, which is imperative to inform the public record on why we are doing this or why we are not doing it. It is a bit disappointing that these motions continue to be raised and are not being given the fullness of debate to understand their contents and understand the positions around it. I hope that can change as we continue on this process. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. I will allow the mover to close the debate. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Nothing to add. I request a recorded vote. Thank you.

**CHAIRPERSON (Mr. Simpson):** The Member has requested a recorded vote. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: four in favour, 11 opposed, one abstention. The motion is defeated.

---Defeated

Clause 22, as amended. Mr. O'Reilly, you've spoken to this clause, so unless there is a procedural issue or something you'd like to raise, I'm not going to allow any more comments on this. So, since you've already spoken to it, I'll allow Mr. Testart to go first, but I will put you on the list.

**MR. TESTART:** Thank you, Mr. Chair. You know, of the issues that have been raised around protecting public infrastructure, or I shouldn't say that, not protecting public infrastructure, but avoiding conflict when the rights contained in this act impact the infrastructure of municipal public interests, if the government is not content to seek changes in statute, what is their approach? How are we going to resolve this and keep these matters out of the courts and provide certainty beforehand, so they don't end up in the courts? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. I think the point on this whole thing is it's not the Mineral Resources Act to have that discussion. It would be a broader government discussion, and maybe that's a discussion that needs to take place with the Department of MACA. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you. Well, the issue is that the mineral tenure rights that are governed by this act are impacting on municipal interests, so it is very much this piece of legislation and this department's responsibility. It might, perhaps, be other departments' responsibility, as well, but mineral tenure conflicts aren't governed by the Cities, Towns and Villages Act, the Hamlets Act, or any other statute governing municipalities.

Again, this is an issue that was raised by committee, taken very seriously by the committee. The amendments proposed by committee are not acceptable to government, so what is the government's approach to resolve this issue to prevent future conflicts and keep industry and municipalities out of the courts? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. I'm going to put this on the public record again. The restricted area provision is not designed to protect things like municipal infrastructure. They are planned projects where existing issues can be studied and addressed, infrastructure located, planned and well-known. There is time to use existing tools to apply for protections or ensure access. Land-use planning offers appropriate tools to address the protection of areas that have interest like municipal infrastructure. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Okay. So, again, I'm trying to find a way to ask this question, but fundamentally the committee found a way that was in order, that was acceptable to the legislation. We vetted that with our legal counsel. So this is not out of line with the act; it's out of line with the policy intent of the government, but the committee found this problem. We're not making this up; it's happened. So this is a very fundamentally live issue. If not the committee's amendments, the committee's policy direction that this be resolved, what is the approach of government to this?

I don't want to hear about why it couldn't be changed in this part. How are we going to support our community governments who have had this happen to them? How are we going to effectively manage conflicts between mineral tenure and community public infrastructure or community assets like quarries? How are we going to manage that, how is this government going to respond to that problem, and how are we going to solve it? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. It's not about a municipality's status. The entire restricted area provision was designed to provide an emergency tool to protect sensitive areas recently discovered from irreparable harm. It is in the spirit of reconciliation and recognizing the inherent rights of Indigenous governments to their land, and it also recognizes the fact that Indigenous settlement lands are generally considerably larger than those of municipalities. This makes it far more difficult for Indigenous governments to know all the facets of their lands which they need to protect.

Furthermore, there is nothing preventing a municipality from petitioning the Minister to create a restricted area based on the criteria set out in the Mineral Resources Act. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. That criteria is incredibly limited, and it's limited to archaeological, cultural, ecological, geological, or historical attributes. It does not govern infrastructure or community assets like quarries. That's the whole point of committee's policy direction on this. I understand, the Minister does not have an answer to this question. He does not have a solution to this problem, and our municipalities, once again, will have to wait until a conflict arises, they hire lawyers and go to the courts and something like a quarry is off-limits and useless to that municipality for years to come.

I think that's a shameful lack of attention to a concern that committee has raised in good faith, and I do not understand why, when there is a conflict between two policy directions, it has to be a flat no instead of finding compromise through other tools like regulation or public policy instruments that are available to this government, available to this Minister, and available to this department. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart. Minister. Nothing from the Minister. To clause 22, as amended. Mr. O'Reilly.

COMMITTEE MOTION 221-18(3):

BILL 34: MINERAL RESOURCES ACT – AMEND  
CLAUSE 24,  
CARRIED

**MR. O'REILLY:** Thank you, Mr. Chair. I move that clause 22 of Bill 34 be amended by adding the following after subclause (7.2):

(7.3) The Minister shall, upon request of a municipality, consider designating an area as a restricted area within which interests in minerals may not be issued for a period of up to one year, if

(a) the Minister considers that the designation is required urgently and for a temporary period;

(b) the area is located within the boundaries of the municipality;

(c) the area contains sufficient municipal infrastructure or public utilities which could be negatively impacted by mineral development; and

(d) the area is no larger than necessary.

(7.4) If the Minister receives a request from a municipality for a designation under subsection (7.3), the Minister shall engage with all applicable Indigenous governments and organizations that may have an interest in the proposed designation.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I know that this is kind of convoluted, but this is the main motion about this issue of how municipal governments can relate to what is happening in the Mineral Resources Act. This is where I think we should have the main discussion and debate around this issue.

The bill now outlines a process for Indigenous governments to request temporary restrictions for areas that are of interest to them with regard to whether they have unique, archeological, cultural, ecological, geological, or historical significance. What this motion would do is basically replicate that process and allow municipal governments to request areas of temporary restriction for municipal purposes within their boundaries and no larger an area than necessary and that the Minister would consult with Indigenous governments in carrying out the consideration of that question.

Maybe the department didn't hear about this when they conducted their original consultations, but certainly committee did, and for the Minister to say that, because the department didn't hear about this in their consultations, I'm not going to do anything about, that's not why I am here; because that is what he just said, that the purpose of this is to allow for Indigenous governments to seek temporary protection. Well, here is a clause now that would give municipal governments the same sort of capability. This doesn't take away from what Indigenous governments want to do in any way. In fact, there is a requirement in here for the Minister to consult with Indigenous governments before that restricted area could be established.

I don't really understand why this is not something can be accomplished. This is about trying to avoid conflict. It's consistent with encouraging good relations, building good relationships, and in fact, in some cases, First Nation governments actually are a municipal government. I mentioned that. In the case of Lutselk'e, Wrigley, Samba K'e, Tsiigehtchic, those First Nation governments actually service the municipal governments. They already would have the ability to ask for restricted areas, not for municipal purposes quite yet, but why wouldn't we give this ability to request restricted areas? It's all at the Minister's discretion. The Minister doesn't have to do this.

If the purpose of this bill is to try to avoid land use conflicts and encourage better working relationships, why wouldn't we give this ability to municipal governments to protect key infrastructure? I just don't understand it, Mr. Chair.

In any event, I look forward to the debate and discussion. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. Over the course of questioning, we have learned that the Minister does not have a plan to deal with this situation. I think that the Member's motion is a good way to deal with this situation. Clearly it is in order. Clear it is within the capacity of the bill and the legislation to deal with this. I see no reason why it can't be done.

Again, this is a gap. We don't know how to deal with this. We have no plan to deal with this. This seems like a good plan, and I applaud the Member for bringing it forward. If there is any good reason why this shouldn't be supported, I do not see it at this point. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. I will allow a last reply to the mover. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. I would request a recorded vote, and I will be better at it next time when I ask for that. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. The Member has requested a recorded vote. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: 4 in favour, 11 opposed, 1 abstaining. The motion is defeated.

---Defeated

Clause 22 as amended.

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. Clause 23. Mr. O'Reilly.

**MR. O'REILLY:** It was 24 that I wanted. Sorry.

**CHAIRPERSON (Mr. Simpson):** Thank you. Clause 23. Does committee agree?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. We're speeding right through. Nothing can slow us down now. Clause 24. Minister Abernethy.

COMMITTEE MOTION 222-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
CLAUSE 24(7),  
DEFEATED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I have a motion that clause 24 of Bill 34 be amended:

(a) in subclause (1), by striking out "settlement lands" and substituting with "a settlement area";

(b) in paragraph (3)(b), by striking out "the settlement lands" and substituting "a settlement area;" and.

(c) in subclause (4), by striking out "the settlement lands" wherever it appears and substituting "a settlement area."

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. It is being distributed. The motion is in order. Mr. Testart.

**MR. TESTART:** Mr. Chair, a point of order. I am looking at the copy of the motion that has been distributed, and the French translation does not seem to match the English translation. There is a subclause 4, and I can read the French if you like, but I believe you have a copy of this motion as well. I believe this motion is out of order as both sections do not match.

**CHAIRPERSON (Mr. Simpson):** We will take a very brief 10-minute recess while I confer with my staff. Thank you.

---SHORT RECESS

**CHAIRPERSON (Mr. Simpson):** The Member has raised a point of order and explained his reasons. I have come to a ruling after conferring with staff, and, although on the face of it this might appear different, the fact is that the French and English versions achieve the same objective and the additional subclause was a choice of the French-language drafter to ensure that the French and English translation achieved the same thing. For further clarity and for the comfort of the Assembly, I am going to turn to the law clerk for perhaps a more detailed explanation, at least more eloquent. Madam Law Clerk.

**MADAM LAW CLERK:** Thank you very much, Mr. Chairman. I doubt I can be more eloquent than you in that regard, but I can indicate that the French-language drafter felt it necessary, in order to replicate the same concept that is contained within the English version of clause 24(c), to reproduce the clause in its entirety with each section of the changed word. I actually have gone and compared the clause, and, indeed, it is replicated in its entirety with the exception of two words, which appear to connote "settlement area," which I am assuming connote "settlement area." In other words, it was felt necessary to repeat the same clause in order to achieve the same effect as contained in sub (c). This was necessary because both versions are equally authoritative. It is important that they both equally and accurately express the same concept, so sometimes more language is necessary in order to do that.

**CHAIRPERSON (Mr. Simpson):** Thank you, Madam Law Clerk, for that explanation. For those who are late joining us, the motion is in order. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

To clause 24 as amended. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. I have some remarks I would like to make about the concept of zones, if I may. I think this is an appropriate time, and I have some questions. I have had a lot of difficulty understanding the rationale for these zones. The way I heard it during the clause-by-clause review is that the department wants to try to encourage mineral exploration and that this was a way to try to do that. I have said that I think that that's a dangerous mixing of objectives, where the department is supposed to be a regulator of mineral rights and at the same time of promoter, and I think that it's not appropriate to mix those

roles and the objectives in this bill. That is what I believe this zones portion is really all about. I have not seen anything in writing from Indigenous governments in submissions that I think committee received, that I can recall, nor from industry, requesting the establishment of zones. The representation that we did get from industry on this part of the bill was really about continuing the current practice of prospecting permits and grandfathering that provision into the legislation, which is actually done further down in the bill, and we may get to that if we ever finish, in terms of the transitional provisions. I am trying to understand what the rationale is for this. Can I get the Minister to provide a clear policy rationale? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Zones can be created by a nomination from Indigenous governments. Zones were included in the bill to create a method for Indigenous governments to drive where and how they could attract investment within their lands if they so choose. Zones were intended to provide greater certainty for industry by indicating where Indigenous governments would welcome greater exploration. We are trying to encourage early exploration, which is fundamental to our government's position that we need exploration to foster new, responsible development and hopefully results in discoveries that could be our future mines. This is our solution to doing it in way that not only respects Indigenous governments, but allows them to have a say in how they wish to benefit from mineral exploration. We also have to remember that zones are temporary and can be adjusted with the agreement of IGOs if they have met the goal in the creation of that zone. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I don't accept all of the reasoning there from the Minister, but he also neglected to indicate that 24.7 here would allow the Minister to create zones on the Minister's own initiative. Is that correct? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Yes, but we would have to consult with Indigenous governments. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Great, so the Minister can do this as well. Can I just get an

explanation from the department of what the purpose of subclause (13) in this section is? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. The purpose of subsection (13) in the reprint is a for-greater-certainty clause. It is just to clarify the interpretation of this, and that any zone creates an option doesn't change the normal rules and their availability. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. As I read this, (13) says that a person may apply for an instrument in accordance with the regulations establishing a zone or in the general regulations established under this act. There are going to be maybe two sets of rules, terms, or conditions that are established that could apply to somebody getting an instrument in a zone. For a prospecting licence, a mining claim, a lease, there could be two sets of rules that could apply to those instruments. Is that correct? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Ms. Strand.

**MS. STRAND:** Thank you, Mr. Chair. It is incorrect to suggest that there are two sets of rules. There is only one underlying set of rules for the Mineral Resources Act, and that is for getting and maintaining mineral interests. That lays the groundwork. The incentives that would be put in place if a zone is established would modify some of the requirements in a specified area where that zone is in place.

If I can use a practical example, if you had a zone, a proponent could apply for whatever instrument we are giving out under that zone. Alternatively, that proponent could also say, "Well, I'm just going to stake a regular mineral claim and follow the regular act." That would be an example of where the overall MRA regulations for mineral tenure would apply versus one that a proponent would select to follow the zone rules. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. I think that the witness proved my point. There could be two sets of terms and conditions that relate to claims: one for the zone and one of general application, which I think is going to create confusion -- it is creating confusion in my own mind, obviously -- about having two sets of rules for anyone applying for an instrument.



Can someone from the department clarify whether anybody has actually requested this ability to have what I interpret as two sets of rules for someone securing an instrument? Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Strand.

**MS. STRAND:** Thank you, Mr. Chair. This shouldn't be new. We have zones currently in the Northwest Territories, and they are referred to under the sections in the mining regulations, called prospecting permits. We are simply building on that tool.

Right now, under our mining regulations, we have two zones: one north of the 68<sup>th</sup> parallel and one south of the 68<sup>th</sup> parallel. That means that the entire Northwest Territories is divided into two zones. Somebody can apply for the instrument of a prospecting permit, or somebody can apply for a mineral claim, go out, and stake one. That would be two sets of rules that we currently have where people can apply for two different sets of instruments. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I continue to respectfully disagree. I think that this is going to create confusion that there are two sets of rules that can apply within one zone.

I want to move on, Mr. Chair, to one other issue with regard to zones, and I neglected to raise it earlier. It is what I call the race to the bottom, where we could have Indigenous governments competing with each other to try to attract investment by having lower and lower standards. What is the department going to do to prevent that from happening? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. I myself have a whole lot of confidence in our partners and Indigenous governments to effectively represent their interests. It seems that certain Members may not share that confidence.

Zones cannot override requirements under any other legislation. The favourable terms are limited to how mineral interests are acquired and maintained. They cannot cover things like water or environmental rules, which are rightly enshrined in other legislations. We plan to set out the baseline of what kind of incentives are allowed within a zone in regulations in partnership with Indigenous governments and stakeholders. We don't believe that this is all that different than regimes in places

like Manitoba, Ontario, and the Yukon. Members can rest assured that there are examples in place.

Furthermore, we believe that the checks and balances offered by the Executive Council engagement with Indigenous governments is more than enough to prevent this kind of issue. We should also note the reality that exploration is driven by geology and not by incentives. Incentives are simply a tool to enhance how and where that happens. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. I wish to raise a point of order. The Minister is impugning motives on my part, saying that I don't have confidence in Indigenous governments. I have never said that in this House, and I respectfully would request that he withdraw those remarks. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. One moment. I will give the Minister a chance to respond to the point of order. Minister Schumann.

**HON. WALLY SCHUMANN:** I will repeat exactly what I said, Mr. Chair. I said, "I myself have a whole lot of confidence in our partners and Indigenous governments to effectively represent their interests. It seems certain Members may not share that confidence." That's what I said, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister Schumann. One moment.

Thank you, committee. I will rule that there is no point of order, because the Minister used the term "may," and he did not name particular Members, although I can understand the Member's concern. Language perhaps has the potential to cause disorder.

Like I have stated a number of times over this past week, if we can all remain civil and all respect each other's opinions, as there are many differing opinions in this Assembly, we can get through the next few days without any more animosity bubbling to the top. I think that we would all appreciate that, and it would make for a much more productive week for everyone.

To clause 24 as amended. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. Could the witnesses explain how this provision of the act applies to prospecting permits? I hope I've got that right, but I'll just express the concern. The correspondence committee heard from industry that this was broadly supportive of the zones because they have been told, and they see it as an extension of prospecting permits which are under

the old mining regulations. Could we have an explanation of how zones apply to that? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Strand.

**MS. STRAND:** Thank you, Mr. Chair. The prospecting permit the way it is right now is an example of an instrument that is issued in a zone. We will have to define what the new instrument is going to be in the new MRA under zones. It could be the continuation of prospecting permits as they stand now, or a modification, or something completely new. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you. Which part of the subclauses of clause 24 address the prospecting permit instrument? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. Within section 24, section 24 is the enabling authority, the new enabling authority for prospecting permits. You will see, in 113(5), there is a continuation provision. The current regulations that are housed within the mining regulations when this comes into force, will move over. They will be, by all means, open for review and improvements, but they live on under the MRA under that provision as is like the rest of the mining regulations. Therefore, prospecting permits in their current form are transitioned with this bill. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you. Would it be fair to characterize this zone section as having nothing to do with prospecting permits in its current form because they are addressed through a transitional provision? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. It is actually extremely related because section 24 of the zone is the enabling authority for prospecting permits. Without section 24, we cannot move over the prospecting permits. That's because, as was previously said, prospecting permits is based on zones, and right now, that divide is north and south of 68. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Could I just get the section of the transitional provision again, covering the prospecting permits? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. It's 113(5). Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** I see that now. Is the plan going forward to better define, I guess on the top of this and what we've heard over the course of the debate is that it's a discrete mechanism or instrument for Indigenous governments to seek greater mining benefits, or encourage more mining exploration in their co-manage areas or traditional territories. That's the explicit purpose of the section.

I think prospecting licences or permits, rather, have a different purpose, a different policy statement, and I think that's why there's the confusion here. I agree 100 percent with the read that the transitional, that these are enabling for those transitional provisions, but this section, it feels orphaned with the stated intent of this.

What is the plan going forward? Is it to do this through the regulations that come next? Is it to provide a legislative amendment to include another subclause that's going to contain zones? The prospecting licences are not clearly defined apart from that traditional provision, and using this section as an instrument. Can we get some clarity on what the policy intention is moving forward as it relates to clearly defining zones as an instrument for prospecting permits apart from a transitional provision? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart. I'm going to pause your time for a moment. We're going to have to send the Pages home right away so we don't violate any child labour laws, I think, but I want the Assembly to join me in thanking them for spending some long hours with us here. Thank you to all the Pages for all your work.

---Applause

Minister, your mic is on.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. We are going to continue prospecting permits. What we are changing is making this not just a tool for our government, but an Indigenous-led partnership to attract responsible exploration, and we'll continue to do that when we do the regs development and have a look at it. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Section 24(1) says: For the purposes of the section, applicable in respect of Indigenous governments and organizations, or those Indigenous governments and organizations. That's at the request of a zone. How does industry who basically wants to obtain a prospecting permit, how do they apply for a zone because this section is fairly explicit that it would be an Indigenous government that would have to request a zone be created. How does industry go about doing it, as they did with prospecting permits? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. With regard to the prospecting permits, when section 113(5) comes into force, the zone is already created. It is the same zone that we effectively have under the mining regulations right now. Within that zone, a system, there is an ability if you so choose, to obtain a prospecting permit. I think the answer to your question is that it would already be established. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Okay, that's clear. That grandfathered clause that's going to be carried over, will it be subject to the 15-year period as outlined in clause 11? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna. The time is ticking down. Can the Minister produce an answer? Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. Because the new section 24 is the enabling authority and because 113(5) says that the sections of the mining regulations which have the prospecting permits are deemed to be regulations establishing zones, I would think that the enabling authority applies, and therefore the 15-year rule applies, and it's subject to a review and a renewal. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Remain in force until amended or repealed to the regulations. That's the case. The old system for zones which were again a tool of government to promote exploration. They all remain in perpetuity, but any zone requested by an Indigenous government will expire after 15 years. That seems inconsistent with how this clause works. In actual effect of an Indigenous government requested zone, it will operate for no longer than 15 years, and then can be renewed, but the ones that the government has

created and is carrying over from the old regime, will last forever. That seems to be, perhaps, "unfair" wouldn't be the way to characterize it, but it seems to be inconsistent with section 24. What's the position of the Minister on that? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. A minute left on the clock. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. I am not sure if I understood the Member correctly, but if I did, that is not exactly what I said. I said that they would be subject to the 15-year rule, because that is the new enabling authority, and they are due to be established as zones as regulations under that enabling authority. Therefore, they would be subject to a renewal. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Forty seconds, Mr. Testart.

**MR. TESTART:** How does industry, then, build a new zone or create a new zone to enable prospecting permits once they expire after 15 years and the act comes into force? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Twenty seconds or less. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. It would as it is set out in the act. There would be a review of the merits, and then it would be a renewal of justice in the same system as the enabling authority says. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart, your time has expired. To clause 24 as amended. Mr. O'Reilly.

COMMITTEE MOTION 223-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSE 24(13),  
DEFEATED

**MR. O'REILLY:** Thanks, Mr. Chair. I move that subclause 24.7 of Bill 34 be deleted and the following substituted:

(7) A zone may be established under subsection (2), and the regulations establishing a zone may set out requirements that the Minister considers appropriate on the Minister's own initiative or as recommended by the proposing Indigenous government or organizations after

(a) the Minister engages with the applicable Indigenous governments and organizations in respect of the requirements; and

(b) a reasonable opportunity has been provided by the Minister for the public to provide comments on the merits of the proposed zone.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I recognize that this is getting late. Committee tried to work with the Minister to propose a number of changes to this concept of zones to put in some checks, and I think that it is fair to say that most of those were incorporated other than what this motion proposes, which is to provide an opportunity for the public to comment on the creation of zones. That opportunity could actually include even industry, of course, because they are part of the public as well. Whether it is an Indigenous government or the Minister does this on his or her own accord, this would provide an opportunity for the public to comment on zones.

If we are going to go through the trouble of creating these zones, the Minister has already publicly said that part of the expectation is that this is going to encourage development, well, let people weigh in and express a view about that. That's what this is about, affording the public an opportunity to comment on the creation of zones. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Continue, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. I requested a recorded vote. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you. We're in 2019, we have a very unique circumstances for governance in the Northwest Territories, and we have to continue on the path of reconciliation and respect Indigenous partners. That they have an inherent right to self-government and many of those self-governments have come forward.

In regards to Indigenous governments being involved in the creation of zones, I think that that is important, but at the end of the day, it is the Minister who approves the zone. The Minister is a representative of the public Government of the Northwest Territories for all of the people of the Northwest Territories, and that is his role.

To have an opportunity for the public to comment on the establishment of a zone, which, again, is the Minister's discretion, is not a mandatory decision that is made after an Indigenous government proposes a zone, so I don't think that this impacts the ability of the new special relationships that have been established through zones.

I think that this is important for scrutiny, transparency, and allowing everyone to weigh in, including industry, including civil society, and hold a public representative of government making decisions on behalf of the public government to have those decisions appropriately scrutinized and held to a level of transparency that the public expects in 2019 as well. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Nakimayak.

**MR. NAKIMAYAK:** Thank you, Mr. Chair. Like other motions, I think that this is getting into the weeds of some of these clauses, and I think that it is a disrespect to Indigenous governments. Sometimes I am listening to this, and I am hearing that this might be mistaken with the Public Land Act. Correct me if I'm wrong, but it definitely sounds that way.

For the sake of effectiveness and expediency, I think that we need to really get to the point of this, stay on point, and focus on what is here. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. The mover has the right to last reply. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. My job is to actually get into the weeds. That is why I am here. I tried to correct the Minister on this; I'm not disrespecting Indigenous governments. This does not take away from Indigenous governments by any stretch of the imagination. Those rights are already protected in other provisions in the bill. This is about affording the public an opportunity to comment on the establishment of regulations that would establish zones. The Minister doesn't even have to listen to whatever the public says. I could say something about how that has played out in the context of this public consultation around this bill, but there is nothing in here that is disrespectful of Indigenous governments by any stretch of the imagination. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. The Member has requested a recorded vote. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Deh Cho, the Member

for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, and the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: 4 in favour, 11 opposed, 1 abstention. The motion is defeated.

---Defeated

Committee, we are on clause 24 of probably altogether around 120 clauses. We are about a quarter of the way through this, and everyone is getting a little testy, I can tell. What we are going to do is we are going to take a break, and we are going to come back after people have a few minutes to calm down and maybe get some fresh air. We are in recess.

---SHORT RECESS

**CHAIRPERSON (Mr. Simpson):** I will now call Committee of the Whole back to order. Committee, clause 24 as amended. Mr. O'Reilly.

COMMITTEE MOTION 223-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
PARAGRAPH 28(5)(A),  
DEFEATED

**MR. O'REILLY:** Thanks, Mr. Chair. I move that subclause 24(13) of Bill 34 be deleted and the following substituted:

(13) If a zone is established under this section, any person seeking to apply for an instrument in that zone must apply in accordance with the regulations establishing that zone. If those regulations differ from the general regulations establishing this act and may not rely on the general regulations established under this act to apply for an instrument in that zone.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly. There is a motion on the floor. The motion is in order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. I know that is a mouthful. The drafting of this motion is to say that there are two sets of rules that apply, one inside a zone and one outside of a zone. The way

this had been drafted, it looked like, to me, that there was the potential for two sets of rules to apply within a zone: the special rules established by the regulation setting up the zone and then the general regulations established under this act. That is what the purpose of this is. One set of rules, whether you are inside or outside of a zone. When you are inside, you live with the rules that are established by regulation to set up that zone. When you're outside, the general regulations apply, or conditions set out therein.

I think this provides some clarity. If you're inside a zone, one set of rules; you're outside, the other rules apply. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. I will put the question to committee. All those in favour? All those opposed? The motion is defeated.

---Defeated.

Clause 24 as amended. Does committee agree?

**SOME HON. MEMBERS:** Agreed.

---Clauses 25 through 27 inclusive, approved

**CHAIRPERSON (Mr. Simpson):** Clause 28. Minister Abernethy.

COMMITTEE MOTION 224-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
PARAGRAPH 28(5)(A)  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I'd like to move a motion that paragraph 28(5)(a) of Bill 34 be amended by striking out the "settlement lands" and substituting "a settlement area." Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister. There is a motion on the floor. The motion is in order. The motion has been distributed. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Clause 28 as amended. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. I'd like to know from the Minister if there are any provisions in section 28 that provide for a municipal government to receive notice of an application to record a claim, a mining claim? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** No. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Can the Minister tell us why municipal governments were not included in those that could receive notice? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. We see this motion as unnecessary as municipal or local governments are effectively already required to receive notice. All of the public would receive notice ---

**CHAIRPERSON (Mr. Simpson):** Minister, there is no motion on the floor. The Member had a question in relation to the clause. There is no motion to discuss. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. The public would receive notice under section 28(4), and municipal or local governments would be able to access notice. Furthermore, we believe the positive obligation to circulate. That's it. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Although community governments could obtain the information from the public registry, are there any legal impediments or particular reasons why municipal governments couldn't be given notice of request or record a claim within their boundaries? Are there any legal impediments to that happening? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** We leave positive obligation to circulation notices to Indigenous governments with territory overlapping the claim application area. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Were there any discussions that the department had with community governments or NWTAC about how to avoid land use conflicts from happening in the future such as providing notice to community

governments of claims staking within their boundary? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Not during public engagement, there was not any discussion on that or brought forward. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. That's great. I'm glad to hear that the Minister's department didn't actually hear any concerns about that one when they were preparing to work on the bill. This committee did hear that. We have raised that. Here is another policy issue that was live, raised to the committee, about how they would like to know what's going on within their boundaries. This is consistent with having good neighbour relationships, all that sort of thing that the Minister talked about in his opening remarks, but there's no provision in the bill.

Mr. Chairman, I'd like to move into the motion if I may.

COMMITTEE MOTION 225-18(3):

BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSE 28(5)(A) AND (B),  
DEFEATED

**MR. O'REILLY:** I move that subclause 28(5) of Bill 34 be amended:

(a) in that portion, preceding paragraph by adding; or if applicable to a municipality, after Indigenous government or organization; and

(b) in paragraph (a) by adding, or is within or overlaps within the land of that municipality after Indigenous government or organization.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Mr. Chair, we heard from the Minister that there was no policy rationale for excluding or not including municipal governments because they didn't actually hear that concern. I said earlier that committee certainly did hear this issue in its review of the bill. As I said, this is about avoiding land use conflicts, about ensuring that there's good working relationships moving forward, and this does not take away from Indigenous governments in any way, but I think it recognizes that municipal governments have significant

investment in infrastructure within their boundaries, and want to know what's going on in their areas of jurisdiction; and without having to go and check a public registry day after day, here's an opportunity for us to provide that information to municipal government on an ongoing basis. I think this is a reasonable request to a policy concern, an issue that was raised with us, and I look forward to the Minister and Cabinet supporting this because I know that they believe in our community governments. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. The Member has requested a recorded vote.

#### RECORDED VOTE

**CHAIRPERSON (Mr. Simpson):** All those in favour, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**DEPUTY CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: four in favour, 11 opposed, one abstention. The motion is defeated.

---Defeated

Clause 28 as amended.

**SOME HON. MEMBERS:** Agreed.

---Clauses 29 through 41 inclusive, approved

**CHAIRPERSON (Mr. Simpson):** Clause 42. Minister Abernethy.

COMMITTEE MOTION 226-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
PARAGRAPH 42(5)(A),  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I move that paragraph 42(5)(a) of Bill 34 be amended by striking out the "settlement lands" and substituting "a settlement area."

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. It is being distributed. The motion is in order. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Clause 42 as amended. Mr. O'Reilly.

COMMITTEE MOTION 227-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSE 42(5),  
DEFEATED

**MR. O'REILLY:** Thanks, Mr. Chair. I move that subclause 42(5) of Bill 34 be amended:

(a) in that portion preceding paragraph (a), by adding "or, if applicable, to a municipality" after "Indigenous government or organization"; and

(b) in paragraph (a), by adding "or is within or overlaps with the land of that municipality" after "Indigenous governments or organization."

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. This is about this new provision within the act whereby the Minister is going to require notice of intended work so that there is some understanding of what mining companies get up to when they are out there on the land. I think that this is a good thing, and I am pleased to see that, in the spirit of reconciliation, this notice of intended work is going to be provided to Indigenous governments. I support that. The purpose of this amendment, though, is to include municipal governments in that provision for notice so that we can avoid land use conflicts, but they can understand what is going on within their boundaries.

Some of those municipal governments are actually First Nation governments, as I have said before in this House: Lutselk'e, Wrigley, Samba K'e,

Tsiigehtchic. This is about ensuring that even those Indigenous governments know what is going on within their boundaries. Of course, they are going to get this notice here, but I think that we should be treating all of our municipal governments with the same kind of process so that they can know what is going on in their backyards.

I look forward to Cabinet supporting this motion so that we support our community governments in understanding what is going on within their boundaries. I would say that we actually did incorporate this kind of notice provision in the Public Land Act that we dealt with the other day where now municipal governments will receive notice of land dispositions within their boundaries on the surface.

Let's do it for the subsurface. That's what this is about here. Cabinet has already agreed to do it on the surface lands in the Public Land Act. The Minister of Lands agreed to incorporate it into the bill. It passed in this House. Let's do it now for subsurface dispositions, make sure that we work with our community governments, adopt a consistent approach, and provide them with the kind of information that they need to manage the lands and carry out their duties.

For consistency's sake in supporting our communities, I really am going to appreciate the support from my Cabinet colleagues on this motion. Thank you, Mr. Chair, and I request a recorded vote.

**CHAIRPERSON (Mr. Simpson):** The Member has requested a recorded vote. To the motion. Mr. Blake.

**MR. BLAKE:** Just real briefly, I keep referencing Tsiigehtchic, but actually, the way that the charter community is made up, they have the band that is in charge of the charter community, municipality, but once we signed our land claims, basically, a lot of our lands went over to the land claim group.

The designated Gwich'in organization, along with the Gwich'in, actually look after all of the surrounding lands, the Gwich'in lands. That is the responsibility of the RRC. If the charter community wants to expand their lands or protect any lands outside of the municipality, then they need to consult with the RRCs and the Gwich'in and Gwich'in Land and Water Board. There is a huge process, especially in communities like Aklavik where we have Gwich'in and Inuvialuit lands. It is really complicated in this area.

In instances like this, we have to have respect for the land claim groups. Municipalities just have to work with them. It is not as easy as saying that the charter community could just make decisions,

because in Tsiigehtchic, for example, there is more than one organization there. I just wanted to explain that. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I think that the last speaker was very apt. This is a complicated set of governance in the Northwest Territories. It gets even more complicated when you bring in designated authorities, but I think that the point here is to achieve the consistency that was obtained with the lands act.

I think that land is as significant a management issue as subsurface rights, and to think that we would have municipalities informed of land transfers, but not informed of intended work, really doesn't give them the tools that they need to understand what is going around them. The community that I represent is a rather large one and has a very effective local government. Really, I see no reason why we can't afford them the same notice provisions that we have already built into another territorial statute.

I think it is important that we show that kind of respect for our municipalities, because local governance in the Northwest Territories is at the core of what we do here. In a vast territory that is geographically separate, we have to give our local governments as many tools as they can to be effective in meeting the needs of their residents.

I strongly support this motion, notwithstanding the complexities here. If this was alien or a foreign concept, then perhaps I would have objections, but this is something that already exists in statute, and I think that we should be as consistent in possible in our regulatory framework moving forward. This does exactly that. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** To the motion. Mr. Nakimayak.

**MR. NAKIMAYAK:** Thank you, Mr. Chair. In my region, in the four communities that I represent, there is the municipal government, and as well, there are the community corporations, which deal with benefits agreements. The municipalities would likely be in the administrative part of this where they would be involved with training and possibly employment, so there would be a conflict of interest for sure at some point or another, and I think that this is an example of that.

I think that, with all due respect to municipalities, we are a part of municipalities as well, too, and they are fully aware of what happens in their region. All of the research applications and any type of work that goes through to the communities goes through the municipality first to approve and also give the



regulations to the mining or whatever it may be, research, for that matter. The municipalities are very well-aware, and I think that we are kind of confusing things and creating a conflict of interest for local and Indigenous governments. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** To the motion. Mr. Thompson.

**MR. THOMPSON:** Thank you, Mr. Chair. I represent six communities in Nahendeh. Four of them are designated authorities, one is a hamlet, and one is village. I think that each community should be treated the same and equal. In four of those communities that are designated authorities are Indigenous governments. We are dealing with land issues all of the time and people looking to explore around the area. It's a complicated issue, and I agree, but across the territory is very complicated. I have to be respectful of the IRC, the Gwich'in, the Sahtu. However, they also have to be respectful of the Dehcho and the Akaitcho.

This is why I think that this needs to be in the act. We need to be consistent. When we build capacity in some of these communities, when you have two different ways of looking at two different acts, it confuses them and confuses us. We are not able to move forward. I think that we need to be consistent. The government needs to be consistent. This is way I believe that this motion is important and needs to be passed. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: four in favour, 11 opposed, one abstention. The motion is defeated.

---Defeated

To clause 42 as amended.

---Clauses 42 through 49

Ms. Green.

**MS. GREEN:** Mr. Chair, I request that you rise and report progress. Thank you.

**CHAIRPERSON (Mr. Simpson):** Ms. Green, do you wish to move a motion?

**MS. GREEN:** I move that the chair rise and report progress. Thank you.

**CHAIRPERSON (Mr. Simpson):** There is a motion to report progress. The motion is in order and non-debatable. All those in favour? All those opposed? The motion is defeated.

---Defeated

I will sit here in this chair and keep going. Clause 50.

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Clause 51. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. This clause governs benefits prescribed in respect to measures to provide benefits to people of the Northwest Territories. What is the practical instrument force that is contemplated by this clause? Is it a socio-economic agreement? Can the Minister confirm that? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Yes, it is, but we still need the flexibility. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you. What does that mean, we need the flexibility? I am unclear on that. I wasn't proposing any changes to this. I was asking: is it a socio-economic agreement? What flexibility is the Minister indicating in his response? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Legislation needs to be built in a way that can be flexible to allow for the evolution of tools we use to maximize benefits. What tools we use and how are best left to regulations. That is because the industry is dynamic and people are dynamic and the kinds of benefits available are dynamic. It is a fast-changing industry. Adding a prospective list to the legislation would actually undermine our government's ability to be dynamic enough and act in the best interests of the residents of the Northwest Territories. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Thank you. I am not sure what list the Minister is referencing. There is list that is being proposed. I am asking very clear questions about what this means because I am hoping to get a clear policy intent for the public that is listening to these proceedings. If the Minister could be careful to understand the questions and I will be careful to read them clearly. This section is quite broad in its application. If I am to assume that this is to legislate socio-economic agreements, what is the government's vision for this? Is it to legislate socio-economic agreements to be binding on industry? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. It is a tool which is currently under review. As I have stated to the Members during this Assembly, this is part of the reason why we approached this provision with flexibility in mind. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Flexibility is one way to put it. I would call it intentionally vague. The committee received evidence that that is what was intended here: to make it intentionally vague so it could be plugged by regulations. My concern is that this is so wide-reaching, it could cover every aspect of the mineral cycle, including exploration. Can the Minister confirm that the intention of the section is solely restricted to the conditions that cause socio-economic agreements to arise, namely production? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Our current practice is not to have it for exploration, but we want to see it for construction phase and

operations and, lastly, the closure section. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart.

**MR. TESTART:** Thank you. That was very clear. That is what industry is looking at when they see a section like that that is so vague you could drive a truck through it, having that kind of certainty. If a socio-economic agreement is so signed that is governed by this section, if a company or mining project isn't able to meet the terms of the agreement, will regulations be drafted to create some sort of penalty if the agreement is breached in any measurable way? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Our current SEAs are best efforts. Government is working with the mining proponents together to meet targets and using the collaborative approach. This has all been done without legislation. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart.

**MR. TESTART:** Thank you. I think that system works very well. Yet, we have this clause. What is the intention of this clause? Is the intention of this clause to change best efforts? Sorry. What is the policy direction? Will this clause be used to change the state of play away from best efforts and towards prescribed benefits for the public? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. The answer is no. Currently, we use best efforts along with the proponents and Indigenous governments to make best efforts for the residents of the Northwest Territories through SEAs. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Just once more for clarity, the Minister will confirm that the government's position on this clause is to continue the practice of best-effort socio-economic agreements moving forward into the regulations? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. This enabling authority allows us to put behind SEAs or whichever tool it evolves in the future to modernize our measures for benefits. It allows us to have a statutory enabling authority behind them because,

currently, right now, we do not have that. Within those regulations, they could be designed however appropriate. Even within, for example, socio-economic agreements that were enabled under legislation, the content of the agreement itself could still have terms phrased as best efforts. I don't think this enabling authority sets any rules. It allows us to have the flexibility, as we said, to work with the proponent to find the best way to maximize benefits. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Could this section be used to enable regulations that creates a penalty regime if companies aren't able to meet their benefits governed by this section? Yes or no. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart. Ms. McLaughlin.

**MS. MCLAUGHLIN:** Thank you, Mr. Chair. There is a counterpart regulation-making authority with respect to section 51. If it is okay to note it, it is 111(1)(u), and the language there is "respecting requirements in respect of measures." That provides benefits to the people of the Northwest Territories. "Requirements in respect of measures" could include a series of things, but there are no more particulars that indicate that penalties would flow from parts of that "requirements with respect to measures." Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. What I am trying to seek clarity on is, A, how broad is this, and I think we've learned it's fairly broad; and B, given that, most likely, this will not change from its current form tonight, let's give crystal clear certainty what the government plans to do with this moving forward.

The Minister can say that there are no concerns from industry or investor confidence. We've got correspondence that says this section is very vague. So if he could just put on the public record tonight that this is just codifying what is currently going on in the Northwest Territories and there are no plans to change it, that would be a comfort to me and a comfort, I think, to our home audience. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. The reason we have this in here is to incur benefits for NWT residents. That's what we will continue to do, and that's why we have it in here, and we are subject to improvement going forward. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** I'll interpret that as "no." The fact that we don't know where this is headed, that it's incredibly broad, those were the initial concerns of committee, and I really hope that gets resolved tonight, that there is some clarity on this, because this is a big hole in this legislation that is solved by regulations, and we don't get to decide those, and we don't know what those are going to look like. So we need some certainty on this, and if all we could get is policy certainty tonight, I'd be happy, but we couldn't even get that. So I still have grave concerns around this section. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Clause 51. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Yes, I, too, have very major concerns around section 51. Look, I'm all for benefits, and even if we have to legislate them, I'm fine with that. It could codify best practice, but this is written in such a broad, vague, permissive fashion it could mean anything. I understand what the Minister has said he intends to do; the problem is he may not be the Minister who develops the regulations in the 19<sup>th</sup> Assembly. It could be somebody else. It could be me; imagine that.

So the purpose that I heard the Minister talk about earlier was providing clarity, certainty, setting out expectations, all of those good things. That's not what section 51 does. This is the ticking time bomb in the bill. This could allow a Minister to reach back into the exploration phase and require benefits. The way this is worded, there is no specific trigger identified. There is no specific list of benefits. Benefits don't even have a definition in the bill. I've heard what the intentions are, but that's not what this reads.

Just to be really clear, what would be the trigger that would require benefits under section 51? Thanks, Mr. Chair. I'd like to ask that of the Minister. Thank you.

**CHAIRPERSON (Mr. Simpson):** Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. This is enabling authority, and each regulation underneath this enabling authority for benefits, the measures, let's say, would have to set a trigger for that measure, for example socioeconomic agreements. I think, when you are referring to certainty, this enabling authority is meant to provide our population, the residents of the Northwest Territories, that what they expect from mining, benefits, is enshrined in the legislation. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. So the trigger is going to be set by regulation. I get that. That's the way this has been drafted. The benefits are going to be set by regulation, so there is nothing stopping a future Minister from requiring benefits right back to prospecting through the entire mining cycle. Those benefits could include requiring local hiring, spending, the sorts of things that we do now. They could actually involve setting penalties. You know, this is just far too broad, Mr. Chair. There is no certainty created by this.

What it looks like is the department, the Minister wants to obtain ultimate flexibility in defining this in the future, but you have to balance that off against the uncertainty that this is going to create. This has the potential to scare away investment because it is so broad, so vague, it could allow future Ministers to reach right back to the beginning of prospecting. You know, I've heard the intention is to build on socioeconomic agreements; great. That's now what this provision does.

Now, other parts of this section deal with the Indigenous government benefit agreements. That's great. There is a clear process for that. There is dispute resolution laid out. Those are going to be negotiated. There's a process laid out. It's tied to, right now, a production project, and I think we're going to talk more about that. There's a clear trigger. There is a process. There is nothing around any of that for these broad public benefits.

I'm sorry, the Minister and the department cannot have their cake and eat it, too. You've got to provide some level of clarity, certainty, here, around what this really means. The way this bill has been drafted, it doesn't do that. Thank you, Mr. Chair.

If the Minister would like to speak to this, I'd be happy to hear what he may have to say. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister, any comments?

**HON. WALLY SCHUMANN:** Comment noted.

**CHAIRPERSON (Mr. Simpson):** Mr. McNeely.

**MR. MCNEELY:** Thank you, Mr. Chair. As I mentioned earlier, balancing transparency and confidence and certainty are all words of the intent that we're trying to achieve in the bill here. The NWT is a very diverse region, with many cultures, land titleship, therefore there must be a designed legislation and regulation to allow flexibility for those accommodations for those diverse areas. We have a land claim which spells out an enormous amount of comfort to the words "access" and "benefits." Other areas don't, so there has to be some flexibility for this institution to lead toward creating those benefits that some areas may be so vague in

guaranteeing benefits when a developer walks in the door.

As it stands now, I'm comfortable with the way it's worded, and I'm comfortable with the regulation. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To clause 51. Mr. Nakimayak.

**MR. NAKIMAYAK:** Thank you, Mr. Chair. As a previous speaker mentioned, there are a lot of different Indigenous groups in the territory; some signed, some unsigned. There may be an administration part of this so that we can have a body for this to work with all Indigenous governments across the territory. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To clause 51. Mr. O'Reilly.

COMMITTEE MOTION 228-18(3):

BILL 34: MINERAL RESOURCES ACT – DELETE  
AND REPLACE CLAUSE 51,  
DEFEATED

**MR. O'REILLY:** Thanks, Mr. Chair. I move that Bill 34 be amended by deleting clause 51 and substituting the following:

51(1) The Commissioner, on the recommendation of the Minister, may prescribe requirements in respect of measures that provide benefits to the people of the Northwest Territories that the holder of a mineral lease must meet before being granted a production license.

(2) Benefits in the measures referred to in subsection (1) may include, but are not limited to, particulars in respect of the following:

- (a) employment practises;
- (b) human resource development;
- (c) business development;
- (d) social well-being;
- (e) cultural well-being;
- (f) monitoring and reporting;
- (g) engagement between the parties;
- (h) dispute resolution;
- (i) any other matter that the Minister considers in the public interest.

(3) The Minister may change the benefits required of a holder of a production license if there is a material change as prescribed in the project authorized by the production license.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. The intent of this motion is to provide the kind of clarity that the Minister has not been able to do in debate so far. What this does is actually codify the intentions that the Minister has already spoken about, of providing benefits for people of the Northwest Territories. Those benefits can take many forms. It could be a benefit agreement. It could be prescribed by regulations. It is all at the discretion of the Minister, but what this does is establish a clear trigger of a production licence. There is an end point here. This is when the benefits would kick in.

Furthermore, it would be only be for whatever the Minister prescribes by regulations. It might be mining projects over a certain value, \$50 million. Whatever it might be, it is all prescribed at the Minister's discretion. This would establish a clear trigger, and in fact, it is the trigger that the Minister has already talked about. We want to get benefits from mines that go into production. That is what this is about.

The second part is a non-inclusive list of what may be considered as benefits. This list was not dreamed up out of thin air. This is a list of the table contents of the NICO socio-economic agreement, the last socio-economic agreement signed by this government during this Assembly. That is where this list comes from. It sets out an expectation that, gee, when we are talking about benefits, here are the things that we are starting to mean. Of course, it is all, again, at the discretion of the Minister, as it says the Minister "may include" these things, and then whatever else the Minister considers in the public interest.

The last part here, (3), is, if there is a change to the project in some way after the benefits arrangement has been put in place, the Minister could reconsider those benefits and reopen that. We already find that provision in the next part of the bill that we are going to deal with in terms of the Indigenous government agreements. This just includes that here so it gives the Minister the option of reopening the agreements as prescribed by regulations. Those thresholds and definitions of what a material change may be can be set out by regulation.

What this does is set out in language what the Minister has already said he intends to do. This provides the kind of clarity and certainty that the Minister has already talked about and gives him, or her, in the future, the flexibility to go off and decide these things at their discretion by regulation. This accomplishes what the Minister has already said

that he intends to do, and I think that it provides the kind of clarity and certainty that industry has asked of us.

I look forward to my colleagues supporting this in the effort to provide certainty and clarity and to accomplish the things that the Minister has actually said he intends to do. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Vanthuyne.

**MR. VANTHUYNE:** Thank you, Mr. Chair. In reviewing this when we had this before committee, this is how I would have expected to see a clause like this laid out. When you want to put benefits into legislation, remind folks that clause 51(1) is a "may" clause, sub (2) is a "may" clause, and sub (3) is a "may" clause. There is no "shall" here at all, so there is no absolute obligation on the Minister.

What this does is this clarifies, to some degree, what one might expect to see when they go to this clause and read it. It outlines some of, not necessarily all, the benefits, and it doesn't leave one wondering or questioning what the clause was expected to do for benefits for people of the NWT. I will be in support. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart. To the motion.

**MR. TESTART:** Thank you, Mr. Chair. I think that this is a commendable effort to improve, again, a section that is far too vague. Part of me very much wants to see this kind of certainty and specificity added to the legislation, especially after the debate that we have had on the floor so far where we couldn't even get a straight answer that this is just going to enshrine best practices and move forward along that basis. That being said, my concern is that, unlike section 52, I am not sure if industry has been properly consulted on this.

Even though this is a discretionary clause, I would like to know firmly that all stakeholders who are engaged in this have an opportunity to weigh in on it and cooperatively develop how this is going to look. There may be an opportunity to do that in regulations, but there certainly wasn't an opportunity to do that in statute.

I think that the only remedy for clause 51 is to delete the clause and let the next government work on building a better clause. Although I am sympathetic to why this is before us, I am not in a position to support it today, but I do truly commend the efforts of Members to bring this forward. I think that it is their best efforts to correct a very flawed component of this legislation. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** To the motion. Mr. Blake.

**MR. BLAKE:** Thank you, Mr. Chair. Just briefly, I know that when we have any development, like, say, in the Gwich'in settlement area, we have Gwich'in Tribal Council who is responsible for our economics benefit agreements. Any time we have ever had any, whether it is oil and gas or pipeline work, they have had agreements with the Gwich'in. They look after the best interests of the GSA. Same with the Inuvialuit.

Also, we have heard the Premier and Minister, when they travelled to Vancouver for the mineral expo there, there were investors that looked at this territory and the benefit agreements that we have with Indigenous governments, and they were really impressed with how things are operating.

I do commend the Member for bringing this forward, but I think that what we have in place at the moment is doing well for Indigenous governments. A good example is the Tlicho, the Det'on Cho. They seem to be really doing well here in this area. This is the busiest area in the territory at the moment.

It always could be amended through our policies, but to put this into legislation, not at this time. I am not willing to support this at the moment. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. I'm going to put the question to committee. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Deh Cho, the Member for Yellowknife North, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu, the Member for Kam Lake.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: four in favour, 11 opposed, one abstaining. The motion is defeated.

---Defeated

To clause 51. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I would request a division in clause 51 and that the vote be recorded.

**CHAIRPERSON (Mr. Simpson):** The Member has requested a recorded vote. All those in favour of clause 51, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Nunakput, the Member for Deh Cho, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, and the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Kam Lake, the Member for Nahendeh, the Member for Yellowknife South. Yellowknife North, I'm sorry.

**CHAIRPERSON (Mr. Simpson):** One second. Can we have the microphone back on the clerk to correct that last count?

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** Yes. It was the Member for Yellowknife North, not the Member for Yellowknife South.

**CHAIRPERSON (Mr. Simpson):** Thank you. All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote are: 11 in favour, three opposed, two abstentions. The clause is carried.

---Carried

To clause 52. Minister Abernethy.

#### COMMITTEE MOTION 229-18(3):

BILL 34: MINERAL RESOURCES ACT – DELETE AND REPLACE CLAUSE 52(1),  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I move that Bill 34 be amended by deleting subclause 52(1) and substituting the following:

52(1) Subject to this section, the holder of a mineral lease shall enter into an agreement for benefits in accordance with the regulations with each Indigenous government or organization that the Minister considers appropriate in the circumstances:

(a) If an undertaking authorized under the mineral lease meets the prescribed threshold; and

(b) When required by regulations in respect of a production license under subsection 46(3).

**CHAIRPERSON (Mr. Simpson):** There is a motion on the floor. The motion is in order. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. The intent of this motion is it commit the timing of a benefit agreement that has been linked to a production license. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. Committee raised these concerns around the vagueness, and I want to commend the government on trying something here to give some more certainty to the provisions that surround benefit agreements with Indigenous governments and organizations. I think this is a much more precise point in time. It ties it to production licenses, unlike the current wording of the act, which is to a production project, which isn't clearly defined. The (a) part of the clause clearly connects it with the life cycle of mining work, so I think this is a needed improvement to provide that level of specificity and clarity to industry and to Indigenous governments, as well, and to anyone who is interested in knowing when these requirements are going to kick in under the legislation. So I support this clause. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart. Next, to the motion, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. Yes, during the review of the bill, I raised the issue of what was the definition of "production project," because there is none in the bill, and I think that created unnecessary uncertainty. So I'm glad to see that the Minister is prepared to clarify this. I had my own motion at the clause-by-clause review to deal with this; the Minister would not concur with it, so it didn't go forward. So I'm glad to see that something I said in the clause-by-clause has actually made its way to the floor of the House.

I guess lastly, Mr. Chair, it's rather ironic that we're going to get precision in Indigenous government benefit agreements, the kind of precision that should have been brought to the benefits for all the

people of the Northwest Territories. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I'd like to request a recorded vote.

**CHAIRPERSON (Mr. Simpson):** The Member has requested a recorded vote. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu, the Member for Yellowknife North, the Member for Kam Lake, the Member for Frame Lake, the Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise. All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** While we're waiting for the results of the recorded vote, I just want to thank all the staff who have to stick around with us here tonight; the staff in the back, the guys in the booth, security, everyone else who is working here who I don't even know about. Sergeant-at-Arms, the Speaker, all of them.

The results of the recorded vote are: 14 in favour, zero opposed, one abstention. The motion is carried.

---Carried

Minister Abernethy.

COMMITTEE MOTION 230-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSE 52(2) BY ADDING (1.2),  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I'd like to move a motion that Bill 34 be amended by adding the following immediately preceding subclause 52(2):

(1.2) For greater certainty, the holder of a mineral lease must satisfy the requirements in subsection (1) in respect of an Indigenous government or organization identified under that subsection by entering into any agreement with the Indigenous government or organization, provided that the agreement

(a) contains terms in respect of benefits that will be provided to the Indigenous government or organization and its members; and

(b) otherwise meets the requirements of this act and the regulations.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. The intent of this motion is to clarify that a benefit agreement does not have to be a separate agreement. It is also intended to make clear that, as long as an agreement contains provisions providing benefits, it may meet the requirement under Bill 34. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Nadli.

**MR. NADLI:** Thank you, Mr. Chair. Once again, I'm seeking clarity. I'd like to ask two or three questions to the law clerk. This is a territorial statute that we are considering at this point, is it?

**LAW CLERK:** Yes, Mr. Nadli, it is.

**CHAIRPERSON (Mr. Simpson):** Mr. Nadli.

**MR. NADLI:** Thank you. Now, in speaking of Indigenous governments, the presumption is that Indigenous governments have section 35 rights. Is that at a constitutional or federal level?

**CHAIRPERSON (Mr. Simpson):** Thank you. Madam Law Clerk.

**LAW CLERK:** Thank you, Mr. Chair. Indigenous peoples have section 35 rights under the Constitution Act, and those are constitutionally entrenched to Indigenous people. They would extend to Indigenous governments, but that's also a fairly complicated issue. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Madam Law Clerk. Mr. Nadli.

**MR. NADLI:** Thank you, Mr. Chair. That's all, thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I can support this motion. I raised this issue when the Tlicho Government appeared before committee. Their land rights agreement actually contains provisions for the beginning, at least, of negotiations on a major mining project that is over \$50 million in value, and there is a list of benefits, not unlike other ones that we've heard about here tonight, that a company has to at least initiate discussions with the Tlicho Government around. I said, "If the Tlicho Government actually reached an agreement under the Land Rights Agreement, do you think that would satisfy the requirements of the bill?" They thought that that would be the case, but they were interested in seeing some language around that. Presumably, that is what we have here.

It would be helpful to actually hear at some point from the Minister whether they actually consulted with the Indigenous governments in drafting this because there was a commitment made by the Minister during the clause-by-clause review that that was actually going to happen. I think this provides some greater clarity that this requirement for a benefit agreement with an Indigenous government is not on top of what may already be provided for in a land-rights agreement or perhaps some other arrangement that might be made outside of the statute itself. It is not clear to me who actually makes a determination that the requirements have been satisfied. I am going to hold off on that for right now.

When I raised this with the Minister and his staff during clause-by-clause and even before that, they just weren't prepared to do anything about it, quite frankly. I don't know. All of a sudden, this bubbles up out of thin air that all of a sudden, the Minister wants to clarify this. That is great. I just wish that he had done this earlier in connection with the work that committee had done. I am pleased to see it here right now, this evening. Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I think this is a much-needed improvement, as well. I support it. It is important that we clarify this section because there was a great deal of confusion and not just amongst industry looking at the clause and trying to figure it out and providing submissions to the committee's public consultation but also when the committee consulted with Indigenous governments who were involved in co-drafting. There was some confusion as to what benefit agreements are.

I think this is a much-needed improvement to the bill. I think it shows that the Northwest Territories is a place where social licence is a very high priority for our industry, where they have taken great pains to ensure that the conditions contained in



Indigenous land rights agreements are carried out to the letter and that benefits are provided to the people who have used the land since time immemorial. I am glad that we finally can turn the page on this in the legislation and we have provided certainty.

I may have more questions if this motion amends the bill. At this point, I am very pleased to see this, and I commend the Minister for bringing it forward. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I would like to request a recorded vote.

**CHAIRPERSON (Mr. Simpson):** The Member has requested a recorded vote. I will put the question to committee. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh, the Member for Frame Lake, the Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise. All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote: 15 in favour, zero opposed, one abstention. The motion is carried.

---Carried

To clause 52 as amended. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. With this new wording under clause 52(2), who determines whether this other agreement or arrangement satisfies the requirements of the act? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. McLaughlin.

**MS. MCLAUGHLIN:** Thank you, Mr. Chair. We think that it operates with subsection 1 with the result that the Minister would have to be satisfied.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I am still confused. Can I ask the law clerk who determines whether this other arrangement is satisfactory and what happens if there is a dispute? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Madam Law Clerk.

**LAW CLERK:** Thank you, Mr. Chair. Ms. McLaughlin is correct. 52(1) provides that the holder of a mineral lease shall enter into an agreement for benefits that the Minister considers appropriate in the circumstances. It would ultimately be the Minister's determination. I do note that the section provides that the Minister may make regulations or that the agreement shall be entered into in accordance with the regulations. I would assume that it would be likely that the regulations will address some of the parameters around this. Although, it then goes on to say that it is the Minister's determination.

In terms of disputes, section 54(1), which we have not come to, would likely operate to resolve disputes that may arise about the new 52(1.2). Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Madam Law Clerk. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. It looks like the Minister has the ultimate discretion again. After the clause-by clause review, he said they were going to do some more work on this part of the bill. Can the Minister confirm or tell us who he or his staff consulted with in drafting or bringing forward these motions here tonight to make this change to section 52? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMAN:** Thank you, Mr. Chair. We engaged with the benefit working group with IGOs. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. This benefit working group, was this representatives of the Indigenous governments, the Intergovernmental Council secretariat? Did it include other Indigenous governments that are not members of the Intergovernmental Council, like Dehcho First Nations or Akaitcho? What is this benefit working group? Thanks, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. This advisory group comes from the Intergovernmental Council, and as part of that working group, as well, we talked to TAP, the Technical Advisory Panel, which consisted of the Dehcho and the North Slave Metis Alliance as well. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks for that. I appreciate that, and I think that it shows that Minister followed through with his commitment. That's great, and I think that these sort of changes should and probably do require consultation with Indigenous governments. Can the Minister indicate whether there were any discussions with industry on these changes? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. We communicated with the Northwest Territories-Nunavut Chamber of Mines on the nature of these changes as well and for general comments. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Mr. Chair. Any other stakeholders communicated with? Northwest Territories Association of Communities, NGOs, some of the parties that did make representations to the standing committee? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. The short answer is no, because there was a short period of time since the clause-by-clause review. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I think that I have made my point. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Clause 52 as amended. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. On the clause as amended, the new clause 1(2)(b) is saying that the requirements in subsection (1) can qualify if there is an existing agreement, but it also speaks to regulations.

Just for greater certainty, does the Minister envision a situation where, let's say, X mining company applies for a production licence; they meet the qualifications of the Tlicho agreement, for example; and then they go to the Minister and say, "We have this agreement. It meets the Tlicho land rights agreement." Will the Minister then say that that passes muster, "You have your benefits agreement; here is your licence"? Is that what this does now? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. That would depend on whether that agreement met our requirements to provide proportional benefits, reasonable benefits. However, I don't wish to speculate, but I think that most agreements that are concluded underneath the Tlicho agreement, or at least the requirement to commence negotiations, would certainly meet that requirement. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. In terms of existing land rights agreements that have conditions for benefits, will those satisfy this section? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister.

**HON. WALLY SCHUMANN:** Thank you. If the IGO says it does, it does. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart.

**MR. TESTART:** For greater clarity, the government will not attempt to bring forward regulations that contradict or add conditions above and beyond what are included in land right agreements? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. They cannot contradict, because we have a prevailing clause in the earlier section of our bill. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart.

**MR. TESTART:** Will there be additional requirements put onto those agreements if they are brought forward to the Minister, above and beyond what are contained in the land rights agreements? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. There might be different requirements, because ours is for benefits. It's for a benefit agreement. It's not exactly the same as what is reflected in the land claim agreements.

However, as we said, the point of this clause is to clarify that, if there is an agreement that is concluded in another manner, such as under the purposes of a land claim agreement, and it has benefits, especially if the IGO brings to us the position that it provides appropriate benefits, then we would take it, and it would meet the requirements under this act. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Well, we got there. Thank you for the clarification. That is exactly what I was looking for. My next question is: for an unsettled area, where a production licence is sought in an unsettled area, what is the process for that? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** To clarify, the question is: what is the process for benefit agreements in an unsettled area? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Yes, where there is not an existing land rights with benefit provisions within that land rights agreement. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. The process would be that which is set out within this act and the regulations in terms of a benefit agreement, but again, section 53 clarifies that, if there was another agreement that provided benefits for another purpose that existed within that unsettled territory, if it met the requirements under this act, we would take it as a benefit agreement, and it does not need to be a separate agreement to meet our requirements. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Just for greater clarity, if an Indigenous government and a company negotiate an agreement, and the Indigenous government feels that it is satisfactory in an area without a signed land rights agreement, and they bring it forward, will the government accept that

agreement, or will they say that it is insufficient to meet the criteria set out in regulations?

**CHAIRPERSON (Mr. Simpson):** Thank you, Mr. Testart. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. Because this has not come to pass yet, I will have to just try and predict. However, the point of this whole part, in terms of section 52, 53, and onwards, is to allow Indigenous governments to determine their own needs and whether they are met. Therefore, if an Indigenous government said that the agreement that was concluded contains benefits that were appropriate for them, then yes, I don't think that we would challenge them on that. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart, your questioning has turned a little hypothetical. You are putting hypotheticals to the witnesses. I am sure that they can be rephrased in other ways, so just keep that in mind. Mr. Testart.

**MR. TESTART:** My apologies, Mr. Chair, but that did answer my question, and that is what I was looking for.

Let's turn to regulations, then. Again, this is a section that is key for the detail coming out in regulation, and that is why my questions veered into hypothetical territory. I won't do that now, but I think that it is imperative that Indigenous governments have a say on these regulations, so that they can be assured that their perspective, especially in unsigned areas, is reflected in benefit agreement requirements.

We also need to have a role for industry so that industry is comfortable with what is going and can explain best practice over the years that they have developed in bilateral relationships with Indigenous governments and nations.

What is the government's planned intention moving forward on development of regulations around section 52? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. We will continue to move forward in the spirit of partnership as we develop regulations, should this bill pass. That will mean extensive engagement with our partners from Indigenous governments, industry, and other affected stakeholders. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Will that engagement follow a technical working group model or some other model

that the committee has familiarized itself with over the course of our review of this legislation? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. We will continue to work with IGCS and other Indigenous governments who were invited to the table which was Dehcho and Akaitcho. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** By working with the IGCS and other partners, does the Minister mean a co-drafting of regulations, or merely consulting with the IGCS?

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. We don't know what the process will be yet, but we will be sitting down having those discussions. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** When will a decision be rendered on moving forward, on how these regulations are going to move forward?

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. That will be up to the 19<sup>th</sup> Legislative Assembly.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. Nothing further.

**CHAIRPERSON (Mr. Simpson):** Clause 52 as amended. Does committee agree?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Ms. Green.

**MS. GREEN:** Mr. Chair, I move that you rise from the Chair and report progress. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you, Ms. Green. There is a motion to report progress. The motion is in order and is non-debatable. All those in favour? All those opposed? The motion is defeated.

---Defeated

Clause 53. Minister Abernethy.

COMMITTEE MOTION 231-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
CLAUSE 53,  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. I move that clause 53 of Bill 34 be amended by striking out "production project" and substituting "undertaking authorized under the mineral lease." Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** There is a motion on the floor. The motion is in order. To the motion. Minister Abernethy. Sorry, I'm not used to looking that way. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Mr. Chair. The intent of this motion is to make the language used in this section consistent with the amended language put forward in sections 52(1). Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Clause 53 as amended. Clause 54. Mr. Testart.

**MR. TESTART:** I had a question to the Minister on clause 53. Will that be allowed, Mr. Chair?

**CHAIRPERSON (Mr. Simpson):** We haven't considered the next clause yet, so I can allow some questioning on this. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. This section, clause 53 deals with a change in material, a material change to an undertaking authorized under the mineral release. Can the Minister just explain clearly what this section contemplates because I think there's a concern? What does a material change look like, and does that mean an entire benefit agreement needs to be shifted to reflect that change? Can the Minister just explain how this would play out? How the department envisions this to play out in reality? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. The intent on this section is to ensure that there is an enabling authority to allow us to address material changes. This is because we heard from both Indigenous government and organizations and industry that

material changes is a very sensitive issue right now with regards to certain agreements, and therefore, I think we will need to work together with all interested parties in order to determine the content of these regulations. The enabling authority there is to allow us to deal with it so that we know we have the power to address it. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. The idea here is if there is a change in material, a material change, and that shifts the -- let's use the example of an agreement signed, an agreement that's authorized, that's signed pursuant to a land rights agreement that has been accepted by the Minister. There's a change in material circumstances. I see where you are going, Mr. Chair. Does this just mean that an agreement can be amended if it's brought forward as changed, or does this mean the regulations will be drafted in a way that the government can force changes, if the government notes a change in material circumstances? Who's driving this? Is it the two parties who signed the agreement, or is it the government through its regulations? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. As I said, this is an enabling authority to allow us to make regulations, and within those regulations, we will have to have greater discussions with both Indigenous governments and organizations and different stakeholders including industry in order to find the appropriate rules and requirements around this. The intent, or I guess the idea behind it being that if there's a material change to the project, then perhaps, there might be an adjustment needed to be made in terms of which benefits that project should provide. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Nothing further.

**CHAIRPERSON (Mr. Simpson):** Thank you. Fifty-three as amended?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Clause 54. Mr. Testart.

**MR. TESTART:** Thank you. Can the Minister just provide clarity on how the dispute resolution body will operate, or will operate pursuant to this clause? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Strand.

**MS. STRAND:** Thank you, Mr. Chair. With respect to 54, the dispute resolution body, we will be engaging with our Indigenous partners on how we envision this clause working in the regulations. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Will industry be engaged as well? I thought this was to resolve disputes between industry and Indigenous partners. Are we just going to engage one side of the equation here? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Ms. Strand.

**MS. STRAND:** Yes, thank you, Mr. Chair. Yes, it will be with our Indigenous partners and industry to find that balance. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. That's what I wanted to here. If there is a dispute, how soon can, do we have an idea of when this clause is triggered? Sorry, I'll rephrase. Can a production licence be issued if a dispute is in progress, or does a dispute prevent the issuance of a production licence? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Can we get an answer from the Minister? I'm going to call for a short recess.

---SHORT RECESS

**CHAIRPERSON (Mr. Simpson):** I call Committee of the Whole back to order. Minister, do you have an answer yet? Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. In terms of what the act says, there is only the enabling authority that establishes the jurisdiction under section 54. However, I can speak to what is contemplated. I just want to emphasize that this is contemplated only, and as I said earlier, we do need to engage further with the IGC and stakeholders upon this.

However, what we did envision with this dispute resolution body, logically, there would not be things progressing that would make any determination that they made ineffective. It would allow time for the dispute resolution body to make a decision before things moved forward regarding the content of that decision.

We also envisioned that there would be a time limit on a dispute resolution body. This is very common within dispute resolution, but we recognize that it is

particularly important here, because a delay can be very detrimental to industry. The dispute resolution body is contemplated to have different time limits set upon their determinations and their hearing processes, but that would have to be set out in the regulations, and it would also have to be subject to further discussions. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** Thank you. This is the first time that this information has come forward, so I appreciate learning it. That is why we are asking these questions.

In the case where there is a project that multiple Indigenous organizations and governments have a claim to, do there need to be agreements in place with all of those parties before a production licence is issued? Thank you.

**CHAIRPERSON (Mr. Simpson):** Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. I am pretty sure that I got the question, but could you please just repeat it for me? Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Thank you. If there are multiple Indigenous land rights holders or rights holders who are all subject to an area where there is a production project, do they all need to have benefit agreements in place before a licence will be issued? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Ms. Faryna.

**MS. FARYNA:** Thank you, Mr. Chair. In order to meet the requirement under this part for benefit agreements, the way that the enabling authorities are set out, yes. To meet the requirement, they do need to complete the agreements with all Indigenous governments or organizations that the Minister considers appropriate in the circumstances.

However, that would be subject to any dispute resolution that arose, and the timing in regards to their production licence would be set out in the regulations. That tethers there, it is clear that that's the phase that we are talking about, but the linkages that you are talking about are not in the bill itself. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Those linkages will be established via regulation? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. Yes.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. Testart.

**MR. TESTART:** At this point, is there any clarity that the Minister can provide on what timelines are contemplated for the dispute resolution process? Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. Minister.

**HON. WALLY SCHUMANN:** Thank you, Mr. Chair. That will have to be determined when we develop the regulations. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Mr. Testart.

**MR. TESTART:** Again, the Minister has said that this will be a decision of the 19<sup>th</sup> Assembly. Will these regulations also be subject to direction from the 19<sup>th</sup> Assembly? Thank you.

**CHAIRPERSON (Mr. Simpson):** Minister.

**HON. WALLY SCHUMANN:** Yes. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Could we get some order in here? Mr. Testart.

**MR. TESTART:** Nothing further, Mr. Chair.

---Clauses 54 through 110 inclusive approved

**CHAIRPERSON (Mr. Simpson):** Clause 111. Minister Abernethy.

COMMITTEE MOTION 232-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
PARAGRAPH 111(1)(A),  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Chair. I move that paragraph 111(1)(a) of Bill 34 be amended by striking out "and" at the end of the English version of subparagraph (vi), and adding the following after paragraph (vi):

(vi.1) prescribing areas as settlement areas for the purposes of paragraph (e) of the definition "settlement area."

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Chair. This just keeps the piece of legislation consistent with our previous motions. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Clause 111. Mr. O'Reilly.

COMMITTEE MOTION 233-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSE 111(4) TO ADD (4.1),  
DEFEATED

**MR. O'REILLY:** Thank you, Mr. Chair. I move that Bill 34 be amended by adding the following after subclause 111(4):

(4.1) The Minister may establish one or more agreements with Indigenous governments or organizations in the Northwest Territories as to how the Commissioner in Executive Council will engage with those parties in exercising the regulation-making powers under this section.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Mr. O'Reilly.

**MR. O'REILLY:** Thank you, Chair. This is to amend the regulation-making powers of the Minister to basically authorize the Minister to enter into agreements with Indigenous governments on how the regulation-making might be carried out under this bill. This is enabling. This does not require the Minister to enter into such agreements. I think this is a helpful amendment in setting out the ability for the Minister to enter into such agreements.

In fact, we actually heard from the Sahtu Secretariat Incorporated that there were efforts already underway to draft up some sort of memorandum of understanding or some sort of an arrangement for the staff. This would just give a legal basis or footing for this to happen. I look forward to support from my Cabinet colleagues. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** The Member has requested a recorded vote. All those in favour, please rise.

RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Frame Lake, the Member for Deh Cho, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote: five in favour, nine opposed, one abstention. The motion is defeated.

---Defeated

To clause 111. Mr. Testart.

COMMITTEE MOTION 234-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSE 111(4) TO ADD (4.1) AND (4.2),  
DEFEATED

**MR. TESTART:** Mr. Chair, I move that Bill 34 be amended by adding the following after subclause 111(4):

(4.1) A copy of each regulation that the Commissioner in Executive Council proposes to make under this act shall be published in the Northwest Territories Gazette, and a reasonable opportunity shall be afforded to interested persons to make representations to the Minister in respect of the proposed regulations.

(4.2) No proposed regulation need be published more than once under subsection (4.1), whether or not it is altered or amended after such publication as a result of representations made by interested persons as provided in that subsection.

Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. The motion is in order. To the motion. Mr. Testart.

**MR. TESTART:** Thank you, Chair. The intention of this motion is to be consistent with other pieces of

Territorial legislation. The sole example is the Petroleum Resources Act. This same provision exists there. It allows opportunity for the public to review regulations as they are published and to provide them with an opportunity to comment. This is something that we heard from civil society, from industry, and from Indigenous organizations, as well. I think it is important that we give the public the opportunity to weigh in on these regulations.

As this is a consistent theme that we have heard throughout the review of these bills, this, I think, is a good amendment to have, and it is consistent with the PRA, as well. The government did not see fit to amend the PRA to remove this provision. Although it is a federal artefact, it is one that was retained. All this is, is making it consistent with the PRA. I encourage Members to support it. Thank you, Mr. Chair. I would request a recorded vote at the appropriate time. Thank you.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion. I will put the question to committee. The Member has requested a recorded vote. All those in favour, please rise.

#### RECORDED VOTE

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Kam Lake, the Member for Nahendeh, the Member for Frame Lake, the Member for Deh Cho, the Member for Yellowknife North.

**CHAIRPERSON (Mr. Simpson):** All those opposed, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu.

**CHAIRPERSON (Mr. Simpson):** All those abstaining, please rise.

**COMMITTEE CLERK OF THE HOUSE (Mr. Rutland):** The Member for Yellowknife Centre.

**CHAIRPERSON (Mr. Simpson):** The results of the recorded vote: five in favour, 10 opposed, one abstention. The motion is defeated.

---Defeated

To clause 111 as amended. Does committee agree?

---Clauses 111 through 112 inclusive approved

**CHAIRPERSON (Mr. Simpson):** Thank you committee. Clause 113. Minister Abernethy.

COMMITTEE MOTION 235-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSES 113(1) AND (2),  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Chair. I move that paragraph 113(1) and (2) of Bill 34 are each amended by striking out "Part 5" and substituting "Part 3." Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. There is a motion on the floor. To the motion. Minister Abernethy.

**HON. GLEN ABERNETHY:** Thank you, Chair. This motion is intended to make a minor administrative correction to make the transitional provisions come into force. What is part 3 of the act, which has to do with interest and minerals, comes into force rather than part 5, which concerns benefits for people in communities. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. To the motion.

**SOME HON. MEMBERS:** Question.

**CHAIRPERSON (Mr. Simpson):** Question has been called. All those in favour? All those opposed? The motion is carried.

---Carried

Clause 113 as amended.

---Clauses 113 through 115 inclusive approved

To clause 116. Minister Abernethy.

COMMITTEE MOTION 236-18(3):  
BILL 34: MINERAL RESOURCES ACT – AMEND  
SUBCLAUSE 116,  
CARRIED

**HON. GLEN ABERNETHY:** Thank you, Chair. I move clause 116 and the heading immediately preceding clause 116 of Bill 34 be deleted and the following substituted:

116(1) The Public Land Act introduced in the 3<sup>rd</sup> session of the 18<sup>th</sup> Legislative Assembly as Bill 46 is amended by this section.

(2) The following provisions are repealed:

(a) section 6;

(b) paragraph 6.1(b);

(c) paragraph 52.1(1)(c); and



(d) paragraph 61(c) and (d)

(3) paragraphs 12.1(b) is amended by striking out "or six and commencement."

117(1) Subject to subsections 2 and 3, this act or any provisions of this act comes into force on the day or days to be fixed by order of the Commissioner.

(2) Section 115 come into force on the day that section 18 comes into force unless, before that day, the Northwest Territories Land Act has been repealed by subsection 79(2) of the Public Land Act introduced in the 3<sup>rd</sup> session of the 18<sup>th</sup> Legislative Assembly as Bill 46(3). Section 116 comes into force on the later of the day that section 18 comes into force, or section of the Public Land Act introduced in the 3<sup>rd</sup> Session of the 18<sup>th</sup> Legislative Assembly as Bill 46 comes into force. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you, Minister. There is a motion on the floor. The motion is in order. To the motion. Minister.

**HON. GLEN ABERNETHY:** Just for clarity, Mr. Chair, the motion is intended to ensure that, regardless of whether the Public Land Act or the Mineral Resources Act comes into force first, the enabling authority for the mining regulations in the Northwest Territories Land Act or the Public Land Act over mineral rights will be repealed from the appropriate statutes once the Mineral Resources Act comes into force. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** Thank you. Mr. O'Reilly.

**MR. O'REILLY:** Thanks, Mr. Chair. I raised this issue months ago with the department, and I don't know why it's just suddenly appearing now, but this is good. The Minister does listen once in a while, even if he comes in at the last minute. Thank you, Mr. Chair.

**CHAIRPERSON (Mr. Simpson):** To the motion. I will put the question to committee. All those in favour? All those opposed? The motion is carried.

---Carried

Clause 116 as amended.

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** To the bill number and title, Bill 34, Mineral Resources Act. Does committee agree?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Does committee agree that Bill 34, Mineral Resources Act, as amended, is now ready for third reading?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** Thank you, committee. Bill 34 as amended is now ready for third reading. Just for clarity, Bill 34 as amended is now ready for third reading?

**SOME HON. MEMBERS:** Agreed.

**CHAIRPERSON (Mr. Simpson):** I want to thank the witnesses for appearing before us. You've earned your money tonight. I almost said Minister Faryna a few times there. Sergeant-at-Arms, please escort the witnesses from the Chamber. What is the wish of committee? Mr. Testart.

**MR. TESTART:** Thank you, Mr. Chair. I move that the chair rise and report progress. Thank you.

**CHAIRPERSON (Mr. Simpson):** There is a motion to report progress. The motion is in order and non-debatable. All those in favour. All those opposed. The motion is carried.

---Carried

I will rise and report progress.

**MR. SPEAKER:** May I have the report, Member for Hay River North.

### Report of Committee of the Whole

**MR. SIMPSON:** Mr. Speaker, your committee has been considering Committee Report 33-18(3), Standing Committee on Economic Development and Environment Report on Bill 34: Mineral Resources Act; and Bill 34, Mineral Resources Act. I would like to report that consideration of Committee Report 33-18(3) is concluded with seven motions adopted, and that Bill 34 is ready for third reading as amended. Mr. Speaker, I move that the report of the Committee of the Whole be concurred with.

**MR. SPEAKER:** Thank you. Do I have a seconder? Member for Mackenzie Delta. The motion is in order. All those in favour. All those opposed. The motion is carried.

---Carried

Masi. Item 22, third reading of bills. Minister of Environment and Natural Resources.

### Third Reading of Bills

BILL 39:  
ENVIRONMENTAL RIGHTS ACT

**HON. ROBERT MCLEOD:** Thank you, Mr. Speaker. I move, seconded by the honourable Member for Hay River South, that Bill 39, Environmental Rights Act, be read for the third time. Mr. Speaker, I would request a recorded vote. Thank you.

**MR. SPEAKER:** The Member is requesting a recorded vote. The motion is in order. To the motion.

**SOME HON. MEMBERS:** Question.

**MR. SPEAKER:** Question has been called. All those in favour, please stand.

#### RECORDED VOTE

**CLERK OF THE HOUSE (Mr. Mercer):** The Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Hay River North, the Member for Mackenzie Delta, the Member for Sahtu, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh, the Member for Frame Lake, the Member for Yellowknife Centre, the Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South.

**MR. SPEAKER:** Masi. All those opposed, please stand. All those abstaining, please stand.

**MR. SPEAKER:** The results of the recorded vote are: 17 in favour, zero opposed, zero abstentions. The motion is carried.

---Carried

Bill 39 has had its third reading. Third reading of bills. Minister of Finance.

#### BILL 42: AN ACT TO AMEND THE PETROLEUM PRODUCTS TAX ACT

**HON. ROBERT MCLEOD:** Thank you, Mr. Speaker. I move, seconded by the honourable Member for Yellowknife South, that Bill 42, An Act to amend the Petroleum Products Tax Act, be read for the third time. Mr. Speaker, I would request a recorded vote. Thank you, Mr. Speaker.

**MR. SPEAKER:** The Member is requesting a recorded vote. The motion is in order. To the motion. Member for Yellowknife Centre.

**MS. GREEN:** Thank you, Mr. Speaker. During the debate about the carbon tax bill last week, I indicated that I was prepared to support it, but after reflecting on our discussions and doing some reading about carbon tax plans in other

jurisdictions, I am no longer prepared to vote in favour of this bill.

There is a consensus among scientists and economists that putting a price on carbon lowers emissions and spurs innovation to find clean energy alternatives. For example, British Columbia has had a carbon tax for 11 years. Emissions have decreased by 4.7 percent over that period; and, contrary to the false claims of those who opposed the tax, it did not kill the economy. On the contrary, BC's real GDP has grown by 19 percent over the same period. That's in spite of the fact the carbon tax on fossil fuels is now double what the federal government has proposed.

Mr. Speaker, this government has never demonstrated anything but hostility to imposing a carbon tax to reduce greenhouse gas emissions, including condemnation of the federal plan. The Premier tells anyone who will listen that our territory produces so little carbon on a national basis that we shouldn't even bother with a carbon tax. That's in spite of the fact that warming has accelerated here and the effects disrupt residents and traditional land use and it is expensive to mitigate.

Mr. Speaker, here's a bulletin: size doesn't matter. NWT has a small population compared to all of Canada and Canada has a small population compared to the rest of the planet. Does that mean we shouldn't respond to the climate crisis? My answer is no. The planet is burning up and it's on all of us, individuals, and all orders of government, business, and industry to figure out how we can be part of the solution rather than part of the problem.

Mr. Speaker, problems with the development of NWT carbon tax legislation reach back to 2016 when the federal government introduced its Pan-Canadian Framework on Clean Growth and Climate Change. The Premier followed the lead of his Conservative cronies who opposed the tax. He decided to go it alone in the Northwest Territories rather than work with the federal government on modifying its backstop to meet our unique circumstances. That was a mistake, Mr. Speaker, and the result is that we are worse off.

I am going to make a comparison to Yukon and Newfoundland and Labrador. Contrary to the Finance Minister's comments yesterday, there is every reason to compare the Northwest Territories with other jurisdictions. I find that the government makes comparisons to other jurisdictions when it suits them, as the Minister of Justice did yesterday, for example, with the Public Land Act.

Yukon faces many of the same issues as the NWT when it comes to the cost of living, and many communities in Labrador are as remote as the High Arctic communities in the Northwest Territories.

Both jurisdictions negotiated the backstop with the federal government. The result is that they are paying 4.42 cents per litre on gasoline, while here, in the Northwest Territories, we are set to pay 4.7 cents per litre. Likewise, Yukon and Newfoundland and Labrador are paying 5.37 cents per litre on diesel while we will be paying 5.5 cents a litre. It turns out that taking the federal offer would have saved us money on gas, the expense that most NWT residents are most concerned about.

Our government has made much of the total rebate on home heating fuel, yet Newfoundland and Labrador has that, too, and there are also exemptions on aviation fuel, off-grid diesel electricity generation, and marine transportation, as well as fuel used for forestry, fishing, mineral exploration, and municipalities. Exemptions in the NWT are much less comprehensive. In short, we lost out. Why didn't the NWT emerge from negotiations with a similar sophisticated and comprehensive system of rebates and incentives?

Yukon and Newfoundland and Labrador started working with the federal government soon after the pan-Canadian framework was introduced in 2016. As a result, there was ample time to consult residents and write legislation. There was also time to create buy-in on the need to respond to the climate crisis at a personal level. In the NWT, the Finance Minister was unable to provide comprehensive and timely information that would have enabled the Standing Committee on Government Operations to do its job. The result is that the only public hearing was held in Yellowknife. Consulting Yellowknife is obviously not consulting the territory, given the number and diversity of communities in the NWT, and I understand why residents outside the capital feel short-changed.

Mr. Speaker, we are also losing out on rebates. In Yukon, there are specific rebates for a host of entities including individuals, businesses, industry, municipalities, and First Nations. Yes, the NWT plans to provide rebates, but -- and this is an important but -- the NWT Association of Communities predicts that the meagre rebate to municipalities will result in increased taxes levied in the regional communities and Yellowknife, who are tax-based. In Yukon, government is asking municipalities to pay a 0.5 percent tax on their fuel, and in return, they get 1 percent of carbon tax revenues. Why can't it be the same way in the Northwest Territories?

A vexing question for the Standing Committee on Government Operations has been management and reporting on the money collected. Yukon's response was to create a revolving fund, so that we could tell whether the money collected as a tax on carbon was being used to reduce carbon. That could have happened here. We have several

revolving funds in place now, including for Yellowknife Airport and for Marine Transportation Services.

Mr. Speaker, let's turn to rebates. The GNWT is offering an individual rebate on the carbon tax, but the federal backstop rebates are more generous than those being offered in the NWT, by \$80 a year for a family of four when fully implemented. Both Yukon and British Columbia offer additional rebates for individuals living in northern and remote areas. That is not a feature of the NWT legislation, even though the cost of living is obviously higher in those areas and a larger rebate makes sense. Other jurisdictions also apply means tests to their rebates so that there is more help available for low-income families than high-income families. BC provides benefits to low-income families by redistributing the carbon tax income. Again, that is a good idea, but it is not part of the NWT plan. Much more could have been done to shield residents in small communities from the impact of a carbon tax. After all, they currently have the fewest alternatives to burning fossil fuel.

There are then the rebates to large emitters, the industrial operations that produce the bulk of greenhouse gases. Newfoundland and Labrador set targets for individual industrial facilities to reduce their emissions by 2 percent a year from 2016-2017 benchmarks, and to engage in a cap and trade program. This system applies to iron ore mines located in Labrador, pulp and paper mills, and to electricity generation. In the NWT, by contrast, large emitters can expect a rebate of 75 percent of the tax paid and access to a fund for innovation, funded by the remaining 25 percent. They are being given a pass that is unprecedented in Yukon or Newfoundland and Labrador. The arrival of mines on the tundra increased our GHG emissions substantially. Why aren't we making polluters pay? Newfoundland and Labrador is doing it with mines that are nearly as remote as ours, located at the end of a 600-kilometre dirt road. Let's not forget, the Mining Association of Canada is on record in support of carbon taxes. They see carbon reduction as a necessary feature of responsible business.

Carbon taxes that are well-designed have a minimal impact on the economy. A study by the federal and territorial governments predict that our GDP will decline by less than 1 percent, while emissions in the mining sector are predicted to decrease by 0.5 percent in the first year and 2.1 percent by 2022 with a carbon tax in place.

The carbon tax proposed by this government is wanting in comparison to other jurisdictions on almost every front, from the public policy rationale through to the implementation. Although our production of greenhouse gas emissions may be

comparatively small, our responsibility to reduce them is not. Harm is harm, and action is not an option; it is a necessity to take action. We had an opportunity to negotiate a better plan, better for residents and better for the planet, and we blew it. Perhaps saddest of all, we failed in the opportunity to rally our citizens to take a real part protecting our land, families, and way of life. I cannot vote in favour of this law. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Member for Yellowknife North.

**MR. VANTHUYNE:** Thank you, Mr. Speaker. While I appreciate that some other Members are going to speak this evening, possibly with regard to, "Maybe we could have negotiated a better deal," my position all along has been that I do not support a carbon tax, whether it is coming from this government or whether it is coming from the federal government.

I believe that we are already penalized severely for where we live. This is a dark, cold territory for eight months of the year. We are already penalized for being in this region. We are also further penalized by the cost of living. It is 20 to 30 percent more expensive to live here; other than maybe Nunavut, we are the second-highest jurisdiction in the country to afford to live in and do business in.

Thirdly, we are also penalized by not having any options, Mr. Speaker. We do not have any affordable options. We cannot decide to maybe go and buy an electric-powered vehicle, because here, unlike, say, Alberta, where it is 8 cents a kilowatt hour, our power is 38 cents a kilowatt hour. Just the affordability is not there. It just makes no sense to do that sort of thing.

We do not have cheap fuel options. We do not have natural gas like most of southern Canada has, which is much more affordable than diesel. We just clearly do not have the options. We live in a cold climate where we are penalized. We already live in a higher cost of living jurisdiction, and we don't have options to switch over to. Yet, the federal and our government feel that it is necessary to apply such a tax.

We don't need our behaviour changed, Mr. Speaker, and why? Because we are already doing good things. We were doing these good things long before a discussion of carbon tax came along.

Let's look at government. Government, through our capital asset retrofit program, has been making improvements for eons, improvements that are paying back, by the way, making energy efficiency and savings for tax payers. These have a positive return on investment.

Other orders of government are starting to look at district energy systems. We have all been putting in biomass heaters and boilers in all of our government-owned assets for some period of time now. Why? Because these are the kinds of things that we have to look at in order to lower our energy rates.

Let's talk about, for a moment, what government is doing in terms of leading by example in other areas. We have the Inuvik windmill farm that is going to be coming. We see industry using other options. Diavik has a windmill farm. We have solar panels popping up all over the place. We have communities starting to talk about new microgrids and other alternatives. We have potential for geothermal in the Deh Cho region. These are all things that we were talking about and planning and strategizing about long before anybody felt that they need to slap a carbon tax on us.

Mr. Speaker, we are also doing good things as it relates to enacting legislation and regulations. We have been doing that for a long time. Municipal governments have been doing that for a long time. EnerGuide 80 is a good thing that you can look at towards regulations that are starting to have a positive effect now. We put that in a number of years ago. People are building more energy-efficient homes.

The municipality of the City of Yellowknife now has an energy retrofit program that they are going to be able to put in place, because we enabled them through changing legislation of the Cities, Towns and Villages Act that people can now apply to and have a more affordable way in which to put energy retrofits into their house, because they, too, want to live more affordably, first and foremost, but secondly, they want to reduce their carbon footprint.

Again, we are going to be increasing the Arctic Energy Alliance's budget by nearly double over the next four years. That means that we are going to be giving more rebates back to people. That will incentivize them to put in better energy-efficient appliances, pellet boilers, and pellet stoves, maybe replace some windows, things like that.

It doesn't matter where you look, whether it's government, whether it's industry, whether it's communities, or whether it's individuals; due to where we live, and due to not having other options, we have been doing all the right things for a long, long time. It is shameful that the federal Government of Canada felt that the 100,000 people who live in the Yukon, Northwest Territories, and Nunavut, who are the ones that are most impacted by climate change, somehow needed to be slapped a tax on so that they could change their behaviour somehow. This is shameful. I will not be supporting this. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Member for Kam Lake.

**MR. TESTART:** Thank you, Mr. Speaker. Northerners expect real climate change leadership, and that means a plan that works for the NWT. The plan that is being proposed by the GNWT that is central on Bill 42 does not achieve that goal. Only one model of carbon pricing was explored and developed without adequate legislative oversight or public engagement.

Although I support some form of carbon pricing in principle, such as a cap and trade system, I cannot support this plan that leaves unelected public servants responsible for new taxes and rebates without approval by Members of this House, not to mention the significant flaws with the plan as it was laid out and has already been thoroughly debated by this honourable House.

With so many decisions being pushed off to the next Assembly, there is no reason, apart from political pressure from Ottawa, why carbon tax can't wait another four months. Premier Kenney, our Premier's new ally in pursuing the NWT's agenda on the national stage, stood up to the federal government when he received a mandate from Albertans. That's what the people voted for in Alberta, and now they have received an extension until January 1<sup>st</sup>. Yet we stand down as soon as one email is sent from one political staffer.

Mr. Speaker, Northerners deserve a better plan than this, and I will not be supporting this bill. Thank you.

**MR. SPEAKER:** Masi. To the motion. Member for Frame Lake.

**MR. O'REILLY:** Merci, Monsieur le President. I know that it has been a long day, but I need to go on the record for my constituents so that they can see, in the future, what happened here tonight. I supported carbon tax as part of a comprehensive strategy for taking action on climate change. However, I don't support Cabinet's plan.

That plan is made up of three parts: the carbon tax bill that is before us this evening, Bill 42, which imposes, basically, a surcharge, a tax on some fuels. The other two parts of Cabinet's approach on this include the Energy Strategy, and I have spoken at length about the Energy Strategy. It's focused on Taltson rather than building real community and household energy self-sufficiency.

I have also talked about the Climate Change Strategic Framework that did not really address the failures identified by the Auditor General's Office in conducting a climate change audit of the Northwest Territories. The recommendation was that we develop real leadership, structure, organization, to

allow for success. We had two strategies previously, they both failed, and I think that we are heading in the same direction. Of course, with the Climate Change Strategic Framework, 44 percent of the greenhouse gas reductions are supposed to come from Taltson expansion. I just can't see how it is going to be accomplished, Mr. Speaker.

The purpose of the carbon tax bill has always been pitched by this Cabinet, by this Minister, as the big, bad federal government coming in here and imposing another tax on Northerners. This could have been an opportunity for us to actually face the reality of the climate crisis that is before us and start to find ways to transition to a new economy that is free of fossil fuels and build energy self-sufficiency. That is the kind of transition and leadership that should have come from our Cabinet, but it didn't.

In terms of collaboration with the committee on the development of this plan, I am not a Member of the committee, but I got to sit in on a lot of the deliberations, and I can honestly say that, when the committee had requested options, scenarios, from the Minister, nothing came forward. That information was not provided to committee. You heard from my colleague in Yellowknife Centre about how some other jurisdictions have actually developed plans that I think are far superior to ours.

Committee was interested in taking the bill on the road, but the Minister continued to make changes to the large emitter provisions, and committee felt that there was no way that they could share that information with the public, so what is the point of taking something on the road when you can't share the latest possible information? There wasn't even a plain language summary of the bill and what it would do.

What we have ended up with, Mr. Speaker, is a bill that is a made-by-Cabinet approach where all of the rebates, all of the grants, all of that will be totally controlled by the Minister in the future. We have seen a transfer of the authority of this House to a Minister in a future government to set what that plan is going to look like. I just don't think that this is good public policy.

Others have spoken about the lack of public reporting in the bill. There is no requirement for public reporting of the revenues in and the revenues out. There may not even be an opportunity for the public to comment on the draft regulations that set what the rebates and grants may be in the future.

Mr. Speaker, I tried to bring forward amendments to the bill to require some public reporting, require public input into the regulations. Unfortunately, they were ruled out of order because of the way that the

bill had been crafted. I tried to make changes on the floor of the House and wasn't able to, because of the way that the bill was put together.

I am not going to go over the Yukon approach that my colleague from Yellowknife Centre spoke to very eloquently, but it does provide rebates to municipalities, First Nation governments. It does provide for revenue sharing and rebates with adjustments for those living in rural and remote communities. Mr. Speaker, we could and should have had that kind of plan here for our citizens. That's not what we got.

That might still be possible in the future, but not with this bill, not with the plan that Cabinet has developed. I cannot support Cabinet's plan. I believe it should be sent back for a more collaborative approach, for the 19<sup>th</sup> Assembly to begin to take real action on climate change. Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Member for Nahendeh.

**MR. THOMPSON:** Thank you, Mr. Speaker. I will be real quick and short. I don't support a carbon tax. I don't. I don't think it is great. It has an impact on Northerners. Unfortunately, the federal government has come up with it and said, "You either come up with one, or we will impose one." Therefore, I had to make a hard decision based on the information provided to me in this House. I will, as I told the Minister, support this bill. It is about Northerners. For me, it is about my elders who I represent. By allowing the federal government to just put carbon tax onto diesel fuel, we are going to see less fuel going into their homes.

Right now, it is 74 percent. That is what their subsidy is, according to what I have received. We will see this going down even further and further. As fuel goes up and up and the subsidy doesn't move anywhere, we will see that huge impact on our elders. These are the people who brought and were our foundation in the Northwest Territories. I am here standing up for them and saying, "This is not the best possible solution." I need to tell them that this is something that we have to do. At least it is at the origin, where it is going to be sold. It makes a difference for our residents. At least we are not seeing that cost to it. The aviation fuel, in my communities, they have to fly in. They have to charter in. At least now, they are not going to see that cost increased. It is not going to be put onto them.

These are some of the things I had to understand as I vote for this bill. I appreciate my colleagues and their concerns. I heard them. At the end of the day, I have to do what is right for the residents of

Nahendeh. I will support this bill at the end of the day. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Minister.

**HON. ROBERT MCLEOD:** Thank you, Mr. Speaker. I appreciate the comments that are being made. I feel compelled to stand up and speak to whoever is left awake in the Northwest Territories at this late hour and let them know because the messaging that they have been getting is: we have been letting some of the negative messaging get out there. We need to not do that. We need to not play politics with something as important as this.

I have heard someone say that our Premier signed onto this Pan-Canadian Framework, and he agreed that we need to come up with a made-in-NWT approach. I believe we did. I believe we did. We did exactly what we said we were going to do. They recognized the uniqueness of the challenges of the Northwest Territories, so we worked with them to come up with an approach instead of just going with the stream, going with the current, sometimes, which is the easiest thing to do as we have seen so many times.

We had a public engagement. We went out to the public across the Northwest Territories. We tabled a "what we heard" document. You can pick and choose things out of there. Of course there are going to be comments in there, truthful comments about "We don't want a tax." They are being honest. A lot of comments in there about "Okay. We are going to be taxed, but we are worried about cost of living." We tried to take steps to address that.

I hear the comments about "Well, this jurisdiction that. This jurisdiction that. This jurisdiction that." I heard a number of comments about the Yukon. They are providing \$11.7 million in rebates to individuals. Northwest Territories is providing about \$18.5 million between COLO and the point of purchase rebate on heating fuel. They also provide rebates similar to NWT COLO. However, they are not rebating the carbon tax on heating fuel, which results in the NWT, in my opinion, being superior.

By providing a point of purchase on the carbon tax on heating fuel, this ensures that those who pay the carbon tax, like homeowners who pay all their bills, receive the rebate. It doesn't require the resident to pay the carbon tax upfront. This applies to businesses, as well. They are not required to pay the carbon tax on the heating fuel upfront because, if they had to, they would have to pass those costs on to someone. Who would they pass them on to?

We recognize what this carbon tax is supposed to do. It is supposed to do our part in helping to reduce the greenhouse gas emissions on the

planet. We will do that. We also have an obligation to the people of the Northwest Territories that we are going to try and do what we can to protect them and their well-being and not have things to a place where it is so high that they consider moving out.

I have heard both the work that another jurisdiction is doing with the mines. One jurisdiction referenced, "Provide 100 percent rebate to the mining industry." How can we say we do that? Our system rebates about 84 percent. Some of that rebate is tied to greenhouse gas reducing initiatives. The jurisdiction in question is also not investing very much of their carbon tax, if any, into energy initiatives. Our government is expecting to invest about \$8 million annually in energy initiatives with carbon tax revenue.

Municipal and Indigenous governments will receive some money under another rebate but will pay the carbon tax on all fuels. In the NWT, our community governments and organizations will get the point of purchase rebate on carbon tax on heating fuel. This is expected to save NWT community governments \$1.1 million in carbon tax.

Electricity rates will also be protected for the community governments. Businesses in the Yukon are being rebated some money. In the Northwest Territories, businesses are being supported through the purchase rebates on heating fuel, which in our climate, as we all know, is a big cost driver. Let's face the reality here. It is a big cost driver.

My understanding from the information I got is that Nunavut and NWT Chamber of Mines doesn't agree with the Canadian Mine Association's position on carbon pricing.

We have done a lot of work. We have done the public engagement. We have listened to them. We have heard what they had to say. For anybody to stand there and say that this government is more concerned about rebates and that, we are trying to do our part in reducing the greenhouse gas emission. We will continue to do that. We have had a lot of energy initiatives that have been funded by this government. We have a lot of energy initiatives that have been partially funded by the federal government in their attempt to reduce the greenhouse.

Let's not use this as political pandering, Mr. Speaker. I mean that seriously. This is something that is very serious. I commend those who have said that, as hard as this is, "I am going to bite the bullet. I am going to support this." Because of the two options, I believe what they told me, first of all: I believe our plan is better.

I will continue to defend this because, at the end of the day, the bottom line is: we need to do our part.

Even though our emissions are quite low compared to the rest of Canada, we will do our part. We have to. We have to. Our climate is very important to us. Let's not sound like it is, not to this Minister and the people he represents and the Indigenous people that he is a part of. Don't tell me that.

Again, I will go back to the fact that I commend those who have said this is a hard decision that they have to make. I have said that already, and I will say it again.

Mr. Speaker, it might look good, saying, "I am opposed to a carbon tax. I want to delay the carbon tax." It is going to be implemented. We have been told that. It is going to be implemented. It might look good politically to say that, but reality says that this is going to be implemented, and I will not take a chance on the well-being of the people of the Northwest Territories by playing politics with something as important as this. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion.

**SOME HON. MEMBERS:** Question.

**MR. SPEAKER:** Question has been called. All those in favour, please stand.

#### RECORDED VOTE

**CLERK OF THE HOUSE (Mr. Mercer):** The Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Mackenzie Delta, the Member for Sahtu, the Member for Nahendeh, the Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South.

**MR. SPEAKER:** Masi. All those opposed, please stand.

**CLERK OF THE HOUSE (Mr. Mercer):** The Member for Hay River North, the Member for Yellowknife North, the Member for Kam Lake, the Member for Frame Lake, the Member for Yellowknife Centre.

**MR. SPEAKER:** Masi. All those abstaining, please stand. The results of the recorded vote: 12 in favour, five opposed, zero abstentions. The motion is carried.

---Carried

Bill 42 has had its third reading. Third reading of bills. Minister of Finance.

BILL 43:  
AN ACT TO AMEND THE INCOME TAX ACT

**HON. ROBERT MCLEOD:** Thank you, Mr. Speaker. I move, seconded by the honourable Member for Yellowknife South, that Bill 43, An Act to Amend the Income Tax Act, be read for the third time; and, Mr. Speaker, I would request a recorded vote. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. The Member has requested a recorded vote. The motion is in order. To the motion.

**SOME HON. MEMBERS:** Question.

**MR. SPEAKER:** Question has been called. All those in favour, please stand.

#### RECORDED VOTE

**CLERK OF THE HOUSE (Mr. Mercer):** The Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Hay River North, the Member for Mackenzie Delta, the Member for Sahtu, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh, the Member for Frame Lake, the Member for Yellowknife Centre, the Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South.

**MR. SPEAKER:** Even my clerk is getting tired. All those opposed, please stand. All those abstaining, please stand. The results of the recorded vote: 17 in favour, zero opposed, zero abstentions. The motion is passed.

---Carried

Bill 43 has had its third reading. Third reading of bills. Minister of Lands.

#### BILL 46: PUBLIC LAND ACT

**HON. LOUIS SEBERT:** Mr. Speaker, I move, seconded by the honourable Member for Hay River South, that Bill 46, Public Land Act, be read for the third time; and, Mr. Speaker, I request a recorded vote. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. The Member has requested a recorded vote. The motion is in order. To the motion. Member for Frame Lake.

**MR. O'REILLY:** Merci, Monsieur le President. I know this has been a long night, but I do owe it to my constituents to tell them where I stand on this bill. This is one of the few pieces of post-devolution legislation that was not co-drafted. We established that for the record here earlier in this House. I believe that this bill was too rushed. It was not what was promised. There were to be sets of

amendments for administrative purposes to the Commissioner's Land Act and the Northwest Territories Land Act, and we ended up with a bill that merged the two systems.

The most egregious part of the bill, Mr. Speaker, in my opinion is that it rolls back mandatory financial security for commercial and industrial land uses. That provision has been in place since 2011 in the Commissioner's Land Act. The Minister could not provide any evidence whatsoever that this has created a problem or issue, and I would have thought that the lessons learned from the Giant Mine a few kilometres down the road would dictate that we continue to keep that sort of provision in place.

Now, I've spent probably 25 years of my life trying to fix up the mess that's down the road, and I don't think this bill is going to make it any better. In fact, it rolls back protections that we already have in place for the environment and our taxpayers, so I will not support the bill. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion.

**SOME HON. MEMBERS:** Question.

**MR. SPEAKER:** Question has been called. All those in favour, please stand.

#### RECORDED VOTE

**CLERK OF THE HOUSE (Mr. Mercer):** The Member for Thebacha, the Member for Hay River North, the Member for Mackenzie Delta, the Member for Sahtu, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh, the Member for Yellowknife Centre, the Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Inuvik Twin Lakes, the Member for Hay River South.

**MR. SPEAKER:** Masi. All those opposed, please stand.

**CLERK OF THE HOUSE (Mr. Mercer):** The Member for Frame Lake.

**MR. SPEAKER:** Masi. All those abstaining, please stand. The results of the recorded vote: 16 in favour, one opposed, zero abstentions. The motion is carried.

---Carried

Bill 46 has had its third reading. Third reading of bills. Mr. Clerk, orders of the day.



### Orders of the Day

**CLERK OF THE HOUSE (Mr. Mercer):** Orders of the day for Wednesday, today, August 21, 2019, at 1:30 p.m.:

1. Prayer
2. Ministers' Statements
3. Members' Statements
4. Returns to Oral Questions
5. Recognition of Visitors in the Gallery
6. Acknowledgements
7. Oral Questions
8. Written Questions
9. Returns to Written Questions
10. Replies to the Commissioner's Opening Address
11. Petitions
12. Reports of Standing and Special Committees
13. Reports of Committees on the Review of Bills
14. Tabling of Documents
15. Notices of Motion
16. Notices of Motion for First Reading of Bills
17. Motions
18. First Reading of Bills
19. Second Reading of Bills
20. Consideration in Committee of the Whole of Bills and Other Matters
  - Bill 45, Corrections Act
  - Committee Report 29-18(3), Standing Committee on Economic Development and Environment Report on the Perceptions Held by Northern Businesses toward the Government of the Northwest Territories' Procurement Processes
  - Committee Report 32-18(3), Standing Committee on Economic Development Committee Report on the Process Used for Devolution Legislative Initiatives
  - Committee Report 34-18(3), Standing Committee on Social Development Report on the Review of Bill 45: Corrections Act

- Minister's Statement 151-18(3), New Federal Infrastructure Agreement
- Minister's Statement 158-18(3), Developments in Early Childhood Programs and Services
- Minister's Statement 211-18(3), Addressing the Caribou Crisis
- Tabled Document 442-18(3), 2030 NWT Climate Change Strategic Framework 2019-2023 Action Plan

21. Report of Committee of the Whole

22. Third Reading of Bills

- Bill 34, Mineral Resources Act

23. Orders of the Day

**MR. SPEAKER:** Masi, Mr. Clerk. [Translation] This House stands adjourned until Wednesday, August 21, 2019, at 1:30 p.m. [Translation ends]

---ADJOURNMENT

The House adjourned at 12:14 a.m.

