

**MOTION 25-18(2):  
MID-TERM REVIEW PROCESS  
OCTOBER 20, 2016**

**MR. O'REILLY:** Merci, Mr. Speaker. I MOVE, seconded by the Honourable Member for Tu Nedhe-Wiilideh, that the following terms referenced for mid-term review be adopted:

1. Cabinet and the Standing Committee on Priorities and Planning shall each evaluate progress on implementing the mandate, make their reports public, and table them in the House at the earliest opportunity;
2. The mandate be public and tabled them in the House at the earliest opportunity;
3. the mandate be revised, if necessary, by cabinet with input from the Standing Committee on Priorities and Planning, reviewed in caucus and tabled for potential debate, amendment and adoption in the first sitting of the third session; a Mid-Term Review Committee is hereby established consisting of all 19 members;
4. the Mid-Term Review Committee will conduct its sessions publicly in the chamber and be chaired by one or more members;
5. meetings of the Mid-Term Review Committee shall be conducted as follows:
  - a. the Premier shall speak for up to 10 minutes on his leadership and performance and the collective performance of cabinet, each member will be permitted up to two questions no longer than two minutes each, responses will be no longer than two minute each --

Merci, Monsieur le President. I think I'll start over again, if I may? I'm probably as red as the flag.

--- Laughter

A mid-term review process, Mr. Speaker, WHEREAS the Legislative Assembly has directed that a mid-term review be conducted in the fall of 2017

AND WHEREAS the Standing Committee on Rules and Procedures was directed in Motion 7-18(1) to review options for the establishment of a mid-term accountability review of the Mandate of the Government of the Northwest Territories 2016-2019, and that it include the performance of the Executive Council and standing committees, both collectively and individually;

AND WHEREAS the Legislative Assembly has received and adopted the committee's report on the review of the establishment of a mid-term review process; and whereas the committee has recommended a process to guide such a review;

AND WHEREAS the process proposed will demonstrate the commitment of the 18<sup>th</sup> Legislative Assembly to greater transparency and accountability; and whereas key principles were established in the committee report to ensure that the integrity of the review process, namely that it demonstrate accountability to the Legislative Assembly and the public, that it provide a flexible and adaptable mechanism to adjust the government's mandate to fit changing circumstances, and above all that it be fair, transparent, consistent and evidence-based; and whereas the government is committed to public annual reports on its progress in implementing the mandate.

NOW THEREFORE I MOVE, seconded by the Honourable Member for Tu Nedhe-Wiilideh, that the following terms of reference for mid-term review be adopted:

- 1) Cabinet and the Standing Committee on Priorities and Planning shall each evaluate progress in implementing the mandate, make their reports public, and table them in the House at the earliest opportunity;
- 2) the mandate be reviewed, if necessary, by Cabinet with input from the Standing Committee on Priorities and Planning, reviewed in Caucus and tabled for potential debate, amendment and adoption in the first sitting of the third session;
- 3) a Mid-Term Review Committee is hereby established consisting of all 19 Members;
- 4) the Mid-Term Review Committee will conduct its sessions publicly in the chamber and be chaired by one or more Members;
- 5) meetings of the Mid-Term Review Committee shall be conducted as follows:
  - a) the Premier shall speak for up to 10 minutes on his leadership and performance and the collective performance of Cabinet, each Member will be permitted up to two questions no longer than two minutes each, responses will be no longer than two minute each;
  - b) each Minister, in alphabetical order, will speak for up to five minutes on his or her performance and leadership, each Member will be permitted up to two questions, but no longer than two minutes each, responses will be no longer than two minutes each;
  - c) Members shall conduct themselves in a dignified and respectful manner and will follow the procedures of the Territorial Leadership Committee where applicable;
  - d) on completion of the process described above Members will be called upon to cast secret ballots in an open forum:
    - i) indicating their confidence or non-confidence in the performance and leadership of Cabinet as a whole; and
    - ii) indicating their confidence or non-confidence in the performance and leadership of each Minister;
  - e) ballots will be counted by the Clerk, vote totals are not announced, the Chair will announce the aggregate result of Cabinet as a whole and then the result for each individual Minister in alphabetical order by surname; and
  - f) in the event of an equality of votes being cast, the Clerk shall report an expression of confidence in the Cabinet/Minister, and further that the Standing Committee on Priorities and Planning meet annually with each Minister to conduct an oral performance appraisal similar to those in many work places and for Ministers to raise any performance issues they may have with committees. The meetings should be informal and in-camera to promote frankness.

Mahsi, Mr. Speaker.

**MR. SPEAKER:** The motion is on the floor, motion is in order. To the motion. Member for Frame Lake.

**MR. O'REILLY:** Mahsi, Mr. Speaker. We all know that the decision was made early on by all of us as Regular Members to hold a mid-term review, even before Cabinet had been selected. It was one of the first pieces of businesses in this House to establish or refer this matter of a mid-term review process to the Standing Committee on Rules and Procedures, and I'm pleased to report that it was the first standing committee report tabled in or brought forward and presented in this House. The Rules and Procedures Committee is an unusual creature in that we do have representation from our Cabinet colleagues on it and that always makes life interesting, but it was a good discussion and debate that we had there.

Our job as rules and procedure was really to come up with a process for -- and the terms of reference for the mid-term review. That duty has been discharge with the receipt and acceptance and adoption of the committee report on Tuesday of this week. This motion proposes a clear transparent evidence-based and fair mid-term review process. I would be the first to admit that the process outlining the committee's report could have been a little clearer. But we were dealing with a report that where the majority of the committee members when we had a dissenting opinion it became a virtually impossible task to coordinate both parts of the report as we moved forward. So we also had very busy schedules, travel and deadlines, but we did manage to meet that.

The process that we set out in the report is virtually what's in the motion that is before the House. We want to start the process off on a positive note and it will be a positive way of proceeding, it'll be an evidence-based assessment of progress that we're all making towards the mandate. I believe that it can be done in a respectful and constructive fashion, and that's why we're all here.

Of course, there are good things that Cabinet is doing and that'll be a way for us to recognize them. I'll give one example, Mr. Speaker, the open houses that Cabinet is having in communities, that's a very good thing and I think something that we all want to carry forward. But there also needs to be an opportunity for honest feedback and areas for improvement. So that's how we're going to start this off, with an evidence-based process.

Now, the process that we've developed as rules and procedures is largely based on what happens in Nunavut. They've carried out four of these reviews, and during those reviews there's only been one Minister that received a vote of non-confidence, and I think that speaks well of the process that's been adopted and used in Nunavut.

I think it's important too for the public to understand this is about making sure that we're steering the ship in the right direction, that we're all on board, and we're doing the best possible job that we can. I don't think it's anything more or less than that, this mid-term review, and it's something that all in this House should support. I can confidently say to all Members of this House and the public that the committee worked very hard to come up with this process, that all options and consequences were very seriously considered, and we tried to come up with the fairest possible process.

It's weighed heavily I think on all the committee members and me personally as well as we've tried to put all of this together. I sincerely want to thank all of the Members of the Rules and Procedures Committee for their very hard work in meeting many times to come up with this. I'd like to recognize the work that Mr. Sebert contributed, Ms. Green, Mr. Thompson and Mr.

Beaulieu in helping us achieve that. So I urge all of my colleagues to support the motion. Mahsi, Mr. Speaker. Sorry, Mr. Speaker, I'd like to request to record a vote on the motion. Mahsi.

**MR. SPEAKER:** Masi. To the motion, Member for Tu Nedhe-Wiilideh.

**MR. BEAULIEU:** Marci cho, Mr. Speaker. I will be very brief. I'd like to thank all Members that worked on the mid-term review. It was not easy to come up with a position that has so many different sort of moving parts to it. We had all kinds of possibilities: how long do we give the Cabinet Members to speak; how many questions would we be allowed to ask, you know, in all fairness if everybody asked a full set of questions of every department with every Minister and so on. So there was a lot of possibilities, a lot of combinations and so on and we worked hard to try to come up with something that we thought would be fair; something that would reflect what we were trying to achieve, and what we're trying to achieve, of course, is to have a better government. So we've got Cabinet Members in place and we looked at a way to go through the Mid-term Review in order evaluate ourselves as a government for the people of the Northwest Territories. Evaluate ourselves to make sure that we're doing the best possible job that we can do for the people have elected us.

I'd also like to thank people, the staff researchers that have helped us in looking at other jurisdictions and bringing us some historical information which was very valuable. So we had an opportunity to look at what was successful, worked and what didn't work so well. So with that we've come up with something that we are here willing to stand behind and we thought it was a lot of good work. I'd like to especially acknowledge Kevin O'Reilly for his work on the committee in the chair. He did a lot of work. He made sure that this kept moving, and called meeting after meeting after meeting and eventually we have a document that we think is a very good document; I think that the whole House will be happy with. Thank you very much, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Member for Yellowknife North.

**MR. VANTHUYNE:** Thank you, Mr. Speaker. Mr. Speaker, I want to thank Members of the Standing Committee on Rules and Procedures for their thorough work on the options for a mid-term review. Setting up an effective and fair process was one of the first things we wanted to accomplish as an 18<sup>th</sup> Assembly. The motion before us describes such a process. Most importantly, it is based on actual performance in meeting the mandate we have set for this government. The process proposed is also transparent. It will be easy for the public to follow and it will be supported by information that is public. The Mid-term Review Committee will do its work in this Chamber in public with the TV cameras rolling.

Many of us heard criticism of consensus government during our campaigns last year. I have learned a lot myself about accountability in consensus government since taking office. I know we can improve the accountability of our government as a whole and of the Ministers we entrust to carry out our mandate. This is no slight to them, Mr. Speaker, we are all working within a system and today we are all working together to improve it. The method proposed for the Mid-term Review is an improvement. I am proud to say that we in this House want to stand up and be accountable for the work we do. I'm proud that we will stand up and explain what we are doing and why. The government, the Premier, and the Ministers are accountable to the Assembly every day of their term in office. The Mid-term Review will show this is the case. It shows that we, as Members, are all accountable to the public every day of our term not just at election time.

The Mid-term Review is a way to take stock of what we have accomplished in our first two years of office and to measure our effectiveness. If we are succeeding we will renew our confidence in the government and Ministers and update direction to them for the remainder of our term. But

the mid-term review process has to allow for cases when progress is inadequate and provide a method for change if it is needed for this government and future governments. I want to stress that this is a necessary tool in our democracy, not a weapon.

It is important to me that throughout the review process Members and Ministers are free to express themselves; this is part of what it means to be both transparent and accountable. This is especially true of the votes of confidence. The only way every Member can vote freely is to have a secret ballot. That is how democracy works and we should be proud of it, not afraid of it.

Mr. Speaker, I'm proud to support this motion and I am proud to have a hand in helping our consensus government work better for the people of the Northwest Territories. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Member for Great Slave.

**HON. GLEN ABERNETHY:** Thank you, Mr. Speaker. Before I begin my remarks I want to state clearly and for the record that I believe wholeheartedly in the principles of accountability. Cabinet shares that belief with me and that is why on December 17, 2015, all Members in this House supported unanimously for Motion 17-18(1) which was to establish a mid-term accountability review.

I'd also like to point out in case anybody has forgotten, that the Premier, prior to his selection as Premier, was the mover of that motion which established with the unanimous agreement of all 19 Members that prior to the fall 2017 in this Chamber this Assembly would conduct a mid-term accountability review of its adopted mandate, including the performance of the Executive Council and standing committees. Mr. McLeod would not have moved that motion if Members did not believe that each one of us on both sides of this House has a fundamental duty to be accountable to the people of the Northwest Territories.

Accountability and democracy are inseparable. The people who elect us exercise power on their behalf and place enormous faith in each one of us. Collectively and individually we must earn and maintain that trust by submitting our decisions and actions to the judgment of the people that we serve openly and transparently. Every four years the people of the Northwest Territories have the opportunity to directly convey their judgment about our actions in the territorial election. This is direct accountability. There is nothing like facing a voter on a campaign trail to remind us who's boss and how we must work and maintain the trust of our constituents. Accountability between elections is no less direct and no less real.

As a government we are accountable to the people of the Northwest Territories through their elected representatives in this House. Every time we are asked a question we are being asked to account for our decisions and our actions. Every time our budgets and plans for implementing them are examined and debated in committee of this House we are being asked to account for our decisions and actions.

Every time government legislation is introduced for debate and disposition in this House, we are being asked to account for our decisions and our actions. At almost any moment on every day this House sits, Members have the ample opportunity and tools to hold Ministers to account for living up to the expectations of the Assembly as outlined in the mandate and to the people that have elected us. This includes the ability to remove any Cabinet Member from Cabinet at any time. That this business is conducted primarily in public is an important aspect of the accountability that contributes to the openness and transparency that the public demands and expects of all 19 Members. But accountability needs to be about more than personality, Mr. Speaker. Accountability is about keeping our promises, and for the 18<sup>th</sup> Assembly our mandate is our promise to the people of this territory.

Our decision to adopt the process convention of priority setting and reporting that was first established by the 17<sup>th</sup> Assembly is a significant evolution in consensus government and a major step towards accountability. Past Assemblies had priorities but had never made specific commitments about how they would advance those priorities like the 18<sup>th</sup> Assembly did when it adopted unanimously its mandate. In the past there was no clear way for the people or for the Assembly itself to determine how successful it was. The mandate is now a measure of our success and the progress we could make by everybody in this House working together. Ours is the first Assembly to formally develop and adopt a mandate specifically created to advance the priorities we all identified together. Unlike past Assemblies, Mr. Speaker, the mandate of the 18<sup>th</sup> Legislative Assembly is a clear statement of our intent as a government and a clear yardstick against which our successes as an Assembly can be judged.

Mr. Speaker, Cabinet is not afraid of being judged. We believe that we are already making progress and will have made even more progress by next fall. We are confident that we could stand on our record collectively as well as individually. But we do want to make sure that we are being judged on the basis of whether or not we have done the things that we said we would do, specifically, the commitments all MLAs agreed to within our mandate. Of course

The commitments all MLAs agreed to within our mandate. Of course, our mandate cannot be written in stone. Circumstances change, Mr. Speaker. Priorities evolve and new tasks emerge as we check items off our to-do list. Pausing mid-way through our term to take stock of the mandate and whether or not it continues to be aligned with the Assembly's priorities, frankly, it only makes sense, Mr. Speaker.

The provisions of the process convention that outlined the structured process for reporting on and reviewing the relevance and adequacy of the mandate are both necessary and sensible. We should welcome that opportunity as a whole Assembly to formally review our mandate and ask ourselves if it continues to serve the needs of the people and the Legislative Assembly of the Northwest Territories. Cabinet was unanimous in its support for that review last December, and we continue to support the need for the review.

While I and my Cabinet colleagues absolutely support the principle of accountability that is at the heart of our democratic system and are more than prepared to be judged on our records, we feel that the report on the establishment of the mid-term review process is flawed. These flaws were clearly outlined by Mr. Sebert in his dissenting opinion filed with the committee report and which expressed Cabinet's shared views on the proposed process.

I'm not going to recite all the concerns that Minister Sebert expressed so well, but I do want to highlight a very significant concern Cabinet has with the proposed process, specifically that is a decision to cast votes on Cabinet performance in secret. Cabinet believes that this recommendation is fundamentally inconsistent with the commitment we have made as Members to openness and transparency. Even the Standing Committee on Rules and Procedures recognized and, in one of its principles, outlined in its own report that processes for assessing Cabinet's performance, among others, "must be fair, transparent, and evidence-based." Anonymous assessment surveys, the report continues, "are not consistent with a fair and transparent process."

The process recommended here today doesn't seem to align with that principle, and that is a serious concern, Mr. Speaker. Consensus only works, Mr. Speaker, when all 19 Members work together in the spirit of collaboration and trust to play their respective roles, which can all be evaluated. This was the spirit that guided our discussions and priorities and mandate and the spirit that we have seen in places like Fort Providence, where we met as Caucus. The spirit appears to be lacking in this motion, Mr. Speaker. This is not just a concern for Cabinet; it

should be a concern for all of us who are committed to working together to make the lives of the people of the Northwest Territories better, as I know all Members are.

The original motion called on Ministers and Regular Members to work together to evaluate our shared progress on implementing the Assembly's priorities. A review like that would be a clear demonstration of our accountability as a Legislative Assembly to the people of the Northwest Territories. The proposal before us has departed from that vision and now seems focused on a review of Cabinet and its performance alone. Cabinet does not feel it can support a motion that has strayed from what was originally intended.

At the same time, Cabinet remains absolutely committed to transparency and accountability and continues to support, without reservation, the need for a mid-term review of its progress on mandate. The goalposts have moved, Mr. Speaker, but we are confident that we are making good progress on the mandate and will each welcome any kind of mid-term review. We think the process being proposed could be fairer and more open, but we will not challenge the decision of this Assembly to establish whatever process it sees fit, even one that includes a secret ballot.

Out of respect to this House, and for the will of its Members, Cabinet will abstain from voting on the motion and look forward to meeting with you again next fall to review this government's progress on mandate. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Member for Kam Lake.

**MR. TESTART:** Thank you, Mr. Speaker. I'm very pleased today to stand in support of this motion, and I'd like to thank the Standing Committee on Rules and Procedures for their very hard work and for providing me, as an alternate member of that committee, to join the committee on the regular discussion around this topic.

Transparency and openness was a long-standing priority of many voters in the last election, and long-standing for many Northerners as well. The consensus government always needs to be evolving, and all systems of government do as well. We made some very bold steps early on. Allowing a nomination for the premiership a week early to allow our constituents to provide their feedback was a huge step in opening up the transparency around leadership decisions. In other systems, regular citizens have more opportunities to weigh in on those leadership decisions and clearly identify who their future leaders are going to be after the election and what their priorities are going to be through clearly articulated platforms. These are features that our unique system does not have.

The mandate and many of the changes being proposed now are attempts to bring those features to the people of the Northwest Territories, to allow them to have more say on how our decision makers are being selected and how, ultimately, they are held accountable, which is why a mid-term review is so important. I have gone on the record several times calling for a different way to select Ministers, and I've even criticized secret balloting. But ultimately I have to look around this Assembly and see what the will of the majority is, and also respect the processes that brought our Cabinet together in the first place, and that process was by secret ballot.

This process does exactly that. It is a reflection of the Territorial Leadership Committee and establishes a unique process that suits the model of consensus government. We always endeavour to work together and work collaboratively. Although we enjoy healthy tension here on the floor of this chamber, we do a lot of our work outside, and it is productive, effective work. We need to continue with that spirit and develop processes, procedures, and bodies such as a Mid-term Review Committee to allow that work to proceed effectively. If a process was agreed to by

the majority as the best process to elect our Cabinet, the Mid-term Review Committee done by secret ballot is clearly the best process to review their performance.

I think those kinds of considerations were well weighed by the standing committee, and I was hopeful that we would all be able to come together at the end of the day. I respect what my colleague, the Honourable Member for Great Slave, has said today and I appreciate that we will all work on this process moving forward to build a stronger government and give Northerners the accountability that they have asked for. Thank you, Mr. Speaker.

**MR. SPEAKER:** Masi. To the motion. Member for Yellowknife Centre.

**MS. GREEN:** Thank you, Mr. Speaker. Mr. Speaker, it's no accident that we haven't had a mid-term review in this Assembly since the 12<sup>th</sup> Assembly, since before division. It has been really a lot of work to come up with a set of principles and a process to conduct this mid-term review. I want to emphasize that, with Mr. Sebert's help, we canvassed thoroughly the different options and tools that we could use to produce a mid-term review that was fair and equitable, and I have confidence in the report that we produced, that we were able to hit that mark.

That doesn't mean to say that, once the review takes place, it won't need improving or tweaking to accommodate the realities of what happens, but I want to stress that the purpose of the review is to measure progress towards our common mandate. The review is not about taking out individual Cabinet ministers. In fact, it's worth nothing that, in Nunavut, in all the years that they've been doing mid-term reviews, and they've done them in every Assembly since division, only once has a Minister been replaced.

The purpose here is to measure our progress on our common mandate, and it would have been my desire, Mr. Speaker, to have seen us support this unanimously, since the mandate came from all of us and the motion to have a review was also unanimous, but the government has its own reasons for going its own way.

I do want to say that we are committed to a fair and open process and one which furthers the interests of the 18<sup>th</sup> Assembly's mandate and to be accountable in every possible way to the people who put us here. Thank you.

**MR. SPEAKER:** Masi. To the motion. Member for Deh Cho.

**MR. NADLI:** Mahsi, Mr. Speaker. Mr. Speaker, I rise today in support of this motion. I'd like to take the opportunity to thank my colleagues that put tremendous effort in ensuring that the report and the motion that was tabled in the House, and what we're seeing today was, you know, their greatest effort. And I've seen them work many hours and commit themselves to ensuring that it was very reflective of the desires of the House, even to the point of involving members of Cabinet in those discussions.

The Mid-term Review I think is a time of reflection. We're going to reach an important juncture in terms of the halfway mark of the 18<sup>th</sup> Assembly and it's going to be a healthy exercise; perhaps a lot of introspects in terms of where we should go, and that Mid-term Review will provide that opportunity. At the same time, for us it's also bringing home to the home front, like, November 26<sup>th</sup> will be almost a year since we've been elected and we need to check to ensure that we're going in the right direction, and that will be a healthy exercise, and so, therefore, I support this motion. Mahsi.

**MR. SPEAKER:** Masi. To the motion. I'll allow the Member for Frame Lake to give the concluding remarks.

**MR. O'REILLY:** Masi, Mr. Speaker. Yes, I too had wished that this could have been supported unanimously by all the Members, but I understand that there are some differences of opinion here. I would like to try to assure the public and my colleagues on the other side of the House that there is goodwill on this side of the House to make sure that we have a productive, constructive Mid-term Review. It is focused on progress on the mandate, but necessarily that will require looking at performance as the original motion of referral did specifically reference evaluate performance of Executive Council collectively and individually.

I think we've done our best to try to come up with the fairest possible process. There's obviously some issues around whether the ballot of confidence should be done in the open in public or whether it be done in secret. We always have that option to do it public every day the House is sitting. So I think what we've tried to do is to look at the best way to come up a fair process and preserve, as one of my colleagues said, the right of each MLA to vote freely as they see fit and try to find a way to deal with Cabinet solidarity. So, in any event, I do appreciate all of the views that the members have expressed in this House, the work that we did as a committee, the work that we did and reviewed in Fort Providence, and that, you know, I look forward to moving on and conducting some other business as well. But I believe that there is goodwill on this side of the House certainly, and probably for all Members, to make sure that the Mid-term Review is carried out in a professional manner that will help make sure our ship is steering in the right direction. Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. At this time a Member requested a recorded vote. So I'd like to ask those all in favour of the motion please stand.

#### RECORDED VOTE

**CLERK OF THE HOUSE (Mr. Mercer):** The Member for Frame Lake, the Member for Yellowknife Centre, the Member for Deh Cho, the Member for Nunakput, 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 Tu Nedhe-Willideh, the Member for Nahendeh.

**MR. SPEAKER:** Masi. Those who are against the motion please stand. Those that abstain please stand.

**CLERK OF THE HOUSE (Mr. Mercer):** 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.

**MR. SPEAKER:** In favour 11; against, zero; abstentions, seven. The motion is carried.