



18th Legislative Assembly of the Northwest Territories

Standing Committee on Rules and Procedures

Report on the Review of the
Establishment of a Mid-Term Review
Process

Chair: Mr. Kevin O'Reilly

MEMBERS OF THE STANDING COMMITTEE ON RULES AND PROCEDURES

Kevin O'Reilly
MLA Frame Lake
Chair

Julie Green
MLA Yellowknife Centre
Deputy Chair

Tom Beaulieu
MLA Tu Nedhe-Willideh

Hon. Louis Sebert
MLA Thebacha

Shane Thompson
MLA Nahendeh

Hon. Glen Abernethy
MLA Great Slave
(alternate)

Michael Nadli
MLA Deh Cho
(alternate)

Kieron Testart
MLA Kam Lake
(alternate)

COMMITTEE STAFF

Doug Schauerte
Committee Clerk

Lee Selleck
Committee Advisor

**STANDING COMMITTEE ON
RULES AND PROCEDURES**

**REPORT ON THE REVIEW OF THE ESTABLISHMENT OF
A MID-TERM REVIEW PROCESS**

TABLE OF CONTENTS

Introduction.....	1
Background and Precedents	2
Principles for the Mid-Term Review.....	3
The Toolbox: Measuring the Government's Progress	4
Priorities of the 18 th Assembly and the Mandate, 2016-2019	4
Other Potential Tools.....	4
Scope of the Mid-Term Review	5
Recommendation 1	5
Recommendation 2	6
Recommendation 3	6
Recommendation 4	6
Tools for Assessing Individual Performance.....	7
Recommendation 5	8
Review of Standing Committees.....	8
Recommendation 6	9
Process for the Mid-Term Review	10
Recommendation 7	10
Recommendation 8.....	10
Conclusion.....	11
Addendum: Dissenting Opinion of the Honourable Louis Sebert.....	12
Introduction.....	12
Recommendation 1	12
Minority Opinion	12
Minority Recommendation 1.....	12
Recommendation 2	13
Minority Opinion	13
Minority Recommendation 2.....	13
Recommendation 3	13
Minority Opinion	13
Minority Recommendation 3.....	14
Recommendation 4	14
Minority Opinion	14
Minority Recommendation 4.....	14

Recommendation 4	14
Minority Opinion	14
Minority Recommendation 4.....	14
Recommendation 5	14
Minority Opinion	14
Minority Recommendation 5.....	15
Recommendation 6	15
Minority Opinion	15
Minority Recommendation 6.....	15
Recommendation 7	15
Minority Recommendation 7.....	16
Recommendation 8	16
Minority Opinion	16
Minority Recommendation 8.....	18

STANDING COMMITTEE ON RULES AND PROCEDURES

REPORT ON THE REVIEW OF THE ESTABLISHMENT OF A MID-TERM REVIEW PROCESS

INTRODUCTION

One of the first actions by Members of the 18th Assembly was to task the Standing Committee on Rules and Procedures with recommending a process for a public mid-term accountability review.

Motion 7-18(1), entitled Establishment of a Mid-Term Review Process and carried on December 17, 2015, states as follows:

WHEREAS the Members of the 18th Legislative Assembly have resolved to work together to set priorities and to develop a mandate to guide this government over the next four years;

AND WHEREAS the development of a mid-term review process will provide an opportunity to evaluate progress on implementing the Assembly's agreed-upon priorities;

AND WHEREAS such a review will also provide a mechanism to evaluate the performance of the Executive Council and Standing Committees, both collectively and individually;

AND WHEREAS the establishment of a public mid-term review process will demonstrate the commitment of the 18th Legislative Assembly to greater transparency and accountability;

NOW THEREFORE I MOVE, seconded by the honourable Member for Tu Nedhe-Willideh, that this Legislative Assembly conduct a mid-term accountability review of the adopted mandate of the 18th Legislative Assembly, including the performance of the Executive Council and Standing Committees, to take place in the Chamber of the Legislative Assembly prior to the Fall 2017 sitting;

AND FURTHER, that this Assembly refer this matter to the Standing Committee on Rules and Procedures to recommend a process, including terms of reference, for such a review and that the Standing Committee report back to the House with its recommendations during the Fall 2016 sitting.

The Committee met 11 times on this matter from January to October, 2016, in addition to countless internal discussions with other Members, Ministers, and staff.

To the best of our ability, the recommendations in this report represent a positive step in the evolution of consensus government in the Northwest Territories. We look forward to consideration of this matter in the House and by the public at large.

Despite efforts to reach full consensus of Committee Members, the recommendations are not unanimously supported. The Honourable Louis Sebert, the Minister Responsible for Public Engagement and Transparency, exercised his right to issue a Dissenting Opinion. It is included in its entirety in the Addendum of this report.

BACKGROUND AND PRECEDENTS

The challenge in conducting mid-term reviews in a consensus government is focusing on accountability – the government’s progress on its priorities, and legitimate performance issues – rather than individual opportunity. This uneasy dynamic has cast a shadow on mid-term reviews since the NWT’s first one in 1985. It was conducted entirely behind closed doors, and resulted in a new Government Leader and two new Ministers. The news was delivered in a terse press release with no explanation of the process or Members’ reasoning.

It is worth remembering this took place in a different time, when the Government Leader (not yet Premier) had much less sway over his or her Cabinet. Ministers were selected to represent a wide range of regional interests from Fort Liard to Pangnirtung. There was no guarantee this collection of Ministers would pull together as a team; they had little official direction and no mandate letters. The government’s overall priorities were vague; the Northwest Territories’ consensus system was in an early phase of its development.

Subsequent mid-term reviews, held only twice and in public, were much less dramatic and attempted to add a layer of accountability to our consensus government. Members of the 12th and 13th Assemblies both agreed at the outset of their terms to carry out a mid-term review of Cabinet’s performance. Both were conducted by the Territorial Leadership Committee, which was then, as now, the forum for selecting the Premier and Cabinet. The mid-term reviews featured extensive discussion of priorities and questioning of Ministers by Regular Members. Neither review resulted in changes to Cabinet membership, but grades from A to F were assigned to Ministers in 1993. No mid-term reviews have been conducted by NWT Assemblies since the creation of Nunavut in 1999.

Nunavut, however, adopted a mid-term review as a regular feature of its consensus system. Four successive assemblies have conducted the review, which features public questioning of Ministers about priorities, progress and leadership. Confidence of the House was formally affirmed for every Minister but one. In the past two assemblies, this was done by a secret-ballot confidence vote for each Minister.

Today's Standing Committee on Rules and Procedures has heeded the lessons of history, and recommends a mid-term review process that reflects the goals of the 18th Legislative Assembly, as outlined in the initial House referral motion.

PRINCIPLES FOR A NEW MID-TERM REVIEW

The Committee's next order of business was to set out principles to guide the mid-term review and elaborate on the goals of the process. All process options were considered in light of these principles:

- ***Accountability to the Legislative Assembly:*** A consistent, formal mechanism is needed to assess progress on achieving the mandate, demonstrate the responsibility of Cabinet, and make necessary changes.
- ***Public accountability:*** A formal mechanism is needed to improve public understanding of the Assembly's work and demonstrate the accountability of consensus government demanded by voters.
- ***Flexibility and adaptability:*** A mechanism is needed to adjust the government's mandate at mid-term to fit changing circumstances, and in light of what has been achieved.
- ***Fairness and transparency:*** The process for assessing the government's progress in delivering on its mandate, Cabinet's performance, and Committees' performance, must be fair, consistent, transparent, and evidence-based. Anonymous assessment surveys are not consistent with a fair and transparent process.

THE TOOLBOX: MEASURING THE GOVERNMENT'S PROGRESS

Priorities of the 18th Assembly and the Mandate, 2016-2019

New tools recommended by the 17th Assembly and put into effect by the 18th Assembly make it much easier to fairly measure performance of the government and all Members – not just at mid-term, but also at election time.

The 18th Assembly's priorities were developed by Caucus before the selection of Cabinet, with all Members having equal opportunity at all levels of their creation. For the first time, a televised roundtable discussion of priorities took place in the House on December 14, 2015, after a similar private roundtable with leaders of Aboriginal and community governments. The resulting priorities are published and available on the Legislative Assembly's website, as well as the transcript of the roundtable discussion. These priorities represent the first tool for Members and the public to use in measuring the performance of the government: its actions should advance the 18th Assembly's priorities, and be consistent with them.

However, a statement of priorities is not a realistic mandate for a government, which must be tempered by consideration of what can be accomplished in a four-year term with the resources at hand. After Cabinet was selected, it was directed to draft a mandate based on the 18th Assembly's priorities. This draft mandate was publicly discussed, amended, and unanimously approved in the House. It is a statement of goals akin to the platform of a political party. The revised Mandate of the Government of the Northwest Territories, 2016-2019, was then published, re-tabled in the House, and is available on the Assembly's website. This document serves as the primary tool for measuring the government's collective performance, and that of the Premier and Ministers tasked with carrying out work in specific areas.

Other Potential Tools

A variety of other tools will be available to assess Cabinet's performance. The government has committed to public annual reports on its progress in implementing the 18th Assembly's mandate. The Committee recommends that a report be completed by August 31, 2017, and include an assessment of the need for potential changes and additions to the mandate. It should also include Cabinet's formal assessment of its own performance. Those results will be compared with an evaluation to be produced by the Standing Committee on Priorities and Planning, comprised of all Regular Members. The Committee evaluation will include consideration of the government's performance in implementing its mandate, reviews of annual business plans, the government's responses, and the Cabinet's collective effectiveness in carrying them out. These two reports should be public and tabled in the House.

These are the principal tools for measuring the collective performance of the Executive Council, “Cabinet,” or “the government,” as it is generally called.

SCOPE OF THE MID-TERM REVIEW

The Standing Committee on Rules and Procedures was directed to develop a review that “includes the performance of the Executive Council and Standing Committees both collectively and individually.”

There was much debate over the need to include individual Ministers and standing committees in a mid-term review. The Committee considered recommending that individual reviews of Cabinet Ministers (including the Premier), and Standing Committees not be carried out. Proponents of this view argued that the purpose of the mid-term review is to adjust the mandate if needed, and provide updated public direction to the Premier and Cabinet for the final two years of the Assembly’s term. It was also pointed out that if need be, a Minister’s appointment can be revoked at any time by passage of a motion to that effect in the House. Some considered this method the fairest and most transparent, as voting on this type of motion is public and not by secret ballot. It would not, however, be likely to be a “free” vote. Cabinet solidarity is sure to be invoked, if only to preserve necessary working relationships. Motions of revocation or ‘non-confidence’ are rare, of course – but past experience suggests they deepen the normally healthy tension between Cabinet and Regular Members, and undermine future prospects for consensus.

The Committee considered the potential processes and outcomes of a mid-term review without assessing the performance of individual Ministers and standing committees, but ultimately found them lacking when measured against the principles for the review and the instructions contained in the House referral motion.

Most Members noted that a decision not to review individual performance of Cabinet Ministers reduces accountability and diminishes the potential for constructive direction, expression of renewed confidence, as well as possible non-confidence. Moreover, declining to provide an option for evaluating individual performance is counter to the Assembly’s direction to this Committee.

Recommendation 1

The Standing Committee on Rules and Procedures recommends that a mid-term review be carried out in the fall of 2017, and that it include a public accountability review of the Mandate, and assessment of the performance of the Executive Council, both collectively and individually.

Recommendation 2

The Standing Committee on Rules and Procedures recommends that Cabinet formally assess its own performance, that the Standing Committee on Priorities and Planning produce its own independent assessment of Cabinet's collective performance, and that both reports be public and tabled in the House.

Public review and potential amendment of the government's mandate is properly in the hands of Caucus, Cabinet, and the House, as set out in the Assembly's process convention. But as noted above, the Committee determined that regular House proceedings are not best-suited to a review of the individual performance of Cabinet Ministers.

In the two previous assemblies that conducted a mid-term review, the forum was the Territorial Leadership Committee (TLC) – also the venue for speeches and selection of the Premier and Cabinet by secret-ballot vote. Members of the current Standing Committee on Rules and Procedures judged that the TLC is not an appropriate venue for the new mid-term review, given the consensus government principle that "Regular Members are not a Cabinet in waiting." A new forum is needed in which all Members are substantially equal. The Committee proposes a new Mid-Term Review Committee allowing full participation of all Members (including the Speaker), enabled by the selection of multiple rotating Chairs, and secret-ballot voting so all Members may vote according to their beliefs and conscience.

Recommendation 3

The Standing Committee on Rules and Procedures recommends that a new Mid-Term Review Committee be established, specific to that purpose, with designation of multiple Chairs to enable all Members, including the Speaker, to participate fully.

Recommendation 4

The Standing Committee on Rules and Procedures further recommends that the Mid-Term Review Committee conduct its review publicly, in the Chamber of the Legislative Assembly.

Tools for Assessing Individual Performance

In addition to the tools mentioned above, various others – all of them public documents – may assist a review of individual Minister's performance, including:

- Consensus Government in the Northwest Territories: Guiding Principles and Process Conventions;
- Ministerial mandate letters issued by the Premier;
- Speeches by candidates for Premier before the Territorial Leadership Committee, December 9, 2015;
- Questions and answers to and from candidates for Premier before the Territorial Leadership Committee, December 16, 2015;
- Speeches by ministerial candidates before the Territorial Leadership Committee, December 16, 2015;
- Hansard excerpts of responses to oral and written questions in the House, and before Committee of the Whole.

These documents, along with performance before standing committees, also enable assessment in areas such as:

- 1) Effective leadership;
- 2) Responsiveness to issues relating to portfolio mandates;
- 3) Ethical conduct, honesty, integrity and impartiality;
- 4) Commitment to transparency and accountability;
- 5) Open, respectful and considerate communications with fellow MLAs;
- 6) Ensures Regular Members are informed of, and given opportunity to provide meaningful input into important decisions in a timely and respectful manner;
- 7) Inclusiveness, earns the support and respect of NWT residents by engaging the public, municipal governments, business, non-governmental organizations and the voluntary sector, seeking their input and advice;

- 8) Works to build and maintain respectful and effective government-to-government relations with Aboriginal governments;
- 9) Works to build and maintain respectful and effective relations with the federal government;
- 10) Engagement: encourages others to give full consideration to different, sometimes opposing points of view in order to promote informed decision-making.

Such fundamental matters as these should not be reviewed solely in a mid-term review after two years in office. They are currently dealt with relatively informally by standing committees or even “fireside chats” between the Premier and Regular Members. While not part of a new mid-term review process, Members of the Standing Committee on Rules and Procedures commend Ministers’ expressed desire for more regular feedback to promote productive relationships. We therefore make the following recommendation:

Recommendation 5

The Standing Committee on Rules and Procedures recommends that the Standing Committee on Priorities and Planning meet annually with each Minister to conduct an oral performance appraisal similar to those in many workplaces, and for Ministers to raise any performance issues they may have with committees. The meetings should be informal and *in camera*, with set time limits and strict adherence to openness and fairness.

Review of Standing Committees

A mid-term review of standing committee operations and accountability was considered by Members of the 12th Assembly, but no criteria were developed and no review took place. This may be because a fair and productive review of standing committees is a difficult and risky task.

Standing committees are appointed in the House by motion, and are individually and collectively accountable to the whole Assembly, which also establishes the mandate (Terms of Reference) for each committee. These are set out in Appendix 3 of the Rules of the Legislative Assembly. Notably, the Standing Committee on Rules and Procedures includes two Ministers, one as a full-time member and another as an alternate. Given these factors, the proposed Mid-Term Review Committee would provide the most suitable forum for a public review of standing committee performance if one is conducted.

Standing committees are generally tasked with reviewing proposed legislation, departmental business plans and budgets, strategies and action plans and how they are implemented, and overall departmental performance. Policy initiatives and implementation plans are also reviewed, as described in Consensus Government in the Northwest Territories: Guiding Principles and Process Conventions. Providing advice to Ministers is a common element of all this work and can be contentious. This is a natural aspect of the job, part of the healthy tension between Cabinet and Regular Members.

Standing committees may also call public hearings, issue press releases, seek external advice, and even subpoena witnesses.

The work of standing committees is therefore a key accountability mechanism in consensus government. It is primarily through these committees that Regular Members' exercise "their responsibility to review and monitor the leadership and direction of Cabinet and hold it to account," as set out in Consensus Government in the Northwest Territories: Guiding Principles and Process Conventions. Committee effectiveness, and the effectiveness of consensus government, requires a high level of independence for standing committees.

Standing committees select their own Chairs and govern their own meetings and procedures. They are largely self-policing, with Members and Chairs holding each other to account. There is strong incentive to do so because standing committee performance is crucial to Members' daily work. Resignations and removals of Chairs are rare but do occur as personal and/or performance matters arise. Members believe that this internal accountability is appropriate, practical, and effective.

These considerations loomed large in the Standing Committee on Rules and Procedures' deliberations on how committees' performance might be assessed in a mid-term review. Moreover, Members were unable to envision a public process in the House that would be appropriate, productive, and efficient. The Committee therefore advises that informal feedback be sought annually from Ministers as outlined in Recommendation 5, as an additional tool for on-going self-regulation by committees.

Recommendation 6

The Standing Committee on Rules and Procedures recommends that the mid-term accountability review not include the performance of standing committees, collectively or individually, and further, that standing committees complete internal evaluations annually, with informal input from Cabinet, as set out in Recommendation 5.

PROCESS FOR THE MID-TERM REVIEW

As noted above, the Mandate of the Government of the Northwest Territories, 2016-2019 was drafted by Cabinet, reviewed in Caucus, and adopted with amendments in the House. The same process should apply for mid-term adjustments to the mandate. This work should be completed in the October, 2017 session.

Recommendation 7

The Standing Committee on Rules and Procedures recommends that the Mandate of the Government of the Northwest Territories, 2016-2019 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 October 2017 Session of the House.

The Committee is mindful that time in the Chamber is at a premium and that it is in the public interest to be efficient. The tools recommended for the review were in part chosen to maximize information made available to the public and to lay the groundwork for an effective public proceeding by the Mid-Term Review Committee.

The two previous mid-term reviews in the Chamber were long and arduous. Members were each permitted 12 questions of each Minister in the first review, and eight questions in the second. In addition, it is only fair that the government and Ministers know where they stand at the conclusion of the review, and that the outcome is clear to the public. We therefore recommend the following procedures and time-limits for the proposed mid-term review:

Recommendation 8

The Standing Committee on Rules and Procedures recommends that the Mid-Term Review Committee provide that:

a) Each Minister, starting with the Premier and subsequently in alphabetical order, will speak for up to five minutes on his or her performance and leadership of his or her departments. Each Member will be permitted up to two questions of no longer than two minutes each. Responses will be no longer than two minutes each.

b) The Premier will speak for up to 10 minutes on his overall 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 minutes each.

c) Rules for the proceeding prohibit signs of approval or disapproval, such as table-banging and comments such as “shame” or “hear hear”, during speeches and questions.

d) A confidence vote be conducted on the overall progress of Cabinet in meeting its mandate, in an open forum by secret ballot; and,

e) Confidence votes be conducted on the overall performance of each Minister, in an open forum by secret ballot; and,

f) Overall results be announced by the Chair on conclusion of the process.

CONCLUSION

The Standing Committee on Rules and Procedures is honoured to present its work on the establishment of a mid-term review process. The Committee believes that by adopting the recommendations above, the Legislative Assembly of the Northwest Territories will set new benchmarks for accountability and transparency, build greater public trust, and increase understanding of the government's work on behalf of all residents. The Committee thanks all Members for their input as we worked on this challenging task.

ADDENDUM

DISSENTING OPINION OF THE HONOURABLE LOUIS SEBERT

Minister Responsible for Public Engagement and Transparency
MLA for Thebacha

INTRODUCTION

The Standing Committee on Rules and Procedures was tasked by Motion 7-18(1), passed by unanimous consent by the House on December 18, 2015, to recommend a process, including terms of reference, for a mid-term review and report back to the House during the Fall 2016 sitting. The Standing Committee has not been able to come to unanimous agreement on a report, with Minister Sebert being the lone dissenter. The Clerks have advised Minister Sebert that it is his right as a member of the Committee to submit a minority report.

The report of the Standing Committee includes seven recommendations, the majority of which contradict the direction as set forth by the motion. This minority report will act as a rebuttal and as an argument for adhering to the directions of the House.

Recommendation 1

The Standing Committee on Rules and Procedures recommends that a mid-term review be carried out in the fall of 2017, and that it include an assessment of the Executive Council, both collectively and individually.

Minority opinion

The motion clearly states “this Legislative Assembly conduct a public mid-term accountability review of the adopted mandate of the 18th Legislative Assembly, including the performance of the Executive Council and Standing Committees, to take place in the Chamber of the Legislative Assembly prior to the fall 2017 sitting.”

Recommendation 1 fails to meet the direction of the House for the mid-term review to be an assessment of the mandate, which includes the performance of the Executive Council and Standing Committees in achieving the goals of the mandate.

Minority Recommendation 1

Recommend that a mid-term review be carried out prior to the Fall 2017 sitting, to assess the progress on the adopted mandate of the 18th Legislative Assembly,

including the performance of the Executive Council and the Standing Committees, collectively and individually, as directed by Motion 7-18(1).

Recommendation 2

The Standing Committee on Rules and Procedures recommends that Cabinet formally assess its own performance, that the Standing Committee on Priorities and Planning produce its own independent assessment of Cabinet's collective performance, and that both reports be public and tabled in the House.

Minority opinion

Such a process was not included in the mandate, and is not directed by the motion. Members of the Executive Council are held to account for their performance in achieving the goals of the mandate and in the management of their respective departments through several means, including:

- Appearances before Standing Committees in Business Plans, legislative reviews and at request on specific issues of concern;
- Oral Questions and Written Questions;
- Main estimates and review in Committee of the Whole.

These are tangible, measurable results that do not require self-assessment. If the House is at any time dissatisfied with the performance of the Executive Council or one of its members, a motion of non-confidence can be introduced. It is also a duplication of work to require a written assessment be created before then going into a mid-term review in the House.

Minority Recommendation 2

That Recommendation 2 be deleted.

Recommendation 3

The Standing Committee on Rules and Procedures recommends that a new Mid-Term Review Committee be established, specific to that purpose, with designation of multiple Chairs to enable all Members, including the Speaker, to participate fully.

Minority opinion

This recommendation creates a secondary, duplicate Committee, as the Territorial Leadership Committee already fulfills this function when selecting the

Executive Council, as does Caucus when discussing matters of interest to all Members. In the interest of public transparency, efficiency and openness, the mid-term review should be conducted in the House, with the Speaker presiding, given that the mid-term review is meant to be reviewing progress on the adopted mandate of the Legislative Assembly. This recommendation seems to be directed more at assessing only the performance of Executive Council.

Minority Recommendation 3

That the mid-term review be conducted at the opening of the Fall 2017 sitting, with the Speaker presiding, and be open to the public as well as publically broadcast, as directed by Motion 7-18(1).

Recommendation 4

The Standing Committee on Rules and Procedures further recommends that the Mid-Term Review Committee conduct its review publicly, in the Chamber of the Legislative Assembly.

Minority Opinion

This recommendation is redundant given the express direction of the Motion that the Mid-Term Review take place in the Chamber of the Legislative Assembly. It is agreed that it should be public.

Minority Recommendation 4

That Recommendation 4 be deleted.

Recommendation 5

The Standing Committee on Rules and Procedures recommends that the Standing Committee on Priorities and Planning meet annually with each Minister to conduct an oral performance appraisal similar to those in many workplaces, and for Ministers to raise any performance issues they may have with committees. The meetings should be informal and *in camera*, with set time limits and strict adherence to openness and fairness.

Minority opinion

Notwithstanding that *in-camera* meetings by default are not open; this recommendation goes far beyond the scope of a mid-term review and the directions of the motion. It is an unnecessary exercise given that Ministers meet with the Premier to review their progress on mandate commitments and overall performance; the Premier meets at the request of the Standing Committee on

Priorities and Planning in “fireside chats” to discuss openly any issues of concern. Ministers regularly appear before committees in Business Plans, review of legislation, and at request on issues of pressing concern.

A mid-term review allows for the House to assess the performance of Ministers in achieving the goals of the mandate, and motions of non-confidence in the House can be introduced at any time against a Minister who is deemed to be underperforming.

Minority Recommendation 5

That Recommendation 5 be deleted as contradictory to the direction of Motion 7-18(1), and the established processes of consensus government.

Recommendation 6

The Standing Committee on Rules and Procedures recommends that the mid-term review not include the performance of standing committees, collectively or individually, and further, that standing committees complete internal evaluations annually, with informal input from Cabinet, as set out in Recommendation 5.

Minority opinion

The House specifically directed that the mid-term review include a mechanism to evaluate the performance of Standing Committees, both collectively and individually. Seeking informal feedback from Ministers annually is not open nor transparent. Members felt that internal accountability is appropriate, practical and fairly effective. Standing Committees, as noted in the Consensus Government in the Northwest Territories: Guiding Principles and Process Conventions, have substantial powers, including the power to call public hearings, seek external advice and subpoena witnesses. It would be reasonable to expect that the public would be interested in hearing how committees both hold themselves accountable and help advance the priorities of the Legislative Assembly, as laid out in the mandate.

Minority Recommendation 6

That the Chairs of each Standing Committee table a report as part of the mid-term review on actions taken by their Committee on advancing mandate priorities.

Recommendation 7

The Standing Committee on Rules and Procedures recommends that the Mandate of the Government of the Northwest Territories, 2016-2019 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 October 2017 Session of the House.

Minority Recommendation 7

It is agreed that the Mandate of the Government of the Northwest Territories, 2016-2019 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 October, 2017 session of the House.

Recommendation 8

The Standing Committee on Rules and Procedures recommends that the Mid-Term Review Committee provide that:

- a) Each Minister, starting with the Premier and subsequently in alphabetical order, speak for up to five minutes on his or her performance and leadership of his or her departments. Each Member will be permitted up to two questions or no longer than two minutes each. Responses will be no longer than two minutes each.
- b) The Premier speak for up to ten minutes on his overall leadership and performance, and the collective performance of Cabinet. Each Member will be permitted up to two questions or no longer than two minutes each. Responses will be no longer than two minutes each.
- c) Rules for the proceeding prohibit signs of approval or disapproval, such as table-banging and comments such as “shame” or “hear hear”, during speeches and questions.
- d) A confidence vote be conducted on the overall progress of Cabinet in meeting its mandate, in an open forum by secret ballot;
- e) Confidence votes be conducted on the overall performance of each Minister, in an open forum by secret ballot; and,
- f) Overall results be announced by the Chair on conclusion of the process.

Minority opinion

There is a duplication of process, as noted previously, in having a Mid-Term Review Committee conduct this work. It needs to be noted that motions of non-

confidence are only binding when passed by the House, not a Committee. Therefore, any vote by secret ballot conducted by the Mid-Term Review Committee will need to be repeated in the House, which are not secret votes.

Therefore, the recommendation proposed here can be interpreted as one meant to embarrass or shame a Minister into resigning without having the knowledge of which of their colleagues lack faith in their abilities – an issue that does not occur when the vote is by motion of the House. Therefore, any motions of non-confidence, in the interest of timeliness, fairness, and transparency should be through the established process in the House, by recorded vote.

Specifically to each point:

- a) It is agreed in principle that the Premier speak for a set amount of time on the overall progress of the government on fulfilling mandate priorities, and each Minister on their overall progress in meeting mandate priorities and fulfilling their mandate letter objectives, however, as noted previously, asking someone to evaluate their own leadership is unnecessary.

Members of the Executive Council should be evaluated on their performance, which includes leadership of their respective departments, however this does not require self-reflection. A record of actions taken, initiatives advanced, mandate priorities fulfilled is more than sufficient to evaluate performance. Any lingering questions should be able to be answered through Members asking for details as part of the questioning envisioned in this recommendation.

It is agreed that each Member shall be entitled to ask two questions of no more than two minutes in length, however, to limit Ministers in their reply to the same amount of time does not enable Ministers to provide Members and the public with a full and comprehensive response. It is agreed with the principle of efficient debate, and to that end, recommend that questions should not be open-ended, overly long, nor on more than one topic.

- b) It is agreed in principle that the Premier speak for a set amount of time on the overall progress of the government on fulfilling mandate priorities. It is agreed that each Member shall be entitled to ask two questions to the Premier, of no more than two minutes in length, with answers being no more than two minutes in length. The same objections to evaluating Minister's own leadership listed above apply here.

- c) It is agreed that rules for the proceeding prohibit signs of approval or disapproval, such as table-banging and comments such as “shame” or “hear hear”, during speeches and questions.
- d) Agreed in principle that a vote of confidence be conducted on the overall progress of Cabinet in meeting the priorities of the mandate. However, this should be done by motion in the House, by recorded vote, as directed by Motion 7-18(1).
- e) The direction of the House, as laid out in Motion 7-18(1) is that the mid-term review is to evaluate the performance of Executive Council and Standing Committees in the context of the mandate. This direction is fulfilled by questioning the Premier and Ministers on their individual actions in advancing the priorities, and by conducting a motion in the House on whether the House retains confidence in the Executive Council to continue. As motions of non-confidence in Ministers can be introduced at any time, if the actions of a particular Minister or Ministers are deemed to be contrary to the will of the House, a motion can then be introduced to remove them from Executive Council.
- f) As it is the minority opinion that any confidence vote be conducted by motion of the House, there is no need to have results announced at the conclusion, as the votes are public from the start.

Minority Recommendation 8

It is recommended that the Mid-Term Review consist of the following parts:

- a) The Chairs of each Standing Committee table a report detailing their Committee’s actions in advancing the priorities of the Legislative Assembly as laid out in the mandate.
- b) Each Minister, starting in alphabetical order, speak for up to five minutes on his or her progress in advancing the priorities of the Legislative Assembly as laid out in the mandate and mandate letters from the Premier. Each Member will be permitted up to two questions, with each question being no more than two minutes in length on one topic, and each reply being as complete and concise as possible.
- c) The Premier speak for ten minutes on the overall progress of the Executive Council in advancing the priorities of the Legislative Assembly as laid out in the mandate. Each Member will be permitted up to two questions to the Premier, with each question being no more than two minutes in length on one topic, and each reply being as complete and concise as possible.

- d) Rules for the proceeding prohibit signs of approval or disapproval, such as table-banging and comments such as “shame” or “hear hear”, during speeches and questions.
- e) A motion of confidence be conducted at the conclusion of the questions, waiving the 48-hour notice period by unanimous consent, on the overall progress of Executive Council on achieving the priorities of the Legislative Assembly as laid out in the mandate.