Bill C-31, Part 4, Division 14
Territorial Lands Act, new section 12.1 (clause 286)

To: Standing Senate Committee on Indigenous Peoples
From: Danilo Dzyuban, Ottawa. I am an individual, acting alone.
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SUMMARY

1. Clause 286 gives the Governor in Council a power to cancel a licence, a recorded claim or a lease in Nunavut, to freeze the recording of claims and to bar the former holders from applying again, on one condition: that the Governor in Council "is of the opinion that it is in the national interest". The section does not say what the national interest is, and nothing in it obliges the Government of Canada to record the reason.
2. In the Kivalliq region of Nunavut the Government of Canada has held three studies of infrastructure in its hands since 2010: an all-weather road of 1,100 km, a road between the communities of 704 km and a transmission and fibre line of 1,200 km. Kilometres built: 0. Nunavut has no public road between two of its communities.
3. One amendment adds a duty to state the national interest in the order and in the Canada Gazette. One observation asks the Government to name the infrastructure of the region that the national interest requires, with dates.

1. THE TEXT BEFORE THE COMMITTEE

Clause 286 of Bill C-31 adds section 12.1 to the Territorial Lands Act. Subsection 12.1(1) opens:

"12.1 (1) If the Governor in Council is of the opinion that it is in the national interest, the Governor in Council may, by order, on the recommendation of the Minister, take any of the following measures with respect to territorial lands in Nunavut: (a) cancel a licence, the recording of a claim or a lease of a recorded claim; (b) provide, for any period that the Governor in Council may specify, that a claim that includes the lands that are specified in the order is not to be recorded; (c) provide that a lease of a recorded claim is not to be issued; (d) provide that a licence or a lease of a recorded claim is not to be renewed; (e) provide that the transfer of a recorded claim, a lease of a recorded claim or an interest in either of them is not to be recorded; (f) prohibit the former holders, for any period that the Governor in Council may specify, from applying again; or (g) provide that the lands that were covered by a claim the recording of which has been cancelled under paragraph (a) are not to be opened for prospecting for any period that the Governor in Council may specify."

Subsection 12.1(7): "A person shall not have any right to claim or receive any compensation, damages, indemnity or other form of relief from His Majesty in right of Canada or from any servant or agent of His Majesty in right of Canada for any acquired, vested, future or potential right, interest or entitlement that is affected by an order made under subsection (1), other than any compensation that is determined by the Minister under subsection (3)."

Subsection 12.1(8): "The Statutory Instruments Act does not apply to an order made under subsection (1), but the order shall be published in the Canada Gazette within 23 days after the order is made."

The words "national interest" appear once, in subsection (1). The section does not define them. No subsection requires the order to state the national interest on which it rests.

2. THE NATIONAL INTEREST AS THE GOVERNMENT WROTE IT

The Business Case Study for the Nunavut-Manitoba all-weather road, submitted to the Nunavut Department of Economic Development and Transportation and to Manitoba Infrastructure and Transportation on 26 February 2010, describes the route from Rankin Inlet through Whale Cove, Arviat and Churchill to the Manitoba road network: 1,100 km, construction cost $1,215.3 million in 2009 dollars, completion possible "in 20 years". The study names "national interests including northern sovereignty and security" among the grounds for the route. The study finds that the road would lower the cost of living in Rankin Inlet, Whale Cove and Arviat by 24 per cent and raise the average income of a resident by $4,636 a year.

The Kivalliq Inter-Community Road Study, Summary Report of Nunami Stantec Limited dated 25 July 2025, tabled in the Legislative Assembly of Nunavut on 17 September 2025 as Tabled Document 470-6(2), designs six sections from Arviat to Whale Cove, Rankin Inlet, Chesterfield Inlet and Baker Lake: 704 km, $3,017,198,000 in 2024 dollars. The report calls the road "the first public highway in Nunavut". Transport Canada paid 75 per cent of the study.

The Kivalliq Hydro-Fibre Link, 1,200 km from Gillam, Manitoba, to Arviat, Whale Cove, Rankin Inlet, Chesterfield Inlet, Baker Lake and two mines, is estimated by its owner, Nukik Corporation, at just above $3.39 billion. Nunatsiaq News reported on 9 June 2025 that the Government of Canada has contributed just under $15 million to it since 2018.

Kilometres of road built under the two studies: 0. Kilometres of line built: 0.

3. THE SAME LANDS

The lands to which section 12.1 applies are the lands these three corridors cross. The claims that section 12.1 lets the Governor in Council cancel are claims to the minerals that the 2010 study lists as the reason for the road: gold at Meliadine, 25 km from Rankin Inlet; diamonds 70 km from Arviat; base metals 120 km from Arviat.

The Government of Canada takes a power over the rights in the ground. It records no duty toward the surface: the road, the harbour, the line.

4. THE AMENDMENT

Clause 286, section 12.1. Add after subsection (1):

"(1.1) An order made under subsection (1) shall state the national interest on which it rests, and the statement shall be published with the order under subsection (8)."

5. THE OBSERVATION

The report of the Committee on Division 14 states that the Government of Canada has held the Business Case Study of 26 February 2010 for 16 years and the Kivalliq Inter-Community Road Study since 17 September 2025, and that no kilometre of either road stands. The report asks the Minister of Northern Affairs to state in writing, before the bill comes before the Senate, which infrastructure of the Kivalliq region the national interest requires, and the date of the decision on each.

6. WHAT THE COMMITTEE DOES

Recommend the amendment in the report on Division 14 of Part 4.

Put one question to the Minister of Northern Affairs and to the Department: since 26 February 2010, how many orders, decisions or funding agreements of the Government of Canada name a road, a harbour or a transmission line in the Kivalliq region as being in the national interest.

SOURCES

Bill C-31, first reading, 6 May 2026, clause 286: https://www.parl.ca/DocumentViewer/en/45-1/bill/C-31/first-reading
Order of the Senate of 10 June 2026, point 2(e): reference of Division 14 to the Committee, report by 9 October 2026 Nishi-Khon/SNC-Lavalin, The Case for the Nunavut-Manitoba Highway, Business Case Study, 26 February 2010: https://www.gov.mb.ca/mti/transpolicy/tspd/pdf/business_case_study.pdf
Nunami Stantec Limited, Kivalliq Inter-Community Road Study, Summary Report, 25 July 2025, Tabled Document 470-6(2): https://www.assembly.nu.ca/sites/default/files/2025-09/TD-470-6(2)-EN-Kivalliq%20Roads%20Study%20Summary%20Report.pdf
Nunatsiaq News, 9 June 2025, on the Kivalliq Hydro-Fibre Link: https://nunatsiaq.com/stories/article/national-security-relies-on-community-based-infrastructure-hydro-fibre-link-proponent/
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Respectfully,
Danilo Dzyuban