STANDING COMMITTEE ON HUMAN SERVICES

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STANDING COMMITTEE ON HUMAN SERVICES

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Mr. David Forbes, Deputy Chair
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Regina Coronation Park

Mr. Greg Lawrence
Moose Jaw Wakamow

Mr. Paul Merriman
Saskatoon Sutherland

Ms. Laura Ross
Regina Qu'Appelle Valley

Ms. Nadine Wilson
Saskatchewan Rivers

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[The committee met at 09:01.]

The Chair: — Good morning, ladies and gentlemen, and welcome to the Human Services Committee. We will continue where we left off yesterday. The time is now 9:01, so, Mr. Minister, if you want to introduce your people and opening statement, if you so wish.

Bill No. 85 — *The Saskatchewan Employment Act*

Clause 1-1

Hon. Mr. Morgan: — Thank you. Thank you very much, Mr. Chair. I am joined by a smaller group of officials today, but I'm told that the quality would be just as high as it has been throughout. I'm joined by Mike Carr, deputy minister; Laurier Donais, executive director, central services division; Pat Parenteau, director of policy; Michael Berry, senior policy analyst; and Bill Stovin, director of communications.

For those of you that may not know Bill Stovin, he used to work at CFQC in Saskatoon, I think that was back when we were on *Kids Bids* and stuff like that. It was in an earlier life.

This morning we are considering the labour relations part of *The Saskatchewan Employment Act*. After we introduced the bill on December 4th of last year, we began a second round of consultations to garner input on any issues or unintended consequences of Bill 85. As a result of this consultation, we received 243 submissions by the March 1st deadline. There have also been several meetings of the minister's advisory committee, which have been helpful in identifying other issues. Many of the submissions received touched on labour relations. Based on these submissions and discussions with the advisory committee, the government will be introducing a number of House amendments. The amendments clarify our intention when drafting the legislation. The amendments have been provided to, I think, the officials and to the opposition.

The amendments include, firstly, clarifying the definition of employee to make it clear that employees whose primary duties are of a confidential nature and whose duties directly impact the bargaining unit cannot belong to a union. Similarly the definition of supervisory employee is being amended to clarify that the primary duties are to be supervisory in nature and that employees who are temporarily reasssigned to higher duties are not to be defined as supervisors. Employees that work alongside other employees doing the same job and who perform minor supervisory duties or occasionally step into a supervisory role on an occasional basis are not by definition a supervisory employee.

We've also made an amendment to the negotiating process with regard to a notice of impasse. The amendment will allow either party to provide an notice of impasse so that they can access conciliation or mediation services. The Act as originally drafted required both parties to sign a notice of impasse. The effect of this could be that either party would have the ability to stymie the process from going further. That was not the intention, so the change will allow it to become a process that could be driven by either party should they not be able to obtain the consent of the other.

We also amended the provision of the last offer vote, or final offer vote as it's sometimes referred to, to allow a vote to occur only after good faith bargaining has occurred rather than at any time after a notice to bargain has been given. This fits with the premise of the part, which is to encourage collective bargaining.

We also made changes to the ratification vote provision which is amended to, one, require a vote to be completed within 60 days of concluding negotiations of a collective agreement. The draft as originally presented required that the process be commenced within 15 days. There was issues as to what commenced meant and how the process might look like and the change is to allow the parties to go back to their stakeholders, their principals, obtain instructions, and the only requirement will be the timeline to have a completion. Secondly, to require employers to follow the same timelines where they have established a ratification process for an employer. And we think it's a reasonable requirement that should properly be borne on both sides.

The next one deals with the requirement of unions filing financial statements. And it will be amended to require unions to provide audited financial statements. And where the statement could be provided, compliance would be regarded as compliance where it is a statement from a provincial union and would require an unaudited financial statement from the bargaining unit, from the members of the unit. So there would be in effect a two-stage requirement. Firstly, that an audited statement would be required from SEIU [Service Employees International Union], CUPE [Canadian Union of Public Employees], or SGEU [Saskatchewan Government and General Employees' Union], and then an income and expenses statement from the local within.

We are also amending the provisions requiring city sizes for firefighters. The first legislation contemplated a population base of 10,000 before the mandatory arbitration was enforced. When the bill was introduced, it increased it to 15,000. We've heard, significantly, from a number of the municipalities that are directly affected and the cost impact on very small municipalities. So we've included a provision to increase that to 20,000. The change is in recognition of the changes in city sizes since the provision was first included in the Act in 1940.

In addition to that, a new subsection will be provided to provide guidance to arbitration boards on what factors to consider in making awards. The inclusion of this subsection is to provide clarity as to the authority of interest to arbitrators.

The next issue is board powers. An amendment is being made to clarify the Labour Relations Board's power respecting the transfer of benefit and welfare plans to a new union when employees are represented by a new union. The Labour Relations Board will only be able to require the form to transfer funds or maintain benefits for members already receiving benefits and will not be able to require the joint administration of the plan by both unions. This reflects or deals with concerns raised at the advisory committee and raised by SGEU.

The amendments are the result of consultation. I certainly wouldn't say that we've reached a consensus on it, but we think this addresses the issue. I'm grateful for the consultation and the

input from people that were involved in the process. And I want to note that the provisions that are in this part of the Act are intended to assist the parties in resolving disputes, whether they are in the collective bargaining or mediation or the conciliation processes. We firmly believe that a negotiated solution is the best solution for everybody that's involved. An agreement that is owned by the parties because it's made by the parties is certainly one that is far better than one that is imposed on them.

But we do recognize that our history in the province is such that, although we have a good record of having settlements, we don't have a good record of getting there. So I think the tools that are there will give us greater assistance in this area. And I think it's an area that we want to monitor carefully to see that the tools are being effectively and adequately used as we go forward.

With that, Mr. Chair, I would be pleased to answer questions.

The Chair: — Thank you, Mr. Minister. And, Mr. Forbes, you have the floor.

Mr. Forbes: — Thank you very much. And I appreciate that. I appreciate getting the amendments earlier this morning, and I think right off the bat we'll get into it. But I do want to say that this is a pretty significant part of the employment Act. Clearly the labour movement is looking for this as *The Trade Union Act* is now being rolled into this. And while there has been numerous meetings and a lot of input going into it, you know, I have a lot of questions.

And I know this could be what might be referred to as a litigation minefield because this is where a lot of issues of very significant impact on our economy happens. Because the best thing we could have is a stable, predictable work environment, and we want to make sure we maintain that. And I know, whether you're reading the nurses' submission where they ask about slowing down so we could be more thoughtful, the SFL [Saskatchewan Federation of Labour], CUPE, several of the organized labour groups have really thought we need to make sure we get this right. They're not against getting changes, modernizing, but they just want to make sure that it's right. And of course it's expensive for everyone when we get into litigation.

And so I appreciate the opportunity this morning. I have many questions. But we'll start right now. There are 11, I understand, 11 amendments, it looks like. And if the minister could briefly walk us through each one. And again, as in the past, I may be going back and forth with questions. But right off the bat, if we could take a look at the amendment for clause 6-1, and what does it look like compared . . . What are the actual changes here?

Hon. Mr. Morgan: — 6-1 is a substitution of the language regarding the definition of an employee and a supervisory employee. So the change on it will be that, and I'm going to read the wording on it, it will strike it out as originally presented and then the change will be to:

> a person whose primary duties include activities that are of a confidential nature in relation to any of the following and that have a direct impact on the bargaining unit the person would be included in as an employee but for this paragraph.

So it lists labour relations, business strategic planning, policy advice, budget implementation or planning. And then it deals also with a provision on supervisory employee.

But where the changes are, it talks in terms of where the primary duties are rather than just where duties might involve. So it makes it more specific so that a person whose role occasionally has those roles . . . So it talks about where they're primarily involved in those activities, and then also would have the effect of excluding people who are occasionally in a supervisory one.

And this was done with some input from Saskatchewan Union of Nurses around the area of whether a head nurse was to be included or not. And the definition of a head nurse is, under the existing terminology, what you would think of is a person that's the lead on a particular shift. But there's a great deal of variation in the role of what a head nurse is from day to day or week to week. It could on a specific shift be that's the person that's designated for that evening as the supervisory person. On another shift, the person could be doing performance evaluations and doing work regarding discipline of an employee. So it would enable them to, within the definition of what we now understand as a head nurse, decide which particular roles within that would lead to a person to be moved out of scope.

So then the supervisory definition goes on and includes an employee whose primary function is to supervise employees and exercises one or more of: independently assigning work to employees and monitoring the quality of work. So in effect a person that's doing, not merely directing work, but is monitoring somebody or is including performance reviews or performance evaluation; assigning hours of work and overtime; and providing an assessment to be used for work appraisals or merit increases for employees; and recommending discipline.

[09:15]

And then there's an exception to this: but does not include an employee who is a gang leader, lead hand, or team leader whose duties are ancillary to the work he or she performs, or acts as a supervisor on a temporary basis, or is in a prescribed occupation which would allow people by regulation to be taken out of the role of a supervisory person.

The consultation took place on this area between the Ministry of Heath, the deputy minister there, and with some officials from SUN [Saskatchewan Union of Nurses]. And I want to phrase this carefully. I don't think you're going to find any of the parties say that we enthusiastically endorse this. I think there's an acceptance that this as a workable alternative. And I can say that the overlap in the positions put forward by the parties was not great, but it was there.

Mr. Forbes: — The feedback I was getting, and I'm sure you got too, was the disappointment that the new definition of employee excluded the term actually or regularly acts. And so now would this be fair to say this sort of is the substitute for regularly or regularly acts or actually performs?

Hon. Mr. Morgan: — Yes. Pat Parenteau was the one that actually, was the one that was going back and forth. I don't know if you want to answer any . . .

Ms. Parenteau: — With respect to this amendment, in discussions with Justice, the use of the word primarily, their primary duties under, would classify as similar to regularly, their regular duties.

Mr. Forbes: — Because they were . . . I know in several unions that was a concern that while a job description may be this, but they never actually performed that duty or very seldom performed that duty, and for them to be excluded would be a difficulty. So the old Act . . . Okay, fair enough. We may come back to that but I, you know . . .

Hon. Mr. Morgan: — Yes. I'd certainly invite you to. One of the overriding goals in this was to maintain and support the partnership agreement that exists between the nursing profession and the Ministry of Health. So we knew that they had made some significant changes in that relationship. And it was regarded as a relationship that was taking the delivery of health services a long ways down the road where well I think everybody thought it needed to go. So we felt that if it was workable for that profession, we thought it was a model that we wanted to try and use elsewhere. And it was something that a lot of time was spent trying to get to where we are on it.

Mr. Forbes: — Good.

Hon. Mr. Morgan: — Next one is 6-19, which is a change on voting on a contract or on a final offer of settlement. And what it amounts to is a requirement that people would not be excluded or precluded from participating in the vote for other reasons. It effectively goes back to the original definition of who was or was not to be included in the bargaining unit.

Mr. Forbes: — Thank you. And 6-34?

Hon. Mr. Morgan: — The 6-34 is a section that deals with the notice of impasse. And this is something that came as a result of the advisory meeting. As I'd indicated in the opening remarks, we wanted to have a provision that would allow the parties to proceed to mediation and to proceed down the road either to getting a settlement or alternatively to be entitled to take job action.

So the bill as initially drafted required a notice of impasse to be provided by the employer and the union. The effect of the way that would have worked, and this was pointed out by the organized labour folks who were there, it would allow either side to be able to stymie the process from going further. So the change is from "and" to "or." So either side would be able to provide a notice of impasse. The Labour Relations Board would be obliged to, or the minister, to appoint a mediator or conciliate or to take it to the next step. So when it was originally drafted, it was once again the idea that good faith should prevail and that it would require the notice of impasse. But in the event that good faith . . . [inaudible] . . . then that allows something to be done.

So when we went back to the advisory committee and said, does this work? Does that satisfactorily address the issue? I think as much as we talk about good faith, you can't legislate it. You know, if it doesn't happen, it doesn't happen. But we can certainly try and set the things that are there.

Mr. Forbes: — And I assume in 6-34 it's the second "and." There is a phrase but it's not quite the same — "an employer and a union" — but the one that matches is "the employer and union." So it's the second one.

Mr. Carr: — The second "and" becomes an "or."

Hon. Mr. Morgan: — And the next one is the, this is one I'd mentioned earlier, that the employer's right to require a final offer vote to be taken, there must have been good faith bargaining having taken place. And this was one that came at the request of the ministry officials, and once again a strong desire to have a framework in place where it would foster good faith.

And I have — I think everybody has — got an inherent unease with how and when a final offer vote should be used, and it's one of the tools in labour relations that is given to an employer to trigger the final offer vote. And under our existing legislation, and will of course continue, is that it can only be used once during a round of negotiation. And I think there was some fear that — maybe not well-founded — but a fear that an employer would just trigger it and use it. As soon as an offer was on the table . . . [inaudible] . . . vote and the employer may feel that she or he knows the employees better than whatever the union is doing and would vote it off. And I think it would be foolish for an employer to do that.

So anyway regardless of what I may think of their bargaining process, for the sake of having a good process in place, we want to ensure that the parties have sat at a table, exchanged information, and acted in good faith prior to exercising that right.

Mr. Forbes: — That makes a lot of sense.

Hon. Mr. Morgan: — Yes. Because this is . . . And I can understand organized labour's concern in it because it allows the employer to say to the union members, we don't think you have confidence in the people that are bargaining on your behalf. We want you to vote on it directly. And while it's a tool that's been there for a long time, I think it's something that ought to be used carefully and only after some due considerations. So I agree with the ministry officials that it's probably a good caution to have included.

Mr. Forbes: — And I assume then when they apply to the board to conduct the vote, the discussion will be, demonstrate that there's actually been bargaining.

Hon. Mr. Morgan: — Been some good faith bargaining. And I think that would be a determination of fact for them to have to prove to the board. And obviously that's what the board's role is, to determine that.

The next one is 6-39, and it requires the . . . Initially it talked about commence the voting procedure within 14 days. So now it will add in there, conclude the vote within 60 days after the date that the agreement was reached. Now that was done with

consultation, with what we heard from organized labour.

The indication, they told me, and it certainly makes sense . . . I just thought, oh well, you go out and vote this off and be done with it, you know, go and hold your vote and do it. But it's more complex than that. They need some time to communicate with their members. The members may often be . . . A number of locals could be affected in various places across the province. They would need to, in some cases, hold background meetings to provide them with particulars of what the changes in a negotiated contract are, especially where a pension or benefits would change. So they need the ability to inform their members of what it is that they're voting on, the effects of it. So they would need time to communicate with the members, and the members may want some time to consider, ask questions.

So the requirement is, start the process within the two weeks but have completion within 60 days, which would prevent the contract from languishing beyond that. We know there's been on occasion some situations where it's sat for a lengthy period of time without being ratified. And I think that's something that's happened both ways, where there's been, you know, good faith work done at the table, and then the parties don't get around to ratifying it afterwards. So this poses a statutory obligation on them. You start within a couple weeks, and you're done within two months so . . . [inaudible interjection] . . . Yes, the other thing we've included is the both parties on it.

Mr. Forbes: — Okay.

Hon. Mr. Morgan: — 6-59 . . .

Mr. Forbes: — Just to go back, that's a good addition too, that both parties, because before it was just the onus was on the union.

Hon. Mr. Morgan: — Yes, and I think to be fair, there was situations where the delay could have happened on either side. So I think the principals owe it to the process and to the parties to make a decision — accept it, reject it, or move on with it.

The next one is 6-59, which is a change from the original legislation where it was under *The Trade Union Act* of 36.1(1). And it talks about the provision or application of principles of natural justice with respect to disputes between the employee and the union. So it deals with matters regarding the constitution of the union, employees' membership in the union, and also discipline by the union. So it adds a (c), and I think it was, in the existing legislation, it just says, or discipline thereunder. So it talks about discipline by the union, so it's more of a clarification than anything. But it was I understand a request from organized labour that it be clarified to that extent.

And for the benefit of somebody who doesn't know the principles of natural justice, that hasn't taken admin law classes, it's a group of definitions regarding the fairness before law, so that you've got the right to reasonable notice, the right to understand the things that are being alleged against you, the right to have counsel represent you or an agent on your behalf, depending on whether you're in a court or otherwise, and sort of the general principles of fairness that you're not blind sided, that you have reasonable notice of the documents, the documents are produced, and that type of thing. And it's based on a series of common law decisions. And anyway it's I believe right, fair, and equitable.

[09:30]

Mr. Forbes: — I appreciate that. That was going to be my question.

Hon. Mr. Morgan: — Was what?

Mr. Forbes: — What's natural justice?

Hon. Mr. Morgan: — Yes. I took admin law from Professor Roger Carter, a person who does not wear the same political jersey that I do but a fine scholar, a good academic in one of the leading areas in the arena. While I may not have agreed with him politically, I don't think he tainted my views. And on this type of area, I think it's one that everybody agrees on the right and need for fairness or justice.

The bill as originally introduced required the provision of audited financial statements by the union within each bargaining unit, as well as the results of each vote. The members of organized labour raised the issue that there was some very small bargaining units in the province — some with three, five, and seven members and often where workers, and they used the example of a transition house, where there would be a very small bargaining unit, people that were not high-paid workers, and the cost of obtaining an audited financial statement would have been absolutely prohibitive for those workers.

The purpose of the section as introduced was to provide information and accountability to the members without the members having to go to a meeting or ask or to have the uncomfortable thing that the financial statements be provided and then they would know what's there. So the changes that we've made are to address that. In most cases, the small local passes the funds on to whoever the provincial or national agency is that acts on their behalf. And that would be where they would want to have their . . . That's where the larger money is involved.

So the change as it is allows for the audited financial statement, rather than be filed at a local level, would be filed at a provincial level. So you may have . . . For example, SGEU or CUPE might negotiate a contract that would have 10, 15, or 20 locals involved in it. So the audited financial statement would be provided by the provincial entity rather than the local entity. But the local would still be required to provide results of votes, and an income and an expense statement which are provided anyway. And they would of course, in turn, be reviewed by the provincial organization. The information has to be made available to the members and we've included methods that it can be delivered to the employee's secure website.

A question that came up recently was, well could they put it on the employer's secure website? And the response that we gave them was, without wanting to interpret the law, was if the employer agreed to put it on their website, it would certainly be a satisfactory method of compliance. But my question back was, if you put it on the employer's secure website, the employer's got direct access to your financial information. And

the response was they really didn't care. They didn't have anything to hide. They were quite prepared to do that. So we said, between you the employee and the employer, how you do it . . . You know, another method would of course be hand delivery to the employee, or somebody else said, well could we post it at the job site, which of course would be adequate.

So in any event, that was something where we addressed the concern. We considered and rejected various thresholds to provide the audited statements within the local and whether, you know, you look at locals of 15 members or 20 members or 60 members or whatever, you know, what would be a suitable threshold? And you could advance the argument, would the cost settle at a local level? But we felt that, you know, where most of the questions would arise out of expenditures would be ones where the expenditures were made at a provincial level. So we think this provides a good level of compromise and in giving members the ability to obtain the information.

It's interesting to note right now that within the last day or so Bill C-377, which is the federal legislation on union accountability, I understand passed through the Senate. So there's every likelihood that that will become law sometime within the next year or so. And that one will be a major change for unions because it will require audited financial statements. And I'm not sure whether they're going to apply it as we've done, that you do it at a provincial level or whether it will be local by local. But it will be expensive at a local-by-local level, and requires not just the audited financial statement but about an additional 26 line items dealing with salaries, travel, advertising, and a variety of other things. So you know, no input from us was sought on C-377 but it will change the framework as to how they do it.

Anyway, what we've done, we think is reasonable. It satisfies the needs of workers to have access to information. Also gives them the ability to make an application to the Labour Relations Board.

It's interesting when you talk to workers about it. Sometimes they have complaints or concerns and then if you try and obtain information on their behalf, most of the unions are quite forthcoming with the information. I think it's not so much a matter of the information, what's in it; it's a matter of knowing that it's there rather than actually accessing it.

I think the companion provision, or if you would draw a comparison, would be putting MLA [Member of the Legislative Assembly] expenses online. You know, we didn't use to do that. They were available through public accounts or through our freedom of information request, and everybody worried about them. Everybody stewed. Well once we put them online, nobody cared. And you know, you talk to the web people and virtually, you know, they're accessed very infrequently. So I think that's one of the true tests of transparency is when you make it so available and so transparent, people don't bother to look anymore. And I think that this goes somewhat down that thing.

Mr. Forbes: — Well in speaking to the MLA thing and then people find out who is a member of the Saskatoon Co-op Association, and so on.

Hon. Mr. Morgan: — I think it's a . . . Yes I noted people that were members of the Saskatoon Co-op Association. And to those entrepreneurs that belong to the Saskatoon Co-op Association, I wish them every success in their liquor venture. And the members of the United Food & Commercial Workers that work in that store, I hope will give and I'm confident will give very good service to the customers that come there, and I look forward to the opening of that.

Mr. Forbes: — I opened that door. It's early in the morning. At any rate, speaking of transparency now, so this seems to be a workable solution. I mean of course there is the debate that's out there, the overarching debate about the necessity of this. And I'm thinking, you know, even as a teacher myself, I was at spring council and the amount of paper that comes out, and everybody says, boy oh boy. But I think the minister is right in terms of that the feeling is more not to actually to see the paper every year, but to know that it's there if you need to see it. And so that's an important thing.

And I guess my question would be, so you're adding the choices of how to get that, financial statements, to the membership and it can be one of the four or five ways. And I assume it will be the executive of the union who decides that and who also . . .

Hon. Mr. Morgan: — I think if a member was unsatisfied, the member would have the ability to go to the Labour Relations Board and say they don't have it. Now I would expect or hope that we wouldn't get to the point where people would do it, but ultimately that's the resolution if they can't.

I know some entities are somewhat proprietary on their information. They say, oh well we'll let you look at the financial statement, but you can't take it with you. You know, you can sit at a table and look at it. Take as you long as you want, but you've got to look at it . . . Well that's exactly the ill we're trying to do it.

If somebody wants to take it home, look at it, and do it . . . We don't give members the right to opt out. We require them to belong as a condition of their employment. We require the employer to take their dues off the same way income tax is. So this is the trade-off. This is the accountability, the piece that goes with it. And how that money is spent, it's their money. They have every right to know it. They have every right to sit in the comfort of their own home, read through it, study it, and analyze it. So I don't make any apology for it.

And I don't think most of organized labour takes any issue with providing the information. They may take some issue with the idea that it's mandated by legislation. But I think underneath if you ask them, do you mind providing information to their members, they really don't. They may resent being told they have to, but in any event we think it's a reasonable approach, and it's part of the trade-off of having, of requiring a member to belong and to have the dues automatically remitted.

Mr. Forbes: — Then let's go on to the amendment 6-67.

Hon. Mr. Morgan: — The next one is 6-67, and it was initially drafted as being permissive, that the minister may cause inquiries or shall take certain steps that are there. And the

change was requested to take away the ministerial discretion on it and mandate it as a statutory obligation, because I don't think it's . . . There isn't an easy remedy if a minister didn't or refused to fulfill her or his duties in causing those steps to take place.

Mr. Forbes: — So is that similar to what it was in the prior legislation now?

Hon. Mr. Morgan: — Yes. And there was no intended policy change in having that.

Mr. Forbes: — Okay. Good.

Hon. Mr. Morgan: — The next one is 6-88 and this is the one that deals with the firefighters' platoon Act. And the specifics of this one deal with the size of the population before firefighters become part of that. And under the existing legislation, prior to the bill being introduced, the number of members required was 10,000. The bill, when introduced, increased to 15 which kept the same numbers present. The same number of municipalities were either included or not.

We had strong lobbying from the municipalities, the cities, because we now have changed the size of the city and the province has changed since 1940 which was when it was last done. So we have accepted the direction given by the municipalities and increased that to 20,000.

The municipalities that are affected by the change from 10 to 20 will be Weyburn, Swift Current, Battleford, and Yorkton. and I'm not sure which ones are caught by the 15 and which ones are caught by the 20. But the change to 20, all four of those will be outside of the operation.

Mr. Forbes: — And were they outside prior?

Hon. Mr. Morgan: — Weyburn is under 15. Swift Current is right around 15. But these were ones that were over 10 but under 20. But as you're aware, the last census came down and lot of them, they have now fallen in or may have fallen in.

Mr. Forbes: — But they were out?

Hon. Mr. Morgan: — They were out prior.

Mr. Forbes: — Right.

Hon. Mr. Morgan: — Under the 1940 legislation, Weyburn, Swift Current, Yorkton were all under. There were all five and 6,000. The 2011 puts Weyburn at ten four; Swift, fifteen five; Yorkton at fifteen six.

[09:45]

Mr. Forbes: — And so had you consulted with the firefighters about this and what . . .

Hon. Mr. Morgan: — Yes, we consulted with the firefighters on a few things on this. One on adding the parameters that the arbitrator was to look at, and they're accepting of the parameters that are to be used because they're the ones that an arbitrator would ordinarily use, although not always. And they are not supportive of the increase from 10 to 20.

It affects a relatively small number of the professional firefighters within the province, but it certainly has an effect for those. There's about 750 professional firefighters in the province. This change will affect about 40 of them.

Mr. Forbes: — And I would suggest though that these 40 are probably the ones that . . . probably most vulnerable in terms of the . . . As cities grow and become bigger cities and get used to what it means to be a bigger city, these are the challenges that some of these small cities have as they get larger. And I know of a couple of these . . . and it's difficult to . . . it's a challenge to get fair and reasonable contracts. And this speaks to that large question about the public interest.

Hon. Mr. Morgan: — This was a challenging part of the process. The cities vary greatly in their ability to pay. When we met with the city of Saskatoon, which is the largest city in the province, both the mayor and the person who was then the fire chief were supportive of having the arbitration and thought that they had been well served by that process and very rarely ever had to arbitrate. Regina, somewhat less so, but still had . . . you know, they were supportive of the change that included the parameters. But, once again, we're not looking to change.

But when you look at the smaller communities, it became more of a factor for them, and I can't speak to whether it's because of the number of firefighters per capita or the other issues that were there. But there exists now a significant difference in the salaries paid by the smaller centres and the larger centres. And if you talk to the mayor of Weyburn, they're at . . . You know, they're adamant they cannot afford to pay firefighters at the same rate that Regina and Saskatoon can or would pay. And the issue comes down to how much that differential should be, and to bring them up would be a significant expense to them. So we think this amendment recognizes the difference in their financial ability to deal with the issue.

Some of the municipalities were considering going to purely volunteer or were considering changing to more of a hybrid method where there'd be some professional fighters and some that would be . . . supplemented by volunteers.

Mr. Forbes: — I would think that there's a point where . . . and you know, it reminds me an awful lot of the teacher debate about, you know, whether teachers in rural Saskatchewan should get paid the same as teachers in cities, and yet the expectation is the same in terms of professional levels and the expectations of the outcomes that every child will be educated to a certain level. And the same with firefighters.

And I know the other debate we've had with firefighters is the two in, two out debate and we're . . . I think they provide a fantastic service and a really important service, that we have this expectation across the province and especially as cities get larger and . . . These are challenges that cities face. I recognize that. But it's also that when people move to what they think is a city, they expect city services. And so I would . . . This is one that we would have to disagree on, but I appreciate the amendment. But we'll probably hear more about this over the months and years ahead.

Hon. Mr. Morgan: — Your point that you make about the value of firefighters and . . . [inaudible] . . . they're an extraordinary group of people in our province. They work hard. They provide safety for all of us, and I think we can . . . [inaudible] . . . If you recall, just before the last election, we supported a bill to make presumptive . . . or changes to the presumptive cancers that would be for workers' compensation for esophageal cancer and some others, so that we were giving them workers' compensation benefits for things that they did not otherwise have. And there was strong support for doing that, and I think we recognize, want to continue to support firefighters wherever we can.

They're also one of the most respectful groups of people to deal with, but when we met with and talked to the municipalities, it was abundantly clear there was big issues as to what their ability to pay was going to be. And your point is well taken. Their qualifications are the same for both, but nonetheless it comes down to a matter of cost and perhaps somewhat to the size of a fire or an occurrence, but I'm not minimizing the work that's done in a different size municipality.

Mr. Forbes: — Well it is the cost of growth and we really value that, and we want the province and the people to be as safe as possible. But let's move on to 6-91.

Hon. Mr. Morgan: — 6-91 is the change that applies to firefighters and the provisions that an arbitrator would look at. And I think if we look back at what took place with regard to teachers, with regard to SIAST [Saskatchewan Institute of Applied Science and Technology], this is the type of things that the arbitrator would ordinarily look at in providing a binding arbitration. So they shall consider wages and benefits in private, public, unionized, and non-unionized employment, the continuity and stability of private and public employment including employment levels and incidents of layoffs, incidents of employment at less than normal working hours, and opportunity for employment, general economic conditions in Saskatchewan, and may consider for the period . . .

So the first ones are mandatory. They shall consider . . . And may consider for the period with respect to which the decision or award will apply, the following: terms and conditions of employment in similar occupations outside the employer's employment, taking into account geographic, industrial, or other variations that the board considers relevant; the need to maintain appropriate relationships and terms and conditions of employment between different classification levels within an occupation, and between occupations in the employer's employment; and the need to establish terms and conditions of employment that are fair and reasonable in relation to qualifications required, work performed, responsibility assumed, nature of services rendered, and any other factor that the board may consider relevant.

And I think by listing them, it's reasonably self-evident that those are things . . . Now the discussions that we had with the firefighters, they didn't raise any issues with this. And I think when I looked at what the arbitration awards were when you read them, that's the type of thing that the arbitrators do. It seems that the arbitrators work strongly with the parties to develop a group of comparators, whether it's elsewhere in the province or elsewhere in Western Canada, and try and get the parties to agree on what municipalities or what other things would be regarded as reasonable as comparators, and then they would go forward from there.

Mr. Forbes: — So where did this . . . What was the driving force behind this?

Hon. Mr. Morgan: — That would have come out of the same issue that came about when we . . . [inaudible] . . . about the size of the platoons. When we started talking to some of the municipalities, they said, well our arbitrator only looked at what we put in the budget for it and awarded that much. And you know, most of it was anecdotal that they felt that the arbitrator hadn't looked at good comparators or hadn't looked at whatever else or had rendered decision without providing it. So we felt it was a worthwhile thing to try and look at those things and give that kind of a direction. I know I had a discussion with city of Regina on this issue.

Mr. Forbes: — And the firefighters and their feelings about this?

Hon. Mr. Morgan: — We gave it to them and they indicated — I don't have it in writing from them — but they said they were very accepting of this. Yes. They were not on the 10,000 to the 20,000.

Mr. Forbes: — So when this is in the bill . . . I'm just, you know, my first look, and I had to go back. We're talking about firefighters. But does this impact on police officers and their bargaining?

Hon. Mr. Morgan: — No. Police officers' process is a separate one.

Mr. Forbes: — And this won't be used as a template for other arbitration decisions and that because this is in the Act . . . And as you said, it seems to be on a reasonable template.

Hon. Mr. Morgan: — It's statutory with regard to this particular group of people, but when it was put together, it wasn't put together with the idea that it should be exclusive, that, you know, that this applies only to the . . . It was felt this was a good standard, and I think they looked at arbitrations generally when it was put together. So this would be . . . If where you're going on this is what else might you do with it, this might be a discussion point on essential services. If we got to an arbitration model under essential services, this might be a starting point for that.

Mr. Forbes: — And that's exactly where I was going with it. In fact I was just thinking that this just points out to some of the work that will take place over the summer and why it might be a good idea to hold this. Because if you're putting forward this amendment, and there will be some discussion, but fine tuning of it, that would be reasonable. I mean, you know, as we're looking at it today and you've had discussions with groups already, but I think that . . . Yes, I have some concerns about the application, how it might be with other groups, and whether that's good or bad, I don't know today, but . . .

Hon. Mr. Morgan: — I think in fairness the only way we'll have a test of this . . . We know that the firefighters have looked

at it. We know the municipalities have looked at it, and they think this would work. But the only way we really know whether it will be workable or whether there are other things that should or things in here that should not be included will be to have it in place and go through a few rounds of arbitration with it.

I think, you know, at the time of the SIAST issue, you know, there was a strong cry from organized labour — give us binding arbitration. Give us binding arbitration. Well if this model for that works, you know, then it'll be interesting to see how that would work for people that may fall within that bargaining unit that would be essential. But I think until you've seen what some of the decisions look like and how the arbitrator writes the awards, I think you actually have to see it in practice for a few cycles.

So anyway, my thought process is the same as yours, but I've reached the opposite conclusion. I think that's the reason why, one of the reasons why we want to pass it, have it in place, so we can have it put into practice for a period of time.

Mr. Forbes: — Well because I just see, I mean this is the concern I have about this, particularly this part of the bill, is that the potential for lots of litigation, lots of lawsuits, people, you know, appearing before the LRB [Labour Relations Board] and that this bill, the employment Act, will end up being before us several times over the next several years. And if we can get it better the first time, that's a good thing.

But my question is: have you had a chance in a general way to talk about this with the minister's advisory committee as well?

Hon. Mr. Morgan: — Yes, yes. We raised it at, I think, the last one or two meetings. I don't think we've talked, I don't think we've had input from them on the change in the number, but on the parameters we have.

Mr. Forbes: — Okay, thank you. And the last one is 105.

[10:00]

Hon. Mr. Morgan: — This is an enormously complex area, and I'll give you a bit of an overview of what takes place in the areas of benefit plans that are not administered by a third party provider. In a lot of employment situations, or most of them where there's a benefit plan provided, it would be provided by an outside insurance agency and funded either by the employees or employers or both on a joint plan. It would be, you know, by Great-West Life or by somebody else.

But there are benefit plans that are administered by either the employer or the employee that are administered effectively in house, and it was with the benefit of a third party system but funded by . . . [inaudible] . . . and the plan that is administered by or operated by SGEU is one of them. The generic term used for those plans, and I'm not sure where it came from, is welfare trust. And they were frequently done by employers early on in the last century.

When the issue of the departing workers, when some of the teaching staff at SIAST left and formed the SIAST Faculty Association, the issue arose about what should happen with that benefit plan. I had discussions with the Financial and Consumer Affairs Authority and said, what are the history of these plans? And what I'm advised is that they've existed for a while. They're not ordinarily brought into compliance by the authority. The authority has chosen not to regulate them, although technically they can and should. But across Canada, the regulatory authorities don't.

And my next question, well if they're not regulated, are we putting employees at risk? And they said, generally speaking not, because if there's a shortfall, the funding agency usually backstops and brings it up, either increases costs to other members or changes the contribution or benefits level. And they said that there's been situations where they've ran short of money and have had to make some significant increases. And that's been an issue between members and the union, where they would require a significant increase.

And he said, the only one that came to mind offhand was, where there was a loss to employees, was one that was run by the T. Eaton Co. when they went out of business. There was workers that were on long-term disability that lost their benefits at that point. So I questioned whether these plans should be administered separately, either by a union or by an employer, whether they should cease to exist altogether.

And the advice I received was, you probably don't want to go down there. They've been in place for a number of years. They're performed, generally speaking, served their members well. And you know, they made a policy decision not to impose requirements on them. So we decided we didn't want to make a fundamental change to it. So that was a long part of the answer, saying we don't want to mess around with plans that are there.

But we felt we do have to make an arrangement in the legislation for groups that either sever to another union or another entity. So in the case of the SGEU employees that left, they left. They were not able to get their claims history. They didn't have a method of dealing with how that would work out, so there was a significant amount of ill will. The employees had difficulty in obtaining insurance elsewhere, and then there was the issue of what should happen with the employees that were already on disability.

And I understand after some time and some angst . . . And understandably people would be unhappy. They've left a union they belonged to for a long time, so some members will be happy, some less than happy. Certainly the leadership of the union that's lost members would be unhappy.

So we think we need to have something in the legislation that addresses that portion of it. So we made the decision we didn't want to change the fundamentals of how it worked. So in the first draft that we had, we were going to address it by having both the new and the old union sort of jointly work together to do it. And that, when we raised that, was not a happy response from SGEU. So what this amendment does, will allow the existing union to provide benefits for members that are already on disability and will allow the other members to go and obtain their benefits elsewhere should they choose to.

And the hard decision that may end up finding its way back to the Labour Relations Board is, are the benefits that are provided

for members who are receiving benefits, are they funded by ongoing contributions, or were they funded by contributions that were made in the past? So you don't know whether there's a funding surplus that should be carried forward to the groups that are there, or a funding shortfall, or whether you need to look at ongoing contributions. So anyway, this provides a methodology to allow the Labour Relations Board to weigh in if need be, but provide for the ongoing benefits of the workers that are there. So that's a really long, convoluted answer for which . . .

Mr. Forbes: — And I know. So maybe to get this . . . And it will come up because my notes are organized in a certain way. But so, is this going to be an undue hardship on an existing union to provide concerns or provide, you know, for these benefits? Because I understand what you're saying because of people already in the plan, and especially ones who are receiving benefits from the plan, there has to be some maintenance of that and . . . [inaudible] . . . we've talked with Workers' Comp before, you're paying forward for this. But then there's a point where there has to be a cut-off, and I think that was raised. So have you consulted with the minister's advisory committee about this one, and this is sort of a happy compromise?

Hon. Mr. Morgan: — It's certainly not a happy compromise. And we didn't receive back an alternate compromise. The issue was raised and raised vigorously that they didn't like the change that we had imposed. But we saw what happened with the departing SGEU workers, and we were not prepared to leave those workers in the lurch as far as having any doubt about whether their benefits should be continued or that the departing members would not be able to have access to information and the things that they need to go elsewhere.

And I think workers that we wanted to focus on most were the ones that were already receiving benefits because those people, at that point in time, are uninsurable. You're already off receiving disability. Well nobody is going to re-insure you, is going to insure you for that any more than you can buy insurance for your house once it's already on fire. The claim is there. You're injured. You're off work. You can't work. And then you've paid into that plan for however many years and then because you may not even have supported the rest of the members . . . [inaudible] . . . but for you to lose your coverage because of issues between two unions is not fair.

So we've said to the existing union, until you sort it out or make an arrangement between the parties, your benefits will continue. And then if you make an alternate arrangement where things go over, fine. You can work it out. You can sort it out either between yourselves or use the provisions of the Labour Relations Board to do it. But you will provide benefits for those members for whom you received benefits, received the contributions.

Mr. Forbes: — Good. Well I want to get back to . . .

Hon. Mr. Morgan: — So I know it's complex and I know it's difficult. And to the credit of everyone that was involved in the issue, they did ultimately resolve it. But not in a timely manner and not in some . . . [inaudible] . . . So we thought, okay, we will provide a legislative framework around it. The last amendment deals with, it's a consequential amendment so it just changes, by reference, other Acts where there's naming changes in it. So it's of . . .

Mr. Forbes: — Is this in this file here?

Hon. Mr. Morgan: — It should be. It's no. 27. Actually it's an OHS [occupational health and safety] one. It largely deals with the change necessary to have Bill 604, the asbestos one, dealt with.

Mr. Forbes: — Thank you very much for that. And I appreciate the feedback because that touched on a lot of questions that we have. But I'll need to go through some of these because I've got my notes in order as we go through. So forgive me if I just seem to be moving from one part to another.

The one part that was brought up, if we can get back to the definitions, was the issue around bargaining unit. And the definition of appropriate bargaining unit has become part of the definition of a bargaining unit. The alternate meaning "or" has been added which permits a unit of employees to cover more than one employer. The new definition of unit contemplates that a unit may be comprised of employees of more than one employer. Is this intended to move to permit a move to more sectoral representation and sectoral bargaining?

Hon. Mr. Morgan: — It's technically the inclusion of *The Construction Industry Labour Relations Act*, which was Bill 80, and then health labour relations Act and health labour relations . . . so sectoral to the extent of those three entities.

Mr. Forbes: — Okay. And then certification order. And these folks are wondering, means a board order issued pursuant to section 6-13 or clause 19 that certifies a union as a bargaining agent for the bargaining unit. And is this intended to limit the board's jurisdiction to the circumstances addressed in 6-13 and section 6-19?

Hon. Mr. Morgan: — There's no change to the board's discretion, nor was there any intended policy change.

Mr. Forbes: — Right. And then a new definition for the director of labour relations. So has this been changed, or what's the . . .

Hon. Mr. Morgan: — The old Act contemplated provision of service, and this identifies it's provided by an individual that's specified. So it's more framework and procedural, but it's not a policy change.

Mr. Forbes: — Is there a director now, somebody who fills that position?

Hon. Mr. Morgan: — Yes, there is.

Mr. Forbes: — Right. So this is not a new addition?

Hon. Mr. Morgan: — No. It's new in that it's identified in the statute, but the person has . . .

Mr. Forbes: — Right, right. Okay, and we've covered the . . .

Hon. Mr. Morgan: — I thought maybe you'd ask who it is.

Mr. Forbes: — Sure. Who is it?

Hon. Mr. Morgan: — Peter Suderman.

Mr. Forbes: — Okay. There we go. Good. Now the other one that's come up is the . . . So we've covered the employee part and employer. And Her Majesty in right of the province of Saskatchewan has now been eliminated. What's the significance of that change?

Hon. Mr. Morgan: — Which definition are you in?

Mr. Forbes: — Well it's not there anymore. It was there under employer. Her Majesty has now been taken out.

Hon. Mr. Morgan: — I'm a royalist. I don't intend to diminish the role of Her Majesty the Queen in any manner, but there's not an intended policy change. The drafter says just that it's modernizing of the language. It's actually included in part I because Crown means the Crown in right of province of Saskatchewan, which goes back to part I, 1-2(1)(c).

[10:15]

Mr. Forbes: — So it's just modernizing.

Hon. Mr. Morgan: — Yes.

Mr. Forbes: — Okay. And the definition of union has been changed, I understand, to be more an association of employees.

Hon. Mr. Morgan: — That was intended and that is a policy change.

Mr. Forbes: — And so what does that . . . What are the implications of that?

Hon. Mr. Morgan: — Well we have unions that are recognized specifically by way of a certification order made by the Labour Relations Board. But we wanted to include broader groups of people that bargain collectively. So there's groups that are recognized, that bargain collectively, but are not subject or were not created by or recognized by . . . I'm trying to think of the examples of ones that would be outside.

But the intention was to broaden the scope of the . . . for purposes of the negotiating impasse or the negotiating methods, that it could include broader groups of people that, you know, I'm thinking of university professors or perhaps doctors that are negotiating renewal of their contract. But where you bargain collectively, that you would use the methodology that's prescribed.

Mr. Forbes: — So if a group, if there's an employee group and the employer said, you must belong to this group to work, it's a professional group, but it's not one that is typically thought of as a union, but may even be called a union, but is not actually a union under the current definitions. And then the issues I mean, you know, it has happened. It has come to my attention of groups that . . . We often think of unions but that aren't certified, aren't under the provincial definition, but now may be with this definition because it's a much looser definition. Can members of that group now bring those, that group forward to the LRB? I want to make sure.

Hon. Mr. Morgan: — It's brought in for purposes of the negotiating process so that they would be able to access the right to have a conciliator or a mediator appointed. So it's for that portion of the Act that it's brought in. The Labour Relations Board, it's specific where it would apply. Labour Relations Board generally deals with people that are subject to a certification order, but we wanted the negotiating provisions to apply to broader groups that are there.

I asked specifically about instructors at SIAST. They of course are subject to . . . They belong to a union. They belong to . . . They're subject to a certification order. Professors at the university are, I understand, not.

Mr. Forbes: — I'm actually thinking of the musicians' union in, say, the Saskatoon Symphony where it's not a, you know . . . [inaudible] . . . international association. It's actually a federal union, not a provincial union, I understand. And it's under the umbrella of the Canadian Labour Congress, not the SFL. But as you know, we're both from Saskatoon, and there's been challenges in that whole organization. Would they now come under the umbrella of the province?

Hon. Mr. Morgan: — The intent was not to change the jurisdiction, and I don't think we can on somebody that may fall under the Canada Labour Code or elsewhere. So Labour Relations Board continues to deal with the things that they have had in the past. There's not a policy change there, but we wanted to bring in or the ability to have people avail themselves of the broader . . .

Mr. Forbes: — Right. So what does it mean to be "and is not dominated by an employer"? In this . . .

Hon. Mr. Morgan: — Mr. Carr desperately wants to answer.

Mr. Forbes: — Sure.

Mr. Carr: — In the labour relations arena, a company-dominated organization is by definition not a union because the purpose of the union is to bargain collectively with an employer or a group of employers, and when you . . . The provisions of *The Trade Union Act* used to be expressed that you could not be certified as a union and obtain bargaining rights if you were a company-dominated organization. And so what we've done is brought that principle forward and made it explicit in defining what a union is and made it clear that a union is a labour organization or association of employees that has, as one of its purposes, collective bargaining. And it's explicit that you're not a union if you are a company, are an association or an organization that is dominated by the employer.

Mr. Forbes: — Now and then the question that we have as well as . . . like, that the different definitions of a unit and bargaining unit. Why is that?

Hon. Mr. Morgan: — I'll get you to repeat the question again. Sorry.

Mr. Forbes: — Just that in the definitions, you have unit and you have bargaining unit, I think. Or do you have bargaining unit? So what would be the purpose of those two definitions and why are they . . .

Mr. Carr: — The purpose of the inclusion in the definition of the term unit is to allow the distinguishing between a bargaining unit and a smaller group of employees.

Mr. Forbes: — Okay. There has been some concerns, especially if you take out the supervisory employee, and you've done some work around that. But I note that in the nurses' response on March 1st that they did talk about how, you know, we're trying to get to a larger, more sectoral type . . . Maybe sectoral's not the right word. But larger groups of employees or bargaining seems to be more efficient, more effective than to have smaller groups. And that's been the concern that's been raised is that we may see in health and other areas where you start to have all sorts of different smaller bargaining units, whereas before it was a move towards larger groups of bargaining so . . . I don't know if that's . . . And again it's whether it's an intended or unintended consequence of this, but if you could comment on that.

Hon. Mr. Morgan: — I'm going to let Mr. Carr speak to it, but we talked earlier about what we felt the definition of a supervisory employee was, and when there should be groups of people that shouldn't be in the same union where they don't have a commonality of interest or where somebody is in a supervisory position with regard to another one. And we heard pretty strongly that where there's issues on other people don't like supervising each other. You have the situation, I think I used the example that, on early in the week, one employee is disciplining another employee or in a supervisory position, and later in the week they go to the union meeting and they're electing a shop steward. And then how does that play, relate to what took place on the workplace? You know, if you have one person that's a shop steward and another person that's the supervisor, where do you end up with that?

So that relates to the issue of, you know, we change the scope of supervisors and we'll take those people out of scope so that somebody that's in a true disciplinary fashion with respect to another employee moves out. And then we want to try and minimize or reduce the number of, if we had to have two groups within, and it's possible that you don't have a commonality of a group within and you may have to subdivide them.

The Labour Relations Board I think has a practice they don't like to see, and I don't think employers . . . [inaudible] . . . they have multiple different unions within. So our expectation is that their application of the Act would be that there would not be a great number of . . . [inaudible] . . . for that. You know, of course we don't want to interfere with their autonomy or their ability to make the determinations, but we think the way the framework is, it should not have an impact but will allow for people to be taken out of scope where they're in a supervisory position.

Mr. Forbes: — I wanted to talk about successorship in private . . . or in public buildings. And if I can find my notes for that — yes 37.1 — and what the impact will be on that. I know that's one that has been raised as a concern. Sorry, what numbers would it be?

Hon. Mr. Morgan: — Under the old legislation it was 37.1.

Mr. Forbes: — What is it in the new one? Or it's eliminated, is what it is.

Hon. Mr. Morgan: — It does not exist. It's a deletion.

Mr. Forbes: — Yes so the removal of that, yes.

Hon. Mr. Morgan: — The section . . . I don't know why it was ever, ever passed. We have good case law on what a successor union is. Where a business has been sold or transferred, the new employer steps into the old employer's shoes. The agreement continues to exist. Everything continues to be . . . 37.1 provided an unusual situation where it effectively tied a union contract to a business or a place of business rather than the business itself. And so it allowed for certain services in some government buildings to become automatically unionized just by virtue of where they were, that they'd been there, and the rules of, ordinary rules of successorship didn't apply.

So I'm not sure that I'm in a good position to speak to the political decision that was made at the time. But it was one of the things that was unique to our province. It did not exist in any other jurisdiction. So we thought it served no purpose other than it was an aberration in our province, and we decided to get rid of it.

Mr. Forbes: — And so you're feeling comfortable with the existing case law, that successorship should be . . .

Hon. Mr. Morgan: — The successorship? Yes, the rest of this piece of legislation makes no change to successorship provisions. So successorship provisions had provided good protection, and not always supported by new employers wanting it, but it has provided good protection as far as the transfer of collective rights, seniority, and the things that are there from one to . . . You know, the existing case law determination from the Labour Relations Board, I don't think anybody takes any issue with them. We didn't get submissions from people saying, we want to change successorship, you know, if we buy a business or something.

[10:30]

Mr. Forbes: — Okay.

Hon. Mr. Morgan: — I mean, for the most part people thought it was working adequately, and we didn't want . . . We determined we weren't going to change it in the legislation, that this was something that was inconsistent with other provinces and we wanted to have it uniform all the way across.

Mr. Forbes: — So the challenge will be though, of course, there may have to be some, whether it be court action or something if this does happen. But I guess it's up to the government to be acting in that way that you're expecting that there will be succession.

Hon. Mr. Morgan: — I suspect that if one of those businesses or one of those groups of people within a government building

is sold to somebody else, or if there is a change that the successorship rules would apply as they do now.

Mr. Forbes: — And so the government of the day, when they're doing the tendering, will just expect that part of it will be successorship.

Hon. Mr. Morgan: — Absolutely. You know, the rules apply, so if it's something that is tendered . . . And I think the government expects to be subject to the same rules as anyone else.

Mr. Forbes: — Sure. I don't know if we want to take a break in five minutes or not. I know that there is . . .

Hon. Mr. Morgan: — Sure. Do you want to do five?

Mr. Forbes: — Do you want to do five right now and then . . . It's a good time to do it, and then I think that they were . . .

The Chair: — We have a request for a five-minute break, so we will have a five-minute break.

[The committee recessed for a period of time.]

The Chair: — Welcome back. The recess is over and we'll get back at the work. And, Mr. Forbes, you can continue with your questioning.

Mr. Forbes: — Yes. My next question is around voluntary recognition, and that's been an issue that's been raised by particularly . . . well very many labour groups. So I wonder if the minister has . . .

Hon. Mr. Morgan: — Sure. We included a provision in the bill when it was first introduced that allowed for an employer and a union to voluntarily recognize in certain circumstances and without obtaining a formal certification order. The rationale for doing that was to allow for an employer to avail themselves of a hiring hall process or where there was a short-term contract where the workers sort of effectively all came in from out of province or are all part of one group.

When the bill was introduced, we had consultation and input from employer and employee groups. And the concerns that were expressed were a number of them, first that it was, arguably could be seen as an employer trying to exercise their right to an employer-friendly association even though there wasn't a certification order. And then there was concerns from the employers that it didn't help them to have a voluntary recognition, that they would deal directly with either the union that had access to the hiring hall or otherwise, and their preference was to leave it as the status quo. And then some people expressed concern on behalf of the members that would work or the employees would work and that they effectively were deprived of their right to vote or their right to select the agreement.

So to be really direct, there was nobody that was supportive of doing it. So when the time comes for us to vote the amendments off today and vote the bill, my understanding from the members on the other side from where you're sitting and that will not be voting in favour of that, and I suspect you likely won't either.

[10:45]

Mr. Forbes: — Well thank you for that. That's important and it's good to get that clarified.

Another issue that's been raised is the new section in Bill 85 that talks about how union dues are collected and that it goes to the local unions as opposed to national or international head offices. What is . . . And that that might cause some problems. And it sort of gets back to what you were talking about earlier in terms of the size of the local or just how they do their business.

Hon. Mr. Morgan: — We're told there's a number of different methods that take place. We're told that, in some circumstances, the dues are remitted directly to the local; some they're remitted to a provincial umbrella, and some they're remitted out of province, even out of country in some places.

We want to ensure local accountability. We're imposing a requirement on Saskatchewan unions to provide audited financial statements and, if we're imposing that on them, we're saying the funds must be remitted to them. We wouldn't want to raise the issue that they would be able stand up and say, no we don't have any control over these funds. They're remitted directly to an out-of-country or out-of-province local.

So by requiring them to go through the same entity that is accountable under that . . . And it's certainly up to them how they spend their money beyond that. If they choose to put them in a transit account and retransfer them out, that's fine. But it's their control of the funds. The funds are paid to them. They are accountable to their members under the legislation to provide things. So how they forward them on or do with it is up to them, but they would have the ability to stop or make changes to that in the event that they were not getting the information they needed to fully comply with their obligations under the Act.

Mr. Forbes: — Okay. So essentially that's an unchanged position from what is in the bill right now, that it must be paid at the local level, then it'll be transferred over to whatever . . .

Hon. Mr. Morgan: — That's correct.

Mr. Forbes: — But it speaks to the larger issue again of the democratic process and the local, or they're choosing what they do with their money . . .

Hon. Mr. Morgan: — Well they make the choice. They make the payment, but it has to flow through their bank account here first. So to the extent that they're being dictated they must do that, it's a fair comment.

Mr. Forbes: — And there's lots of aspects to it as the new rule of the LRB because it's becoming quite a bit more engaged in, not only this section, because there'll be expanded jurisdictions over matters of internal union governance . . .

Hon. Mr. Morgan: — Appointment of adjudicators.

Mr. Forbes: — Adjudicators, they both . . .

Hon. Mr. Morgan: — Yes, you're correct. The overarching

rationale is that we should have a single avenue or single route for appeals for dealing with this type of governance. So we focus more things by way of appointment of the adjudicators in dealing with those matters, and we think that's where they properly belong. It's a quasi-judicial body that's made up of appointees from both organized labour and from the management side, and we think that that's a sound policy decision.

Mr. Forbes: — Now will there be more resources? Will we be seeing . . . obviously, and now I haven't been over to the LRB to see lately but I know at one point they had some very old equipment and it was pretty tough, and it was tough as a government to justify, you know, in the public eye people don't . . . you know, it's one of those areas where people would rather see money being spent. And I understand on health and schools and highways, and then the LRB doesn't seem to get the kind of support that it probably deserves. Will there be expanded supports . . .

Hon. Mr. Morgan: — The last two or three fiscal years, if not more, the LRB has turned money back to the province at the end of the year. We want to make sure that we provide them sufficient funds to fulfill their mandate and we want to make sure that . . . I would rather be in a position that money came back than them have a shortfall at the end of the year.

We treat them somewhat like we treat the court system, that they have to have the resources to do it. I've had discussions with them, with the registrar, as to whether the additional duties will tax their resources or require additional staffing to be done. I know in a broader sense they're working at making changes to their computer system and their technology system, but it seems to be throughout government that people are doing IT [information technology] changes.

They've indicated that for the time being they want to see what the bill looks like in its . . . and see what the regulations appear. And then they'll look at what they need to do for changes to their internal rules and whether they'll be short resources.

Now a number of people at the advisory committee, some of whom actually sit on the Labour Relations Board, have raised the issue whether there'll be sufficient resources. I've indicated to the registrar they need to tell us whether they think there's a significant difference or whether it's something that . . . that they'll do that. Because we're very conscious of time spent to render decisions, time spent to order votes, supervisor votes, to fulfill the things that are . . .

So the simple answer to your question is, if more resources are required, we'll want to make sure that we provide them. They're operating in a very slight surplus position right now and we'll be watching it very closely as we go along.

Mr. Forbes: — So in terms of . . . and this really speaks to the larger issue around the implementation of this part, labour relations, and part VIII, what is the implementation plan and how many regulations are . . . You know, occupational health had a lot more regulations. I don't if this is many. What is the plan around the regulations with this?

Hon. Mr. Morgan: — For the Labour Relations Board or for . . .

Mr. Forbes: — Well I'm backing up right to the labour relations, part IV and VIII, or IV basically. Yes, IV it is.

Hon. Mr. Morgan: — I'm going to let Mr. Carr give you an answer as to the numbers that are there, and then I'll speak to the general sort of timeline and procedure going forward.

Mr. Forbes: — Okay.

Mr. Carr: — The numbers that we are aware of at the present moment is there's some 79 regulations that would be impacted by the legislation and approximately 22 tables and forms. We see that work as being quite manageable for us to undertake.

Now that is separate and distinct from the Labour Relations Board's own regulations that deal with their administrative practice. Our expectation there is that the board Chair and CEO [chief executive officer] will work through the review of those regulations in accordance with their requirements as the bill has been passed and that they'll have those in place in very short order as we move forward towards proclamation.

Mr. Forbes: — So when do you see this part coming into force or being proclaimed?

Mr. Carr: — It is similar to the conversation we had yesterday. We are expecting that we'll be able to have the operational regulations in place over the summer and then be in a position for proclamation to proceed in the fall.

Mr. Forbes: — Okay. All right because there will be a bit of a staggering implementation of, or a staggered implementation of this, of the employment Act because of the different parts. I mean, obviously with the essential services being the one outlier, but the other ones will take some time. And again we talked about this earlier that there will be a notice or a plan, a public list of . . .

Hon. Mr. Morgan: — Yes. There'll be a — you're correct on that — it'll be a phased rollout because obviously the essential services isn't passed. We don't know what or if any regulations would be required under that. But over the summer months we'll start the consultation on the regulations for the parts of it that are there. The ones we'd like to focus on first will be labour standards because those are ones where there are some significant benefits to workers and the indexation of the minimum wage. So those ones we would like to get in place fairly quickly, and then move on with the other ones after that.

The OHS ones are, because of the technical nature of them, are more complex and will require a bit more of an analysis with experts and people that would come in from outside. We had some discussion about it at the last advisory committee meeting, and I asked them what they wanted their involvement to be on the OHS regulations. And they said their view was that they didn't think we had the technical expertise to deal with most of the things under there and would like to start a parallel or a companion process where they would provide a delegate or an appointee that would have the expertise and deal with that.

And then I think we may look at other areas where we know we

want to have more input on that. And I'm thinking we may ask some other groups to participate as well.

Mr. Forbes: — So my point, I was thinking of, in terms of this labour relations section, if it does come into force and if it's in force October, November, then there's still a significant part of the year and there will be costs — the adjudicators and that type of thing. But those costs will be in, that would have been in other parts of the ministry's budget then will be . . .

Hon. Mr. Morgan: — Yes, if your question is, you know . . . Our goal should be on this, that we spend less on these things rather than more. So you know, where there was an adjudicator appointed under labour relations or somewhere else, well they're now appointed under this Act. So the cost should theoretically be no more than it was before.

Where there might be additional costs would be under the bargaining system, where we appoint mediators or conciliators, you know, that type of process. And if there's an additional cost and it produces earlier settlements, it's a good investment. If it doesn't produce good results, then we need to revisit what changes we need to make on it.

When we went through the discussion, when we came through those . . . [inaudible] . . . we had some spirited discussion on how that process should look. And you know we had different flow charts as to how to get people to do it. And I was surprised at, sort of, how strong some of the opinions were on it.

And I'll give you an example. The ministry had prepared flow charts that allowed for a 90-day cooling-off period at a couple of points in the thing. And so we've shortened it to 14 days from an original estimate of where they put forward as 90 days. And I said, well wouldn't a cooling-off period be the right thing to do? Wouldn't it allow people to go back, reassess their position? And it was surprising. Both sides of the table said, no. When you're there, if you have a cooling-off, yes you might cool off, but then you lose momentum at getting the settlement. We think a cooling-off period should be measured with a stopwatch, not a calendar.

So, you know, it was an interesting discussion to have. And then, you know, we sort of went around, well maybe it's worthwhile to have. Yes, we'd give the people the opportunity to go away from the table, to go back, re-consult their principals, rather than just get mad and storm away, that it would have . . . So we left it at 15 days, and that's what's in the statute. But you sometimes wonder whether, you know, should you give some flexibility to a different period of time. But we think, okay we're going to say 15. And I think it's one of the things we want to try for a while, see how it works. And if we need to make an amendment later on, you know, it would be a relatively minor amendment.

But I think it's, you know, the goal is get people at the table, get them working. If they need to go away and think about it for a while, fine. But the goal has to be that they get to the table, they read the other person's, the other side's submission, sit down and start having the dialogue work towards the endgame.

[11:00]

Mr. Forbes: — Yes. But you had alluded to this earlier when we talked about, you know, some reflection on how effective this is. Because we've talked about how you noticed that we have actually good settlements but it takes a long time to get to those settlements. And so we could be back taking a look at some of these changes to see whether they helped or whether they hindered arriving at settlements.

Hon. Mr. Morgan: — I think any time you create a new process or a new legislation, it's a healthy exercise to watch it continuously as it goes on and then have a periodic review thereafter. But yes, I think you're exactly right. We hope that it works. We hope that it brings about processes otherwise than what we have now.

One of the options that, you know, was raised but not supported was, why don't we do like some of the American unions where, if there's no agreement, there's no work. You know, at the end of the eleventh hour, people are counting down. If there's not an agreement, it's sort of like, you don't come to terms on what your rent is with your landlord, well come the end of the month if you don't have a tenancy anymore, you don't have an agreement, you move out.

Well we don't want to have that. We expect that if there is an interim period — and we already have it in the legislation that it continues on — that the terms and conditions of the existing agreement will continue until varied by a new one. But that provision being there maybe provides some stability both in the employment place and also for the ability of an employer to provide services, but it shouldn't be used as an excuse that people don't have to sit down and do the work that's expected of them.

Mr. Forbes: — Okay, I want to make sure I cover as much ground as I can in the next . . . but 79 regulations. Now are most of these, are there any substantive regulations, or what are the substantive regulations in those 79?

Hon. Mr. Morgan: — A lot of them will be forms, processes, routine things. A lot of them will be things that are carried forward from the existing pieces of legislation and folded into this. But I think as they go through the process, the officials will want to look at everything to determine whether there's easier or better ways to do it. So I think they're not starting with a clean slate, but they're starting with a direction that things should be updated, modernized, and streamlined. And then we'll want to do some consultation on anything where there's a policy or a significant change.

Mr. Forbes: — One of the concerns, and this was raised by CUPE, the whole issue of interference with the worker's choice of bargaining agent. And they are concerned that a number of provisions of Bill 85 interfere with the employee's constitutional and international human right to belong to the union of her choice, including . . . Well we talked about the definition of supervisor and provisions that will promote or enable interference in the existing certificates, including the provisions promoting decertification applications and the whole thing about reorganization and health care and that type of thing.

And I'm looking for the specific concerns that they have under

this. Have you dealt with those concerns? And I know this talks about decertification, section 6-14, 6-15, and 6-16 and that type of thing. But this is a pretty significant concern for CUPE, I know, and for others as well.

Hon. Mr. Morgan: — You're talking about 6-14?

Mr. Forbes: — Right.

Hon. Mr. Morgan: — We looked at all of the submissions in this regard. I don't think it would be fair to say that the rights would be limited or abrogated by virtue of the provision that's in here. 6-14 deals with the right to bring an application to rescind a certification order on the grounds that the union no longer exists. So if you have a situation where a union has gone away, stopped being there, you know, a member would have the right to bring them.

We have added a provision in the Act that allows for — and this is a new one and it's a policy one — where a union has abandoned its position in that particular employer's relationship, where for a period of three years there has been no engagement by the union and no agreement in place. So the effect of that would be the employer is carrying on as if it was a non-union business. The employees go to work. They're paid directly. There's no unions being deducted because there's no contract, nothing is taking place. The union members have no need to bring a rescission application unless they chose to certify with someone else. So it carries on as if it's a non-union shop.

But the employer's problem is if they go to sell the business, if they go to do long-term planning, they have to deal with this outstanding certification order that may have been made — and I understand that in some cases — decades earlier. And then the issue for the employer is what are the contingent liabilities that have . . . this order that's there. So the unique thing that is here is it allows the employer to bring an application to have the certification order removed.

Mr. Forbes: — Okay. And what section are we, are we . . . Sorry, 6-9? 14?

Hon. Mr. Morgan: — That's 6-16.

Mr. Forbes: — 6-16, right. Yes.

Hon. Mr. Morgan: — 6-14 is if the union ceases to exist.

Mr. Forbes: — Oh right. And then 6-9, I just want to go to that for a second . . . [inaudible interjection] . . . well maybe I should finish up this other one here before we go. Sorry. No, we're good. We don't want to get too many irons . . .

The concern that was raised is Bill 85 removes the requirement that these certification applications must be filed in the open period, yet it appears in section 6-9 — and I'm not sure I'm seeing this — that a union making application for previously unrepresented employees who work in an under-inclusive bargaining unit must do so in the open period. So it looks like the question becomes . . . It looks like it's easier to get out of one's union because of the removal of the open period than it is to get into a union. And why the two different standards here?

Hon. Mr. Morgan: — I'm not sure that I agree that they can. 6-9(1) says a union may at any time apply to the board to be certified. So if there isn't a previous agreement, they can certainly bring the application at any time they choose. And the change that exists — I think it's in 6-16 — regarding the open period was that the open period was an annual period of, you know, a 30-day period that a decertification application . . . And the argument in favour of having a short period of time was that it was greater stability in the workforce.

The argument against it was that if workers chose to exercise their right to leave, they were tied to a window that was set years before by people that, you know, just coincident with when they chose to do it. So if they missed the open period, they would have an 11-month wait before they could bring it, and so the policy was that they should be able to bring it any time they choose to. However we closed the window for two years following a new certification.

So if there's a new application, a union comes in, certifies, gets a contract, there's a two-year window where there would be no decertification. So if it was a marginal vote or whatever the reasons were, you would want to have the stability that's there. Beyond that period of time, if the employees are dissatisfied, instead of having that narrow window, they would be able to bring the application when they chose to.

And we also added another provision so that, you know, somebody doesn't go back the day after they lose the vote, that you can't bring an application, that the window again closes for another year.

Mr. Forbes: — And there was . . .

Hon. Mr. Morgan: — You might be aware there was sort of another . . . There was at some time, there was some jurisprudence some time ago that said, you know, the open period was the anniversary date under the contract. There was other jurisprudence that said it should be the anniversary date under the certification order. So no matter what time it was, it was argued that well it was the wrong period of time unless they happened to overlap. And I think that's long since been resolved.

But we think that the right of the employees to certify is important. But the right of them to bring their application, if they choose to either be represented by someone else or whatever, that right should not be compressed into that same window. And I appreciate that there may be people that don't agree with that.

Mr. Forbes: — I just want to make sure I'm not missing any . . . a few key points I want to end on, but if . . .

Hon. Mr. Morgan: — Go ahead, take a minute. If you need to come back where it . . .

[11:15]

Mr. Forbes: — Yes, I will. Well I think what I want to . . .

This is three main parts I want to end . . . or four. And the fourth is really the fact that there's lots of technical things here,

the fact with the regulations that in many ways we're talking about into the future with, as we've alluded, some 79 potential changes to the regulations that we don't know right now what they are.

And as well that we're going into some very somewhat controversial areas that while the minister has made some moves . . . And I'm thinking particularly around the movement into audited statements for unions and moving into that kind of area, which has seemed to be . . . Unions are autonomous. They're democratically set up. They're set up by workers who've had votes to say that they would like to set up a union, an organization in their workplace that fits into . . . under the mandate of what's allowed. And I'm worried that or I'd be curious to know, is this something that the government is intending to go so we have that area, the interference with unions, and whatever the minister may say, that they seem to have a justification for doing that.

The other new areas, the role of the LRB, and particularly in terms of supervision of the constitutions, that type of thing, that's going to be an interesting area that we should talk a little further about in terms of how do we protect the autonomy because it has been seen as a bit of a political football. As the governments change, administrations change, it can swing with the time. So I have that concern as well.

And of course just the whole nature, as I said before, in terms of just the move to litigation, that while some of the things that were said today can make workers feel a little more secure — and I'm thinking about the successorship rights — that the government is expecting new contracts, when they're awarded, that people should be expecting that will be continued. But it may not be. And so the potential for litigation is huge.

So I guess I have . . . Those are the four areas that I have in terms of . . . And maybe we've got about, you know, 40 minutes left here before noon, but I'd like to hear more about that.

But I guess my question to the minister is around the LRB and how to make sure they're going to work really hard to ensure confidence of the LRB. It is set up by equal members of workers and employers, but we know both sets are essentially vetted by the ministry even though the pool is created by the different groups. But it is a concern that organized labour has. And it will be the unsettling effect of this bill that while there has been some amendments, some things brought forward — and we all recognize the fact that in amendments not everyone will be happy — but how will you work towards making sure there is confidence in the LRB?

Hon. Mr. Morgan: — I think the best statement I can make is looking at the five-plus years that we've been in government. The process around the Labour Relations Board has not changed during that period of time.

The appointment of the Chair is of course new. And the role that I've taken as the minister, I don't discuss nor have I ever discussed with the board Chair any decision or any matter that's before the Labour Relations Board. Any discussions that I have with the Chair are usually around process, resources, or that type of matter, and usually those things are done between officials within the ministry and the registrar. I regard the board Chair as . . . He sits in a quasi-judicial role. And as a government, we should treat that the same way we would treat the judiciary. And I think that's what we've done since we've been there.

When we started the advisory committee, I asked sort of the questions about, you know, whether people took issues or took exception with what was going on and whether there was a level of comfort with the process. The concerns that came were around how long it took to get votes and how long it took to get decisions made.

I asked our officials to identify where the specific issues were. And when they looked at the specific issues, it wasn't as a result of anything the LRB was doing. It was a result of arguments around identifying who was in a bargaining unit or getting a determination that was there. And there certainly appeared to be a clear understanding on the part of the board, the need for timeliness in the decisions.

We also monitor the time period that it takes for decisions to be rendered. And you're likely aware that before the change in government there was applications that had languished for long enough that Court of Queen's Bench struck them down. So you know, they'd breached their duty to the point where they were no longer going to allow them to deal with them. So it certainly is something that I think that type of matter destroys public confidence in the board.

And I don't know what the average time length for decisions from the LRB are right now, but we have relatively good turnaround, usually measured in days. And I can just go back. And on the applications going back to 2001-2002, days from certification averaged 48 days; '02-03, 31; same in '03-04; '04-05, then we get higher; '05-06, 75 days; '06-07, 103 days. Then we get into the latter part of '07. And then when there was the changes, it dropped back to 79, then to 101. Now it's down to 35, almost as low as it's ever been.

And so the trend has gone from 101 to 67 to 33, 35. So we're running about a month for certification applications. Rendering a judgment or rendering a decision on a more complex matter may take a longer period of time if they choose to review it or if there's dissenting opinions. But I think it's something that's . . . That is our role as government is to watch to ensure that they have sufficient resources and to ensure that the framework is such that they're able to deliver their decisions in a timely manner. If it becomes a matter of resources, then we have to make sure that we increase the resources so they've got enough people that are on there.

But the fundamental processes that existed before the 2007 election of appointing equal numbers of people from organized labour and from management continues to exist, and there's no change in this legislation regarding that. So I think the statutory commitment was there before, it's there now, and I think the level of government involvement should be around ensuring that there's resources and ensuring that they perform in a timely manner, and not to question the nature of their decisions.

Having said that, I'm not hearing from people from anywhere across the spectrum that they significantly disagree with the

decisions that are there. And you also see the decisions that were taken forward for judicial review. For the most part, the board's determinations have been upheld where people have gone either to Court of Appeal or to the Court of Queen's Bench for a judicial review application. So I think if past conduct of this government is an indication, we would want to continue that with how we respect the board. And I'm not going to make comments about anybody else who was on the board before.

But I think our goal has to be that the decisions that are made . . . You and I will both remember back the days when Dennis Ball was the chairman of the board. He was regarded as one of the leading labour lawyers in the province; came in clearly seen as having a management bent. But when he started rendering decisions, they were fair, well reasoned, and I don't think anybody disagreed or spoke against him. I won't make comments on a decision that he made that was appealed recently, but that's in his role as a QB [Queen's Bench] judge.

But as a chairman of the Labour Relations Board, I think that should be our goal, is to try and have the board perform with that level of judicial independence and that level of judicial competence. And I think that's what the board is doing right now.

Mr. Forbes: — And I've heard this many times within the labour movement, that it was unfair to single unions out in terms of the transparency and accountable measures, accountability measures when they believe (a) that they are very transparent and accountable to their membership. They didn't see that there was a problem, but that in fact there was more to it than that. And they're wondering, you know, in our society, where there are other groups who are very active in terms of either using public money or money that you would think that they would have better things to do with, that will there be a movement to see them brought under more scrutiny? And we're thinking of whether that's the Canadian Taxpayers Federation that people say so. We don't know a lot about them. But we know they're very public, and they often make public commentary. But we don't know anything about their funding. Now I haven't actually looked to see their funding; maybe it's all very public. But I don't think it is because many people have raised that concern.

And as well other groups, and I think of CBOs [community-based organization], and I think as MLAs we've probably heard this. Somebody's got a concern about a community-based organization that somebody has raised a concern about because they feel they're not doing their work quite right but, you know, at the end of the day, they are doing their work. It's just two different opinions that we have to deal with. One person thinks they're not and the other in the group thinks they are. And it's tough to say, well you know, this is sort of our society, and a CBO has every right to set up shop and offer services. And if the government has confidence in what they're doing, then they continue on. Or if they have ways of raising money, they continue on. And then it's just a matter of making sure what they do is legal, first of all, but beyond that, it's a matter of public confidence.

And so unions, like any other group, can come and go depending on whether their membership has confidence in them. And the union . . . And we have seen unions come and go, where no longer are they relevant. I'm thinking of the needle seamstresses union or some of the old textile unions of the old . . . [inaudible interjection] . . . What's that?

Hon. Mr. Morgan: — Buggy whip manufacturers union.

Mr. Forbes: — Exactly. They just become obsolete and so they disappear because they're just not . . .

So they did feel that they're being singled out, that there is a method of transparency and accountability. And so they're looking for what's good for the goose is good for the gander here. Are there going to be other groups, other areas that will be brought under closer scrutiny?

Hon. Mr. Morgan: — I think you talked about CBOs and you talked about the Taxpayers Federation. You don't need to participate in or belong to those entities. If you want to maintain your employment, you must belong to whatever union is there, by statute. We're saying (a) you must belong as a condition of your employment; (b) we're taking your dues off at source and remitting them on your behalf.

[11:30]

The analogy that is there would be me belonging to the Law Society of Saskatchewan. If I wish to practise law, I must belong; I must pay my dues. If I don't pay my dues, if I don't do those things, then I'm no longer entitled to practise. I have a high degree of accountability and transparency with the Law Society. They post their information. I have access to a secure website. And that is the appropriate analogy to use. If I wish to participate in, I turn to and become subject to that piece of legislation that does it. And because other people can't practise law without belonging, that system has to be fair, transparent, accountable.

The disciplinary proceedings that take place with the Law Society are published and posted on a website. The financial information is there. If there's transgressions regarding a member . . . [inaudible] . . . I must in addition to that have my, regardless of how small a law firm it was — and I practised as a sole practitioner for a number of years — I must have my trust account audited. I must provide my general account to them for their review. And I'm not required to have a the general account audit but I've certainly, whenever handling anybody else's money, I must go through that kind of a process.

That's the way it's been in our province for a century for lawyers, and this is an analogous situation. We're saying to these people that are taking this position in the workplace, we are requiring you by law to belong to this particular union. We're requiring you to pay the fees.

So we are saying that the trade-off for that should be that there is information provided and that there's transparency. They certainly get to vote to elect . . . the members. They certainly can vote to rescind the application should they choose to, but we understand that not all of the members within a bargaining unit are going to be supportive of the union. Some that were supportive when the union came in may not be supportive of it on a ongoing basis. But some of them when they receive the

information may well continue to be supportive, and we expect that they likely will.

When you talk to union business agents, union business managers, they're always very quick to assure you — and I believe that most of them are very good at it — they want to provide the information to the members. They want their members to know and understand. I mean that's how they get re-elected is by being accountable to their members. So most of them have no issue with doing it, and I believe by and large they've done it. But there are instances where they haven't. And you hear the issue, ell I don't want to go to a meeting; I just want to look at the . . . [inaudible] . . . I want to know what they voted on. I want to know what they're doing on this. I want to know what they're doing

So all we're simply saying is, we want your financial information to be correct, and we want you to be able to provide it to your members in a manner that they can see it without feeling uncomfortable, without going to any . . . especially if somebody's working in a remote area. So I think we are treating those people the same way that I am being treated as a lawyer, the same way that an accountant or a surgeon are treated and, for that matter, the same way a teacher is treated.

Mr. Forbes: — And that's a fair comparison then. But the difference is, I think — and we've seen it with the forestry professions legislation that came forward this year; it would happen with the Teachers' Federation or with the lawyers — is I think that if there were concerns, they would be brought to that organization and say listen, we have heard that there are teachers or lawyers or foresters who have concerns. Let's work this out with the professional organization, with the body, and whether that be the SFL or the MAC [minister's advisory committee] group that you've structured. And that would be a fair process. Now for some of this we'd be curious to know why there would be, for some of the conversations, why employers would have input into the constitutional matters or not.

But the timing is the issue too. You would never say to a teachers' group or a lawyers' group, you know, we've got this problem and we're going to solve it in a year. You would never say that to a professional group — you've got a year to solve it. You would say, listen — or maybe you have, and if you have, that would be news to me — but that you would say, as a government should, these are the issues we're hearing; let's sit down and work them out. We want to see more accountability. We want to see more transparency. It's been raised by us. And I think that would be a way of approaching this in a trust-building manner.

And the concern has been that because it seems to be such a heavy-handed process. Now we will have a debate too about the consultation process, but that's the concern that people still will have. The lingering concern after this is all said and done is, you know, there could have been a better way of doing this. And maybe we would have ended up at the same place — I'm not sure — because there will always be people that disagree with the process, no matter what. But that's a concern that people have. And that's that I would say is the process of the one-year aspect.

So but my other question about the LRB now that it's really changing its mandate, now it's involved with the employment standards, and now that it's involved through occupational health, do you see that . . . And I think about the changes that have happened for example at the Human Rights Commission, where a part of its mandate now, and has been, is around education. So now the Ministry of Labour — and rightfully so I think, and it's within and it should stay there — is mandated to educate people on the employment standards and occupational health and safety through that branch.

But do you see sort of a, what do they call it, mandate creep where, you know, if you have a different Chair of the board says, you know, I think that we should be doing more proactive work here, that we should be out there doing things that . . . Now it's really, as you say, a quasi-judicial role. But does it start to do more than that?

Hon. Mr. Morgan: — I'll make a couple of comments. On the accountability piece, I think it's probably an area that we'll have to agree to disagree on it. The change that we made . . . When we talked to union business agents, they were saying, well we're doing these things anyway, or by and large we're doing these anyway, or we don't provide them. So we work through them to provide something that wasn't going to be adding any cost to them. It was a matter of saying, yes, do this; yes, it's reasonable to do it.

And I think where their concern comes is that it's the government mandating it. And in most cases, it was probably happening on a voluntary basis. And what we're saying is in the cases where it's not, it should be. And I guess it comes down to how you enforce that degree of accountability. It was largely there, but if it wasn't there all the time, what do you do to provide an avenue or a method to ensure that it is there all the time? And I think it's a pretty fundamental right to know what your money is being spent on, particularly when you've got no control over it.

And you know, I think most of them were doing very well at it. But if not all of them, then we have to ensure that they are so that the member can actually say, yes, I sat at home; I looked at the financial statements. I'm happy. Or I looked at the statements; I hated them and I was mad and I went out to the next union or I wrote some letters. I did this or that. So they can make their own decisions rather than on . . .

And I think, to some extent, it will probably even lessen some of the concerns that the members had. Because a lot of times when they check, as we indicated before, on MLA disclosure information, once you know it, you realize well nothing's being hidden. So I think it probably will, for most of them, give them . . . Say we comply fully with the provisions of the legislation. We probably, you know . . . If you were doing something like Bill C-377 where you were requiring a lot more information, then you would probably want to do a greater level or a different type of consultation to determine where it's at.

So anyway, I say that by way of response. I know I won't convince you, but I think I want leave the record that way.

With regard to the role of the Labour Relations Board, you're drawing a comparison with the changes to human rights legislation, and there was a legislative change there. There was

a change in function. It was largely driven by Commissioner Arnot that wanted to redefine and have a Human Rights Code in the commission for the 21st century. Well I was the minister at the time, and I was fully supportive of the direction that he's going. Now I know because of the education role and the other things that he's doing, it certainly made some changes within his office and, you know, they're working through what changes they require.

But it's different with Labour Relations Board because they don't have, under the statute . . . And nor was the legislation changed to give them any kind of an enhanced education role. The role for public knowledge, public education is done through both the ministry and the Workers' Compensation Board. So they won't . . . If your question is will they tend to become more activist, the answer would be not. We didn't have anybody asking for that, nor would I've been amenable to it. Their role is to adjudicate on the things that are before them and to fulfill that additional role of the administrative things that they do by way of assigning duties to adjudicators, etc. So I don't see that being an issue.

But your other point on the role of public education and public awareness, and especially in the area of workplace safety, is something that the ministry and Workers' Compensation Board probably has to do more on and do more aggressively on the education side and on the enforcement side. You know, we've had 60 fatalities. Our drop in workplace injuries, while continuing, isn't continuing at the rate it should be. We know we've got too many injuries in the health area and we've engaged the minister, the deputy minister and, you know, we know those are the areas that we want to focus resources and commitment and urge the public to hold people accountable in that area. Sorry for having a long answer.

Mr. Forbes: — No, no, I think this is, you know . . . as we go through these processes, this is sort of where we start to identify some bigger issue. And I do worry about, and the concern has been about the role of the LRB. And you know, in Saskatchewan, Canada, in many ways it's a great, wonderful country where we have got to where we are is because we see the protection of some of our democratic institutions, and unions are part of that, and so the questions . . .

And I know sometimes, you know, I read some of the language, that now you have the connection with the state and the constitution of unions. In some countries, that would be a very dangerous thing, and when we start to see this creep of changing roles and at first it doesn't seem to be, it's not that significant and really, you know . . . So the constitution is filed with the LRB and they're all pretty strong, but at the same time, you know, in terms of a democratic institution, the right to associate, it's a very important one and we should be really vigilant on making sure we're not going too far down that road. And how far do we go?

Because in Canada, we have such a strong democracy that it may be not a big deal, but we do appreciate when there are people out there who flag these concerns. Because if we don't, you know, maybe at some point we cross that line and we say, hey, the state is too involved in some of our organizations. And I just want to flag that for you because I think that we want to have a Labour Relations Board that is respected, that the integrity is well thought of. But that is a concern.

Hon. Mr. Morgan: — I appreciate the comment. The role of the Labour Relations Board doesn't, you know, they don't write or approve or change a constitution. They affect, you know . . . we'll be able to deal with the workers' rights under that constitution so that there's an arm's-length entity that's there.

I would not want it to be thought of that the government is interfering in that process, but where you and I, I think, agree and agree very strongly is the right to associate and join a union and the right to bargain collectively. Those rights are part of our Charter now because of the decisions made by the Supreme Court. And I don't think you're going to find anybody that disagrees with those decisions. They are the law of the land, and I think people not only accept that but they respect it and they welcome it. That's fundamental procedure . . . fundamental rights that we have as citizens.

[11:45]

We may disagree on whether there's a Charter right to strike or not. Having said that, we want the essential services piece to . . Because it will affect a worker's right to strike, we want to make sure that we've got good processes in place where the intrusion is done proportionately, appropriately, and done in a manner that balances the rights of the public to have essential services so that their safety and security is protected while at the same time providing alternate methods of getting a resolution to labour matters. And I think that's the direction that we want to go as we work through the consultation and the crafting of legislation.

The decision that came from the Court of Appeal was a very good summary of all of the jurisprudence across Canada. It was written by Justice Richards and was a superb review of the law as it now stands. But what it didn't do — and no criticism intended — was it didn't give us anything that was instructive or give us a direction as to what we do with our legislation as we go forward. This is what it is. What was there isn't illegal. Well what was there, while it wasn't illegal, we knew we wanted to make changes on it in any event.

I use always the example of what Mr. Hubich had said, that he felt that the essential services agreement should be done immediately prior to job action, not at the beginning. And I think that there's a number of other principles that came out, you know, where you identify services that are to be provided rather than individuals providing the services, that you have to have an alternate method of ultimately getting a settlement and then what is the tipping point where it puts you into an essential services mode where you deprive somebody of the right to strike. So those are all good points, but we didn't get anything from the Court of Appeal that gave us specific direction in that area. And so that's why we want to do a fair bit of consultation and a fair bit of work to find that.

You know, had the Court of Appeal said, yes we're going to deal separately with the right to strike, but we think the legislation should have said this, could have said that, or whatever else . . . sometimes you get that type of judgment. We didn't, and I accept and respect that, but we do have work to do going forward. Sorry once again for . . .

Mr. Forbes: — No, no, no. This is . . . I want to, if I can find this quote really quickly. And it's written by Bettyann Cox of Silversides & Cox, and this is presented at, I think, a law society thing, but just the conclusion:

> It is the view of this writer that the death of *The Trade Union Act* and the implementation of *The Saskatchewan Employment Act* will cause years of litigation, uncertainty, and potential unrest within the labour relations environment in this province.

And I just wanted . . . This is one of my concerns, and I think I've heard this. And she identified herself as, I think, on the labour side. But the whole issue around, the potential around litigation and what we're heading into, it is really a lot of uncharted waters and, you know, in how we interpret particularly this section of the employment Act because I assume this is probably the part . . . Or the old trade union Act probably generated more litigation and law activity than any other part probably added up altogether. And whether it will subside because of this or will it increase, I'd be interested in your comments on what lies ahead.

Hon. Mr. Morgan: — The day that we introduced the bill, we did a news conference. And I used the words — and I think everybody has used them since — that the things that we will want to watch for are unintended consequences, and the devil is in the details. So I think we've demonstrated over the last number of months that we've looked for unintended consequences wherever we could through it, and we've tried to fix and reduce unintended consequences and explain why there was a policy decision.

To the extent that we can provide background or provide information on the second part, the devil being in the details, we're going to . . . And I know people are using that as a code word for what is going to be in the regulations. Well labour law has always had, most of the detail is in the regulation. So I think if people look at what we've done in the last number of months as far as listening to making changes, they should be reassured that we want to use that same type of process looking for information, looking for comments as to what should find its way into the regulations.

Now the reason I tell you that by way of background is I don't wish to spend any more taxpayers' dollars on litigation. But when you introduce a new major piece of legislation, there's every likelihood or every possibility that there will be some litigation as a result of it.

I'm hopeful that people will look at it and say, okay, you know, this is workable or this complies. Or they'll get their outside opinions on it, and that people will say, the notion of providing a financial statement, you know, that's an acceptable thing or, you know, we've worked through this. We've worked through that. You know, you've seen 26, 27 amendments that are made specifically to address that type of thing.

So I'm hoping that people will look at that, then they'll look at the regulations and participate in the process, and with the results would say, yes, this is something that moves the province forward. We support this.

Mr. Forbes: — Now you had, obviously you had the MAC group, and then you've been working with Justice. Have you been working with lawyers, both employer lawyers and labour lawyers for their input on this? I mean, I found it interesting that day we were at the law forum, and then I stayed to hear the lawyers afterwards. And it was very interesting because they're . . . I don't want to say lawyers are from a different world, but sometimes it appears they are when they look at things.

Hon. Mr. Morgan: — I sent one of my ministry officials an email yesterday that said if you want three legal opinions, ask two lawyers. And I can poke fun at my own profession. There is a wide variety of opinions on every legal matter there is. That's why we have courts and why we have appellate courts and why we have a Supreme Court.

So I think it's good and healthy to have the discussions, to have the open forums. We've circulated that we've received formal submissions from lawyers on both sides of it, and where lawyers have wanted to meet with me, I've certainly met with them. And I've gone to any number of . . . well, you and I were at the one forum. But you know, I've gone to different groups, speak at the bar association, the education ones that they do at noon hour, both cities, and try and not just do the presentation of what's there but also do a listening exercise on the things that are in the bill.

And it's interesting to go to those things for the points that people raise, other issues that you didn't expect or weren't aware of. And you also get into the dialogue or the debate between the lawyers. And you sort of sit back and you listen to them, and it maybe gives you a bit of a snapshot as to what things might look like if things did go to court on it later on.

And in any event, where I went on it was, we made the changes as we went along. We listened to those, the legal issues that were there, and it's my view that the legislation is legal. It's in full compliance with the Charter and would withstand a Charter application on any part of it, and that opinion is shared by the constitutional lawyers in the Ministry of Justice. And we've asked them to look at it very carefully knowing that it would get some scrutiny.

But as importantly as that, we tried to listen to people so that the things that went in it, that we didn't do something in there that, while it may have been legal, might be problematic for people. We tried to, and will continue to try and do that. Now I know some people aren't going to agree with that statement. But we want it to be as workable as we can.

On the definitions of employee and supervisory employee, well who did we talk to on that? We talked to people in both organized labour and within the Ministry of Health. So we think we have things that people will say, yes, this might not have been exactly where I wanted to go, but we know that this is something that will work for us, or that we had enough input into this, we can work with this. And once again, a long answer for saying while I don't want to engage in litigation, we think we're sound if we do.

Mr. Forbes: — Well, I appreciate that and appreciate the answers. And as I said, those are sort of the four big concerns around the regulations yet unseen. The interference in unions

and what that will mean in terms of the long run, in terms of satisfying what the government has identified, whether that's too far, too much. The LRB and the litigation caused because of the specifics, we'll just see how they play out.

But with that, Mr. Speaker, I don't have any further questions for this morning on this part. I will look forward to this afternoon. And I also just want to thank the staff for the snacks earlier today.

The Chair: — And, Mr. Minister, have you got any comments?

Hon. Mr. Morgan: — Not at this time, Mr. Chair. Obviously I think Mr. Forbes has indicated that this is an appropriate point to take a lunch break.

The Chair: — Excellent. Thank you, ladies and gentlemen. And we are at recess until 1 o'clock. Until 1 o'clock, thank you.

[The committee recessed from 11:56 until 13:00.]

The Chair: — Thank you, one and all. We are back from the lunch break, and I understand that, Mr. Minister, you've got a comment to make on a question from yesterday.

Hon. Mr. Morgan: — Yes, Mr. Chair. Mr. Forbes had asked yesterday where there was different definitions provided for a person and an individual. It deals with *The Interpretation Act* and issues of legislative drafting. So I will let Pat provide the technical details.

Ms. Parenteau: — *The Interpretation Act* defines the general terms that are used in all different pieces of legislation. Person is one of those definitions, and it can mean an actual individual, a corporation, a business, heirs, executors, administrators, and other legal representatives of persons. And we wanted to be distinct in that we're talking about an individual as compared to a person, which would be something much broader.

Mr. Forbes: — Right. So is the word individual defined in *The Interpretation Act*?

Ms. Parenteau: — I would actually have to look that up. It's a common law understanding that it's an individual. A natural person, yes.

Mr. Forbes: — An individual, and that's an understanding? Because maybe that's a significant change if you're taking the word . . .

Hon. Mr. Morgan: — We're talking about the rights of the union members, and you wouldn't have a corporate entity that would be a union member. The one situation, I think, if you'll recall, where there was an extended definition, was where it included a deceased member because the rights continued beyond that. But I think it's clear we weren't intending to expand the definition of the workers that work in a union environment beyond natural human beings.

Mr. Forbes: — I think what we were talking about yesterday was occupational health and safety. And there was a difference between the use of individuals in the definition in the front part, and then further on I think. And I can't remember. It was something to do with an appeal or some other process where it was related. But to me it almost looked like an error in that the word individual would have been better because it would have been used in both places. Individual was used in the first part and person was used in the second part, and they were talking about the same thing.

Hon. Mr. Morgan: — I think we'd have to look back at the section. If you remember the section you're asking, then I'll ask Pat to look at that. But you know, the intent was to ensure that the benefits accrue to individuals that are on a worksite as opposed to, you know, saying oh well, we're a contractor; therefore it applies to the workers that are there.

Ms. Parenteau: — We did vet most of . . . The whole Act was vetted by our drafters and editors. So I'm sure they would have picked that up if it had been a significant error.

Mr. Forbes: — Are you betting?

Ms. Parenteau: — I would bet on that.

Mr. Forbes: — I'm only joking. But the reason I'm concerned because, you know, even with the best intention sometimes these things slip through. And that's why to me it just seemed to be an odd thing — individual in the first phrase and then person in the second phrase further down the road. Yes? You found something?

Ms. Parenteau: — The drafter . . . Well in drafting, the drafters do go with the intent of what we're expressing to them and what we need it to do. So it was done with intent. I do not believe there is an error with this provision. I believe it was with appeals, and we did say persons because you can have a business appeal, you know, as well.

Mr. Forbes: — But while we are on the topic of *The Interpretation Act*, has it been used extensively through the employment Act, *The Saskatchewan Employment Act?*

Hon. Mr. Morgan: — *The Interpretation Act* applies to all legislation that's done by the province. So it's there as a guideline for purposes of legislative interpretation and the definitions that are supplied in there. So it would apply to everything that's in this Act. So it would have been something that they would use as a reference as they prepared it. And you know, in cases where there would be a situation where they did not want the Act to apply or the standard definitions there, then they would've expressed it. And one example would be where the deceased worker's rights carried through.

Mr. Forbes: — There was some concerns. Because of the 100 years of labour law laid out and how it's evolved over the course of time to be put together so quickly and so rapidly into one bill, has left some to wonder, has there been taken the due care and attention to especially *The Interpretation Act* in terms of . . . Because as you change language, does that then disqualify some of the case law that's gone before because words, when they're changed or left out, you know . . . And we had several conversations around the privacy piece that the minister said, well it is a piece of legislation, therefore it is relevant but it's not named in the Act. And I'm not sure if the Human Rights Code is actually cited in this.

Hon. Mr. Morgan: — It is, and it's cited that any form of discrimination as included by the Human Rights Code. And the Human Rights Code is a changing piece of legislation because they don't necessarily list all of the defined prohibitions. That changes as case law evolves. So we referentially incorporated that anything that was prohibited under that Act and that . . . So if there was a new form of discrimination, they'd recognize it and that would automatically be included in here.

We've tried to make it clear where there was no policy change that we, you know, where the wording was updated that it would be perceived by a court or by a board, and saying oh yes, this is modernizing the language. Because as you're aware, new language can be an invitation to reinterpret. And we've tried to avoid that and be clear that, you know, that these were intended to be . . . Not saying that, you know, there may not be somebody that may try and argue something differently. But we've tried to make it as clear as we can where there is no policy change, where it's an update in language. And where there's a policy change, we've tried to make enough of a difference in the wording that it's an invitation to reinterpret or clear enough that it would not need to be reinterpreted.

Mr. Forbes: — Yes. A couple of things that I wanted to raise again. While thinking over lunch, the whole issue again around the successorship in public buildings, of janitorial, security, and food services, that the minister reassured that there was not a change in policy here. But again this being . . . Now it wasn't in the old Act. Or was it in the old Act? There was reference to it in the old Act and now it's left out?

Hon. Mr. Morgan: — It was section 37.1 and that section is not carried forward into this. So you know, we weren't going to go ahead and have it pass and say, oh you snuck . . . And we've raised it in saying this is something, a specific decision not to include.

Mr. Forbes: — So will there be some sort of interpretation bulletin or something that people can look at to say, this is what is meant, that the policy, while not being in the Act, is being carried forward by . . . Or the interpretation of the case law?

Hon. Mr. Morgan: — It would be a matter of the public education that the ministry does on proclamation and on rollout with the regulations. So there should be some background information that's supplied that will make, it should make it as clear as can be.

Mr. Forbes: — Okay. I know that's one that is, has a lot of concern because it's a pretty competitive area in terms of tendering those contracts. And it's becoming more and more competitive and people tend to often say it's the cost of labour that's the issue. So we look forward to seeing that as part of the public education process then as well.

Another one, and I just want to go back to this because we did have quite a, kind of an interesting conversation on December 4th in terms of different means of payment. And we had that discussion about cards and stuff, if we remember, back in December. Have you done any more further work on that? Has there been any interest in that?

Hon. Mr. Morgan: — We didn't receive submissions in regard to that area, but what had initially given was some comments were made some time before, that in remote areas, whether it's payday lenders and people that were charging money to cash cheques for people that didn't have a bank account, this was an option that you may want to give to an employee. And so we would, it essentially enables it to do it by way of regulation. I think if we did a regulation, that we'd want to have consultation with any employer that would want to do it, plus look at what the workplace is like, to make sure a worker wasn't taken advantage of by somebody, either by the fees charged on a card or what other options are there.

Mr. Forbes: — Has this been done in other parts of Canada or the States? Are you aware of the kind of . . .

Mr. Carr: — Certainly the issuance of some type of debit or pay card has been used in other jurisdictions by certain employers in specific applications. One of the things that we note as well is that as the banking industry in Canada updates its methods of commercial transaction, we're now seeing events today where you can use your smart phone as a debit card.

So the idea here again is to ensure that we're not providing an unreasonable impediment to the method of payment, but that we are in fact facilitating commerce. From that perspective again, the example the minister has given is one that we reviewed in terms of the policy work that we were doing and we concluded that we wanted to be as clear as possible in terms of saying that, okay, there's an evolving set of mechanisms available here and we want to be able to take them into account as soon as they become available in the marketplace. And so from that perspective, we felt it was appropriate to use the regulation-making tool of the part in order to make sure that we were maintaining currency.

As I think we may have mentioned when we were talking about this issue a number of months ago, it was only until the changes in this bill that full financial electronic transactions of paycheques became lawful in terms of what we've done. And so this was just another mechanism that we felt should receive policy consideration in the review and as a part of that, we've put forward this regulation-making authority.

Mr. Forbes: — Yes, and I would really urge that as you do that and you're able to do that, that you take the time to make sure they're not . . . Really this is a case where there might be unintentional consequences, you know. From our quick research — we haven't spent a long time on it too — but we've heard horror stories of, you know, cards that money goes on to cards or wrong cards or there's no tracking, and different opportunities for, you know, either intentional fraud or unintentional misplacement of funds and this type of thing. It's a new thing and of course then the charges that are on . . . But we know now it's almost the way we do things with electronic deposits and with . . . That's an expectation almost, yes.

Hon. Mr. Morgan: — I think the best statement of policy that we can make is we want to have the best technology possible and want, at the same time want to ensure that we do everything we can to protect and give workers a reasonable array of options that protect them from people, and that we go forward with things that are workable for both them and the employer. And your point's valid. We would not want to do it without a

lot of consultation.

Yes I mean they . . . There's nothing that would change the obligation of the employer to provide a statement of earnings but, you know, when the technology's done, but it's not something that would be undertaken lightly.

Mr. Forbes: — Good. Thank you. And last Thursday there was also . . . I didn't get an answer. We were talking about minimum wage and one of the parts, the regulations, spoke to uniforms. And then we moved quickly on to another topic and when I reviewed the *Hansard*, what will be the result of that? Because we moved quickly through the regulations with minimum wage.

We, in fact, intend no changes to that regulation. Where a uniform is required, it is to be provided by the employer and then to be laundered by the employer.

[13:15]

Mr. Forbes: — So now with the . . . And the minister's talked about the intention to index this, and we may see this relatively quickly. Will the whole package of minimum wage regulations come out at the same time? And so, as I am very happy about part of it, part of that, I think should be, actually several parts . . . I'm again happy to see that the wage base — is that what it is called? The wage call-out is what I refer to it, but that . . .

Ms. Parenteau: — Minimum call-out.

Mr. Forbes: — Minimum call-out is maintained. But will there be a consultation process around that? Of those, I think it's five or six points that we've talked about.

Hon. Mr. Morgan: — I think we've probably done all the consultation we would do regarding minimum wage. We've indicated the two factors. We would use the one leading, one lagging. And the timeline, it was there. We haven't heard any comments that would indicate we needed to re-consult on that area. So we would do that. Other labour standards issues, employment incentives might require further consultation on it. But I think that's sort of the one we went to. I don't know if there's . . .

Ms. Parenteau: — I believe that there might be some discussion, not to contradict the minister, but it is a complicated issue on how you would look at indexation. So I mean, as we get into it more, there might be specific things that we would want to ask in the structure of the language, but not on the concept of indexation and our formula thus far.

Mr. Forbes: — Good. Now I do also want to go back . . . You know, one of the major issues in the labour relations part was around the supervisors and banning supervisors from bargaining units. And that has been, and I was quickly looking through the amendment, but . . . Or has that been? Let's just take a moment to review that because when we get into the amendments, we're going to move really quickly on that.

So it was, and I'm looking back in here, 6-1(1)(o), the definition of supervisor, that's been expanded. Or no, it hasn't been. It is.

Mr. Carr: — It's been narrowed and exclusions have been provided.

Mr. Forbes: — Oh, here it is. And the exclusions, okay. And we talked earlier this morning about, you know, when I asked about the regularly performs or actually performs, in the use of primary. And you had talked about . . . Now I just want to clarify one term, gang leader. What is the term? What does that mean?

Hon. Mr. Morgan: — It has nothing to do with street gangs or politicians, I want you to know that. But there's some generally accepted terms that have existed and they're terms like lead hand, gang leader, team . . . Yes. Anyway, on the historical part, I'll defer to the oldest person that comes from the ministry and let Mike speak to it.

Mr. Carr: — The term gang leader has been used in a variety of unionized settings, particularly in manufacturing. And it's used almost synonymously with the term lead hand or team lead, but it was something that's been in common use for decades.

Mr. Forbes: — So there will still be a significant . . . Do you anticipate there will be a significant group of people who will be then out of the usual bargaining unit that we see today in workplaces? And what kind of percentage do you anticipate will be moving out?

Hon. Mr. Morgan: — I don't know and wouldn't speculate. You talk to, I know some of those that, you know, used high percentage numbers. I think we're focusing, rather than on numbers, we're focusing on the roles that people perform and focusing on the issues that we need to determine, rather than on having an end result of this many would move in or . . .

But I know some of . . . [inaudible] . . . have used some, some high amounts. You know, I think with this amendment, it clarifies what the intent is, that it's, you know, it's not intended to scoop a certain number of people. It's intended to focus on those that have the roles that would lead to those inherent conflicts.

Mr. Forbes: — So the current legislation calls for people who actually perform or regularly perform these duties. And so, in a sense, we might not see any difference? Is that the hope that we don't see . . .

Hon. Mr. Morgan: — I'll be candid with you. There's no doubt there will be . . . The wording is different than it is under the existing legislation. There will be a number of people in the workforce that will be taken out. I don't think I'm telling you anything that would be . . . I don't know how many nurses work in the province, but the health officials tell us that they think it could affect 50 or 60 nurses.

Mr. Forbes: — Okay, so I think there would be, if I remember the ads correctly, there's 9 or 10,000 nurses.

Hon. Mr. Morgan: — Yes. And you know, that was a number that their DM [deputy minister] sort of speculated that they thought were there. And he'd spent some time, not looking at the contents trying to identify a number, but sort of as he was

looking at where they were as they were trying to redefine what the definition was, because I think the initial fear was there'd be large, large numbers. It would be a major disruption in the workplace. But they had identified, themselves, where they felt the problem areas were, so they participated in re-crafting the definition. And then I said, I asked the question, will many workers be impacted? What if we used this? I'm guesstimating 50 or 60.

Mr. Forbes: — So other unions had this concern. I think CUPE had this concern, SGEU had this concern. What kind of impact would it have on SGEU?

Hon. Mr. Morgan: — I can't answer that because SGEU didn't . . . We didn't participate in the re-crafting of the language. We used the discussions with SUN. And we took it forward and asked, you know, we raised it at the advisory committee saying, this is what we're proposing to do. And I don't . . . Well they're not supportive of it, period.

Mr. Forbes: — Period, yes. So that'll be interesting. Let's just take SGEU or CUPE, which is more of a, I think the term is, health service provider. Is that the language that in the health region, if you have . . . And so, what the impact that will have in terms of, while this is a change, a tightening up, what will be the implication in terms of bargaining, in terms of more bargaining units or potential bargaining units or people out of the union?

Hon. Mr. Morgan: — We're expecting not to see a change in the number of bargaining units or not a significant change. Although there's no doubt, you know, we've now moved to a point where we have a flatter management structure as a result of well, lean and a variety of other things. So there's no doubt because of those types of changes and who's doing management or supervisory work, it will move a number of people out.

We didn't focus on a number or a target. We focused on what the positions were, what the roles were, and the principles that were behind it. So we crafted it back and forth, and that's why we used the other terms in it, lead hand. And that was so that we were identifying what we did not want to have happen, which would be somebody that is sort of the supervisor of the day, you know, where four or five people go out to repair a roadway or a culvert. Well that's not the goal of it, but when you're doing performance evaluations, you're doing discipline or that.

Mr. Forbes: — Right. So with the other groups, so you worked extensively with the Ministry of Health and with SUN on this. And so SGEU is not supportive. What about some of the other unions that were concerned, CUPE [Canadian Union of Public Employees], SEIU?

Hon. Mr. Morgan: — I don't want to speak for them. You know, I've always taken the position the advisory committee does not speak with a single voice. The individual members always have, always should . . . [inaudible] . . . so unless there's a really clear consensus, I wouldn't even want to . . . So on this one, I think you'd have to talk to the individuals.

I can tell you SGEU was not supportive. I don't think CUPE was supportive, but I don't think . . . I think we're sort of looking at it in the context of yet, you know, that this is something that made some sense. But once again, you'd have to speak to those people to do it, to have the words come from them.

I know SUN chose to participate or made comments, and then they had some discussions with their own ministry. And that's sort of where we came to this middle ground, and we're hoping and expecting that it will be a reasonable model to use elsewhere across the sector.

Mr. Forbes: — Okay. So then with those . . . And I'm just curious what would have . . . I mean, because you're getting close to when you're using primary function. Or was it the limitations that were causing some of the other people unhappiness?

Hon. Mr. Morgan: — It was probably both. So you know, we tried to make the language more specific and make the intent a little more clear. It wasn't so much wanting to change the intent as to make it clear.

Mr. Forbes: — Okay. Now there was some concern about, I had some questions about clause 6-19 in the . . .

Hon. Mr. Morgan: — 19?

Mr. Forbes: — Yes, (4)(d), this is the . . .

Hon. Mr. Morgan: — This one recognizes that where, if a business changes ownership, the intention is the existing common law or the existing rules with regard to successorship would apply, but sometimes where there is a sale and where it involves more than one bargaining unit, that you would have a vote of the employees.

Mr. Forbes: — But in the old bill it talks about the phrase, in the bargaining unit, and you've taken out that phrase and put in, eligible to vote. So what is the difference there?

Hon. Mr. Morgan: — I'm going to let Ms. Parenteau speak to that, but that was a change that had come out of the advisory committee.

Ms. Parenteau: — As the minister mentioned, it did come out of the advisory committee. You might have two bargaining units so you wanted to ensure that all employees had the ability, and it would be determined by the Labour Relations Board who that group was.

[13:30]

Mr. Forbes: — Right. Okay, fair enough. I think that what we were going to talk about this afternoon were the remaining four sections and, of course, we kind of have talked a little bit about 4 but I don't know if you have any comments. And actually . . . [inaudible interjection] . . . 1, 4, 9 and 10. And I think we had an answer to one question this morning which talked about the importance of section 1, if I'm not mistaken, about the Crown.

Hon. Mr. Morgan: — Right.

Mr. Forbes: — Yes. I don't know if you have any comments about these things. These are kind of things that, not being a drafter . . .

Hon. Mr. Morgan: — I don't have a lot that I want to add. You know, there was a section dealing with the powers of the minister, you know, making things mandatory rather than permissive. So you know, this wasn't trying to have some kind of a tapestry of, you know, a myriad of things that are there. This was more a matter of saying these were specific issues just to do the language update.

Mr. Forbes: — Right. And then IV was the part around the appeal hearings re parts III, or II and III. And I guess I would just say, you know, following our conversation this morning, because this really does describe the work of the Labour Relations Board in many ways, why was it structured this way and not structured around the Labour Relations Board and the work it will do? Because actually, Labour Relations Board obviously is very key to the next section, labour relations. And so I just find it an odd placement and why you would have that part there and not just describe the Labour Relations Board.

Hon. Mr. Morgan: — Well the Labour Relations Board is a tool in a process and it doesn't have its own legislation. You know, originally it was part of *The Trade Union Act* for purposes of resolving issues that are there. So all this part is, is we're just saying by reference that we've used that vehicle for it as well.

I suppose another method of drafting is to say that the board shall have the following duties and responsibilities. But the Act isn't about the board. The Act is about a worker having the ability to access the different parts of it, or a union having the ability to access it.

Mr. Forbes: — And so why was it, I guess . . . and I'd be interested in hearing more about this because in terms of . . . you've referenced it as a single place. Now all the appeals and all the adjudication comes through the Labour Relations Board. And was there issues before that . . . Why the change here?

Hon. Mr. Morgan: — I think you had issues before where things were done by minister's order, by minister's appointment. And there was, I think, a perception that on an appointment of an adjudicator or something or an arbitrator that, well, is this an area that the minister should do or is this an area that are better done by somebody that's say at arm's-length? We have a vehicle that's supposed to do it. So the overriding policy goal was we want to have a single avenue for all appeals in administrative matters to be dealt with. Clearly there's some areas where you wouldn't use that, and that would be appointment of a mediator under what was her leave, which is now rolled into this Act.

Mr. Forbes: — Now the director of Labour Relations Board, does that person have or does that person come out of a background of labour relations? I assume that they do. Is that the case and has been the case?

Hon. Mr. Morgan: — The board Chair or the . . .

Mr. Forbes: — The board Chair, yes.

Hon. Mr. Morgan: — The board Chair is appointed by order in council, and at the present time it's Ken Love who has been just renewed. And he's practised law and I think had a broad general practice. I think there was a significant labour component to it, but I can't speak to the nature of his practice. I know I had files with him on occasion, but I wasn't part of the process that . . . when he was selected. But I think he's done a good job and certainly his legal skills have, either were there before on labour matters, or else he's developed them since. But he seems to be doing, I think, a good job.

In my view, the qualifications for the role should be a number of years at the bar, an ability to have worked in either administrative or courtroom tribunals, and some experience or exposure to labour law without a perceived bias one way or the other. And I'm cautious about saying that, because if you use that credential too, you wouldn't get a well-qualified candidate such as Justice Ball.

Mr. Forbes: — Where I'm going with this is that if you're moving over issues of employment standards or occupation health into a board that usually focuses solely on labour relations, is there a gap in the expertise or just . . .

Hon. Mr. Morgan: — Mr. Carr's quick answer is no. It's a process. You know, they'll identify if it's an outside adjudicator and where there's an appeal that they have to hear it. They may have to develop learning. But you know, judges do that all the time. We have members of the Labour Relations Board that are there because some of them have had experience in labour matters specifically, and some of them may have to learn.

And judges do it all the time. If you talk to a judge off-line, they'll say, yes yesterday I was listening to actuaries dealing with people on a pension. The next day I was listening to people and I had to learn what bitumen was. So you know, there is a myriad of things that come before them. And hopefully it's a narrow enough area they maintain their expertise and development.

Mr. Forbes: — And I appreciate that. But I do think that it's one that, as things transition over, that there is a bit of a respect for how important these issues are, particularly with employment standards, because these are vulnerable workers who don't have a lot of resources at hand. Of course there may not be lawyers involved because they're just trying to get some wages back or something like that. I'm not sure what kind of circumstances, they may end up with an adjudication.

The same with occupational health and safety or harassment, that we're moving away from this special adjudicator to just adjudicators. And so this is I think a concern about that transition, that we make sure that all these areas are, now with the expanded duties, that there is a respect for this.

Hon. Mr. Morgan: — The adjudicators, there is a pool of them. And clearly some of them will have different areas of expertise coming into it, so obviously the selection would be made based on the expertise or their ability to come up to speed on those issues. So your point's well taken.

Mr. Forbes: — Is there an oversight of the adjudicators and their work by the Chair? Will there now be . . . I don't know

what happened prior to this in terms of . . .

Hon. Mr. Morgan: — There was not before and isn't now. There's, you know, there's the . . . [inaudible interjection] . . . Yes. If you look at 4-1(1), it talks about after any consultation by the minister with labour organizations and employer associations that the minister considers appropriate, the Lieutenant Governor may appoint as adjudicators for the purpose of hearing appeals or conducting hearings one or more individuals who possess the prescribed qualifications.

So I think the policy would continue. I mean the vehicle for who those, you know, who the cases are assigned to may rest with the LRB, but the process would continue. And I think we have a good pool of adjudicators. I know when we go looking for them, we advertise and try and look for some people that have got . . . [inaudible interjection] . . . Mr. Carr's using the words talent and ability.

Mr. Forbes: — So you were just referencing what section then, again?

Hon. Mr. Morgan: — 4-1(1).

Mr. Forbes: — Okay. And then I'm just looking at 4-3(1), where the director of employment standards and the director of occupational health and safety informs the board of an appeal to be heard, and then the board selects the adjudicator. So that's the process?

Hon. Mr. Morgan: — Yes. The board operates or controls the assignment of the adjudicator . . . [inaudible interjection] . . . Yes. The ministry recruits; they assign.

Mr. Forbes: — They assign. And then, and when we talk about the board are we talking about the full board or are we talking about the Chair?

Hon. Mr. Morgan: — It would be an administrative function done by the Chair and the registrar.

Mr. Forbes: — And then they would make sure that the work is done in a timely manner and then the response comes back. And then what happens after that?

Hon. Mr. Morgan: — They render a decision. The decision is regarded as a final decision unless there's been an error in law, and then there's an appeal process on an error of law. Most of the ones that go on to labour standards, they don't involve huge amounts of money, although for the worker it certainly could be a significant amount. But the role is to determine, was there an employment contract? What is the calculation of the wages? There's usually been an involvement of a labour standards officer before that that would have went in and issued a certificate and said, while the employer failed to keep records, the employee has indicated this is what's there. Then the employer comes back and says no, no they didn't. They were . . . this person didn't work for us, and whatever. So then the adjudicator would hear the information and say, yes, we got this, we got that, and . . .

Mr. Forbes: — Now there is . . . This reminds me of a question I had yesterday but didn't get to ask, and that is around oral hearings. And I think it was occupational health and safety. I don't have the section with me. But that is now an option, and was before more or less. And if I had my big chart I think one of the terms or something . . . There was a concern again about natural justice, that sometimes because of the nature of the concern it would be more appropriate to have an oral hearing. But this seems to have gone by the wayside. I don't know if you want to speak to that.

Mr. Carr: — Again, the principle there is that there may be circumstances where an oral hearing is not appropriate or relevant and so the decision of the director would then be made. But then there is a secondary avenue of appeal to adjudication.

So on the basis that that avenue of appeal is still open to the parties affected by that decision, the conclusion was that it's more effective and efficient to have the director render the decision. They can decide whether they require an oral hearing or not and, if the decision is found to be wanting by one of the parties affected, they can then use the appeals process, take it to an adjudication, and have the matter resolved.

Mr. Forbes: — So what is the history of that process? It was in legislation before and has now been taken to — I don't know what the term would be — like almost a may clause. It sounds like it is. I wish I had the number of the clause in front of me. I don't know if you have that. In terms of oral hearings.

Mr. Carr: — It applies under both section 2 and section 3, and in either case the director may not be required to provide an oral hearing. And if you look at the . . . Let me just find the occupational health and safety provision here.

Mr. Forbes: — Here it is. I think it's 3-53(7).

Hon. Mr. Morgan: — What is it that you were asking?

Mr. Forbes: — I'm curious. It had been flagged to me that this was a change and that it was worthy of questions and examination here. And so the deputy minister alluded to about how it can still happen, and I'm curious about why the change. And the deputy minister has alluded to it, but a bit of a history would be important to this.

[13:45]

Mr. Carr: — Under the previous provisions, an appeal pursuant to a decision of an officer was appealable to the director. The director has always exercised some discretion as to whether or not that review was conducted by virtue of an oral hearing or an administrative decision in review of the file. That has been continued, and it's been applied uniformly across the provisions of the bill so that it doesn't matter whether we're talking about the director of employment standards or the director of occupational health and safety, they are reviewing the decisions of officers. They can conduct at their discretion an oral hearing or simply do an administrative review and then . . . And the rationale for that has been that it still allows the access to an appeal of any decision they make with respect to that review.

Mr. Forbes: — And now is this — you know, we're going back to that — is this a Bill 23 change? Or is this a new

change?

Mr. Carr: — This was a change that was incorporated as part of the work around Bill 85 and it was done because it reflected the practice and practices of various directors in that role from occupational health and safety over the years. And it was done to again bring consistency across the piece so that it didn't matter whether we're talking about an employment standards process or an occupational health and safety process. They would look and feel the same.

Mr. Forbes: — Now can the appeal be done in an oral fashion?

Mr. Carr: — The appeals to the adjudicator?

Mr. Forbes: — Yes.

Mr. Carr: — In fact adjudicators do function as part of hearings, so I'll take it back to part IV. After the board has assigned an appeal to an adjudicator under 4-4 then the "adjudicator may determine the procedures by which the appeal or hearing is to be conducted." It goes on to suggest that:

> An adjudicator is not bound by the rules of law concerning evidence and may accept any evidence that the adjudicator [feels or] considers appropriate.
>
> An adjudicator may determine any question of fact that is necessary to the adjudicator's jurisdiction.

And again that process talks about the kind of procedural process on appeal. 4-2 talks about the duties of the adjudicator and 4-2(a) sets out:

> An adjudicator shall:
>
> (a) hear and decide appeals pursuant to Part II and conduct hearings pursuant to Division 5 of Part II;
>
> (b) hear and decide appeals pursuant to Division 8 of Part III; and
>
> (c) carry out any other prescribed duties.

Mr. Forbes: — And I'm just thinking that we just did a bill in the House I think about hearings. Now the language escapes me. But I guess my question, this is all correct in terms of *The Interpretation Act*, and the other pieces of legislation that we have. Some of this . . . Does this actually elevate some of the powers of the adjudicators that . . .

Mr. Carr: — I think the powers of adjudicators are specifically set out and they can, if I take you to 4-5 what reads as follows:

> In conducting an appeal or a hearing pursuant to this Part, an adjudicator has the following powers:
>
> (a) to require any party to provide particulars before or during an appeal or a hearing;
>
> (b) to require any party to produce documents or things that may be relevant to a matter before the adjudicator and to do so before or during an appeal or a hearing;
>
> (c) to do all or any of the following to this same extent as those powers are vested in the Court of Queen's Bench for the trial of civil actions:
>
> (i) to summon and enforce the attendance of witnesses;
>
> (ii) to compel witnesses to give evidence on oath or otherwise;
>
> (iii) to compel witnesses to produce documents or things;
>
> (d) to administer oaths and affirmations;
>
> (e) to receive and accept any evidence and information on oath, affirmation, affidavit, or otherwise that the adjudicator . . . [sees as] appropriate, whether admissible in a court of law or not;
>
> (f) to conduct an appeal or hearing using a means of telecommunications that permits the parties and the adjudicator to communicate with each other simultaneously;
>
> (g) to adjourn or postpone the appeal or hearing.

And so you can see that the powers of the adjudicator are extensive.

Hon. Mr. Morgan: — I can tell, if this helps, the powers and everything else are unchanged both by way of policy and virtually by way of wording. The only change is in that there's a time limit on how long the adjudicator has to render a decision.

A Member: — That's 60 days.

Hon. Mr. Morgan: — Yes, limited to 60 days. Otherwise it's the same as it was before.

Mr. Forbes: — And I look further down at 4-5(2) and that's a continuation of the harassment part.

Hon. Mr. Morgan: — And that stays in intact as well.

Mr. Forbes: — Good. Okay. Then with the other sections that are left, and I think that's really to deal with the . . . There's one around assignment of wages. I don't know. I don't know an awful lot about this area. It's probably pretty critical though.

Hon. Mr. Morgan: — Yes. Once again, not a change. There's a long-standing piece of legislation that prohibits an assignment of wages, that you can't assign your wages as security. So if you owe money to the co-op store, you can't say, I'm giving them a security; my wages will go directly to the co-op store. You know, you may direct your employer to pay part of that to get it out but if you countermand that any time you want . . . The only things that come directly off are the things that are specifically enumerated, which are the standard source deductions and the ones that are enumerated in the Act.

So the assignment of wages, that prohibits you from granting as security, and that's carried forward.

Mr. Forbes: — And then on the second part of that, the other matter is offences by corporation, unions, all of that, immunity. Is there anything new or different?

Hon. Mr. Morgan: — Higher fines.

Mr. Forbes: — All the way through. Is this the summary offence ticketing?

Hon. Mr. Morgan: — No that's under the OHS section. But we've increased the fines. I think they went from 15 to 50,000 or in that range. But the fines hadn't been updated for a long time. And I think the rationale was that we wanted to have a fairly uniform range of fines, obviously higher for OH [occupational health] penalties because it deals with the workers' safety. But they've gone up all the way across to reflect what's standard across other jurisdictions.

Mr. Forbes: — So I think then . . . And the rest, the part X is about dealing with the other Acts, or related pieces of legislation.

Hon. Mr. Morgan: — That's the consequential amendments that would be made by virtue of name change. And I think that's where you find the change that we needed to make to ensure that we're able to enforce Bill 604, the one dealing with asbestos.

Mr. Forbes: — Good. Now there were the three Acts that weren't included. Do you want to take a minute and talk about this as we wrap up the part of the . . .

Hon. Mr. Morgan: — One of them was the piece of legislation that dealt with foreign workers and that was, that one was, that bill was assigned to Ministry of the Economy and that Act was, it was . . . [inaudible interjection] . . . Okay. Oh, hang on.

Mr. Carr: — The two pieces of legislation that were not rolled into this Act were *The Human Resources, Labour, and Employment Act* as well as *The Victims of Workplace Injuries Day of Mourning Act*.

There was a third piece of legislation that was in the discussion paper. That was the provision that dealt with *The Collective Bargaining Agreement Expiry Date Exception Act*, which I affectionately refer to as the IPSCO Act. And that piece of legislation was repealed last spring.

Mr. Forbes: — And I saw references to the fact that while *The Teachers Federation Act* and some, that they though could have new access or access to new bargaining tools. And what were those specifically that they would be able to? And it was the teachers. And what was the other group?

Hon. Mr. Morgan: — Police officers and teachers would have the same provision where they would give the notice to bargain, have the notice of impasse process, cooling-off period, and the same process there, and the same ability for a mediator or a conciliator to be appointed.

Mr. Forbes: — Okay. Well, Mr. Chair, you know we're getting close to the end. I just want to make some observations here because when we go into the House, it'd be third reading. But I've appreciated the opportunity to go over some of the details, but I would really highlight that they're just some of the details.

Clearly this is a very significant piece of legislation and one that will . . . And people have been taking hours and hours and people have said, heard me say, talk about diligence, due diligence to review what it means and what are the consequences of it, whether unintended or intended consequences. And it will be a matter of time to see how solid some of these things are and what the outcomes are. And I would really urge the ministry, you know, we've had discussions in the employment standards, we've had a discussion about the eight hours or ten hours debate and about whether that's a good thing or not. And I would really urge the ministry to monitor the changes, the impacts because it is sort of the keeper of some of those long, hard-fought-for rights — I'm not sure if that's the right word, but whether it's eight-hour days or whatever — and so we have some really deep, deep concerns about that . And we really want to see that those changes be taken a look at in a serious way, monitored over the course of time because we know it's a slippery slope.

Once you start changing those things, it's hard to get back. And I know the ministry noted that they're not always welcomed at people's doors when they come and ask, so how are things going? And so it's a tough one. And how do we actually know the impact of these changes that we've undertaken? And we've often referred to the fact that it's taken decades of labour legislation in this province. But we look across the world in terms of some of the rights that we have fought for, which are so important.

So we need to keep that going. We need to absolutely keep that going because we really do believe that we have arrived here in Saskatchewan because of the working men and women in this province and because of what we've had. And the ministry's done a job of that. And so we don't want to see that balance upset unintentionally.

So this is a pretty important moment that we're at today where we're putting this all together. In my second reading speech, I talked about the *On The Side of the People* and just the history, getting back to the, you know, the fur traders and the railroaders. And we had some good history lessons about the eight . . . the Sunday, but also I think about the one Act — and I think it was even our party who introduced the Act — about women not being able to work in a Chinese laundry shop by themselves and that type of thing. So this is all evolving, and we try to do the best we can. So I really urge the ministry and the minister to do all the due care and attention to this, that while . . . This is just so critically important.

[14:00]

So again, and I want to say to all members of the committee that as the opposition we're willing to work on this, that we don't think . . . And we do believe that there is ample time to make this happen in terms of the timeline that the minister has laid out in terms of how it will work on the floor of the shops or the hospitals or wherever we are. So we can make that happen, but we have a huge responsibility to deal with the essential services in a timely manner.

I think the point's been well made over the past several years about how important that that is, that while bargaining is happening and we respect the rights of labour, there is an expectation — and a right one — that the public has that they will be safe during those times and that there will be access to things, whether it be safe roads or safe hospitals, that type of thing. So we'd be very willing to discuss that.

Our concern of course is that we don't overreach and that the law is solid. So our concerns, as I said this morning, I have several concerns around the whole litigation aspect of this bill. That there's potential for litigation is huge. We know that when change happens that that opens up the potential for so much more.

We have real concerns about the changing relationship between labour and government. We think that government is potentially looking too much into the business of labour. It's not necessary. They are transparent, and they do work for their members, and their members have the opportunity. And we have a deep concern about the regulations, what's going to happen with regulations because again that is where really the flexibility or the responsiveness of legislation happens. Legislation is supposed to stand the test of time, but the regulations are in many ways the blood that keeps it current and keeps it up to date.

So we have concerns about that. So we think this bill should take, there should be more time taken so people can think through some of these things. We appreciate the amendments. Some are good and we're supportive of that. But I don't think that it deals with the whole nature, and we are really deeply concerned about the overarching nature of the bill.

But having said that, I do appreciate the time that we've been here, and I appreciate the answers that have been given by the ministry. I should tell the committee that I think this is the fastest working committee that I've seen because we see some committees where the answers are slower to get at. And labour's been very fast with that, almost sometimes too fast, where I lose track of my questions, but they've been very good about that. So I appreciate the answers from the staff. And so with that, Mr. Speaker, at this point I have no further questions and so if the committee wants to continue on with its business.

The Chair: — Thank you, Mr. Forbes.

Hon. Mr. Morgan: — Thank you for that. I appreciate your candour and your comments. And you've expressed a concern that flexibility on hours ought never be used to diminish or reduce the benefits that are there for a worker, and I think your point is well taken. And as we go through the consultation and we go through the processes from there, I think it's important that we remain mindful of that.

You also raised the issue of ensuring that the essential services consultation be a full and thorough process. And we've certainly heard significant input and want to continue to do that. I had mentioned to you in the hallway that it would be my intention to invite you to one or more of the meetings. It's up to you whether you wish to participate, but I'd certainly want to . . . I would welcome your comments as we go through the process, and I thank you for that.

You've also indicated that we're adjourning slightly early today and that we've got your commitment that the rest of the process will go through unimpeded, notwithstanding that we could spend another hour or two here.

And, Mr. Chair, I'd like to use this opportunity to thank the officials that have come out, that have given, as Mr. Forbes indicated, prompt and detailed answers. I want to thank all of the committee members and the legislative staff for being here and yourself as well. So thanks to everybody and especially the people that brought snacks this morning. So thank you.

The Chair: — Thank you, one and all. If there are any more questions or comments? Seeing none, prior to clause by clause consideration of the bill, I would like to take this opportunity to remind members of a well-established parliamentary procedure of clause by clause consideration.

Members, if you refer to Beauchesne's, 6th Edition, paragraph 690; Erskine May, 23rd Edition on page 601; O'Brien and Bosc, page 761; and our rules; they provide guidance on the order that clauses are called. We will first consider the clauses and then new clauses. Given the committee will be considering a number of amendments, I would like to remind members what our *Rules and Procedures* state, pursuant to rule 61(1):

> A motion to amend a question may be proposed to:
> (a) omit certain words;
> (b) omit certain words in order to insert or add others; or
> (c) insert or add words.

Given this bill has over 400 clauses, I am asking leave of the committee to review parts III, IV, V, VII, VIII, IX, and X by parts and divisions. It is my understanding that there are amendments proposed in part I, II, and VI, including new clauses. Therefore the committee will review these parts clause by clause. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Are there any questions? Seeing none, we will proceed to vote on the clauses. Part I, preliminary matters, clause 1-1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1-1 agreed to.]

[Clauses 1-2 and 1-3 agreed to.]

Clause 2-1

The Chair: — Part II, employment standards, division 1, preliminary matters for clause 2-1. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-1 of the printed Bill

> Add the following clause after clause (d) of Clause 2-1 of the printed Bill:

"(e) **'emergency circumstance**' means a situation where there is an imminent risk or danger to a person, property or an employer's business that could not have been foreseen by the employer".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-1. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-1 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-1 as amended agreed to.]

[Clause 2-2 agreed to.]

Clause 2-3

The Chair: — Clause 2-3. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-3 of the printed Bill

Amend Clause 2-3 of the printed Bill:

(a) in clause (1)(a) by striking out "subject to subsection (2)" and substituting "subject to subsections (2) and (3)"; and

(b) by adding the following subsection after subsection (2):

"(3) Section 2-64, Division 5 and section 2-83 apply to an employee employed primarily in farming, ranching or market gardening".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-3. Do committee members agree with that amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-3 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-3 as amended agreed to.]

[Clauses 2-4 to 2-17 inclusive agreed to.]

Clause 2-18

The Chair: — Clause 2-18. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-18 of the printed Bill

Amend Clause 2-18 of the printed Bill:

(a) by striking out subsection (1) and substituting the following:

"(1) Unless an employee is working in accordance with a modified work arrangement or in accordance with an averaging authorization that satisfies the requirements of section 2-20, an employer shall pay the employee overtime for each hour or part of an hour in which the employer requires or permits the employee to work or to be at the employer's disposal for more than:

(a) 40 hours in a week; or

(b) either of:

(i) eight hours in a day if the employer schedules the employee's work in accordance with the clause (2)(a); or

(ii) 10 hours in a day if the employer schedules the employee's work in accordance with clause (2)(b);" and

(b) by adding the following subsection after subsection (3):

"(4) Notwithstanding section 2-17, subsection (1) of this section and section 2-19, an employer shall pay an employee overtime if:

(a) the employee works, on average, fewer than 40 hours per week; and

(b) the employer requires or permits the employee to work or to be at the employer's disposal for more than eight hours in a day".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-18. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-18 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-18 as amended agreed to.]

[14:15]

[Clause 2-19 agreed to.]

Clause 2-20

The Chair: — Clause 2-20. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-20 of the printed Bill

Add the following subsection after subsection (4) of Clause 2-20 of the printed Bill:

"(5) The employer shall provide notice of the written authorization to every employee who will be working in accordance with the written authorization by:

(a) personally giving it to the employee;

(b) posting it in the workplace;

(c) posting it online on a secure website to which the employee has access; or

(d) provide it in any other manner that informs the employee of the notice".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-20. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-20 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 2-20 as amended agreed to.]

[Clauses 2-21 to 2-39 inclusive agreed to.]

Clause 2-40

The Chair: — Clause 2-40. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-40 of the printed Bill

Add the following subsection after subsection (4) of Clause 2-40 of the printed Bill:

"(5) Nothing in this section limits or abrogates an employee's rights at common law or pursuant to *The Saskatchewan Human Rights Code*".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-40. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-40 as amended agreed?

Some Hon. Members: — Agreed

The Chair: — Carried.

[Clause 2-40 as amended agreed to.]

[Clauses 2-41 to 2-45 inclusive agreed to.]

Clause 2-46

The Chair: — Clause 2-46, I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-46 of the printed Bill

Strike out clause (2)(a) of Clause 2-46 of the printed Bill and substitute the following:

"(a) to bereavement leave, compassionate care leave, critically ill child care leave, crime-related child death or disappearance leave and citizenship ceremony leave".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-46. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-46 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-46 as amended agreed to.]

[Clauses 2-47 to 2-54 inclusive agreed to.]

Clause 2-55

The Chair: — Clause 2-55. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-55 of the printed Bill

Strike out subsections (3) to (5) of Clause 2-55 of the printed Bill.

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-55. Do committee members agree with the amendment

as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-55 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 2-55 as amended agreed to.]

[Clauses 2-56 and 2-57 agreed to.]

Clause 2-58

The Chair: — Clause 2-58. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-58 of the printed Bill

Strike out subsection (1) of Clause 2-58 of the printed Bill and substitute the following:

"(1) If an employer lays off or terminates the employment of an employee, the employer shall pay to the employee, with respect to the period of the notice required pursuant to section 2-57:

(a) if the employer is not bound by a collective agreement that applies to the employee, the greater of:

(i) the sum earned by the employee during that period of notice; and

(ii) a sum equivalent to the employee's normal wages for that period; or

(b) if the employer is bound by a collective agreement that applies to the employee, the entitlements provided for in the collective agreement."

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-58. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-58 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 2-58 as amended agreed to.]

[Clauses 2-59 to 2-84 inclusive agreed to.]

Clause 2-85

The Chair: — Clause 2-85. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-85 of the printed Bill

Strike out subsection (1) of Clause 2-85 of the printed Bill and substitute the following:

"(1) A claim pursuant to this Part with respect to unpaid wages must be made to the director of unemployment standards:

(a) within 12 months after the last day on which payment of wages was to be made to an employee and the employer failed to make the payment; or

(b) if employment with the employer has ended, within 12 months after the last day on which any final payment of wages was to be made to the employee."

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-85. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-85 as amended agreed?

An Hon. Member: — Just one second. Can we have a clarification on a word please?

The Chair: — I will reread the proposed amendment into the record:

Clause 2-85 of the printed Bill

Strike out subsection (1) of Clause 2-85 of the printed Bill and substitute the following:

"(1) A claim pursuant to this Part with respect to unpaid wages must be made to the director of employment standards:

(a) within 12 months after the last day on which payment of wages was to be made to an employee and the employer failed to make the payment; or

(b) if employment with the employer has ended, within 12 months after the last day on which any final payment of wages was to be made to the employee".

Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is Clause 2-85 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-85 as amended agreed to.]

[Clauses 2-86 to 2-92 inclusive agreed to.]

Clause 2-93

The Chair: — Clause 2-93. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-93 of the printed Bill

Add the following subsection after subsection (2) of Clause 2-93 of the printed Bill:

"(3) If an employer is convicted of taking discriminatory action against an employee contrary to section 2-42, the convicting court may, in addition to any . . . penalty imposed, order the employer:

(a) to reinstate the employee in his or her former employment under the same terms and conditions in which he or she was formerly employed; and

(b) to pay to the employee his or her wages retroactive to the date that the discriminatory action was taken against the employee".

I so move.

[14:30]

The Chair: — Mr. Merriman has moved an amendment to clause 2-93. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-93 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 2-93 as amended agreed to.]

[Clause 2-94 agreed to.]

Clause 2-95

The Chair: — Division 7, regulations, clause 2-95. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 2-95 of the printed Bill

Amend Clause 2-95 of the printed Bill:

(a) by adding the following clause after clause (c):

"(d) imposing terms and conditions applicable to any employer or employee or category of employers or employees exempted pursuant to clause (a) or (b), including terms and conditions prescribing the number of hours that an employee or category of employees may be required or permitted to work or to be at the disposal of his or her employer without the employer being required to pay the employee or category of employees additional wages pursuant to Subdivision 2 of Division 2"; and

(b) by adding the following clause after clause (m):

"(n) respecting the determination of the cash value of board and lodging received by an employee from his or her employer".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 2-95. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2-95 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 2-95 as amended agreed to.]

[Clauses 2-96 to 5-26 inclusive agreed to.]

Clause 6-1

The Chair: — Clause 6-1. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-1 of the printed Bill

Amend subsection (1) of Clause 6-1 of the printed Bill:

(a) by striking out paragraph (h)(i)(B) and substituting the following:

"(B) a person whose primary duties include activities that are of a confidential nature in relation to any of the following and that have a direct impact on the bargaining unit the person would be included in as an employee but for this paragraph:

(I) labour relations;

(II) business strategic planning;

(III) policy advice;

(IV) budget implementation or planning"; and

(b) by striking out clause (o) and substituting the following:

(o) **'supervisory employee'** means an employee whose primary function is to supervise employees and who exercises one or more of the following duties:

(i) independently assigning work to employees and monitoring the quality of work produced by employees;

(ii) assigning hours of work and overtime;

(iii) providing an assessment to be used for work appraisals or merit increases for employees;

(iv) recommending disciplining of employees;

but does not include an employee who:

(v) is a gang leader, lead hand or team leader whose duties are ancillary to the work he or she performs;

(vi) acts as a supervisor on a temporary basis; or

(vii) is in a prescribed occupation."

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 6-1. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Is clause 6-1 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-1 as amended agreed to.]

[14:45]

[Clauses 6-2 to 6-17 inclusive agreed to.]

Clause 6-18

The Chair: — Clause 6-18, is that agreed?

Some Hon. Members: — No.

The Chair: — Clause 6-18 is not agreed. The clause is defeated.

[Clause 6-18 not agreed to.]

Clause 6-19

The Chair: — Division 4, successor rights and obligations, clause 6-19. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-19 of the printed Bill

Strike out clause (4)(d) of Clause 6-19 of the printed Bill and substitute the following:

"(d) directing that a vote be taken of all employees eligible to vote".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 6-19. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-19 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-19 as amended agreed to.]

[Clauses 6-20 to 6-33 inclusive agreed to.]

Clause 6-34

The Chair: — Clause 6-34. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-34 of the printed Bill

Amend subsection (1) of Clause 6-34 of the printed Bill by striking out "the employer and union" and substituting "the employer or union".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 6-34. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-34 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 6-34 as amended agreed to.]

[Clause 6-35 agreed to.]

Clause 6-36

The Chair: — Clause 6-36. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-36 of the printed Bill

Amend subsection (1) of Clause 6-36 of the printed Bill by striking out "At any time after a notice to engage in collective bargaining has been given" and substituting "At any time after the parties have engaged in collective bargaining".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 6-36. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-36 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-36 as amended agreed to.]

[Clauses 6-37 and 6-38 agreed to.]

Clause 6-39

The Chair: — Division 9, collective agreements, clause 6-39. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair:

Clause 6-39 of the printed Bill

Strike out subsection (1) of Clause 6-39 of the printed Bill and substitute the following:

"(1) If a ratification vote is required by one or both of the parties to confirm the acceptance of a collective agreement, no union or employer shall fail to:

(a) commence the process of conducting the vote within 14 days after the date on which the collective agreement was reached; and

(b) conclude the vote mentioned in clause (a) within 60 days after the date on which the collective agreement was reached".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 6-39. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-39 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-39 as amended agreed to.]

[Clauses 6-40 to 6-58 inclusive agreed to.]

Clause 6-59

The Chair: — Division 2, unions and union . . . division 2 . . . Sorry, division 11. Division 11, unions and union members, clause 6-59. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-59 of the printed Bill

Strike out clause (1)(c) of Clause 6-59 of the printed Bill and substitute the following:

"(c) the employee's discipline by the union".

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 6-59. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-59 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-59 as amended agreed to.]

[Clauses 6-60 and 6-61 agreed to.]

Clause 6-62

The Chair: — Clause 6-62. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-62 of the printed Bill

Amend Clause 6-62 of the printed Bill:

(a) by striking out subsection (1) and substituting the following:

"(1) Within six months after the end of a union's fiscal year, the union shall make available without charge:

(a) to each of its members the audited financial statement of its affairs to the end of the preceding fiscal year, signed by its president and treasurer or corresponding principal officers;

(b) to each of its members who are in the bargaining unit the unaudited financial statement of that bargaining unit; and

(c) to each of its members any prescribed information";

(b) in subsection (2) by striking out "audited financial statement mentioned in clause (1)(a)" and substituting "financial statements mentioned in subsection (1)";

(c) in subsection (3) by striking out "financial statement" and substituting "financial statements"; and

(d) by adding the following subsection after subsection (3):

"(4) The financial statements mentioned in subsection (1) must be provided by:

(a) personally giving them to the member;

(b) mailing them to the member;

(c) posting them in the workplace;

(d) posting them online on a secure website to which the member has access; or

(e) providing them in any other manner that ensures that the member will receive the statements".

I so move.

The Chair: — Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-62 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-62 as amended agreed to.]

[Clauses 6-63 to 6-66 inclusive agreed to.]

Clause 6-67

The Chair: — Clause 6-67. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-67 of the printed Bill

Amend subsection (2) of Clause 6-67 of the printed Bill by striking out "the minister may" and substituting "the minister shall".

I so move.

The Chair: — Do committee members agree with amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-67 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-67 as amended agreed to.]

[Clauses 6-68 to 6-87 inclusive agreed to.]

Clause 6-88

The Chair: — Clause 6-88. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-88 of the printed Bill

Amend subclause (a)(i) of Clause 6-88 of the printed Bill by striking out "population of 15,000" and substituting "population of 20,000".

I so move.

[15:00]

The Chair: — Mr. Merriman has moved amendment to clause 6-88. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-88 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-88 as amended agreed to.]

[Clauses 6-89 and 6-90 agreed to.]

Clause 6-91

The Chair: — Clause 6-91. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-91 of the printed Bill

Add the following subsection after subsection (2) of Clause 6-91 of the printed Bill:

"(3) When considering its decision or award and to ensure that the decision or award is fair and reasonable to the employees and the employer and is in the best interest of the public, the arbitration board:

(a) shall consider, for the period with respect to which the decision or award will apply, the following:

(i) wages and benefits in private and public, and unionized and non-unionized, employment;

(ii) the continuity and stability of private and public employment, including:

(A) employment levels and incidence of layoffs;

(B) incidence of employment at less than normal working hours; and

(C) opportunity for employment;

(iii) the general economic conditions in

Saskatchewan; and

(b) may consider, for the period with respect to which the decision or award will apply, the following:

(i) the terms and conditions of employment in similar occupations outside the employer's employment taking into account any geographic, industrial or other variations that the arbitration board considers relevant;

(ii) the need to maintain appropriate relationships in terms and conditions of employment between different classification levels within an occupation and between occupations in the employer's employment;

(iii) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;

(iv) any other factor that the arbitration board considers relevant to the matter in dispute".

I so move.

The Chair: — Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-91 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-91 as amended agreed to.]

[Clauses 6-92 to 6-104 inclusive agreed to.]

Clause 6-105

The Chair: — Clause 6-105. I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

Clause 6-105 of the printed Bill

Amend Clause 6-105 of the printed Bill:

(a) in clause(4)(b) by adding "for employees in receipt of benefits pursuant to the benefit plan, program or welfare trust" after "continuation of benefits"; and

(b) in subsection (5):

(i) by striking out clause (c) and substituting the following:

"(c) require that the former union continue to administer the benefit plan, program or welfare trust with respect to those employees in receipt of benefits until:

(i) all of those employees cease to qualify for those benefits; or

(ii) the benefit plan, program or welfare trust is transferred to the replacing union; and

(ii) by striking out clause (f).

I so move.

The Chair: — Mr. Merriman has moved an amendment to clause 6-105. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 6-105 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6-105 as amended agreed to.]

[Clauses 6-106 to 11-1 inclusive agreed to.]

Clause 1-4

The Chair: — I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

New Clause 1-4 of the printed Bill

Add the following Clause after Clause 1-3 of the printed Bill:

"**Responsibilities of minister re Act**

1-4(1) The minister is responsible for all matters not by law assigned to any other minister or agency of the government relating to the matters governed by this Act.

(2) For the purposes of carrying out the minister's responsibilities pursuant to this Act, the minister may:

(a) collect, assimilate and publish in suitable form statistical and other information relating to conditions of labour and employment in Saskatchewan;

(b) make inquiries into and report on the labour and employment legislation in force in any jurisdiction in or outside Canada and, on the basis of those inquiries and reports, make any recommendation that the minister considers advisable with regard to the labour and employment law of Saskatchewan; and

(c) consider and report on any petition or recommendation for a change in the labour and employment law of Saskatchewan that is presented

or made by a union, an employer or any other person".

I so move.

The Chair: — Mr. Merriman has moved new clause 1-4. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is new clause 1-4 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1-4 as amended agreed to.]

Clause 2-56

The Chair: — I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

New Clause 2-56 of the printed Bill

Add the following Clause after Clause 2-55 of the printed Bill:

"**Compassionate care**

2-56(1) In this section, **'member of the employee's family'** means a member of a class of persons prescribed pursuant to the regulations made pursuant to the *Employment Insurance Act* (Canada).

(2) An employee is entitled to a compassionate care leave of up to eight weeks to provide care or support to a member of the employee's family who has a serious medical condition with a significant risk of death within 26 weeks from the date that the leave commences.

(3) In a period of 52 weeks, an employee is not entitled to take more than two compassionate care leaves pursuant to subsection (2).

(4) An employee's compassionate care leave pursuant to subsection (2) ends:

(a) if the employee is no longer providing care or support to the family member;

(b) on the termination of the 26-week period mentioned in that subsection; or

(c) on the death of the employee's family member".

I so move.

The Chair: — Mr. Merriman has moved a new clause 2-56. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is new clause 2-56 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 2-56 as amended agreed to.]

Clause 2-57

The Chair: — I recognize Mr. Merriman.

Mr. Merriman: — Thank you, Mr. Chair.

New Clause 2-57 of the printed Bill

Add the following Clause after new Clause 2-56 of the printed Bill:

"**Critically ill child care leave**

2-57(1) In this section, **'critically ill child'** means a critically ill child within the meaning of the regulations made pursuant to the *Employment Insurance Act* (Canada).

(2) An employee is entitled to critically ill child care leave of up to 37 weeks to provide care and support to his or her critically ill child.

(3) An employee's critically ill child care leave pursuant to subsection (2) ends:

(a) if the employee is no longer providing care or support to the child;

(b) 52 weeks from the date the medical certificate is issued;

(c) on the termination of the 37-week period mentioned in subsection (2); or

(d) on the death of the employee's child".

I so move.

[15:15]

The Chair: — Mr. Merriman has moved new clause 2-57. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is new clause 2-57 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-57 as amended agreed to.]

The Chair: — I recognize Mr. Merriman.

Clause 2-58

Mr. Merriman: — Thank you, Mr. Chair.

New clause 2-58 of the printed Bill

Add the following Clause after Clause 2-57 of the printed bill:

"**Crime-related child death or disappearance leave**

2-58(1) In this section:

(a) **'child'** means a person who is under 18 years of age;

(b) **'crime'** means an offence pursuant to the *Criminal Code*, other than an offence prescribed by the regulations made pursuant to paragraph 209.4(f) of the *Canada Labour Code*.

(2) An employee is entitled to crime-related child death or disappearance leave of up to 104 weeks if a child of the employee dies and it is probable, considering the circumstances, that the child died as a result of a crime.

(3) An employee is entitled to a leave pursuant to this section of up to 52 weeks if a child of the employee disappears and it is probable, considering the circumstances, that the child's disappearance is a result of a crime.

(4) An employee is not entitled to a leave pursuant to this section if the employee is charged with the crime or if it is probable, considering the circumstances, that the child was a party to the crime.

(5) If an employee takes a leave pursuant to this section and the circumstances that made it probable that the child died or disappeared as a result of a crime change and it no longer seems probable that the child died or disappeared as a result of a crime, the employee's entitlement to the leave ends on the day on which it no longer seems probable.

(6) If an employee takes a leave pursuant to this section and the employee is subsequently charged with the crime, the employee's entitlement to the leave ends on the day on which the employee is charged.

(7) Subject to subsection (9), if an employee takes a leave pursuant to subsection (3) and the child is found within the 52-week period that begins in the week the child disappears, the employee is entitled:

(a) to remain on leave for 14 days after the day the child is found, if the child is found alive; or

(b) to take 104 weeks of leave from the day the child disappeared, if the child is found dead, whether or not the employee is still on leave when the child is found.

(8) An employee may take a leave pursuant to subsection (2) only during the 104-week period that begins in the week the child dies.

(9) Subject to subsection (7), an employee may take a leave pursuant to subsection (3) only during the 52-week period that begins in the week the child disappears".

I so move.

The Chair: — Mr. Merriman has moved new clause 2-58. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is new clause 2-58 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-58 as amended agreed to.]

The Chair: — I recognize Mr. Merriman.

Clause 2-60

Mr. Merriman: — Thank you again, Mr. Chair.

New Clause 2-60 of the printed Bill

Add the following Clause after Clause 2-59 of the printed Bill:

"**Employee notice re termination**

2-60(1) Subject to subsection (2), an employee who has been employed by the employer for at least 13 consecutive weeks must give the employer written notice of at least two weeks stating the day on which the employee is ending his or her employment.

(2) Subsection (1) does not apply if:

(a) there is an established custom or practice in any industry respecting the termination of employment that is contrary in whole or in part to subsection (1);

(b) an employee terminates employment because the employee's personal health or safety would be in danger if the employee continued to be employed by the employer;

(c) the contract of employment is or has become impossible for the employee to perform by reason of unforeseeable or unpreventable causes beyond the control of the employee;

(d) the employee is temporarily laid off;

(e) the employee is laid off after refusing an offer by the employer of reasonable alternative work;

(f) the employee is employed under an agreement by which the employee may elect either to work or not to work for a temporary period when requested to work by the employer; or

(g) the employee terminates the employment because of a reduction in wage rate, overtime rate, vacation pay, public holiday pay or termination pay".

I so move.

The Chair: — Mr. Merriman has moved new clause 2-60. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is new clause 2-60 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 2-60 as amended agreed to.]

The Chair: — I recognize, Mr. Merriman.

Clause 10-31

Mr. Merriman: —

New Clause 10-31 of the printed Bill

Add the following clause after Clause 10-30 of the printed Bill:

"**S.S. 1994, c.P-37.1, section 19.1 amended**

10-31(1) Section 19.1 of *The Public Health Act, 1994* is amended in the manner set forth in this section.

(2) Clause (1)(a) is amended by striking out '*The Occupational Health and Safety Act, 1993***' and substituting '***The Saskatchewan Employment Act***'.**

(3) Subsection (2) is amended:

(a) in the portion preceding clause (a) by striking out '*The Occupational Health and Safety Act, 1993***' and substituting '***The Saskatchewan Employment Act***'; and**

(b) in clause (a) by striking out '*The Occupational Health and Safety Act, 1993***' and substituting '***The Saskatchewan Employment Act***'**".

I so move.

The Chair: — Mr. Merriman has moved new clause 10-31. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is new clause 10-31 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 10-31 as amended agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Saskatchewan Employment Act*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 85, *The Saskatchewan Employment Act* with amendments.

Ms. Ross: — I so move.

The Chair: — Ms. Ross has moved. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. Seeing as this bill is complete, I would ask the minister if you any closing comments.

Hon. Mr. Morgan: — Very briefly. I thanked everybody for participating before and want to do that again and thank the members opposite for their courtesy throughout the process. And I don't think I thanked the officials for their time working the weekend and those that brought in the muffins, pineapple, cherries, and such like. So we thank them for that very much. Thank you, Mr. Chair, and to everyone, a good weekend.

The Chair: — Thank you, one and all. We appreciate your help. And I would ask a member to move for a motion of adjournment. Mr. Merriman so moves. I move this committee is now adjourned.

[The committee adjourned at 15:25.]