STANDING COMMITTEE ON HUMAN SERVICES

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STANDING COMMITTEE ON HUMAN SERVICES

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[The committee met at 19:00.]

The Chair: — Good evening, ladies and gentlemen, and welcome to the Standing Committee on Human Services. Tonight we will be considering two bills. We will now be considering Bill No. 98, *The Child Care Act, 2013*. This is a bilingual bill. Clause 1, short title. Mr. Minister, please introduce your officials and make your opening comments.

Bill No. 98 — *The Child Care Act, 2013/Loi de 2013 sur les garderies d'enfants*

Clause 1

Hon. Mr. Morgan: — Thank you very much, Mr. Chair, committee members. I am joined tonight by Greg Millar, ADM [assistant deputy minister], Ministry of Education; Lynn Allan, executive director, early years education, and slide deck person; Brenda Dougherty, director, policy design; Billie-Jo Morrissette, Social Services, director, income assistance; and of course my chief of staff, Drew Dwernychuk.

It is my pleasure tonight to speak about the Bill No. 98, the child care amendment Act. This amendment will repeal *The Child Care Act* which is currently available only in English, and replace it with a bilingual translation. Our sector partners, the Conseil des écoles fransaskoises, CEF, and the l'Association des parents fransaskois, AFP, requested *The Child Care Act* be made available in French as the legislation outlines direction related to children's health and safety, and direction is referred to on a daily basis by the child care sector. The CEF and AFP correctly noted that French-language child care providers and their professional organizations need to have the ability to understand and interpret the requirements outlined in the Act correctly.

This amendment will respond to those requests and demonstrate the importance of listening and responding to the needs of our sector partners. The amendment will benefit the eight francophone child care centres in Saskatchewan, as well as all future French-language child care centres, francophone children, and francophone families by ensuring the requirements can be easily understood, are accessible, and any issues with the translation are removed.

The legislative change will also require bilingual amendments to *The Child Care Regulations, 2001*. It is anticipated that regulations could be made available after the Act is passed and will coincide with proclamation of the Act. Mr. Chair, we are ready to answer questions from the committee members.

The Chair: — Thank you very much, Mr. Minister. And I understand Ms. Chartier will be answering questions. The floor is yours.

Ms. Chartier: — Asking questions this time around.

Hon. Mr. Morgan: — We'll decide if the things aren't going the way they should, we'll ask.

Ms. Chartier: — Well thank you, Mr. Minister, and to your staff here today. I appreciate your time to talk a little bit about this bill. You explained the bilingual nature of the bill or what's happening here but I understand too that there's a new clause around investigations and inspections in vehicles and I'm wondering where that came from or how that particular piece developed.

Hon. Mr. Morgan: — I'm going to have . . . Or okay, I'll have Mr. Millar answer the question. The bill is for the most part virtually identical to the existing English-language-only bill but we updated language to make it gender-neutral and there's a few updating type of provisions such as that one. So I'll let Mr. Millar . . .

Mr. Millar: — Greg Millar, assistant deputy minister. The intention of this bill is redrafting for the purposes of modernizing the language, and the sections that refer to the vehicle inspection represent the analysis to bring investigations. That's one of the components in a modern view of investigations that needs to be included in the Act.

Ms. Chartier: — Were there any . . . When you say that in terms of modernizing it, is this what other jurisdictions do? And is it language that's included in other bills across Canada?

Hon. Mr. Morgan: — I'm told the provision regarding vehicles was not in response to a specific issue but it was part of the general update. It was a recommendation from the Ministry of Justice officials when they reviewed the legislation and said this is the type of thing that they felt would make the enforcement provision current with other. But we didn't . . . I'm not aware of there being a specific interprovincial comparison.

Ms. Chartier: — Can you just give me a sense of how that would work then? So if a child care is transporting children from point A to point B and it's designated as a child care vehicle, there is the room to investigate or that can be a venue for investigation then?

Hon. Mr. Morgan: — It would be, because it extends the authority of the ability of the ministry officials to investigate. So if there would be an issue within the vehicle that children weren't properly strapped in or the operator was or wasn't licensed as they should be, that it would give them the opportunity to investigate and deal with any issues that would arise from the transport of the children as well.

Ms. Chartier: — Thank you for that. I know that when a bill comes before us, as opposition, one of our goals is to go out and talk to stakeholders and get input, find out if there's any concerns or if they're supportive of the legislation.

I know some of the feedback that we received when we had asked for thoughts on the bill is what wasn't in the bill and specifically around unlicensed child care facilities. So I'm wondering if you, in opening up a bill . . . You've got a bill before you. Did you take a look at addressing some of the issues around unlicensed child cares?

Hon. Mr. Morgan: — The purpose of this legislation was just an update and to have the bill prepared in a bilingual format. It wasn't done, and the work that was done wasn't in the context of an overall update or review of child care.

You asked specifically about unlicensed child care. We have ongoing work that's being done now by the ministry and, as you're aware, that we've got the area where registration is optional, registration is required, and then we've got the larger facilities that are operated under a different regime. And we've started to look at what's done in other jurisdictions.

And what we're trying to avoid is, if we have a real strict and real onerous requirement for licensing, people will choose to either operate underground, and then we lose the ability to have compliance with those facilities or, as bad, they close and we lose having access to those. So what our goal I think needs to be in the end is that we've got facilities that are appropriately and properly run so that the safety and security of the children is paramount, and it has good accessibility for parents to try and locate where those facilities are. And the technical compliance isn't as important in my view as the safety and security of the children.

Ms. Chartier: — When we talk about safety and security of children, we have about 73,000 children under the age of five right now and approximately 13,000 child care spaces. And you account that there's some parents who are at home with those kids in those early years, but that still leaves a big gap between licensed child care spaces and the number of children. So obviously there are many individuals who have to come up with other child care arrangements.

So I'm wondering, in your view . . . In a licensed system obviously there are the needs for training, CPR [cardiopulmonary resuscitation], the health and safety, the numbers of children allowed to be in a child care facility. For unlicensed facilities, obviously you want people to continue to provide child care. But what protections or safeguards do you think are in place for those families who haven't been able to secure a licensed child care space?

Hon. Mr. Morgan: — Well right now by operating in an unlicensed facility, it's an informal arrangement between the parents and the daycare system, and the province doesn't play a role in those. That's part of the relationship that they have between the caregiver and the parent, and it's as good as the people are that are participating in it. But if we were to say to those people, you must become licensed, how many of those people would drop out or wouldn't choose to become licensed?

So what we're trying to do is ensure that we have the best system we can. And I think what we would like to do is be able to give the ministry officials, as we go forward, the ability to investigate or examine them based on a complaints type of a model where . . . I'm trying to phrase this carefully. In a system where it's licensed, a parent draws the inference that it's been inspected and examined. Obtaining a licence doesn't necessarily mean it has been inspected or examined, so we don't want to raise a false sense of security.

We don't want to put people out of business. So it's a matter of saying, okay, these are somebody that has applied for a licence. They're doing it, but we don't do anything unless there's been a complaint or we've taken something forward. We know that it's an area that we have more work to do.

Ms. Chartier: — With respect to unlicensed child care facilities then, I think there is a provision around ratio, even in an unlicensed facility. Correct me if I'm wrong, but is it eight? You can't have more than eight children even in an unlicensed facility?

Hon. Mr. Morgan: — Yes. Unlicensed are restricted to no more than eight and with further age restrictions. So yes, it's the eight to 12 that requires a licence. Above 12 you're a child care centre; under eight it's optional.

Ms. Chartier: — Are there any . . . I'm wondering if just how you see any safeguards are for those. So we have that number of eight again which is a complaints-based system. I understand if you have, if you're an unlicensed facility and you have nine kids, there may be a complaint lodged and then a child care consultant will come out and investigate. But I'm just wondering, for all those families who are relying on unlicensed child care, and there are many because of need, and we heard . . . There was a huge emergence of stories last summer around some challenges or concerns with unlicensed care.

I'm just wondering. We have the Act open here and I know you've said it was at a request from the francophone community to put it, make it a bilingual bill. You did a couple or one little touch-up here or there. But I'm wondering, around that unlicensed piece, protections that families . . . Until we have enough licensed child care spaces for families, what we do about that?

Hon. Mr. Morgan: — We've increased the funding. We increased the number of child care space by 50 per cent since 2007. We know that the need is significantly more than that and the need continues to grow. The goal is to try and have the best possible child care that we can possibly have without creating a regime that's going to have people stop providing child care. So we know that we have work to do. And the ministry officials have undertaken to do that work and we expect to have something . . . I'm not sure a timeline, but we know that we need to come up with something that addresses some of the issues so we're able to respond better to the areas of complaints and ensure the safety of children.

Ms. Chartier: — Are you in the middle of that work right now? I know you said you don't have a timeline, but is that active work taking place right now?

Hon. Mr. Morgan: — We will have Lynn Allan . . .

Ms. Allan: — Good evening. I'm Lynn Allan. I'm the executive director of the early years branch. One of the things, to respond to your question about last summer when there were some concerns about unlicensed, at that point the ministry undertook to be the point of contact for parents and child care providers for all concerns regarding the provision of child care services. So at that time we established a toll-free number for reporting complaints. So we are the first point of contact and that is on the website that people can call us.

We've also drafted policy and tools to guide the assessment of complaints and the determination of the level of investigation warranted. When we worked on establishing that, we worked with our colleagues at other ministries including the Ministry of Social Services, including the Ministry of Health when we were

pulling that information together to develop our policies and procedures.

[19:15]

Ms. Chartier: — Thank you for that, and I have to commend you. I think developing the 1-800 or 1-88 number, whatever it is, to ensure that complaints . . . A central system I think is a very good thing. But in terms of my question to the minister around, and you talked a little bit about policy, but in terms of ongoing work to further ensure that when families are utilizing unlicensed care, they can expect some level of quality, is that work going on right now?

Hon. Mr. Morgan: — Right now the active remedies we have available are through the calls. We know that we want to do more work and have had discussions about where the long-term plan or vision should be for child care in our province. And what I'd indicated was we're trying to strike a careful balance between having good quality child care that continues to exist and not creating a regulatory regime that scares off people that would otherwise be providing quality child care. The easy solution would be to say yes, we're going to inspect and regulate each and every one, but the reality is, if we tried to inspect and regulate each and every one, the likelihood is that we would create a crisis with demand.

So what we have in the interim is a complaint-driven system. So if there's a complaint, we inspect it and inspect it promptly, and I think ministry officials are doing a very competent job in that area. But as we go forward, we know that we want to have a better system of ensuring availability and ensuring that parents know what's available without creating a regime that puts people, that's a disincentive for somebody from operating a smaller daycare centre.

In the broader context, we know that the best successes we've had in providing large numbers of daycare spaces are when we do it through the school system. So it would be the intention of the ministry going forward not to build or construct a school that didn't have a daycare as an integral part of it, and those are usually the ones that are well in excess of 12 spaces. These are the ones that would be 20 or 25 or more children. Those are the ones that do the best to take care of the needs. It's easy to supervise and provide a good degree of certainty that good care is being provided and there's the added benefit that often a parent that's dropping off a school-aged child or a child in school would have one drop-off point for the daycare at the same time as the school-aged child. So it's a good fit and that's certainly one of our better solutions going forward.

Ms. Chartier: — Definitely, but we're a long way from being able to provide enough licensed spaces. And I appreciate the need to strike the balance, for sure. I know far too many parents who have had unlicensed child care services that they've been very happy with but they fall through and the panic . . . I happen to be in that cohort and have friends who struggle all the time trying to find child care.

And you use the words, in the interim, and using this complaints-based system, I'm just wondering if there is work going on right now around looking at different options of how to ensure unlicensed child care is whatever it is and examining different jurisdictions, literature reviews, all those kinds of things. Is that actively going on right now?

Hon. Mr. Morgan: — Yes, it is. And I know your next question, if I can anticipate it, will be, what's the timeline in doing that? And I can't give you a specific timeline other than we know that we want to do something that's meaningful and we also know that the need is there and the sooner we are able to do it the better we're able to serve our parents.

Ms. Chartier: — A ballpark? Could you give me a ballpark on the timeline?

Hon. Mr. Morgan: — We know there's been discussion and things are ongoing right now. The officials are saying sometime next winter and I know it isn't as precise as anybody might like to have. But we know it's something that we're continuing to work on and as I've said before, the problem is finding people willing to open up their homes, willing to do that on a small basis. And when they do, they usually take two, three, or four children when we really need a dozen, so we're looking at larger scale solutions.

Ms. Chartier: — Thank you for that. I appreciate your time and I don't have any further questions.

The Chair: — Thank you very much. Seeing no other questions, we will now proceed with the voting of the clauses. Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 34 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Child Care Act, 2013*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 98, *The Child Care Act, 2013* without amendment.

Mr. Lawrence: — I so move.

The Chair: — Mr. Lawrence moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. Now if the minister has any closing remarks on that bill.

Hon. Mr. Morgan: — No. Other than, Mr. Chair, I would like to thank the officials that have come out and provided the background on this and the members for their participation. So I'd like to thank everyone that was involved. Thank you.

The Chair: — Thank you. We will now continue with the next

part. Is there any change of people we have to do?

Hon. Mr. Morgan: — There is, if we could have about three minutes.

[The committee recessed for a period of time.]

The Chair: — Okay, one and all, we're ready to go. We will now be considering Bill No. 128, *The Saskatchewan Employment Amendment Act, 2013*. Clause 1, short title.

Bill No. 128 — *The Saskatchewan Employment Amendment Act, 2013*

Clause 1

The Chair: — Mr. Minister, please introduce your officials and make your opening comments.

Hon. Mr. Morgan: — Good evening. Thank you again, Mr. Chair. I am here this evening to discuss *The Saskatchewan Employment Act, 2013*. Joining me tonight is Mike Carr, deputy minister of the Ministry of Labour Relations and Workplace Safety; Pat Parenteau, director of policy, the Ministry of Labour Relations and Workplace Safety; and my chief of staff, Drew Dwernychuk.

The amendments we'll be discussing are the result of consultation with employers and unions that occurred in 2012 during the development of *The Saskatchewan Employment Act* and most recently, the summer of 2013. The collaborative approach used to inform the content of Bill 128 ensures that the province's essential services legislation is fair and balanced and does not diminish existing rights and privileges of the working people of Saskatchewan. We worked collaboratively with our stakeholders on this bill and we believe it provides the right balance between protecting the public and ensuring that alternative methods to settle labour disputes are available if the ability to strike is significantly inhibited.

In addition the amendments address a number of concerns that the Court of Queen's Bench raised with the legislation when it found *The Public Services Essential Services Act* to be unconstitutional.

Mr. Chair, I wish to thank each individual and organization in the province who took the time to provide input on this pivotal piece of legislation. In particular I wish to commend the commitment and dedication of each member of the minister's advisory committee, whose expertise and commentary was invaluable in developing the amendments that we are discussing today.

Our intention is to have legislation that assists parties in resolving their collective agreements while ensuring that essential services are maintained. The government has always said that we would be introducing amendments to the essential services Act after we received the advice of the Court of Appeal. From discussions with public employers and unions, we knew that there were changes we wanted to make to the process regardless of the decision of the Supreme Court.

We've also said that our government is committed to providing essential public services such as highway safety and health care in the event of a labour disruption. I would like to provide you with a brief overview of the contents of the amendments.

The key changes to the legislation are (1) requiring an essential services agreement to be negotiated at impasse in bargaining a collective agreement rather than 90 days prior to expiry; (2) expanding the definition of public employer to include all employers that provide an essential public service; (3) enabling the contents of the essential services agreement to be heard by an arbitrator, an arbitration board, or the Saskatchewan Labour Relations Board; (4) enabling the union to challenge all aspects of the employer's notice; (5) providing a process to resolve a collective bargaining agreement where the essential services designated by agreement renders a strike or lockout to be ineffective.

[19:30]

These amendments to the essential services provisions will not alter the fundamental rights and entitlements enjoyed in Saskatchewan.

As you may know, we are before the Supreme Court of Canada on May 16th of this year. The current legislation remains in effect pending any decisions of the Supreme Court. As such, public sector employers and unions will be expected to comply with the current legislation and ensure essential public services are maintained during a work stoppage.

Saskatchewan is moving forward. We are committed to protecting workers and promoting growth. One need not be sacrificed for the sake of the other.

Mr. Chair, we would be pleased to answer questions from the committee members.

The Chair: — Thank you, Mr. Minister. Just for the record, our start time was 7:27. And I understand, Mr. Forbes, you have questions, so you have the floor.

Mr. Forbes: — Thank you very much. I do have questions, and of course because this is *An Act to amend The Saskatchewan Employment Act*, they may be wide-ranging because the amendment, the bill before us is actually not only dealing with essential services, but it deals with minimum wage and some other pieces. And I would think that . . . So those are the other amendments and we'll talk about those.

But there are some others that were suggested to us, and I think they were probably suggested as well to the minister, and we'd like to hear some reasoning why some amendments weren't included that were not. And so I appreciate the time we have tonight to talk about that.

And of course, you know, it has been a long road in terms of essential services, but I know that in many ways the stakeholders, particularly labour, has appreciated the opportunity to have more input into this and address some of these concerns. But they are anxious to hear what the Supreme Court has to say on some specific things. And of course as always when we come to workplaces, we always have to make sure that all the concerns are addressed in some form. It may

not always be the way people like to have that answer, but they have to be addressed and of course to be vigilant, and particularly on a day . . . Today we've heard the minister speak about Day of Mourning and all that that means in making sure our workplace is safe as possible.

Just to start off, right off the bat I'm going to be focusing on the parts that deal with essential services. And the question is about the regulations because essentially that's where the real detail of how this will work. Are there regulations that will be forthcoming that deal with part VII, the essential services of the employment Act?

Hon. Mr. Morgan: — The existing regulations will be repealed and it's not our intention to do any regulations at this time.

Mr. Forbes: — So part VII has no regulations with it.

Hon. Mr. Morgan: — There's the ability to make regulations, but there's none contemplated or under discussion at this time.

Mr. Forbes: — So then when the Act goes into force it will actually be enforced. We don't have to wait for regulations to follow.

Hon. Mr. Morgan: — That's correct. As you're aware, the session ends in mid-May, so we would anticipate that the bill would come out of this committee and would go to the House and so proclamation would be in May.

Mr. Forbes: — Okay. Now some specifics. You know, the concern that's been raised to me is around the definition of essential services in section 7-1(1)(c). Some people say it's far too broad; it remains really essentially unchanged from *The Public Service Essential Services Act*. And in prior negotiations of essential service agreements with the regional health authorities, the definition was relied upon employers to really justify business as usual, and that was the approach they took. And in fact they overdesignated essential employees within their health regions in the case of a work stoppage.

So if this issue is to be addressed properly, many people believe the definition should lend itself to a clear shared understanding of what constitutes an essential service, and it cannot be that all services currently offered within a health region, in higher staffing levels than those experienced on a day-to-day basis in the sector. So the question is, do you believe that's been remedied or what makes this difference, because it's the same definition?

Hon. Mr. Morgan: — The problem that we had before was not so much on what the definition was but how the definition was applied and interpreted. So what will be in the Act now will be the things that are directed at safety and that type of thing, and ensuring that services would continue by way of, for example, one we use all the time is snow removal.

And what the process is, which I think is important here, is there's a requirement on the parties to negotiate an essential services agreement before a job action can be taken. If the parties are unable to agree on what's an essential service, then they have the right to . . . There's an appeal process where they would go before the Labour Relations Board who would make a determination what is or what is not essential service based on it.

But I don't think we can adequately draft a definition in the legislation or in the regulation that would include all of the things that might turn out to be required. So we would rely on the appeal process to get a determination from the Labour Relations Board.

Mr. Forbes: — To limit the number because it was really a problem last time.

Hon. Mr. Morgan: — It's actually not the number. It's all aspects of it. So it could be the work that is to be performed, the functions that would be provided during that period of time. And it's easy for us here and now to say, oh yes, we want there to be a nurse working in an operating room. We want there to be somebody that's there to make sure the hoses are connected for the anesthetist or those type of things.

But the issue that's harder for us to determine when you're not on the front line is, what about somebody that's sterilizing instruments beforehand? What about somebody that's working to keep the heating plant operating during the . . . Well it's different whether it's during July or whether it's during . . . So that's why there would be the appeal process to allow the LRB [Labour Relations Board] to make that ultimate determination.

Mr. Forbes: — Okay. Now there are other definitions, and I'm thinking of British Columbia's definition within their *Labour Relations Code*, which says:

> designate as essential services those facilities, productions and services that are necessary or essential to prevent immediate or serious danger to health, safety or welfare of the residents of British Columbia.

So there's a couple of differences there. They don't refer to courts. They don't refer to the environment. And that might be up for debate as well because that could be an issue. But the language they use around immediate or serious danger where we just use . . . We don't have an adjective. We just say danger.

Hon. Mr. Morgan: — And I think that's exactly the issue. British Columbia, with respect to their draftspeople, they created a definition that uses a lot of words but it's still capable of, you know . . . When you use the term immediate, well what's immediate? Does that, going back to the example that I used, does that include the person that's operating the heating system? Does that include the person that's sweeping the floor? And it may or may not, and I think that's why those are the type of things that would have to be argued on an application at that time if the parties were unable to negotiate it.

So the process would be that the parties would negotiate it first. If they're unable to negotiate it, then they would have access to the LRB to make a final determination.

Mr. Forbes: — I would think that any kind of adjective might be helpful here in the terms immediate or serious. Leaving that open may pose a bit of an issue in terms of interpretation because there really isn't anything to interpret. You know, it's this danger. Do you mean . . . I think there could have been

more. The clarity could have been stronger there.

Hon. Mr. Morgan: — We did an interjurisdictional comparison, and some jurisdictions chose to, by definition, include entire sectors of the public service that they felt would be there and they would say, health care. Well that's everybody working in health care, and while the reality of it is not everybody that working in health care is essential or, you know, or a good percentage of them would not be regarded as essential.

So we think that the process that we've chosen, where it forces people to negotiate, hopefully will lead to negotiating a contract. But secondly, if they're unable to, they've got an appeal mechanism, which I believe is the most effective way at resolving the things that are there. And over a period of time, a body of jurisprudence would be developed from the Labour Relations Board, would say no, in the summertime we're not going to worry about heating systems. We may worry about air conditioning or we may worry about this or we may worry about that, or they may hear evidence as to what type of thing may or may not be essential to ensure the safety or cleanliness of an operating theatre or . . . So I appreciate the argument, but I think what we've chosen is more effective and will have the effect of having fewer people that would be designated as essential.

Mr. Forbes: — Now the definition of public employer has been expanded in this bill, and essential service . . . Well so there'd be a broader application. And some will say that this is all-encompassing. It has really the effect of government interfering in collective bargaining in situations that really are outside the window of protection of the public. But we won't really know what will be the impact of this.

Or do we have a sense of what it means to have this new definition of public employer? Because usually we think of public employer being a government employer or a Crown employer, but now it's someone who is providing a public good, and then you're a public employer.

Hon. Mr. Morgan: — Sure. I can give you the specific example that gave rise to that. In Regina the ambulance service is provided by Regina Qu'Appelle Health Authority. The ambulance operators are employees of the health authority. In Saskatoon the ambulance service is provided by a private contractor, MD Ambulance, so we would want to have the same provisions apply to them that would apply to Regina Qu'Appelle. So that was the specific one that we identified. It's possible there might be others, but certainly that was the one, when we went forward with it, that was the trigger point for that.

Mr. Forbes: — Okay. And the other key factor is they have to be organized. They have to be . . . is that there is in fact bargaining going to be happening.

Hon. Mr. Morgan: — That's correct. There has to be a collective agreement there. The MD Ambulance is organized and certified IAFF [International Association of Fire Fighters].

Mr. Forbes: — Okay. And then the one that came to mind just this evening as I was thinking about this is K-Bro laundry, who will now be doing laundry for the hospitals. I believe that's the name of the corporation but I'm not sure whether the successor rights will be happening, that they will be taking . . . Because it's both CUPE [Canadian Union of Public Employees] and SEIU [Service Employees International Union]. What will be happening there? I don't know if you have a comment about that. But as we get into some of these things that are more privatized, you know, then the definition really becomes about essential services, whether or not it's an essential service.

Hon. Mr. Morgan: — I can't speak to the K-Bro. This was started before the laundry situation was dealt with. It was done in the context of what was taking place with the providers of ambulance service. And what the Labour Relations Board might do or what might happen with the laundry service, I'm not in a position to speak to that.

Mr. Forbes: — There is some concerns about the timelines here involved in Bill 128 and the processes that are built both into the employment Act and then also into now part VII, the essential services part because of the way that this is all laid out in terms of there's a lot of . . . There seems to be more hoops involved in terms of getting to settlements.

And so the concern is in section 7-3(1). That doesn't really outline any kind of time frame. It says I know in the first, the opening paragraph, it talks about as soon as reasonably possible. And then there's different parts to that. Is there any concern about the fact that this may in fact add to the length of time to get contracts in place?

[19:45]

Hon. Mr. Morgan: — The rationale behind the process is that it will allow people time to bargain if they choose to take more time to bargain. You know, we don't want the process to sort of stand in the way of that. If the parties are unable to bargain, either side can give a notice of impasse, and that's not a time-driven process. And then after that point, virtually every step after that point has got a timeline specified in it.

And we are hoping that the process will be one in which people will first try and sit down and negotiate a contract. We didn't put any impediments up to that. As a matter of fact, we moved the start time back, the process that you can give notice to start to bargain earlier than you could before.

The parties have to bargain. And I realize you can't legislate good faith, but the expectation is that the parties will want to make a deal, sit down and bargain. And then if they can't, then this Act we don't want to be used as a delaying tactic or as a tool to try and bully, so we've tried to make a playing field that's as level as possible.

So the process is triggered by one party or the other giving a notice of impasse. And then that triggers the process to sit down and negotiate an essential services agreement to determine who is essential, whether the strike is effective, ineffective, with all the different exit points that go to the Labour Relations Board. And ultimately in the end, if it's deemed that enough of the members would be not able to strike, then you would have access to the binding arbitration method.

Mr. Forbes: — Now it does talk about, you know, and you talked about the giving the notice after — notice of impasse — it goes through this process and then it talks about the employer is required to provide the union detail of the services that the employer considers an essential service, and with the view to begin the collective bargaining process to negotiate the essential services agreement. But apparently it's not known, it's unknown what happens if the employer doesn't give notice in a timely manner. So is there a way of, or is there built in this, what happens if the employer doesn't provide the notice?

Hon. Mr. Morgan: — It would fall within part VI, an unfair labour practice.

Mr. Forbes: — Because what had happened in the previous experience that there was concerns that, particularly within the health region, that this was taking a lot of time to gather up the information and there was a real, real concern about that. Thank you for that.

Hon. Mr. Morgan: — I appreciate that, you know, when you first look at it there's a number of steps that are there. But the steps are all crafted with a view to having a fair process that neither side can use to thwart the other or use as a tool, and ultimately get towards a determination of whether a strike is effective or not effective. And if a strike is not effective, then it gets to the arbitration. So we went through the process when we were doing the consultations. We asked people, what about the timeline for this, what about the timeline for that, and there was a variety of different opinions. Some people wanted something shorter, some people wanted something longer.

So I was thinking cooling-off periods and things like that should have been measured, and initially my thought was, well that should be a month or six weeks. Well other people have said oh no, no, you want . . . A cooling-off period should be half an afternoon so somebody can go outside for a walk around the block and get back to the table and start negotiating. And after I sort of listened to the approach on both sides, I think they, both employers and employee unions wanted to keep everybody's feet to the fire and keep at it. So that why the timelines are quite short. And I know that it will be in some cases a bit onerous on those people to work through it in that timeline but the expectation is they should do it and get through the process and do it.

The underlying thing is this is a methodology where we've taken away people's right to strike and it's something that should not be done lightly and should only be done where there is another method that's there. The right to strike is something that is still before the courts, but it's something that we ought not take away without providing a careful and detailed process that will try and provide a solution for the employees.

Mr. Forbes: — Thank you for that. Now another concern that was raised, and it goes back to the employment Act because there are other potential interferences that might happen because of the employment Act. For example, both government and/or the employer can require a vote to be conducted on the employer's last offer, and that's section 6-35. And that can be a rather major undertaking, both in terms of time and resources, especially if it's sizable in membership. And we're talking about, you know, the health unions or SGEU [Saskatchewan Government and General Employees' Union]. That can be a major issue. Have these kind of delays been taken into account, you know, these final offer votes and that type of thing, as examples of interference or delaying the process?

Hon. Mr. Morgan: — During each round of negotiations, there is the ability for the employer to require a final offer vote to be taken. It exists only one time during the process. If an employer chooses to exercise that right and doesn't get a satisfactory response from the vote that's taken on that final offer, that's the end of it. They lose that ability to do it. But it's the employer's one-time opportunity to make sure that what they have on the table is actually heard by their members. And that goes back to the consultation that we had, and it's something that has existed. It's existed in the old legislation, existed now.

And what employers complained about was, I know the workers would support this; I know if they could just vote on it, they would do it. Well there you have it. You're not going to go out and do it a whole bunch of times, but you can have one shot at it. You think the workers believe that this is the right offer and then you can go vote on it. And well the results usually aren't . . . don't often result in an acceptance. The union leaders usually have a better read on their members than the employer does. But I mean it's a tool that's there and it probably forces people to carefully direct their mind to what is on the table and their obligations to their membership.

Mr. Forbes: — Thank you. Now this is kind of a technical point but I think it is of interest because this will be the law. And so this is, it's section 7-5 and it reads, "Notwithstanding Part VI, no public employer shall engage in a lockout and no union shall engage in a strike unless . . ." and you go through that.

And the concern that was raised to me, that if you read that quite literally, it would require any union to go through essential service process before being allowed to strike. And I would hope that's not the intention here. But reading it would be that way and, you know, and they're arguing that it should be clarified that it only applies to unions striking against a public employer.

Hon. Mr. Morgan: — 7-5 starts out "Notwithstanding Part VI, no public employer shall . . ." So it limits it to public employers. And then it talks about, and the (b) part, ". . . the union is providing the essential services." But that entire section is only dealing with the essential services portion. So I think it's captured both in the drafting in the first line of it; it's reaffirmed under the (b) part but it's also a section that is only dealing with essential services.

Mr. Forbes: — So essentially that (b), they should read that in there unless there is, unless (b) there's providing is . . . Fair enough. Okay. Thank you for that.

Now this one, and I'm not sure of the language because when I talked to the person who was talking to me about this, minimal impairment, and I said, well I don't read that in the legislation anywhere.

Hon. Mr. Morgan: — It's not in the legislation. It was a term that was used as a discussion point as to whether a strike would

be effective or not. The language that's used in the legislation is an ineffective strike, which would mean there's so many people of the bargaining unit that are designated as essential that the strike is no longer effective to compel the employer to negotiate differently.

Mr. Forbes: — Okay, thank you.

Hon. Mr. Morgan: — The term you were originally referring to was one that we thought at the time, for discussion purposes, gave people an understanding, but the language in the legislation was probably easier to understand than our . . .

Mr. Forbes: — Yes, minimal impairment. It's like almost a double negative type of thing. So fair enough. Good.

Now I want to turn to section 7-6(1). And this is one where there is a concern around the time frame provided for the employer to furnish notice to the union. In the event that this notice is not provided within the 48-hour notice of strike, what effect if any does this have on provision of essential services?

Hon. Mr. Morgan: — I'm not sure specifically what you're asking. Are you questioning the timeline that's in . . .

Mr. Forbes: — Yes, the timeline. So the 48-hour notice has been given for the strike, but there is no notice from the employer in terms of for the essential service agreement. So the 48 hours passes, and then . . .

Hon. Mr. Morgan: — Once again it becomes an unfair labour practice if the employer doesn't comply with the timeline.

Mr. Forbes: — There you go. Okay. And then the other question. This is one that I've heard an awful lot, but it is the whole question about the idea that it is up to the union to develop this work schedule — to notify, and I believe they are required to notify their employees, their union membership about who is going to be working — and whether or not unions have that capacity, essentially, to work as human resource people.

Hon. Mr. Morgan: — During the consultation, that was something that the unions indicated, that they wanted to be able to control that themselves. They wanted to identify who should be doing the work, participate in or make those determinations so they could determine who is, should be on a picket line, who should be working. So that was at their behest that that provision was included.

[20:00]

Mr. Forbes: — But was it their request to make the schedules or do they . . . as well?

Hon. Mr. Morgan: — The employer gives the schedule to the union. The union fills in the schedule.

Mr. Forbes: — Thank you. And the concern still is that it's the idea that some may feel it's a unilateral designation on behalf of the employer to designate who's required or what classifications. And I know there was some concerns about whether it's classifications or whether it should be duties that should be actually considered when it came to designating essential service people.

Hon. Mr. Morgan: — There was certainly . . . somebody wanted to have the duties enumerated rather than positions. But the discussion that came about was that, by just listing the duties, you could have a situation where one worker is doing a half a dozen different duties. And things may have been scheduled different, so by identifying the positions that were there, then allowing the union to fill in the positions, that at least it would maintain sufficient continuity. And of course there was the appeal process that's there. I'm going to let Pat speak to it and give a bit more detail.

Ms. Parenteau: — Well the new requirements under the content of an essential services agreement, there were changes such that the agreement is to contain, as 7-4 states, what the essential services are, the classifications of the employees in general, so that you capture the job duties as well as the number of positions and the locations where they work. And the intent is that those, all of those can be challenged to the Labour Relations Board or to an arbitrator.

Mr. Forbes: — Good. Thanks. The other concern, but the employer can still change the requirement once you get into this — right? — that you can set a lower standard or then require more people as you get into the strike or a lockout. And that raises more concerns. How is that protected or how is that resolved?

Ms. Parenteau: — That's been maintained from the existing Act, that they could change notice in circumstances where it's required.

Under 7-4 you'll notice that where they're negotiating an essential services agreement, new provisions have been added to require that, when you're negotiating one, any agreement that you negotiate should take into consideration the provisions for identifying the employees; so some kind of arrangement that you've come up with, as well as a process for dealing with unintended increases or emergency situations where you're going to have to have more staff or less staff, as well as responding to how to resolve disputes that might arise. So in the event that you actually do negotiate an essential services agreement, rather than having to follow the other process, you've already considered how you're going to have any disputes handled.

So we believe that this process signals to the unions and the employers that they should really consider that it's an unanticipated or emergency situation that you're making those changes.

Mr. Forbes: — Now has this type of thing when you're designating, how does it work across Canada in other provinces? Do they do the same kind of process or is this kind of unique here in Saskatchewan?

Hon. Mr. Morgan: — The most similar jurisdiction is Manitoba. There's a variety of different processes across Canada. Most of them are somewhat more onerous than this one in allowing the employer to designate larger blocks of people and just saying everybody that works in this sector is or is not.

But this one is modelled loosely after the Manitoba legislation.

Mr. Forbes: — And they've had . . . How many years have they had experience with that?

Hon. Mr. Morgan: — Their first one was in 2004. They do the legislation sort of sector by sector, so their initial was health care. There's been some more added since.

Mr. Forbes: — And they've had fairly good success with this? This hasn't been too cumbersome or they haven't found that people are, you know, one side is taking advantage of it or not?

Hon. Mr. Morgan: — Yes, it would appear to be working well. But with legislation that's only been there for a few years and you look at the length of time of contracts, you'd probably have to regard this as still quite new.

Mr. Forbes: — Now one of the other major concerns is really around 7-22, and that is in terms of the arbitrator and the fact that, the idea that the matters to be considered by a single arbitrator or the arbitration board under 7-22 does not lend to a fair, balanced resolution because added mandatory items to be considered include wages and benefits in private and public, union and non-union employment; continuity and stability of private and public employment, including employment levels, incidence of layoffs, incidence of employment at less than full-time hours, and opportunity for employment. And then they also must consider the general economic situations or conditions in Saskatchewan.

So they have the permissive items include terms and conditions of employment in similar occupations. And the ones that they must consider are, you know, when you're comparing public and private and union.

So have you had any feedback about this and how people feel? What are the stakeholders saying about this?

Hon. Mr. Morgan: — The feedback we'd have would be regarded I think at this point as limited. It's found in the portion dealing with firefighters as well. It's early on, but we have a couple of situations where both the employer and employee groups are anxious to proceed with one. So we'll have feedback in the not-too-distant future.

Mr. Forbes: — Well that will be interesting. I mean this is probably the one item where, when I asked for feedback, this was, you've got to raise this. This is an issue. You know, and where another group talks about the shall and the may, what you shall consider and what you may consider, and the question really becomes comparing apples to apples, and you might be finding yourself, comparing yourself, apples to oranges.

Hon. Mr. Morgan: — I think we've tried to put some parameters there that would be appropriate parameters. And I think if you didn't have that and you asked an arbitrator, what type of thing do you look at; what type of thing should you look at, they would probably list those type of things. And if they don't list those things, you'd sort of have concerns about whether the process is too loose. So I think the types of things are exactly the type of things that an arbitrator would typically consider. And when you read arbitration awards, that's usually the type of things they particularly compared with other matching or similar trades in other areas. So we think by including the direction, it adds a degree of clarity and makes it consistent with what arbitrators would ordinarily do.

Mr. Forbes: — Did you have feedback from arbitrators saying this would be a good thing to do? I mean, who . . . This is quite an unusual, from what I understand — now I don't have a lot of experience in this — but is this something arbitrators would say yes, please construct this section this way? Or did you consult with the . . .

Hon. Mr. Morgan: — It came about as a result of having looked at arbitration awards and the type of things that were considered in arbitration awards.

Mr. Forbes: — Now I'm going to skip right to the . . . but I'm going to come back. But I do have to ask you this one question, because as I was preparing for this, is that under section 7-34, "*The Arbitration Act, 1992* does not apply to any arbitration pursuant to this Part." So I am assuming this is part VII that it's referring to. And when I looked at *The Arbitration Act*, it's a very interesting Act. So why is it not apply to any section of part VII?

Hon. Mr. Morgan: — This Act is comprehensive in detail. It aligns our process with timelines, with everything else. *The Arbitration Act* is a piece of legislation that's available for anybody that chooses to avail themselves of it by way of contractor or by way of other things. So it's a piece of general purpose legislation where this piece of legislation is specific and unique to essential services. So it outlines the parameters of what is essential, what isn't essential, how you determine what's essential, what your remedies are to try and force people to do it. So *The Arbitration Act*, I would say, is a general purpose piece, and this is one that's crafted for a specific purposes. It's also the same in part VI as well. *The Arbitration Act* does not apply.

Mr. Forbes: — And is that in the Act? So those two parts, but does it then apply to the rest of the Act?

Hon. Mr. Morgan: — Well there wouldn't be arbitration available elsewhere under this. It applies right where arbitration is available. You know, we create a process to get to it, and then it's the legislation process that's available or exists under this Act. We wouldn't want something that would be inconsistent.

Mr. Forbes: — You know, when I look at the Act, and it is interesting to read because it does talk a lot, and I just find it interesting that it would be excluded. Now I maybe want to call on the minister's experience with other pieces of legislation and other . . . Is it common to exclude *The Arbitration Act* in other pieces of legislation? Is this a common . . .

Hon. Mr. Morgan: — Yes, there would be similar provisions in the existing trade union Act. I don't know if anybody had the opportunity to look at *The Arbitration Act*. *The Arbitration Act* is sort of one that gives people an alternate to dispute so they don't need to go to court. So it sort of, I'll pick my arbitrator, you pick yours. Let the two of them get together and pick a third arbitrator, and they'll write a decision that we're bound by. But there's no, you know, it lacks things for timelines. The

relief revisions there are to the Court of Queens Bench rather than the Labour Relations Board.

So I can't think of a good analogy, but we've got a focus-specific method that's there. The other one doesn't provide the specifics or the detail that's necessary to get to the solutions that are required.

Mr. Forbes: — Well you know there are, you know, what I thought was interesting, I could see how you could limit yourself or exclude parts of *The Arbitration Act*. But to exclude the whole thing when it talks about conduct of arbitration and those types of things where it seems to me to make sense that . . . It just seems odd that you would exclude a very basic document.

Hon. Mr. Morgan: — Well what we've done is there's a prescribed process that's there. We certainly wouldn't want there to be inconsistencies where people would argue, well it says this in this piece of legislation, and it says that in that one. So the drafters of this legislation chose to create a detailed path and that was certainly the policy direction that was given to them. We would not want it to be left open for debate as to whether this Act applied or that Act applied or what's there or whether there's an uncertainty or a vagary or have somebody argue, well this is preferential to us; we'll argue that this should apply or that should apply. This is a process created specifically for this, so we wouldn't want to have something else, a general purpose Act.

[20:15]

Mr. Forbes: — Now I do have, while we're talking about arbitrators, I'm curious about . . . Now this is in the . . . But it is part of this bill. What is the change with the special mediator?

Hon. Mr. Morgan: — I'm not sure what section.

Mr. Forbes: — Well when I'm reading the explanatory notes here and it talks about section 6-28, so that's not part of this, but it does talk about some changes there. But I find actually explanatory notes often not very helpful because you don't know what the changes really are. So when I saw that, I thought I'd ask.

Hon. Mr. Morgan: — I'm not sure whether your question is, what is a special mediator or why is that section there? Because the section that's there, it updates *The Public Inquiries Act*. It talks about compensation . . . [inaudible] . . . so it referentially incorporates revisions. But that Act was changed from *The Public Inquiries Act* to *The Public Inquiries Act, 2013*. Otherwise the section remains the same, so I'm not sure whether you're saying . . .

Mr. Forbes: — No, I'm not asking what they do. I'm just asking because it's not particularly clear in this where the . . . Because I couldn't find in Bill 128 where there is actually reference to the special mediator and so I was curious that they had actually provided such a . . .

Hon. Mr. Morgan: — Well it's section 6-28(1) has the . . . The original provision came out of the occupational health and safety legislation, 3-73(1), which under Bill 128, under the employment Act becomes section 6-28.

We have two sections of the Act, 3-73 and 6-28; both make reference to a special mediator.

Mr. Forbes: — So and there is no change to the special mediator and the powers that have always . . .

Hon. Mr. Morgan: — No. The section is the same. The only change is the reference to *The Public Inquiries Act* because that Act was updated in 2013.

Mr. Forbes: — Okay. Thank you very much. I want to go back to section 7-23, and there was a concern raised around the potential for what would happen in a multi-union bargaining process with representative employer organizations. If one union applies under section 7-19 for arbitration of outstanding and past items, and the Labour Relations Board orders a resolution through arbitration, how does that decision then affect the units represented by the other unions?

Hon. Mr. Morgan: — It provides that if a strike or lockout is considered ineffective in one employer, collective agreements for all employers will be subject to arbitration. So that if there's a situation such as health care where there's a multi-employer bargaining relationship, then it would spread . . . Or I shouldn't use the word spread. It would be applied across all of the agreements.

Mr. Forbes: — So one union then could start the process.

Hon. Mr. Morgan: — Correct.

Mr. Forbes: — Okay.

Hon. Mr. Morgan: — It preserves the common table approach that's taken in multi-employer situations such as health care.

Mr. Forbes: — Okay. So there won't be an issue of a percentage of the bargaining unit or what . . . It could be a small . . . Is there a concern that a small group or small union or a small membership within the larger bargaining unit could start this off, and you're not requesting or expecting a certain percentage would start the process?

Hon. Mr. Morgan: — In the context of a multi . . .

Mr. Forbes: — Yes.

Hon. Mr. Morgan: — I think where you have the situation where there's essential services being provided, you're prepared to live with that it may have a triggering effect, that it may bring in the other employers as well.

Mr. Forbes: — And so in terms of percentage or anything, it's considered to be like a triggering effect. Okay, fair enough.

Hon. Mr. Morgan: — Yes. To put it simply, if one's in there, they're all there.

Mr. Forbes: — Okay. And then I have a question, 7-36 around the fines. Now there are no regulations to this so the fines will then be in effect on the day of proclamation.

Hon. Mr. Morgan: — That's correct.

Mr. Forbes: — And they're quite significant. And I know that the increase essentially for the trade unions is double.

Hon. Mr. Morgan: — They are significantly higher fines, and we would expect that the fines which come on . . . The essential services one we would anticipate would come into force on the day the Act is proclaimed, but given that we're still seeking some direction from the Supreme Court we may postpone proclamation of that portion of it.

Mr. Forbes: — Of that portion. Okay. Of the fines part.

Hon. Mr. Morgan: — Depending on what happens. You know, it's a strange timeline that we're under because we're right at the very end of session. So we know we don't anticipate getting a decision from the court, but we may get something that's instructive or beneficial that we may want to at that point say okay, well we'll wait to proclaim or we'll, you know . . . We can't predict what's going to come down on that date.

Mr. Forbes: — Right. And I think that might be helpful because in terms of fines, that's a pretty significant thing. It's a pretty helpful thing, the fines being so significant that it'd probably be wise to wait.

Hon. Mr. Morgan: — Actually the fines for individuals went down from 2,000 to 1,000 and for corporations it went up. So there's a difference both ways.

Mr. Forbes: — Are there other parts of the Act that you're considering holding back on proclamation until you . . .

Hon. Mr. Morgan: — There's one more that we have to wait for passage of this, but I'll let Pat outline the scenario or the sequence.

Ms. Parenteau: — Under section 2-18(4) it talks about part-time employees and the hours of work. There's an amendment in this bill right upfront that speaks to clarification of that. We've amended it from saying 40 hours is what part-time is down to 30 to be consistent with the other part of the Act, part II that is specifically. As well as the other part is that if a union and an employer have agreed to modified work arrangements, that part-time workers would be captured under that, whatever those hours of work might be. And it's the intent that . . . This is the overtime provision, so part-time workers will be entitled to overtime after eight hours in a day unless they are under a collective agreement that the employer and union have negotiated.

Mr. Forbes: — Now why would you be holding that back from proclamation?

Ms. Parenteau: — That part is actually in the new bill, and so we have to wait till this passes until we can proclaim that in *The Saskatchewan Employment Act* because it actually amends a piece of *The Saskatchewan Employment Act.* So when this passes we can proclaim this part into effect, that specific section.

Mr. Forbes: — The 30-hour, the part-time. But the part that I'm hearing that you may not proclaim right away are the fines in that one section that I was asking about.

Hon. Mr. Morgan: — Yes. It wouldn't be the fines per se, as it may be other parts or the entire portion dealing with the employment Act or with the essential services piece. If there would appear to be a direction from the court that would likely indicate it, we may want to amend it or change it.

Mr. Forbes: — Okay. So what I'm hearing you say then is that I mean ironically I think it's going to the Supreme Court on May 16th, and that's the day we adjourn.

Hon. Mr. Morgan: — The 15th.

Mr. Forbes: — The 15th. So we'll all travel to Ottawa to the . . .

Hon. Mr. Morgan: — We had a discussion about this at a committee and said, is it something we should wait for proclamation or wait to try and craft it? Or should we go ahead and deal with it now and have sort of in the back of our mind two or three scenarios of what the court says? And the consensus seemed to emerge from the committee members that we knew we wanted to do a better job of protecting workers' right to strike, that we didn't want to have it there, that we thought we could sort of say, okay well on sort of a without prejudice basis, this is how we think it might look like. And there seemed to be, I don't know whether I want to use the word consensus, but there seemed to be a sentiment that we should go ahead with it with the hope or expectation that we would have a landing spot that would be acceptable with whatever the Supreme Court might want or might rule. And that may be awfully presumptuous of us to speculate that way, but that was the direction that I took from our consultations.

Mr. Forbes: — And just to be clear, making sure that I get my definitions right, when the Lieutenant Governor comes on the last day of session and she gives her assent to certain pieces of legislation, they come into effect. But we're talking about proclamation, which is left to the Executive Council to do at the date that they feel comfortable. It's not necessarily the date of the last day of session.

Hon. Mr. Morgan: — It has to be, yes, you're correct, an LG [Lieutenant Governor] order proclaiming in force. So we could pass, have Royal Assent, and then proclamation at some point in the future. And I think we would want to have Royal Assent take place while we're in session without wanting to put it off until the fall, and then look and see what comes out of first the hearing, whether we were confident in the outcome or what took place at the hearing, that we would want to have proclamation after that or whether we'd want to wait for a written decision which might be six or eight months out. So I wouldn't speculate on that.

Mr. Forbes: — And what may happen in the Supreme Court, we may not have any indication on the 16th of what the judges will decide. They may just take that information and then give a decision later on or they may give an indication that day. Is that how the process works?

Hon. Mr. Morgan: — That's correct, and it may be difficult to

get much of a read from them that day. They've chosen to hear it all on one day. There's a large number of intervenors, a large number of parties that are involved. So we may not hear very much from the judges; we may hear from the parties. The lawyers will always tell you they get a sense of what issues are important to the judges by the nature of the questions they ask. But I wouldn't . . . I don't think I would be able to comment on what the likelihood of that is. I'd look to some advice or some direction from the lawyers as to whether we should go ahead with the proclamation or whether we should wait for a judgment.

Mr. Forbes: — All right, thank you. So I want to ask some questions . . .

[20:30]

Hon. Mr. Morgan: — I'm sorry if that was a really convoluted answer, but I really don't know.

Mr. Forbes: — Well no, it's important to have this discussion because this really sets the tone for this piece of legislation. So it's helpful, and while it, you know, I mean it's not clear cut, but I appreciate the discussion about this now.

So I want to talk about Labour Relations, part IV, because I know that this has a huge impact on essential services, and a lot of people will ask about this. And so that's why I'm asking about this because we've opened up the employment Act. And again, you know, we've talked about the definitions here, and the concern was around the fact that the definition of employee has been changed so dramatically. Now is it very similar to definitions in other parts of Canada or is it quite unique when it comes . . . Have you checked across Canada? Are we using a very consistent definition?

Hon. Mr. Morgan: — Of which word?

Mr. Forbes: — Employee.

Hon. Mr. Morgan: — I'm going to let Pat provide that technical answer.

Ms. Parenteau: — No other jurisdiction has as detailed a definition of employee as Saskatchewan has. The bare essence is there, but it's been clarified what the intent is to include confidential nature of activities involving labour relations, business, strategic planning, policy advice, budget implementation.

Mr. Forbes: — Now do you feel that, particularly in the work this government's doing around lean and particularly in health care and in education, that some of these things actually may be a bit of a conflict of interest? On one hand you're saying they wouldn't be part of policy advice, budget implementation, or planning. Have you taken a look at the implication around what that means for lean?

Hon. Mr. Morgan: — Yes, I'll let Pat provide the answer on that.

Ms. Parenteau: — With respect to the House amendment that took place to the Act, this would have to be their primary activity. That's the way the amendment read, to get around any incidental work that they do as a member of a lean team or a lean initiative or, you know, that's not their primary job.

Mr. Forbes: — So they won't find themselves in a position of conflict. They can feel reassured by that, that they have some ability to do that. And the other one . . . And I mean they actually have a lot of concerns about this, and we've gone through this last year. But the one was the removal of the word actually in terms of a person who actually does the job, as opposed to somebody who has the job description but doesn't actually do that work. There is some concern about that.

Hon. Mr. Morgan: — Yes. Once again we defer to the Labour Relations Board in this area to make a determination of what is actually being done or what is merely part of a job description.

Mr. Forbes: — One of the concerns is around the definition of a supervisory employee, particularly where there's multi-bargaining units under one employer such as health care. And it's apparent that both health care unions and health sector employers have noted that this is not a manageable change, that they could lead to some problems, particularly when it comes to managing relief situations, and could lead to multiple bargaining units adding to the bureaucracy of bargaining. So how do you intend to deal with that problem?

Ms. Parenteau: — There is the possibility that you would have more than one bargaining unit than they currently do today because of the supervisory employee definition. But again after consultation, we've brought in a House amendment that clearly states that the primary duties have to be supervisory in nature. They have to hire, fire, discipline — those types of activities — to be considered. So that really did clarify that it's a much narrower definition than the broad one. And actually the definition went on to explain that it did not include people that act as supervisors on a temporary basis.

Mr. Forbes: — And when you talk about House amendments, that was what we did last spring right at the end.

Hon. Mr. Morgan: — That's correct.

Mr. Forbes: — Okay.

Hon. Mr. Morgan: — We had a lot of discussion when we were doing the consultation and from the advisory committee as to the real fine distinctions between who is in a supervisory role and who isn't. There was a lot of shades of grey. You had some people refer to some people that would work on a shift that they would be a lead hand, and that that was sort of one of the terms, you know, that the person was a lead hand, weren't really a supervisor. They were sort of in control for that shift as far as giving people directions; you know, you're standing in line here. You're doing this. You're doing whatever else. And then the one that, you know, you could have a lead hand that was responsible for 50 or 60 people controlling any number of things, and the definition was incredibly broad.

Another one was the role of a head nurse. That was one that came out of health care. And you could have somebody on a night shift where there would be four nurses working on a ward. One of them would be designated as the head nurse because you

had to have one, but it was really four people that were, you know, not very much of a supervisory role other than, for the sake of definition, they had to have one. But yet you could have a busy surgical ward that would have a couple of dozen people, and the head nurse on that one could be responsible for any number of things. And so they would, out of the collective agreement, have the same title but the work that they were doing is vastly different.

So that's where we tried to use the term whose primary function was to try and provide better clarity, or try and eliminate a lot of the shades of grey that existed under the existing terminology that allowed for all those vagaries to exist.

Mr. Forbes: — Getting back to the fact that we might create more bargaining units, do you have, have you had a sense over the past year, is this going to be the case? Or is this an unfounded worry or concern?

Hon. Mr. Morgan: — I don't think we can answer that right now. We haven't heard from anybody that said, oh yes, we definitely are going to. When they get into that, you know, there's that two-year period they've got to try and bring applications or resolve, but we haven't heard a lot of questions about, oh how are we going to do this, how are we going to do that? It may be, once the Act is enforced, that people start addressing their minds to it, but we haven't had people coming out trying to . . .

Mr. Forbes: — And we'll have more questions about this because this is one that is really something that . . . particularly in the health reorganization, but we'll get to that in a minute.

There's some that I wanted to ask just generally, but there was concern raised to me about that an unrepresented employee who wanted to organize into an existing bargaining unit had to wait for an open period, but yet a decertification application can be filed annually with no regard for an open period. So why the imbalance?

Hon. Mr. Morgan: — The decertification or the rescission applications had inherent uncertainty in them as to when the open period was or wasn't . . . it would fall from the anniversary date or from the anniversary date of the certification order, or if there was consolidation orders made. There was a lot of vagaries in when it was, so we made the policy decision that once the initial period had passed, that it was open. People didn't have to sit down and work through a calendar.

So we felt it was appropriate that that was a right of the employees to bring the application there. So the policy decision in that situation was that it would be there. The one you're referring to is a narrower one where it's a different one. Mike, I'll let you give a quick answer.

Mr. Carr: — It's tough to know just under what circumstances the example you've given would apply. If it's someone who is not currently a member of the bargaining unit but they wish to now be in the bargaining unit, assuming they've just taken up employment with that employer, then all they need do is apply. There's no requirement for anything around an open period.

If you're looking at a situation where you've got an existing bargaining unit wanting to be taken over by a different bargaining agent, then in that circumstance there is a requirement that they do so during the open period, which would be a period coincident with the anniversary of their certification order, or if there's a collective bargaining agreement in place, the anniversary of the collective bargaining agreement.

Now the challenge I think is trying to understand the specifics of the example you're giving, because in either case it would make sense that if you were dealing with what is, in the term of art in industrial relations called a raid, if you're talking about a raid, then you're in a situation where someone is in talking to existing members of a bargaining unit, asking them to consider representation by a different bargaining agent. If you're in that circumstance, then the value of the open period is that it gives an opportunity for there to be stability within the workplace.

The argument that you raise with respect to the policy decision that was made relating to individual union members deciding they want a rescission or decertification application is that once they've brought that application forward and it fails, then that starts again an open period that is 12 months from the failed application.

Mr. Forbes: — Good. Thanks. Another question that's been raised around this area is around the fact, around the issue around how long . . . around certification votes, the lack of timelines around certification votes. And actually this goes back to Bill 6, amendments to *The Trade Union Act*. But what the concern is, are there timelines, clear and reasonable timelines around certification votes?

Hon. Mr. Morgan: — We understand from talking to the Labour Relations Board that when the votes have been ordered, they do them very promptly, usually within a matter of days. The difficulty comes in defining who's in the bargaining unit or not. You have a new certification order that you don't know who is or who is not in, and you often have to have a hearing to do that. But once the bargaining unit has been defined, I'm told that the voting procedure takes, sometimes it's in multiple locations, but it's usually something that's done within a very few days. And the results are released virtually immediately.

Mr. Forbes: — Do you have the average days it takes to get that done here?

Hon. Mr. Morgan: — It would be in the board's annual report. But from when the time the bargaining unit has been defined, I would guess the average would be less than a month, two weeks to a month, you know, that the reports be . . . But often the issue becomes who is or who is not in the bargaining unit, and that often takes hearings and whatever the process is to get to that. You'll have for purposes of the . . . The certification application will include X number of employees, and the employer will certainly argue that it's a much larger number of employees that should have been included and therefore the voting may take place . . . [inaudible] . . . So they'll argue who is or who is not subject to that. And those hearings often take quite a number of days, and they're fact-driven rather than legislation-driven. So it's a matter of having to hear evidence and make those determinations.

The Labour Relations Board is able to . . . I think knows the importance of trying to hear those things because it's of critical importance for the employer and the employee, and I think are well aware that they want those to be done in as timely . . . And it's never . . . I'm told it's been a matter of resources or a matter of them wanting to delay them. It's a matter of getting the parties to sit down, agree on hearing dates, and get the evidence done and get on with it.

[20:45]

Mr. Forbes: — Well the information that's been provided to me is that BC [British Columbia] is within 10 days; Ontario five business days. Nova Scotia is five days. Alberta is usually within 15 business days. And the other provinces, it's just a matter of card certification. And so this'll be something we'd be looking at, and we think that this should be something that there should be clear and reasonable timelines.

Now I wanted to ask you a question. You had said this last time.

Hon. Mr. Morgan: — Yes. I can give you the average number of days for application order for direction of vote is seven days.

Mr. Forbes: — Seven days.

Hon. Mr. Morgan: — That's from the '12-13 report. But that assumes that the people have gone to whatever . . . And that's the same in other provinces. They will go through the same arguments as to who is included or who is not included.

Mr. Forbes: — Right. Now, Mr. Minister, I asked you this last year. You gave me a really straight answer. And some people thought that, you know, when ministers give answers in committee, it has a lot of weight, and so I appreciated your answer last time. But it was around the successor rights and obligations, and the fact that when janitorial or food services or security services located in a building owned by the Government of Saskatchewan or a municipal government or other public institution that have their collective agreement preserved under deemed successorship, in the event of a contract for service change . . . So that is the case. Successorship will happen?

Hon. Mr. Morgan: — No. You're referring to section 38.1 which was an addition that was put in during the early 1990s that gave a successorship right to certain people working in government buildings that was different from any other one. It was a successorship right that went not to what the business was but to what the location of the business was. There is no basis in law or anywhere else you would find something like that. It was a unique thing that was done, and the policy decision that we think is the right one is that successorship rights should apply in the same manner all the way across organized labour and that the workers working in a government building should have exactly the same successor rights as anyone else.

Mr. Forbes: — And can you elaborate what are those rights?

Hon. Mr. Morgan: — Well they're determined by jurisprudence rather than by statute. You know, that's where it's been. But that if a business is sold, the parties would have the right to apply to the Labour Relations Board and say, this is a successor company or a successor employer and this is what the nature of the business was or is. And the board would make a determination whether in fact it is a successor company or not.

Mr. Forbes: — And what do you, as the minister, what do you believe or what are you . . . How are you being advised now? That those successor rights would be most likely honoured, or that every case will have to be argued in court or before the Labour Relations Board?

Hon. Mr. Morgan: — Well I think right now we chose in this legislation not to tamper with successor rights anywhere else except for the repeal of section 38 . . . 37.1, sorry. So it will put those workers that are in those particular employment situations on exactly the same footing as anyone else working in an organized labour environment.

Mr. Forbes: — Just so I understand that, the old Act had protected them and really had given them guaranteed successor rights? Am I right in that?

Hon. Mr. Morgan: — The old Act, 37.1, gave them unique successor rights that existed nowhere else in Canada based on the location of their employment rather than the nature of their employer's business.

Mr. Forbes: — So it in effect strengthened their case?

Hon. Mr. Morgan: — I wouldn't use the term strengthen their case. It gave them a unique successor right that did not exist anywhere else. We feel that they should have exactly the same rights as their brothers and sisters that work in other organized labour situations.

Mr. Forbes: — So what do you think will be the impact of this change?

Hon. Mr. Morgan: — Well I think for the sake of consistency, if one of those locations is sold or a different contractor applies, doing whatever else, the Labour Relations Board would make a determination in the ordinary and usual course as to whether or not it is a successor employer or not.

Mr. Forbes: — Well we'll watch and see how that plays out.

Now I want to talk, I want to go back a little bit to the health sector because this is one that will be interesting to watch because there's been such a change in terms of the James Dorsey report and review that created the health, led to the creation of the definition of the health sector services provider and what that all meant. And then that framework provided for SAHO [Saskatchewan Association of Health Organizations] to be representative employer and together with the Fyke Commission reduced the collective bargaining burdens to five tables in the province. And so now with the potential for the fracturing of the health sector and the implications of what that may mean for essential services and how this becomes much more complex as we were trying to simplify this over many years, are you concerned about how this may be disruptive or are you thinking that things will be pretty stable, that you're not seeing a big change?

Hon. Mr. Morgan: — The goal of passing the legislation was

to ensure that essential services would continue to be provided both in health care, and that example of course is the one using snow removal during a blizzard. And what's taken place is we're limiting workers' rights to strike and providing them with an alternate method of resolution. We don't expect it's going to have a major impact on the multi-table bargaining. You know, those were all things that were considered, those were things that were discussed as part of the consultation that's going through. But I suppose, you know, that you might make the argument that by limiting the right to strike, it may somehow impact . . . I don't think that it will or at least I don't expect that it will. And we certainly had discussion with both SAHO and with the various health sector unions.

Mr. Forbes: — I know, and I know you've received correspondence because I've received copies of it in terms of it, particularly SEIU West who has some deep concerns about this in terms of making sure that the workplace . . . There's a lot of stability in how it's organized now, and they're concerned that perhaps there needs to be amendments to make sure what has been achieved to date is not lost. And so I don't know if you have any particular concerns about that. And they talk about how division 14 of the employment Act really talks about, you know, can kind of put this at risk. And I don't know if there's amendments that need to be added to stabilize this or will there be regulations that will stabilize these concerns.

Hon. Mr. Morgan: — Stability is an important factor. And I'll let Pat give some history as to what's taken place.

Ms. Parenteau: — The current regulations are maintained at this time. The talking about the stability and whether it will maintain, the moratorium that existed under the old Act stated the Labour Relations Board wasn't ever allowed to change the bargaining units or consider them for a period of time, and that moratorium had been extended. As of January 1st, 2006, that moratorium ended and we haven't seen any applications for changes in the health sector.

Mr. Forbes: — Now with this new legislation, whether or not there may be, because it's been lifted, that that's new environment and whether . . . I mean the concern is there. They've looked at the past and many of the unions have said this seems to be working well. They're not concerned about the structure, but they are concerned that they need reassurance whether and how that might be achieved, that the current structure will continue, more or less. I mean we've talked about the bargaining units being splintered a bit because of supervisors, that type of thing, and what that may lead to.

Hon. Mr. Morgan: — It could be that it's the same union but a different bargaining unit. So you could have the same union representing both but a different bargaining unit within.

The goal wasn't to try and destabilize the workplace. The goal was to have an appropriate balance as to who should or should not be in scope, or to have an alternate method of resolving a workplace dispute through the essential services methodology. In all of the cases there's the ability to make the appeal or make an application for further directions to the Labour Relations Board.

We went through a lot of consultation, and went back and forth, and I don't anticipate there's going to be a flood of applications. We have been watching the number of applications that have taken place at the Labour Relations Board, and the number of applications is up in a general sense. I asked the registrar, is this in anticipation of this? And he said, no, it's just a busier time. The financial sector, workplace sector, is busier. People are seeking remedies at the LRB that weren't before. But they're not seeing anything that they think is in anticipation of, nor are they hearing anything that would indicate that that would be a factor.

Mr. Forbes: — Well, you know, the concern that they raise is . . . And SEIU has done a really good job in terms of really articulating this because we see that, you know, prior to '97 there were 538 bargaining units in health care and he brought it down to 45. So almost, you know, a huge reduction. And then it went from 25 tables down to 10.

And this has worked out really well in terms of making sure there's stability but also fairness in terms of bargaining. And I would even say across Saskatchewan in terms of, you know, I can speak as a teacher when there's this one bargaining table that we get paid all the same across the province. That's had a huge benefit for everyone in the province in terms of economic growth. So their concern was whether or not there would be a need or how do we ensure that whether this would have been something to think in terms of some sort of amendment. Or will you be watching this very closely?

Hon. Mr. Morgan: — I think whenever you do any significant change, you have to watch and see whether there is something that happened that was unintended or unanticipated. We know, early on I said, the two statements I said are the devil is in the details and unintended consequences. So through the discussions, we think we have headed off everything that's there. We've provided the detail in all of the regulations.

So we think we've satisfied the detail issue, and we've tried to read forward on the other issue of unintended consequences. And the discussions we've had, people have said, you know, they've done their crystal ball gazing. Well what if this? What if that? And I think most of the fears have been allayed or people have said, no this is something we can live with, or we don't like this but we know that's where we're going. So I don't anticipate this is something that's going to destabilize it.

You made the comment about the shrinking number of bargaining units within. And I think that speaks a lot about, you know, we always talk about how grumpy health care workers are and how hard the employers are. But the fact that they've gotten to that point on their own without outside interference, if those were the things that were negotiated, I think probably speaks to the truth of what the willingness is. Plus when you look at the vast number of contracts that get settled without job action, there is a willingness to sit down and work together. It may not be as good as people might like it to be, but they are producing results. And I think both sides are to be commended for that.

[21:00]

Mr. Forbes: — And I think that's a good point to make. I mean they do allude to James Dorsey and Fyke providing leadership,

but I think your point is well made in terms of how many contracts get resolved and the good working relationship. And they really do want to see that continue. And you know, they talk about provincial-wide planning and that type of thing and how important that is. So you know, they do talk about it would be a good idea, and I've raised this, about whether a potential amendment or not.

But I would think, Mr. Speaker, at this point, if we could take a small break. And I've more questions afterwards, but a five-, ten-minute break would be greatly appreciated.

The Chair: — Yes, we will now pause for a five-minute break.

[The committee recessed for a period of time.]

Hon. Mr. Morgan: — The member was commenting on the information that he received from some of the different health care unions and specifically referenced SEIU West. And it's interesting that that was the one where the concerns were raised from because that was the one entity that didn't have a representative on MAC, on the minister's advisory committee. So a lot of the information that they were receiving was second-hand or based on it.

So we've had an opening come up, so Barb Cape is now on. Now I'm not saying that's going to answer all of the questions, but it will certainly have them sort of . . . So what I had chosen to do over the last year or so is meet with Barb and with her safety advisor, Shawna Colpitts, on a periodic basis and look to them for some advice. And actually they're very professional, well qualified, and I actually enjoy spending time with them.

Mr. Forbes: — Absolutely, and that'll make a great addition, and very thorough. So that's a good thing. Well good, then I think we're ready to get started again.

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

Mr. Forbes: — Thank you very much. The next section I want to deal with is division 15, the firefighter section. And I know that there was a lot of hope that potentially that there might've been some amendments or even House amendments brought in tonight or whatever.

But the concern was around the fact that what happened with the employment Act and the changes it caused in terms of bargaining for professional firefighters, and the fact that Weyburn, Yorkton, North Battleford, Swift Current will not have access to the same kind of arbitration that Regina, Saskatoon, Moose Jaw, and Prince Albert were able to access. And they had some real concerns about that, and I don't know if there's been anything that's changed. They did a pretty effective lobby day here, and I know they met with you back in December. And they met with us, and we've raised some questions in the House. I don't know if there's been any progress that you'd like to report on.

[21:15]

Hon. Mr. Morgan: — Yes and no. The threshold will be that the arbitration that exists under the platoon Act will continue for municipalities in excess of 20,000 population. Municipalities below 20,000, which will be some of the ones that you mentioned, would not have the ability to access that process but may be entitled to have remedy under essential services. And it would depend on whether the nature and makeup of their bargaining unit, whether it would be an effective strike or not — and I'm not in a position to be able to speculate on it — but you may have a bargaining unit of only two or three professional firefighters and the rest is largely volunteers. So in that situation, quite likely if they chose to strike they would not be deemed to be an effective strike.

Or it could be a different situation where you had a 25- or 30-member fire platoon or firefighters' bargaining unit and virtually all of them would be professional firefighters rather than volunteers and then, in all likelihood, that one would be able to avail themselves of essential services.

For what it's worth, I can give you the background of why the policy decision was made to change that. It was, the consultation that we did with the municipalities was the smaller municipalities felt that they were not comparable with or did not have the same financial ability to pay as Saskatoon and Regina, and that the pay scales in Saskatoon and Regina didn't work in, for example, the city of Weyburn.

And they said, we can't afford to have the same process. The arbitrators will use Saskatoon and Regina and that's it. We want to have a . . . We don't feel it's fair that we'd be under that. We weren't under that before. Our cities have now grown so that we're now caught by that. Historically we weren't caught by it. We are now because of the growth and we're being punished for some of the growth. We want to maintain the status quo.

Mr. Forbes: — Yes, I'm wondering though, you know, I mean and I understand the circumstance that municipalities find themselves in. But you know, particularly as we're seeing, you know, the growth in Saskatchewan, and of course we've talked about the growth in value of property, and of course when you come to the situation of protecting your property and your families, we just value that ability.

And essentially that's why we have essential services. We have set that as a priority and we're not just going to leave it to the laissez-faire of the marketplace. The government will step in and set some rules around what should be done. But firefighters felt that was unfair in terms of that process. And at some point, there has to be a recognition that the protection does cost and that there will be some costs. And while it's difficult to have a shock, I agree with that in terms of going to a complete professional firefighting situation.

But I know that when I was looking at *Hansard* last night, this is what the Premier had to say when the questions were asked last December 3rd. He said:

> Mr. Speaker, I would say with respect to the specific issue of those municipalities, mayors and councils from those respective cities contacted the government and made this request, Mr. Speaker, to the government for the change of which he's speaking.

When he's saying "he's speaking," he's referring to the Leader of the Opposition.

> Mr. Speaker, as we consider the essential services piece, which will come back to the legislature, we're going to have to deal certainly with this issue, and we will. And we'll do it in concert with those municipalities, but we'll also do it in consultation with the firefighters of the province of Saskatchewan.

So the Premier's made a pretty strong commitment there to resolve this issue. Has that commitment been carried through in the spring?

Hon. Mr. Morgan: — The discussion took place. We've met on several occasions with the firefighters. We've continued to meet with the municipalities, and the resolution that we have is one that is not going to satisfy everyone. We are going to leave the threshold at 20,000, where the bargaining unit captures most of the firefighters that are there. They will have . . . And we've had the discussion with the firefighters. They will be subject to the essential services legislation.

And different municipalities may have a situation where they only have a smaller number of professional firefighters and a large volunteer contingent. In those cases, they would be entitled to the usual remedies that they would have to withdraw services and take job action.

Mr. Forbes: — Now has there been any concern with the municipalities in your conversations with them about the fact that it's hard to get firefighters attracted to Weyburn or Estevan or Swift Current because of the low pay?

Hon. Mr. Morgan: — I haven't heard the municipality say that. The concern that's expressed from them is the cost and the comparability of the wages by using Saskatoon and Regina as a yardstick and that they can't afford it. The other comment that was made is, we simply can't afford to maintain a significant number of professional firefighters; we will end up going back to an all-volunteer one. And I think the words were that they're effectively pricing themselves out of what we can afford or out of the market.

Now I hope that that doesn't happen. I think all of us value and respect the work that's done by firefighters. These are people that go to work every day, put their lives at risk for yours and my safety. And I don't think anyone can diminish that or take that away from them.

When they're not actively fighting fires, they're doing other things there. They're doing building inspections and teaching people or checking fire extinguishers and doing a variety of other things that reduce or minimize the risk to all of us in other matters. And I don't think anybody can underestimate the great work that they do. And I think all of us agree with that, but from an economic point of view, the smaller municipalities said, we just can't pay this.

Mr. Forbes: — So I am hearing you, correct me if I'm wrong, but you are continuing this dialogue and hopefully moving it to some sort of solution.

Hon. Mr. Morgan: — No, I think what we've reached is an agreement to disagree. The municipalities say, we can't afford to pay it. The resolution that we've given or what we've offered to the firefighters is, you will have, where there's a significant number of you within the bargaining unit and within your firefighting contingent, you would have access to what will be in any Act under essential services.

Mr. Forbes: — Thank you very much. Okay. Now I wanted to also ask a few questions if I can around some quick questions around occupational health and safety and the regulations for this part of the Act. They'll be coming out . . . When will we be seeing the . . .

Hon. Mr. Morgan: — I'm going to let Pat or Mike, I'm not sure which one, speak to the timeline on the other regulations.

Mr. Carr: — With respect to *The Occupational Health and Safety Regulations*, we intend to do a fulsome review of all of the existing occupational health and safety regulations over probably an 18-month to 24-month period. There's some specific work that's been done that's now public with respect to asbestos, and those regulations are out and in the public domain presently. We're also working on a small regulation that will deal with prime contractors, and that will be dealt with very soon when proclamation occurs.

Mr. Forbes: — So when you say 18, 24 months that they'll be concluded, when is that window in terms of . . . Is that next year or is that this year?

Hon. Mr. Morgan: — Two years out. The timeline's starting roughly now.

Mr. Forbes: — Okay, so we're looking at 2016 essentially.

Hon. Mr. Morgan: — Yes, ideally '15, but it may take into '16. The regulations around OHS [occupational health and safety] become complex because they get quite technical. When we started having a discussion about them at the advisory committee, the consensus that came out of there very quickly was that the people in that room, and they were the HR [human resources] people and the organized labour people, that they didn't have the expertise to discuss those things because they didn't know how high or how a piece of equipment is supposed to work, that that should be left to the people that were dealing with those specific items.

So we'll strike another consultative committee where there'll be designates from the different unions and different employers that will sit down and make it more of a working group of people that are doing the work so they can develop and have discussion about what are best practices in those areas. So hopefully they can work their way through it fairly quickly. But I don't want to slow down the process or try and make them meet a timeline that would prevent them from getting a good result.

Mr. Forbes: — Do you see any of this coming back into an amendment to the Act next year or the year after?

Hon. Mr. Morgan: — Hopefully it becomes simply a matter of the regulatory changes, and I'm hoping that the Act doesn't require further amendments of any kind. Having said that, if it's appropriate to have a legislative change, we'd certainly go back to committee and say, we think we need this, we think we need

that. But hopefully we don't.

Mr. Forbes: — Now two questions further. Well many more but the one that . . . There were some questions around the minutes from work site committees and whether. . . Here it is. So presently the regulations require that the OHS committee submit their minutes to the division and then this is laid out. But there is some concern that there may be some changes, that it's not being as enforced as it might be and it's seeming, it's coming back to the workers to really police whether or not the minutes are being kept track of and then filed in a way it should have.

Now it seems that when, you know, people have approached me about this, the unionized workplaces seem to have a more efficient way of dealing with this, whereas some others may not and even the small locals may not as well.

So will the regular obligation, will the obligation to submit OH & S committee minutes be reinstated? It apparently now is not the case, that they do not have to file minutes. This may get back to the computer system that we talked about a couple of weeks ago, but I'd like to hear more about this.

Hon. Mr. Morgan: — At this point, you know, the discussion is one we've had where we felt it was a better use of our resources, instead of filing pieces of paper that would come in, that those people or those employees would be better served to be visiting job inspections or job sites and workplaces, that those are most effectual for driving down.

Having said that, you know, the work that's done by occupational health committees is invaluable, should never be minimized. And we want to make sure that that continued, and the obligation to keep minutes is part of that. That's how you evidence the work that's being done by those committees.

So our intention at this point in time is that we will not require the filing of the minutes. They are required of course to be held and it's something we would want to watch and see as we went forward as to whether the compliance was adequate and whether there was cheaper or easier ways to file them. But right now to be paying numbers of people to receive them, open them, and not have much else other than a filing function, it just wasn't useable. But the point people raise about maybe there's electronic filing or other methods, you know, something to discuss as we watch and see how it plays out.

[21:30]

Mr. Forbes: — So have you done . . . I mean it's interesting because sometimes, you know, that old saying about, if you look after the details the big picture kind of takes care of itself. But I hear what you're saying about setting priorities, and you have only so many people and what should they be doing. Is there any correlation between the companies, the workplaces that have high injury rates — and you've identified I think 50 or 60 of them — and their, how high-functioning their OHS committee is?

Mr. Carr: — The answer is yes.

Hon. Mr. Morgan: — My deputy minister says yes.

Mr. Forbes: — To what degree, and can you share a little bit about what you know about it?

Hon. Mr. Morgan: — Yes. I'll certainly let Mike answer as well, but I think in a general sense the more compliant an employer is with the regulations, the lower the accident rate they have. The more effective the work done by the OHC [occupational health committee], the lower the accident rate is. So I think in a general sense the more focused an employer is, the more focused the employees come. And that's one of the things that seem to drive it down. Whether there's a benefit to having the resources committed to minute filing is another issue.

Mr. Carr: — Yes. I think my experience with respect to high-functioning occupational health and safety committees is that in workplaces where they perform that invaluable function well, those workplaces have lower injury rates. The question though, as you know, we've spent a great deal of time and energy over the past number of years trying to inspect workplaces. We haven't been able to have an effective impact on the injury rate as a result of that work.

So when you look at resources and you look at, in the case of dealing with committee minutes, having three FTEs [full-time equivalent] tied up receiving and filing those committee minutes and then having a periodic review by officers where there's an impact around a specific issue they want to track and trace back, what we've determined is the best use of those resources is to convert them to other activity related to, for example, intelligence gathering, so that we're actually looking at injury rates inside specific workplaces, so that we're dealing with the software program that we spoke about in estimates, and starting to drive specific information into the workplace about their own injury rate.

And so when you look at the kind of activity that we've been engaged in over the past 18 months, we've determined that we've spent a lot of time and energy doing things that didn't have a positive impact on reducing injury rates. And we've decided that we would refocus those resources to see if we in fact can have an impact on the 50 workplaces we identified as priority employers with high injury rates and low response rates, and the 20 health care employers that we've been working with. And so when you look at that investment of time and energy, what we are saying is those minutes are important. We're going to check on those minutes when we're in the workplace doing the work on site, and we're going to ask specific questions of OHCs to ensure that they're starting to be effective in those workplaces that have high injury rates.

Ideally we would have mechanisms that would allow us to go to every workplace but that's simply not practical or possible. And so we think that by changing the focus to this very intensive, focused interaction inside workplaces that have high injury rates, that we're going to have a far greater effect on reducing the number of injuries in the province. Time will tell. I can say to you candidly that in the first four months of the work we did on the priority 50 employers, we've seen about an 11 per cent reduction in their injury frequency. And while we would be loathe to take all of the credit for that, we think that some of the credit has to do with the focus we've brought to those workplaces, to those OHCs, and to those ownership teams.

Mr. Forbes: — Yes, and I appreciate that and I think that . . . And today especially, on the 28th of April, this is a good topic to be talking about, and your concern. And I know governments wrestle with limited resources but I think it's worthwhile to appreciate when this is brought forward from workers saying, we want those minutes, we want that structure in place because I think they get concerned that if it's not expected then things start to slide a bit, and that's the worry.

Hon. Mr. Morgan: — The obligation to have the meetings, keep the minutes, still exists. The only difference is government doesn't keep them any more. They are required to be kept on site. So if the minutes aren't available, the worker makes a complaint, the complaint gets investigated, and ultimately the employer could be charged or held accountable. So we're expecting the same degree of compliance that we had before and simply because it's new, we'll want to be watching it.

Mr. Forbes: — And I think if that's the commitment, when you're doing site visits then you might do a surprise check on the minutes. Maybe that's a good habit to do.

Hon. Mr. Morgan: — Well I want you to know that in my own office the minutes are posted on the bulletin board and they're kept. And we have not yet had to deal with an on-site visit from any of the good folks that do their work, but we're ready.

Mr. Forbes: — You're ready. Good stuff. Okay. Thank you very much.

I want to now turn to the minimum wage amendments. And so this is part of Bill 128. That was the first, one of the first parts, section 2-99. And so when will we be seeing the regulations for this part? This would be coming out shortly?

Hon. Mr. Morgan: — The minimum wage ones are out.

Mr. Forbes: — Oh they're completely out?

Hon. Mr. Morgan: — Yes. They're gazetted. They're there. In quick summary, we give six months notice so that they can be enforced by October 1, and it's midpoint between the consumer price index and average hourly wage.

Mr. Forbes: — Now is that formula part of the regulations that you can see how that, and especially the average industrial wage, how that's arrived at, what the numbers are actually there?

Hon. Mr. Morgan: — The formula is in the regulation and it's not in the Act. So the formula could, if it was felt appropriate, be amended at some point in the future. And if cabinet chose to override that automatic process . . . The automatic process would continue, but if cabinet felt that it was inappropriate because we'd fallen behind other . . . whatever, it would certainly be an option to them to do something different. That's why it was left in regulation rather than in the Act.

Mr. Forbes: — So now the regulation has the wage will go up every year. Does it have to go back to cabinet to be approved every year?

Hon. Mr. Morgan: — Yes. It's an approval process, but it comes forward sort of as an automatic number saying, this is what it is unless you choose to do something with it.

Mr. Forbes: — Now what happens if it is missed? I mean this is part of the debate because last year there was not an increase. It was the year before that there was an increase. So there was a debate about, is this a 2 per cent increase or is this a 1 per cent increase this current year.

Hon. Mr. Morgan: — Well the purpose of putting it in the Act as an automatic process is it defines how it will be calculated so you don't need to go back to the minimum wage committee, which by the way did very good work. So you don't need to wait for a committee report. You don't need to do it. It's an automatic thing that would be done and prepared by the officials. And I suspect if the officials didn't, either the opposition or the government MLAs [Member of the Legislative Assembly] would be raising the issue with some significant concern.

Mr. Forbes: — So you bet. But there's not a part in the regulations to say if it was missed for some reason that there's a catch-up? It's just annually . . .

Hon. Mr. Morgan: — I think that's one of the reasons why it goes to cabinet, is if for some reason it didn't happen — and I can't imagine why it wouldn't, but if it didn't happen — they would be able to do a catch-up or do an adjustment.

Mr. Forbes: — So now in reference to the Minimum Wage Board, it's now gone. It no longer . . .

Hon. Mr. Morgan: — Correct.

Mr. Forbes: — There's no advisory board or anything at all. Okay. Now what is the ceiling, or is there a ceiling in the amount that employers can charge a worker for room and board under the new . . . or the regulations? Is there something there?

Hon. Mr. Morgan: — There's regulations in the old legislation and those regulations will carry forward into the new Act.

Mr. Forbes: — So the old minimum wage regulations were quite thorough. And I'll have to take a look in the *Gazette* to see what they are, but do they cover . . . I'll go through some of these things. One of the concerns was around the fact, are schools, students, janitors, caretakers, they're still exempt from the minimum call-out?

Hon. Mr. Morgan: — That's a tomorrow question.

Mr. Forbes: — That's a tomorrow question. Okay. So we'll find out more about this tomorrow. Good. And then the other one was around the transportation for certain employees. Will we find that out as well?

Hon. Mr. Morgan: — The existing regulations will stay the same on that.

Mr. Forbes: — Great. And then restrictions on hours of employment for youth, will that be the same?

Hon. Mr. Morgan: — The Act allows for regulations to be

made. We would anticipate that those will remain the same.

Mr. Forbes: — Now we had quite a discussion last year, and I don't know if there needs to be an amendment or what your thoughts were about two consecutive days rest. Now for some groups that was maintained and other groups not. What were the groups that . . .

Hon. Mr. Morgan: — That will become a tomorrow question as well.

Mr. Forbes: — That's a tomorrow question. Okay.

Hon. Mr. Morgan: — For the benefit of Hansard, when I say it's a tomorrow question, it means that there's regulations being announced tomorrow.

Mr. Forbes: — I'm looking forward to that. That'll be great. Well then with that, and I know that there's other issues that people brought up in terms of the public holidays and employment leave . . .

Hon. Mr. Morgan: — You mentioned public holidays. Public holidays are not in the regulations. They're in the Act and they remain unchanged.

Mr. Forbes: — Right.

Hon. Mr. Morgan: — Public holidays, vacation, all of those things remain, were brought forward out of the existing legislation because they were in the previous legislation. They were in legislation so there was no issue. There was no policy decisions to change any of those items, so they were brought forward. In addition to that there was the additional leaves that . . .

Mr. Forbes: — And I want to talk about the appeal and hearings, part IV of the employment Act. And were there regulations for part IV? I think I've got my numbers right. Yes. The adjudicators and that type of thing.

Ms. Parenteau: — There are no regulations under that part.

Mr. Forbes: — No regulations dealing with that. And again, now you mentioned earlier *The Arbitration Act* doesn't appeal to VI or VII. Or does it appeal to this one, or apply to this one as well?

[21:45]

Ms. Parenteau: — I do not believe so, no.

Mr. Forbes: — Okay. We'll have to check on that. And how is that . . . We had talked a little bit about that in terms of the transition from a lot of this work being done within the ministry and now this is being assigned over to the Labour Relations Board. They handle the fleet of adjudicators. And how is that transition going? Are they ready for the work that will be coming their way?

Hon. Mr. Morgan: — I try to make it a point not to meet with the board Chair very often. I want to respect his judicial independence. I do meet probably more frequently with the registrar and certainly have on occasion met with the board Chair. But the assurance that they continue to provide is that they feel that they are able to cope with it and intend . . . If the workload or the area of expertise needs to be brought up or they need additional resources, I've given them the assurance that resources would be there for them. And they've indicated that if they need help, they won't be afraid to ask and that they will try and respond in as timely a manner as possible if they need to make any kind of significant changes. So that's where we're at. They have not asked for additional resources this year.

Mr. Forbes: — Under the old process the minister would be the one who would sign an awful lot of the adjudicator authorizations, for lack of a better word, but now you won't be doing that?

Hon. Mr. Morgan: — The appointment is made by the board, or the recommendation comes from the LRB, but it's done by a minister's order so I would still . . .

Mr. Forbes: — So are you aware or do you have a list of the adjudicators?

Hon. Mr. Morgan: — We maintain a roster of them now. Some people fall off and we add to it and look for recommendations and then we provide it.

Mr. Forbes: — And is that a public list? Is that one that can be . . .

Hon. Mr. Morgan: — I can't imagine why we wouldn't provide it if you want it.

Mr. Forbes: — Well you know, the question the person was asking, whether we could provide a copy. If you have a copy of the list, that would be great.

Hon. Mr. Morgan: — We'll certainly give it to you. For the process as it gets . . . We look for input from both employer-employee side and we vet it so it's from both sides as well. There's certainly . . .

A Member: — It's no secret.

Hon. Mr. Morgan: — Yes, it's not a secret or something. It's the same process that was followed probably during the time you were the minister.

Mr. Forbes: — Sounds like it, yes. Yes. Okay. Well with that then, Mr. Chair, I think I have reached at this point all the questions I have. I know we'll maybe have more tomorrow, but that will be for a different forum if I have questions.

Hon. Mr. Morgan: — I would urge anybody that has the opportunity to attend one of the briefings tomorrow. There'll be a media briefing and a technical brief for the MLAs. So I'd urge people to go and attend and ask whatever questions. Pat will be speaking at that, as she usually does on those things, and feel free to ask whatever questions you think are appropriate.

Mr. Forbes: — Sure. Thank you. Well, Mr. Chair, I just want to thank the officials and the minister for the opportunity to ask questions on this Bill 128 and its implications. And we look

forward to having it move forward and we'll take it from there. Thank you.

Hon. Mr. Morgan: — Thank you. Mr. Chair, before we adjourn, just for the record, I want to thank the committee members for their evening and the people from Hansard and yourself and the member opposite but, in particular, to the officials that have come out. I know — and we've talked about overtime and provisions of overtime — these people are not being paid for overtime tonight. Anyway I thank them for the good work they do.

The Chair: — Thank you very much, ladies and gentlemen. Seeing no more questions, we will now proceed with the voting off of the clauses. Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 10 inclusive 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 Amendment Act, 2013*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 128, *The Saskatchewan Employment Amendment Act, 2013* without amendment.

Ms. Ross: — I so move.

The Chair: — Ms. Ross moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move a motion of adjournment.

Mr. Merriman: — I so move.

The Chair: — Mr. Merriman has moved. All agreed?

Some Hon. Members: — Agreed.

The Chair: — This committee stands adjourned until May 1st at 2 p.m. Thank you, one and all. Good night.

[The committee adjourned at 21:51.]