



# **STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE**

**Hansard Verbatim Report**

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**Legislative Assembly of Saskatchewan**

**Twenty-Eighth Legislature**

**STANDING COMMITTEE ON INTERGOVERNMENTAL  
AFFAIRS AND JUSTICE**

Mr. Fred Bradshaw, Chair  
Carrot River Valley

Mr. Buckley Belanger, Deputy Chair  
Athabasca

Mr. Ken Francis  
Kindersley

Mr. Hugh Nerlien  
Kelvington-Wadena

Mr. Eric Olauson  
Saskatoon University

Ms. Laura Ross  
Regina Rochdale

Mr. Corey Tochor  
Saskatoon Eastview

[The committee met at 19:00.]

**The Chair:** — Well good evening everybody, and welcome all the television viewers watching this exciting evening tonight to listen to the minister. Oh yes, it is April the 1st.

Anyway I want to welcome everybody to the committee tonight. I'm Fred Bradshaw, the Chair of Intergovernmental Affairs and Justice. Substituting for Buckley Belanger is Nicole Sarauer. And with us we also have Ken Francis, Hugh Nerlien, Eric Olauson, Laura Ross, and Corey Tochor.

I would like to advise the committee that pursuant to rule 148(1), the following estimates and supplementary estimates were committed to the Standing Committee on Intergovernmental Affairs and Justice on March 28th, 2019 and March 20th, 2019, respectively.

Estimates: vote 73, Corrections and Policing; vote 30, Government Relations; vote 91, 196, Integrated Justice Services; vote 3, Justice and Attorney General; vote 27, Parks, Culture and Sport; vote 88, Tourism Saskatchewan.

Supplementary estimates — no. 2, 2018-19: vote 30, Government Relations; vote 3, Justice and Attorney General.

This evening we will be considering five bills: Bill No. 155, *The Legislation Act*, a bilingual bill; Bill No. 156, *The Legislation Act Consequential Amendments Act, 2018*; Bill No. 159, *The Securities Amendment Act, 2018*; Bill No. 163, *The Legal Profession Amendment Act, 2018*; Bill No. 164, *The Statute Law Amendment Act, 2018 (No. 3)*.

### **Bill No. 155 — *The Legislation Act/Loi sur la législation***

#### **Clause 1-1**

**The Chair:** — We will be considering Bill No. 155, *The Legislation Act*, a bilingual bill, clause 1, short title. Minister Morgan, would you please introduce your officials and make your opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined this evening by Jane Chapco, senior Crown counsel, legislative services; Ian Brown, Q.C. [Queen's Counsel], chief legislative Crown counsel; Sandra Schnell, senior legislative Crown counsel; and from my office here my chief of staff, Clint Fox; and my ministerial assistant, Molly Waldman.

Mr. Chair, I'm pleased to be able to offer opening remarks concerning Bill 155, *The Legislation Act*. Mr. Chair, this legislation replaces *The Interpretation Act, 1995* with a modern, new Act that implements the Model Interpretation Act of the Uniform Law Conference of Canada. The new Act combines all of the provisions related to the drafting, interpretation, publication, and revision of Saskatchewan's laws into one modern, efficient, and accessible Act.

Mr. Chair, the Model Interpretation Act was approved by the Uniform Law Conference of Canada in 2015. The model Act is the result of a comprehensive review of the various interpretation Acts currently in place across Canada and other common-law

jurisdictions, and reflects the most recent case law and drafting standards.

Mr. Chair, this new Act will adopt the "modern principle" of statutory interpretation which was adopted by the Supreme Court of Canada in the *Rizzo & Rizzo Shoes* decision. This new Act will also expand the rules around gender-specific references to confirm that those references include persons of any gender.

Mr. Chair, in the new Act we'll adopt the Model Interpretation Act. It will retain several Saskatchewan-specific provisions, including provisions related to the appointment in terms of public officers and in continuation of the presumption that an enactment does not bind the Crown unless specifically provided for in the enactment.

Mr. Chair, the new Act will also carry forward the provisions of *The Regulations Act, 1995* and *The Statutes and Regulations Revision Act* without significant substantive changes. The authority to revise regulations will be expanded to support the correction and updating of multiple regulations at once, which will simplify the process of updating cross-references and correcting minor errors in regulations. The revisions powers will be expanded to confirm that the revision committee may revise and alter language to achieve a clear style which will provide added flexibility when preparing revisions.

Mr. Chair, I would also note that we will be introducing four House amendments today. And the first is a technical House amendment to address an issue that rose out of the introduction of Bill No. 163, *The Legal Profession Amendment Act, 2018*. The House amendment will update the standard definition of the lawyer. It will apply in all Saskatchewan Acts and regulations where the word "lawyer" is used but not defined. The standard definition of "lawyer" is linked to the definition of "member" in *The Legal Profession Act, 1990*. Bill No. 163 will expand the definition of a member of the Law Society to include other limited licensees who are not lawyers.

The revised standard definition of "lawyer" in the House amendment will more clearly limit the definition to actual lawyers only and not include the new limited licensees, who will also be licensed by the Law Society when Bill 163 takes place. As you're looking at a table full of lawyers, you can well understand why this is of critical import.

Mr. Chair, there are three other House amendments related to the role of the Clerk and the Law Clerk. One amendment will confirm the definition of "Royal Assent" in clause 2-3. The two other amendments will be made to the processes respecting the certification of the date of assent and the provision of certified copies of Acts in clauses 3-3 and 3-7. These House amendments will shorten and simplify the clauses to better reflect actual practices.

Mr. Chair, with those opening remarks I welcome your questions regarding Bill 155, *The Legislation Act*.

**The Chair:** — Well, thank you, Minister. I would also like to remind the officials, when you speak, could you please say your name so Hansard would know. Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you, Minister Morgan, for your opening remarks. I understand, from what you've just said, the recommendation essentially to roll this legislation that has now been repealed — *The Interpretation Act, The Regulations Act, The Statutes and Regulations Revision Act* — into one piece of legislation that will be called *The Legislation Act*. This bill was a recommendation made by the Uniform Law Conference. Can you explain why that recommendation was made?

**Hon. Mr. Morgan:** — I know the intent of the things that are done by the Uniform Law Conference that provides standardization of legislation across Canada on things like the personal property security legislation, among other things, but also there is a significant initiative on their part to make bills easier to read, more consistent, and a standardized interpretation all the way across.

You'll note in the opening remarks I made reference to the Rizzo decision of the Supreme Court, which is a decision of the Supreme Court dealing with an insolvency in Ontario. And the Supreme Court made the ruling that legislation such as those that were determining termination pay — because it affected workers that were not going to get severance pay because they had not been laid off before — so the Supreme Court determined that the legislation should be given a broad, liberal interpretation and focus on the broader intention of the Act and not simply the simple wording that's in the Act.

And I think that's the type of thing that the Uniform Law Conference was going . . . Now I don't know if the officials want to add anything to that or not.

**Mr. Brown:** — It's Ian Brown. I'll just point out that Ontario has introduced a similar piece of legislation called the *Legislation Act* in 2007. And when we were working on the Uniform Law Conference bill, we felt that Ontario provided a very good model. It was one of the more up-to-date pieces. So that's part of the reason for this combination.

As well, of course, all three Acts deal with interrelated matters, and so it's easier to put them all into one piece.

**Ms. Sarauer:** — Thank you. I think you just answered my next question, but I just want to be sure. You said Ontario has introduced legislation similar. Has that legislation been passed yet? And are there any other provinces or jurisdictions that have also tabled similar legislation?

**Mr. Brown:** — Ian Brown again. Good question. Ontario's Act was actually enacted in 2007. So it's been in force now for 12 years.

To be quite honest, I don't think jurisdictions have really been as active as they could be in updating their interpretation Acts, so we're really getting ahead of the game here by being proactive.

**Ms. Sarauer:** — Not the most exciting piece of legislative change, but important nevertheless.

You mention that there was some modernizing that has been done in what would have been the old interpretation Act in this new legislation Act, and have spoken, Mr. Minister, a bit about those changes. Can you walk through, other than minor housekeeping

amendments, what other changes can be found in *The Legislation Act* when you compare it with the old interpretation Act?

**Mr. Brown:** — Ian Brown. Good question. Let me just give you a few of the highlights. One of the first is actually in section 1-2 which deals with definitions used in the Act. In the existing interpretation Acts, I should mention of course that all the Acts are now 23 years old, so there're getting quite dated. And particularly for a crucial piece of legislation, we felt it was important to keep them up to date.

But in the existing interpretation Act, there's a definition of "regulation." And when we normally think of regulations, you talk to the average person on the street, they're thinking about those types of instruments that are printed in part II or part III of the *Gazette*. But really the definition of "regulation" in *The Interpretation Act* is much broader and includes orders in councils, rules of court, tariffs, forms, etc.

So one of the first things that we did, and this was based on the recommendation of the Uniform Law Conference, was to introduce two terms: one statutory instrument to include the broader set of instruments, including regulations. And then regulations as used in *The Legislation Act* refer really just to those types of instruments that normally we think of as regulations published in parts II and III of the *Gazette*.

Another change that we've made — and this is, I guess, more of interest to lawyers who work for government — but in section 2-5 we've changed and clarified when enactments come into force and when they're repealed.

Under the existing interpretation Act we have a rather ironic situation where a new Act comes into force on the first day, on the first moment of the day. But if it's repealed — and many new Acts repeal existing Acts — the repeals only take place at the end of the day. So we felt we should just clarify that to say they both come into force at the beginning of the day.

The minister's already talked about the Rizzo & Rizzo Shoes case.

In section 2-19 this is a minor, little change but we now refer to section headings as opposed to marginal notes. Now I've been drafting for many years and we have never used marginal notes, but I'm still old enough to remember the 1965 revision. If you look at it, actually the notes are in the margin, that's why they're called marginal notes. But we haven't used those for decades, and so we adopted the term called "section headings," which I think is used also in several other Commonwealth jurisdictions just to refer to what we're referring to as formally marginal notes.

One of the big changes, I think, is in section 2-23 which refers to gender. And under the existing interpretation Act we just have the provision which says a reference to male includes female, a reference to female includes male. That is now out of date. And so what we've just included is gender-specific words refer to any gender and include corporations.

The other thing we've done — it's not really mentioned here — but we've also tried to draft this in as a good a form as we can to get rid of any binary terms. So the existing interpretation still has a few "he" or "shes." We've eliminated all of those. We've

addressed that issue as well just by hoping to have a good standard.

In section 2-26 where we have deviations from prescribed forms, the existing wording is a bit limited and it still assumes we have printed forms. The wording we now use in section 2-26, particularly clause (c), allows for there to be electronic forms. So if you're filling out a form electronically, you can do so as long as you don't make any substantial changes and it's organized in the same way. So that's one change.

[19:15]

I'd just like to point out two changes as well. These are really related to the regulations aspect, part 4 of the new piece, and the minister alluded to this. First of all in 4-12 it says the Lieutenant Governor in Council may by regulation repeal any regulation it considers desirable to repeal. Under the existing regulations Act, it says it has to be done in the context of a revision of regulations. That's limited because we're not always in the context of a revision of regulations, and there can be a number of unnecessary or obsolete regulations that should be repealed. This gives the Lieutenant Governor in Council the power to repeal those. Whether they're made by the Lieutenant Governor in Council, by a minister, or by a board, they can now be repealed.

The other is in section 4-13, which has an expanded power with respect to updating and correcting regulations, and particularly clause (b) which refers to changing any outdated references in regulations. We don't have the power now. We do for statutes, so for example, later on you will be considering *The Statute Law Amendment Act* where changes can be incorporated to update references to a number of Acts. We don't have that power with respect to regulations. So for example now, if we have a new term for a body or a new organization established, we can amend a whole series of regulations by one omnibus amending regulation to update this reference. But it's not to make any substantive changes; it's simply to make corrections and to ensure that we have a consistency between all regulations. So those I think are the major changes that I refer to.

**Ms. Sarauer:** — Thank you, Mr. Brown. That was very informative. I appreciate that. I also just want to note that Mr. McGovern never puts on record that he thinks my questions are good questions. Thank you for doing that for me, Mr. Brown. No further questions.

**Hon. Mr. Morgan:** — It's not likely Mr. Brown will be invited back.

**The Chair:** — This bill has nearly a hundred clauses. I'll be asking leave of the committee to review the bill by parts and division. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. If there's no more questions, we'll proceed to vote on the clauses. Part 1, preliminary matters, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — 1-1.

[Clause 1-1 agreed to.]

[Clauses 1-2 to 2-2 inclusive agreed to.]

### Clause 2-3

**The Chair:** — Division 2, Coming into Force and Repeal of Enactments, clause 2-3. I recognize Mr. Olauson.

**Mr. Olauson:** — Thank you, Mr. Chair. I would move to:

Amend Clause 2-3 of the printed Bill by adding the following subsection after subsection (2):

(3) In this section, '**Royal Assent**', for an Act reserved for the signification of the Governor General's pleasure, means the date on which the Lieutenant Governor signifies by a message to the Legislative Assembly or by proclamation that the Governor General in Council has assented to the Act.

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

**Some Hon. Members:** — Agreed.

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

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 2-3 as amended agreed to.]

[Clauses 2-4 to 2-28 inclusive agreed to.]

### Clause 2-29

**The Chair:** — Clause 2-29. I recognize Mr. Olauson.

**Mr. Olauson:** — Thank you, Mr. Chair. I would like to move to amend clause 2-29 to read:

Amend the definition of "**lawyer**" in Clause 2-29 of the printed Bill by striking out "a member of the Law Society of Saskatchewan" and substituting "a person who is admitted as a member of the Law Society of Saskatchewan pursuant to section 24 of *The Legal Profession Act, 1990*, or a person who is authorized to practise in accordance with the rules made pursuant to clause 10(i) of that Act, and".

**The Chair:** — Mr. Olauson has moved an amendment to clause 2-29. Do committee members agree with the amendment as read?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Is clause 2-29 as amended agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 2-29 as amended agreed to.]

[Clauses 2-30 to 3-2 inclusive agreed to.]

**The Chair:** — Clause 3-3, is that agreed?

**Some Hon. Members:** — No.

**The Chair:** — Clause 3-3 is not agreed. The clause is defeated.

[Clause 3-3 not agreed to.]

[Clauses 3-4 to 3-6 inclusive agreed to.]

**The Chair:** — Clause 3-7, is that agreed?

**Some Hon. Members:** — No.

**The Chair:** — Clause 3-7 is not agreed. The clause is defeated.

[Clause 3-7 not agreed to.]

[19:30]

[Clauses 3-8 to 7-4 inclusive agreed to.]

### Clause 3-3

**The Chair:** — I recognize Mr. Olauson.

**Mr. Olauson:** — Thank you, Mr. Chair. I would like to move:

#### **New clause 3-3 of the printed Bill**

Add the following Clause after Clause 3-2 of the printed Bill:

##### **Certification of date of assent**

**3-3(1)** The Clerk of the Legislative Assembly shall cause each Act to be certified with the date of each reading, the date of passage, and the date of assent.

(2) The Clerk of the Legislative Assembly shall note on each Act that was reserved for the signification of the Governor General's pleasure the date on which the Lieutenant Governor signified that the Governor General in Council has assented to the Act.

**The Chair:** — Mr. Olauson has moved a new clause 3-3. Do committee members agree with the amendment as read?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Is new clause 3-3 agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 3-3 agreed to.]

### Clause 3-7

**The Chair:** — I recognize Mr. Olauson.

**Mr. Olauson:** — Thank you, Mr. Chair. I would like to move:

#### **New Clause 3-7 of the printed Bill**

Add the following Clause after Clause 3-6 of the printed Bill:

##### **Certified copies of Acts**

**3-7(1)** The Clerk of the Legislative Assembly shall insert at the foot of each copy of an Act required to be certified a written certificate signed and authenticated by the Clerk that the copy is a true copy.

(2) A copy of an Act certified pursuant to subsection (1) is evidence of the Act and its contents as if it were printed by lawful authority.

**The Chair:** — Mr. Olauson has moved new clause 3-7. Do committee members agree with the amendment as read?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Is new clause 3-7 agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 3-7 agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Legislation Act*, a bilingual bill.

I would ask a member to move that we report Bill No. 155, *The Legislation Act*, a bilingual bill, with . . . amended. Mr. Olauson moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

#### **Bill No. 156 — *The Legislation Act Consequential Amendments Act, 2018***

##### **Clause 1**

**The Chair:** — We will now be considering Bill No. 156, *The Legislation Act Consequential Amendments Act, 2018*, clause 1, short title. Minister Morgan, would you like to make any opening comments please?

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined by the same officials: Jane Chapco, Ian Brown, and Sandra Schnell. I am pleased to be able to offer opening remarks concerning Bill 156, *The Legislation Act Consequential Amendments Act, 2018*.

This legislation accompanies *The Legislation Act* and makes consequential amendments to a number of English-only Acts. Mr. Chair, *The Legislation Act* will replace three current statutes: *The Interpretation Act, 1995*; *The Regulations Act, 1995*; and *The Statutes and Regulations Revision Act* are all being repealed and replaced. Reference to the titles of the three old Acts and several

English-only statutes need to be updated to reference the new title of *The Legislation Act*.

Mr. Chair, there's no change in substance to any of the Acts that are being amended in this bill. A total of 18 Acts will be amended to reflect the new title and to make other housekeeping changes as required to address cross-references to the new legislation Act.

Mr. Chair, with those opening remarks, I welcome your questions regarding Bill 156, *The Legislation Act Consequential Amendments Act, 2018*.

**The Chair:** — I thank you, Minister. Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you. Because this is a consequential amendment legislation, I have no questions.

**The Chair:** — Are there any questions from any other members? Seeing no more questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 19 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Legislation Act Consequential Amendments Act, 2018*.

I would ask a member to move that we report Bill No. 156, *The Legislation Act Consequential Amendments Act, 2018* without amendment. Mr. Nerlien so moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

### **Bill No. 159 — *The Securities Amendment Act, 2018***

#### **Clause 1**

**The Chair:** — We will be considering Bill No. 159, *The Securities Amendment Act, 2018*, clause 1, short title. Minister Morgan, could you please introduce your new officials and make your opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I am joined for this bill by Neil Karkut, Crown counsel, legislative services branch, Ministry of Justice; and Dean Murrison, director of securities division, financial and consumer affairs authority.

I'm pleased to offer opening remarks regarding Bill 159, *The Securities Amendment Act, 2018*. Mr. Chair, this bill makes several important changes to Saskatchewan's securities legislation.

First the bill will create new provisions respecting benchmark regulation. Mr. Chair, the European Securities and Markets Authority is implementing a new regulatory regime for the

benchmark administration in Europe. Canadian securities regulators are required to have an equivalent regime in place to prevent disruptions in the trade of Canadian securities and derivatives in the European markets.

The original deadline for these changes was January 1st, 2020; however on February 25th, 2019, the EU [European Union] extended the deadline to January 1st, 2022. The proposed changes will provide a framework for benchmark regulations. Saskatchewan has anticipated that Canadian securities regulators will work together to develop a national instrumented document to detail regulations for benchmarks as is the current process for other aspects of securities regulation.

Mr. Chair, the second set of amendments will adopt a system for the automatic recognition of enforcement orders and settlement agreements from other Canadian securities regulators. This approach will result in greater administrative efficiencies in Saskatchewan and maintain consistent regulation of the securities industry across jurisdictions.

Third, Mr. Chair, this bill will implement a number of changes to assist the Investment Industry Regulatory Organization of Canada or IIROC with carrying out its mandate. In particular, the bill will allow IIROC to enforce its decisions through the Court of Queen's Bench, grant IIROC statutory immunity with respect to its duties and functions assigned under the Act, and allow IIROC staff to appeal a decision of an IIROC panel.

Finally, Mr. Speaker, this bill will allow the Financial and Consumer Affairs Authority to recognize a complaint resolution by order, and will provide regulation-making powers to establish a binding dispute resolution process for public complaints against registrants.

Mr. Chair, in addition to the proposed changes, Saskatchewan continues to work with other participating jurisdictions to implement the new co-operative capital markets regulatory system. Once the co-operative system is implemented, Saskatchewan's security legislation will be replaced with new uniform securities legislation. It is anticipated the changes we are discussing today will also be addressed under the uniform securities legislation.

Mr. Chair, with those opening remarks, I welcome questions regarding Bill No. 159, *The Securities Amendment Act, 2018*.

**The Chair:** — Thank you, Minister. And I would like to remind the officials, when you speak, could you please state your name for *Hansard*. Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you. Minister Morgan, in your opening remarks you spoke a bit about why the definition and the explanation of benchmark and benchmark administration is being added into the legislation. Could you explain what it actually is?

**Hon. Mr. Morgan:** — I will defer I think to Mr. Murrison.

**Mr. Murrison:** — Basically there's a number of benchmarks that are used in the financial industry . . . It's Dean Murrison, so you know. Anyway there's a number of financial benchmarks used in the industry all around the world, and generally they're

used to set performance, like they measure performance of certain investments. They're sometimes used to determine what the return is on a certain investment, and generally they sort of provide comparative abilities between investments and so on.

They're also used . . . Like in Canada for instance, some of our Canadian benchmarks actually decide how much the banks lend money at at a certain day, right? And so on. So they're used from all those things. And then about 2012, there was a sort of a meltdown on the LIBOR [London Interbank Offered Rate] benchmark in Europe which caused everybody to start thinking about how we should regulate these things because they can be manipulated. They're often a cumulative amount of information from a number of different sources, and if those sources aren't, you know, providing good information, of course then the benchmark's regulated. So that's why we moved into this idea that they should be regulated, as you'll see in the Act.

**Hon. Mr. Morgan:** — In Europe they're adopting standard definitions all the way across. A number of our securities issued by Canadian issuers are marketed in European markets. So if we want our financial products to have credibility in the European markets, we have to ensure that we're having consistent benchmarks to measure the performance of our products, whether it be an interest rate or something on an overnight rate, or whatever it is. But it's to ensure that we're working towards global consistency in the definitions and regulations.

**Ms. Sarauer:** — So just to clarify, these benchmarks weren't being regulated until this legislation came forward?

**Mr. Murrison:** — In Saskatchewan.

[19:45]

**Ms. Sarauer:** — In Saskatchewan?

**Mr. Murrison:** — Correct. Yes.

**Ms. Sarauer:** — Okay. Can you explain what a benchmark administrator would be?

**Mr. Murrison:** — Well they're going to be the person that . . . I mean, sort of the name gives it away. They're going to administer the benchmark, right? They're going to be probably the one who sets it up and the one that collects the information and the one that then provides the calculation to the varying . . . the public or whoever else, whoever's subscribing to that benchmark.

**Ms. Sarauer:** — Could you give an example of who that could be? Or who the ministry is intending that will likely be in the immediate future?

**Mr. Karkut:** — Neil Karkut. So my understanding is that there's going to be only one benchmark administrator in Canada that's recognized initially, and that is Refinitiv Benchmark Services. And they're the administrator of two benchmarks that are, again as I understand it, are the only two benchmarks that'll initially be recognized under these rules, and that's the Canadian Dollar Offered Rate and the Canadian Overnight Repo Rate Average.

**Ms. Sarauer:** — Thank you. I'm curious to know where the other jurisdictions are at in Canada in terms of moving these

benchmarks forward.

**Mr. Karkut:** — So currently Ontario, Alberta, Nova Scotia, and Quebec all have provisions that have been passed. And we did consult with other jurisdictions particularly in Ontario in developing this legislation. And if you were to compare our provisions with Ontario, Alberta, or Nova Scotia, they're all very similar, particularly with Ontario's.

**Ms. Sarauer:** — And are all of those provinces intending . . . Sorry, I didn't catch if that legislation is still in bill form or if it's been passed in the other provinces.

**Mr. Karkut:** — It has been passed in other . . . not necessarily enforced, but has been passed at this point.

**Ms. Sarauer:** — I'm curious to know more about the relationship between what is called a securities regulatory authority in some of the changes in the legislation — or I believe you called them other securities regulators, Mr. Minister — to the FCAA [Financial and Consumer Affairs Authority of Saskatchewan]. I just don't quite understand the relationship, if there is one.

**Mr. Karkut:** — Are you referring to 134.01?

**Ms. Sarauer:** — Yes.

**Mr. Karkut:** — So that provision refers to other securities regulators, so our FCAA equivalent in other jurisdictions across Canada. That's what that term is for.

**Ms. Sarauer:** — Other FCAAs, essentially.

**Mr. Karkut:** — Yes.

**Ms. Sarauer:** — Gotcha. Sort of a similar question: you mentioned IIROC specifically and the provisions that are in this legislation that will allow IIROC to carry forward their mandate in a better way. Can you explain the relationship between IIROC and the FCAA?

**Hon. Mr. Morgan:** — They're not part of FCAA. They're an independent, industry-led regulator. So there is no statutory recognition of their role. Our legislation will recognize the decisions that they make, give them the force of a Court of Queen's Bench order, but they're not part of the regulatory scheme of this province. I don't really want to . . . there's much we can add to that, but it's an independent agency.

**Mr. Murrison:** — I mean they're certainly our partners in the capital regulation of the province and of Canada, but they're not a statutory being. They're a membership organization, basically. And they have a contract, and they could force their contract with their members. But they don't do any statutory activities for us under our statute. Our statute doesn't say, IIROC can do this. We did have the power to allow them to carry out registration for us, and the minister authorized that. So they do that bit of work for us, and that's of course what they're getting immunity for.

**Ms. Sarauer:** — I guess where my confusion lies is if someone was to need to make a complaint or something in Saskatchewan. For what things would they approach IIROC for, and for what



things would the public approach FCAA for?

**Hon. Mr. Morgan:** — I think that members of the public would approach FCAA for the conduct or misconduct of any person that's selling or marketing products, and it may well be that the nature of the issue that might be raised by a member of the public might be something that falls under the products that are regulated by IIROC, and then the matter would get ultimately referred to IIROC further. Or I suppose a member of the public could go directly to IIROC, but it would be incredibly bewildering for a member of the public to know which agency to go to. So likely the starting point would be for them to come to FCAA. The file would be reviewed and then I think appropriately referred beyond that.

**Ms. Sarauer:** — And IIROC is a voluntary membership?

**Mr. Murrison:** — Yes. Yes and no, I guess. There is nothing in our legislation that says you have to be a member. Well I shouldn't say that. There is a regulation that says you have to be a member of IIROC in order to be registered as an investment dealer. So it's not . . . There's no, say, thou shalt, but indirectly they're going to have to be a member if they want to do investment dealer business. But that's the only part of their industry that IIROC regulates, right? There are other categories that they don't regulate.

**Ms. Sarauer:** — Are there any other organizations like IIROC that aren't being included in this legislation?

**Mr. Murrison:** — There is another SRO [self-regulated organization] like IIROC, the Mutual Fund Dealers Association, and they're not excluded from that legislation. We expect they'll get the same rights as IIROC.

**Ms. Sarauer:** — So there is no organization that's being excluded from this legislation necessarily.

**Mr. Murrison:** — Not of a similar ilk, no.

**Ms. Sarauer:** — Okay.

**Hon. Mr. Morgan:** — This legislation possibly could or maybe even should have been done some years ago, but wasn't because of the hope or the expectation that there would be a national regulator in place and that those functions would be taken out by the national regulator. And the work continues to try and work with or move ahead with the national regulator.

In 2007 when I had the portfolio the first time, before I was recycled out and back, there was talk: oh well we'll have this done in short order; this is something that will be accepted generally. And then there's some changes in government. Jim Flaherty became the federal minister and was adamant it was going to be . . . He was going to direct how it was going to happen. And I had some meetings with him and said, I don't think you necessarily will have the right to impose it. I think you should do it on a . . . In any event, it went to the Supreme Court. The feds lost and it went back to the provinces to deal with it. Changes in government have happened and every time you think it's starting to move on or pick up speed, then there's a change in provincial governments.

I was watching with some interest what was going to happen in the province of Ontario with the changes in their government recently, and my understanding — unless Dean knows something that I don't — is that Ontario is still proceeding as we would hope it should. Right now Alberta is not even with this government and I don't think with a change in government later this year as the potential might be, I don't think that necessarily puts Alberta on the same track as we might be on that, although we certainly want to have those discussions. So it appears right at the present time Alberta and Quebec are the holdouts on trying to move forward with it.

**Ms. Sarauer:** — Can I ask why they're holding out on moving forward?

**Hon. Mr. Morgan:** — I think under the existing regime before they started to move to head, Alberta had the junior capital pool and they had their own exchange and were marketing there. I think there was concern that they would lose the ability to do that or it would be regulated from Ottawa. At the time that I was going through it the first time around, Ted Morton was the minister in Alberta, and the idea that the federal government would in any way impose regulations on the province of Alberta's financial ability to raise capital was just not on. So I'm hoping that in time there might be better ability to have some discussion, and I think it's worthwhile if there was more than one exchange to raise capital. I don't know whether that's a more far-ranging answer than . . .

**Ms. Sarauer:** — Thank you. That's it for me.

**The Chair:** — Thank you. Were there any more questions from the committee? Seeing none, we'll start here. Clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 22 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Securities Amendment Act, 2018*.

I would ask a member to move that we report Bill No. 159, *The Securities Amendment Act, 2018* without amendment. Mr. Tochor moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

#### **Bill No. 163 — *The Legal Profession Amendment Act, 2018***

##### **Clause 1**

**The Chair:** — We will be considering Bill No. 163, *The Legal Profession Amendment Act, 2018*, clause 1, short title. Minister Morgan, would you please introduce your officials and make your opening comments please.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined by Darcy McGovern, Q.C., director, legal services; Jane Chapco, senior Crown counsel, legislative services.

I'm pleased to be able to offer opening remarks concerning Bill 163, *The Legal Profession Amendment Act, 2018*. This legislation amends *The Legal Profession Act, 1990* to implement the recommendations of the legal services task team and to make a series of other administrative improvements. The changes based on the task team recommendations are aimed at increasing access to justice by providing innovative new ways to access legal services.

Mr. Chair, in 2017 the legal services task team was appointed and included representatives from a number of legal organizations. The role of the task team was to examine whether service providers other than lawyers should be permitted to provide some legal services in Saskatchewan. The task team conducted extensive public consultations when preparing the recommendations in the final report.

The amendments will authorize the Law Society to issue limited licences on a case-by-case basis to non-lawyers. The requirements to be issued a limited licence will be set out in the Law Society rules, and there is also authority for the government to make regulations setting licensing requirements for these new alternative legal service providers.

Mr. Chair, the amendments will also confirm that any person can provide general legal information to any other person without a licence. The list of exceptions to the current prohibition against the unauthorized practice of law will also be expanded, which will allow more non-lawyers to perform their job duties without concern that they are violating the Act.

Mr. Chair, several other amendments are proposed to update the Act to better reflect actual practices and to improve the administration of the Law Society. Several provisions respecting committee processes will be moved from the Act to the Law Society rules. A new option to appoint benchers will also be added, and the minimum number of benchers will be reduced from 17 to 12. These changes are aimed at increasing efficiency and ensuring that bencher representation is responsive to changes in the profession.

Mr. Chair, with those opening remarks, I welcome your questions respecting Bill 163, *The Legal Profession Amendment Act, 2018*.

**The Chair:** — Well thank you, Minister, for those comments. And I'd like to remind the officials, when you speak to please state your name for *Hansard*. Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you, Minister Morgan, for your opening remarks. Just so you know, most of my questions are going to be revolving around the changes around, or the addition of the limited licensee provision.

[20:00]

First, I know you spoke about this a bit in your opening remarks, but I'd like some more details for the record around the consultation process that went into this work. I know it was quite

extensive and I believe may have even started prior to the creation of the committee in 2017.

**Hon. Mr. Morgan:** — I think the initial discussions took place between officials from the ministry and the Law Society. I think the ministry was where the idea initially started, and there were consultations with, I'm not sure, it would have been the director at the Law Society at the time. And there was discussions there. They came back to, I think then, Minister Wyant.

The task team was struck and went and did extensive consultations with the profession, with groups such as PLEA [Public Legal Education Association], Pro Bono, CLASSIC [Community Legal Assistance Services for Saskatoon Inner City Inc.], as well as the Trial Lawyers Association, Canadian Bar Association. I don't remember, I don't know if there was a public consultation.

**Ms. Chapco:** — Jane Chapco from legislative services. The task team also conducted an online public survey, and I believe in the report it says there were 317 respondents. And the task team also held two public town hall meetings in Saskatoon and Regina.

**Hon. Mr. Morgan:** — As it got into it, there was very strong support from the Law Society. I initially was concerned that there may be concerns from within the profession, that this would erode the ability of the profession's exclusive right to practise law, and I was pleasantly surprised that there was not.

In fact I met with Mr. Brown and he was very supportive, and not just himself, but on behalf of the Law Society. So there appeared to be incredibly strong support for it. And I reached out and contacted a number of people of my vintage — very old — and there seemed to be similar support all the way across. And the support seemed to go towards . . . The questions were around not whether it should be done but as to what type of things, what type of services can or should be offered in an alternate format.

We have, for as long as I've been around, had some statutory exemptions. We had, you know, certainly we had a specific one in the legal aid legislation allowing community legal services workers or paralegals, and there was other exceptions as well for a variety of other things. So this would formalize the process and provide a method to regulate those people that are not regular members of the Law Society.

**Ms. Sarauer:** — Thank you. Could you, for the record, indicate who was on the task team?

**Ms. Chapco:** — So the task team had two Co-Chairs. The first was Gerald Tegart, Q.C., and Mary Ellen Wellsch, Q.C. And I can read out the list of the members: Joy Dobson; Sandi Kerger; Darren Kraushaar; Laura Lacoursiere; Beverley Poitras; Neil Robertson, Q.C.; Marlene L. Rodie; Laura Seigler Zerr; and Jan Whitridge. And they were also supported by a joint-staff working group of staff from both the Ministry of Justice and the Law Society.

**Ms. Sarauer:** — Thank you. And then the task team report, I'm assuming, included the feedback that was received both within the public . . . or the consultation within different stakeholders, but also the public consultation in the town halls that you mentioned specifically. Is that correct?

**Ms. Chapco:** — That's correct. Yes, it's in the appendix.

**Ms. Sarauer:** — Right, so if anybody wants to see that . . .

**Ms. Chapco:** — Yes.

**Ms. Sarauer:** — They can easily find that online.

**Ms. Chapco:** — Yes, it's a public report.

**Ms. Sarauer:** — Thank you. What are the . . . Maybe I'll wait for that. Can you explain what . . . It's hard to form these questions because I know a lot of this is still to be determined in the regulations and in consultation with the Law Society. So to the best of your ability at this stage, can you explain what the next steps will be in this process?

**Ms. Chapco:** — Going forward it's really going to be up to the Law Society to develop the rules that will support this program. The new section 24.1 in this Act really just sets up a framework for them to enact the rules that will be required, and powers that are quite broad. They can make rules respecting the eligibility of persons who can become limited licensees, the fees they might need to pay, any insurance they might need, the terms and conditions to which they'll be subject, whether they'll be eligible to vote at elections of benchers, and whether they could be candidates, and some of the competency and discipline provisions that apply to limited licensees.

So the benchers are being given the authority to make those rules. And the task team didn't want to get into too many of the details of what that should require. But in their framework in their report they set out a list of some of the things that the Law Society would likely suggest.

They're sort of suggesting what the Law Society should consider, including things like an application form; what sort of qualifications would be set out; training, whether these people might need supervision or whether they would work independently; and what kind of reporting requirements would apply to them; and what kind of searchable databases there might be in terms of the public finding out, you know, oh this person says they can act for me, and maybe just being able to look up what their limited licence allows them to do.

So those are suggestions for what might be in the rules, but it's going to be up to the Law Society to make those rules.

**Hon. Mr. Morgan:** — We were mindful of the fact that the Law Society is one of the longest standing self-regulating professions in the province. And we didn't want to do this to the profession; instead we wanted to give them the tools so they could do this themselves at their request. So that was sort of the underlying philosophy, if that's helpful.

**Ms. Sarauer:** — It is, thank you. So right now is this work for the benchers to make these determinations?

**Ms. Chapco:** — Yes, we'll be looking to the benchers to make those rules, and we're expecting to work collaboratively with them as they develop them. There is a regulation-making power in here to set out in the regulations which provisions of the Act will apply to the limited licensees. So I anticipate discussions

between government and the Law Society just to make sure that all of those provisions are going to work together.

**Ms. Sarauer:** — And that was my next question, is a lot of these changes will still have to be enacted in the regulations, that that will be done obviously with large consultation, I don't even want to say, but influenced by the benchers and their determination based on the work that they're doing?

**Ms. Chapco:** — Yes.

**Ms. Sarauer:** — Okay. Is there a timeline for this process, or is it all just up to the benchers to determine how long that's going to take?

**Ms. Chapco:** — We're really looking to the benchers to drive the process. I think it could be . . . I hesitate to put a timeline on it. I know that the report speaks to sort of a cautious and slow rollout of these changes so that it can be done in a sustainable and safe manner that continues the protection of the public. So I would hesitate to speak for the Law Society on that, but we'll be working with them to help them however we can to get it in place.

**Ms. Sarauer:** — Thank you. The limited licensee provision, does this exist in any other jurisdictions in Canada, or is it modelled off of another jurisdiction in the Commonwealth? Or otherwise, I suppose?

**Ms. Chapco:** — This limited licensee provision is quite unique. It's not currently something that exists anywhere else in Canada or North America, to my knowledge. Ontario has a well-established paralegal program with common requirements and sort of common supervision, so paralegal means one thing there. BC [British Columbia] has a designated paralegal program and they're looking at moving into a licensed paralegal program, but again that would be where everybody has the same requirements.

These are limited licences and they'll be issued on a case-by-case basis. So somebody working in one firm might be licensed to do certain tasks, and then somebody working in, say, a government office who does different work might be licensed to do different tasks, and they would be different licences. So it's a new program.

**Ms. Sarauer:** — I do remember, back in my previous job, attending a few Access to Justice conferences in the States. And there were other states that were either thinking of doing something sort of like this or did something not exactly like this but sort of similar to address the problems around being able to retain lawyers and trying to find other ways that limited-scope representation or some sort of limited-scope legal work could be done by non-lawyers. So it is quite progressive to see, but in a very positive way.

You did touch on one thing. Saskatchewan doesn't have a definition for a paralegal or paralegal-type regulatory system. Is there a thought that that will be rolled into this limited licensee discussion, or is there some other work being done around paralegals in the province?

**Ms. Chapco:** — The task team concluded that using the term "paralegal" at this time wouldn't be appropriate just because of

the unique nature of the different licences being issued. It might be appropriate in the future once enough of these limited licensees are operating and we can see that there is kind of a common set of skills that they have, a common set of requirements.

And if they have an interest in sort of organizing themselves and being categorized as paralegals, at that point there is regulation-making authority in here to create a new category of membership called paralegals or, you know, maybe a specific type of paralegal, like real estate paralegal or something like that. But the report contemplates that happening in the future once we sort of see how the program is working and what the market can sustain and how the program's working.

**Ms. Sarauer:** — Thank you. How will these changes help to address access to justice in the province?

**Ms. Chapco:** — In a number of ways these changes will make access to justice more available by providing new service providers that people can go to to get legal advice. They'll have different options for seeking the help that they need. And for example, somebody might work in a courthouse and might be able to help them navigate that system. Somebody might be able to, if they're acting as a self-represented litigant now because they can't afford a lawyer, they might say, well I can afford to pay this person to help me fill out these forms. So they're getting better service than they would perhaps if they were acting for themselves.

It also helps to improve the efficiency of lawyers' practices in some ways by helping them to make better use of some of the resources they have in their offices at reduced cost.

**Ms. Sarauer:** — Thank you. This bill adds a definition of practice of law. Can you explain why this was added.

**Ms. Chapco:** — The definition was added because we have a number of . . . Well we have in here a prohibition against practising law without a licence and to make it more clear, what does that mean. Like how can you be punished for practising law without a licence if you don't what practising law means? And then also if we're thinking of parcelling out the authority to practise different segments of legal practice, we want to be able to point to something that says, well you can do, you know, the things in (a) but nothing else or however it's going to work. So it's nice to have a definition to clarify how the prohibition will work and also to provide some support for how the limited licences will be developed.

**Ms. Sarauer:** — Great, thank you. I appreciated the comment about how that is going to roll into the limited licensee discussion as well. As someone who still provides some assisted self-representation services through the free legal clinic in Regina here, I'm really happy to see the ministry move forward with these legislative changes. And it's an exciting step toward helping to make justice a bit more accessible for citizens of this province.

**Hon. Mr. Morgan:** — I think I would agree with your comment that the access to justice is really important, especially for lower income people. So it may not at this point specify how those specifically would be provided by which individuals under which

agency, but it gives the ability to create the framework for that to happen. And I think that's probably why there was such strong support from the profession to do it. I don't think anybody that I talked to saw that as an erosion; I think they saw that as an enhancement. I was pleased to be part of the profession on that day.

**Ms. Sarauer:** — I anecdotally also canvassed those of my vintage, younger than you, Mr. Minister, but still old enough to be getting very close to being able to get a Q.C. designation perhaps and they were all quite supportive of seeing this move forward as well. So not just your vintage but I'd say the profession at large is quite excited about this. Thank you.

[20:15]

**The Chair:** — Are there any more questions from the committee? Okay, we will continue on then. Clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 44 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Legal Profession Amendment Act, 2018*.

I would ask a member to move that we report Bill No. 163, *The Legal Profession Amendment Act, 2018* without amendment. Mr. Francis has so moved. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

**Bill No. 164 — *The Statute Law Amendment Act,*  
2018 (No. 3)**

**Clause 1**

**The Chair:** — We will be considering Bill No. 164, *The Statute Law Amendment Act, 2018 (No. 3)*.

Clause 1, short title. Minister Morgan, could you please introduce your one new official and make your opening comments, please.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. For your benefit, my name is Donald Morgan. I'm joined tonight by Danielle Schindelka, Crown counsel, legislative services branch, and by Darcy McGovern, director, legislative services.

I'm pleased to be able to offer opening remarks concerning Bill 164, *The Statute Law Amendment Act, 2018 (No. 3)*. This bill will make housekeeping updates to various Acts for the purposes of modernizing their provisions.

In particular the changes will, firstly, replace references to "department" with "ministry"; secondly, to update references to

the Consolidated Fund with General Revenue Fund; third, to remove outdated references to titles of ministers and ministries and replace them with a reference to a central piece of a legislation for which the minister is responsible; and finally, to make other housekeeping updates to individual Acts.

Mr. Chair, this bill fits with the government's policy of bringing forward statute revision pieces annually to ensure that statutory language is updated and modernized on an ongoing basis.

With those opening remarks, I would welcome your questions regarding Bill 164, *The Statute Law Amendment Act, 2018 (No. 3)*.

**The Chair:** — Thank you, Minister. I'd like to remind the officials, could you please state your name for *Hansard* when you reply. Any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you. I just have one question. You mentioned and I noticed that there is a change in language from Consolidated Fund to General Revenue Fund. Could you explain why that was made?

**Ms. Schindelka:** — Danielle Schindelka. The term Consolidated Fund came from *The Financial Administration Act*, and that was changed in 1993 where the Consolidated Fund was continued as the General Revenue Fund. So when that change was made, there's just been some leftover references to the Consolidated Fund. So we're updating those to the General Revenue Fund.

**Ms. Sarauer:** — So this was a change that was made in 1993 but hadn't been reflected in the change that's in this bill?

**Ms. Schindelka:** — Some of the changes might have been made at that time, but there are still some lingering ones left over.

**Ms. Sarauer:** — Okay, thank you. No further questions.

**The Chair:** — Are there any more questions from the committee? Seeing none, we will continue on then.

Clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 43 inclusive agreed to.]

[Schedule 1 agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Statute Law Amendment Act, 2018 (No. 3)*.

I would ask a member to move that we report Bill No. 164, *The Statute Law Amendment Act, 2018 (No. 3)* without amendment. Ms. Ross has so moved. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. This concludes our business of the evening. Minister, do you have any closing comments?

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'd like to close by thanking you, the committee members on the government side, the member opposite for her questions, those that were thought good by Ian Brown and all of her other questions which were equally as good.

I want to thank the staff from Hansard, broadcast services, the building staff, and everybody that participated tonight, but also would like to thank the officials that were here from the ministry. These are people that serve not just the members of the legislature, but serve all of the citizens of Saskatchewan every day that they work, and we can't thank them enough for the great work that they do. So on behalf of all the members I thank them for that, but I'm sure the member opposite will have some good comments as well.

**The Chair:** — Ms. Sarauer, do you have any remarks?

**Ms. Sarauer:** — I'd like to join with the minister in thanking everyone for doing their work this evening, in particular you, Minister, for your comments and your answers to my questions — good or otherwise — this evening, the members of the committee, and yourself, Mr. Chair, as well as all the staff that help support us including those at Hansard and those behind the camera, and as well as the Ministry of Justice officials who I agree work very tirelessly for the entire province. And it's always a pleasure for me personally to get to spend some time with them, and I do hope they occasionally feel the same. So thank you for this.

**The Chair:** — Well thank you. And I want to thank all the people who watched the lawyerese on television tonight. And I know that you're so excited after watching all of this, you'll have a hard time sleeping.

I will ask a member to move a motion of adjournment. Mr. Nerlien has moved a motion to adjourn. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. This committee stands adjourned to the call of the Chair ... [inaudible interjection] ... Oh, this committee stands adjourned until tomorrow at 7 o'clock.

[The committee adjourned at 20:26.]