



# **STANDING COMMITTEE ON THE ECONOMY**

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**STANDING COMMITTEE ON THE ECONOMY  
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Regina Wascana Plains

Mr. Randy Weekes, Deputy Chair  
Biggar

Hon. Deb Higgins  
Moose Jaw Wakamow

Mr. Delbert Kirsch  
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Mr. Eldon Lautermilch  
Prince Albert Northcote

Mr. Lyle Stewart  
Thunder Creek

Hon. Kevin Yates  
Regina Dewdney

[The committee met at 09:03.]

### Enquiry into the State of Internal Trade in Saskatchewan

**The Chair:** — It now being past the hour of 9 o'clock we have our first presenters here, and we would ask them to step forward. We welcome them to committee. There are a few other members who will appear as the moments go on, I'm sure.

What we've been doing for the proceedings would be to allow you 15 to 20 minutes overview and your presentation. What you are reading and presenting verbally will be recorded in *Hansard* and copies of that are available from committee, the person sitting behind me. If you are providing paper, we will provide it to the whole committee and anything on paper, if it's not read into the record, won't be a part of the verbal written record of *Hansard* but will be part of the noted material that you provide. From time to time committee members are asking for additional information and if you could send that to us, we would make certain that all committee members receive a copy.

So welcome, and you can begin your presentation if you'd like to introduce yourselves first.

### Presenter: Saskatchewan Union of Nurses

**Ms. Brown:** — Thank you. I'm Marlene Brown, first vice-president of Saskatchewan Union of Nurses and with me is Loretta Gerlach, who is the employment relation officer at SUN [Saskatchewan Union of Nurses].

On behalf of the members of the Saskatchewan Union of Nurses I wish to commend the committee for hearing public presentations and accepting briefs. As you are aware, this opportunity was not afforded to the citizens of British Columbia and Alberta and we feel that this was a very democratic and progressive move made by our government.

Saskatchewan Union of Nurses represents 7,700 registered nurses and registered psychiatric nurses employed in acute care, long-term care, home care, primary care, public health, mental health, community health, and blood services in the province. Our union is governed by an elected board of directors and guided by policies adopted at our annual meetings. SUN opposes the privatization of any government agencies that may detrimentally impact on health care services in Saskatchewan.

Briefly, SUN's position on social policy is that social programs should be used to help build communities and contribute to equality of opportunity and living standards for all members of society. Our position on employment encompasses the following principles: good job opportunities for all; strong, comprehensive pay equity legislation; strong employment equity legislation; effective labour standards with adequate minimum wage laws; as well as strong trade union membership and collective bargaining rights.

Our recommendation to the Standing Committee on the Economy today is that Saskatchewan should not sign on to the TILMA [Trade, Investment and Labour Mobility Agreement] because of our concerns with respect to these commitments.

I wish to mention that SUN is a member of the trade committee of the Saskatchewan Federation of Labour and want to clearly express SUN's endorsement of the principles, concerns, and issues raised in the trade committee's presentation earlier this week.

Rather than taking your valuable time up in repeating those issues, I simply will express our support and agreement, and instead spend our time with you today focusing on some additional issues that are specific to the Saskatchewan Union of Nurses.

As stated, we share many concerns that others in the trade union movement will have presented to you in submissions this week, and we have additional concerns about the health care sector. While SUN has many, many concerns about health care in Saskatchewan right now, when we look at the areas of TILMA — trade, investment, and labour mobility — we do not feel that these are areas that are problematic and require a TILMA-like solution.

Specifically we do not want to see increased trade or private investment in health care services in Saskatchewan. And we are unaware of any significant concerns in labour mobility other than the matter of nationwide shortages in a number of professions. Therefore we believe that TILMA will exacerbate the problems in the health care sector right now and not allow us the much needed focus on improvements.

As you will know, TILMA allows for a transitional period for full implementation. Health care is one area that is covered under the complicated process of transitional measures in part VI of the agreement. Article 9, point 4 states that:

During the transitional period, Parties shall:

- a) ensure that no measure listed in Part VI is amended or renewed in a manner that would decrease its consistency with this Agreement; and
- b) seek to minimize any adverse effects on the other Party or its persons of measures listed in Part VI.

SUN understands this to mean that if measures are renewed or amended inconsistent with TILMA, that said measures would be subject to the dispute settlement process.

We are aware that article 11, point 4 of TILMA states that:

Nothing in this Agreement shall be construed to prevent a Party from maintaining, designating, or regulating a monopoly for the provision of goods or services within its own territory.

However there is no definition of the term monopoly in the agreement.

We know from our lessons in trade jurisprudence that NAFTA [North American Free Trade Agreement] and the WTO [World Trade Organization], that often trade panels have given meaning to words and phrases that was not intended. SUN has serious concern that if a challenge was issued by a for-profit

health care provider that the determination of for-profit provision would be made by an unelected trade panel rather than by the elected officials to which we entrust such important public policy. Similarly the absence of a definition of social policy in the general exceptions section in part V is cause for the same concern.

TILMA is a top-down agreement. This means that unless specifically mentioned otherwise, all goods, services and industries are considered inclusive to the agreement. Therefore SUN has significant concern about the potential for impending encroachment of private health care provision in areas such as diagnostic imaging services, specific surgical services, and important ancillary service provision like housekeeping and nutrition services.

It is our understanding that, given current agreements for these services, they can clearly not be considered monopolies which would mean that there would be room for major private expansion. As mentioned earlier, SUN has a long-standing policy against privatization of health care services and we do not believe that opening the gates to such expansion is in the best interest of providing quality health care to Saskatchewan residents.

SUN has major concerns about TILMA inhibiting the Government of Saskatchewan from ever building on improvements to health care delivery in Saskatchewan.

Signing of TILMA would forevermore tie the hands of government from improvements such as the recently announced seniors' drug plans or other important potential improvements for mental health services, long-term care delivery, or publicly funded dental programs. For instance if TILMA had been in place in the 1960s, medicare may not have come into being or would likely not have come into being. So it's something to think about in our long-term plans for progressive change.

In view of an aging population, these will be important public policy concerns facing citizens of Saskatchewan, and SUN believes this is not the time to be tying the hands of democracy.

We want to take this opportunity to say that we are not against interprovincial trade, investment, or labour mobility and question the real need to address those issues through such a restrictive agreement. We are very concerned about the inequities at present between corporations achieving higher and higher profits and anecdotal evidence about the widening gap between the rich and the poor.

Given the direct correlation between poverty and poor health with increased health risks, you can understand our concern about these impacts on health care. We need to focus on issues that could improve health such as stable, sustainable employment opportunities, adequate training and education available for and in the workplace, as well as the highest standards of occupational health and safety, affordable housing and safe food, in addition to ensuring the provision of universal, accessible, publicly funded, portable, comprehensive health care.

We cannot find those agreements in TILMA, which appears to be focused on expanding opportunities for profitable investment

with the attitude that the market will take care of the people.

As you are aware, we are faced with a major crisis in a shortage of nurses in this province and SUN has been quite vocal in identifying what we consider to be the contributing factors to this issue. Ironically, labour mobility is not one of those issues. I mean since the 1990s nurses have been migrating out of the province of Saskatchewan very easily and the top three places that they have been going have been Alberta, BC [British Columbia], and the US [United States], and actually I think about 40 per cent of them went to Alberta.

Part VI of TILMA states that a specific labour mobility challenge that must be reconciled is that "Alberta requires Nurse Practitioners to have their equivalencies assessed." It is SUN's position that the licensing bodies, the Saskatchewan Registered Nurses' Association and the Registered Psychiatric Nurses Association of Saskatchewan, are best suited to determine the qualifications and entrance standards for their own membership in accordance with the authority vested in them via the legislation. Currently SUN is completely unaware of any problems with regards to the internal labour mobility of nurses between provinces in Canada. As a result, in our profession we see no reason whatsoever to threaten the current functioning system with a TILMA type agreement.

In closing, I wish to reiterate my opening comments about the support for the SFL [Saskatchewan Federation of Labour] trade committee brief. Again, just because we do not focus on issues such as threats to the democratic decision making of local governments and authorities such as library boards, universities, and others should not be read as a lack of interest on our part. While SUN certainly encourages and supports a strong and vital Saskatchewan economy, we do not support such at the expense of democracy. While we recognize that there is a general exception in part V for "Social policy, including labour standards and codes, minimum wages, employment insurance, social assistance benefits and worker's compensation," we remain unclear on the process of protecting exceptions. That is, are exceptions not to be eliminated over time after annual reviews?

I would be remiss not to specifically express our concerns about maintaining Saskatchewan's higher standards in other areas of workers' rights and most notably with regards to The Trade Union Act, The Occupational Health and Safety Act, and The Saskatchewan Human Rights Code. These are not listed amongst the exceptions but remain important in recognizing working people's rights. We believe that protecting these important pieces of Saskatchewan legislation are reason enough not to sign on to TILMA. In the last few years injuries for those employed in health care workplaces have crept to the top of the list of workers injured on the job in Saskatchewan and so SUN particularly values the rights and responsibilities afforded in The Occupational Health and Safety Act.

TILMA part II, article 5 states, "Parties shall mutually recognize or otherwise reconcile their existing standards and regulations that operate to restrict or impair trade, investment or labour mobility." In relation to that article, the city of Vancouver administrative report recognized that "The Agreement provides an incentive for reconciliation at the lower of the two standards."

I appreciate you will now have the onerous task of reviewing the many complicated and critical issues pertaining to TILMA. We hope that you will direct each government department to do an in-depth sectoral analysis on specific restrictions on that portfolio, so that all considerations are thoroughly understood by every government decision maker and not just those in Government Relations. For example we would expect that the senior leadership at Saskatchewan Health would advise you with a clear understanding of the implications that TILMA could have on their portfolio before you commit to signing on to any further interprovincial trade agreements.

Finally, health care provision is the key issue for most Canadians and continues to be a significant issue in election campaigns and government decision making across Canada. Given the importance Canadians place on these issues, SUN does not believe that independent trade panels have a place in making any binding decisions in this area. As a result we do not believe TILMA can be salvaged in any such way as to adequately protect our important health care services. SUN is confident that when you weigh the many negative factors you will come to the conclusion that TILMA is not right for the people of Saskatchewan.

Thank you for your time in hearing our presentation, and for your thorough analysis of the issues.

**The Chair:** — Thank you, Ms. Brown, for your clear presentation. I do have a speaking order and I begin with Mr. Weekes.

**Mr. Weekes:** — Thank you, Madam Chair. Welcome. Thank you for your presentation. In the agreement that we have in front of us between Alberta and British Columbia, they have pointed out in this particular handout up to 60, I guess, occupations or areas that need to be addressed in order to streamline occupations between the two provinces. And now we know that it's up to 250 that Alberta and British Columbia have identified that they need to address.

Specifically there's areas in the nursing field, licensed practical nurses, registered nurses, and nurse practitioners which they've identified that they need to work together to, I guess, coordinate or to get the standards the same in both provinces. Have you identified any differences between occupations in the nursing or medical field between Saskatchewan and British Columbia and Alberta?

**Ms. Brown:** — There are some differences in scopes of practice in the different provinces in accordance with legislation. But other than that, like I said, nurses have been migrating out of Saskatchewan, all over Canada, and 40 per cent of them that have left have gone to Alberta.

**Ms. Gerlach:** — With regards to particularly with nurses, we represent registered nurses and registered psychiatric nurses. We don't represent licensed practical nurses.

If you note in that section of TILMA that you're referring to, there's a sort of a designation for nurse registered and another one that says nurse practitioner. They're actually the same, common. I don't know why it's listed twice, but they're both about nurse practitioners.

Nurse practitioners have a much broader scope of practice. And it is more of a . . . because they have, you know, they have prescriber numbers. They have a broader, more encompassing scope of practice. So they are sort of closer to a physician in that regard, that they can prescribe and so on and certain kinds of treatments and pharmaceuticals. And so it makes sense to me that their licensing bodies should probably follow through with ensuring equivalencies are in place. Having said that, we have such a dearth of nurse practitioners and such a shortage of them certainly throughout Saskatchewan, I am an unaware of any problems with nurse practitioners crossing borders in Canada while they're having those equivalencies assessed.

**Mr. Weekes:** — Thank you. One of the things that we're . . . The whole process is to gather information before any decisions are made. I wonder if, would your association be able to supply the committee with any differences? You'd mentioned there's a difference of scope of practice. Would your association be able to supply the committee with a listing and information concerning those differences between Saskatchewan, Alberta, and British Columbia?

**Ms. Gerlach:** — We could but we'd probably just be — and we certainly will if that's what you'd like — but we'd probably just be giving you information from the Saskatchewan Registered Nurses' Association who you are hearing from, I believe, next Tuesday. But we can certainly provide the information. That's where we get our information from.

**Mr. Weekes:** — Okay. Thank you. On to another area, I guess I want your view on this. The whole procurement policy around TILMA, I think it's obvious to say that the desire is to lower costs, and we know in health care the costs of health care are skyrocketing all the time. And if TILMA lowered costs of purchasing various medical products and devices, would you be in favour of that aspect of it?

**Ms. Gerlach:** — Absolutely not, and I'll give you two examples why not. When you're purchasing, when you're looking at procurement in the health care sector, there are going to be times when it's appropriate to look at the most cost-effective measure. There are other times when you get what you pay for.

Something that you're probably very familiar with is the recent transition that we've been making to safety-engineered devices. I had the opportunity to work with the Saskatchewan government on special committees to look at the variety of products available when we were making the initial transition to safety-engineered devices. And that was . . . I'm not a nurse, by the way. I'm an employment relations officer. And that was the most shocking things that had ever happened to me, being able to sit on that committee because, boy, did I learn in a hurry you get what you pay for, because some of those products that are available are very poor products. They're crap, and they could probably increase the injuries on the workplace because they broke easily. They weren't well contained, that sort of thing. So that would be an example of one of our concerns around procurement.

Another one would be around nutritional services. You could probably get cheaper food, but when you're looking at nursing people back to health and in terms of their general wellness,

sometimes the cheapest food isn't the best food for their health. So that would be another example of somewhere where we would have some concerns in terms of an ancillary service that's provided through procurement that we don't always want to race to the bottom on.

**Ms. Brown:** — Yes, and I would say as well housekeeping services. I think that that is another significant and very important issue. And I think with the SARS [severe acute respiratory syndrome] issue, you look at the need for really well-trained and specific housekeeping services and keeping it enclosed in one facility to avoid the transfer . . . and I think even in laundry services in some areas, there was transporting out over a distance and the risks involved in that were identified.

**Mr. Weekes:** — Just one follow-up. My assumption in asking that question is that on procurement, that a bid would be put out or however the process is done, it would be for products that would be the same standard or the same quality. You had mentioned some safety devices. I mean the assumption on my part that if there was asked of various companies to put a bid in, it would be all the same product. And I mean that's . . . I think that would be reasonable, and anyone would be asking for a bid on a product that there'd be certain standards that would be set that the manufacturer would have to meet and that was the intent of my question.

Given everything being equal, and you could buy a product at a lower price, would you be in favour of that procedure?

**Ms. Gerlach:** — Certainly we appreciate that it's an onerous task to manage such a massive health care system for the government and for a publicly administered system. In addition with an aging population, I'm sure that will be a growing challenge.

So generally speaking I think we're on your side that, you know, being responsible about taxpayers' money in the health care system is something that's important to everyone.

Unfortunately it's all about that key word that you used about assumption. Is that a correct assumption, though, because if you look at . . . if you have competing tuberculin needles — you know it's probably not the right word — I mean, is it just the needle that's the same thing or is it the quality and the structure of those needles? And that I don't know. You may very well be right, but because the assumptions aren't written out into TILMA which is, you know, a fairly concise agreement, I don't know how to answer that question.

**The Chair:** — Mr. Chisholm.

**Mr. Chisholm:** — Thank you, Madam Chair, and good morning. I have a couple of questions. You referred to nursing shortage and specifically an out-flux of nursing graduates to the province of Alberta. Just my thought is that as a trade agreement, TILMA is intended to increase the economic growth of the province, reduce labour mobility problems — if they do exist and they certainly do in some areas, you have indicated that you don't think it's a major situation in your field — and increase investment in the province.

If we were to be able to accomplish those things — increase the economic growth and investment in the province and thereby increase the government purse, if you like, that's available and thereby have more money available for our health care system . . . is the money one of the problems in the fact that we're losing our nurses to Alberta?

**Ms. Brown:** — Oh I think it's the commitment to staffing and addressing the issues in the workplaces. Money, for sure it takes money to do that. But I don't believe, if you will, the trickle-down effect of increasing the economy is the only answer. I think that there needs to be a commitment to deal with those issues, to deal with the educational opportunities to train sufficient numbers.

The nursing shortage is global. It's across the country. We've seen it coming for quite a long time, so I guess my question is, when will the incentive to deal with those issues happen? And I guess I would . . . if the money is the issue, then we've seen an increase in the coffers in the province with the industries that are happening now. I think that there has been more money in the surplus than was predicted, and still there's no commitment to deal with those issues. So I don't think that it's just that; I think the government needs to have the ability to do that as well.

**Ms. Gerlach:** — And I think that most . . . I had the privilege to bargain the last SUN-SAHO [Saskatchewan Association of Health Organizations] collective agreement as well as the last SUN-Extendicare agreement. And I think that it would be fair to say that SUN members, yes, an increase in competitive wage with Alberta, where we're about \$5 off the highest step between those two provinces right now, would be one important thing but not if it were at the risk of increased privatization in the health care system.

I don't think that SUN members would . . . I don't want to be negative, but sell out, you know, for a higher wage if it meant increased privatization within the Saskatchewan health care system. So it seems like a dangerous trade-off.

**Mr. Chisholm:** — On that point, I think it came up yesterday too, and I don't see anything in TILMA that is leading towards privatizing health care. Now you've read something into it because it says . . . because it doesn't say it doesn't. But there's nothing in TILMA that is promoting privatized health care. And that's one of the questions that we asked that be put on the list when we're talking to the people from BC and Alberta as to what they see as the role of TILMA and health care, specifically relating to privatization of health care.

**Ms. Gerlach:** — I think that's great that you're going to have that conversation with BC and Alberta, and I would personally be very interested to see the response on that. And I'm fairly confident right now that what they will probably say is there is absolutely no intent to privatize health care through TILMA. I think, you know, if they did they'd say that.

My concern is this, is when you look at the trade jurisprudence, if you look at how terms have been interpreted when challenges under dispute resolution mechanisms under other trade agreements which are much more convoluted than this one is — for example, the North American Free Trade Agreement or the

world trade agreement, and particularly the World Trade Organization agreement proper not its subsequent agreements — if you look at how interpretations have been made, both by dispute resolution panels and subsequently judges when those have been to a judicial review, you will see that lots of times we did not intend to sell something out but because we didn't explicitly protect it in an agreement it got sold out. For example, the Auto Pact would be a great example of that.

And so there are lots of examples under trade agreements where we thought we might have protected something or we didn't explicitly state we wanted to sell it out, and then challenges were made later on. And so that's our worry.

Can I explicitly say to you that this is going to mean the privatization of health care or increasing privatization of health care in Saskatchewan? No, I cannot. Can I say that it protects it? No, I cannot. And until we can answer those questions, SUN will be too concerned to support the agreement.

**Ms. Brown:** — Yes. I just want to add further. I mean in the investigation that we've done and the research, that opportunity is there, and as long as it's there we have to consider it a risk.

**Mr. Chisholm:** — So further to that then, is there any . . . Has NAFTA or WTO had any effect on Saskatchewan's medical care system in the past? We're talking about trade agreements. This is a trade agreement.

**Ms. Gerlach:** — No, because health care is explicitly written out. So in NAFTA, there is an explicit exemption for health care that doesn't exist in TILMA.

**Mr. Chisholm:** — Well I think our health care system is to some extent federally . . .

**Ms. Gerlach:** — Which is why it's in NAFTA — right? — because it's a federal agreement, check.

**Mr. Chisholm:** — So it's not, not explicitly part of a provincial agreement.

**Ms. Gerlach:** — Do you think though that, would we be correct in saying that there are some services that are offered in a different manner from province to province within the provincial jurisdiction, for example hip surgeries, right? As I'm sure you're aware, in some provinces you can get a sort of privatized hip surgery or cataract surgery which we don't offer here.

So I guess my question to you would be, when you look at some of those challenges, some of the diagnostic imaging, for example . . . Let's go very simple. Diagnostic imaging is a for-profit service in Alberta. It's not in Saskatchewan. How would that work here then? What would the impact on Saskatchewan economy be if we were to sign on to TILMA in this current state today, given that they have privatized diagnostic imaging and we do not?

And then my subsequent concern to that is once we answer that question, how then does article 11, point 4 fit in under investment where it states:

Nothing in this Agreement shall be construed to prevent a Party from maintaining, designating, or regulating a monopoly for the provision of goods and services within its own territory.

Because the term monopoly isn't explicitly defined like so many other terms are in the agreement, would we then be at risk? Does the entire system have to be pure monopoly or is it just components thereof? Is diagnostic imaging what has to be the monopoly or is it the health care system? That I don't know and until I know that, I'm uncomfortable.

**Mr. Chisholm:** — Well hopefully those are exactly some of the questions that we're going to be able to answer.

One other item. We've been continually hearing that although part V exempts social policy — including labour standards and codes, minimum wages, employment insurance, social assistant benefits, and workers' compensation — that all of these items are under fire, to be taken out of the agreement because the agreement says that it will be reviewed annually and that the purpose of the review is not to impair trade or mobility or investment in the nature of the agreement. It seems to me that it's only common sense that in an agreement there are provisions built into an agreement where it can be reviewed.

If the agreement's purpose is to free trade, free labour mobility, and free investment mobility within a jurisdiction, it would seem to make sense that you wouldn't be reviewing the agreement so as to add conditions that would deter free trade, deter labour mobility, or deter the freedom of investment. But the concern that keeps coming up is that it sounds like, at the end of the first year, they'll get rid of one of these, and then the next year they'll get rid of another one. Like I don't believe that is the purpose of the way that the annual review of the agreement is set up, so I guess that's another question that we will be able to address to the people.

**Ms. Gerlach:** — And I think there's a difference between indicating that you want to free up trade to the most liberalized standard. There are some things . . . You know. I think of the margarine case under the AIT [Agreement on Internal Trade], right. Check. That's a problem. We should probably free up, so we can all sell our margarine where we want. I get that dispute.

Occupational health and safety to me should always supersede profit. Period. Full stop. Right. For us occupational health and safety standards should never be . . . And I'm assuming hopefully that falls under social policy which is yet another term that's not defined. But I would never, ever agree that even if we determined that the higher standards we have in our occupational health and safety Act or Saskatchewan Human Rights Code — we have higher standards here than they do in Alberta — you'll never convince me that we should waive those in the name of profit.

**Mr. Chisholm:** — Thank you.

**The Chair:** — Mr. Yates.

**Hon. Mr. Yates:** — Thank you very much, Madam Chair. And thank you very much for your presentation. I have two or three questions. Starting with one of the concerns that's being

articulated is the need to increase labour mobility, and it's one of the issues also under the AIT. Both the AIT and TILMA are moving forward on trying to increase labour mobility. Actually both have the same date to try to achieve the same result.

**Ms. Gerlach:** — That's right.

**Hon. Mr. Yates:** — So today I want to get to specifically dealing with nursing and perhaps some of the other health care professionals you may be aware of that we're not going to have the opportunity to present in front of us. But with your backgrounds in health care, you can perhaps help us understand some of this.

Now I'm aware today that we do hire nurses out of Alberta. You know, we send recruiting people to Alberta and Lethbridge and Calgary and other places and recruit nurses. Are there any difficulty in nurses that are educated in Alberta in their training facilities there coming to work in Saskatchewan?

**Ms. Brown:** — Not that I'm aware of.

**Ms. Gerlach:** — Absolutely not.

**Hon. Mr. Yates:** — All right.

**Ms. Brown:** — I would have to caution that I'm not with the licensing agency, so I don't come across those first-hand.

**Hon. Mr. Yates:** — Okay. But routinely we do have nurses come from other jurisdictions . . .

**Ms. Brown:** — Absolutely.

**Ms. Gerlach:** — Yes.

**Hon. Mr. Yates:** — As nurses here go to other jurisdictions, and it seems to be a relatively seamless process for them. I would like to just ask about some of the other professions you may have some understanding about. And if you don't have the answer, you know, or don't know, you know, just say you don't.

**Ms. Gerlach:** — Some we will.

**Hon. Mr. Yates:** — But I guess with professions like occupational therapists, physical therapists, and others, are there . . . Because health care's a primary concern of this province as it is in every province, about our being able to both maintain and attract the workers. Do you see current problems in any other health care occupations?

**Ms. Gerlach:** — I wanted to know that same answer, and so I met with an executive of the chiropractors' association and as well as the Health Sciences Association of Saskatchewan. And so I can't speak to things like naturopaths. Like I mean I can't say I . . . [inaudible] . . . But I did meet and ask the exact same question that you just did of them. And they indicated to me, no, there were not.

Any challenges that they were aware of, outside of the exact same challenge that SUN communicates all the time of a general shortage, you know . . . And part of that comes to seats

that are available. You know, for chiropractors you can only study in certain places, that sort of thing. But they seem to have the same position that we did, that in mobility and especially in some of these areas, you know for example if you look at TILMA proper on page 24, under chiropractor it says "both: examination of practitioners who have not written the National Chiropractic Examination Board exam." That's not an option. You absolutely must write the national chiropractic examination board. And so I'm not sure why that would be listed. There is no mobility problem at all.

On an un-health-care-related note, I also spoke to someone in the lawyer world and in fact they've done away with their challenges and so all you have to do now, you don't have to take an exam with the bar any more, you just have to register with the bar. So I actually spoke with a lawyer in British Columbia who's done some work for BCNU [British Columbia Nurses' Union], our sister union there, who passed the bar, went to law school and passed the bar in British Columbia and simply just registered in Alberta and has done cases now in Alberta as well. So it seems to me, Mr. Weekes was referencing that the list is actually longer and that could very well be. I'm certainly not an expert on every profession in the country, but a lot of the ones that we did look up here didn't seem to be a problem.

**Ms. Brown:** — I was just going to say further to that, I would think if there were differences, there might be specific issues in those regions that are addressed because of those requirements, and so I would think it would be up to the professional associations to do the assessments of what needs to be. And I would think that further, I know with our professional association, as a registered nurse, that they collaborate throughout the provinces to try to work together to reach a common standard. So I would think that that's a process that should take its road.

**Hon. Mr. Yates:** — Okay. Thank you very much. My next question is a question I've asked of practically every presenter. Trade agreements are a reality today. We have the Agreement on Internal Trade that represents 10 provinces and three territories in the country. We have, of course, NAFTA, the WTO. As we're approaching an issue of trade agreements in a country like Canada, today we've taken so far a national approach, that trade agreements would be negotiated between the 10 provinces, three territories, in a process of negotiation and in some cases mediation perhaps between the parties, but coming to a mutual agreement on issues.

The agreement dealing with trade, investment, and labour mobility between Alberta and British Columbia is a regional agreement. We've heard some indications that there may be other regional agreements start to develop in Canada. What would your view on the approach of trade agreements be regarding Canada? Should we look at it on a pan-Canadian or Canada-wide national basis, or should regional agreements be our approach as we move forward?

**Ms. Gerlach:** — I agree with your opening statement, that a sort of neo-liberal model of trade is one that prevails today. It's the reality of the context in which we're operating. I think that there's a lot of unknowns and a lot of things that were kind of oopsies along the way. And so I think that it would be safe to



say that SUN is not opposed to, as we said in our presentation, certainly not trade, investment, or appropriate labour mobility without stripping things like licensing bodies of their authority.

What I think needs to be done is a slower approach, right? And so the very fact that I . . . Whether regional agreements are an appropriate mechanism for increasing internal trade in this country or not is a good question. I guess a subsequent question would be: why are we looking at regional agreements if we have so many concerns with the AIT? Wouldn't be that the place to talk about some of those concerns? And of course, there was an announcement yesterday from the federal government about some potential changes there.

I guess my question for you would be that I don't know why we would be signing on to a trade agreement unless we really knew all the details of it, unless someone can tell us, what does a monopoly mean. What is the difference between an exemption and an exception? What does the annual review consist of? What does it mean to not be able to renew a standard if it's inconsistent, without having those provisions?

And that's why it's sort of a fascinating thing because when we talk about this regional agreement, which is all of 36 pages long, compared to NAFTA or even the AIT which is . . . Yes, exactly. And so, and there's a reason for that, because they have protections in them. They've thought things out — not perfectly. We've seen mistakes under all the other agreements like the margarine case; like you know, some of the things that have happened under NAFTA like the auto pact case. But at least they were detailed and thought out.

So it's not that I, that SUN would be opposed to looking at appropriate interprovincial trade mechanisms, but this isn't the way to do it.

**Hon. Mr. Yates:** — Thank you very much.

**The Chair:** — Ms. Crofford.

**Ms. Crofford:** — We met with some other professional bodies and there was a couple of things that they weren't sure about and I don't know if you know. One of the things is, when a professional under TILMA would be automatically certified in another province, how do they come under the disciplinary jurisdiction of your professional association? Like, how does that happen now?

**Ms. Gerlach:** — Well because you have to be licensed here.

**Ms. Crofford:** — You have to be licensed now. So that's the process that brings you into the professional association. Ah, okay.

**Ms. Brown:** — But I think that you would still have to be licensed. It's just that if you were licensed in another province, that that standard would have to be accepted.

**Ms. Crofford:** — I'm not sure it's clear that you would still have to be licensed, because in the area of business, the notion is that if you've got a licence to be in business in one province, you'd automatically be allowed to be one in another province. You wouldn't have to reapply for a business licence. So if you

were, for example, a chain you would just automatically be able to put your chain store everywhere. I'm not sure what it does for the small local business but I think the same would apply to a profession. I don't know that . . .

**Ms. Gerlach:** — That's an excellent question.

**Ms. Crofford:** — But that's what they were concerned about is what, how far does TILMA penetrate into decision making? It obviously goes beyond the provincial government and into municipalities — we'll hear from later today — but does it go all the way into professional associations? And you don't know either?

**Ms. Gerlach:** — No.

**Ms. Crofford:** — Do you know, do the people in BC know from your partner? Part of your organization? No?

**Ms. Brown:** — No.

**Ms. Gerlach:** — No.

**Ms. Crofford:** — Okay. Thanks. That's it.

**The Chair:** — Any further questions of the presenters? I'm sorry, Mr. Iwanchuk. I did have you on the list.

**Mr. Iwanchuk:** — Thank you very much for your presentation. It was well researched and well thought out, I thought. This question just came as I sat here and listened because in the . . . And I guess you can answer it if you can or not. It's just asking for your comments. There has been some talk with the AIT in terms of some of the difficulties of moving things along. So of course the dispute mechanism or dispute resolution mechanism has been talked about and one of the things they've raised is the TILMA model. And I was just wondering, because we have talked a bit about that, if you have any thoughts on that.

**Ms. Gerlach:** — I think that if you look at trade agreements around the globe, there's two models of dispute resolution. One between parties, parties to the agreement — such as that at the World Trade Organization — and one that allows private investors to challenge. If we have to look at dispute resolution mechanisms . . . because there is a dispute resolution mechanism in the AIT. It's maybe not as effective as some people would like it to be because of its enforcement component. So there is a dispute resolution mechanism; it's the enforcement that's a problem under the AIT.

What we should be looking at is at the end of the day the economy has to be integrally tied to the state and so the dispute resolution should be taking place between the state and not private investors because as long as you allow . . . And that does not mean that we're opposed to increasing private investment or trade. The problem is, is that as soon as you allow dispute resolution mechanisms that provide for authority and economic sort of reward to private investors, you tie the hands of democracy. And that's not ever going to be appropriate to us because it's too much of a risk.

We entrust the state to make decisions through a democratic process. And part of that involves regulating aspects of the

economy. That doesn't mean to tie the hands of the economy, it doesn't mean we're opposed to a free market or anything like that, but the dispute resolution should be between the parties to the agreement and not wide open to the whole world.

**Mr. Iwanchuk:** — Yes, thank you. Thank you very much.

**Ms. Gerlach:** — May I just ask one question.

**The Chair:** — Certainly.

**Ms. Gerlach:** — We were going to send that information that Mr. Weekes wanted to the Clerk. Yes, okay, thank you.

**The Chair:** — And that would be the same person you got in touch with to arrange the meeting and to get your presentation before us. So thank you. We thank you for your thoughtful responses to the questions. You've obviously done a lot of work and we appreciate that you would take time to be before us. So at this time in the week, have a great weekend and . . .

**Ms. Gerlach:** — Good luck.

**The Chair:** — Thank you very much. What I'm suggesting is the next presenters are not coming forward so we have some time here. One person mentioned, at least one committee member, that they're not able to stay after to look at some of the questions we're developing so I would think we would want to take about a five-minute recess and come back.

I would be suggesting an in camera portion until 10:30 because we're going to be talking about what we're talking about with officials from Alberta and British Columbia and it would be unfair to those officials to have that portion in an open meeting. So if that's the agreement of committee . . .

**Ms. Crofford:** — Could we go a little closer to 10. I mean I haven't been able to make a phone call even all week. I have got to do a couple of things. I was really looking at this space and going, yay, a space.

**The Chair:** — All right. I would ask members to, let's say, come back from their recess at 10 o'clock to an in camera portion — if that's the agreement of committee — with questions, your questions ready.

[The committee recessed for a period of time.]

[The committee continued in camera.]

**Presenter: Saskatchewan Government and General Employees' Union**

**The Chair:** — All right. We have all of our committee members are back except one, so I think what I'll do is just do the introductory comments for our next presenter before . . . is Bob Bymoan, who's the president of SGEU [Saskatchewan Government and General Employees' Union], and we welcome you to committee.

As I've mentioned to other presenters, what you're reading into record will be a part of the *Hansard* and the written record. Of course I believe we're now on broadcast and so the proceedings

are broadcast. The paper that you provide to us will be recorded that we have that in hand to be part of our decision-making process, but it's not a part of the *Hansard* recorded proceeding. So what you would like to have on record in that way, you would want to make sure is part of your verbal presentation.

We're allowing about 15 or 20 minutes for your overview and your presentation, and then we'll open up to questions from the committee. And we thank you for the time and your effort to bring your presentation to us, and you could begin now. Thank you.

**Mr. Bymoan:** — Okay. Well thanks and on behalf of the Saskatchewan Government and General Employees' Union, I thank you for the opportunity to present this. This brief was actually done in conjunction with our National Union of Public and General Employees, and the secretary-treasurer, Larry Brown, was initially scheduled to be here. But I apologize on his behalf. He couldn't make it and he contacted me and I said I'd be happy to bring it forward by myself.

Our union is a component member of the National Union of Public and General Employees, one of Canada's largest labour organizations with over 340,000 members in every province except Quebec. The SGEU represents people working in a range of diverse sectors across the province including health care, education, community services, the provincial public service, Crown corporations, and the retail regulatory industry.

I thank you on behalf of our 22,000 members for the opportunity to appear before you this morning.

Our union has a direct interest in this issue for many reasons. Our two main reasons are our members are front-line workers that would be directly affected by this agreement, which would have a direct impact on how government programs are designed and how services are delivered. And secondly, trade deals that favour corporate interests over the public interests are a growing worry to more and more citizens and voters. Clearly our members are part of this constituency often referred to as the general public. But more than that, the SGEU has a long and proud history of working on progressive solutions to public policy problems.

I submit to you that the Government of Saskatchewan was very wise in deciding not to rush head-on into embracing TILMA as some sort of automatic benefit to this province. My goal today is to leave you with two specific messages. One, TILMA supporters are exaggerating the existence and impact of interprovincial trade barriers and are mistakenly claiming that differences in public interest regulation amount to trade barriers. And two, there are serious downsides to TILMA which governments must carefully consider.

I want to submit to you two documents. One is called *Red Alert* by our national union. The other is called, *The Myth Of Interprovincial Trade Barriers and TILMA's Alleged Economic Benefits* and is published by the Canadian Centre for Policy Alternatives. The Canadian Centre for Policy Alternatives study effectively disproves the very basis for TILMA, the idea that there are significant barriers to interprovincial trade that need to be dismantled.

Proponents of the BC-Alberta TILMA claim that it will provide large economic benefits through the elimination of interprovincial trade barriers, when in fact the CCPA [Canadian Centre for Policy Alternatives] study says there are very few obstacles to trade and investment among provinces and no evidence that such obstacles entail significant economic costs.

Research conducted for the 1985 Macdonald Commission concluded that interprovincial barriers cost no more than .05 per cent of gross domestic product. Relative to distance and market size, Canadian provinces are far more likely to trade with each other than with American states. Since 2000, interprovincial trade has been growing much faster than Canada's international trade.

A Conference Board of Canada study commissioned by the BC government claims that TILMA will add \$4.8 billion to the province's economy. However, this study is deeply flawed and makes no attempt to list or estimate the cost of trade barriers between provinces. Rather than using standard economic techniques, the Conference Board infers huge benefits from a tiny survey of business organizations and government ministries. The Conference Board doubles its estimate of TILMA's benefits through a simple arithmetic error. Even after correcting this error, most of the projected gains are from industries exempt from the final agreement or from industries that barely engage in interprovincial trade.

The full analysis of the CCPA study is of course found on the document that I have submitted to you today and there's one of the two documents.

Our national union's review of TILMA called *Red Alert* forcefully argues the case that TILMA is a very problematic agreement, one that will have significant negative impacts on the democratic rights of Saskatchewan citizens.

Areas of concern. Let me highlight three of them. This agreement gives private business the right to seek compensation for any government action they disagree with and they are given access to a special disputes panel of appointed experts to make the process easier.

The TILMA agreement will allow companies to complain to the disputes panel and the panel can award up to \$5 million compensation if any level of government introduces, on behalf of the people they serve, any regulations, policies, or programs that they deem to impair or restrict investment, trade, or mobility.

Each time a government makes any decision, they will know that any company from either of the two provinces can seek damages of up to \$5 million if the company thinks that its right to act in its own interest has been interfered with. A province or a school board or a municipality is going to be very careful not to tread on any company's toes if they know that the companies can challenge them for \$5 million apiece.

Second, the TILMA agreement covers every level of government within the provincial boundaries. The agreement applies to the provincial governments and their government entities and will therefore include municipal governments, school boards, and health and social service agencies.

That is to say not only the provinces themselves but also the governing bodies within those provinces will lose their right to react to the political choice of their populations and will be extremely limited in what they can do, even if the people are strongly demanding action.

And finally, third, TILMA seriously restricts democratically elected governments from acting in the interests of their populations. The core of TILMA is in section 3. Quote:

Each party shall ensure that its measures do not operate to restrict or impair trade between or through the territory of the Parties, or investment or labour mobility between the Parties.

It goes on to say:

Parties shall not establish new standards or regulations that operate to restrict or impair trade, investment or labour mobility.

Private individuals and corporations from either BC or Alberta can take complaints forward and the disputes panel can make binding rulings. Even if a regulation is accepted as being for a legitimate reason, it can still be overturned by the disputes panel if the disputes panel feels it is not the least restrictive way to achieve the objective. That is to say, democratically elected governments will have to prove to an appointed panel of experts that the proposed law or regulation is legitimate and the measure is not more trade restrictive than necessary to achieve the objective. A whole lot, in fact most of what governments can do can be argued to restrict trade in some way or another. Municipal development policies and land use restrictions, local purchasing provisions; all these could be argued to be restrictions on trade.

Environmental issues rank very high on the public agenda these days. This trade agreement will hobble governments from dealing with environment if their environmental rules affect trade, which they must if they are to mean anything. The agreement only allows governments to pass measures relating to the management and disposal of hazardous waste. All other environmental issues will be covered by TILMA.

What about municipal bans on billboards or municipal development restrictions to maintain the quality of neighbourhoods? These are restrictions on the right of companies to do as they please, so in some way they restrict trade. TILMA seems designed to ensure the two provinces seek the lowest common denominator in their regulatory base. Any regulation that is better than the norm will have little chance of survival and the lower the regulation aims, the more likely it will be the new standard.

It is clear that the provinces are implicitly agreeing that neither of them will aim for higher standards or better benchmarks. The governments appear to retain their ability to make taxation decisions unimpeded, but even here if a company argues that a tax provision is an indirect subsidy then the agreement will be brought to bear and the government tax decisions could be challenged.

It isn't clear that even occupational health rules will be exempt.

The TILMA does exempt what is called social policy, including labour standards and codes, minimum wages, employment insurance, social assistance benefits, and workers' compensation. Interestingly, however, occupational health and safety is not listed as an exemption. Most occupational health and safety rules, obviously enough, clearly impact on the right of companies to operate without restriction.

TILMA will essentially eliminate local purchasing or the favouring of local suppliers. All purchasing decisions by provincial governments, local governments, Crown corporations, school boards, and universities that are worth more than \$10,000 for goods or \$75,000 for services have to be tendered and there can be no favourable treatment for local or provincial suppliers. The agreement would effectively eliminate government support for rural development or small business, and would severely limit the ability of governments to deal with economically depressed regions.

Government assistance that distorts investment decisions is a violation of the agreement. Clearly democracy will be forced to take a back seat to business interests. The dispute panel can force governments to change their policies no matter how popular these policies are.

Erasing the provincial boundary. Todd Hirsch from the Canadian west foundation says that "Within the TILMA are the seeds of a true economic union, an erasing of the provincial boundary for all purposes except voting and the colour of the licence plate." *Maclean's* magazine approvingly says the new deal will, quote, "effectively erase the border" between the two provinces.

But if the agreement erases the provincial border for all purposes except voting and the colour of licence plates and effectively erases the border between the two provinces, what need is there for two provincial governments? Voting would be an exercise in choosing the colour of the licence plates for the province.

Labour mobility. A lot of attention has focused on the labour mobility provisions, but increased labour mobility can be easily obtained by specific agreements that don't have the effect of emasculating the role of government to the degree that this agreement does. This is not a labour mobility agreement. It is an investment and corporate mobility agreement with labour mobility there to provide protective colouration.

Conclusion. The TILMA agreement is being hailed as a miracle cure that will create phenomenal new savings and a huge number of jobs. The claim that TILMA will somehow magically create 78,000 jobs is very fascinating. There's no evidence for nor any logic to that claim. It is simply dangled out there for the gullible to latch on to.

Governments should look once, twice, and three times before they leap into a deal they will undoubtedly regret. Governments need to actually study this agreement, not just accept the cheerleading statements of the ministers and business leaders who have so enthusiastically welcomed this agreement which meets only their self-interests.

We are pleased that this government has not decided to follow

that course. There needs to be full public debate and consultation before anything that is so sweeping and so potentially limiting of provincial powers is adopted. We are now of the view that public debate will lead to the inevitable conclusion that TILMA is not a good deal for this province. We urge you to find accordingly. Thank you.

**The Chair:** — We thank you very much for your thoughtful presentation. I haven't had a chance to compare the two presentations. Is there anything from the national union, one that wouldn't have been covered by your verbal comments, you'd like to add into the record now?

**Mr. Bymoan:** — I encourage you just to read both of them, but definitely the tone of it is expressed within the verbal comments.

**The Chair:** — Okay. Thank you. And to the speaking order we have Mr. Weekes, Ms. Crofford, Mr. Chisholm.

**Mr. Weekes:** — Thank you, Madam Chair. Welcome and thank you for your presentation. We've basically heard, I would think, from other mainly labour groups the same theme throughout this. And the process is we're going to be asking the BC and Alberta officials basically every issue you've raised in here. We're going to ask those questions. I don't see the concern about these things. I mean I think you've exaggerated so many of the items and I think the worst-case scenarios is put in these types of submissions. But given that, we're going to ask those questions and get a clarification on all these items.

I guess my question to you as a union leader, two parts. If there are barriers to trade and investment and labour mobility between BC, Alberta, and Saskatchewan, do you agree that they should be reduced or eliminated?

**Mr. Bymoan:** — Well I don't think we can answer, that's a yes or no question. Our province and our country was built some . . . A lot of what allowed the wealthy that are in this province today and in this country today was some trade barriers and tariffs and some protectionism to allow certain businesses to get established and to allow governments to create certain social policies. So part of the role of government is to assess the need for some of these items, for some tariffs or some regulation that may be restrictive for somebody else from another province or another country from doing certain actions in this province — whether it's to create business or whether it's environmental or whether it's social.

But in saying that, I think the government should have the full authority to consider what that tariff is or what that restriction is and to determine on their own whether or not it's good for the people of Saskatchewan or whether it's not, it's good for business and for corporations. And if a restriction can be reduced that's good for everybody, that makes sense to go ahead and do it. But it shouldn't be clouded with the ability of a company or a person or an organization to sue the government to do that. The rationale for making those decisions should be made on good logic that makes sense for the people of this province.

**Mr. Weekes:** — Thank you. Just one more question. Would your union accept any trade agreement, whether it's TILMA or

any other agreement, that increases economic activity, increases the wealth to the province, and creates more jobs?

**Mr. Bymoer:** — We would look at that. We believe, like I just said, the government needs to look at these items, look at these issues, and see where the barriers are. We work within, our own members work within interprovincial agreements now on certain issues, government shared services. The one that comes to my mind, for example, is forest fire fighting and management.

And it wasn't that many years ago that the government created an agreement with the provinces — other provinces — to share those resources and to allow us to send people to different areas and have levelled off some of the standards or even upped some of the standards and brought some up and that type of stuff to allow that to happen. So that we're comfortable, if we send our employees, our firefighters, into a different province for example to fight fire, that there is some consistency in how that stuff is being managed. That's something that's inside of government. It isn't business I know, but it's . . .

So we're not opposed to . . . We support governments talking to other jurisdictions and talk about what makes sense, but I'm not supportive of, for example, in British Columbia where they're getting . . . I'm a journeyman welder by trade and I come out of the trades. And in British Columbia they're getting rid of what we, on a national basis, what has been an apprenticeship program and the Red Seal program.

And I don't believe that companies in BC should be able to sue Saskatchewan if we want to maintain a Red Seal program which genuinely does allow tradespeople to be recognized for a certain level of skill and knowledge across the country just because BC decided that they can get rid of it and, you know . . . So the whole stress for this, to me, is really simple.

I come from a fairly basic background, a layman's background. My parents worked hard off a farm to earn a living. And why would you give a company the ability to sue you when they can lobby you today and you can do what makes sense for everybody? That's what it boils down to, to me. If there's restrictions out there that don't make sense . . .

You know, I hear about licensing problems between oil companies and moving their equipment back and forth. If something like that can be smoothed out that makes sense, that doesn't have a negative impact on our environment and creates an even playing field that's going to allow our companies to go into Alberta to work . . . If all it's doing is allowing companies to relocate into Alberta and come in here and pull the money and the resources out of the province, then I'd question it. But if it's allowing our companies to go into Alberta on an equal basis, then let's take a look at it and let's see what makes sense. But I don't think we need to give that company in Alberta the ability to sue us for \$5 million to make that happen.

**Mr. Weekes:** — Just a follow-up. The Red Seal issue is something that's come up again and again. And we're certainly going to ask those questions. I guess Quebec doesn't belong to the Red Seal program in Canada, so there's one out, and I'm not sure if BC can be categorized as lowering its standards. We're not quite sure what they . . . I understand that they're giving

their apprentice or journeymen of being, of going into the Red Seal or not, and I'm not clear whether that means it's lowering standards or not. I mean I would hope not, and we're certainly going to find that out.

But just pick up on one more thing about the dispute mechanism, it's not my understanding that an individual corporation sues. I understand that the issue would be raised with the home province, and the two provinces would first try to resolve the issue. And if there is an issue, they would try to fix it. And at the last resort is the one province would enter into the dispute mechanism to solve the problem through the program.

So I just note that you seem to leave the impression that, you know, individuals are going to sue and receive \$5 million if they win the claim. I don't think that's in the text anywhere quite frankly. It's not a matter of the individual or the corporation receiving the money. If they win the argument, it would be between provinces, and ultimately I understand it would be one province paying the other — not to a corporation. But thank you very much for your presentation.

**The Chair:** — As you mentioned, Mr. Weekes, some of these areas are up for interpretation, so we are asking questions when the officials come before us. I was just wondering since we have Red Seal program in front of us that we might want to ask Alberta and BC about their input into the Red Seal program and commitment to the program to see where they're at. And so I've asked Mr. Chisholm to add that if that's all right with the committee. Oh sorry, Michel — both Michaels.

**Mr. Bymoer:** — In regards to when it comes to interpretation, my interpretation of that Act, what I've been versed on is — of TILMA — is that I don't know if sue is the right word because it goes through a tribunal. Like not through the Queen's Bench or through that type of judicial system but ultimately that companies . . . Our interpretation of it is that they will be able to seek relief on this. It won't just be the province of Alberta that seeks relief.

It will be, you know, in regards to liquor stores for example. You know there's lots of debate in this province about whether or not they should be public or private. And debate is healthy, and discussion is healthy. But the decision shouldn't be founded on whether or not we're going to have to pay Costco or the Liquor Barn compensation for lost profits because we don't want them here or we don't allow them to come in, in that volume and in that size.

The discussion around that should be done based on another sound reasoning, not because we're going to have to compensate another corporation for not being able to make a profit off the sale of it, is my whole point. And our interpretation is, is that these corporations, we will have to provide some compensation to organizations that if they are restricted from making a profit on certain issues, items.

**The Chair:** — We have Ms. Crofford.

**Ms. Crofford:** — Yes. Actually you just started down the road I wanted to talk about. If in fact the argument is that we have a barrier that's preventing a private business from making a profit

in our province and therefore creating a trade barrier because it makes it more difficult to operate here, what are the areas of government services that we have in Saskatchewan that are done by private operators elsewhere?

**Mr. Bymoer:** — It's very wide sweeping. A lot of our highways work is done by private . . . It's tendered out, and it's done through the private sector. You know, most of the maintenance and the winter maintenance is done through public sector but some of it isn't. You know, there's all kinds of . . . And that goes right from design and build right to the building of the roads, and then there's the bridges and all that other infrastructure. There's, you know, through SPM [Saskatchewan Property Management] there's lots of contracts that go out through construction and maintenance of properties and everything in between.

**Ms. Crofford:** — But as far as something that's done privately elsewhere that's done publicly here, there would be the liquor . . .

**Mr. Bymoer:** — Liquor would be . . .

**Ms. Crofford:** — Is there anything in the corrections area? I just don't know.

**Mr. Bymoer:** — Well corrections, some provinces do some corrections. But Ontario is sort of the leader in that, and they've backed off. Most of their stuff that went private is going back public again. But that would be some area like Wackenhut or whatever their name is. Kevin would know the name of the private companies out there that would love to make money off of warehousing inmates.

You know, you get into the medical areas, is some of the areas, you know, with the use of private medical services. There's companies out there that would love to come in and make a bunch of money off of these types of services.

**Ms. Crofford:** — And your issue is not so much whether we choose to do that but whether we then would be compelled to do that.

**Mr. Bymoer:** — Well for this argument I've got my own philosophical issues of whether or not we should do it to begin with; don't get me wrong on that. But the reason that compels us to do it should not be because we're going to have to pay — even if it is just another province, another jurisdiction, whether it's a province or a government or a corporation or an individual — money because they can't make a profit off of that. That shouldn't be the reason that they should be allowed in here to do that business. There should be sound public policy reasons why things are done in this province and governments make their decisions.

**Ms. Crofford:** — I'm going to ask you one short question. Would you say that the Red Seal program has increased or reduced mobility for workers?

**Mr. Bymoer:** — The Red Seal program has increased mobility for workers. It's that simple, and it's been a good tool for the employers as well because it gives you a certain standard. And even within that Red Seal program, like in the welding field for

example, the Red Seal gives you, takes you to a work site with a certain body of knowledge. But right now if they wanted tests for some other things, they'll do some, some of these other tests like different pressure tickets and that type of stuff, but it assures that all . . .

**Ms. Crofford:** — The employers know what they're getting.

**Mr. Bymoer:** — Yes, the apprentices have a certain body, the same certain body of knowledge across the country, and I think that's important. And if you flip that question around, without the Red Seal program, then if I got a certificate in welding air seeders in this province for a company — which is nothing wrong with that job — but what does that give me for labour mobility across the country, you know, versus having a Red Seal journeyman ticket versus being able to weld widgets to build air seeders, which a lot of people in this province in the manufacturing area would have? Then that impedes my mobility as an employee and ultimately probably my worth and value when it comes my own ability to turn an income as well.

**Ms. Crofford:** — I was thinking one solution might be to have an agreement like this for individuals' economies like the economy of my household, but anyway we'll leave it at that. That's it for me, Madam Chair.

**The Chair:** — Mr. Chisholm.

**Mr. Chisholm:** — Thank you, Madam Chair. My question and comments are regarding the Conference Board of Canada and a number of their reports — the first being the report entitled *Death by a Thousand Paper Cuts* that was prepared a couple years ago; the second report then, their report on the impact of the TILMA agreement on the BC government as commissioned by the BC government to be done; and then obviously the third where our government chose the Conference Board of Canada and commissioned the Conference Board of Canada to do a report on the effect of TILMA as it would relate to Saskatchewan.

Now it seems that the parties that are not in favour of not only TILMA, but that are not particularly in favour of free trade, labour mobility, or increased investment in this province, the first attack that they have to make is on the reports that were prepared by this independent organization called the Conference Board of Canada which our province obviously agreed would prepare a fair report to present to the Government of Saskatchewan.

So I wonder if you could comment on, you are discrediting the numbers that are in the BC report. I don't think you specifically discredited the numbers that were in the Saskatchewan report, the \$291 million that's estimated to increase the GDP [gross domestic product] of Saskatchewan and the 4,400 jobs that are estimated to be added to the province. So do you have numbers from your studies as to what the economic effect and the job effect would be should Saskatchewan join this agreement?

**Mr. Bymoer:** — I don't have those numbers. But I believe that we can generate good numbers for business, you know, as far as GDP and as far as growth in this province without signing on to TILMA. And if there is a particular barrier that is restricting those numbers and that barrier can be removed without having a

negative impact on the lives of the people of this province, both socially and financially of the individuals in this province, then the government can consider those barriers without locking themselves into an agreement that puts those decisions in front of another board.

We elect our politicians to make those decisions for us. And in doing that, I think, the Government of Saskatchewan has to hear from the conference, should hear from the Conference Board of Canada. And so I've got no issue with them actually considering that report and putting it into their mix as well as putting their other reports and discussions into their mix. But they don't have to lock themselves into an agreement, a binding agreement, such as TILMA in order to make the changes that are necessary over time.

Because the other thing is we don't . . . given technology and everything that's going on in the world around us, what is 10 years going to bring us from now or 5 years going to bring us from now? We, you know, we can project that, and economists like to think they know what's going to happen, but really none of us have that crystal ball.

And so why would we lock ourselves into something like this that's actually more rigid than just the ability for the governments to address these barriers and to these issues as they come forward. Like it doesn't make any sense to me to lock ourselves into such an agreement to address the issues that are important to you. If they need to be done, they can be done through other means.

And from my perspective I don't have one friend that wasn't able to leave this province and get a job because of a trade restriction — not one. Now maybe I don't hang around in the same circle as you do, you know and maybe there are people out there. I hear of stories of people coming from other countries or some . . . like you get into the . . . You know, in some of the jobs, professional jobs, there is some differences amongst the provinces and stuff like that.

But even with that, our organization hires from out of province, our senior people with shingles attached to their names. We use legal counsel from out of province, across this country. And I don't see it. I don't see these big barriers. And if there is one, there's nothing today stopping the government from looking at that and saying we need to change our legislation or we need to do something different to address that issue.

What's fundamentally wrong with TILMA is that TILMA takes away the government's ability to really do that in the sense that they want to. It's going to be left up to . . . They can make a decision on how they want to do it, but there's going to be another board over here that's going to have some final say in this. And that's just fundamentally and democratically wrong. There's no reason for it.

Common sense can be worked through. And we change agreements now between the provinces, and barriers now on an ongoing basis about how goods are shipped between provinces and taxes relate to each other, and we can continue to do that and in a progressive way.

**Mr. Chisholm:** — I guess my question was about the

credibility of the Conference Board of Canada and the three reports that it has prepared on this very subject. And I don't think that was the answer I received, but that's all that I have for now.

**Mr. Bymoer:** — If you want, I'll go back to Mr. Weekes's comments about our brief saying it's embellished. Well then I'd say, you know, the Conference Board of Canada's report is somewhat embellished. If they say there's going to be 78,000 jobs created because of these barriers, then show me the jobs. Show me the barriers specifically because right now people move across this country at will to work, and companies do. I'm not aware of any laws that says a company, you know, is that restricted to create that number of jobs.

It's just, you know, unless this agreement is going to drop standards low enough that we can start getting jobs back that were lost through free trade to the free trade zones out there and we're going to all of a sudden have a free trade zone based on TILMA that's going to allow us to compete for making shoes for Nike or something like that and create a bunch of those types of jobs, or drop the standards low enough that we can compete in that field again, I don't see where it's going to create those jobs. And I don't believe it.

**The Chair:** — We are getting into debate. So do you have a question, Mr. Chisholm, that you'd like to . . .

**Mr. Chisholm:** — No, that will be fine.

**The Chair:** — Mr. Iwanchuk.

**Mr. Iwanchuk:** — Thank you for attending. You made a statement earlier, and we've discussed this issue of TILMA coming forward, and you indicated that you're in agreement with the decision obviously of holding some hearings here. And you mentioned your union's a national union. Have you heard, particularly in terms of British Columbia, obviously in Alberta, of what members of your union were saying there about this deal? Or just did they, you know . . .

**Mr. Bymoer:** — We knew about this in Saskatchewan at the same time if not sooner than our brothers and sisters in Alberta and BC knew about this agreement. Those governments didn't go forward to the people in their provinces and ask for this agreement, so they're sort of learning about this as we go along. And so they're worried about it. The information coming back is just starting to trickle in from those unions about the impact of it and their concerns, and they're not happy with what their governments did about this agreement. But it's, given the secrecy around this agreement in those provinces, they don't know about it any more than we do.

**Mr. Iwanchuk:** — Okay. Thank you. That's all, Madam Chair.

**The Chair:** — Mr. Yates.

**Hon. Mr. Yates:** — Thank you very much, Madam Chair. I'm just going to ask the standard question I've asked virtually all our presenters. Trade agreements are a fact of life today. They exist, and in fact we have an interprovincial trade agreement called the AIT between all 10 provinces and three Canadian territories at this time.

The approach to trade agreements and working together between jurisdictions on the issue of trade, would you prefer a national approach, or do you think that it's all right to have regional trade agreements in Canada? The concern coming from of course those in any particular regional trade agreement would have seemingly one set of rules in the rest of Canada and another set of rules dealing with those same provinces, and we could have in fact three or four regional trade agreements in Canada and no longer a national approach to trade. So it's a basic question. Do you think trade should be dealt with on a national basis in Canada or on a more regional basis?

**Mr. Bymoer:** — Well I think the answer is all of the above. You know there's going to be times when Regina and Moose Jaw might want to share services. I know a prime example of that is around Ottawa, where Ottawa and Hull . . . and well they combine the cities now somewhat, and Gatineau. They've shared fire services, and they had agreement amongst those municipalities to share fire services. Well that doesn't need to be controlled on a national level, and that's a trade of public services. But at times, given your geographical proximity and similarities, you're going to want to have some arrangements with your provinces beside you, and those don't need to be a national agreement, how some of those agreements affect each other, but there also has to be an understanding on a national level of how trade works and, you know, on our natural resources and on these types of items. I don't think the answer is should it be national or regional. I think it should be looked at all what makes sense.

I think what's important is that whatever the agreements are, it shouldn't just, the agreement shouldn't be to exempt government from being able to do what's good for the citizens that elect them within their jurisdictions. There has to be some recognition of the social economic impact of these agreements. And governments and citizens that actually elect the governments to have some say into this without having to, going . . . and it shouldn't be allowed to go off to some tribunal that isn't elected by the people within those jurisdictions or within this country to have the final say. We elect our governments to have the final say. We elect our governments to govern. So it's not one answer, it's . . .

**Hon. Mr. Yates:** — Thank you very much.

**The Chair:** — Mr. Iwanchuk for a follow-up.

**Mr. Iwanchuk:** — Just a follow-up to one of my questions was the . . . Do you know what they were saying about the deal? Your members you mention are just finding out across BC and Alberta, do you have any examples of what they're actually saying about . . .

**Mr. Bymoer:** — They're worried about the impact of this. I haven't found anybody agrees to the concept that a government should just roll over and let a tribunal determine whether or not you're going to have . . . the government has to pay a fine or an assessment for the policy decisions that they made. They're not happy with the government doing what they did in this cloud of secrecy. And they're going through this stuff and assessing the impact on them.

And you know, you take like BC. There's been so much change

from the Campbell government thrown onto the unions out there, you know, dealing with the way health care and education has been addressed in that province that they're also caught up in all those other issues. So this is just another, this is just another issue on the plate of many.

And in Alberta, they have a different, somewhat of a different view, just societal different view when it comes to these types of things and how their government works. But one of their big questions is, is where was this issue in the elections platforms and where was this issue discussed within their elected ridings before the government . . . You know, where did they think they had the authority to just go off and sign this agreement without the consultation?

And the real impact is to come. There is . . . No different than . . . The Conference Board of Canada is predicting all these jobs which nobody, you know, you'd have to have . . . Ten years from now, you'll be able to tell me how many jobs were created, and then you'd have to assess whether they were created as a result of TILMA or a result of other policy and other economic factors.

But when they're looking forward to this, they're wondering what's going to — once another year from now, once the sort of the honeymoon is over around this agreement and they're working their way through the outstanding issues — what is it really going to mean three years from now or two years from now or five years from now? And they don't, they don't anticipate a whole lot of impact today. It's in a few years once more of it comes on stream that the bigger impact will be on the government's ability to govern. Thank you.

**The Chair:** — Mr. Duncan.

**Mr. Duncan:** — Thank you. Mr. Bymoer, good morning. In responses to earlier questions, you don't seem to be so much opposed to trade agreements, whether it be on a national level or a provincial level. But in your presentation, one of your main areas of concern is the dispute panel and resolving disputes.

And so I guess my question to you is, if provinces or organizations agree or come to an agreement on, in this case it's TILMA, how do you see those agreements being enforced if there's no dispute resolution? And I think that's part of the problem with the AIT is there's an agreement in place on a pretty wide array of areas, but there doesn't seem to be agreement on how to enforce those.

**Mr. Bymoer:** — Well if it's a licensing issue, the government's got the regulatory bodies to enforce it. The government's got the ability to enforce the trade agreements. We're, like I say, we're not necessarily opposed to trade agreements. We're a trading province. And it isn't like we live in a castle, within the walls of a castle any more with, inside the world. But what we're opposed to is that any type of agreements that give . . . These trade agreements are giving corporations more and more right to govern, and corporations really are faceless entities. They change names. They change ownership on a whim, and you know, they sell and trade their shares so when a corporation . . . The corporations that exist today, many of them won't even exist in a few years.



And so giving these corporations more ability to govern, then how do you hold them accountable? You know, the Wheat Pool just bought out Agricore there. If Agricore was given the authority to have made a bunch of decisions or had influence on what was going on regards to the social impact of this province today, and they were negative impacts, then what's that corporation tomorrow? It doesn't even exist. And that's our concerns around these free trade agreements.

It's not about addressing barriers that exist between countries and provinces and cities and municipalities. It's a matter of who can you hold accountable. The people that you hold accountable are those that we elect, not a corporation and not a board that's appointed. It's the people you elect that you hold accountable for, and they're the ones that need to work within the government to look at the barriers.

Trade agreements have existed for years and years and years and will continue to exist. It's a matter of who gets to determine what they look like and how they impact on the people, you know, that you're elected to represent.

**Mr. Duncan:** — But I guess that goes back to my question of . . . You asked the question of how do you hold — in your case — it's how do you hold corporations accountable. But in your example of the city of Ottawa and the Gatineau and Hull sharing firefighting services — and I have no idea what their agreement is, but let's say it's a 10-year agreement to joint fund fire services and after two years Ottawa quits paying into providing the service — so how do you hold the other party accountable if there's no dispute resolution in this particular trade agreement?

**Mr. Bymoer:** — I'm not sure what your hypothetical situation is getting at. But where you hold the people accountable that make those agreements is that they're up, they put their name forward for re-election on a regular, on a regular basis every, you know, three years, four years, what ever their term is. And they put their name forward to get elected based on what they've done and what they project for the future.

Where the corporations . . . and not that corporations are bad, you know. There's corporations . . . You know we have a very high standard of living in this country and in this province and a lot of it is by from what the corporations also build for us and do for us as well. But they're not our elected. They're not. The corporations and this board were not the people or the bodies that were elected to govern for us. Why would we have government if we can just appoint a board to determine what is good for us?

**Mr. Duncan:** — Okay. Would you feel more, would you feel more comfortable with this agreement if the dispute panel was made up of elected, elected ministers from each province? Would that make you more comfortable if it wasn't appointed members, if it was elected ministers from each province on the panel?

**Mr. Bymoer:** — I guess it, it goes further than that. I don't see the purpose of the panel. I'm more comfortable with our elected ministers being able to take a look at what's going on, at what the barriers are, what the lobby groups are saying is the problem, and developing recommendations through their

departments for the changes.

I'd feel more comfortable with this if I was hearing about . . . if I really believed that there was a problem with trade between us and Manitoba or if there was a problem with trade between us and Alberta or if I thought that there was something restricting that new car being built in Ontario from making it to Saskatchewan to be sold. But those barriers don't exist today.

And my experience with the free trade agreements is that it wasn't. The labour mobility has been to bring in the lowest common denominator of labour or move stuff to the lowest common denominator of labour, and it hasn't been to address these, these barriers. They don't exist.

**The Chair:** — I thank you. I have to say now our time for your presentation has elapsed. We have two other presenters before our day is complete, and we want to thank you for your presentation, your thoughtful consideration of the questions that were asked for you and of you by our committee members. Best wishes in your further deliberations. Thank you.

**Mr. Bymoer:** — Yes and thanks again for allowing us come here and make a presentation in front of my elected peers. That's what democracy is all about. I'm a lot more comfortable making the presentation in front of you than in front of some tribunal of people that I wouldn't have any influence in electing. Thank you.

And if any other people want to ask me questions or have coffee with me about this sometime in the future outside of this room, I'd be more than happy to do that as well.

**The Chair:** — And if you have further information on some of the questions that were asked, we'd be pleased to receive them through our Clerk and give them to every committee member.

**Mr. Bymoer:** — Yes . . . [inaudible] . . . a couple of them about from the . . . because this was the NUPGE [National Union of Public and General Employees] presentation, so I'll be in contact with Larry and talk to him about that.

**Presenter: City of Regina**

**The Chair:** — Thank you. We have ready and in the wings our next presenters from the city of Regina: Mayor Pat Fiacco, Neil Robertson, Jana Marie Odling. We welcome you, if you'd come forward, introduce yourselves. We've mentioned to other presenters that we allot about 15 to 20 minutes on your overview and then open up for questions from the committee members. We are running a bit behind. We did have time earlier to do some work of the committee, so we are allowing for that time difference, and we thank you for your patience.

I've mentioned to other presenters, what you want to have on record of *Hansard* would be then part of your oral presentation. We are recording and have for the minutes the written materials that you would present, and so I'm asking that if you are wanting something to be a part of the written record of the committee then it would be in your oral presentation. But all members would have your presentation before them to consider the information. Thank you for the time and effort to present to us, and you could begin now. Thank you.

**Mr. Fiocco:** — Thank you very much, Madam Chair, and hello everyone. To my left is Neil Robertson. To my right is Jana-Marie Odling, our city solicitors for the city of Regina. When I'm done my presentation, if there are questions, all three of us will be answering those questions.

So again thank you for allowing us this opportunity to present the views of the city of Regina on the potential impact of the Trade, Investment and Labour Mobility Agreement on the city of Regina's operations.

At the outset I would like to commend this committee for its study of this issue. It is our council's view that more study is required so that the Government of Saskatchewan can make an informed decision on whether Saskatchewan should participate in TILMA. These hearings are definitely going to serve that purpose. We'd also like to express our thanks to the officials and staff responsible for organizing these hearings for their assistance enabling our participation.

As members of a legislative body, my colleagues and I understand all of the work that goes on behind the scenes to make these hearings proceed smoothly. A number of groups have come before Regina's council and its committees in the last few months to make presentations on TILMA. These groups have taken positions both for and against the agreement.

In order to better understand the effects of TILMA, city council asked SUMA, the Saskatchewan Urban Municipalities Association, to review the issue and provide a report. Following receipt of SUMA's report, council asked its administration to do a similar review. That report was considered by council at its executive committee meeting on May 23 and city council meeting on May 28, 2007. Copies of that report have been submitted to this committee in support of today's presentation.

Our goals in today's presentation are twofold: first, to provide a brief overview of our main concerns with TILMA and how it has the potential to affect civic operations; second and most importantly, to request that the province not sign onto TILMA until such a comprehensive consultation can be held with municipalities.

In this regard, we are asking that the province strike a working group with provincial government representatives and the various municipalities. A similar group was struck a couple of years ago to look at legislative changes relating to municipal liability. That proved quite effective and should provide a model to address complex and controversial issues such as TILMA.

Your concern as legislators, like that of council, is to determine and to do what is best for the community as a whole while still respecting minority interests. New trade agreements typically involve winners and losers. Council recognizes that some groups may stand to benefit from the province signing onto TILMA, so we're not here to say that the sky is falling and that there is something inherently bad about TILMA.

What we are here to say is that the provisions of TILMA as currently drafted are broad and general in application. TILMA is unclear in some respects. There are no precedents to show how municipalities will be affected. Quite simply the

implications of the agreement are uncertain. Where there is such uncertainty, caution is called for. Studying consultations, as this committee is engaged in, are definitely appropriate.

Now I'll move on to our specific concerns. While we are not experts in the internal trade area and likely have not identified all potential areas of concern, we have identified four areas where the city would likely be most affected. The first area of some concern is article 5 of TILMA. This article deals with standards and regulations. Article 5 contemplates the reconciliation of existing and new standards and regulations that operate to restrict or impair trade, investment and labour mobility.

As you know cities regulate a number of activities under authority of provincial legislation, so there is the potential for city bylaws and orders to conflict with TILMA. One significant function of municipal government is to legislate community standards that reflect the will of the local people. Most people would not argue with the idea that cities should be able to regulate and set standards in certain areas that are of local concern, these including zoning, fire and building standards, and business licensing and regulation.

Because there are national codes in the areas of fire and building standards, there is less likelihood of different standards in different jurisdictions. Even in these areas, however, there may be different and more stringent standards. For example in the fire safety area, the city of Regina has more stringent standards such as the requirement for hard-wired smoke alarms. It would appear from reading of TILMA that there is the potential for the lowest common standards or regulations to be applied. If so, this could result in a race to the bottom, so to speak.

While there is an argument that municipalities could justify their regulations under the legitimate objective test in article 6 of the agreement, municipalities would not appear to have standing to appear in front of the dispute panel in the event of a challenge. If so, then municipalities would be dependent on the province to defend local decisions. This might be difficult as the province — and please, I say this with all respect — province doesn't necessarily understand municipal operations.

Even if municipalities were provided with standing to appear before this interprovincial tribunal, the cost of defending local bylaws might be prohibitive for many Saskatchewan municipalities. In any event under TILMA's dispute resolution model, municipalities may be stuck with the decision of a dispute panel made up of unelected members who might also not have any understanding of municipal operations.

The second area of concern is the article that deals with business subsidies, article 12. This article prohibits business subsidies that, number 1, "provide an advantage to an enterprise that results in material injury to a competing enterprise of the other Party." And number 2, entices or assists in "the relocation of an enterprise from the other Party," or number 3, distorts investment decisions.

The city of Regina currently has a number of tax exemption and abatement programs which are undertaken to promote local economic development. Our reading of the agreement, article

12 would prohibit these types of tax exemption and abatement programs. This would be unfortunate as these programs have been effective in revitalizing areas of our city and promoting economic development.

The third area of concern is procurement, which is dealt with in article 14. The goal of TILMA is to provide open and non-discriminatory access to procurement. The city is already subject to procurement rules under the Agreement on Internal Trade, AIT, so this is not new for the city of Regina. The major difference between the AIT provisions in TILMA is that the monetary thresholds in TILMA are much lower.

Specifically under TILMA the procurement thresholds for goods has been reduced to \$10,000 from \$100,000 under the AIT. The threshold for services has been reduced to \$75,000 from \$100,000 under the AIT. And the threshold for construction has been reduced to \$100,000 from \$250,000 under the AIT. Lower value contracts have traditionally been addressed by less formal competitive measures. This change in the procurement process will likely impose additional administrative costs to the taxpayers. One has to question the cost benefit in requiring open tendering processes for these lower value goods and services.

The fourth area of concern that we want to mention today is the dispute resolution process. We've already touched on this earlier when we were discussing the city's lack of standing to appear in front of the dispute panel. There are also other concerns with this type of dispute resolution model. First, this panel would not necessarily have any understanding of municipal operations or well-established principles of municipal law.

Second, the panel would not be bound by precedent. Unlike a court, it would not be bound to follow its previous decisions or decisions of another international trade panel. This creates uncertainty. It also means that there is the potential for decisions of different panels to be unpredictable and inconsistent. This potential is increased by the fact that members are appointed by different provinces.

Third, because the panel is appointed by the parties to the agreement, there may be a lack of independence. It is not clear what qualifications will be required of panel members.

Fourth and finally, there is a very limited right to judicial review of tribunal decisions under the agreement. The judicial review is also limited only to those cases where a monetary award has been issued. Municipalities may be stuck with decisions of unelected tribunals unfamiliar and unconcerned with local concerns, and that is really important. If so, this could undermine local democracy.

The Supreme Court of Canada has recognized, in upholding a local bylaw regulating the sale and use of pesticides, that municipal government is closest to the people. As such, the court held that great deference should be accorded to council's determination to the public interest as expressed in regulatory bylaws. The court also recognized that many progressive measures originate with local government. When local governments innovate, they often raise the bar for others to follow, including provinces.

All of the concerns that we have raised lead to the conclusion that TILMA could potentially reduce the city's independence and autonomy. This would seem to be in direct conflict with other initiatives of this legislature such as the enactment of The Cities Act back in 2002. In the second readings speech for The Cities Act, the minister stated that one purpose of the legislation was to increase the autonomy of municipalities. The minister made comments recognizing that municipal governments are in the best position to make local decisions for the benefit of their residents and that municipal governments would be encouraged to use initiative and creativity in governing.

The application of TILMA to municipalities would appear to conflict with the autonomy that the legislature has provided to municipalities through The Cities Act and The Municipalities Act. It may also discourage the desired creativity and new initiatives to deal with local concerns as the provisions of TILMA require standardization with other jurisdictions.

Our final goal in today's presentation is to request that the province not sign on to TILMA until there is a better understanding of what the effects will be. As it stands, the provisions of the agreement are broad. It is unlikely that we will know the effects of the agreement until it has been in place in BC and Alberta for a period of time. We would ask that the province consider striking a working group comprised of both provincial and municipal staff to look at the provisions in detail and to draft appropriate exemptions where there is a need to maintain municipal autonomy and authority to deal with local concerns. As we mentioned in our introduction, we believe a group similar to the municipal liability review group would be effective. This group worked together on liability amendments which were passed by the Legislative Assembly this past May.

If the Saskatchewan government fails to properly consult with municipalities, it is likely to face the same criticism as has been levelled against the governments of Alberta and BC. Our counterparts in the cities of Edmonton and Calgary tell us they were caught off guard by TILMA. Local reaction has been negative as a result.

In closing we feel that it is more prudent to do the analysis and work up front before signing on the agreement. We are not here to say that you should not sign on TILMA because there will be catastrophic results. We are here to say that we don't know the effects will be. More work needs to be done before deciding whether Saskatchewan should participate in TILMA.

Saskatchewan people do best when they work together. The Government of Saskatchewan has a reputation for working with and consulting with municipalities. We hope and expect that co-operation will continue on this issue. Thank you for providing us with this opportunity to express our views of our council, and we would be pleased to try to answer any questions that you might have. And again thank you very much.

**The Chair:** — Ms. Crofford.

**Ms. Crofford:** — I think probably the city administration is in a good position to assess the real barriers, and what I'm wondering is have you experienced — either in the labour mobility area, other than the shortage of labour — have you experienced mobility issues with labour qualifications, or have

you experienced specific trade and investment barriers that you would feel a TILMA would be the best solution? And I don't know if it's possible to answer those.

By the way I just want to say, thank you for your brief. One of the things we've been struggling for here is specifics, and your brief takes it to a specific level that makes it possible to really examine things. So thank you.

**Mr. Fiocco:** — Thank you for the question and thank you for the feedback. Again we're not the experts in any other area with the exception of what this means to municipal governments, so we certainly tried to provide you with that information.

I can't be specific, answer those questions specifically in regards to the mobility issue of labour and how that has affected us. I can tell you, when it comes to trade and investment though, it could have an effect if indeed, as TILMA, as the report indicates, if we were not able provide tax exemptions in attracting investment to our community.

I'll give you an example. Our downtown and our Warehouse District are two areas where we're providing tax exemptions because we believe downtowns right across the country are really suffering as a result of sprawl, of big box stores, and we want to keep our downtowns vibrant. The way to do that is to provide those tax exemptions. They're not long-term; they're five-year, but it's enough to make a difference.

If that wouldn't have happened, as an example, the new hotel that's being built downtown in Regina — they were provided a five-year tax exemption. They made it very clear when they made the announcement, if that wasn't there, they wouldn't be building. We've had a number of conversions of commercial properties to condominiums in the downtown area, all being provided with a five-year tax break. That wouldn't have happened.

And clearly with the rising costs of construction, growing at a rate of 18 to 25 per cent a year right now, you can imagine that there's all kinds of incentives that are going to be required. We, as a municipal government, have zero authority in providing any type of an incentive with the exception of this property tax exemption. TILMA, if signed as it is today, would eliminate that authority for us to do so. And as a result it would have a negative impact on trade and investment.

**Ms. Crofford:** — Thank you. That's it. I'll leave room for other people.

**The Chair:** — Okay. Mr. Chisholm.

**Mr. Chisholm:** — Yes, thank you, Madam Chair. My question just is on your very last point that you say that TILMA would eliminate that flexibility. Now my understanding is that the kinds of projects that you've just described would probably fit within what they call a legitimate objective and therefore be exempt. So I think to determine that they would be eliminated is a little bit premature, and we're hoping to get a lot more information in the next two weeks on specific questions like that. So I'd just like to add that.

**Mr. Fiocco:** — And frankly that's what we're saying as well. If

we can get clarity on all of this, but it is really quite vague and quite broad as it is written today. And in order for us to really be able to provide a yes or a no, we need those answers because we're limited, as I said, to our authority as it is today. So the current agreement doesn't provide a definite yes or a definite no, and we need that definite yes or that definite no.

**Mr. Chisholm:** — One other question I've got is just regarding what the actual procurement policy is, if you have that, with the city of Regina now. Like we know what the AIT numbers are, but what we're finding is a lot of jurisdictions actually have used lower numbers than were set by AIT as their procurement for tendering projects, etc.

**Mr. Fiocco:** — Well first of all it's going to be different in every municipality, based on the size of municipality. And of course we have different thresholds, so our city manager, as an example, would have the signing authority up to a certain figure. After that figure all decisions have to be made in public on the floor of council. But I think I'll let Mr. Robertson be more specific as the solicitor has way more information on those details than I do.

**Mr. Robertson:** — Yes, just on procurement in general, The Cities Act requires that council adopt a purchasing policy, so that's part of a policy which is adopted after public notice and adopted at a public meeting. And we could certainly provide that to you, which would set out the specifics for Regina. The protection really is that council approves it. It is required by law, and public notice is given so anyone can come in and talk about it. And it sort of, just to come back to . . . One issue for municipalities is we don't know, sort of, what is the problem that the legislation is intended to address insofar as municipalities are concerned.

So I mean, if there is something that municipalities are doing that's impairing trade and investment, well it would be better sort of to understand that and deal with it. The concern is, though, if the rules are brought in without this understanding there might be unintended consequences. And if there's legitimate things we're doing, rather than deal with it through case-by-case challenges before a tribunal, perhaps those should be dealt with through exemptions. And our belief though is that, maybe if we had a working group, we could deal with some of these detailed questions and come up with possible solutions beforehand.

**Mr. Chisholm:** — Thank you. And I would appreciate if I could get a copy of the city of Regina's . . .

**Mr. Robertson:** — Yes, we'll provide that to the committee.

**Mr. Chisholm:** — Great. Thank you very much.

**The Chair:** — Mr. Iwanchuk.

**Mr. Iwanchuk:** — Thank you very much for a very concise presentation. My questions . . . or make a statement first and then some questions around the consultations. You mentioned some consultations. We as well are struggling with the clarity and understanding the definitions here before signing.

One of the things that, just for your information, that we are

struggling also with is this whole question of whether you sign first and then negotiate because there is obviously a signed agreement and then there's a second part to it. So we are going to have to look at all that and see how this fits.

But you mentioned, and I think Mr. Robertson just mentioned, the working group. And I was just going to return to that because in terms of that have you had any thoughts about what that might look like, or what in saying that, what . . .

**Mr. Fiocco:** — Well the example we give is the working group in regards to liability and it seemed to work very, very well. So rather than reinventing the wheel, if there's a process that already is in place, I think we should follow that.

**Mr. Iwanchuk:** — Okay. Thank you.

**The Chair:** — Mr. Yates.

**Hon. Mr. Yates:** — Thank you very much, Madam Chair. I really have two lines of questioning. One is, in your presentation to us you talked about before the government would look at proceeding on signing into an agreement like this to have a greater period of consultation and to have definite clarity and understanding about what the agreement would actually mean. And those processes would both, I think, take significant time. To fully understand what the agreement is going to mean would probably mean during the two-year period that further negotiations are going on, to not be part of that and see what the outcomes are and probably then see the outcomes of some dispute mechanisms as well to see whether or not it adheres to the agreement. So that is probably talking years down the road. So I just want some clarification on that particular issue.

And then of course there is advantages and disadvantages as to when you get into any agreement. So I'm looking for some clarification on what you intended by your initial position on how long we should be and what type of clarification we should get.

**Mr. Fiocco:** — Well I can only speak to you about the clarity that we need in regards to municipal governments. For us that's really important and the feedback that we received from both the mayors of Calgary and Edmonton is that, again, this was just sprung on them, and it was done. And now they're concerned about the consequences. And the consequences that we provided you is what we're talking about here. So I mean for us it's getting clarity. I mean for us that's what we would need — an understanding of what that means. I can't speak to the other presenters and what their concerns are, but for us this is fundamentally important.

In my opinion and in our opinion, when you look at what could happen with TILMA based on the language that's currently used in respect of bylaws, zoning, you really don't need a municipal government. Why would we want to create bylaws if there's a policy in place through a TILMA that says, well this is kind of the standard now right across Alberta, Saskatchewan, and British Columbia? So it's okay to do that, I would suspect in some areas, but there are certain bylaws that make sense in a Regina that would absolutely make zero sense in Vancouver for obvious reasons and vice versa. So we have to be careful with

that. And frankly the agreement as it exists today doesn't provide us with that clarity, and that's again what we're asking for is that clarity.

I don't think personally that it's going to take a lot of time to get that clarity because we provided you with the specifics, and there was four of them, that we think is going to have a negative impact on municipalities unless we get clear understanding of it. So our focus right now is simply on the consequences to municipal government. And I'm sorry your second question, Mr. Yates — or Minister Yates I guess now. Sorry.

**Hon. Mr. Yates:** — My second question, I haven't asked it yet, but my second question is this. Today we have the AIT. All the provisions contained within TILMA, other than the dispute resolution mechanism, are the issues that are contained in the AIT. The difference is the reverse onus — if you don't come to agreement, then it's moved forward, ahead automatically. So the question I've asked every group — is the best approach one of a national agreement or regional agreements?

**Mr. Robertson:** — Well I think like the others I really can't say. I think there's nothing wrong with having regional agreements. I think of for example with law societies there's a federation of Canadian law societies but also in the Prairies in order to try and deal with the same issues we have for example, I'm on the board of the legal education society and there's agreement between Alberta, Saskatchewan, and Manitoba to come up with common really, not articling but apprenticeship program, and so common standards and really to make it easier for people to move between provinces. So that makes sense, you know, to start there with regional ones. You know, whether it's regional, national, I don't think, you know, I can say and I don't think the city has a particular concern.

The real concern is around the issue of clarity. I was looking up the definition of a pig in a poke — you may have heard of it — and I read that it was actually from, it's an Irish saying that poke was the Irish Gaelic word for bag. And that farmers would come to market and they'd put the pig in a bag and sell it that way and it'd be small pigs. But when you bought the pig, you got home, you'd open the bag and it might be a good pig or it might not be. It might be a small pig. And that's really the question.

So if you enter into agreements, you usually want certainty — and that's I think the concern of the municipalities. We don't want . . . It may be actually fine but in as far as it affects us, local democracy is really important. I know the Chair has served on council, members on both sides of the House have served on councils or boards of education. They understand the importance of having local democracy work, and that's fine. If there is some problem with municipalities we'd like to know what it is, so it can either be addressed or if there's things that we don't want challenged, perhaps deal with it through exemptions. I think that's really our point.

**Hon. Mr. Yates:** — Thank you very much. That's all my questions.

**Mr. Fiocco:** — I was looking for that pig in a poke in our presentation. I didn't see it anywhere.

**The Chair:** — That's the second best phrase I've heard. The other one was, how much juice are we getting for this squeeze? That was pretty good as well. Thank you. On our speaking order we have Mr. Yates, Mr. Weekes.

**Mr. Weekes:** — Thank you, Madam Chair. Welcome, Your Worship, and to your officials, thank you for your presentation. If media speculation was accurate as I was driving to the legislature, I guess we owe you a congratulations on your announcement.

**Mr. Fiacco:** — Thank you. The Geminis are going to be in Regina this October.

**Mr. Weekes:** — First I'd just like to say that the issues around Crown corporation, municipalities are under negotiation in the agreement between BC and Alberta. And the Leader of the Saskatchewan Party, Mr. Brad Wall, has outlined that if we entered into negotiations, those two areas would have to be addressed before we would sign on. So given that, the agreement as I see it is just to reduce barriers in trade, investment, and labour mobility. And Canada being a trading nation and Saskatchewan heavily dependent on exports and trade certainly would, it would certainly be advantageous to Saskatchewan to increase that.

My question, I guess, to you is my concern is that it seems to be whenever there's any talk about change or in trade agreements or anywhere and including different sectors of the economy and with municipalities and your city, it seems to be a concern about what you're allowed to do and what you can't do. And I assume that in this agreement and every other agreement it kind of levels the playing field for everyone concerned.

It appears that there's a lack of confidence in some sectors or in some people's mind about the ability to compete in the province. We seem to always want — our first reaction in this province — to, you know, to keep the barriers up and we want protection in all sorts of areas. But if there's a level playing field and if you're able to compete equally with Vancouver, Calgary, and Edmonton by having the same rules — given the robust economy of the city of Regina and the city of Saskatoon — I guess my philosophical question is, is there a concern that we can't, that your city can't compete or this province can't compete with other jurisdictions given that level playing field?

**Mr. Fiacco:** — Well I guess, first of all in regards to the competitive piece, our only piece that we have a concern with is our ability to provide tax exemptions, which is the only authority that we are able to provide to attracting businesses to this community. We were elected to make those decisions and I think that those decisions should be kept within local government to make those decisions.

I don't think that what works in Vancouver necessarily works in Regina in areas, certain areas of local government. So I'm not concerned about the trade piece because, you know, you're going to have others that are going to come to the table here and talk to you about that. I think the chamber of commerce is coming later on. I mean, you're going to have what their thoughts are on it. I understand all of that.

Our biggest concern, and number one, I believe we need to be

as competitive as the next person should be — no question. I don't have a problem. Do we want a level playing field? Absolutely, we want a level playing field.

But when it comes to local bylaws, I'm not sure what a level playing field has to do with whether or not we would allow a high-rise next to a residential because again it's different everywhere. And what TILMA is basically stating is that there could be — again that's why we're asking for clarification — there could be a set of bylaws that are standard right across. Well that's going to create winners and losers, and we're not here about creating a loser.

The reason why citizens want local government is so that we can make the decisions on how often your garbage should be picked up and how many police should be on the street. That's really what we do. TILMA, unless there's clarity there, is going to make a decision on, could make a decision that based on a per capita basis you will have this many police officers. Well you can't do that because crime is different in every city and there's different needs. So again we're just simply asking for clarity.

I'm not concerned about the competitive side; I mean listen, business is business. We're talking about municipal government and that's a bit of a different beast here. And you can't have similar standards because in most cases our standards are quite high. I don't need our standards, we don't want the quality of life to be reduced because all of a sudden there's an agreement in place that says our standards can be lowered. And I use the example of having the wired fire alarms. Those wired fire alarms have saved many lives. To automatically have that . . . well to be able to say well you don't have to because a battery is going to be just fine.

**Mr. Weekes:** — I'm sure that your fears about most of those are unfounded, but certainly we will ask those questions on your behalf because certainly those different areas are very important. Especially the tax abatements. That's something we're going to get clarified as well. Thank you.

**The Chair:** — Seeing no further questions and time is close to elapsing for presentation, we thank you very much for the written material you have provided to us and the thoughtful responses to questions. And we wish us all well in future partnership endeavours and relations. Thank you.

**Mr. Fiacco:** — Again thank you very much for this process. It's a very, very important one and we appreciate the opportunity to provide our concerns in respect to municipal government. Thank you.

#### **Presenter: Regina and District Chamber of Commerce**

**The Chair:** — Thank you. Mayor Fiacco mentioned that later on this day the Regina Chamber of Commerce were making a presentation. They were smiling behind you. And we ask Mr. Hopkins and Fred Titanich to come forward. One is chief executive officer of the Regina Chamber of Commerce and the other one first vice-president.

We're allowing about 10 or 15 minutes for your presentation and overview comments. I've mentioned to other presenters, if

you want information to be a part of the *Hansard* written record it would be a part of your verbal presentation — although it is recorded for committee and the documents that you provide are noted — and that we will then open up for questions and spend the time that the committee has to get some information from you.

We thank you for the time you've taken already to prepare the presentation, and if you'd introduce yourselves and we can begin. Thank you.

**Mr. Hopkins:** — Good afternoon, Madam Chairperson, members of the committee. My name is John Hopkins and I'm the CEO [chief executive officer] of the Regina and District Chamber of Commerce. With me is our first vice-president, Fred Titanich. We are here today on behalf of the 1,100 members of our organization to present our perspective on TILMA.

Canada is one of the most successful nations on earth when it comes to trade, and Saskatchewan for its part is one of the most successful provinces in Canada. Clearly trade is vital to Saskatchewan. Close to 140,000 jobs in the province are related to trade in one form or another and the value of that trade is worth billions annually to the Saskatchewan economy.

While we are excellent on the international front, a great deal needs to be done on the internal side. TILMA is a comprehensive agreement on trade, investment, and labour mobility that applies to all sectors of the economy. In a nutshell, it is free trade between the provinces.

Should Saskatchewan join TILMA? The governments of Alberta and British Columbia joined because:

Interprovincial barriers include things like additional licensing requirements that add to transportation costs, requirements to establish a local office to operate in a second province, and so on. It is estimated that these trade barriers cost an estimated one per cent of GDP. In 2005, the combined GDP of British Columbia and Alberta was almost \$400 billion. One per cent is almost \$4 billion or \$500 for every man, woman and child.

In addition, there are about 100 occupations, including teachers and nurses . . . [who] do not have full labour mobility. This restricts the ability of individuals to move from one province to . . . [another].

Since Alberta and British Columbia announced the signing of TILMA, a number of groups have stated this initiative is simply a business initiative. However, according to the signatories, and I quote:

TILMA has a very broad focus, and will benefit workers and consumers as well as investors in businesses. It

will increase opportunities and choices for workers in where to work and live

has the potential to reduce . . . costs to consumers for products and services they buy

reduces the costs of operating in the other province for businesses and investors based in one province

lowers thresholds for open government procurement, creating opportunities for businesses, particularly small businesses, and potentially lowering cost for taxpayers

creates a unified market across Alberta and British Columbia, which will help [to] sustain and fuel economic growth, meaning more jobs and opportunities for every resident

[and] commits the . . . provinces to working together to enhance health, safety and labour standards.

Another common misconception about TILMA is that it will lower the standards for trades, professions, and occupations. Once again, according to those who have signed the agreement:

TILMA is not a race to the bottom. Alberta and British Columbia take pride in having a highly-qualified work force. It's a global marketing advantage, and a societal asset, that neither wants to lose.

TILMA requires the two provinces to work together to identify barriers to the movement of people from one province to the other, determine why those barriers exist, and consider whether they are truly necessary. About 100 occupations have been identified as having barriers. TILMA gives the provinces two years, from April 1, 2007 to April 1, 2009, to work with each other and with the organizations that regulate these occupations, to reconcile standards. If more time is needed, the agreement provides for that.

Perhaps the biggest misconception that I have heard is that if Saskatchewan were to sign the agreement, they would have to adopt all of the same regulations as Alberta and British Columbia. However, the signatories do not see this as part of the agreement. In fact:

TILMA does not require the two provinces to have the same regulations. It calls on them to mutually recognize each others' regulations. Different regulations and standards may continue. In addition, TILMA only applies to regulations that restrict trade, investment and labour mobility — not to all regulations.

During our presentation to city council last month on this issue, a commonly held view is that TILMA will restrict the ability of governments to respond to pertinent issues. On this point we believe the signatories are quite clear. TILMA was, and I quote:

TILMA was carefully negotiated to deal with barriers to trade, investment and labour mobility.

TILMA does not apply to provincial measures for water, taxation, royalties, labour standards, occupational health and safety, procurement of health and social services, social policy and aboriginal policies and programs.

Governments can introduce policies that may affect trade, investment and labour mobility to protect the environment,

to protect consumers, conserve resources and provide health and social services. In these areas, the two provinces are committed to ensuring that the effects on trade, investment and labour mobility are as minimal as possible.

TILMA does impose restrictions on the use of business subsidies in certain circumstances. However, governments can continue to provide infrastructure and assistance programs that respond to [the] special needs, such as disaster assistance. They can also continue to provide grants or subsidies to the arts, recreation, academic research and non-profit organizations . . .

Another misconception is that businesses will be able to sue government repeatedly for regulations that it feels interferes with its ability to do what it wants. And yet according to the signatories:

Under the dispute resolution process, only one dispute can be launched on what is essentially the same complaint, at any time. This ensures that the matter being disputed is dealt with before any other actions are launched.

In addition, the disputes resolution process involves three stages: dispute avoidance, consultation and, if these stages are not effective, enforcement through the disputes panel. Parties to a dispute cannot sue for damages through the courts, and only provincial governments are subject to the dispute settlement process. Financial awards can be made, of up to \$5 million, but only where a government does not change an offending measure.

Still another misconception is that private parties will be able to claim damages when a measure is believed to have a negative impact on business. And I quote again:

Any claim for damages under TILMA must go through the disputes resolution process, and must be related to trade, investment and labour mobility between Alberta and British Columbia.

Monetary awards under TILMA are only available if a province has acted contrary to TILMA and if that province does not comply with a TILMA ruling. It is designed to encourage compliance, not compensate individuals or companies for business losses.

TILMA gives governments the ability to bring in measures that are in the public interest, but which might have costs for businesses or individuals. If the measure is not related to interprovincial trade, investment or labour mobility, it is not covered by the agreement.

During our presentation to city council on TILMA, two dominant themes jumped to the forefront: local government autonomy — and I think you just heard about that — and the ability to provide incentives to business. According to the Government of Alberta:

Under the Agreement on Internal Trade . . . [local] governments are already committed to:

more open, competitive procurement

reconciling transportation measures

greater access for workers and professionals.

TILMA simplifies and expands on these commitments.

TILMA will not restrict the ability of local governments to make by-laws that are in the best interest of their citizens, such as zoning by-laws, height restrictions or rules applying to signage. The provincial governments also do not expect TILMA to affect land use decisions with respect to agricultural land reserves or parks.

According to BC's Minister of Economic Development, Colin Hansen, nothing in TILMA, and I quote:

Nothing in TILMA requires a municipality or the province to change laws to match those in the other province, or match the desires of . . . a business or any other person. If a town or city's bylaws do not treat BC or Alberta . . . investors more or less favourably than those of the other province, there is no discrimination and therefore no complaint under TILMA. The vast majority of municipal actions are non-discriminatory and have no restrictive effects on trade, investment or labour mobility and are thereby not affected by TILMA.

The BC minister and the Government of Alberta appear to be referencing article 4:1, which deals with non-discrimination and contains one of the key components of the agreement, in that it clearly states:

Each Party shall accord to:

- a) like, directly competitive or substitutable . . .
- b) persons;
- c) services; and
- d) investors or investments

of the . . . Party . . . no less favourable [treatment] than the best treatment it accords, in like circumstances, to its own or those of any non-Party.

Article 12 deals with business subsidies. Under the terms of the agreement:

1. Parties shall not directly or indirectly provide . . . subsidies that:

- a) provide an advantage to an enterprise that results in material injury to a competing enterprise of the other Party;
- b) entice or assist the relocation of an enterprise from the other Party; or
- c) otherwise distort investment decisions



unless [and I believe this is a critical phrase] such subsidy is to offset a subsidy being offered by a non-Party or a government entity not subject to this Article.

And then:

2. Parties shall jointly encourage non-Parties to eliminate subsidies to business and refrain from bidding wars.

We support the intent of the article in that we believe strongly that what we need to do is level the playing field.

From a pure business perspective, TILMA will open the door for Saskatchewan businesses. It helps to address the number one issue in the business community today — our labour shortage, and in particular skilled workers. It removes multiple registration and reporting requirements, or put another way, the paper burden. Businesses will be able to operate in other provinces included in the agreement without having to reside in the province. Less subsidies will allow businesses to compete in a fair and equitable manner. More government procurement opportunities will be available to Regina businesses.

On the labour force side, workers will be afforded far more mobility under TILMA. Certification in one jurisdiction for regulated occupations will eventually become certified in all provinces who are part of the agreement. And the agreement reduces time and costs associated with licences so that workers can be fully mobile between provinces who are part of the agreement.

From a government procurement perspective, businesses will be able to bid on a wide array of government opportunities including goods valued at \$10,000 or more, services valued at 75,000 or more, construction valued at \$100,000 or more.

We have shown internationally that we can compete and we believe that our business community can compete without trade barriers. Simply put, we are not scared of competition.

On behalf of our 1,100 members, we are respectfully requesting that you become a signatory under TILMA, subject to negotiation of appropriate Saskatchewan exemptions and a clear understanding of what legitimate objectives are as outlined in article 6. Thank you. If I can answer any questions, I'll be happy to answer them now.

**The Chair:** — Thank you. I know because of the hour — Ms. Crofford has another commitment — she would want to be on the speakers list and we've moved her first. And that's where I recognize her.

**Ms. Crofford:** — And I'll try to be brief for the other people who want to ask questions. I apologize but I have to be somewhere right at 1.

The area of occupational barriers. What is presented here is actually in direct contradiction to what the nurses and the teachers' federation have presented here this week. I urge you to look at their briefs because they don't believe there is any barriers. What they do require is licensing in respective provinces, but that's for the purposes of making sure there's at least consistency, you know — for example, one person who is

allowed to give medication and one that isn't. So I just urge you to look at their presentations because they do have a different view of that. And under AIT, I think 50 occupations are already in there as compared to five under TILMA.

The question I want to ask you is about the Crown development policy. In 1983 for the sake of developing local businesses who could be suppliers to the Crowns who are large procurers of goods and services, for example cable wire, the kinds of things they need to run telephone lines, to run this, to run that, they actually engaged in not just sending out procurement, but actually developing in places like Melfort and other places, local — Moose Jaw, other places — businesses that could supply the Crowns. Have you done any investigation on what TILMA might actually mean for their survival of some fairly large Crowns headquartered in Regina?

**Mr. Hopkins:** — Well the one thing that we do know is that when we look at, let's say the province of Alberta, we're looking at a \$33 billion budget that's available. And I'm not saying that the entire amount will be available under procurements, but a significant portion thereof would be. We believe that our businesses in our community would be able to compete with the other provinces and be very successful in those provinces.

And our look at sort of trade agreements — and by no means am I an expert on trade agreements or the Regina chamber — but in our review of that it's generally the smaller parties that end up winning the largest in these trade agreements. When you look at Canada and the US under free trade, Canada has benefited very significantly. And there was a lot of discussion, as I recall, that perhaps Canada wouldn't fare too well, but given the opportunity to compete we were able to compete and did very, very well.

**Ms. Crofford:** — Yes. Actually if you look at the actual disposition under the NAFTA rulings, Canada has paid out I think 28 million in trade compensation and the US has paid out nothing. I think Mexico has paid out 18 million. But it's interesting to look at those because most of them are in the real estate sector. There's a huge number. It's an interesting list to look at.

The second thing is, what decisions do you think could be made under the TILMA process that can't be made now under existing processes?

**Mr. Hopkins:** — Well there are a number of different things. I mean under TILMA the ability for businesses to not have to be residents would have an impact for a lot of people. The issue of labour mobility is another thing that as I understand the AIT it was a national process that was begun but has been anything but successful according to everything I've read. And I could be wrong on that. But everything that I've read . . . [inaudible interjection] . . . Yes.

So we believe that this is the right way to go about something like this. I believe it was The Cities Act that you turned, instead of telling cities everything that they could do — and there was a long list of those things — it was, these are the things you can't do. And I think this agreement also goes about it that way saying, okay, what are your legitimate objectives? And I think

there needs to be clarity on that — I agree with the mayor on that — and here are the exceptions that we need to negotiate.

Now I think Saskatchewan has some very specific exemptions that it needs to negotiate. They'll be different than BC and Alberta, and the legitimate objectives will be the same thing. But I think what we need to do is be at the table to be able to get some clarity about all of this and be able to sort of determine what path this agreement actually takes.

**Ms. Crofford:** — My final question is: would you agree with the mayor that we have an obligation to have the people whose authorities are directly challenged by TILMA to actually have a say in what is negotiated into this agreement?

**Mr. Hopkins:** — Good comment again. Again there needs to be clarity within the agreement. I do know that the governments of both Alberta and British Columbia are having those consultations right now as we speak, as I understand it. And I don't think the intent has ever been, from what I've read about these agreements, is to take powers or authority away from local governments at all. I don't think that's the intent. And I think that the ability for local governments to do what's in the best interest of their citizens is still quite valid under TILMA.

And you know, we need to have some clarity on that of course, but, you know, in our read and understanding what the BC government has said, and to what the Alberta government has said, there is, you know, a certain degree of clarity but there needs to be more. I agree with that. Because the consultation process with the municipalities in both the other provinces need to be, we need to have some light on that, on what exactly it is. And, you know, there needs to be some clarity.

But I don't think this is an attempt by two provincial governments to take, strip powers away from local governments. I don't think that's in their best interest. I don't think that the . . . Let's say the Government of Saskatchewan. Would you really want to be dealing with signs, sign issues, I mean, or licensing bylaws or . . .

**Ms. Crofford:** — No, if I could just interrupt for a minute. When you look at the rulings under NAFTA, and this does contemplate a NAFTA-like process, it has taken away all kinds of laws — environmental laws, agricultural standards. So I mean what I'm concerned about is one of the main advantages of TILMA is that it's fast. Here we go, everything.

One of the disadvantages of AIT is that people have actually been talking and negotiating. It's slow. So it's that balance between the slow process of consultation and actually identifying issues and the fast process of not really knowing what you're getting into. So I think that's a decision we're going to have to think about, is how far do you go on consultation? But I know that when we for example have had someone lobby us as a government for 20 years on smoking and then someone says that this is causing an unfair restriction on the ability of their business to make money, does that decision appropriately belong in a democratically elected legislature, municipality, or whatever? Or does that decision belong in a trade tribunal? I think that's what I'm struggling with is the democratic aspects of this but . . .

**Mr. Hopkins:** — On the environmental question, I believe that there's been a lot of material written on that, and that's been excluded from this agreement within the agreement as far as I can determine from this agreement.

**Ms. Crofford:** — It just happened two weeks ago in Canada, nationally.

**Mr. Hopkins:** — But this particular agreement does not . . .

**Ms. Crofford:** — No, this was more during NAFTA.

**Mr. Hopkins:** — Yes, and the smoking question — being a non-smoker myself this is something that's important to me — that's not covered also under this agreement because this is an issue of public health, so it wouldn't be covered under that agreement. In our review again of this agreement — and of course there still needs to be some clarity there — this does not strip away local powers as far as we can see . . .

**Ms. Crofford:** — But what do you think about the clause that specifically says that we are committed to continuing to remove exemptions?

**Mr. Hopkins:** — From these list of exemptions?

**Ms. Crofford:** — So for example, yes, like it's excluded now, but you know we'd really like to move it in.

**Mr. Hopkins:** — Well some of the exemptions, particularly from the Government of Alberta on the agricultural side, well we would benefit. This province would benefit if some of those were removed. There may be some disagreement about that but . . .

**Ms. Crofford:** — The last one is . . . I'm just going to read a quote. Heather Douglas, president and CEO [chief executive officer] of the Calgary Chamber of Commerce is a large supporter of the deal. With over 100,000 jobs currently required in Alberta, she feels this new agreement will help eliminate a problem felt since Confederation: cutting through red tape. And boy, nobody dislikes red tape any more than myself. But these 100,000 jobs, we already have labour shortages right across Canada. Has anybody contemplated who's likely to be the loser as people start competing for these employees and have more money to pay them and . . .

**Mr. Hopkins:** — I think that we're in an excellent position to compete on that perspective, and we're seeing it already here in Regina. I think Regina was extremely successful in Calgary. There are a lot of people in Calgary, a lot of people in Alberta that are looking to come back and are in fact coming back. In our discussion with the real estate board here in Regina, there are a lot of enquiries from BC, Alberta, across the piece, to come to Saskatchewan because things are happening here. There are a lot of opportunities here, but coupled with the opportunity is the quality of life and the cost of living. So we can definitely compete on that side of the equation far better than, I would say, somebody like Alberta.

**Ms. Crofford:** — We're enjoying a bit of pre-TILMA success then in labour mobility.

**Mr. Hopkins:** — We're enjoying some success, and I'll say, you know, I've said this a few times and I've gotten into trouble. We're enjoying the success that your government actually implemented those corporate tax changes. And that has really changed things as far we're concerned and been a huge benefit to this province, and I commend you for that.

**Ms. Crofford:** — And I thank you for your presentation today. We have been under-represented in terms of business input at the committee. I'll again go over your brief and read carefully everything you said. But we also have heard a lot of concerns, so our job here is to dig into the decisions.

**The Chair:** — Thank you Ms. Crofford. Mr. Weekes.

**Mr. Weekes:** — Thank you, Madam Chair. Welcome and thank you for your presentation. I just note that you . . . and thank you for identifying some of the barriers to trade, investment and labour mobility. I note that you had in your presentation that you said there's about 100 occupations which do not have full labour mobility. We've just heard very recently that now Alberta and British Columbia have identified up to 250. So the list here is certainly growing that needs to be addressed by a TILMA agreement.

My question to you is, are you comfortable with the results of the Conference Board of Canada study which was commissioned by the Saskatchewan government, which shows \$291 million increase in GDP and the creation of 4,400 jobs?

**Mr. Hopkins:** — There are a number of organizations that typically we look to for research and better understanding of the economy and what various aspects of our economy . . . Conference Board of Canada would be one. Canada West Foundation would be another. The C.D. Howe Institute would be another. There are a whole range of different organizations that we would look to. And the Conference Board of Canada has consistently been quoted as a very credible organization. Their research is very, very credible, and so we're very comfortable with their research and their findings.

**The Chair:** — Mr. Weekes.

**Mr. Weekes:** — That's all.

**The Chair:** — Mr. Yates.

**Hon. Mr. Yates:** — Thank you very much, Madam Chair. Well in looking at this agreement and looking at the issue in front of us, looking at trade and its impact on the province, one of the greatest challenges is to understand what it means. And I think we've had presentations with a wide gamut of perception and feeling about the deal.

But our real challenge is going to be able to get down to understanding what it truly means because I think today part of the problem is that the agreement was entered into without the negotiations between the two parties in its minutia to understand what it's really going to mean even to them. The initial agreement, the 31 pages is, is the framework for further development to some degree of a much more detailed agreement. As you know the AIT is several hundred pages long. It has a great deal of minute detail so that you in fact can

understand exactly what the outcomes are going to be.

Even with the agreement that we have today, we probably have collectively among us more questions than answers and the answers that we have, we believe them to be but we don't know what the outcomes will be because many more things are being negotiated in the minute details of how they'll impact.

Now in looking at this particular or looking at the agreement, there are a number of questions that we have to ask, that are I think fundamental to the people of Saskatchewan and we need to have understanding of.

One is in our Crown sector. As you know there is a different feeling about Crown ownership of Crown corporations in Saskatchewan than there is in either British Columbia or Alberta. The talk of exclusions talks about monopolies . . . [inaudible] . . . are monopolies in their operation. None of our Crowns are monopolies, so what are those issues going to be mean as we move forward?

So we need, we need real clarification on a lot of issues around our Crown corporations. Many people in the province may not understand that none of the Crowns are total monopolies in their operations. SaskPower is in competition for electrical distribution with the cities of Saskatoon and Swift Current. And SaskEnergy is in competition with CGE for natural gas distribution. So there are, there are a number of clarifications.

And one of our other concerns we're going to have to get some greater confidence in is even if issues are excluded originally, do those exclusions continue on forever or are they reviewed annually? There's references in the document to regular review of exclusions. And does that mean if everyone doesn't agree that they continue to be exclusions, that they then move to the next step and don't become exclusions? There are a number of things I think that need to be clarified.

We have seen under NAFTA things that have been specifically excluded that have been challenged and seen results come out that would give penalty to one, one side or the other on an issue that was originally supposed to be excluded in NAFTA. So we're going to continue to advance in trade agreements. We're going to continue to make, you know, progress. Even the AIT is continuing to make progress.

But I have to tell you, going through these hearings, the most difficult issue is clarity and understanding. And we're going to have the opportunity in about a week's time or just over a week's time to have the officials from British Columbia and Alberta come out, and at that point we'll be able to get clarity on a number of issues. But even at that point I think we may present to them many, many questions that have not been looked at in detail between even the two parties that were the original signatories to this.

So I guess my question boils down to this. If in those examinations we come to understand that something — let's say Crown ownership — is at risk, would the Regina Chamber of Commerce or Saskatchewan Chamber of Commerce be in favour of continuing down the path of signing TILMA? If something fundamental to the beliefs of the people of Saskatchewan was risk, would you still be in the same position

of supporting?

**Mr. Titanich:** — Well I think that, as the agreement is understood right now, we are in definite support of the principles. If something should come to our attention that is not in line with our current understanding, then we would certainly have to re-evaluate it, and it would depend on what that was. So it would be we'd have to look at it if and when that happens.

**Hon. Mr. Yates:** — Thank you. That's my only question.

**The Chair:** — Mr. Iwanchuk.

**Mr. Iwanchuk:** — Yes, in one of your answers you said Saskatchewan had some specific exemptions that you would see under TILMA. Could you expand on that? Do you see any exemptions for Saskatchewan that you might . . . I think you were talking about health or . . . Could you expand on that?

**Mr. Hopkins:** — I do know under this agreement Alberta has some agricultural exemptions that I believe that Saskatchewan, if those exemptions weren't there perhaps — particularly on the ag side — we might be able to compete on a much greater basis. And one of the big trade issues across the country are all these marketing boards and the impacts that they have. And this isn't part of the agreement, so I'm not going to go too far down that road.

The one thing that we do, that I did say in my presentation, is Saskatchewan will have exemptions, and they need to be negotiated within this agreement because BC has their exemptions, Alberta has their exemptions, and if we're going to be a signatory, we should have ours, whatever the case may be.

I do understand that you, the government is undertaking what appears to be a very comprehensive review of this agreement internally. And it will be very interesting to find out exactly what that review will sort of bring out to the forefront because there are some clarity issues that all of us have. And you know, once we can sort of determine how this is going to impact us, we'll be able to evaluate it again. But if we're not at the negotiating table at all, well that's going to be really difficult for us to do.

And the worst thing, in our opinion, is if we're the 10th or the 11th or the 12th in, then the rules are there. The game's over. Either you're in or you're out. And we won't have a lot of impact on whether we can change portions of this agreement or not.

**Mr. Iwanchuk:** — And I think that was what my question was: if you had any thoughts on what some of the exemptions might be. I mean, you're simply saying we're doing a review, and it will be interesting to see. But I was wondering whether you have any thoughts on what some exemptions might be.

**Mr. Hopkins:** — Not at this point. We really haven't got our head around what the exemptions should or shouldn't be at this point.

**Mr. Iwanchuk:** — Well let me ask you a question, just to maybe be more pointed. So would you say, on an issue of Crowns or school boards or cities, should they have any

exemptions around buy-local or you know preference for local contractors or . . .

**Mr. Hopkins:** — Our organization has been on record for a long, long time as not being in support of a local preference policy. And our rationale for that is this: we're able to compete and want to compete nationally for other contracts. And the larger the pie is, the better off that we're going to be, and so we don't support local preference policies and haven't for quite some time. And we believe in competition and that our businesses have been successful competing with other organizations and other businesses, and we want to continue that and increase our ability to do that.

**Mr. Iwanchuk:** — And I guess in, depending in what areas, I mean that might be very clear in some and in some as we had some of our previous presenters talk about in the health care field or whatever, what would you see as some of the guidelines here that you would deem to be as sort of competitive as opposed to preferential treatment?

That is, is it simply economic sort of considerations, or are there other considerations that you would determine? And I guess that's particularly if you had someone that you purchased or did business with and that you preferred their product though it might not be the cheapest. There might be other considerations. How do you base your decision to say no, you don't have any policy on local preference? I mean, what is that based on?

**Mr. Titanich:** — Well I wouldn't see this as impacting how municipalities and governments tender for goods and services. There are many things that need to be considered in addition to simply the price, and they would still have the opportunity to specify everything that they need in those products and services.

**Mr. Hopkins:** — The city of Regina, for example, doesn't necessarily . . . And I shouldn't be speaking on behalf of the city, but I've watched some of their procedures. And it's about the lowest qualified bid a lot of times, as opposed to the lowest cost because sometimes the lowest cost isn't the right thing to do at all. And so it's the lowest qualified bid. So that's what I've seen with the city of Regina, and that seems to have worked relatively well.

**Mr. Iwanchuk:** — I guess that was what my question was. Based on that, you know, what is your position on that?

**Mr. Hopkins:** — Well it shouldn't just come down to cost factors. I mean the lowest qualified bid is generally something that's accepted from a lot of the organizations that I've seen and . . .

**Mr. Iwanchuk:** — So if someone . . . I just want to take this one more step further. So if someone, if a business — from outside Saskatchewan, whatever, even a business inside — took this to the disputes resolution panel, what are your thoughts there? What do you think the . . . Because I guess depending on what the agreement says, how do you think they would handle that?

And I mean I think that's what the mayor was talking about. But also it's . . . you know to simply endorse something like

that that seems to be very central and, you know, at the heart of that, and I'm just trying to find out how you can feel that . . . you know, to endorse this. You know, on what basis did you do that? What are your thoughts on what the panel might say in an issue like that?

**Mr. Titanich:** — Well I think I would work under the assumption that the panel is comprised of qualified, competent people and that they'll come to the right decision. But we also want to stress that we really think Saskatchewan businesses will be the winners far more than the losers in this type of decision.

**Mr. Iwanchuk:** — I would agree with you on that, but what I'm trying to do is this leap of faith because we as legislators have to say, well let's just sign. Let's just sign this deal. You know we would just accept what you're saying — that our businesses would win. The panel would be made up of all these competent people who would make the right decisions, and I'm wondering where the safeguards are for that.

It seems to me when I go back to my constituents and just simply say, I'm going to sign this because I think the panel's going to be good . . . It's going to be made up of the people. Our businesses are going to win under this. I mean, I think they would ask and I guess that's my question — because I have to answer to them — is, you know, where is that confidence that you're having in this agreement? Because it would help us as well, turn to them and say, don't worry about this. This is what's going to happen.

And I'm not saying that, where they are right now. But I need . . . You know, I guess that's why we have these hearings, to come forward and to kind of try and determine where . . . what you base that, you know, just your last statement even on, that they would be competent people and that . . . You know, is it in here somewhere that what, you know, on what this panel . . . how this panel would rule and what their, you know, what they would base their decisions on and precedents. I mean, I guess those are the questions we get asked, and I just thought maybe you could help us out in this.

**Mr. Titanich:** — Well the agreement, as it is written right now, has three stages to the dispute resolution process, each one escalating. If it is felt that another stage is needed or another safeguard, then that should be looked at. There's been a lot of talk about a call for clarity on a number of these issues, and we agree that more clarity is needed, and this might be one area that needs to be clarified.

**Mr. Iwanchuk:** — Okay. You know, I was just trying to, you know, find out why you have so much confidence in the agreement and I just . . . but anyways, but thank you very much.

**The Chair:** — Mr. Chisholm.

**Mr. Chisholm:** — Well thank you, Madam Chair. I'd like to thank you for your presentation. A couple things. One is that of the questions we will be asking the Alberta and BC officials, hopefully we will be talking about specific exemptions that add-on parties may be able to or not to include in further negotiations, and also a further definition of legitimate objectives. So those, certainly those two conditions that you have indicated we will certainly try to address.

I guess just in my comment is that, you know, we've seen extreme growth in the Western economy. We see British Columbia as the gateway to an emerging market of which I see Saskatchewan has some major role to play as a supplier in a number of areas, in the expansion of the container ports that they have proposed and the kinds of things we can do in this province. So I certainly see being a full partner in trade and labour mobility and investment with those partners, and I think, like you say, Regina is on the verge of being a major player. So that's just a comment, thank you.

**The Deputy Chair:** — Mr. Duncan.

**Mr. Duncan:** — Thank you, Mr. Chair. Good morning, gentlemen, and thank you for your presentation. I think I only have one question and maybe it's more of a comment. And I guess it goes back to some of the questions you've already been asked earlier. And I guess, in my mind, you've been kind of asked to think down the road as to how all this will play out.

And the way I think of this is this, you know, 36-page agreement is a framework, and I kind of liken it to legislation, you know. It's the framework of what is going forward, but really the details are in the regulation. And so I'm not trying to get too hung up on this 36 pages, that it's a pretty vague document, because I think that should the Government of Saskatchewan sign on, then the government have to negotiate what is in and what is out. And if that isn't, if those negotiation processes don't lead the Government of Saskatchewan — whoever that may be — to the position where they continue to support the TILMA, then they have every ability to withdraw from it. Is that your understanding of it?

**Mr. Hopkins:** — Thanks for the question. Our support of this agreement is based on the intent of the agreement. A lot of the details need to be worked out; you're right. This is a 36-page agreement, has some information. There's a lot of details that need to be worked out — the dispute resolution, the list goes on.

But at the end of the day, if the government were to sign on and for whatever reason decided to say well, you know, this isn't working for us for whatever reason, there's an out. There's a 12-month out-clause, and we can get out of the agreement if that's the case. So you know, this isn't, you know, it's all or nothing. You can get in, and if it's something that doesn't work out for whatever the case may be, then we can get out of it. And that's very clear in the agreement.

**Mr. Duncan:** — Well even to that point, I mean according to the agreement signed between BC and Alberta, there is a 12-month out-clause as you say. But even that, if that's not satisfactory to the Government of Saskatchewan, they can negotiate a six-month out-clause. I mean, they can negotiate pretty much anything within the framework of this agreement.

So I think I just, I want to thank you for your presentation. I don't have any more questions, but I just want to thank you for your presentation and for, you know, clearly stating the fact that we have really no say in this unless we are in it. So I mean, it's kind of a moot point for the province of Saskatchewan to question what exemptions are in and what is out. So I thank you for your presentation.

**The Chair:** — I think we're now straying to the area of personal opinion and speculation. So we'll thank the presenter for their presentation today. I don't see any further questions coming forward from the floor. It's important, as Ms. Crofford mentioned, that we have as many opinions put on the table and information as presented. If there's any further information you have, it can be presented to the Clerk and would be given to all committee members for their deliberation. So thank you for your time today.

**Mr. Hopkins:** — Thank you very much.

**The Chair:** — And for adjusting your schedule to accommodate us.

**Mr. Hopkins:** — No problem.

**The Chair:** — Thank you. Committee members, you have before you a really energetic schedule for week 2 of hearings in Saskatoon. Please keep in mind that all the hearings will be at the Radisson Hotel Saskatoon, Michelangelo room, salon B. And there is a departure of the staff from here at a specified time. If anyone is needing, I assume, a ride they would have talked to Viktor. But if that's the case at the last moment, I think your opportunity leaves the building at 9:15 sharp.

We're going to, as was agreed upon by the committee, have three presenters the first day beginning at 3:30 sharp. And we all will probably then start to look at information that's been provided to us. I have had Mr. Carpentier ask of the Red Seal program — since the man resides in Regina — about the listing of some of those in trades and how Red Seal does or doesn't address some of those, and you've got that information back. If there's something else that, as the proceedings are going, you need that kind of information, we'll try and get it back to you.

I'm also looking at . . . and if you would keep in mind over the weekend the challenge the minister has given us on this committee and how we're going to frame the reporting. Michel's beginning to work already on what we have gathered as information from all of the presenters and what kinds of format or chapters need to be included. So if you'd put your mind to those as well as the ongoing list of questions for officials that will appear the final week from BC, Alberta, and Saskatchewan. And then I guess we'll have to continue to look into the conflict between Public Accounts and ourselves and how we accommodate some of the members that may need to chit in to another location.

If there are further comments or questions this week? If not, we'll wrap up, and I'll declare committee adjourned.

**Some Hon. Members:** — Agreed.

**The Chair:** — Agreed.

[The committee adjourned at 12:54.]