



# **STANDING COMMITTEE ON THE ECONOMY**

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## STANDING COMMITTEE ON THE ECONOMY

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Mr. Trent Wotherspoon, Deputy Chair  
Regina Rosemont

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Cut Knife-Turtleford

Mr. Bill Hutchinson  
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Ms. Victoria Jurgens  
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Mr. Delbert Kirsch  
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Mr. Don Toth  
Moosomin

[The committee met at 15:01.]

**The Chair:** — Well good afternoon, committee members. It's 3:01 p.m. We are beginning the Economy Committee today. We have one substitution: Mr. Bradshaw is substituting for Mr. Toth. We thank him for that.

We are considering today Bill 188, *The Best Value in Procurement Act, 2015*. And by practice, this committee normally holds a debate on clause 1, short title. I invite the minister to have some opening comments, if he so wishes, and to introduce officials.

**Bill No. 188 — *The Best Value in Procurement Act, 2015***

**Clause 1**

**Hon. Mr. Wyant:** — Well thank you very much, Mr. Chair, and members of the committee. I am pleased to be here this afternoon to talk to the committee about Bill 188, *The Best Value in Procurement Act, 2015*. My colleagues and I . . . I'm joined here today by my colleagues from the legislature, Minister Heppner and Minister Campeau, and by several officials from the ministries benefitting from this particular legislation including Nithi Govindasamy, deputy minister of Highways and Infrastructure; Richard Murray, deputy minister of the Ministry of Central Services; Rupen Pandya to my left, president and CEO [chief executive officer] of SaskBuilds; and Greg Lusk, acting vice-president of SaskBuilds.

Mr. Chair, this bill amends *The Highways and Transportation Act, 1997* and *The Public Works and Services Act* by establishing best value as the foundation for government purchasing of construction services.

Criteria for each competition are selected in advance of the competition by knowledgeable staff to meet the specific needs of each project. At second reading I outlined some of these criteria, which would include but not limited to product quality, life cycle cost, vendor knowledge of conditions in Saskatchewan such as environmental factors, building codes, and so on. However, I will reiterate that local preference or clauses such as local net benefit are not contemplated by this legislation.

A protectionist approach to procurement, which local net benefit entails, would violate Saskatchewan's trade laws or Saskatchewan's trade agreements. In our extensive consultation with industry, they've been clear that maintaining our trade relationships is vital to Saskatchewan's economic interests. As the Saskatchewan Industrial and Mining Suppliers Association said succinctly in a recent letter to SaskBuilds:

We applaud you and your team at Priority Saskatchewan for reviewing and developing a policy to honour our interprovincial trade agreements, yet with a focus to ensure Saskatchewan companies have every opportunity to succeed and contribute to building a strong have province.

Mr. Chair, in a province where our manufacturers, industrialists, farmers, agribusiness, minerals and mining firms, resource companies, and professional services rely on exports to

create jobs, jeopardizing their market access is not the way to economic growth. Challenges in our oil sector make this even more apparent. It is not the time to put more pressure on our resource industry.

Before returning the floor to members of the committee I would like to put on record the support that this bill and our Priority Saskatchewan action plan has received from Saskatchewan businesses. Mr. Chair, we have letters of support from SIMSA [Saskatchewan Industrial and Mining Suppliers Association], from the Association of Consulting Engineering Companies of Saskatchewan, Canadian Manufacturers & Exporters, Merit Contractors, the NSBA [North Saskatoon Business Association], Saskatchewan Construction Association, and the Saskatchewan Heavy Construction Association. Members recall that many of these organizations sent representatives to the first reading of Bill 188.

As a government, we are very pleased that the Priority Saskatchewan action plan is moving forward. We are enhancing competition, ensuring Saskatchewan businesses are treated fairly, and delivering value to taxpayers.

Finally, Mr. Chair, we want to take the opportunity to thank all the officials at SaskBuilds who have been involved in the development of our action plan, and all the industry participants who have been a key feature in ensuring that the action plan meets the needs of industry.

So, Mr. Chair, with that I'd be happy to answer any questions that committee members may have.

**The Chair:** — Thanks very much, Mr. Minister. Are there in fact any questions for the minister and his officials from the committee? I recognize Mr. Wotherspoon.

**Mr. Wotherspoon:** — Thank you very much. Thank you to the minister and ministers that are here today, and certainly to officials and members of the committee. And thank you to the officials that have been engaged on this discussion, this consultation, and this file. Certainly it's been one that's . . . it's one that's important to Saskatchewan businesses, importantly important to Saskatchewan taxpayers to ensure that we're getting best value in our procurement, in our processes of procurement for taxpayers.

I guess just entering into it, you know, it's good to see something come forward, as I believe I've identified on the floor of the Assembly, and a shift in approach from simply lowest cost to one of value. The bill itself in fact is, you know, very concise in itself. I mean, it's a really just a wording change here, but an important wording change, one shifting from lowest cost to best value.

I think that this certainly is an important shift in procurement for the people of the province. I'd like to, you know, certainly recognize and thank all those that would have contributed to the dialogue and the consultation to arrive at this piece of legislation. Maybe just to allow for Saskatchewan people to recognize who's been engaged in this process, could the minister or officials share who's been engaged? And I know it's a rather extensive list, but if that could be shared for the public

record.

**Hon. Mr. Wyant:** — Sure. Well let me just state — and I'll ask Mr. Pandya to add to this comment — we started this transformation action plan some time ago with a view of engaging industry and engaging people in Saskatchewan in developing a procurement transformation plan for Saskatchewan. We certainly recognize that there was some need for that, so we engaged on that.

And as a result of over 150 meetings with various stakeholders including government, members of executive government, members of the Crown and industry, we developed a 13-point action plan for procurement transformation that was announced last spring. And certainly best value procurement was one of the key features in that plan.

Since that time, once the action plan was announced, we've continued to engage with industry to ensure that as we move forward with the plan that it meets the needs of industry. We had never intended of course for this to be a top-down application of what we viewed procurement should look like. We really needed industries' participation and that's why the 150 meetings that preceded the action plan's announcement were important.

But the ongoing engagement of industry to ensure that as we move forward we continue to meet the needs of industry, continue to meet the needs of the business community, and develop a process which is going to deliver value to the taxpayers of this province. So those meetings have continued.

I can certainly ask Mr. Pandya to comment on who's involved but certainly a broad range of participants from executive government, from the Crowns, and a broad cross-section from industry. And I think I mentioned at least a few of the names of the organizations that have sent us letters in support of what we're doing. Certainly that's a small portion of the groups and the individuals who have participated in this process.

**Mr. Pandya:** — Thank you. Maybe I can just add, and what we can do is provide you with a detailed list. I don't know if you'd like to take up time going through 160-plus . . .

**Mr. Wotherspoon:** — If you can just supply it, that's fine.

**Mr. Pandya:** — Fair enough. So I'll just maybe pick up on the minister's comments. The consultations were broad based. We talked to all of the key industry associations, heavy construction associations, Saskatchewan construction associations, etc. We talked to industrial partners in all of the key sectors of the economy. We talked to municipalities. We talked to the universities — the MASH [municipalities, academic institutions, schools, and hospitals] sector partners, if you will — municipal, academic, health sector officials, and a broad range of other interested parties who have contacted us.

The other point I would note is that the procurement modernization initiative the minister alludes to, the 13-point action plan, is not a point-in-time exercise. It's a commitment to continuous improvement of best practice into procurement in Saskatchewan. And so the 160 number, as I've already alluded to, has already been exceeded. So we continue to have

consultation as we move forward on all of these pieces and implementation. So we'll provide that to the committee.

**Mr. Wotherspoon:** — Thank you. Thank you very much and certainly thank you to those organizations and officials and businesses that have been engaged in the process. And that, you know, I know that we've had this discussion as a point of debate and for good reason for a significant period of time and I don't think we need to get into that whole debate in this Assembly.

But I would want to say to, you know, so many of the businesses who may be tracking this discussion here today, as well industry organizations for whom engaged us directly or for whom we engaged with as the official opposition, when it comes to procurement and the flawed model then approach that was in place, I want to say thank you to them as well. I want to say thank you certainly for their engagement with any formal processes with government but certainly their contributions, ideas, suggestions, and comments directly to myself and to colleagues of mine. I'm thankful for that. And certainly we've been pleased to push for changes to the approach as it relates to procurement, something that we saw as a flawed model, certainly something that was identified by many Saskatchewan businesses as something that was flawed and that could be improved.

And it is about levelling the playing field for Saskatchewan businesses, ensuring that they have a shot at the public projects in a fair way in Saskatchewan. And ultimately it's about ensuring value for taxpayers.

Looking at the bill, of course, we don't have a whole bunch within this bill to analyze. It's straightforward as far as . . . which is possibly good on some fronts. It may be able to be implemented in a rather effective way. I think there may be questions that exist around what factors or what criteria government, or how government will determine on a given project and how they'll communicate out to potential vendors or businesses what that criteria looks like. Just speak a little bit about the determination of those factors, what those would look like.

Maybe speak a little bit about the unique nature of certain types of infrastructure where certain factors might be considered in a different way than on another project, because I know there may be some questioning critique that it's rather vague in just stating a shift of best value. That being said, I do support that shift in that way. So to give a bit of benefit of the doubt to expand why government deemed that it was important to ensure, I guess, maybe some flexibility and determining factors for specific projects.

**Hon. Mr. Wyant:** — Well let me first say that it's very important as a trading province to ensure that our legislation is trade compliant. I don't think that anybody would argue with the fact that we need to be trade compliant, given the fact that we are a major exporting province. That said, I think it's important to realize that every procurement will be different and the criteria that will be applied in respect of any one particular procurement — whether it's Highways, whether it's Central Services, whether it's any procurement across executive government or the Crowns — will have particular and unique

requirements.

So of course to prepare legislation, which would set out the criteria for each and every procurement, would be an impossible task. So we leave this to our procurement professionals within executive government and the Crowns to ensure that when RFPs [request for proposal] are let, that the specific requirements in terms of what would be required for best value procurement are laid out. Now we have engaged . . . There's 250 procurement professionals that are involved on this file from the Crowns and from executive government and from industry to ensure that as a procurement is let, that the appropriate criteria are set out in those.

So I can't tell you today, you know, what the particular criteria would be for any particular procurement. So the idea here of course is to ensure that from a best value perspective that we're not simply hamstrung by lowest cost, which is what these two pieces of legislation said. So to determine what the criteria may be with respect to any particular procurement will be determined by the procurement specialists that are involved in any particular procurement as we go forward.

[15:15]

**Mr. Wotherspoon:** — I appreciate, you know, I appreciate the challenge in being possibly too prescriptive on the front end and certainly in legislation. I think what the public and what businesses would be interested in hearing about is, you know, maybe a bit of an example of what that process would look like, about how a specific project, you know, how government may go about determining the certain factors of the criteria, and then of how they would consistently communicate that to potential vendors as well.

**Hon. Mr. Wyant:** — I'm going to turn this over to Rupen for a little bit more detail, Mr. Pandya for more detail. And then for some specific examples, I think Minister Heppner would like to join in.

**Mr. Pandya:** — Thank you, Minister. So I think the minister had already alluded to the number of procurement professionals currently in Crown corporations and executive government who are engaged in procurements, over 250 individuals. I think it's important to note for the committee's information that best value procurement is already being practised across many Crown corporations and executive government ministries, that the legislative amendments being brought before this committee today as part of Bill 188 are really to reflect a change that is unique to the Ministry of Highways and Central Services in both of their significant pieces of legislation that require them to tender to the lowest cost. And so this will allow those ministries to align themselves with what has been a broader practice that's already occurring across many ministries.

I think the minister noted that each procurement is unique, and in fact the process for determining what factors would be included in a best value procurement will be dependent on the nature of the procurement. You can think of pencils versus, you know, more complex equipment, and clearly you'll have a whole different set of criteria.

What we do have is, and is available on the SaskBuilds website

— and was appended to the October 21st release about regarding a number of policy initiatives that had been advanced by the Government of Saskatchewan — is a best value procurement policy which lays out, at the highest level, what we would hope would be a more standardized approach across all the Crowns and executive governments. And so we have a list of some criteria that should be considered in the context or could be considered in the context of procurements. And again, you know, that list will be used by procurement professionals, and elements of the criteria identified therein will be used and selected for particular procurement.

In terms of how bidders would understand how we are evaluating each procurement, part of the commitment in best value procurement is part of the policies that procurement documents need to be clear upfront on what criteria are being used to assess each particular procurement.

I'll give you an example, just to provide a little bit more detail; again, these are publicly available documents in terms of the policy. But just to illustrate the intent and scope of the criteria available, the quality required in the goods and services, that can be specified in terms of best value procurement: budgeting, timing and resource considerations, potential use of outcome performance-based requirements, prescriptive technical specifications, deliverables and performance commitments, vendor experience, performance history, demonstrated ability to successfully perform the contract, environmental impact of the goods and services, commercial and technical risks, total cost of ownership which includes considerations around the purchase price obviously, cost of delays in performance, and on and on.

So it's quite an extensive list that's been built based on the existing practice in Crowns and executive government and has been augmented by what is international and national best practice in procurement as well.

In terms of the flexibility, I think that was noted. You know, the objective would be to ensure that, as part of procurement modernization that we are working with, the community of practice is 250 or so individuals who are engaged in procurement, and having them engage with this material in a comprehensive way so that they're applying it consistently in the context of their procurements. And maybe I could turn it over to Minister Heppner to provide some examples.

**Hon. Ms. Heppner:** — Thanks, Rupen. Thank you for the question. Best value versus lowest bid was one of the first, I think one of the very first conversations I had with my deputy minister when I was named Highways minister because it didn't make sense to me. So we have been working on this for quite some time, and then with Priority Sask backing up the work that we have done has been good.

We have a very good working relationship in our ministry with the Saskatchewan Heavy Construction Association. We've had consultations with them through a tripartite committee that we set up, first, to examine contract completion delays. As you know, that was a bit of an issue in the last couple of years. And that conversation actually melds in with this one quite nicely because some of our issues when it comes to contract completion actually is because we award on lowest bid.

So some of the specifics that we're looking at when awarding under a best value approach as opposed to lowest bid would be past performance. Obviously that past performance has to go back more than one year. There could be issues with a particular company, or weather-related delays, or those things. So it has to go back obviously more than one year to get kind of a trend on past performance of any given contractor, whether they actually have the capacity both in equipment and personnel, project experience. I hate to use the word local knowledge because that has a completely different connotation, I think, in this context. But it's project experience. If you've got a history of building a particular type of road and the contract is for something completely different, you know, we have to look at that to make sure that they've got the internal resources to meet the specific requirements: financial capacity, safety record, management capabilities, and experience, things like that. The list will probably be a little bit longer than that.

We don't want to make it so complex that we get tied up in paperwork, but the specific requirements in the Ministry of Highways will be done in direct consultation with our direct stakeholders. And one of the concerns, to be quite honest, lowest bid is, it's a done deal. It's a number where best value can be a little bit more subjective. And obviously we need to be able to back up with our vendors what our decision is based on.

We've floated the idea of having something similar to what SaskBuilds has with a fairness adviser. So there's an adjudication process. There's somebody who is independent of government and independent of industry to make sure that we've made the right decision and that all the criteria has been met, and then explain that to the vendors, particularly the vendors who aren't awarded the contract. They are usually the ones with the questions at the end of the day. So we're looking at that, but again in consultation with the Heavy Construction Association. Their members have to be comfortable with the process that we have. We don't want to dictate it to them because they are the ones who are going to be obviously involved in the day-to-day process of submitting bids into the ministry.

The one other thing — while I have the microphone in front of me — that I'm excited about with best value, is an allowance for innovation to be part of whatever those contractors are presenting to us. Innovation can be slightly more expensive, but in the long term is probably going to give us a better product. With lowest bid there's really no opportunity for that. And so the industry is excited about that, as is the ministry, and we're looking forward to some of those innovations to come forward once this is completely implemented.

**Hon. Mr. Wyant:** — I think Minister Campeau would like to make a comment as well with respect to Central Services.

**Mr. Wotherspoon:** — Sure, and I'll comment after, but thanks for the Highways piece. That's really helpful.

**Hon. Ms. Campeau:** — Thank you. I just kind of want to segue into what Central Services is doing from Minister Heppner's comments, to add on to that.

So best value over lowest bid for Central Services allows for the consideration of the full range of performance of value-adding

capability factors in the selection of a vendor, as opposed to just price. It is a value results versus costs argument. The criteria will be based on the needs specific to the procurement or project. Criteria may include experience with similar projects and environments, including physical, regulatory and technical; project completion record compliance with material and workmanship requirements; and also safety records.

We've also done a full range of consultations as well with a good number of industry representatives, such as Saskatchewan Heavy Construction Association, Association of Consulting Engineering Companies, Saskatchewan Construction Association, Canadian Manufacturers and Exporters, North Saskatoon Business Association, as well as the Saskatchewan Masonry Institute, Merit Contractors, and Saskatchewan Industrial and Mining Suppliers Association, and we've gotten some good feedback on the proposed changes. So thank you for the question.

**Mr. Wotherspoon:** — Thank you for the answers on both those fronts. Certainly the spirit and intent of shifting to a best value approach is critical. You have laid out some of the challenges as well of implementing that system and ensuring integrity of the system, recognizing that when you start laying out criteria, some of it is quantitative and direct and able to be measured very specifically. Some of it may be more of a subjective nature, and the Highways minister spoke a bit about some of the potential mechanisms that government is contemplating to I guess ensure trust or integrity within that process.

Could you speak and provide just a little bit of some of the examples that you're working through right now, of some of the criteria that are going to be I guess more subjective in its assessment as opposed to something that's directly measurable?

**Mr. Pandya:** — Thanks, Member, for the question. I think I'll try to answer that question, and if it doesn't go far enough, you can ask follow-up questions.

The intent would be in any procurement to select criteria, and then to the extent possible, create a point-rating system relative to each one of those criteria. And you're quite right, in some circumstances because we're not only simply looking at lowest price, that there is a more of a qualitative dimension to that. Our objective would be to create a tool that would allow us to quantify both the qualitative and the quantitative dimensions of the procurement. Clearly price will always or, you know, may always be a consideration in any particular procurement, and so it will be one of the factors along with other factors.

What will be important is a fair application of whatever those criteria are. So in the case of innovation, if I could just use the example — and this is not in specific follow-up to Minister Heppner's comments, but in general — if we were looking at innovation in a project and we said to proponents, as part of a RFP process, that if they are able to provide innovations in the project that will reduce life cycle costs by a magnitude of \$5 million, we will award 25 points, that would be a way that we could apply a more quantitative dimension in the criteria. But in general all of the criteria that we would put into a best value procurement we would seek to put into a matrix to allow us to do an apples-to-apples comparison.

**Mr. Wotherspoon:** — Thanks for that, and I appreciate the comments as well about building a system that's going to ensure that there's a fair application, that it's clearly understood by — or as clearly as possible — by businesses and bidders how projects are being assessed. It was stated by the minister, and it's an important piece that it's clear and upfront for bidders to understand the criteria that one is being assessed by.

I know there's reporting out currently in place to bidders through procurement processes. How will this shift in some of the changes in criteria, some of the questions around or some of the comments around the subjective nature potentially of some of the aspects of criteria? How will that change that process of dealing with bidders and reporting back out to the bidders as to why decisions were made as they were?

**Hon. Mr. Wyant:** — Well as Mr. Pandya had said, you know, to the greatest extent possible we're going to work on a process on a matrix that will, you know, allow us to quantify all those softer kind of issues. But at the end of the day we are proposing — and it's one of the action items in our 13 action plans — to have a vendor debrief so that there would be a discussion with any vendor that wanted to have a discussion on any particular procurement as to why they weren't successful and obviously give them some opportunities to be more successful in the next bid.

I think it's also important to remember that we need to be compliant with not only our trade obligations but with procurement law generally. So it can't be arbitrary; it has to be specific. And so we can't just simply decide on the basis of a response to an RFP to be arbitrary in the application of those subjective points, and that's I think what Mr. Pandya was getting at. But I think that, to be fair about it, we do have very significant procurement laws in this country and in this province and they need to be complied with. Otherwise we open ourselves up to some significant liability.

**Mr. Wotherspoon:** — No, absolutely. And that's, you know, why the process is important but recognizing that other partners, other provinces in Confederation all go at this in a bit of a different way. Certainly I think what businesses in Saskatchewan have been looking for is simply a fair shot and a clear, consistent, well-understood process that allows them to engage in the bidding process and hopefully in, you know, the delivery of some of the projects.

[15:30]

Now I suspect what will be of interest to certainly bidders, the public at large, taxpayers, also people like the Provincial Auditor will be the determination of criteria or factors for any given procurement, knowing that pencils are different than smart meters and schools are different than highways. But just that aspect, it will be important, and it also does speak directly to the trust and integrity of the system. And I certainly hear recognition of the importance of making sure that there's a fair, consistent process.

But I guess my question would be around when government is determining on a given project the factors or criteria which will be weighted into the consideration of who will be chosen within that procurement, what efforts will government be taking to

ensure that there's documented integrity to that process to be able to share back with the public and folks like the Provincial Auditor?

**Hon. Mr. Wyant:** — Well I'll start the answer with this. We have committed, and of course we're obviously committed to ensuring that this process that what we've done and what we're going to be proceeding with, as we move forward with our on-going commitment to make sure that we have best practice in procurement, as Mr. Pandya had said, that we're compliant with the law.

Part of the consultants that we have engaged within the ministry, as part of the ministry and as the Crown sector, are trade law specialists. So they want to make sure, and so we made sure as we go through this process that not only are the 13 points compliant with our trade obligations and procurement law, but as we move forward with the establishment of criteria that they too are compliant with the law. And we have many legal professionals within the government who are providing that advice to us, most particularly the Ministry of Justice. So we're very confident that we will be compliant with the law, and of course that's obviously our main motive, our significant objective to ensure that that's the case.

**Mr. Pandya:** — Thank you, Minister, and maybe I can pick up as well. So in addition to the legal advisory committee that the minister refers to, that's a committee made up of Crown solicitors and executive government solicitors who are reviewing all of the policy work across all of the procurement modernization piece. I refer to that because this particular change, in isolation, really requires that more comprehensive framework that is also being unfolded in parallel. That legal advisory committee is reviewing all of those documents. There's a trade policy council on that committee as well who have been providing us with very good counsel in terms of ensuring the entire suite of initiatives is trade law and procurement law compliant.

In addition to that, and maybe more specifically around how each ministry and/or Crown corporation will monitor the integrity of each individual procurement, clearly as part of the vendor debriefing process, again I'll refer you to the government's release of October 21st where the best value procurement, conflict of interest, multi-staged procurement, procurement code of conduct, and vendor debriefing policies were released. As part of those other policies, Crowns and executive governments will need to maintain a record within each Crown or executive government ministry so that as they go through the vendor debriefing process, they will be able to communicate in a meaningful way with vendors who have lost out on procurements on their relative ranking relative to any of the criteria. And so that'll have to be maintained in records within Crowns. Clearly that would all be subject to audit.

**Mr. Wotherspoon:** — Yes, that'll be an important aspect of the entire system. And certainly, you know, being compliant with our trade obligations and laws are important, and then making sure of course that criteria built out are the criteria that are best served. A specific procurement is also very important, and making sure that's done with a process that has documentation and can pass a test of scrutiny will be important. Something that can be explained and justified to the public but also to bidders

will be valuable.

Could you share a little bit about what you've heard from Saskatchewan businesses over the past number of years on this file as far as concerns with the sort of current approach, if you will, of government on this front?

**Hon. Mr. Wyant:** — Well certainly since we've heard some comments from a number of sectors of the economy with respect to procurement, and that's really what was the impetus to moving forward with this transformation plan. And it wasn't a plan which we, you know, just developed overnight. We spent a lot of time working on ensuring that we were listening to what Saskatchewan companies were saying about procurement.

So we certainly heard a lot from ministries. And I think you'll remember the Premier commenting about ensuring that we had a level playing field, that while we were free traders and we wanted to ensure that we complied with our trade obligations, whether it was the AIT [Agreement on International Trade] or whether it was the New West Partnership, that we proceeded along a path that ensured that Saskatchewan companies were treated fairly. And we saw in some circumstances in some other provinces where perhaps there might have been some barriers that were put up which were preventing Saskatchewan companies from competing. And so from that perspective, we wanted to ensure that they were treated fairly.

That's what was really the impetus behind the 13 action items which we developed in some significant consultation with those industries. But certainly we heard some things from Saskatchewan businesses about how they were being treated or that perhaps there was some inherent unfairness in the system. And so that's why this plan was put together. And I don't hesitate to say that it wasn't put together in a hasty manner. We had a lot of consultation. We wanted to make sure that we got it right from the first instance, and I think we have.

But as Mr. Pandya has said, this is an ongoing process of procurement transformation. It doesn't stop now. And I'm proud to say that I think Saskatchewan is leading the nation when it comes to procurement transformation, and at the same time leading the discussion on the renewed AIT when it comes to procurement. So we don't want to set up arbitrary walls. We think that ensuring that there's free trade across this country is very important, but at the same time ensuring that Saskatchewan companies aren't put to any prejudice as a result of policies which may be happening in other provinces.

**Mr. Pandya:** — Member, maybe we make some just general comments on what we heard in the consultations, and this certainly would be a general distillation, if you will. So on the issue of best value procurement, I think the comments would be rather obvious. I'm sure you've heard it and other committee members have heard it, which is procurement based on lowest cost doesn't necessarily get you the best value, and that there's other dimensions to value that we ought to take into consideration as part of a government procurement. We've certainly heard that loud and clear. And a number of the dimensions of the criteria around best value that we've spoken to you about today and are part of the public policy were actually shared with us through the consultative process.

We heard from some of the folks involved in the consultation process that our RFP processes that invite multiple businesses into a bidding process are inefficient, that if you have 12, 15 businesses bidding, one's going to win. You know, that is in fact an incredible amount of time that each company is using in a bidding process, so they asked us to consider a more refined, maybe multi-stage procurement process where we are shortlisting, you know, the three top teams to go into a procurement. And that way you're going to get, you're going to ensure that companies are spending their time in building the best bids possible and you'll minimize pursuit costs for the bidding sector, for companies that are bidding on work.

We should, you know, be clear and consistent across all of Crown corporations and executive government in terms of the templates that we use; that there's clearly a number of different types of procurements: construction, goods, services, Crown, non-Crown. And there's multiple templates that have existed for many, many years and we were asked to take a look at those templates to see what we could do to improve standardization. As you're pursuing a particular procurement, in order to comply with the procurement documents there's a lot of work that's required, and anything we could do to simplify the language in those documents and standardize those documents would be viewed by the bidding community as beneficial.

We were asked to consider thinking about making sure that vendor debriefing was mandatory; that although many Crowns and executive government ministries offered vendor debriefing, it wasn't mandatory when requested and in fact . . . So we were asked to consider making sure that we were putting in place a mandatory vendor debriefing when requested by proponents.

Interestingly, vendor performance was raised by a number of industry and MASH sector players. Obviously the complexities in a vendor performance framework are considerable, and so we were asked to be mindful about how that particular policy will be implemented and thoughtful about how it will apply.

Just to give you a concrete example of the complexity, if you have a firm that does drywall and framing and they did a poor job of drywall in procurement A, does that mean in procurement B that they shouldn't be allowed to do framing? And it sounds like a simple question, but it's two different ministries if you want to take the example further, and so it becomes a bit more complex. And so we want to pilot a vendor performance framework so that we can understand how to scale that across executive government ministries and Crown corporations.

We had heard that there's a lot of, you know, new businesses, new entrants, smaller sized businesses that are interested in government procurement that have a knowledge gap, and that government should do, you know, could work more effectively with industry associations in particular to provide knowledge in terms of government procurement and its processes and systems and so forth.

Government could do more to kind of enhance our technology access to, or the use of information technology to access procurement. So in some cases government ministries are using SaskTenders for all their documents, and in some cases only some of the documents are available. So could we modernize



the technology to ensure we can get all our procurements in one spot so that anybody who's interested can see them in one spot? Certainly we've heard that.

I think I noted common procurement templates. There's again a good number of different approaches across Crowns and executive ministries that have evolved over many, many years, and so we'll take a good, healthy look at that.

And so that's just some of the comments that we had heard. I would note that all of those are reflected in the 13-point action plan that has been released as part of the procurement modernization initiative. And clearly we heard lots of other good ideas that we will commit to as part of future phases, if you will, of procurement modernization as well.

**Mr. Wotherspoon:** — Thanks for that information. When you're talking a bit about vendor history and you speak about sort of the different, you know, there'll be various companies that will be able to provide a whole host of very different types of work to or service to the people of Saskatchewan, you spoke a little bit about the ongoing work to establish a rubric of some sort or an assessment of that vendor in a way that, you know, works ultimately for taxpayers, for government.

Could you speak a little bit more about that process and timeline, and maybe some of the complexity in managing that, and if there's any specific examples within procurement of government or Crowns that have guided this process?

**Hon. Mr. Wyant:** — Well on the vendor performance evaluation, we're currently piloting a vendor performance piece within the Ministry of Highways and at SaskPower. So that's being piloted now. The results of that of course will become known at some point in the future. So we're piloting this because it's new. And you know, we've seen many situations in the past where, when lowest bid was the fundamental requirement, that vendor performance didn't play a part in it. So we are piloting it within those two areas, and we hope to have some results quickly. But that will inform how we apply vendor performance in other areas, whether it's in executive government or the Crowns. I hope that answers your question.

**Mr. Wotherspoon:** — I mean it speaks to . . . I mean I think there's a cultural shift that's most important that's embodied in this legislation, and that's where, you know, where certainly I've provided some positive comments. To see that shift, how it plays out and how it's implemented and what mechanisms are brought to ensure integrity to that system and to ensure that it's implemented effectively and that best value is able to be achieved is ultimately what's going to be most important.

Maybe a bit of a question about what sort of regulation will . . . You know, what sort of regulation changes and what sort of work is going on on that front to accompany the cultural shift and the change in this legislation?

[15:45]

**Hon. Mr. Wyant:** — Well currently, as Mr. Pandya had mentioned before, we're working on all the policy work and, as you can imagine, there's a significant amount of policy work that needs to be done before we can begin the process of

preparing the regulation. We've committed to doing this as quickly as we can but ensuring that we do it right. So once the policies are developed, we'll be able to proceed with preparation of regulations where they're necessary. But we don't want to put the cart before the horse. As I mentioned before in my opening comments or in a subsequent question to those comments, a lot of this is of course driven as a result of our communication and our consultation with industry, and so we'll continue that in terms of developing a policy which will lead to any regulatory changes that need to be made. But we've committed to doing this quickly but being diligent at the same time.

**Mr. Wotherspoon:** — I respect the challenge of, you know, the next question and the complexity of some of the work, but what sort of timelines are you working towards on some of these fronts? And could you speak specifically to what might be the greatest challenges for government on this file and what matters might . . . you know, just laying out if there's something that, you know, may be later on in a timeline than what some may be hopeful for or what they might be anticipating.

**Hon. Mr. Wyant:** — Sure, well I'll make a general comment, and then I'll turn it over to Mr. Pandya to see if he can give you any more specifics. But this is really a cultural shift when it comes to procurement. We're moving forward on these 13 action items and the particular ones, the best value procurement, which is before the committee today.

So this is significant work and some significant consultation which has occurred and which we've committed will continue to occur. So to set a timeline, we set some timelines with respect to the introduction of the policies. But with regard to it, the formal implementation, it's difficult to say. We want to make sure that we get this right and that our consultation leads to the right outcomes. But again this is, as you've identified, this is a significant amount of work that we've embarked on.

**Mr. Pandya:** — I think you've identified, you know, the major . . . The major challenge is in fact the cultural shift in how we do procurement. I'm happy to report to the committee as a whole that there is tremendous support across Crowns and executive government for this initiative. And matter of fact, the weight of all of this policy work is being carried out by a group of some 88 different officials who are across Crowns and executive government, who are responsible for working groups in all of these pieces of policy work. And certainly, you know, ensuring that everybody understands what those policies are and are implementing them in a consistent way will be that education piece across not only Crowns and executive government, but working with bidders as well will be an important part of the success of this.

In terms of where we are at in terms of implementation, the five policies that were announced on October 1st — the best value procurement, conflict of interest, multi-stage procurement, procurement code of conduct, and vendor debriefing policies — again are operative to varying degrees already in many existing Crown corporations and executive government but will be required of all Crown corporations and executive government by March 31st of '16. And in fact the guidance to ministries is to make best efforts to implement that. If they're obviously already engaged in that policy, we're asking them to adopt the

more standardized policy and begin to deploy that immediately.

On a number of the other items . . . If I understood your question, it was the broader piece of implementation. We'll continue to do work on the vendor performance evaluation piece, that pilot. It's not expected to be complete for a year's time yet — again, significant complexities in that particular work relative to all sorts of dimensions, including privacy, etc.

We'll work very quickly on the knowledge pieces already being implemented with industry partners. So we're working to educate through industry partners putting together an education program to allow their various members, bidders if you will, potential bidders to understand what's taking place on the procurement modernization front. We've clearly gone out now, you know, not only through the consultation process and follow-up consultation process but through community meetings in Regina and Saskatoon on a number of occasions to kind of just provide an update on where we're at with the work. Obviously industry's very interested in progress on that front.

Some of the work around SaskTenders, etc., will require some detailed requirements in terms of, you know, what type of modernization will be required and how quickly that could be implemented. And so we'll be happy to report on some of these other items.

Common templates are currently in progress, and our hope is to release those as soon as possible. And when we have some more definition, I can share that with you, with the committee.

**Hon. Mr. Wyant:** — I just want . . . just one more comment, Mr. Wotherspoon. I mentioned in my opening comments some of the letters of support that we received from various industry associations. They've quite clearly told us that they don't want to rush this. They want to make sure that they get it right. And in my conversations with them, they've been very clear about this, that while they'd like to get it done as quickly as possible, they don't want to get it done in a way that's going to be prejudicial to the formal effectiveness of these policies. So as Mr. Pandya has said, we've made commitments that we will keep them advised and of course they are advised as a result of their ongoing consultation with them on these items. So I think it's fair to say that we're not going to rush it and they don't want us to rush it.

**Mr. Wotherspoon:** — But certainly items . . . You know there's been noted importance for action on the file by many within industry as well. Just as far as how the shift . . . So there's a shift to best value. That's important. A lot of this of course is going to be dealt with, you know, in regulation, and some of the challenge with that at times is less scrutiny or less reporting out potentially to the public or to committees like this in the legislature. Certainly I'm cognizant of different timelines that may need to be in place for certain aspects of improving the procurement model to ensure best value. But could you share just a little bit about what communication and what engagement with the public and what engagement with the Assembly will be as hopefully as, you know, changes are made moving forward?

**Hon. Mr. Wyant:** — Sure. Well I'll just say at the outset that as far as procurement law is concerned, transparency is the prime directive. It has to be because if you're not transparent

when it comes to Crown procurement, then obviously you open yourselves up to some significant criticism. And so that's the law and we will be as transparent as possible.

In terms of getting more information out as we move forward, and I think we've been very transparent in terms of issuing press releases and letting the public and industry know how we're proceeding, I've made personal commitments to the industry associations to ensure that they know and all the participants in the ongoing consultation know where we're at and how we're doing and potential timelines. Of course that's always very difficult but we're committed to transparency both with regard to the industry associations and ensuring the public understands where we're at with our transformation.

**Mr. Pandya:** — Maybe I'll add, member, in answer to your question and just to further support the minister's comments that clearly, you know, Priority Saskatchewan which is a responsibility of SaskBuilds — one of the other responsibility areas — clearly we would be available in committee to answer questions on the progress of that initiative and provide detail on the progress of how that initiative is rolling out.

I noted earlier that we are engaged with industry on an education program, if you will, to ensure that industry partners all understand the changes that have occurred and, you know, how this is better, if you will, and government procurement professionals understand how best to implement this direction. So that broader engagement with the users, if you will, bidders and procurement professionals, is ongoing, but I think the primary mechanism would be through our appearance in committee to answer any detailed questions on this front.

We've got a commitment in terms of procurement modernization to make all of these documents publicly available with the guidelines, etc., and we're already engaged in that process and in consultation with industry on that front.

**Mr. Wotherspoon:** — You talked about some of the challenges and costs associated to bidders in certain types of, you know, with certain procurement structures in place. Have you heard specific concern from Saskatchewan businesses as it relates to impediments or barriers or costs as it relates to participating or bidding into some of the P3 [public-private partnership] projects?

**Hon. Mr. Wyant:** — Well one of the concerns that we had heard through the P3 process specifically with respect to the schools was the bundling and how that could affect potential bidders. As you know, those were . . . that procurement was divided into two, with the schools in the North and the schools in the South, and ultimately resulted in some significant value for money notwithstanding the fact that that was split. But we did hear some concern about the bundling with respect to the schools.

One of the things — and I'm not sure this is directly on point — but one of the things we did hear, and Mr. Pandya had commented with respect to why we want to move forward with multi-stage procurement in procurements that are perhaps over \$20 million as an example, is to ensure that companies that are bidding on those particular contracts, you know, provide the best possible bid as opposed to having a large number of bids

come in on any one particular contract. That there would be a request for qualifications and then perhaps three would be qualified to bid on those which would give some advantage to them of course because, instead of a lot of companies providing the resources to make a bid, that would be restricted to the ones that are qualified. But in terms of the P3s, that's the significant concern that we heard at SaskBuilds.

**Mr. Wotherspoon:** — I think it's an area that deserves greater exploration from government. It's certainly something that I continue to hear from businesses across Saskatchewan who see this very structure around procurement with P3s to be quite problematic to ensure a level playing field to participate in that bidding process as well having significant financial costs for those that are participating in that process. And of course if someone's unsuccessful at the end, they're left with the burden of that cost. Has that item in itself been identified with the minister or government?

**Hon. Mr. Wyant:** — Well maybe I'm just going to comment on something that you alluded to in your question with respect to local participation in these contracts. So far to date on the schools, there's been 29 Saskatchewan companies that are participating in that build. On the Swift Current long-term care facilities, there have been 28 local companies that are participating. The bypass, which is just getting underway, there's been eight local companies and some significant ones, and of course Graham Construction being the lead construction company on that.

So while we did hear some concern with respect to the bundling about participation of local companies, it certainly hasn't been borne out by the evidence that local companies are being excluded from those contracts. There's some significant contribution by local companies and all are P3s, and we know that's going to continue with respect to the bypass and with respect to the hospital in North Battleford where Graham Construction — again a Saskatchewan Business Hall of Fame inductee — is participating in a significant way.

So while we did hear some concerns with respect to the bundling, it certainly hasn't been shown by the evidence that companies are being excluded simply by virtue of the fact that they're P3s.

**Mr. Pandya:** — If I could just make a point of clarification on the bundling issue for committee members' interest, that the issue was the size of the bundles would preclude Saskatchewan from some bidding. In fact, you know, with the decision to take the schools procurement and ensure that there was a good and effective competition, I think that that was more or less remedied. So that was the principle issue. It wasn't a P3 per se. It was around the size of that particular bundle.

In the case of the other procurements, they are the size that they are. In other words that, you know, a Saskatchewan hospital in North Battleford is a procurement of that size and so there was . . . that's why bundling was the issue, just as a point of clarification.

**Mr. Wotherspoon:** — Okay, and just to be clear, so certainly I've heard concerns with the bundling of the P3s and the effect on, negative impact on Saskatchewan businesses from being

able to engage in that procurement process in an effective way and feeling that it's structured in a way that shuts them out. Certainly I think an effective voice on this front would've been the Saskatchewan Construction Association who certainly, I believe, noted this with government. I know certainly noted it with opposition with, you know, identifying the bundle as a specific concern.

[16:00]

But I want to be clear as well that when I'm urging government to acquaint or explore greater concerns with P3 models in shutting out Saskatchewan businesses and undue costs placed on businesses to participate as well, that it doesn't relate exclusively to the bundled environment with the school. So I would urge, you know, continued . . . As this is a work-in-progress that's been shared, I do think that's an important area for government to consider and to be clear and direct with I think Saskatchewan businesses and in an open way or in a way that they can seek the advice from businesses that I think there'd be some valuable bits of information come the way of government.

Could you provide a bit of an example of how it changes if, just using something like the Sask Hospital as an example, once the P3, you know, consortia and proponents have been awarded, after that are there requirements as to processes for tendering that are explicit from government after that, as in is it an expectation of government or is it simply up to the proponents at that point?

**Hon. Mr. Wyant:** — Well I'll let Mr. Pandya just answer that question specifically with respect to the hospital, but I do want to make the point again that the assertion of the exclusion of Saskatchewan companies from the P3 school project or any P3 is not borne out by the evidence. Wright Construction in Saskatoon is one of the lead construction companies on the construction of all the schools. And there's a number, and I could list them out, but there's almost 30 to date — local companies. So I do want to make it clear to the committee that the assertion of the exclusion of Saskatchewan companies from any of these projects is not borne out by the evidence. But I'll turn it over to Mr. Pandya to answer the specific question.

**Mr. Pandya:** — So if I understand the question, I don't think that there's any difference in a P3 procurement versus how subcontracts are tendered in the process. What I would note is that we have taken considerable effort to ensure that Saskatchewan businesses can make known their services, their expertise, to any of the project consortia, whether they include . . . They all include Saskatchewan firms but whether they include other firms as well. So we've had in fact in terms of business-to-business meetings with Saskatchewan firms and project consortia on P3s, some 454 different participants attending some, representing over 225 businesses or so on all of the procurements. And as the minister alluded to earlier, there's been significant Saskatchewan work associated with all of these particular projects.

**Mr. Wotherspoon:** — So is it a requirement within . . . Once the P3's awarded to a group of proponents, to a consortia, are they then able to procure however they choose or are there expectations around tender for a project?

**Hon. Mr. Wyant:** — Once we've signed a contract with a consortia on a tender, whether it's a P3 or a traditional build, whoever gets the contract will be responsible for contracting with whoever they need to do the work that needs to be done. And we've seen that example with respect to the bypass or the schools. So once the contract is signed, it's up to them to deliver under the contract to the best way that they can. And as Mr. Pandya has commented, certainly some encouragement in terms of the business-to-business meetings to make sure that local businesses know what's available, what work needs to be done.

But it is up to the consortia to decide who's going to do that work. Obviously they have a financial interest in ensuring that it's done economically, that it's done to the best, so that they deliver the projects that need to be delivered within the terms of reference in the agreement. So to answer your question specifically, no, there's no requirements in terms of who they contract with once the initial contracts are signed.

**Mr. Wotherspoon:** — Has government heard concerns as it relates to some of those processes and not having, you know, fair, or not having tendering processes for important components of that public infrastructure?

**Hon. Mr. Wyant:** — Well many of the key elements of any particular, whether these P3s or otherwise, they tender a lot of their work to make sure that they get the best value too. But we've heard no complaints from anybody with respect to any tendering processes or any contracts that have been let by any of the consortia involved with any of those four projects.

**Mr. Wotherspoon:** — You know, again on this front here, this is an area that requires exploration from government. There's significant concerns within the business community on that very aspect in itself. And I think that there could be something gained by direct engagement and listening, to inform, you know, improvements moving forward.

And just to the point as well, where the minister was citing different Saskatchewan companies that are engaged in some of the procurement, or some of the public projects, the concerns being shared by Saskatchewan businesses around being able to fairly and in a competitive way bid within some of the structures, procurement structures of government, are direct concerns stated across many sectors of business in the province.

And I just want to state I guess that there is noted concern within businesses across Saskatchewan, and would just simply urge on that front greater listening and engagement to try to learn from some of those experiences.

**Hon. Mr. Wyant:** — Well as I stated before, we've received no formal complaints with respect to any of the tendering or bidding that's been done with respect to those four projects. Certainly if there are some concerns that are being expressed, we'd like to know about them.

That said, the project consortium is responsible for delivering these projects within, on time and on budget, and so that's our expectation as government. We think that that, and we've stated this more than once, delivers value to the taxpayers of this province. And we've stated I think publicly . . . Well we've

stated publicly in terms of the value for money on all of our P3 procurements. And so if that delivers value to the taxpayer, the expectation is that they comply with the terms of their contract.

**Mr. Wotherspoon:** — Yes. I would urge listening and even some direct engagement that you might be able to suss out some real experiences and some very practical suggestions. You know, I would note that . . . I mean I definitely support a shift towards best value. Of course, we've pushed for that. It's important to see aspects of that represented in this legislation and we'll continue to track its progress through to effective implementation.

But I will note as well that there are serious and real concerns from Saskatchewan businesses that have been shared as it relates to processes inherent with P3s, it would seem, that don't ensure the fair level of playing field to participate in the bidding process or then obviously the construction project that I think we would . . . that need to be addressed.

So I would urge greater engagement on that file because there could be a lot of changes brought around legislation like this and regulatory changes. But if that structure in itself is structured in a way that has direct impediments and is problematic, then it's a bit of a moot point. So I would urge that. I mean I think at this point in time, you know, I think what we're . . . you know, what I appreciate is work of officials. I'm thankful for businesses that have engaged directly with your officials and with you and with industry groups on this front. That's really important.

I would urge businesses . . . And I know sometimes there's a question or discomfort as to, you know, whether or not they should engage directly and share their real experience. I would, you know, urge them to engage with your officials and with yourself to make sure they acquaint, fully acquaint those making decisions with some of the pressures and realities of some of the choices that are being made.

Otherwise I think that, you know, I have noted that I see the shift that's brought by legislation to be positive, but ultimately it's going to be how it's implemented and the effectiveness of that implementation, certainly the timeliness of that implementation, recognizing no one's calling for something, you know, to be brought forward that's done in a hasty way that doesn't recognize some of the consequences that may be unintended with the change.

So there's a lot of work ahead yet of government on this front. I look forward to updates and progress, and we'll certainly continue to, you know, engage with Saskatchewan businesses to understand the experience that they're having with this process. So we'll look forward to that and, you know, I would just say again to all the businesses, industry groups, officials, people you've had leading some of these processes, thanks for that engagement.

You know, I've aimed to ensure that we don't come into this committee and have a big, large political dust-up. I don't think we need that. We can do that in, you know . . . And we've done so on this very file in question period and in the rotunda and the public at large.

I will say that I've been pleased to work, and the official opposition has been pleased to work with many Saskatchewan businesses, many industries on that front, many associations in advancing and pushing this matter forward and in making sure that I guess we get to a positive conclusion. And you know, I guess we'll continue to track that progress on that front.

But at this point in time, the changes that are brought forward in this bill are straightforward. There's a lot of work left to be done, and I look forward to tracking that progress. And ultimately we need to arrive at, you know, a system that certainly delivers value for taxpayers but really does ensure fairness for Saskatchewan businesses. I have no further questions.

**Hon. Mr. Wyant:** — Well perhaps I can just quickly, Mr. Chair, just respond to that. I can confirm to the committee and to the member that SaskBuilds is committed to continuing with this work. We have an outstanding group of people not only within SaskBuilds but within executive government and within the Crowns. And I specifically want just to say thank you to them but as importantly, all the industry participants who involve themselves. I mean they come to these meetings. They don't get paid for it. This is an opportunity really for us to learn from them, but they're committed to this and I think it's evident from the fact that they send a number of their professionals, a number of their organizations and representatives from their organizations to participate in this.

And so we've given our commitment that we're going to continue with this process and certainly be transparent about it. We're pretty excited about where this is going, to be honest with you. And I'm very, very pleased and actually privileged to have the people within SaskBuilds, within the ministry and the Crowns and the organizations that are participating in this process. It's been extraordinary.

**The Chair:** — Thank you very much, Mr. Minister, for those comments and your participation in the debate today. Thank you for your questions, Mr. Wotherspoon. Are there any other questions from the committee members? Seeing none, we will move on to voting on the clauses. There's four of them and we will go through these quickly.

Clause 1, short title. Committee members, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 4 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Best Value in Procurement Act, 2015*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. I would ask a member to move that we report Bill 188, *The Best Value in Procurement Act, 2015*

without amendment.

**Ms. Jurgens:** — I so move.

**The Chair:** — Ms. Jurgens moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Mr. Minister, any closing remarks? I know you did it in your last answer but any additional comments?

**Hon. Mr. Wyant:** — Well in addition to thanking our officials from SaskBuilds and from the Ministry of Highways and Central Services, I do again want to thank all those individuals. I do want to thank Mr. Wotherspoon for his questions and his engagement on this file. I'd like to thank the committee for their attendance and for Hansard for participating tonight, so thank you. Thank you very much for your time.

**The Chair:** — And the committee echoes those sentiments. I would now ask a member to move a motion of adjournment.

**Mr. Bradshaw:** — I'll do that.

**The Chair:** — Mr. Bradshaw has moved that. All agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — That's carried. This committee stands adjourned to the call of the Chair.

[The committee adjourned at 16:15.]