



STANDING COMMITTEE ON HUMAN SERVICES

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**STANDING COMMITTEE ON HUMAN SERVICES
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Ms. Judy Junor, Chair
Saskatoon Eastview

Mr. Wayne Elhard, Deputy Chair
Cypress Hills

Mr. Lon Borgerson
Saskatchewan Rivers

Ms. Joanne Crofford
Regina Rosemont

Mr. Don Morgan
Saskatoon Southeast

Mr. Peter Prebble
Saskatoon Greystone

Mr. Milton Wakefield
Lloydminster

[The committee met at 15:00.]

The Chair: — We'll call the committee to order, and the agenda for today is consideration of Bills 24, 18, 19, and 21. And we have with us today the Minister of Justice to start off with the first Bill, No. 24.

If the minister can introduce his officials and make an opening statement if he so desires. And I just want to remind people who speak from the department if they could just say their name the first time they speak for the Hansard people to record that. Thanks.

**Bill No. 24 — The Cost of Credit Disclosure
Amendment Act, 2005**

Clause 1

Hon. Mr. Quennell: — On this first piece of legislation, the official with me is Tim Epp, Crown counsel, legislative services branch. And thank you, Madam Chair. I will make a brief opening statement.

The Cost of Credit Disclosure Amendment Act, 2005 will allow us to implement The Cost of Credit Disclosure Act, 2002. That Act, passed in the spring 2002 session of the legislature, is important consumer protection legislation that will protect consumers against unfair credit practices and ensure that they receive accurate and comparable information which will allow them to make better-informed credit decisions.

The provisions in the Act are harmonized with legislation in other provinces and territories. The Cost of Credit Disclosure Act, 2002 will apply to virtually all lending by provincially regulated lenders including credit unions and retailers who offer credit to individuals who are borrowing for personal, family, or household purposes.

The Act sets out requirements for disclosure of credit terms and also restricts the kind of charges that can be imposed upon borrowers. Specifically the Bill allows consumers to prepay all mortgage loans without penalty and provides an additional right of refund of certain non-interest finance charges when early repayment of a loan is made. In addition the Act contains specific requirements governing advertisements for credit.

Saskatchewan, along with other provinces and territories, has been unable to implement a disharmonized legislation due to problems arising from regulations passed by the federal government which govern federally regulated lenders such as banks. The regulations passed by the federal government do not comply in all respects with harmonization template agreed to by all jurisdictions including Canada.

The federal regulations differ from the harmonized legislation in two areas. One, the federal regulations delete the requirement that lenders disclose an annual percentage rate for lines of credit and instead require only the disclosure of annual interest rate. This difference is significant in that the disclosure of the annual percentage rate under provincial legislation requires that fees or non-interest charges be incorporated into the interest rate, thereby raising the disclosed rate where such charges are

imposed. The federal regulations, on the other hand, allow lenders to simply disclose the basic interest rate without incorporating these changes, resulting in a lower disclosed rate when compared to provincially regulated lenders.

The second difference is that the federal regulations allow mortgage borrowers to waive a two-day cooling-off period without receiving independent legal advice. Provincially regulated lenders in all jurisdictions including Saskatchewan recently argue that these differences would put them at a competitive disadvantage vis-à-vis the banks.

Efforts by the provinces and territories to get the federal government to amend its regulations have been unsuccessful. Accordingly Saskatchewan, along with several other jurisdictions, has decided that in order to avoid any further delay in the implementation of this important consumer protection legislation, it will amend its legislation to conform to the federal regulations on the two points of contention.

Accordingly the Bill removes the requirement for lenders to disclose the annual percentage rate for lines of credit. As a result, the rates of interest quoted by provincially regulated lenders such as credit unions will be directly comparable to the rates disclosed by the banks.

In addition, regulations under the Act will provide that mortgage customers of provincially regulated lenders will be able to waive the two-day cooling-off period without the need for independent legal advice, just as is the case for individuals obtaining mortgages from the banks. The result will be a level playing field for provincially regulated lenders with their federally regulated counterparts.

Even more importantly, the amendments will allow us to now implement this important consumer protection legislation. The amendments to the Act also include provisions which protect consumers with respect to the use of credit cards. These provisions are being moved into this Act from The Consumer Protection Act in order to place all the credit card provisions in one statute as in the case in other jurisdictions.

In addition, there are several amendments of a technical or housekeeping nature which will improve upon the clarity of this legislation. Thank you.

The Chair: — Questions? Mr. Morgan.

Mr. Morgan: — Thank you, Madam Chair. The Bill was introduced some time ago, and I'm wondering what types of comments the department or the minister have received from lenders that are working within the industry, if any.

Hon. Mr. Quennell: — Well, I'll ask Mr. Epp if he has anything to add. But I can tell you that the credit unions in particular who compete for this type of lending with banks in the province have wanted and look forward to having what they would call a level playing field, and so are quite supportive of moving forward and moving forward in a way that makes the rules governing financial institutions, whether provincially regulated or federally regulated, the same.

Mr. Morgan: — I take that answer that you've had no negative comments. And then my question is if there's any supportive comments since the Bill was introduced? And my next question will be, if you want to answer at the same time, is what consultation was done with the industry prior to the Bill being prepared?

Mr. Epp: — Consultations were done on this Bill starting in 2000 and actually during 2000 and 2001, leading up to . . . and when I say this Bill, I guess I'm talking about the 2002 Bill that was passed. There was extensive consultation that took place at that time. There was a group of well over 100 organizations which were kept abreast, through correspondence, of the developments on this legislation and particular communications we had with the federal government through the consumer measures committee in an attempt to have the playing field levelled, if you will.

And that group was specifically apprised of this legislation in early '05, of the '05 Bill. And really the only comments that we've had, I think it would be fair to say that they supported a position that we bring Saskatchewan's legislation into line with the federal regulations even though that wasn't the original scheme, in terms that even though the federal cost of borrowing regulations didn't follow the original scheme.

As the minister has mentioned, the credit unions in the province have been particularly vocal about the differences between the regulations that the federal government passed — you know, one — and what had been agreed to by all parties before that date. And the comments, I suppose if we received negative comments, it would've been only to the effect that they wanted to move us in the direction that we're now taking.

Mr. Morgan: — Okay. What type of entities was the consultation with? You said there were over 200 entities.

Mr. Epp: — I believe over 100 entities of some of the 120-some, and they would have been lenders in the province such as credit unions. It would have included retailers who offer credit. It would have included some consumer groups and consumer associations. It would have also included the mortgage industry, mortgage broker industry, and other entities that offer credit of all kinds in the province.

Mr. Morgan: — Finance companies as well?

Mr. Epp: — Yes.

Mr. Morgan: — Were payday loan companies involved?

Mr. Epp: — The payday loan companies haven't really provided us with any feedback with respect to this legislation. It's important to remember that they are caught by the legislation that's currently in place in terms of disclosing interest rates, just as they would be under this legislation. And really they have not commented to the government in response. They have commented to the government, to be fair, in response to other areas of concern but not with respect to this legislation.

Mr. Morgan: — What areas of concern would the payday loan companies have?

Mr. Epp: — What I'm referring to is the legislation that has been talked about in other jurisdictions, about the criminal rate of interest and those kinds of issues and about whether or not there's a need for other forms of legislations governing payday lending industry in the province.

Mr. Morgan: — How would a payday loan company be different under this legislation than under the previous one?

Mr. Epp: — The legislation wouldn't, wouldn't change its life that much in terms of its obligation to disclose a rate which fairly represented all of the different charges. It would put a greater onus on them to bring all of the charges that they make — what we call non-interest finance charges — into a disclosed rate of interest, an annual rate of interest. So it would have the effect of those lenders having to disclose a higher rate of interest than they currently do.

Mr. Morgan: — That's sort of the next area that I was going to, was the area of the other charges. The scheme of the Act, I take it from reading it, is intended to show an annualized rate for all of the other charges that are there.

And I'm wondering whether the department gave any consideration just to showing those as being a stated rate because when you go through, there's a host of . . . especially one that's secured by a land loan. There would be brokerage fees, legal costs, application costs, commitment fees, standby fees, costs of appraisals, and whatever commitment. Or other fees might be one-off expenses that would all show up in the first year. And if the loan is a relatively short period of time, to show those as being on an annual rate, you could very conceivably have an annual rate in year one that would either approach or exceed criminal rates, but it might be quite an acceptable commercial rate beyond that.

Mr. Epp: — I guess I should ask whether you are specifically referring now to payday lenders or all forms of lenders.

Mr. Morgan: — Well actually all of them, but in particular it's the payday loan companies that are approaching the criminal rate, or what we regard as a criminal rate. And I guess I'm asking in regard to all of them, but those are the ones that I think are at risk of breaching the . . .

Mr. Epp: — I think the important distinction that we need to make at the outset is that the rate of interest for the purposes of the Criminal Code provisions are calculated according to an entirely different formula than the rate of interest required for this legislation. And so whether or not somebody is complying with this legislation doesn't necessarily impact on that formula as it's used under the Criminal Code. They're really two separate and distinct standards.

The whole point of dragging these other charges into an annual interest rate under this Act was the response under the AIT [Agreement on Internal Trade] and the consumer measures committee to have harmonized legislation across the land which would require all lenders to disclose in a similar format.

And so where we now have a situation where some lenders will say zero per cent financing but then add a bunch of administration fees, under this legislation, it will be very clear

that all of those charges will have to be reflected in an annual rate. So that if a person is deciding whether or not to take the financing, for instance, that a retailer will offer as compared to what their bank is offering, those retailers that say zero per cent financing or sell something for a different price to cash customers, all those sorts of factors will now be reflected in one single interest rate.

Mr. Morgan: — But those sums, the fees that are charged are usually a fixed dollar fee. They're not based on a percentage of the loan. So you'll have the same cost whether a loan is \$1,000 or \$25,000. So if you have a small loan, the percentages . . . It doesn't work very good when you're using fixed sum fees on a percentage loan. And it doesn't work well when you look at a multi-year loan.

Mr. Epp: — That's part of the tension in the legislation is trying to come up with a reasonable balance among all of those factors. And what's been done is using the annual percentage rate.

We're following a system that was developed in the European Union and then brought into Canada, agreed upon through the AIT, to introduce harmonized legislation. And this is the formula that we've been left with.

Your point is well taken that on a small loan, a fixed fee will represent a very high interest rate. But there's . . . Two things will result in a high interest rate, two things to take note of there, and one is that open credit. And by now, I'm talking about lines of credit generally. There will not be the obligation to drag those other charges into the interest rates. And that's what really this change is all about. The federal government didn't move in that direction even though everybody had agreed to it.

Mr. Morgan: — That's sort of . . . I don't understand really why . . . I can understand the difficulty in using it on a floating loan to try and annualize it. But it doesn't really make any sense to exclude that type of loan.

To me, it would make more sense to just say these are the fees. We're going to require a disclosure statement to be prepared and signed that said these are the costs that you're going to incur upfront, and this is going to be the percentage on the loan that you're going to pay. And then, you got two numbers that you've got to compare. One is going to be your fees. The other one is going to be . . . I don't know what the thought process was and I'm not necessarily saying you're wrong. And I'm just saying I have a difficult time with the rationale trying to show those as a percentage rate.

Mr. Epp: — The current legislation actually does require us to go through this process, although it's not as all-encompassing as it currently is or it will be under this legislation.

I guess the other point to make is that they still do have to disclose the actual dollar figures. So they had to come up with another number which is called the total cost of credit. And so they will just be armed with one more piece of information that, when you take these fees, this \$60 fee, and apply it to a \$1,000 loan, well in effect you are paying 21 per cent interest — not the 3 per cent that's being advertised or would have been

advertised prior to the legislation.

But at the same time there would be a figure called the total cost of credit at the bottom of the disclosure which would say at the end of the day your total cost of credit would be the 60 plus whatever the interest was on the loan.

Mr. Morgan: — Prepayment penalties on unsecured loans or loans that are unsecured by land will be outlawed under this legislation and I take it that was not done in the previous . . .

Mr. Epp: — That's right.

Mr. Morgan: — So that's a significant change. Was there discussion with the lenders on . . .

Mr. Epp: — Yes, there was significant discussion with lenders on that issue. And generally there was acceptance, I believe, through consultations that took place nationally as well as locally that this was going to be the way of the world and that they would be doing business on this basis across Canada. And they were accepting of it.

Should point out that the one area where that doesn't strictly apply is in the area of lending for agriculture. Now Saskatchewan is somewhat unique. Alberta has moved in this direction as well to include agriculture in their cost-of-borrowing legislation. Saskatchewan has historically included farm lending under this legislation even though it is structured and identified as being consumer protection legislation, not business legislation.

There was some very wide-ranging consultations that took place, not only with the lenders but with the farm industry as well, that resulted in the solution that's reflected in the 2002 legislation. And the regulations that we'll be proposing is that, although with agriculture lending the disclosure will have to be the same as it is for consumer lending, when it comes to prepayment penalties, that particular provision will not apply to agricultural lending.

And that was a fix that was agreed upon by a large group of consultees reflecting the fact that for instance if a farmer were to purchase a very high-end or expensive piece of equipment, that if there was no prepayment penalty interest on a \$500,000 loan, lenders would very quickly be in a situation where those loans would be moving back and forth from lender to lender on a very regular basis because it wasn't the way that that kind of large commercial lending was generally done. But that specific issue was the subject of some fairly extensive consultations with the farm industry.

Mr. Morgan: — The purpose of a prepayment penalty is generally so that if you are investing money in a loan . . . If you are say a person that banks at a credit union, that you buy a five-year term certificate at 10 per cent, you know that the credit union is going to be able to lend the money out at 11 or 12 per cent, and they make their money on the spread between them. If you ban the prepayment on those loans, how does the lending institution match its loan portfolio with its depositor portfolio?

Mr. Epp: — I guess the short response would be yes, we've

had considerable consultations with the credit unions with respect to that issue, and they haven't raised it as a concern. I think likely because of the way the credit union industry is structured today, they've perhaps to some extent moved past the point where they have to do that kind of very tight analysis on returns on their loans and look at things in a little more global sense.

Mr. Morgan: — What about other finance companies?

Hon. Mr. Quennell: — And this legislation is paralleling what is being done in the federal legislation around banks. So the credit unions, the finance companies that are regulated in the province will be again on a level playing field with the banks in respect to this provision, that the prepayment penalties for non-mortgage loans won't be in existence.

And I guess it'd be an advantage for the credit unions and the finance companies that they could collect the prepayment penalties the banks can no longer collect. But in the interest of a level playing field and harmonization across the country, these rules are being made the same.

Mr. Morgan: — Am I to understand that there is no opposition from within the lending industry on this, or there's a general acceptance?

Mr. Epp: — Yes, I think that's certainly fair. The concern that they had with the 2002 legislation stemmed from the fact that the federal regulations that had come in were not the same as the legislation introduced in Saskatchewan and other provinces across Canada. At this point in time, we haven't had much opposition simply because there's been a recognition of the fact I think since 1998, and perhaps even earlier, that this was going to be the lay of the land.

Mr. Morgan: — So if we support this Bill and we hear from lenders later on that are adversely affected, we can say we supported it and we relied on the minister and his officials who told us that they had consulted extensively with the industry and the industry was supportive of this.

Hon. Mr. Quennell: — And we would rely on those consultations.

Mr. Morgan: — Okay. So I'm taking that your answer is yes, that that's a fair statement that there was consultation and the industry is not opposed to this.

Hon. Mr. Quennell: — I assume that Mr. Epp's understanding of the result of consultations is correct.

Mr. Morgan: — Fair enough. I just want to be abundantly clear on that because what we have under this legislation is that some of your lenders are giving up. I haven't heard from lenders on it. But I just want to make sure that nobody else has because if there is issues, now's the time to deal with it before we entrench it in legislation.

Hon. Mr. Quennell: — On the issue of harmonization, we are striving to have similar rules not only for banks and provincially regulated institutions but similar rules across the country.

Alberta's had this legislation and these provisions that we've just been discussing in effect — since what, 1999? — 1999. Alberta gave up on the federal government perhaps more quickly than we did. We have now finally given up. And I don't know if that's a fair way to characterize it, but these provisions have been in place to the province to the west of us for some period of time.

If provincial lenders were to complain about these provisions, they would be complaining about provisions that had been in place in other provinces — and other provinces where some of those lenders also have operated for some period of time with those rules.

Mr. Morgan: — Well I appreciate the point you're making. My concern wasn't what Alberta's doing. My concern was whether we've heard from people in Saskatchewan adversely. And if your official tells us that the consultation has taken place and they're accepting of this — that the discussion is there — then I'm comfortable with it. If the opposition is still there, then we may want to spend some more time with this.

Hon. Mr. Quennell: — Well the opposition isn't there, and I was just simply trying to add some more information about where this legislation is already in effect.

Mr. Morgan: — Well I'm relying on your representations to us that the opposition isn't there, or that it's been satisfactorily addressed.

In 2002 there was the earlier Bill that was passed. And how many other provinces were in the same position and have had to redo their legislation?

Mr. Epp: — I wish I could give you a straight answer. I think the number is probably approximately five. However many of the other provinces had put more of the detail of their legislation into the regulations, and that meant that it required only amendments to proposed regulations in those jurisdictions.

But as matters now stand, Alberta's legislation, as I indicated, had it been in place even before the federal regulations came into place . . . British Columbia has legislation which is patterned on this as of January '06. They had to make some changes. As well New Brunswick made some changes. Ontario made changes to proposed regulations, and we believe Manitoba as well. And we believe that the rest of the provinces will be following suit in due course.

Mr. Morgan: — The regulations allow for certain agencies to be exempted. I'm wondering why that was included in the Statute — to allow the regs to exempt people — and who might be exempted in the regulations.

Mr. Epp: — The kinds of entities which have been exempted in the past, for instance in Saskatchewan we bring agriculture into . . . provide farmers with the protection of the legislation by bringing them in through the regulations. And I think the reason for using that approach was that the template on which the legislation was based was one that was developed by the Uniform Law Conference of Canada. It was meant to apply to all provinces. And the industry is different enough in some jurisdictions that there were certain exemptions that had been

continued historically.

Generally speaking under this legislation we're not looking at a large number of exemptions. There might be exemptions for some specific programs in housing, housing programs as well, which in effect end up creating some lending, but they have their own sets of rules which don't nicely mesh with the provisions in the legislation.

Mr. Morgan: — Would it be your intention to have the Bill passed and proclaimed before the regulations are done, or is this one that would wait until the regulations are done?

Hon. Mr. Quennell: — Wait for regulations.

Mr. Morgan: — What would the timeline be for that?

Hon. Mr. Quennell: — Probably looking at fall of this year.

Mr. Morgan: — Fall of '06 for the regulation?

Hon. Mr. Quennell: — Yes.

Mr. Morgan: — Okay. In the meantime the existing legislation is still in place.

Hon. Mr. Quennell: — Yes.

Mr. Elhard: — Gentlemen, if I understood you correct, the prepayment penalties are being removed from credit unions and other lenders, but those prepayment provisions are not available to farm or agricultural loans, specifically machinery loans. Is that something that is broad based, or are those limitations just being put on companies that specialize, financiers who specialize in agricultural loans?

Hon. Mr. Quennell: — The Act eliminates the prepayment penalties, that the industries — agriculture industries, livestock industries — will be exempt. It's not dependent on who the lender is. So to answer Mr. Elhard's question, I think it could be a lender that primarily lends into a consumer market in Swift Current and is making a loan to a feedlot. It's the loan that is different in that a prepayment penalty would be allowed, and it has nothing to do with who the lender is. It's the industry that's being loaned to.

Mr. Elhard: — Would you be good enough to walk through for me once more the rationale for the exemption that's specific to agriculture loans, agricultural-related loans?

Mr. Epp: — The Bill generally as it applies across Canada in the form of harmonized legislation in other jurisdictions prohibits prepayment penalties for the protection of consumers generally because it was believed that that was a step the industry needed to take and that legislation needed to take in order to protect consumers.

In Alberta as well as Saskatchewan and a few other jurisdictions historically, such as PEI [Prince Edward Island] and to some extent Quebec, this kind of legislation has also applied to and the term in the legislation is farm, ranch, or feedlot operations, and that's as is the case now. However what this Act brought with it is the prohibition against prepayment

penalties.

And the consultations that we had with the agriculture industry, lenders as well as some of the producers and marketing groups, was that there was a recognition that that would work a significant hardship in terms of lending in the agriculture industry. Because typically that lending — particularly for larger dollar loans, and it is done on a more commercial basis — it's not really looked at by the lenders as consumer lending. It's business lending.

And it was believed that in the absence of prepayment penalties that lending wouldn't be, it wouldn't be effective. It would end up being reflected in higher rates for instance by lenders — that they were concerned that it would prohibit them from doing the lending that they wanted to do in the agriculture industry.

The other important aspect there is that the banks don't have that restriction with respect to lending for farm purposes because they don't have that same provision in their legislation. And so again it was a level playing field kind of a situation where the same agriculture producer might be subject to prepayment penalties at one institution and not at the other. And so in order to level the playing field, both for I suppose the lender and as well the borrower, it was felt that that was a reasonable fix.

Hon. Mr. Quennell: — If I could maybe restate that and Mr. Epp can correct me if I end up just muddying the water.

As I understand the history here, we have consumer protection legislation which this largely is — protection of individual consumers around borrowing. So we have the consumer borrower and then we have the business borrower. And then in the West, and perhaps some other provinces, we've had sort of a hybrid, the agricultural borrower, who is to a certain extent a business borrower but has been treated something like a consumer borrower, for certain purposes, in some provinces including Saskatchewan.

And so agricultural borrowers would receive some of the protection of this legislation, but not all the protection of the legislation to the extent that they're seen as business borrowers and certainly business borrowers by the federal legislation. Is that a fair statement?

Mr. Elhard: — As opposed to separating them out because of the type of industry they're involved with, would it have been possible to achieve the balance of freedom versus limitations or concerns that you're trying to address, on the basis of a dollar amount? If a loan was at a certain level, it had the protections of the Act in one area. But if was over, it had the limitations of the Act in another area.

Hon. Mr. Quennell: — Mr. Epp tells me that that was one of the considerations. Mr. Elhard's suggestion was one of the considerations that was discussed with the lending industry but also with the agricultural industry, and ultimately, I guess, rejected in favour of going with this system, which also has the benefit of being the option the federal government took with the banks.

Mr. Elhard: — I guess I'm just concerned with the

implications of this type of change for an industry that's under a great deal of duress financially. And if an individual's fortunate enough to have money on hand to prepay a loan to limit his liability, his financial liability, this legislation will penalize him for that. And you know, I think that that's where my concerns would rest with this particular change.

Hon. Mr. Quennell: — And you know, I share Mr. Elhard's concerns about the state of the agriculture industry which we discuss — quite properly — daily, I think, when we're sitting in the legislature. This is not a new burden being put on agricultural producers. Prepayment penalties were always allowed, are allowed today for loans to agricultural producers. So this reflects no change.

This is a change for consumers and it was a change for consumers, so a benefit to them; to individual borrowers for family or household purposes. It's a change and a benefit to them that was discussed certainly in the consultations apparently, to extend to agricultural producers who have not had it up to today. And the balance of the consultation seems to be that that might do more harm than good to the industry by restricting credit.

And this is always a difficulty where sometimes you think you're putting in something for the benefit of borrowers who, in the case of farmers, can be quite sophisticated, and it only makes . . . actually makes life more difficult.

Mr. Elhard: — On a daily basis, I think individuals in the ag sector have to judge whether they are consumers or businesses. I mean every day there's a decision made sort of on that basis, so . . .

And I guess the other thing, other comment I'd like to have on the record is that having met with credit unions on a pretty consistent basis over the last number of years, it seems obvious that the credit union movement really does want to be treated as an equal — not partner — but an equal to the banks, to the chartered financial institutions. The credit union movement has matured to a point where it is performing a financial service to this province and to other areas that is equivalent to banks, and for that reason I can appreciate the fact that they want the levelling of the playing field accomplished. Unfortunately when you do that, you have to take the good with the bad, and the levelling of the playing field may not always be advantageous. It can come with some negative consequences as well.

So having satisfied our lead critic on this particular piece of legislation, I have no further questions.

The Chair: — Mr. Morgan.

Mr. Morgan: — Madam Chair, I don't think there's any more questions from this side, and we'd be ready to vote the Bill. And given the length of the Bill, if you wish to vote it en masse, that would be in order.

The Chair: — Thank you. Minister.

Hon. Mr. Quennell: — Madam Chair — if I may — first of all, I take Mr. Elhard's point about a number of farm families being ambivalent about whether their borrowing is for personal

consumption, for business reasons, depending on how things are going at that time on the farm. And this is an issue of balancing the interests of agricultural producers and their financial institutions so that it is a win-win situation. I think that's something we always have to be willing to come back to again. So that was my first comment.

My second comment is in respect to the payday lending industry. And I want to advise members of this committee that in my view, this Bill hardly ends the discussion. And there are a number of provincial governments — and this is one of them — who believe that the provision in the Criminal Code respecting interest is an impediment to an efficient and rational regulation of the payday industry. And as a group of ministers responsible for consumer affairs, we've been encouraging the federal government to do, among other things, repeal that section of the Criminal Code — that we should not be regulating interest through the Criminal Code — so that we could have a more rational regulation of the payday industry across the country. I'm hoping that eventually the ministers responsible for consumer affairs, who have not met for over two years now, will meet again to discuss this issue among other issues. And we will . . . we'd be returning to this committee I expect and I hope soon to talk about how to effectively, efficiently, and fairly regulate that industry.

Mr. Morgan: — Madam Chair, this is one of the rare instances where I'm in complete agreement with the minister on that point. It's probably a sign that I'm getting tired and missing something of major importance. In any event, I would like to thank the officials for coming out, and appreciate and value their input and ready to proceed.

The Chair: — No further questions. Then short title clause 1, is that agreed?

Some Hon. Members: — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 17 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: An Act to amend The Cost of Credit Disclosure Act, 2002 and to make consequential amendments to another Act.

I now need a motion to move this Bill without amendment. Mr. Prebble.

Mr. Prebble: — I move that our Human Services Committee recommends this Bill without amendment.

The Chair: — Thank you. All in favour. Agreed.

Thank you to the minister.

Bill No. 18 — The Securities Amendment Act, 2005

The Chair: — Now the next Bill is also a Justice Bill, No. 18, The Securities Amendment Act, 2005. The minister has a new official and a statement if you want to.

Clause 1

Hon. Mr. Quennell: — Thank you, Madam Chair. I've been joined by Barbara Shourounis, director of securities division, Saskatchewan Financial Services Commission. I do have a brief opening statement.

The Securities Amendment Act, 2005 reflects Saskatchewan's commitment to participate fully with other provinces and territories in the implementation of the second phase of the passport system of securities regulation. The passport system is based on a memorandum of understanding signed in September 2004 by all provinces and territories, with the exception of Ontario, to create a system of securities regulation that would provide a window of access to capital markets that would utilize highly harmonized, streamlined, and simplified securities laws.

The first phase of the passport system was completed earlier this year by the adoption of national instrument 11-101, principal regulator system by Saskatchewan and other provinces and territories. These new provisions allow market participants to use the regulator in their home jurisdiction as a single window to access other jurisdictions for prospectus clearance and continuous disclosure requirements.

This legislation represents a second phase of the process which will facilitate an expansion of the passport system into other areas where the securities laws in Canadian jurisdictions are not fully harmonized. In essence, this legislation provides a platform upon which further streamlining and simplification of Canadian securities regulation can be built. This Bill is harmonized with legislation that has been or will be passed in all Canadian provinces and territories and represents an important next step in securities reform in this country.

A Saskatchewan corporation wishing to raise capital will be able to sell securities to all Canadian jurisdictions simply by meeting the requirements of the Saskatchewan Financial Services Commission. With this legislation, Canadian securities regulators will be able to create a system where corporations which are based in other provinces and territories will be able to enter the Saskatchewan marketplace by meeting the requirements in their home jurisdiction.

The amendments represent an important part of the creation of a regulatory environment in Saskatchewan and across Canada which will reduce complexity and costs, foster greater investor confidence, and make Canada's capital markets more competitive with markets around the world. Thank you.

The Chair: — Questions? Mr. Morgan.

Mr. Morgan: — Thank you, Madam Chair. I understand that Ontario is supportive of a single regulatory body. I'm wondering if you can tell us what other provinces are supportive.

Hon. Mr. Quennell: — Only Ontario. The supporters of the single regulator model prior to the last national election were the federal government and Ontario. I don't know what the position of the new federal government is.

Mr. Morgan: — Is it appropriate, given that we have a new

federal government, to proceed with a Bill that may well have to be amended or dealt with later on if the new government is not supportive?

Hon. Mr. Quennell: — Well the only conceivable change is that now we will have a government that is supportive of this model where we didn't have one before. I don't know if that's the case, but that's the only conceivable change.

The 11 provinces that support the passport model were proceeding to implement this model despite the disagreement of the federal government. There is no reason why we wouldn't move forward with the agreement of the federal government.

Mr. Morgan: — Perhaps one of your officials can tell us a little bit about the passport system.

Ms. Shourounis: — The fundamental underpinnings of the passport system would be that it would involve one law and one decision. So that if for example a company wanting to make an offering of securities in all the provinces and territories of Canada would be able to file their documentation with one jurisdiction and comply with the laws of that jurisdiction and receive the decision of that jurisdiction, and that would be good to proceed or give them authority to proceed with the distribution in all jurisdictions.

The Chair: — Before you go any further, can you state your name for *Hansard* please?

Ms. Shourounis: — I'm sorry. My name is Barbara Shourounis.

Mr. Morgan: — Would that make redundant portions of our staff in our securities office now?

Ms. Shourounis: — No. It will reduce the number of staff required say for registration, but we have needs in other areas. For example we would like to be more proactive with investor education to teach investors how to protect themselves better. So we would shift for example if we needed . . . We've got two now. If we needed one, I already have plans to convert that into an investor education position.

Mr. Morgan: — If a person had a . . . Saskatchewan corporation had a prospectus, where would they file it under the passport model? Would they file it in Regina?

Ms. Shourounis: — They would file it as they do now on a system, an electronic filing system called SEDAR [system for electronic document analysis and retrieval]. They would file it with all of the jurisdictions because that would trigger payment of fees with those jurisdictions. But under the passport system, they would have to comply only with Saskatchewan law and only receive the receipt from Saskatchewan. Now they have to receive receipts from all of the jurisdictions.

Mr. Morgan: — . . . with this model, where would the review and approval process take place?

Ms. Shourounis: — If we were principal regulator, it would take place in Saskatchewan. If it's a Saskatchewan-based company we would be principal regulator.

Mr. Morgan: — Would at some point in the future we look to having a single regulator for all the provinces that have signed on, that we would contract the review and approval process to somebody else?

Ms. Shourounis: — It's not currently contemplated, no.

Hon. Mr. Quennell: — That's perhaps a question, Madam Chair, that I should address. There is discussion at the meetings of ministers responsible for securities about the possibility that the passport system conceivably could evolve into a national single regulator. There is outside of Ontario no support for going immediately to such a regulator, and governments across the country have similar concerns about that model. What we do recognize is that we need harmonized legislation, and we do need a single window so that a Saskatchewan company can register across the country. A company outside of Saskatchewan can register within Saskatchewan by dealing with their principal regulator in their jurisdiction.

Mr. Morgan: — The minister refers to a principal regulator. A lot of corporations or corporate entities will carry on business in a number of jurisdictions or want to carry on in a number of jurisdictions. Will this model lead to people wanting to shop jurisdictions for the regulator that they feel will be the easiest to get along with or structure their affairs that the first office they open is going to be in the province that they feel is going to have the easiest time?

Ms. Shourounis: — No. There currently are, under our current systems which are short of one law, one decision, and there will be the same provisions in place under the passport systems that the principal . . . There will be a criteria for choosing the principal regulator of a company, and the main one will be where the head office of that company is based and where the most meaningful connection is.

Mr. Morgan: — But that could vary. You could have for example a company that's doing fast foods may choose to have its head office in Toronto or Calgary and may have directors and investors in all provinces, and they'll say, well we'll start in one jurisdiction or the other because we think it's easier.

So my question is whether we're better off to move more aggressively towards a single regulatory body rather than a lot of jurisdiction shopping or the various disparities that exist now.

Ms. Shourounis: — Well I would submit that there are currently in place and will be in place criteria to prevent jurisdiction shopping.

Hon. Mr. Quennell: — It's a practical matter. There is practically, outside of Ontario, a national consensus against the single regulator model. And it's just not likely without significant changes on the part of the views of the governments of Alberta, British Columbia, Quebec, who . . . And I mention those provinces because both security markets are comparatively larger in those provinces and the belief in the passport system is also very strong in those jurisdictions.

Mr. Morgan: — This Bill has no proclamation date specified in it, so it would come into force on proclamation rather than on

passage. What would be the anticipated proclamation date?

Ms. Shourounis: — I think it could be May 1.

Mr. Morgan: — Of this year?

Ms. Shourounis: — Yes.

Mr. Morgan: — Will it be necessary for regulations for this legislation as well?

Can the minister or one of the officials tell us about the consultation that's been taking place with the brokers and security sellers in the province?

Ms. Shourounis: — There has been no consultation on these provisions. They are technical in nature, and what they do is they give us, the regulators, a tool box full of different ways that we can build different systems, different passport systems for prospectus or registration or whatever. They are likely to be different in each of those areas. That's why there are a number of different ways or legislative provisions giving us powers to build these systems in a number of different ways.

And because of their technical nature, we have not consulted on them. But when we get to the next stage of actually building the systems based on these tools, we would consult at that stage because they will have . . . it will be more meaningful to them and their input of course will be necessary.

Hon. Mr. Quennell: — But, Madam Chair, I would say in respect to the principle of passport, from the discussions that I've had and the people that have raised these issues with me within the province, within the industry, there is strong support in Saskatchewan — as I believe there is throughout Western Canada — for the passport system in principle. And many people involved in the industry in the West are concerned that a single regulator means a Toronto regulator. And that is in a nutshell I think the cause of support in the West by the industry and part of the reason why certainly all the western governments support the passport system.

Mr. Morgan: — I wondered where the legislation came from. Is it modelled after one in another jurisdiction?

Ms. Shourounis: — It's based on the uniform securities law that was developed by the Canadian securities regulators. Alberta took that, the uniform securities law provisions, and developed amendments to their own legislation. And we've based these amendments on the Alberta amendments.

Mr. Morgan: — Have other provinces done the same thing, other than Alberta and Saskatchewan?

Ms. Shourounis: — Yes. Provisions are in force in Nova Scotia and close to being in force in Manitoba if they aren't already. BC [British Columbia] has just recently introduced amendments as well to their legislation based on the Alberta provisions with further amendments.

Mr. Morgan: — Madam Chair, my concern with this Bill — and we're prepared to go forward on it today — is we have Canada's largest province not supportive of this model. And we

have a new federal government, and my concern is that we may be back with another system or back at the drawing board again at some point in the future. But I realize that in all likelihood the status quo is holding us back, so if we want to be progressive we're going to have to adopt this. But my concerns were the things that are beyond the ability of our province to deal with. In any event . . . [inaudible] . . . from my colleagues.

The Chair: — Mr. Elhard.

Mr. Elhard: — Thank you, Madam Chair. I think maybe the minister has indirectly answered my question.

Would the antipathy toward a single regulator be somewhat abated if the chances of that single regulator being located in Vancouver for instance or Winnipeg for instance wasn't more likely than Toronto?

Hon. Mr. Quennell: — There have been attempts by I think the federal government and by the Ontario government to reassure provinces that the issues of regional control and regional regulation and regional representation can be addressed within the single regulator model. Those attempts have not been successful.

As to a change of consensus, Ontario was on side with this model, with the passport model, until the last provincial election changed the government in Ontario. And to be fair to Ontario and to this model, Ontario is also working towards having harmonized legislation so that we can work together, that Ontario is not providing passive resistance and not impeding moving towards a national system.

And as a matter of fact, the Ontario government is hosting the next meeting of the ministers responsible for securities, anticipated to be in June, which may seem a little ironic since they're offside on the MOU [memorandum of understanding]. But all of the provinces including Ontario are doing what they can to make securities regulation work, although different provinces may have a different view as to what the regulator would look like at the end of the day.

Mr. Elhard: — If I'm not reading too much into your comments, is it possible that you're optimistic Ontario will come on side fully as this process unfolds with the co-operation and agreement of most of the other governments in the country.

Hon. Mr. Quennell: — Well my crystal ball isn't better than anybody else's, I don't think.

I think Ontario will continue to work with the other provinces in harmonizing legislation and making the securities regulation systems work. And I, I believe that the passport system will win out because of the national consensus or near national consensus. And then in effect Ontario, in both the spirit of co-operative federalism but also in a spirit of real politic about wanting a working system, will continue to be part of that system.

Mr. Elhard: — In my own view as limited as it is in this particular area which is very specialized and unique, it seems to me that what will serve the best interest of the country as a whole ought to be, ought to be the consideration that is given.

And if this particular passport system will achieve that, fine. If a single regulator might better achieve that objective, I would hope that, you know, some of our parochialism would be overcome.

And I'm not going to second guess the capability of this system, the passport system. I'd like to see it work. I'd like to see if it achieves the kind of objectives and goals that are necessary to make Canada a more vibrant and exciting place in which to invest and do business. But if it doesn't work as satisfactorily as we would hope, then I think that we need to look at another solution. I hope we'd be prepared to look at another solution.

Hon. Mr. Quennell: — I tend to agree. First of all, I agree with Mr. Elhard — and maybe not for the last time today — and specifically on the importance of the national interest, and particularly when we're talking about a national economy in an international, global world.

Secondly, I tend to the view that it's more important that the country works than that the country makes sense. And if we have to modify the model to make the model work, then I'm in favour of a system that works as opposed to somebody winning and having pure passport or somebody winning and having a national single regulator.

And I think there's a lot of goodwill on the part of the Ontario government, on what they're willing to call a national single regulator, to obtain the co-operation of the entire country and end up with a system that works. In the meantime, wherever we're going to end up, what we're doing now is a necessary and good step.

Mr. Elhard: — I think that you refer to this legislation as harmonizing legislation. Is it more explicit than that? Is it a template? Are the other jurisdictions that are going to move into the passport regime passing or introducing and passing identical legislation to what we're being asked to deal with here today?

Ms. Shourounis: — Yes, the other jurisdictions are passing identical legislation except for British Columbia. And they've taken a good hard look at it and they think that they can tweak it and give more flexibility, so they're taking the basics and adding to it.

We're going to have to have a look in the next round of amendments to The Securities Act to taking the British Columbia enhancements as Alberta has done. In fact it's amended the provisions that we're basing these amendments on. It just introduced those this week. So in the months to come, we'll be looking at the Alberta and BC amendments, and we may be back perhaps in the fall seeking further amendments to these provisions.

Mr. Elhard: — Thank you.

The Chair: — Mr. Wakefield.

Mr. Wakefield: — Just a couple of quick questions, Madam Chair, just for clarification. And maybe I missed it. But what is, in your opinion, what is the reason for the reluctance of some of the provinces — Ontario is an example — for not following along with what sounds to me like a commonality?

Hon. Mr. Quennell: — Well as I said, the view changed with the change of government, first of all. It's not been a position that's been held by successive Ontario governments; it's a position held by the current Ontario government. And, to try to put it fairly, it's not a position I hold — so it's a position of my colleague from Ontario and the Government of Ontario — but that what we are enacting in the passport system is cumbersome and involves, you know, 13 different regulators and isn't the type of system that other industrialized countries have in place where they would have a national single regulator. I think there is more variety amongst countries, particular federal states, about how they regulate in the area of securities than that position suggests. But that's the Ontario position, is that it would be simpler, and particularly simpler for the investor from outside of Canada to see a single national regulator.

Mr. Wakefield: — With that in mind then, Ontario would likely feel that they have a superior position or a more attractive position to attract investment through securities. Would that be right?

Hon. Mr. Quennell: — Well Ontario is one province with a relatively large capital market, and that's I think the appeal of Ontario, is that the capital market is already there. Ontario is in the same position as every other province. They have their own securities commission. They have their own regulator. And they are I think in good faith working with other provinces to harmonize across the country.

Mr. Wakefield: — If I was an investor and wanted to get involved in needing the protection of The Securities Act would I be attracted to Ontario rather than Saskatchewan?

Mr. Quennell: — Madam Chair, I think Mr. Wakefield will be attracted to where he could make the most money, which might not be Ontario these days.

Mr. Wakefield: — Well yes. I guess that's the point I'm saying. Investors tend to invest where it's the best return and part of investing is the securities regulation. So I'm wondering is it really a problem then to have investors shop around for the best advantage they can get?

Hon. Mr. Quennell: — Well the rules and the laws are to be the same across the country, so you won't be able to shop around for different rules or different laws. What is anticipated is that we will have a national system with national laws but enacted by the provincial legislatures.

I think all the governments — the Alberta government, the British Columbia government, the Quebec government — all believe that they have sophisticated regulatory systems and that they have mature commissions and mature capital markets and that you're not investing in some jurisdictions in the world where you can't trust the lawmakers, you can't trust the rule makers, you can't trust the rules, and you can't even be sure you know what they are. That's not the case anywhere in Canada.

Mr. Wakefield: — Just one follow-up, Madam Chair. Has there been any maybe not direct consultation but certainly awareness of US [United States] legislation and securities because capital and investments flow like water and very easily

without passports, without borders.

Ms. Shourounis: — We pay very close attention to what's happening in the United States. There was a very strong reaction to the large corporate failures in the US, Enron being the prime example. With the passage of the Sarbanes-Oxley Act in the US, it created new requirements for companies. They are required to have audit committees, required to have their CEOs [chief executive officer] certified, disclose the material they were sending out. And Canadian regulators felt very strongly that we had to have equally robust provisions and system on the Canadian side of the border, so we adopted those provisions and made them into rules.

We also have a system, a kind of a passport system, between the US and Canadian regulators so that say for example IPSCO is a large issuer that issues regularly in the United States and raises capital there. And under it's called a multi-jurisdictional disclosure system, and IPSCO can follow Canadian securities laws and make its disclosure according to Canadian securities laws and make offerings in the US. So we already have those passport systems in place across the border for large companies.

The Chair: — Seeing no further questions then. Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 22 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: An Act to amend the Securities Act, 1988. Can we have a motion to move this Bill forward without amendment? Mr. Prebble.

Mr. Prebble: — I so move.

The Chair: — Thank you very much. Is that agreed?

Some Hon. Members: — Agreed.

Mr. Morgan: — Madam Chair, I would like to thank the minister and his officials for having been here today. It was a pleasure with the assistance of the officials.

Bill No. 19 — The Trustee Amendment Act, 2005

Clause 1

The Chair: — Next then is a Justice Bill, Bill No. 19, The Trustee Amendment Act. And the minister can introduce the new officials and give an opening statement if he so desires at this time.

Hon. Mr. Quennell: — Thank you, Madam Chair. I am joined by Tony Koschinsky, Crown counsel, Saskatchewan Justice civil law, and Madeleine Robertson, Crown counsel, legislative services branch. And I have the briefest of my brief opening statements.

The Trustee Act is legislation that sets out certain rules respecting the administration of trusts. The proposed amendments clarify the law relating to trustee liability and the responsibility of the trust fund and the trustees if a trustee is sued. The amendments have been requested by pension board members who are concerned that they may be personally found responsible for their actions. Trustees volunteer their time and skills to the benefit of the trust and should not have to fear personal bankruptcy as a consequence of this volunteer activity. The legislation will make funds available to pay legal costs. If a trustee is found not to have acted honestly and in good faith, the provisions require the trustee to reimburse the fund. Thank you.

The Chair: — Questions. Mr. Morgan.

Mr. Morgan: — Thank you, Madam Chair. Is this legislation being put forward in other jurisdictions as well?

Mr. Koschinsky: — As the Chair requested, I'll introduce myself again — Tony Koschinsky from the Justice department.

The trust law in Canada is quite diverse. We've got different models for trustee legislation in all of the various different provinces. I don't believe that there is exactly this kind of wording being inserted in any other trustee Act in the country at this moment.

However I would add that trustees at law have a fiduciary relationship quite similar to that imposed upon directors of corporations. And we are seeing in other jurisdictions — and will be seeing in this jurisdiction as well — a movement towards having similar provisions put in place for the protection of directors who have similar obligations and similar worries about the fear of personal liability. So to that extent, we are not swimming upstream against the river. We are moving with the times.

Certainly the provisions of section 57 dealing with reliance upon officials and advisors is something that may well already be the law in the common law as it relates to trusts. We're simply enshrining it in Statute to make sure that it's there and it's clearly able to be seen by people who are trustees so that they have certainty when they are discharging their duties.

What we are adding that is completely new to this jurisdiction is the notion of permitting that advance for the payment of legal fees to trustees. As matters stand, they would not be permitted to give themselves an advance out of the trust monies because that would be something for their own personal benefit. And by letting them have an advance, it will hopefully permit trustees not to have the fear of being sued affect their decision-making process.

With that comment, you know, I'd like to just tie the two provisions together. They're part of a, what I've sometimes called a governance revolution that's taken place over the last number of years where corporations, trust bodies, and organizations are finding better ways to govern themselves and put in place processes that lead to good decisions being made. And if they make good decisions, the chances of liability is being reduced.

By encouraging and ensuring that they put in place provisions

for getting good advice and then in turn relying upon that advice and acting in the best interests of the members of the trust that they're responsible for, there should be a reduced potential for personal liability. But then if that lawsuit does show up, the ability to have an advance to pay for the legal fees would provide some comfort. I got long-winded. I'm sorry.

Mr. Morgan: — The net losers of this will be the beneficiaries of the trust because they're actually being precluded from an action or potentially being precluded from an action against the trustees.

Mr. Koschinsky: — They could be. The trustees' duties aren't being really limited. Arguably if the trustees are acting in good faith and have good governance processes in place, they will be getting advice. Trustees can't be expected to know everything. But they can be and they should be expected to get good answers and get advice and information when they don't already bring it to the table.

Mr. Morgan: — Can you tell us what specific Saskatchewan cases prompted this legislation?

Mr. Koschinsky: — There weren't any. This was brought forward by a movement by trustees on pension boards who brought to the attention of people who were appointing them that they may not be prepared to sit. The decisions that they're making involving millions of dollars — sometimes billions — leave them open to the potential that a lawsuit could cripple them. I mean the kinds of dollars at stake are such that none of them could meet a judgment. But more importantly, the very cost of defending it could result in them ending up being bankrupt.

The impetus then is to provide for some certainty. So they still have the duty to act in good faith, in the best interest of the plan members. But in the event that there is a lawsuit and the board . . . Again acting on advice, if the board of trustees determines that this is a lawsuit that they may well end up having to reimburse the legal fees for because it's likely going to be successful, it allows the board to give an advance to cover the legal fees.

Mr. Morgan: — Madam Chair, this Bill strikes a balance that will promote volunteerism, promote a willingness on the part of members of the public to sit on pension boards or other boards where they're empowered to hold or retain large sums of money. And it doesn't take a particularly big entity to have large sums of money under their control. Even a small pension board from somebody that's sitting on a school board can have many millions of dollars in it. So there's some significant protection given to these people here.

There's also the issue of prepaying legal costs. Litigation in our province can become very protracted and very expensive and having the ability to fund that will allow somebody a greater comfort level before letting their name to stand.

Our concern as an opposition party should be . . . is that it may limit the right of a beneficiary of one of these trusts to advance a claim against them. But I think what this Act does is it clarifies what likely is the existing common law and probably does not do a great deal to limit it but does allow for some

reasonable protection.

I don't have any further questions. I don't know whether my colleagues do.

The Chair: — Seeing none then, clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 5 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: An Act to amend The Trustee Act. I need a motion to move this Bill forward without amendment.

Mr. McCall: — I so move, Madam Chair.

The Chair: — Mr. McCall, thank you very much. All agreed?

Some Hon. Members: — Agreed.

The Chair: — Thank you. Thanks to the minister and his officials.

Hon. Mr. Quennell: — Thank you as well.

Bill No. 21 — The Boiler and Pressure Vessel Amendment Act, 2005

The Chair: — The next Bill before the committee is Bill No. 21, An Act to amend The Boiler and Pressure Vessel Act, 1999. We have the Minister of Corrections and Public Safety here. If the minister can introduce his officials and if there's an opening statement to the Bill, please do so now.

Clause 1

Hon. Mr. Yates: — Thank you very much, Madam Chair. I have with me today three officials from the department. My deputy minister, Terry Lang, is sitting to my right. And to my left is Brian Krasium, who is the executive director of licensing and inspections — and I hope I've pronounced his name right. And sitting behind us is Karen Lautsch, who is the executive assistant to the deputy minister.

As far as opening remarks, I have no opening remarks. The changes to this Bill are largely administrative and housekeeping, and I'm prepared to take questions.

The Chair: — Questions then. Mr. Toth.

Mr. Toth: — Thank you, Madam Chair, and welcome to the minister and his officials this afternoon to this discussion around Bill 21.

Mr. Minister, in your second reading speech and the introduction of the Bill in the Assembly, you mentioned that The Boiler and Pressure Vessel Act was passed in 1999 and it's still awaiting Royal Assent. And you indicated that the reason

that it's awaiting Royal Assent was because of the need to and the time frame to develop and finalize supporting regulations. And you also indicated that supporting regulations had been discussed and shared with key stakeholders. And I think at that time you indicated as well that you anticipated regulations would be brought forward in 2006, or the spring of 2006.

Since the Bill has come forward we've had some people that have contacted us, and some of the major concerns they do have — and while they don't necessarily reflect directly to the legislation before us — is there's a number of concerns in regards to the regulations as to where they're at, how are we coming as far as coming forward with those regulations. And I believe it was the antique boilers group were quite concerned that they hadn't . . . they just didn't feel . . . The indication was they really hadn't received the consultation that they anticipated or thought they would receive.

And so I guess I'd like to know, Mr. Minister, exactly where we're at in regards to the regulations. When might they be implemented? Would it be possible to see a copy of those regulations? And as well, would it be possible to talk to the antique steam association of Saskatchewan and get their thoughts? There's a sense that before we really move forward on this legislation there's a few questions we need to have addressed.

Hon. Mr. Yates: — Thank you very much. We expect the regulations to be prepared for the Legislative Instruments Committee of the government this summer and to go through that process over the summer. And as part of the consultations, definitely go over the consultations with the antique steam association.

Mr. Toth: — I guess, Mr. Minister, considering the fact that we're actually dealing with an Act that goes back to 1999 — that's a significant period of time — are you indicating that we're still working on regulations? You're hoping to have them ready by the summer?

I would have anticipated that as you were coming forward with this piece of legislation that we would have actually had regulations already in the bag and moving forward, have had discussion with all the stakeholders. And we'd have a better understanding of what the intent is in regards to the regulations reflecting how the Act of 1999 would be implemented.

Hon. Mr. Yates: — Well in all fairness to the officials, I — since being named minister of the department — have asked a number of questions in regards to the direction of the regulations. And we are examining issues and regulations that have come up as a result of . . . since I've been named the minister.

Mr. Toth: — What would some of the issues and concerns that come up be in regards . . . that you're hearing. For example, we're hearing some concerns with regards to the number of inspections, like I believe we're quite far behind on a number of inspections. We're actually short inspectors in the province of Saskatchewan when it comes to boilers, inspections of boilers. And I think there are some concerns in regards to boilers that are used in facilities like hospitals; some of these are getting fairly old.

And I know one of the issues as well is in regards to the antique collectors across the province of Saskatchewan. And one of the concerns that's been raised with us is the fact that some jurisdictions allow for welding of riveted containers or tanks. And Saskatchewan, I believe to this point, is not looking at that as an option.

Are those issues that have just been coming to the forefront recently? And you're looking at the regulations, finding out that maybe there's areas you can move in. Are those some of the concerns? And what other concerns might have been brought forward?

Hon. Mr. Yates: — Well I'm going to answer the question in general and then perhaps ask Brian to add to my answer. You should be aware that this set of regulations will really encompass putting together seven current sets of regulations into one. I'm making it easier for those who — in industry — who use these regulations, easier and more concise across . . . So industry will be able to understand them better.

And secondly, we are moving forward in this set of regulations, and through consultations with the industry, with a quality management program within the industry. And so those consultations with industry have been extensive and has taken some additional time. And for those reasons we expect that we won't be in a position to have the regulations in place until the . . . probably the fall of 2006.

And as far as the specifics around the welding of older antique pressure vessels, I will ask Brian to comment on those.

Mr. Krasiun: — Brian Krasiun, executive director of licensing and inspections. In regards to the welding of antique boilers, it has been a long-standing practice in the province that we do not accept welded repair on riveted boilers. And the problem exists with that in that the rivets themselves to be effective actually have to have a level of stress induced upon them.

Now the normal welding practices of a boiler does require stress relieving according to the code of construction. And that stress relieving on that boiler actually has an inverse effect on the integrity of a riveted joint.

Mr. Toth: — I guess the question is if . . . well you've indicated Saskatchewan hasn't, why would other jurisdictions allow it?

Mr. Krasiun: — I'm not sure.

Mr. Toth: — It would seem to me that if they're allowing it they must have arrived at a process where they feel that the safety issues are addressed, or they've got in place significant safety issues that would allow that form of correction to move forward and allow for these old steam engines to function and operate quite safely. And then, I'm not sure, but would it also mean that they may have reduced the amount of pressure that can be used in situations where they allow for welding to correct a fault or . . . yes.

Hon. Mr. Yates: — What I would like to stress that this legislation doesn't in any way change the standards we've had in place for antique boilers for more than 40 years. And the

regulations from the 1950s to today have remained the same. Nothing in this legislation or the regulations will change that. We will continue to allow the same standards that have been in place for a significant period of time. There is no drawback on those standards. There is no negative change to those standards. We are simply continuing to permit the activity as it has been in the province since the 1950s.

Mr. Toth: — So what you're . . . Well what you're basically saying is the changes that have been called for and that you're looking at implementing, and the concerns raised by the Steam Association of Saskatchewan, the department is working very closely with the association to deal with their concerns and they will be addressed. Can you give the assurances that their concerns will be addressed?

And that around the province we know the . . . certainly the major centres will be aware of Western Development Museum and their historic days they have. I have a number, actually in my constituency, of museum days where they actually bring out old steam engines, get them fired up. People are quite interested in how we used to farm years ago and how steam power was used and managed.

And I know that for example the community of Rocanville, there is a couple pieces of equipment that they haven't fired up the last couple of years because they have been somewhat concerned themselves. And they wanted to make sure that indeed before they fire up a piece of equipment that it's going to function properly, that it doesn't create a problem for them. So can you give assurances that this group will be . . . their concerns will be listened to and addressed and won't impede their ability to continue with their thresherman's days or museum days or whatever?

Mr. Yates: — I will give this undertaking that they will be consulted with and we will not change the regulations that are in place today that has allowed them to continue with their threshing days. What they put forward was a change to increase the allowable pressure. And based on the national standards and based on our experiences at this time, we're not prepared to make that change to a higher psi [pounds per square inch] level.

But at the same time they've managed to have their threshing days throughout the province for the last 40 years with a standard of 100 psi, and we are going to maintain that standard of 100 psi. So there is no change that would prevent them from doing their threshing days next year any different than they did this year.

Mr. Toth: — Mr. Minister, in your comments you mentioned that the original intent of the legislation was to recognize significant changes made within the comprehensive codes and standards of design, manufacture, inspection, and operation of pressure equipment. And you indicated that reform of the boiler and pressure vessel regulatory regime was necessary in order to address the current anticipated future needs of the industry, government, and the public. Exactly what were you referring to when you made those comments?

Hon. Mr. Yates: — Those comments were reference to the quality management system that we are going to put in place. And that is going to create for us an environment similar to the

Alberta environment, where in fact there is a quality management program put in place by the larger users of pressure vessels within the province, which will help industry and the government deal with the inspection process.

Mr. Toth: — When you mention anticipated needs of industry, government, and the public, what exactly are we talking of there? Are we talking expanded steam use in industry, government heating units? And I guess I can only kind of anticipate with the increased fuel prices, we certainly do have other sources of heat to generate heat. And certainly coal, there's a fairly vast supply of it. And I think we're going to see a major shift in what we use to heat our homes because of those costs. But I guess what I'm kind of wondering here is exactly what is government looking at when you talk about future needs of industry, government, and the public? And what requests have come before you as we move forward with this legislation?

Hon. Mr. Yates: — I'm going to refer this question to Brian for the specifics as he works very closely with the industry throughout the province.

Mr. Kراسيun: — Industry is anticipating changes within our safety program to mirror that of other jurisdictions to which they also have inventory items or owned items, and this deals more towards the quality management system of inspections. The quality management system of inspections requires or permits, I should say, an owner to set up a system by which they can employ a qualified and licensed pressure equipment inspector, and actually obtain recognition by the jurisdictional authority for the ongoing maintenance and inspection of the equipment they own. This has been a concept that has been in place in neighbouring jurisdictions for over 10 years and is in place and evolving in a large number of jurisdictions across Canada. Saskatchewan is just taking steps within these amended . . . or within the new legislation to recognize those efforts put forward by industry.

Mr. Toth: — Mr. Minister, just previous to debate on this piece of legislation, we had a previous minister, Minister Quennell, talked about harmonizing of regulations with other jurisdictions. And if I gather correctly, Brian had indicated that's part of the purpose of this piece of legislation, to harmonize with other jurisdictions.

Hon. Mr. Yates: — It definitely is there to put in place a similar quality management program to neighbouring jurisdictions. Just so members are aware, this would allow companies that operate in more than one province to use inspectors that they may employ currently in other provinces, that they now have on staff, to do inspections — if they in fact are licensed in Saskatchewan as well — to do those inspections in the province of Saskatchewan. The most noticeable groups would be in the oil and natural gas sectors of our economy.

Mr. Toth: — And I have a follow-up question to that, and that was another question that came to us in regards to the licensing of inspectors. And I anticipate it's mostly in the steam engine aspect of inspections.

A question was raised regarding individuals coming in from out-of-province and having a standard licence rather than

having to come in . . . They come in for a weekend to participate or help with an event, and they have to purchase a separate licence to operate in the province. And I guess it would seem to me that wouldn't it be appropriate for us to develop kind of a harmonized registration process and licensing so that individuals could come to the province and help without having to always face an additional cost just to provide their services, so a community could provide the, well the threshermen's days, if you will, that they do on an ongoing basis.

And many, certainly on the east of the province . . . that's where I'm more familiar because I know of a number just across the border in Manitoba. And I think they share you people back and forth, move back and forth to help each other with their special events. And are we working on or is that in place or is that part of the process that's being addressed with this legislation?

Hon. Mr. Yates: — I ask Brian to comment on that please.

Mr. Kراسيun: — As far as obtaining a licence to operate a piece of pressure equipment in the province, we currently do not have any recognition of other jurisdictional licences issued by another province for operation within Saskatchewan, such as the transfer you're talking about. However when it comes to antique equipment, such as your specific reference, we do try and accommodate those special requests as best we can.

Mr. Toth: — Thank you. I won't try to pronounce your last name. I guess the question is, couldn't or wouldn't it be possible to come up with a simple understanding agreement that would recognize licences from one jurisdiction to the next — interprovincial harmonizing — versus every jurisdiction having their own requirements and requirements to apply for that weekend licence that is taking place right now?

Mr. Kراسيun: — So to just understand. You're asking in regards to antique equipment, or you're talking to any oil and gas equipment that may be transferred back and forth between provinces?

Mr. Toth: — Well I guess right now that's where the major concern is. Because I think with the major industry players, that's a totally different question. And it's the steam and gas — the antique groups — it's something they basically do through the summer, but it's not an ongoing thing. And as I understand it, general understanding of the guidelines and safety features whether we're in Saskatchewan, whether Manitoba and other jurisdictions. And the question is: to simplify the process, couldn't we have some kind of understanding between provinces as to reciprocal agreements, recognizing the certificate for say someone coming from Manitoba to Saskatchewan or Saskatchewan going to Manitoba or elsewhere for example?

Mr. Kراسيun: — With reference to antique equipment, each jurisdiction treats antique equipment differently. Some jurisdictions do not have any requirements in regards to who can perform repairs or modifications to this equipment, welded or otherwise. Some jurisdictions are very stringent in that they do not even accept any repairs whether the original fabrication was welded or not.

There is also a variation in operating pressures between

jurisdictions. Some will allow more than 100 psi. Some will allow only less than 100 psi. In an environment where you're asking for reciprocity between jurisdictions, the level of acceptance for maintenance, non-destructive examination, and servicing becomes different, are different requirements within each jurisdiction. So having one licence that is acceptable to all jurisdictions becomes very difficult to negotiate.

Mr. Elhard: — Thank you, Madam Chair. Gentlemen, there's a real wide swing of the pendulum sort of on this particular piece of legislation because on one hand we're talking about steam engineers for antique day activities, and the other end of the spectrum we're talking about steam engineers who operate multi-million dollar facilities. And so it's almost too much to grasp in one brief encounter here as to how this is all going to be accomplished under one piece of legislation.

I'm going to follow the line of questioning though on the, you know, the steam tractors a bit, just for a moment or two, because as we know they're part of every summer activity in every community. They're in almost every community's parade or whatever.

So when you have individuals operating those steam tractors in a parade route or on a threshing bee day of some sort, are each of the people that have permission to operate that, are they licensed somehow or accredited somehow by the department and/or this legislation?

Hon. Mr. Yates: — The short answer is yes. In this province the operator must have a specific licence.

And I'd like to, just for the benefit of the members of the committee, to share with you, I guess an experience, a significant experience. On July 29, 2001 at a county fair in Ohio, one of these antique steam engines blew up. The result was four people were killed and 48 people were injured. And as the age of equipment increases the risk increases as well.

And we take very seriously the responsibility of monitoring the condition of this equipment and ensuring . . . minimizing the risk. Because as you would be well aware, and I have been at threshing bees as well, but young children and families get very close to this activity and in some cases actually are even able to participate in parts of it. And for those reasons you want to ensure that we do everything possible to ensure the safety of individuals that are going to be close to this equipment.

And much of this equipment is getting close to 100 years of age and the integrity of the materials on which the equipment was built and the design of the equipment at that time isn't up to the standards that are expected today. So we have to take a great deal of precaution to ensure the safety of individuals so that we can still experience those activities in our rural communities, so that people can in fact understand our history but at the same time do so at minimal or no risk.

And that's why we've had a standard of 100 psi and wish to maintain that standard. Because with our testing regime that we have in place and the quality of materials used at that period of time, we believe with inspections and proper operating that they can be operated safely at 100 psi. But to go beyond that, we don't know if those particular pieces of equipment were ever

designed to have the type to go beyond that 100 psi. So we are going to err on the side of caution and ensure that we are both delivering a program that allows children and our communities to experience our past, but at the same time ensure safety.

Mr. Elhard: — Madam Chair, we don't have a lot of time left here today so I'll ask my questions as succinctly as possible, and we'll try and get a few more in.

If, as the minister says, safety is the primary concern — and I think we agree that that's an essential part of the discussion here today, each of these people are licensed to operate — what kind of standards, what kind of training do they require to achieve certification? And I guess the second question would be, I assume each of these pieces of equipment have to be certified as safe. And what does that entail and how often are those inspections undertaken?

Hon. Mr. Yates: — I'll turn this question over to Brian who is the expert on the technical aspects.

Mr. Krasium: — First of all, in regards to the operator of the equipment, we do have it within our current regulations and our proposed regime to require and continue requiring operators who are licensed for antique equipment. They have to qualify through examination before obtaining such a licence. And the majority of these pieces of equipment are owned by organizations such as the Western Development Museum or a number of others, so they also restrict the usage or the use of these equipment to only individuals who have also obtained experience in the operation of some equipment.

They, from what I understand, have somewhat of a apprenticeship program in place, an unofficial type of program where the individuals who are wanting to one day operate the equipment by themselves have to go through a certain amount of training by a qualified individual before being permitted to operate it on their own.

The second question you asked was in regards to the inspection of this type of equipment as performed by our safety program. Each traction boiler that is licensed for use within the province for any given year requires an inspection to be performed by our organization. And we do two elements in that inspection. First of all we will perform an internal and external safety inspection on that piece of equipment, opening up the water side of the boiler and looking inside for any types of corrosion, excessive corrosion or any scale buildup or any other problems with the unit. We also look at the fire side and external for determining whether or not there are any other problems with the integrity of the unit.

After that internal and external inspection, we also require on a yearly basis a hydrostatic test where we fill the unit full of water and pressure it up to 200 psi. At that point we check to see if there are any leaks or any deformations in the piece of equipment. And that hydrostatic test of 200 psi yearly gives us an added level of assurance that there are no problems with the unit itself. You have to remember that a lot of these units are riveted and so that what we're looking for is any kind of a weepage or leaking in that riveted connection.

Mr. Elhard: — Are the inspections you talked about being

required on an annual basis, are they current? Are all of those pieces of equipment current with their inspections?

Mr. Kراسيun: — We inspect every piece of equipment before we issue it a licence to operate legally in the province.

Mr. Elhard: — But would the annual inspections of those various pieces of equipment be current?

Mr. Kراسيun: — I guess I need more clarification as to what you mean by current. We do it on a yearly basis. Every year we inspect them on the premise that the operator or that the owner wishes to operate the equipment. If the owner, at our point of contact, does not want to arrange for an internal inspection or a hydrostatic test because they wish not to operate it that year, then we do not license it and it sits in an inactive status for that year until we receive further contact.

Mr. Elhard: — I guess I was just wondering if the capacity to provide the inspections was such that, you know, instead of on an annual basis, it was being pushed off to 13, 14 months and then a year and a half or that type of thing. I guess that's what I was wondering. Because of the safety issue that you've talked about here and because of the, you know, the possibility of a kind of a devastating mishap if something does go wrong, we want those inspections to be as current as possible. I'm sure the operators and the owners would like that. They don't want the liability of a mishap either.

But I also know that, you know, the department is under considerable pressure to provide inspections on a regular basis in many other areas where steam is employed as a power source. So that's my question. Have we been able to keep current with those inspections?

Mr. Lang: — Yes, if I could just answer that. The answer is yes. And just as an example, I mean last year — this past year — was the Saskatchewan centennial. And so we expected there to be a lot of interest in some of the use of the traction machines. So they were proactive and contacted the operators in advance so that their inspections were all done in a timely manner so that when they wanted to actually operate them, they were done. And that's, you know, that's not been an issue in past years.

I mean the simple answer is yes. Those inspections are done on a timely basis before they want to use them in the summertime.

Mr. Elhard: — Do the people that are responsible for undertaking those inspections also do the general boiler inspections for other applications? Same group of people?

Mr. Kراسيun: — Yes, they do. It's the general inspector that we have that does perform the inspection on the traction engines, except for last year. Last year we had not only qualified inspectors but we had some of our best and more experienced inspectors — inspectors that are very familiar with the traction engines and that have had many decades of experience — going out and examining as a team each and every traction engine in the province to establish that our past inspection program history or our past efforts were actually delivering what we were intending it to do. And it was a great success.

Mr. Elhard: — The inspection routine that you discussed prior — both an internal and an external inspection — is primarily a visual inspection. Is the department considering employing the most recent technology available that would basically scan the equipment — I'm not sure what the terminology would be; it's largely an X-ray I believe — and scan the equipment to look for varying thicknesses in the wall of the boiler to identify areas where the metal's gotten thin? Have we gone to that extent of modern technology to use in these inspection efforts?

Hon. Mr. Yates: — Thank you very much for the question. At this time Manitoba has a mandatory ultrasonic examination at five-year intervals, and we are consulting with industry at this time about that. As we move forward with our new quality management program, we will be looking and examining a number of possibilities. But at this point we do not have a mandatory ultrasonic program in place.

Mr. Elhard: — Madam Chair, I think there's a number of additional questions members on this side of the committee would like to ask, and in the interests of moving to other business, I think that we will just ask that this Bill be brought forward to another meeting.

The Chair: — All right. Then thank you very much to the minister and his official, and we'll see you back again.

Hon. Mr. Yates: — Thank you very much, Madam Chair. Thank you to the members for their questions today.

The Chair: — There's one other item then before we adjourn. We need from the committee a motion to extend the contract for our researcher on the public hearings . . . [inaudible interjection] . . . No, we have to do it I guess. We'll have a motion then by Mr. Wakefield that we extend the contract of our researcher that attended to the committee for the public hearings on The Consumer Protection Act. We'll extend that contract for him until April 14.

Some Hon. Members: — Agreed.

The Chair: — Agreed. Then there's just a couple of other things. We'll distribute the draft to all members tomorrow and could you respond by . . . Mr. Morgan can't respond by Friday or can he?

Mr. Elhard: — I think he'll be back by Friday.

The Chair: — Do you want to wait until Monday? Then we'll distribute the draft to all members and ask that you respond to myself or Mr. Elhard by Monday. And then we'll anticipate being ready to see the final report by the end of next week, which will be the end of Justin's contract, and then present it to the House the following week. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Thank you very much. Then this meeting is now adjourned.

[The committee adjourned at 17:01.]