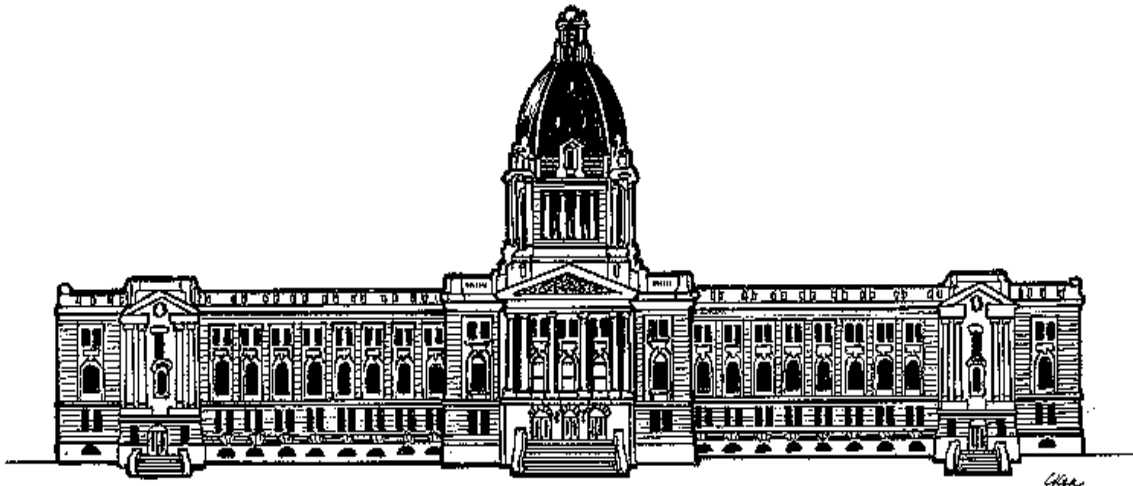




# **STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND INFRASTRUCTURE**

**Hansard Verbatim Report**

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**STANDING COMMITTEE ON INTERGOVERNMENTAL  
AFFAIRS AND INFRASTRUCTURE  
2006**

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Mr. Kim Trew  
Regina Coronation Park

[The committee met at 15:00.]

**General Revenue Fund  
Supplementary Estimates — November  
Highways and Transportation  
Vote 16**

**Subvotes (HI10) and (HI04)**

**The Chair:** — Good afternoon. We'll now call to order the Standing Committee on Intergovernmental Affairs and Infrastructure. The item of business before the committee this afternoon is the consideration of supplementary estimates in the Supplementary Estimates book and that can be found on page 16, and that's for the Department of Highways and Transportation, vote 16.

Mr. Minister, if you would introduce your officials please.

**Hon. Mr. Lautermilch:** — Thank you, Mr. Chairman. I would like to reintroduce my officials. To my immediate left is John Law, the deputy minister of Highways and Transportation. To his left is George Stamatinos, the assistant deputy minister of policy and programs division. To my right is Terry Schmidt; Terry is the assistant deputy minister of operations. And behind me is Ted Stobbs, and Ted is the assistant deputy minister of corporate services division. And to Mr. Stobbs's left is Tim Kealey, director of corporate support branch within the department.

**The Chair:** — Thank you, Mr. Minister. Do you have an opening statement, Mr. Minister?

**Hon. Mr. Lautermilch:** — No, I think we've been before the committee, Mr. Chairman. I think we'd be ready to entertain questions and respond with answers.

**The Chair:** — Thank you. In that case, I recognize Mr. Weekes.

**Mr. Weekes:** — Thank you, Mr. Chair. Welcome to the minister and your officials. Just like to pick up where we left off last time. The question is concerning the spring tender. You released your spring tender schedule early this year. What percentage of the listed projects were completed?

**Hon. Mr. Lautermilch:** — Mr. Chairman, Mr. Weekes, you had asked us for that at the last session that we had. We haven't completed, yet, the document. I'm told by Mr. Stobbs that the document is a work in progress, and it should be done within days, I would think.

**Mr. Weekes:** — Thank you. Does that also include any questions concerning the fall tendering schedule as well?

**Hon. Mr. Lautermilch:** — Mr. Chairman, the spring schedule, as I indicated, is where that's a work in progress and how far we have come with the spring schedule. The fall schedule is a document that's just been released. We can share with you a copy of that if you don't have that. We do have that here.

I'm told it doesn't report obviously on completion because it's

part of the winter tendering schedule. November 20 it was released, but we can send this across for you.

**Mr. Weekes:** — Thank you, Mr. Minister. My questions about the spring tendering were for last spring. That's right? Okay.

Now questions for the upcoming season. How soon will you know what projects are planned for 2006-2007?

**Hon. Mr. Lautermilch:** — Obviously the winter tendering schedule will give you some idea of what we are doing leading up to the spring schedule. That will be developed over the course of the budget preparation.

We will be meeting over the next weeks with Treasury Board to determine what the availability of capital and capital construction funds for next spring, next year will be. So obviously we are preparing now for the next year's program. And that will be part of the deliberations that we have with the Department of Finance and Treasury Board ministers.

**Mr. Weekes:** — Thank you. I'd like to ask a few questions concerning this Gerald Aalbers case and Titan Excavating. What is your department's policy regarding signing of contracts now, in light of what happened with Gerald Aalbers and the Titan Excavating situation?

**Hon. Mr. Lautermilch:** — I was hoping, Mr. Chairman, that the member would ask for an update on Titan. I want to go back just a little bit, and you will also know that Mr. Aalbers has pursued a legal remedy to his circumstance.

I should say to the member that I was made aware that a company called Titan Excavation was in difficulty with some of the subcontractors and with the department with respect to legitimacy of bonds and bonding agencies that were presented to the department. It was learned that the signature on the bond document was a fraudulent document and many of the subcontractors of Titan Excavation weren't paid.

I can say to members of the committee that there were, as I believe it, four subcontractors who had been paid by the department, not because the department had any legal responsibility to do so but because we felt that it was a unique circumstance. The department lets out tenders every year — dozens, dozens. And it's a very rare occurrence where you have the principal in a corporation who will forge a bond document. I don't think the department had had that circumstance before.

Obviously many of the companies that the department deals with are known to them. Some aren't. This happened to be a smaller company, Titan Excavation. It was a very small contract let to replace a culvert up in the Candle Lake area, and we used the normal process at that time to determine who got the bid, and it ended up being Titan Excavation.

Now as I've said there are four companies that the department . . . and no other reason other than goodwill, and I discussed this with Mr. Schmidt early in my tenure when I assumed this portfolio. And I think what I mentioned to him was, we should attempt to do what we could, if there was a way that we could make an argument for compensating these subcontractors to

Titan, that we might want to see if we could do that.

Subsequently the department spent some time. They reviewed the circumstance. And they paid four subcontractors of Titan Excavating. They paid, I believe it's \$25,000 to each of the following . . . in total to Brian's General Contracting, to Abramyk Construction Inc., to Minowukaw Lodge and Joe's Cabins, to Pineview Lumber & Rentals. So the department, just as a matter of straight goodwill, paid these subcontractors where Titan Excavation failed to do so.

And, you know, I think sometimes you just do things because it appears to be the right thing to do. Now as I said these companies, it was felt, could be compensated, and we could make an argument for compensation.

Upon reviewing this . . . and Mr. Aalbers had approached also the department for compensation. He approached, as I understand it, the . . . [inaudible] . . . for compensation with respect to the amount of money that he as an investor invested in Titan Excavation. Mr. Aalbers is listed in 2004 as a director of that company, so not a subcontractor. Mr. Aalbers is a director along with William Kurk. So both of these folks are listed as directors.

Now I think you can make an argument that, as an investor in a company, you are maybe in a different circumstance than a subcontractor who apparently hasn't been paid by Titan excavation.

Mr. Aalbers has subsequently sought legal advice, as has the Department of Highways and Transportation. And so I'll need to be somewhat careful about what I say, only to say that it's obvious that Mr. Aalbers was listed as a director of the company. It's also obvious that he had invested money into that company. It's also become obvious that there was some fraudulent activity on behalf of another director of that company which led to charges.

And so I think it's fair to say that we believe that we have, where we could justify the payment, done so — just as a matter of fairness. Mr. Aalbers has taken his case to the courts, and I would assume that there will be an adjudication within the judicial system which, from my perspective and what I understand to be the case, is where this should be adjudicated.

So that's where that issue stands. And unless the member has other information that I'm not aware of that he's willing to share with the committee, that would be . . . [inaudible interjection] . . . I know. I understand that Mr. Aalbers, along with Mr. Kurk, were involved in founding the operations. I can't comment any further on that, other than that he's a principal of the company. And as a principal of the company, he's invested money. And the department could not recommend that there should be some compensation — and haven't — and so the compensation hasn't taken place. And that's what I know of the circumstance, Mr. Chairman.

**Mr. Weekes:** — Thank you, Mr. Minister. Well as you said, it's in front of the courts and Mr. Aalbers is going to make his case there. The whole problem . . . Well the first problem is dealing with somebody that's prepared to forge documents and defraud everybody in sight. But that was . . . The whole part of

the bond, that's your department's responsibility. And everyone concerned is counting on this bond to be in place to cover their losses. And that's the whole point of it. And well, your department dropped the ball on that item.

Now regarding signing contracts, has your department's policy changed this policy as far as signing contracts and looking at whether a bond is legitimate?

**Hon. Mr. Lautermilch:** — Well, Mr. Chairman, let me separate the two issues here because they need to be.

The one issue is subcontractors were not paid by a company which subcontractors were compensated by the Department of Highways and Transportation for no legal reason other than a matter of goodwill. As I understand it, Mr. Aalbers was asking for compensation for investment in the company that didn't pay the subcontractors, which is a totally separate issue.

Thirdly then, let me take you to the process where the Department of Highways will let a tender. As I understand it — and my officials can help me to clarify this — prior to Titan's activities, where a fraudulent signature was presented as legitimate to the company, we didn't make a practice of asking the principals of the companies whether or not they fraudulently forged the signature of the bonding agent. I mean, that wasn't the practice, but what we have changed is that we do now. When we are dealing with a new company, we will do a check to verify the validity of the signature.

As I've said, this is a very unique circumstance. The majority of the people who do business with the Department of Highways and Transportation . . . and I would want to say that the majority of the people in this province are honest and decent and upstanding people, and it would be very rare that you would find someone who would use the kind of activities that were alleged to have taken place as it relates to Titan. So having said that, we've compensated the companies who did the work for this company who didn't have the money to pay, just on a matter of goodwill.

Mr. Aalbers has asked for compensation. As a director of the company we don't believe that it's our responsibility to be funding his request. So it's a matter before the courts. I think that's where it's going to have to be adjudicated. And I think that's a reasonable place for it to be adjudicated.

Now if you're suggesting that the department should issue a cheque, then make that argument. We've taken the position that as a director of the company, we don't believe that it's our position to be compensating him for wages or for the investment. And that is before the courts.

Now if you're thinking that there should be a different approach, you should say so. We've gone through this in question period. We've gone through this in estimates before. I would say to you that the department has treated the people involved in this very fairly. And there is recourse for Mr. Aalbers, and that is through the courts which is a process that he has chosen.

But I don't think it's reasonable to compensate someone for the investment in a company that was out doing business that

subsequently couldn't pay the bills. If you think that's the case, you should tell the committee that that's the case. I don't believe that would be the appropriate way to move forward.

**Mr. Weekes:** — Thank you, Mr. Minister. Well I'll just quote from the final submission statement of claims and I'll just quote this paragraph. This is Gerald Aalbers' position:

Gerald Aalbers has . . . provided the department [with] a copy of a letter sent by the Department of Labour to Titan Excavating regarding unpaid wages to Daniel Toupin (\$7,658.61) and Gerald Aalbers (\$20,454.76).

A copy of the letter sent by the Department of Labour is attached. His point is that he is owed wages and, even though he's a shareholder in a company, shareholders in companies receive wages. And that's his . . . I've just quoted from his statement of claim.

**Hon. Mr. Lautermilch:** — And I understand that's part of the statement of claim but I guess, are you saying — and I need to understand this — are you saying that a company of which he was a principal, vice-president of, couldn't pay him wages for work that he did, so that the Department of Highways and Transportation should compensate him to pay for wages for work that he did on behalf of this company? Is that what you're saying? Because that's what I understand you to be saying.

**Mr. Weekes:** — What I'm saying is what is stated here. And it's common business practice that just because a person is a shareholder in a company, works for the company and receive wages . . . And I understand wages are always paid in bankruptcies, bankrupt situations. So that's Gerald Aalbers' position. And I've just stated what his statement is here in his statement of claim. So I guess we'll have to see what the courts say.

It's interesting though. I assume that the surety or bond is in place to cover all these aspects. And the problem, there isn't a bond in place. So the subcontractors were out . . . You made the point that they were paid out. But Gerald Aalbers is also out money as far as wages, not concerning profit or loss from the company. And if a company goes bankrupt, the employees are paid their wages ahead of any of the creditors including banks or anyone else quite frankly. So that's the point I'm making on his behalf.

It's just interesting that everyone else got paid except Gerald Aalbers and, to no fault of his own, he is caught up in this situation as well because of the misdealings of that individual and the lack of your department having the bond in place or checking to see if the bond was in place.

**Hon. Mr. Lautermilch:** — Mr. Chairman, let me understand this then. Are you saying, Mr. Weekes, that a Saskatchewan investor who invests money with a partner in a company and then acts as vice-president of that company, who then pursues work with the Department of Highways and Transportation . . . So here I am, an independent investor. I invest money into a company and I'm trusting that . . . and I form a company with a partner and we proceed together through our company to secure work through the Department of Highways and Transportation.

It is then subsequently found that this company can't pay the subcontractors and can't pay wages and my company can't pay wages back to me if I were the investor . . . that then I should expect from the Department of Highways and Transportation compensation because my partner and I have a company that can't afford to pay me either wages or pay back my investment? Is that your position — that we should be moving forward in that regard? Because I have a difficulty with that.

I can understand where some of the subcontractors who had no involvement in this company, who owned no shares, who had no investment in this corporation, who didn't sign an incorporation document, who had no ideas of the activities inside of the corporation or how or why the bond was signed the way it was, that these subcontractors should be compensated — which they were. But then, that one of the principals of that company as well should be compensated for wages and for his investment in the company? I'm not sure that I would agree with that.

But I think, fair enough to say that there's a judicial system where Mr. Aalbers can hear him, have his case made. He can take all of these documents to the courts and let the courts determine whether a shareholder, in fact, should be compensated or whether a shareholder shouldn't.

We take the position that the subcontractors, as a matter of goodwill, should be compensated and so we compensated them. In terms of the internal operations of Titan Excavating, I would think that's a responsibility of the shareholders. Both the vice-president has as much responsibility in terms of the internal activities of that company as does the president, Mr. Koch. So we took the position that we were not going to compensate a shareholder of a company that went broke, not going to compensate for wages or for investment. He disagrees. I think we've treated all of those involved in this in a fair manner. Mr. Aalbers disagrees and so he has a process that he can use to have a fair adjudication.

I mean it's fair. You can take the position that we didn't treat him fairly. That's your position. You say so. I think we did what's right in the interests of taxpayers' dollars. I think we're benevolent to the subcontractors to the point of fairness and our position is that we have hired solicitors to deal with the government position. Mr. Aalbers has hired his solicitors and it'll be resolved in the courts.

**Mr. Weekes:** — Thank you. Well I think just to restate what I am saying or on behalf of Gerald Aalbers is that . . . the first thing too, your department is not responsible for the fraudulent act. What you're responsible for is the bond not being a legitimate bond. You never checked to see if the bond was a legitimate bond, and there wasn't a bond in place to cover losses. That's a fact.

What Gerald Aalbers is saying in his statement of claim, as an employee — as any employee — if a company goes bankrupt, employees are paid their wages ahead of everyone else. And that . . . from reading his statement of claim, that's the way that I understand that what he is asking for here is wages. Regardless of his . . . if he's a minor or major shareholder or not a shareholder at all, just an employee, wages are paid first ahead of everyone else. And, Mr. Chair, I'd like to turn this over to

my colleague from Humboldt.

**The Chair** — Ms. Harpauer.

**Ms. Harpauer:** — Thank you, Mr. Chair. I'm just going to try to gain some understanding as why Highway No. 27, which is a 23-kilometre highway from Highway No. 2 through to Highway 41 at Aberdeen, it seems to get passed over time and time again for any major repairs and yet it's in a deplorable state.

There are two communities on that highway — Vonda and Prud'homme — and as I mentioned the highway comes up to Aberdeen on Highway No. 41. My office has phoned your office and it's not on any schedule for any future repairs. The highway is in such terrible shape. It's a huge safety issue for all of the motorists on that highway. You can . . . I mean the potholes can't be called potholes any longer. There's huge areas missing. It's a danger for our school buses with our kids on it.

And there's also the economic issue for that particular highway. Trucking companies don't want to travel on the highway whatsoever. They have an increased cost of operations if they do travel that highway because the trucks are so shook up. And then they have the higher cost of trying to meet their safety regulations if they have to do any travelling on Highway No. 27.

Also at Vonda we have Highline Manufacturing which employs between 70 and 80 people, which is a significant number of employees for a rural business and it's important to that community and to the surrounding communities. And yet that highway never seems to get any major repairs done to it. It is minimum fixes that are being done.

So how does your department make the decision on where they're going to do some work? The people in the communities along that highway would like to know how those decisions are made and why they're passed over year after year and nothing of any significance is done to Highway No. 27. And they then can do their part to see if they can move it along as a greater priority for your agenda.

**Hon. Mr. Lautermilch:** — Mr. Chairman, I want to thank the member for the question. I think, as the member will know, some of the thin membrane structures in our province are under some difficult and some pretty serious pressure based on the heavy truck load that is creating, in a lot of cases, failures. Highway 27 is one of those TMS [thin membrane surface] roads.

And I think it's fair to say that rail line abandonment, the increase in our economy — the growth in our economy — has created some pressures. We've still at this point got 6,400 kilometres of thin membrane roads that are not able to handle the things that we ask them to do and so there are obviously some financial constraints.

Highways budget is a finite, on an annual basis, amount. We attempt to put as much as this province can in terms of strengthening our system. We've expanded the twinning dramatically with the support from our national government of Highway 1 and 16 and we're now moving to 11. We have some . . . what we believe to be economic corridor roads that would

need upgrading to a paved standard. But we aren't going to get there all at once and it's going to take us some time to realign this transportation system of ours.

You know, we've spent a number of years — decades — designing a system that right now isn't serving a changed and a strengthened economy. And we've got some pressures on the TMS roads that won't go away overnight and so we're going to have to plan over time to deal with them in terms of the priorities. And I can ask Mr. Law or Mr. Schmidt to respond to this. But just as a layperson . . . And that's really what I am, I'm . . . Obviously as an elected person doesn't make you an authority on highways — any of us — although some might believe that they are in this room.

I think it's fair to say that we know we've got to make some decisions, because you can't do it all as the department does. And weather conditions in the spring will have some impact, the water table, the amount of frost that you have during the course of the winter, how late spring comes — it comes inevitably — and that's a difficult time for this road system. So you've got problems in the spring and over the course of the . . . You know, the summer the roads will firm up a little bit and you can get on them and you can grade them, you know, and you can patch them; you can work with them. But you can't do them all and you won't do them all in one year and you won't do them all at once.

And, I mean, I understand we do case work in here when we do estimates. And I just want to go through . . . And no one is suggesting we haven't got TMS problems, because we do. But I would say to you this: that anyone who in this province believes that those problems are going to go away over a course of a year or two years or three years, I think I can make a pretty strong argument that anyone who would commit to a magic wand fix is not going to be able to deliver.

So you asked me about Highway 27. It will be prioritized based on the other roads in our road system. Public safety will be factored in. Our budget will be factored in, remembering that we've got \$90 million of new money — the biggest Highways budget ever in the history of this province. But we won't be able to do it all. So it'll be part of the discussions and part of the decision making process, and we'll put the money where it's most needed.

**Ms. Harpauer:** — What I think the communities would like to hear is if there is going to be a future, if that is going to be on the schedule at some point.

You talk about grading the highways. Well I think when we talk about grading our highways — and I have met graders on some of our highways — it speaks volumes to years of neglect. To flippantly say we can't fix it overnight, absolutely not. Because you guys have neglected it for years. So it's going to take a few years to ever get caught up to where we should be.

But these communities along this highway would just like some idea. Are they going to be on the slate next year? How about two years from now? When are they going to look for any sort of improvement? And the safety on that highway is deplorable. It is unacceptable and safety has to be a priority. I'm done my rant.

**Hon. Mr. Lautermilch:** — Let me respond this way. I'm going through the list of the highways that the opposition members have indicated they believe need to be . . . some attention. No. 13, 18, 310, 368, 32, 35, 42, 355, 12, 49, 2, 26, 924, 48, 339, 20 — I could go on. And I can take off of your website \$100 million worth of roads — 35 kilometres on Highway 368; 52 on 310; 15 on 22; 50 kilometres on Highway 13; Highway 32, 142 kilometres. That's about, roughly \$120 million. That's for those alone. . . [inaudible interjection] . . . No.

So what I'm saying is you can't go out and promise a road to every person in your constituency — whether you're in opposition or whether you're in government — because you've got to deal with reality. And the reality is that we've put \$100 million more in this budget than has . . . 90 million more than has ever been put in any budget in the history of this province.

And I'm not going to go back through the history of why we couldn't put money in early in the 1990s as we paid down debt. And you throw your head back. That's the reality. We balanced the budgets. We started putting some tax reduction into place. We built this economy, and now we've got some freedom to put money into roads. And that's what we're doing. But we're not going to do your wish list because we can't and nor could you.

So my point is, we're going to put together a budget that's going to match economic development in this province to our road system. And we're going to continue to push our federal counterparts in Ottawa to be part of a national structure so that we can take some of the money we're spending, and we can put it to some of our secondary roads and some of our primary roads here — paved roads — in the province.

But no one should assume that there's a magic wand, which obvious members of your caucus believe because it's every day in here. It's a petition on every single highway. And I have no doubt what you're saying — because I hear what you're saying — when you go back there, and you're going to fix them all. Well my friends, there are some constraints. And some constraints are based on what the industry can produce, some constraints are based on how much money goes into the system. And I'm sorry if, you know, you feel hurt by that but we will put together our budget over the course of this winter into the spring. We'll announce our program in the spring around budget time, as we've announced our winter tendering schedule, and as we announced the spring tendering schedule that I put forward and passed to your colleague earlier this afternoon.

**The Chair:** — Mr. Weekes.

**Mr. Weekes:** — Thank you, Mr. Chair. I'd like to ask a few questions on behalf of my colleague from Saskatoon Southeast concerning 219 from Saskatoon to Whitecap. Mr. Minister, your announcement was to do the stretch to Whitecap over the next two years. You announced I believe \$24 million. The balance from Whitecap to Highway 15 is going to be an additional three years and there's no money committed towards that. Now the question that my colleague is getting from the RMs [rural municipality] and citizens in that area is just south of Whitecap and they're saying they need a connecting road from Highway 11 to Highway 219. And they're suggesting the Strathcona road or another road along south of there.

Have you . . . I assume you have been contacted by the RMs and people concerned about this, and have you taken this into consideration and any plans to make that connecting road earlier or put it on the agenda at all?

**Hon. Mr. Lautermilch:** — Mr. Chairman, I'll ask Mr. Schmidt to comment on behalf of the department.

**Mr. Schmidt:** — Thank you, Mr. Minister. In working together with the local communities out there — the Whitecap Dakota First Nation, the RMs, the village of Dundurn, and some of the other communities — a cut-across road between Highway 11 and 219 is part of the overall transportation network in the area that has been discussed.

The road in question that they call Strathcona road is the one that dissects right across the military base, the Dundurn military base. There is some agreements the RM has with the military base dating back many years for access, but that road is under the jurisdiction of the Department of National Defence.

Concerns have been brought forward now with heightened awareness on security — there's a munitions dump in there and things like that that the DND [Department of National Defence] has identified — concerns with allowing the public to continue to access that road.

So it is my understanding that since the road is under federal jurisdiction, the municipalities have been working directly with the Department of National Defence trying to identify some alternatives or options that would allow a cut-across between the two. And we have been providing support to those rural municipalities in the means of some engineering expertise, putting together some cost estimates, some really preliminary functional plans in routing that they can take forward in their business case analysis towards the Department of National Defence towards trying to securing the federal government to construct a road that would provide that access and meet the obligations that the federal government has to the municipalities for access that dates back to the '50s.

**Mr. Weekes:** — Thank you. I guess I'd also like to know, if it's not feasible to go across the military base on the Strathcona road, is there any plans to build up another road further on that wouldn't go through the military base that would satisfy the citizens' concerns? And also in either case, if a road is going to be built through the army base, is there going to be any provincial funding, or have you been asked to fund any of that particular road through the military base?

**Mr. Law:** — Mr. Chair, the current discussions with the municipality do not include us taking on responsibility for construction. There is an alternative route that is under discussion right now at the south perimeter of the base that the Department of National Defence has agreed to consider for purposes of providing access. And as Mr. Schmidt reported, we have been providing some assistance in terms of some engineering and feasibility support to the RMs.

The road itself is an RM road, and so we wouldn't normally have any direct involvement in the construction of an RM road. And so we don't have any plans for direct involvement in the construction at this point in time.

**Mr. Weekes:** — Thank you. Another topic my colleague from Saskatoon Southeast wanted to raise and it is — many places in Saskatchewan has the same concerns — and that's turning lanes on Highway 11. This particular area which is . . . His main concern is the Baker Road which is just south of Saskatoon, but this could apply to many other areas in Saskatchewan where there's acreages and industrial sites that just go off of major highways.

But in particular this one at Baker Road, south of Saskatoon on Highway 11, are you considering any turning lanes? And how do you come about making a decision where a turning lane should be and how much road activity should there be before you make that decision?

**Mr. Law:** — In response to I think an inquiry last fall on the same issue, we made a commitment to undertake an analysis on behalf of the viability of that particular construction initiative. We will get an update for the member on the outcome or progress on that particular piece of work which I know is initiated. I don't know off the top of my head what the current status is. But we did in fact undertake to do some work to understand whether traffic counts and some of the other safety considerations would warrant that sort of construction priority, moving it to the point that we would take action. So we will get the status and/or the report for the member on that work.

**Mr. Weekes:** — Thank you. I appreciate that. Just a little further on that topic. How would you come to the conclusion there should be turning lanes put in? Are there analysis or checks done to see what kind of traffic load there is? Or do you wait for people to complain? Or what is the process?

**Mr. Schmidt:** — Mr. Chairman, there are several processes we look at to safety improvements.

One process is of course we do often get inquiries from the public bringing forward concerns which will trigger work. The other one is we do have processes as well on our main highways where we undertake regular safety audits on our major highways — the national highway system particularly — where we will do regular safety audits every three to five years that will look at the operations of the highway. We'll do analysis to determine if there's any areas that require attention either from accident statistics or from reports from our own staff as well. We rely on who regularly travel these roads, especially our maintenance crews. So that is a couple of aspects the way we do that.

And there are detailed technical engineering reports whereby we look at the traffic counts that are currently there. We also look at the projected traffic counts into the future to determine what they will be, based on the information we have from economic development, residential development, any changes in traffic patterns that we're aware of. And then we base those on threshold numbers that are accepted based on national standards and in many cases we will modify those to the unique circumstances of Saskatchewan. And we will then see if they trigger turning lanes based on turning volumes, based on the approaching traffic, based on the function of the roadway, as well as many things like the shoulder width and if there's curvatures or hills or things like that. It all comes into play.

**Mr. Weekes:** — Thank you. A different topic. Also the member from Saskatoon Southeast was interested in this but it's a problem across Saskatchewan. It's concerning deer and the safety factor. I understand that at the game preserve — I believe that's the right term — near Harris, Saskatchewan, Highway No. 7, there's new technology been set up there. If you could explain what that is and how effective it is. And also what else . . . I mean there's obviously deer crossing signs put up in more densely populated areas, but it's a severe problem. And we all drive the highways and we see the dead deer along the highway and the SGI [Saskatchewan Government Insurance] claims must be a considerable amount. What is your department doing or able to do as far as trying to reduce this type of problem?

**Mr. Schmidt:** — Mr. Chairman, there are several things that the department has been actively working on over the years, because as, you're right, wildlife accidents do contribute to a large number of accidents on the highway and we would like to see those reduced.

The one pilot project you speak to at Harris was — I don't have the exact years with me — but it was a partnership with International Road Dynamics and SGI and the department. We involved the local communities, the area transportation planning committee in setting the pilot project up. And it involved a new technology that International Road Dynamics, or IRD, was in the process of developing.

And it was based on, they set up stations along the way that could detect when there were deer within the right-of-way. And what it would do is it would then set off lights and sounds that were meant to scare the wildlife away from the area. And so it had this continuous route along there for several kilometres which was prone to high deer accidents and wildlife accidents. When the deer did approach or encroach in that area, as I mentioned, the lights and the sounds would go off in the hope that the deer would be scared away.

This was monitored for two or three years whereby we would determine the number of deer that were hit or killed in that zone during that test time compared to previous years to see if there actually was a reduction in accidents. What we actually found out when the study was complete, was that with our cold temperatures and our very . . . a lot of wind and rain and the snow that we have, the equipment was just malfunctioning too often. And it was very difficult for us to determine if and when the equipment was working, if it was actually reducing the number of accidents. So further study is needed on the technology to see if we can improve it, to make it more resilient to our outdoor temperatures.

We also have sections where you may have noticed the deer mirrors in the ditches and the deer reflectors in the ditches. We've seen mixed results from that, whether or not it actually reduces the number of accidents.

And we work with other jurisdictions closely as well on determining what types of countermeasures can be put into reducing the number of wildlife accidents. And to date most of the things that have been experimented with have shown mixed results. It's hard to determine if they actually are reducing the number of wildlife hits. But we continue to work with other jurisdictions and industry on looking at new options, on



economical options.

The other thing too that we find effective is mowing, keeping the grass down especially adjacent to the road as best as we can so that the drivers can see the wildlife when they're in the ditch. And as you mentioned, we do sign areas that have a high number of wildlife accidents to alert motorists.

And we do as well work closely with Saskatchewan Environment and Saskatchewan Wildlife Federation on an active promotional campaign, especially in the fall when there's lots of wildlife activity, to alert motorists that the wildlife is going to be especially active at this time of year, to slow down in areas where there are wildlife warning signs. And we find that that is the best way to reduce wildlife accidents is to have the motorists slow down in those areas that are prone to wildlife accidents.

**Mr. Weekes:** — Thank you. You remind me of the RM of Perdue, and I believe you would recall that they suggested doing a pilot project in their area. And I understand they've got a contract to cut the highways, which they appreciate. But their pilot project, what their suggestion was to cut the highway ditches maybe two or three times in the year. That was rejected. Is that something that has been tried somewhere else? Or do you feel that cutting the ditches more often in those critical areas would not be effective in keeping the deer off the highway?

**Mr. Schmidt:** — I think that is something again that we would be willing to work with, as you mentioned, if there's parties interested like the RM of Perdue. I'm not too sure on the status but I think we did work with them on doing some enhanced cutting in some of those areas and we would have to look if that does reduce the amount of wildlife activity. It would definitely appear to . . . depending on the year as well. Some years you're going to get more growth in the ditches than other years, depending on the moisture and precipitation.

But it would allow the wildlife to be seen more visibly. However any time you have a nice, lush, green vegetation you're going to attract the wildlife. And that is the one thing we want to continue to work with industry and our partners in, is means of deterring the wildlife from even being in the right-of-way.

**Mr. Weekes:** — Thank you. Just to change subjects somewhat, I received a letter from a lady from Mildred, and her concern is a very dangerous part of a highway. It is located on Highway No. 45 approximately 4 kilometres south of the junction of Highways 15 and 45. And she goes on to say, "The highway includes a steep hill which has no safety rails or support cables. It is known as 'Suicide Hill.'"

She drives this road on a regular basis; I believe her husband drives to work as well. And they go to work at 6:30 in the morning and obviously if there's snow and ice on the highway the crews may not have had the time to get out there and remove the snow and ice and it's treacherous. What she is suggesting is that there be guardrails of some sort put on this particular portion of the highway because it's so steep and so dangerous.

**Hon. Mr. Lautermilch:** — Mr. Chairman, if . . . Mr. Weekes, if you would like to pass along a copy of that letter to me, I can ask the department officials to have a look at what might be done to enhance safety there. I'm not familiar with that stretch of road. And I don't know if I was copied on it. I can't recall it as part of my correspondence. But if you could pass on a copy of that, we'll have the officials have a look at what we might do.

**Mr. Weekes:** — Thank you. Yes, I believe you received the letter. I got a copy of the letter that was sent to you, but I will pass it on to you.

Another area in my constituency near Pike Lake and it concerns the Pike Lake dike road. And this section of road serves as an access to residents of the east bank subdivision in the Pike Lake Provincial Park, and I believe it's called the Kinsing Road.

Now the concern has been brought to your government's attention both to the Environment minister because it is serving as a dike and as a road, concerning Pike Lake. I guess my question is . . . I believe I have the response here from the Environment minister. The end result is your government isn't going to be doing anything about it, I don't believe. I just wonder where the Department of Highways comes into these types of issues.

I mean this is a road. It's kind of in between . . . you know, it's not necessarily just a RM road. It's serving multiple uses. And if you're familiar with this situation, the RM and the citizens there just . . . they need that road. And of course this year was a wet year. But in that area of course it's high water saturation. It seems to be a wet year every year. And I just wonder if you're familiar with this, and do you have any plans of adjusting that issue?

**Hon. Mr. Lautermilch:** — Mr. Chairman, I believe the officials are not convinced that it's part of our system. They don't recognize it. And I would assume, given the letter was addressed to the Minister of the Environment, it may in fact be a Park's road, a road within a park. I'm not aware of that. But again if you want to pass the correspondence on, we can double-check just to make sure. And we'd be more than willing to do that and report back to you.

**Mr. Weekes:** — I will, Mr. Minister. I'll send both letters over to you. One more topic I'd like to bring up, concerning the old Borden Bridge, there's a gentleman that has a proposal, and I believe he's been in contact with your department the last few years. And what he would like to do is . . . I'm not sure if he wants to buy it or lease it, but have access to the bridge. He's planning on putting a country market, café, store, souvenir shop, etc., whatever could be developed as far as an economic unit on the old Borden Bridge.

And I understand that there's been a request made to the department. He needs to purchase 6 or 7 acres of the land on either side of the bridge or lease this land, whatever would make it possible to do some development as far as tourism and economic activity on and around the Borden Bridge. Could you give me an update on, well if you know this particular situation, this request? And what is your position as far as these types of economic activity or potential economic activity around old

bridges and in areas like this?

**Hon. Mr. Lautermilch:** — Mr. Chairman, I'm going to ask Mr. Schmidt to answer with respect to the bridge. He's familiar with that particular issue.

Obviously, if there are economic development opportunities as it relates to tourism — attracting people to our province — we would, you know, we would be interested in pursuing those kinds of activities and supporting those kinds of activities. We've had a tourism industry that's been growing in our province, even in spite of the dollar differential with the Americans and 9/11 and all the things that have been happening in our world the last while.

But I'll let Mr. Schmidt respond directly to the Borden Bridge issue as he's familiar with that file.

**Mr. Schmidt:** — Thank you, Mr. Minister. You're correct; our staff have been working with that proponent looking at doing a development on the Borden Bridge of that nature you described. So we're continuing to work with the potential developer. And there's several things we have to address of course, is the safety issues for access and that is the one thing we're working with the developer on.

As you know, we want to be careful on Highway 16. It's a divided highway with limited access for safety especially at the ends of bridges. We want to make sure there's safe access to these facilities so that the tourists and the people who are going to enjoy these facilities in the future will have safe access to and from the facility. So that is one of the concerns we've been working with the developer is identifying safe access points to this facility.

As well, our property services staff will continue to work on what's the best option for either sale of the land or lease of the land as you mention and, of course, to working with our culture, youth, and recreation. As well as you know, this has been identified as a potential heritage site — this facility — so we want to make sure that we abide by whatever rules or regulations are in place for that.

So we're pleased to continue to work with the developer to try to address those issues to ensure that, you know, if they want to go forward with this, we can be helpful in that way.

**Mr. Weekes:** — Thank you very much. Mr. Chair, I'd like to turn it over to my colleague from Cypress Hills.

**The Chair:** — Mr. Elhard.

**Mr. Elhard:** — Thank you, Mr. Chair. Good afternoon to the minister and your officials. Just about every previous occasion, I've had an opportunity to raise questions regarding highways. I've addressed Highway 32. I'm going to give you a reprieve this particular session because I understand some of those questions were asked previously by one of my colleagues.

But I do have an area of interest that I'd like to pursue today, and it has to do primarily with new technologies that are being considered by the department. I guess the question specifically is, can you tell us how many new technologies and their

application are being currently tested by the department and maybe describe those technologies for us? Is that possible now?

**Hon. Mr. Lautermilch:** — Mr. Chairman, I'm going to ask the officials to respond in more detail, but I think it's fair to say that there has been some work done. A lot of this is exploratory work and experimental, and the department is working with different compounds — rubber asphalt, asphalt concrete combinations. And they will describe to you those areas of work.

What I found very interesting is within the Department of Highways and Transportation there are a number of people who work in the maintenance and in the engineering who are really an innovative group of people who've been able to help modify designs on commercial equipment — who have in fact developed new processes and new procedures and developed new machinery. And so it's quite positive to see a lot of times when construction or road workers will have the stigma attached to them by some — not by me, believe me — standing on the shovel at the side of a road not, you know, not maybe working as hard as they might. I want to say that the employees within the Department of Highways and Transportation have really surprised and amazed me in terms of their innovation and the technologies that they've been part of developing. I think Mr. Law or Mr. Schmidt may want to respond to you in more detail. But I think generally, it's a department that's been innovative.

You know, the technology, the base for a road doesn't really seem to change. You've got the compounds that you put in to make the stability. But I think we're all looking for is a service that's going to outlast the ones that we've been applying in the past.

So I'm not sure . . . Mr. Law, did you care to respond to that?

**Mr. Law:** — Well I'll do a very brief overview because Mr. Schmidt will do a better job of describing some of the technologies for you. We do have some written materials, which we don't have with us today, that we can provide to provide you with a little bit more detail.

Generally I would put the investments in new technology that the department is involved with into three categories. We have invested significantly in some new technologies associated with how we're building roads, some of the materials that are going into the construction process where we have test sections across the province for different conditions that we are currently working our way through.

The second category where we're spending some time is in the area of equipment. We tend to be, in some instances, the largest user in the province and have been fortunate — as the minister noted — to have some folks who have invested a fair amount of time in modifying some of the existing equipment that we use for our winter snow removal and for our maintenance program. And in fact, we have won some awards for that work recently.

And we also have . . . In the third category I would reference, we have some new technology testing that we're doing in vehicle-in-motion and other new technologies for our weigh stations that allow our commercial trucking operations to

operate at a more efficient and effective manner.

So without perhaps giving you the exhaustive list, I might ask Terry to give you an update on two or three of some of the technological projects we have under way on road technologies, and perhaps reference one or two of the equipment projects of recent mind. And then if it's okay, we'll provide you with some follow-up material that we can provide in written form.

**Mr. Schmidt:** — Thank you, Deputy. I'd be pleased to expand on that a little bit more. And this is a real area of passion for me, so if I get carried away just give a wave and I'll know when to stop.

As the deputy mentioned, there's several categories. And the first one I'll speak to is a little bit in equipment. And as the deputy mentioned, we have a large fleet of trucks and a large fleet of equipment, and we are always looking at ways to deliver the work more competitively and more efficiently. And we are very fortunate to have an innovative and enthusiastic staff to, you know, to bring things to the market that we are very proud to implement.

And we recently introduced the TCM 8000 or the transverse crack machine. And this is a piece of equipment that was designed and the prototype was manufactured in the department. And it is a new method for our crews to provide repairs to transverse cracks or the cracks that go across the highway, and it has turned out to be very efficient. And we've got two machines currently in the fleet. And we actually have entered into an agreement with a manufacturer in Saskatoon to market and manufacture those and sell those across North America. So we're very pleased and proud of that, and I'm very proud of the staff for their involvement in that.

As well we manufacture our snowplough trucks. And the amount of technology on those trucks still amazes me today. And we've implemented wing ploughs on the trucks. We've implemented and designed in-house new boxes and auger boxes to more efficiently deliver the product to the road, and it cares for the trucks better as well by containing the salt in the box and not all over the frames. And we are manufacturing those in-house, and they are proven to be very successful . . . where we started off with two or three prototypes and they're now coming out on all our new trucks. And they are very competitive with the older style of boxes.

We've also implemented all kinds of new electronics in the trucks that will electronically calibrate and monitor the amount of salt being placed on the road which is integral to our salt management plan that we have with Environment Canada. So we know exactly how much salt is going on the road; we can dial in the amount that we want on the road. And we work with training our operators so that they know for the conditions on the road how many kilograms of salt should be going out per square metre, and it's all calibrated with the speed of the truck.

And we have the same type of equipment on our oil distributors as well for when we do sealing that calibrates how many litres per square metres to go out, all based on the ground speed of the truck so that we efficiently use the oil. So that's just a few of our changes on our equipment.

On the construction side, we've been working on several fronts. We've been working with some of the industry on trying to introduce some foamed asphalt cement technology as part of one of our tools for delivering preservation treatments and improvements. This technology is not new, but we're still working on modifying it to our Saskatchewan conditions and to Saskatchewan needs. So we're working with industry. We've looked at putting out a few tenders on that. To date we've not quite received the competitive feedback that we would like to see, so we're continuing to work on that. And that basically is a technology where a big milling machine is used and the asphalt oil is injected hot into there with water. And it's a chemical process that helps provide better bonding for the asphalt cement to the aggregate so less oil is needed. And so we're continuing to work on that technology although it does require specialized equipment for the contractors.

The other technology that we just embarked on — I believe it was a year ago or two years ago now — was rubber asphalt cement. We did our first project on Highway 11 in the driving lanes, both northbound and southbound from Chamberlain south, and then we did the passing lanes in our conventional treatment. That's a joint research project with the University of Regina as well the federal government, Communities of Tomorrow. And we're continued to monitoring that, the feedback on that.

And in fact we are attending a conference in Alberta with Alberta, Manitoba, Saskatchewan, and BC [British Columbia] where we'll be presenting our findings on that and comparing it with the other jurisdictions as there continues to be real interest in that technology, both from an environmental viewpoint, from recycling the old tires. And as well it appears there may be actually . . . produce a superior product as well if we can make it competitive. So we're very hopeful that that will be something we can do more of. In fact we have another tender for that next year through the town of Chamberlain. So we're continuing to see real merit in that technology as well.

And that technology evolved to a point now where you used to need specialized equipment to do that, but you no longer do that, need that because the oil comes with the rubber already in it. So the only special technology is the asphalt suppliers who have to be able to dissolve the rubber compounds in the oil, but the contractor still uses conventional equipment. So that has really helped make that a more viable option in Saskatchewan.

We also continue to work on different subgrade strengthening technologies with Pavement Scientific International through their work and technology and our agreement. And we have seen some success in this too. And we want to continue to work on field trials on this as well and expanding that maybe into some areas of modifying base course as well to provide some additional strength in the base course especially in areas where we have low aggregate supplies.

This year as well we tried a new technology in the North on some of our projects, on some of our access roads to First Nations where we're looking to surface the roads, but we do not necessarily need the structural strength for the trucks. So we're looking at what we call emulsified asphalts which is a softer asphalt that will work better especially in the cold temperatures — it won't crack as much — and where you don't need that

hard asphalt for the strength of the trucks. It may work very well, and it will allow our maintenance crews to work those surfaces a little bit better too for maintenance activities. And so we've had some real success on a couple of roads in the North on that technology.

Another type of treatment we tried this year is on Highway 1 East, just east of . . . just west of Regina . . . Sorry, Highway 1 West, just west of Regina, where we're looking at trying a new . . . what we call a washed chip seal on high volume highways as another preservation treatment. We're finding that our traditional chip seals or seal coats work very well on some of our lower volume or moderate volume highways, but on the high volume highways of course the stone retention is a problem.

So we're looking at what we call a washed chip seal. They use a special asphalt oil that's electronically charged that provides for better adhesion of the oil to the aggregate and better retention. So that's something we're trying on Highway 1 West, just east of Regina here on a very high volume section of highway, and we'll see how it survives the winter.

And another technology that we've worked on is in the geotechnical side where with all this wet conditions we've seen, we've seen some more of our landslides become active. In some of our high-fill areas, whether it's on the Belle Plaine access, whether it's Highway 20 along the Qu'Appelle River, we're seeing more activity in our landslides. So we've been working with industry in trying a new technology called soil nailing where they actually use a big excavator. It's got an air powered or hydraulic powered nail driver on it that actually drives these . . . they're great, big spikes or nails or rods, about 20 feet into the soil.

And our geotechnical engineers work with models to determine where they need to put these and place these, and it all helps stabilize and hold the bank into place. And we've had success with a couple of these this year too. So we're going to continue to pursue that as an economical way to deal with some of these landslides. And it's environmentally friendly too. It doesn't disturb any of the area.

So that's just a few off the top of my head. There may be more. And I know we've also been working, as the deputy mentioned, in the weigh-in motion and the transport compliance field with some remote types vehicle inspection stations. So I'm not sure if George would like to expand on that or not.

**Mr. Stamatinos:** — Mr. Chairman, some of the work that we've done on the transport compliance side as Mr. Schmidt mentions as we . . . we focused on collecting much of our data remotely. Just as you may certainly be aware as it's difficult to be everywhere all the time, so we've been working on technology on at least three sites now in the province that will gather information of remotely using sensor technology that will gather information on such items as the weight of trucks, the individual weight of the axles.

There's scanning technology in place that will allow the operator to place their logbook on a scanning device, and that information will be transmitted via the Internet to a central location here in Regina where we can actually view the log

information from the truck driver and make sure that his logbooks are current and compliant.

We also have the ability to actually weigh the trucks. We have various types of beam devices that will actually measure accurately a stationary vehicle or one that's moving very slowly to determine what the weight of the axle group is. And it will also allow us to actually measure the truck to make sure that it's — you know, with video cameras and again with sensors — to make sure that that vehicle is within the length requirement specified in regulations. So there's a tremendous amount of opportunity in doing that kind of information.

The other piece of the technology that's quite exciting is that the ability with the use of video cameras we can actually photograph the licence plate of the vehicle, you know, and check the registration against the plate on the vehicle. So it allows us to, I guess, eventually really look at, I guess, more significant kind of compliance activities if we wanted to.

We're not there obviously. We're just gathering information data just to determine who's compliant, who isn't. And right now it provides an opportunity if we can at least photograph the door of the vehicle, we can actually phone up the carrier and say, listen, you know, we've been watching your activities. And are you willing to work with us on some kind of an arrangement that we can work together to ensure that we're all compliant on the system?

That's been really the main focus on the . . . certainly on the transport compliance side is to increase our presence out there, given that we have a certain amount of officers.

**Mr. Elhard:** — Mr. Chairman, I think I opened up too big a topic because some of the items that have been referred to by the minister and his officials all could use the next 45 minutes to elaborate. But I guess I'm encouraged to hear that the department is looking at new technologies because so much of the issues surrounding the ongoing highway maintenance and construction and care, I guess, can be addressed through new technologies.

And I think that if there's anything I'd want to leave with the department today is that we see innovation as very important not just to the benefit that it produces for the department itself and for its budgetary issues but for the travelling public and also for the people who are behind that kind of innovation. They need to be encouraged by very dedicated activity on the part of the department to test drive innovation where and when it's possible.

I'm encouraged to hear about your weigh-in-motion interest because we have a company right here in Saskatchewan that is a world leader in weigh-in-motion. And most of their installations are all around the world in North and South America and in Europe. And maybe we haven't had the volume of traffic here necessary to make it pay. But certainly with a homegrown company that has a world-class reputation, we need to be employing that technology as much as possible.

The TCM 8000 I found interesting. I remember the awards being granted to the members of the department for their ingenuity in developing that machine. I'm somewhat curious

about why the decision was made to manufacture them in the first instance. What drove that particular innovation? And did I understand correctly, now you've licensed a company to manufacture them. Who is selling the product? And what kind of agreement exists now for the department and for the government in terms of whose responsibility it is for the sales, for the ongoing sales follow-up? And who gets the money? Where does the money go? Does it go to the department directly? Does the department get to keep it? Does the money go into general revenue? What happens?

**Hon. Mr. Lautermilch:** — Mr. Chairman, I'm going to ask Mr. Schmidt to respond to the question. Mr. Elhard, I think Mr. Schmidt indicated when he opened his remarks that he has some passion for this and so I think it would only be appropriate to allow him to respond as the department's been pretty much interested in moving these kind of initiatives forward. Mr. Schmidt.

**Mr. Schmidt:** — Thank you, Mr. Minister. I'll do my best to answer your questions. There was a couple of questions in there. First, what drove the ingenuity to drive it was it came from our staff who are on the road every day fixing these transverse cracks that go across the road with the traditional methods of spraying oil in and throwing sand across it. And preventative maintenance will tell you that that's one of the most important things you can do is sealing up the cracks on the road as quick as you can.

And you know they just weren't quite pleased with the way this was happening. As well they were out in the open standing, you know, in traffic with the wand and throwing the sand on. And so they just put their heads together and they came up with this better technique to do it. It's a better product. It's safer. It's more environmentally friendly. So it was just a group effort of a number of very innovative people that I'm proud to say are working in the department.

As far as the agreement we have with the company to manufacture and market these, when we started constructing these and they were seen on the highway we started getting a lot of inquiries as to what is this piece of equipment and what does it do. And we were receiving inquiries from other Canadian jurisdictions — Manitoba, from the contractors in Alberta who do the maintenance, from the northern States. And this is quite a network, that we were getting inquiries from Michigan and Florida after awhile.

And so through that it became evident that there may be a market for this. And we were approached to see if we'd be interested in partnering with a company that does manufacture this type of equipment, road construction equipment. And they had an interest in this. And so we sat down with them and worked out an agreement whereby we agreed to license the technology and they would do the marketing and manufacturing because that's not a business we're in. And the portion of the funds that we will receive from some of those sales . . . I'm not sure of the details. It either goes to the transportation partnership fund for furthering innovation and technology. I believe that's how it's been structured to do.

**Mr. Elhard:** — Thank you. I was going to go through some of the other new technologies and it looks like, as I said earlier, we

don't have time to really develop a lot of that.

I'm interested in the rubberized, or the rubber asphalt combination test strip on No. 11 North. I've driven on that several times. It seems quieter. Is that a reality or is that just the impression I'm getting because it's new? And has this type of testing on this type of product been done elsewhere? Is there literature on it? Is there scientific literature on the results of this type of product being employed elsewhere?

**Mr. Schmidt:** — No, you're not imagining. What we have found from other research that's been done in other areas is that there is some evidence to indicate that it is quieter and that the rubber in the oil for some reason does not emit as much noise when traffic goes over it. And that is the interest that the federal government and the Communities of Tomorrow have partnered with us on, is they have somewhat of an urban agenda as well. And so even though it may seem quieter when you are driving it, what they are after more is the quietness to the residences and things beside the highway. So it has promise in urban areas where noise is of real concern, noise pollution. So if they can come up with a product that reduces the noise even slightly in urban areas they are very interested in that.

And so yes, that's what we will be doing with the University of Regina. We are partnering with them to actually measure the noise from that surface. And that's why we did the passing lane with the conventional and that. Then we have a very controlled environment where we can compare things in a controlled environment and the research will stand up to the scrutiny.

**Mr. Elhard:** — When you have an experimental system in place and you are doing a test strip there, how long do you anticipate it's going to take for the department to determine this is the right product, this is the right mix. Do you establish sort of a length of term for your experimental purposes when you start with this type of new technology or is it sort of ad hoc? Do you just keep adding time as required?

**Mr. Schmidt:** — No, when we do enter into formal research agreements, we do have time periods. For example there's the strategic highway research program that was funded jointly, an American and a Canadian study where it was called SHRP [strategic highway research program] and C-SHRP was the Canadian strategic highway research program. So all jurisdictions across Canada were involved with that. It had very stringent protocol for research, what type of testing had to be done and when and for how long, how it got reported, quality assurance, and quality control issues.

So it depends of course on the funding of course going into the research too that's available to put into the research. But typically when we do enter into research agreements there is a formal approach. Each one is somewhat unique depending on the data you're gathering. Some asphalts of course, you know, a pavement is designed for a 15-year life so you're not going to know the full findings of the research till you've reached your design life, but after maybe three years or five years — depending on the type of research you're doing — you'll have a very good indication.

We don't want to wait necessarily 15 years, because technology changes so fast. So at some point in time there will have been a

decision made, a risk analysis done to determine when is the time if we want to enter into this new technology.

**Mr. Elhard:** — The three- to five-year time frame is I think appropriate as you indicated since innovation and technology is advancing very rapidly. And in keeping with that I want to refer to the current agreement that the department has with Pavement Scientific International.

I became aware of the work they were doing a number of years ago. Actually it was just shortly after I was elected to the House and I was blessed with the opportunity to be Highways critic. And I think about five years ago the department entered into a long-term agreement with PSI [Pavement Scientific International] to evaluate their technologies and their innovative approach to subgrade strengthening.

And if I remember correctly the details of that agreement required the department to provide up to 40 kilometres a year for testing. Now I don't think the department has met that minimum requirement or that requirement in the last few years. If my information is correct I think there was only 7 kilometres allowed under that arrangement last year and I don't know if there's been anything set aside for the coming year.

So would the minister or his staff indicate to me exactly where they're at in this agreement with PSI?

**Mr. Schmidt:** — Mr. Chairman, we did enter into Pavement Scientific International for a research and development agreement for a five-year agreement that I believe will expire March 31, 2007. And one of the components of the agreement was to undertake field research and do field trials on the technology.

And we agreed, the agreement states doing 350 kilometres over the five-year period. I don't think it speaks to a certain number each year if I recall correctly, but 350 kilometres over the five-year period. And there is protocols in place for the research and reporting on the research and things like that to ensure that we're getting good value for the product. As of today, I believe we've completed 312 kilometres of the 350. There is about 38 or 35 kilometres remaining under the agreement.

So what we want to do is work with PSI over the winter to evaluate how we've made out on the 312 kilometres to date. Some has been more successful than others, as you're aware. So we want to have a look at that, learn from that, and then determine what the go-forward approach will be to complete that remaining 38 kilometres over the next construction season or so, pending finding suitable projects.

We need to find suitable projects as well. Not all projects are suitable to the technology and we want to ensure we choose ones that are going to have good chances of success especially at the experimentation and research and development phase.

**Mr. Elhard:** — On that issue, would it be appropriate to use that technology in situations where the subgrade is likely to be damp, more so than areas that are generally dry? Is that not the benefit of the technology that you're trying to develop here or that is being developed?

**Mr. Schmidt:** — The moisture conditions are part of the component. And I don't understand all the technicalities of it because it is very complex, but the moisture content is one.

And we are also looking at economics as well, as we're starting to see the costs of some of the materials go up as well. So the economies have to be balanced with our traditional construction techniques. So it comes into play where the aggregate sources are located, the costs of bringing the aggregate to the road and processing it versus the costs of the materials. So that comes into play as the economics.

And as well it's more the chemical makeup of the soil — is my understanding — and the chemical interactions between the products in the PSICem and that of the natural material. For example it's my understanding is you don't want to be using it in an alkali sensitive areas. The chemical reactions will just . . . it doesn't strengthen at all. It doesn't harden. So we want to make sure we're doing that.

And as well we're continuing to evaluate construction techniques as well. As sound as the technology can be, is if we don't follow proper protocol and quality control in the field, we're not going to get the results we're after. So we have to continue. We've tried several different types of construction techniques with industry, some more successful than other. We've tried several quality control and contract administration techniques.

So we're trying to evaluate which is the best, which provides for the most efficient and the best rate of success. And that's I think where we would really like to focus our efforts over the winter now, with PSI, in preparation for those other 38 kilometres that we need to do.

**Mr. Elhard:** — Mr. Chair, I'm more familiar with some of the work they're doing for the simple fact that some of it has happened in my constituency. And that's where one of the failures was recently because of improper protocol. And it just wasn't attended to in an adequate sense and the technology failed because of that. And I think there was a great deal of public concern about whether or not that was money well spent.

So, you know, I don't know if it's fair to the proponent to the technology or to the technology itself to discount it because of that failure, but it's certainly something that needs careful oversight. And I'd hope that that would happen going forward.

I have one last question regarding new technology. And that question is related to the quality of pavement that's being laid. I don't remember the exact year, but there was new pavement laid on the No. 1 Highway West between, oh, I think it was Hodgeville and Rush Lake. And within weeks that pavement was fully rutted just as though it had been there for five years. I was told at the time when I raised that question that that was a failure of new pavement design; that something had been tried and it had failed. And yet we're seeing some of that rutting show up early in more recent pavements. So I'm wondering if the department officials can tell us, what's at play here? Why is that type of pavement failure still showing up? And what has to be done to rectify that problem?

**Hon. Mr. Lautermilch:** — Mr. Chairman, I will ask Mr.

Schmidt to respond. But I, you know, I think this is truly an example of a public entity, a public department spending public money to build public roads, open to all measure of scrutiny by the media, you know, in this Legislative Chamber. The desire to move forward with innovation, new technologies, develop new technologies, will obviously create a higher risk factor than if we're using what used to be and what everybody knows and everybody understands. And I think that's one of the difficulties that, one of the things that I worry about in terms of the innovation within this department and within, frankly, the civil service — people who work every day to try and make things better.

And the public scrutiny, it's a media event. It's in the newspapers, the dailies, the weeklies, as they're moving forward with new and exciting things. And as I said, there's always going to be failure. There's failures on conventional technology for, you know, human error, mechanical error. There's a hundred different reasons why something can't work. But out of 312 kilometres, there's a failure on maybe 6 or 8 or 10, and that becomes the story. And it's unfortunate because really what it does, I think, is hampers our ability as innovative people and people who work within the civil service. I mean, we're all public servants, I guess, in one form or another, whether we're politicians or whether we work for the Department of Highways and Transportation.

I find it somewhat discouraging, but I know that there are people who are innovators and who are doing this work. And the model for one failure becomes the one small failure out of a large part. So you know, and I think it's something that we need to be cognizant of and cautious of as leaders, as political leaders in this province, that we ensure that we are allowing our employees — the people who work for all of us, for the people of Saskatchewan — the ability to work. And I guess they're in a fishbowl, but the ability to continue to work and move forward on new technological advances, you know, as it is with pavement.

I can guarantee you, and I think you will agree with me, that as we apply this new \$90 million that we put into this year's budget, which is 90 million more than we've ever seen, you know, in any, any budget that we've had in this province — we're up to now \$400 million which is a pretty good bump; it's 55 million that we've put in since last year's budget was struck — we're going to be doing more road surfacing. And we're going to be building more grades. And we're going to be putting more roads into production. And what that means is we've got a larger risk for failure. If we were to cut back on the amount of roads, obviously you'd have less risk.

But we're going to have pavement failure, and we're going to have road failure. That's the nature of the beast. That's how it's going to be. And I guarantee you if we have . . . And it's cold today. But if we don't have a sustained stretch of cold weather over the period of this winter, we're going to . . . and if we have excess moisture as we've had in the past year in some corners of our province, we're going to have more road failures.

There are some things that you can control, and there are some things that you can't. And obviously none of us can control the weather. We can do everything that we can to eliminate mechanical failure, to eliminate human error. And I think the

department after every failure will review the circumstance to determine what they could have done better.

But I think that's, frankly, no different than it is in a private enterprise operation. You know, the difference would be where a board of directors in a private company will look at the operations of its management, and they will explore all of those things and the direction that's given to the employees. That isn't coming to the Legislative Assembly.

So I just say that on one hand we need to be cognizant of the fact that if we're going to have innovation, we're going to have more failures. But on the other hand I think a combination of proven technology and a combination of innovation that's taking place both within the Department of Highways and Transportation and working with the private sector and working with the universities, working with the innovators, private sector innovators — such as PSI in Saskatoon — I mean those are all I think positive things as things that we need to do.

So with respect to process, I could ask Mr. Schmidt to respond to you.

**Mr. Schmidt:** — Thank you, Mr. Minister. When we do undertake new technologies, of course we do our best to mitigate risk. And there's going to be risk with any new technology. And we try to work with our stakeholders as well, that they understand the risks associated with a new technology, whether it's the local rural municipalities or the industry in the area. We try to do it in a partnership way, that they understand trying this new technology is going to come with some risks. And then you learn from those. And that's part of the process of continuous improvement.

As far as the asphalts go, we did have a project on Highway 1 West that did premature rut. It was a new asphalt mix we were trying. We do our best in the lab to simulate field activities out there. It's difficult. It's hard to always simulate it. And of course, you're trying to simulate how things are going to happen, you know, occur in five years, in ten years from now. So it is somewhat difficult to do. But in this case, the mix did not hold up as we had hoped so we have made changes to our asphalt concretes, the specifications.

There's several challenges we have. One is just the truck volumes continue to increase, so even though we try to project the volumes 15 years into the future, some roads, they're . . . You know, looking back now 10 years, we never would have thought they had increased in truck volumes the way they did. So what was meant to be a 15-year design, we've reached that amount of trucks in year eight. So even though it may be viewed as premature rutting, it's maybe met its design life in the number of trucks that's gone over the road for the way it was designed.

The other thing is the materials. And we continue to be challenged in finding good quality aggregate materials now. The ones that have been the easiest to find seem to be located and in some cases used up. So we're continuing to have to haul further distances and using maybe not as high-quality aggregates. So it's costing more to process and get that quality of aggregate that we need out there.

And then as well, as the minister mentioned, we're always struggling with the environmental conditions here in Saskatchewan. Wherein in the southern states, where you don't have the cold, you can put a hard asphalt cement in that will minimize the rutting, but if you would use that type of cement here in Saskatchewan, you'd get severe cracking in the winter. So it's trying to strike that balance between managing the cracking and the rutting.

And we continue to want to work with industry. We continue to want to work with the universities. And you know I think, as we mentioned, we have made some great strides in technology. I too see that's the future and moving forward.

**Mr. Elhard:** — Mr. Chair, I don't want to leave anybody with the impression that I'm not in favour of technology or new innovation. In fact, it's quite the opposite. I am probably more supportive of innovation and technology than most.

And I realize there are risks. The question becomes, have we learned? What have we learned from our testing these new technologies? And do we respond to what we've learned? And how readily do we do that? And I think that, you know, that's the more important question. Not whether or not we should try new technology, but what can we learn from the technologies that we have tested.

So if I can just leave it on that note. I appreciate the answers here. And like I said, if we had a lot more time I'd like to pursue a lot of these technologies. I'd like to find out more about them but if you're going to mail me the information or provide me the written information, that's good enough. Thank you, Mr. Chair.

**The Chair:** — Mr. Bjornerud.

**Mr. Bjornerud:** — Thank you, Mr. Chair. And Mr. Minister, I'm not sure if this falls under Highways or Justice but it's a problem with our highway traffic patrols on the Manitoba side and the Saskatchewan side. I had talked to the previous minister — oh it was about a year and a half ago, maybe almost two years ago — where we're getting a lot of calls from farmers that feel they're being hassled on the Saskatchewan side of the border when they go into Manitoba.

I have Harrowby on 16 highway that's a canola crushing plant. And they were really you know, logbooks to lights to . . . It just didn't seem to matter; we couldn't seem to win on this one. I had talked to the minister and at that time it was kind of like we . . . you know, he had made some calls and we had maybe what I would call a gentleman's agreement that there would be a little leeway there for farmers that farm close to the border and are jumping the border every day with their trucks, whether it's semis or tandems, whatever it is.

The problem has come up again this fall, Mr. Minister. And it seems now and if my information is right — and you must understand I'm getting this second-hand from farmers — but the feedback they're getting, the Manitoba highway patrol is doing the same thing to our guys again. Just any little thing — they're checking logbooks, they're checking all this kind of stuff but what they're . . .

The other theory is we're maybe responding in kind on this side. Our highway guys are maybe . . . And this could be totally wrong but this is the feedback I'm getting from the Manitoba farmers coming to this side that they're also getting that somewhat of a hassle. And I guess the question I would ask is . . . I know some jurisdictions have what they call 150-kilometre free zone there, where not that you break the law, but you aren't being hassled constantly because you're a Saskatchewan plate going into Manitoba. I guess first I better ask, is this under Highways or am I in the wrong estimates here, I should be in Justice?

**Hon. Mr. Lautermilch:** — Mr. Bjornerud, I think one of the challenges with this great nation of ours is that we're divided into jurisdictions — provincial jurisdictions and the territories and municipalities. And the issue of harmonization of regulatory regimes is one that we've struggled with whether it's in the transportation system, whether it's environmental regulations, and it just doesn't come easy when you're working with different provinces. Obviously the regulatory regime, the transportation regime is created, is caused by our national government. So what we're able to do here in Saskatchewan, as soon as you're crossing a provincial border there are, you know, other systems that are in place that will create imbalances, you know, and will create some challenges.

So that's why I think what we try to do is strive in terms of public safety, in terms of our road system, to develop a regulatory system that's balanced between, say Manitoba and Saskatchewan. At times our federal government will override provincial jurisdiction and create, you know, create their regulations to take effect. In terms of this specific question that you raise, the department officials are here, and I would ask Mr. Stamatinos to respond on our behalf.

**Mr. Stamatinos:** — Thank you, Mr. Minister. This is not an unusual case. We often have these cross-border differences in regulations and processes. And often we have a gentleman's understanding of how those pieces will be dealt with.

I'm not quite certain of what the particulars of this situation that has just recently arose, I suspect it's just been over this last several months. But what we can do is . . . I will certainly be talking to my counterpart in Manitoba, and just to get a better sense of what the difficulties are and where there may be some opportunity for us to collaborate to kind of ease some of that difficulty in moving vehicles from one side of the border to the other.

**Mr. Bjornerud:** — Well I'm glad to hear that. Thank you. Because I know when the previous minister . . . that was what I believe happened behind the scenes and the problem seemed to, you know, not totally disappear, we always have our problems. And you know again I'm not promoting being . . . hauling illegal weights or anything, but it's just a hassle particularly especially in harvest time that these guys are being held up. And you know as well as I do how long this can take. They might be stopped for two hours and it's just frustrating. And I believe it's maybe happening on both sides so if you'd make that commitment that you would contact them again. It seemed to solve the problem for a while last time. And I realize, as the minister said, we're working with two jurisdictions. It's not that simple. But I think the farmers especially on my side would



certainly appreciate that if we could do that again.

**Hon. Mr. Lautermilch:** — Mr. Bjornerud, if I could just respond to that sort of on a broader, on a broader scale. It's become I think more and more clear to me that farmers, commercial truck drivers, people who are hauling our commodities don't . . . they want to be in compliance with regulations. I mean that's the nature of, I think, the majority of the business people and they don't want to be damaging our infrastructure.

I think our biggest challenge is going to be over the next years here in this province is, how do we match our infrastructure to the growing economy? The Yorkton . . . the two crushing plants just as an example. Where are all the feeder roads going to be? When we built those roads in that area of our province we weren't anticipating the traffic that those two canola crushing plants are going to bring to there. So then the question becomes, how do we work with the municipalities? How do we work with the city of Yorkton? How do we work with Manitoba? Because obviously some of those commodities are going to come across the border. How do we now redesign in that area of our world a system that wasn't designed?

And I guarantee you, as you can guarantee, we're going to have roads that are going to be damaged by the traffic that's going to move those commodities to those areas. And have we budgeted to fix them up? Probably not, because, I mean, as we're trying to build and grow that area of our economy, there are changes that'll take place. And I think that is reflective of the whole problem that we're having here in Saskatchewan now with TMS roads.

And it just exemplifies exactly why we're going to have to all work together — industry, municipalities, the cities — because we're going to have to redesign this system to do what our industries are commanding of us.

And, you know, I look at Highway 32. I use that as an example. When we changed the oil royalties and the natural gas royalties, and when the oil and gas companies moved into that area of our province — record activity. Well drilling like crazy. And with that comes truck traffic. The truck traffic, driving over a road that just . . . and Highway 32, it can't stand it. It wasn't built for it and it can't take it.

And what we've had to do, is we've had to put . . . and we put a lot of dollars into that road. But is it up to a paved standard? No it isn't. But it's not only Highway 32 because we've got that in . . . I can go through your list and you know them, because your constituencies are bringing them to our attention. My point is that the focus on putting our traffic onto roads and it can't . . . I just don't think we can continue to say, because there's a road here, we want it paved so we can drive on it.

What we need to do is develop an infrastructure that's going to work for agriculture, that's going to work for the crushing plant, that's going to work for the ethanol plant. It's going to work for bioenergy because obviously the biodiesel, there are some incredible opportunities.

I know in my area of the world, northern Saskatchewan, there are going to be some changes in terms of what we're doing in

forestry, which in turn are going to put some more pressures on the system. So I think we really need to be cognizant that things will change and that what we did for the last 30, 40 years is probably not going to be the practice now and we are going to have to focus on what we need as opposed to what we want. And I think the economic corridor proposal that this department's been working on for a couple of years now, that's coming very close to completion, is going to be a big first step.

And then what we need to do is hook in with municipalities. And we've got to take our area district planning committees and we've got to have them help us, tell us what we need as opposed to what we want. And we are going to have to take a pragmatic approach to this because it's not going to be an endless source of money. The fact that we've got the biggest highways budget in the history of this province doesn't mean that that's the amount that's going to fix this problem for us because it's going to take time and it's going to take patience by all of us. But it's going to have to take, for sure, a willingness to change what we're doing.

And I know you as a member of rural Saskatchewan, a member from rural Saskatchewan you've seen that change and you've seen the changing needs. And obviously you can understand the need for all of us to work together in order to make that system work for your communities and for your economy.

**Mr. Bjornerud:** — Thank you, Mr. Minister. And you make a good point about the Louis Dreyfus plant and the James Richardson plant because that's going to change the whole climate out there on our roads.

I know No. 10 coming out of Manitoba, No. 16 coming from, in fact, the exact spot that I was talking about. And it's going to be interprovincial traffic that's going there. We need the Manitoba canola coming into Yorkton to supply that plant. So I understand the problem you're saying. And I appreciate if your, you know, if your department would see if we can do something again with the problem. And we'll play it by ear and maybe it'll solve the problem for a while again. So, thank you.

**The Chair:** — Mr. Allchurch.

**Mr. Allchurch:** — Thank you, Mr. Minister. Welcome to your officials this afternoon.

In the short time I have allotted I'd just like to ask a few questions, one of which being the Petrofka bridge. I've raised this issue for a number of years as a safety aspect, and that's the guardrail on the Petrofka bridge on the east side. In 2005 it was scheduled to be done. I believe the cost at that time was \$200,000. I got a letter from Richard Porter. Richard Porter is the Chair of the northwest transportation committee. And he and his colleagues do an excellent amount of work in regards to highways and what they're doing in the province of Saskatchewan. And I want to commend him and his committee on that.

It was supposed to be done this year at a cost of 292,000. It didn't happen. Can the minister reflect on what took place this year in regards to the guardrail at Petrofka bridge so that the people living around the area have a better understanding of what's happening and why it's taking so long to get done?

**Mr. Law:** — Mr. Chair, I thank the member for the question. My understanding is a little bit different. We'll check into it to make sure what I'm telling you is correct. But my understanding about the application in 2005 was that that was the date that the program received the application under our safety improvement program. In other words, the application would have been made at that time and it would have been costed out at that time. But by virtue of it going into the program it would have been entering into competition at that point with the other programs that were in place. So I'm not aware of that particular project having been scheduled for the 2005 construction year. But we will confirm that for you.

As for the current status of the initiative, I know that we have made a commitment in discussions with a different member of Mr. Porter's committee, the ATPC [area transportation planning committee] that we were working with. There were some delineator posts I think that had been damaged or had been knocked down that we had undertaken to repair as part of the current year program. But I think that's different from the larger initiative that you're describing. So we will check on that and we'll check on its relative ranking in terms of the safety improvement program and also confirm whether or not there was any commitment to undertake the initiative in 2005. That is a little bit different than my understanding of where we were but we will confirm that.

**Mr. Allchurch:** — Okay. Thank you for that. Yes, please check into it. I will also check my records because I believe in estimates in the spring of 2005 when I was asking the questions regarding this bridge, that's when it was committed to be done — in 2005 — and it was under the safety program. Again that was in 2005.

Now we're in 2006, and my letter was confirmed by Mr. Richard Porter that it was going to be done in 2006. To date nothing has happened, so I'm wondering what happened in this year of 2006 to cause the guardrail not to be done.

And I'm also wondering, the cost at the time of 2005 was 200,000, and I remember raising concerns of the cost of it at that time. But in the year's time that it took, it's gone up another \$92,000. But it's still not done. But I'm wondering why. Why does it cost so much just to put a guardrail up on one side of the road? We're not doing both sides. We're not doing anything else, just a guardrail on it. It just seems funny to a lot of the people in the area that a cost of \$292,000 will be contributed to putting up that guardrail in that area.

**Hon. Mr. Lautermilch:** — Mr. Chairman, and Mr. Allchurch, I think what would be helpful . . . We can obviously research *Hansard* and go back to that discussion of 2005. I think it's fair to say that inflation has taken a pretty incredible toll on the amount that we're spending on capital projects at this point. And I think it's no secret that bridgework often seems to be a pretty expensive piece of work when you get working on it. We can also check to see whether or not there was an approach made to the government through the safety program.

But as I'm understanding it from Deputy Minister Law that the application was received probably in 2005, that the work had not been scheduled because it would be part of the list of applications. And the department would then prioritize, and it

wouldn't happen anywhere but from within the Department of Highways and Transportation where the prioritization would take place and then the commitment. But we can check all that through. But I don't think it's . . .

When I look at the tenders that have come in of late, I think this year we're 25 per cent over what we were on highways construction from last year. And I think if you look at the growth and the strength of the economy and the difficulty in finding tradespeople and contractors . . . It's a workers' market out there and they go, they go where it suits them, and contractors are having a difficult, difficult time to find workers. And I mean that's part of our concern, frankly.

We're attempting to look at what industry's capacity is in terms of the new money that was put into the department's budget for this year, and we're attempting to look at what might be possible in terms of contractors' capacity for next year. Because one has to be careful. You could price yourself out of the market by having too much work on, you know, in the field without the capacity to do it. Because then your bids go skyrocketing, and then you get into a circumstance where you maybe can't afford to do what you think you'd like to do.

But steel, there's been an incredible increase in steel, as you all know. You have a look at IPSCO's bottom line for their activity outside of Regina here. So there's some very good things that come with that but on the other hand it costs an awful lot to get some work done. But I think it would be . . . We need to understand where this thing is at and where it is in the system. And we'll research back to '05 and we'll find out the nature of the conversation, and obviously if there's a misunderstanding then we should correct that.

But I mean public safety is an issue. I know the Petrofka bridge, and your area of the world has many, many bridges and ferries, as I know only too well. It used to be part of my old constituency so, I mean obviously there's a . . . and that's been a concern as you've said for a long time. I recognize that. But we'll research it.

**The Chair:** — . . . I notice that the time's at hand for recessing. If you have any final comments, Mr. Minister, we could take them now.

**Hon. Mr. Lautermilch:** — Only, Mr. Chairman, to thank my officials once again for their support. I want to thank members of the opposition for their questions. And I thank the committee for their time and I hope we've been able to shed some light on some of the questions that have been raised.

**The Chair:** — Thank you, Mr. Minister. Mr. Weekes.

**Mr. Weekes:** — Mr. Chair, I'd also like to thank the minister and his officials. Some very interesting questions and answers and I think it was very fruitful. Certainly, certainly it's obvious that there's many concerns that we have brought forward on behalf of the constituents in Saskatchewan about highways and the condition of highways, and I'm sure that we'll have an opportunity next spring to discuss it further. So thank you very much.

**The Chair:** — Thank you all. It now being 5 o'clock, the

committee is now recessed until 7 o'clock this evening.

[The committee recessed for a period of time.]

**General Revenue Fund  
Supplementary Estimates — November  
Justice  
Vote 3**

**Subvotes (JU01), (JU04), (JU05), and (JU08)**

**The Chair:** — Good evening. We'll reconvene the Standing Committee on Intergovernmental Affairs and Infrastructure. The item before the committee this evening is the consideration of supplementary estimates for the Department of Justice which can be found on page 17, Justice, vote 3.

I'll ask the minister to introduce his officials please.

**Hon. Mr. Quennell:** — Thank you, Mr. Chair. Seated to my immediate right is Doug Moen, Q.C. [Queen's Counsel], deputy minister of Justice and deputy attorney general. And to his right, Kylie Head, executive assistant to the deputy minister of Justice.

And behind me — in the order that they are on my sheet — Gord Sisson, director, administrative services; Jan Turner, executive director, community justice division; Rod Crook, assistant deputy minister, courts and civil justice; Murray Brown, executive director, public prosecutions; Gerald Tegart, executive director, civil law division; Murray Sawatsky, executive director, law enforcement services; Betty Ann Pottruff, executive director, policy, planning and evaluation; and Rick Peach, director of law enforcement services.

**The Chair:** — Thank you, Mr. Minister. Mr. Minister, if you have an opening statement we'll take that now.

**Hon. Mr. Quennell:** — A short explanation, introduction of the supplementary estimates. For the current fiscal year, additional funding of \$3.833 million is required to offset unanticipated expenditures for the Department of Justice. \$1.4 million is to develop detailed plans for new courthouses in La Ronge and Meadow Lake and install airport-style, walk-through metal detectors in Regina and Saskatoon court houses and the Prince Albert Provincial Court. These measures will offer improved security and space for witnesses, victims, judges, counsel staff, accused, and the public.

The RCMP [Royal Canadian Mounted Police] incurred extraordinary costs of about \$1.1 million for the Spiritwood manhunt, and the investigation of the manhunt drew heavily on resources from other jurisdictions during the search phase. The costs are mainly related to overtime and bringing in resources from other jurisdictions.

The Milgaard inquiry has concluded its public hearing phase. The overall cost of the inquiry is projected to be about \$10 million. For this fiscal year, \$1 million is required for additional hearing days, final summations, and to release the final report.

The Legal Aid Commission is presently forecasting \$200,000 for costs associated with the Hillson settlement. Our

commitment to the commission was to provide the financial resources to offset this pressure so as not to impact legal aid clients.

The recently announced provincial strategy to prevent child exploitation is provided \$133,000 this year and nearly \$1 million annually to expand the provincial strategy. This will add five new municipal police officers and strengthen the ability of prosecutions and the RCMP to use the national flagging system to identify long-term or dangerous offenders. Two senior prosecutors and an assistant coordinator will work as a team to respond to offenders who are in our communities or will soon be released from custody. An RCMP investigator will work closely with the prosecutors.

That's the end of the statement, the opening statement, Mr. Chairman. And I'll look forward to the committee's questions.

**The Chair:** — Thank you, Mr. Minister. Mr. Morgan.

**Mr. Morgan:** — Thank you, Mr. Chair. I have a number of questions regarding the Milgaard inquiry. If you could tell us what the original estimate of the inquiry was?

**Hon. Mr. Quennell:** — The original estimate was \$2 million.

**Mr. Morgan:** — And how many times during the course of the inquiry was that amount enlarged?

**Hon. Mr. Quennell:** — Well I suppose the number of times that we have met in this committee, or I suppose actually the Human Services Committee to be exact, and provided new estimates to the committee and to the legislature, so we would have been giving an update on an annual basis three or four times since the original estimate.

**Mr. Morgan:** — So there was increases at least three or four times during the course of the inquiry where the total increased from an original estimate of two. And what's the final number now?

**Hon. Mr. Quennell:** — Sorry, could you repeat the question?

**Mr. Morgan:** — Okay. So we have seen where the original estimate was two, and it was increased three or four times, and I'm asking what the final number was now.

**Hon. Mr. Quennell:** — It's forecast now at \$10 million approximately.

**Mr. Morgan:** — So we've seen three or four increases through that for 500 per cent increase over the original.

**Hon. Mr. Quennell:** — It's clearly described as a 500 per cent increase over the estimate.

**Mr. Morgan:** — Okay. The inquiry took place and sort of ran its course, and as we watched it go through the media, there was nothing that was unexpected or a total surprise that came out either in the testimony or in the nature of the testimony of the witnesses that were called. So I'm wondering (a) why we could be so vastly underestimating the actual cost?

**Hon. Mr. Quennell:** — Well as we've discussed before, the initial budget established at \$2 million was based upon an estimated number of hearing days of 35 days. And in fact there were 191 hearing days. There were 133 witnesses heard. There were 14 parties standing, 10 of whom were granted funding. Of course, how many parties have standing? How many are granted funding? How many witnesses are heard? And to a certain extent, the hearing time are all within, of course, the control of the commissioner.

If I could go through a decision tree on Milgaard . . . because I think we all as members of the Legislative Assembly are concerned — perhaps that's not the right word, but perhaps it is — about the cost of this inquiry.

The first decision was whether to make the commitment to have an inquiry in the first place. We often hear — maybe not as often as we used to — we often hear calls for public inquiries. And I think sometimes people call for public inquiries because they believe that even calling for a public inquiry suggests that there's been wrongdoing on the part of an institution or on the part of government, and therefore they call for a public inquiry and think that that political point — and I mean the word in small "p" political point, not necessarily partisan point — is made by just calling for an inquiry.

In this case, I don't know if a settlement could have been reached with David and Joyce Milgaard without making the commitment to an inquiry, but in any case . . . And I'm not as willing perhaps as Mr. Morgan to prejudge the value of the inquiry until I've seen the report, but whether the commitment was necessary to reach a settlement with the Milgaard group or not, a man had spent years of his life in prison for a murder that was established that he did not commit. So the first decision as to whether to make the commitment to hold an inquiry was made, and I think if you look at the analysis of that, I think that's the right decision.

The second decision, after Larry Fisher had exhausted all avenues of appeal as to whether to keep that commitment or not, well I suppose the government could have said, we made this commitment, we said we would hold an inquiry, we have stated that there is a value in holding an inquiry, given the impact that this had on David Milgaard and what we might learn about how to better conduct police investigations and prosecutions, but we're not going to hold this inquiry because of the expense or for some other reason.

I don't think anybody would have rushed to the government's defence if they had decided not to keep that commitment. And I think people who are critical of the cost of the Milgaard inquiry and what might be achieved from it would be extremely critical if the government hadn't kept that commitment, and I think they would have been critical if the government hadn't made that commitment.

The next decision item was at some point to say, well our commitment as a government, as a people of Saskatchewan, to David Milgaard and our commitment to determine what we can from a commission of inquiry has a cost to it, and it's worth \$3 million to us, but not 4, or we'll keep the commitment to \$6 million, but not 8, or we'll keep the commitment to \$9 million, but not 10.

Well I can't justify saying that the reasons for having the inquiry were worth 6 million or whatever the last estimate was before we came to the \$10 million estimate, but not \$8 million and not \$10 million. So I think once we had made the commitment to have the inquiry, that we made the appropriate decision along the way to maintain the inquiry to the stage we've now reached where the hearings have ended and the commissioner can prepare his final report and release that report.

I suppose the other decision that was made by implication — I don't think consciously made — and was discussed in a committee of the legislature previously was to give some direction to the commissioner on how many hearing days, how many witnesses, how many parties. Mr. Morgan and I had, I think, discussed this the last time we were both in estimates and discussing Milgaard. And it was Mr. Morgan's position at the time, and I think quite correct, that of course if the inquiry is to be independent, if the commissioner is to be independent, we can't have that kind of direction.

So having decided that we would have an inquiry into the wrongful conviction of David Milgaard and having decided to keep that commitment, there really was no way for the Government of Saskatchewan to spend less than \$10 million on the Milgaard inquiry except to say that, well now in our view what we think will be learned from the inquiry, the value to be gained from the inquiry, is not worth \$10 million and we are going to cut off the inquiry at 5 or \$6 million.

My other criticism of that decision, which I think would probably have been criticized, and perhaps criticized by Mr. Morgan if we had made it, is that having spent the \$10 million, I expect we will receive a full report from the commissioner of the matters that we asked him into inquire into.

Having cut off the inquiry at a lesser amount . . . Let's pick \$7 million because I think that is an estimate that we had at one time when we were in committee . . . would have been \$7 million and not a full inquiry, not a full report, so \$7 million for far less than what we are going to receive by allowing the inquiry to run its course.

**Mr. Morgan:** — Minister, you've spent a good deal of our time rationalizing why we needed an inquiry. My question is somewhat more simple than that.

What we had was a decision to proceed with an inquiry initially for a budget estimate of \$2 million. We all watched the media as that went through, and we watched what happened during that inquiry. And there was nothing unexpected or surprising that came out during the course of that that would indicate that it should go a different direction. There wasn't a large number of other witnesses. There wasn't a large number of other people that became parties to it that wouldn't reasonably have been anticipated at the outset. So my concern is would you and your officials not have done a better job of estimating the cost or realizing that this has come along.

My second criticism is, would there not have been a way to limit the scope of the inquiry without limiting the effectiveness that from the outset — I certainly wouldn't expect you or any minister to interfere with it once it's under way and that was the

problem you found yourself in — but from the outset (a) could you not have done a better job of containing it without damaging it? Because it became somewhat free-ranging as it went along and I don't think you gave it any better benefit. But my real problem, Minister, is that we have something that started out at \$2 million ended up at 10 and nothing happened as a big surprise during that course of it.

I mean you've given the numbers of the number of people that were added that got status, that got funding, but none of that should come as a surprise. I mean we knew who the parties were going to be, we knew who the witnesses were going to be, and nothing that came out in evidence, nothing that came out in any of the decisions of the commissioner or the counsel operating it should have come as a surprise to anyone. I mean nobody came up and said, oh I never expected this. This is what people expected to see.

**Hon. Mr. Quennell:** —Mr. Chair, I think the answer to both questions — I think I heard two questions — is no, and for the same reasons. In respect to what could have been anticipated, the David Milgaard inquiry is unique in the province's history and I hope it remains so. I wouldn't want to have another case like that. And to anticipate what the inquiry would take in respect to witnesses or hearing days, well clearly we did not. We were looking at the experience in the Stonechild inquiry where I believe we had 64 witnesses over approximately 43 days and cost \$2 million which is more than I believe was estimated when the inquiry was set up.

We hoped that the commission would be able to perform a lot of its work through a review of documents. We did not anticipate 191 hearing days. We did not anticipate 133 witnesses heard. And I think for the same reasons that the answer to the other question is no is, could we limit the scope? I don't believe we could have limited the scope to anything narrower than what the commissioner was asked to look into, which were the reasons why an innocent man served 23 years in prison for a murder that he did not commit. I don't know how we could have narrowed the scope of the question any narrower than that.

Having set a independent commissioner in charge of answering that question, we, of course, weren't in a position to restrain him and for reasons that Mr. Morgan and I both understand, I think, almost equally well.

**Mr. Morgan:** — What response will you have for the public the next time somebody calls for a commission or an independent inquiry to be set up, and they ask you if you'll do it and you're thinking of doing it and they ask you how much it's going to cost? Given what happened with the overages on both Stonechild and Milgaard, what have you learned from it or what has your department learned so that the next time it happens we're better able to estimate it? I mean you may have made a different decision — I'm not going to second guess the decision — but you may have made a different decision had you known that it was going to be a 10 or \$11 million expense. What do you do . . . what have you learned for the next one?

**Hon. Mr. Quennell:** — The estimate for the Milgaard inquiry was based on our experience with the Stonechild inquiry. So I think our next estimate, under similar circumstances, would be

closer to \$10 million than it would be to \$2 million. As to what I would say when people call for public inquiry, well as I said, it may not be as common as it used to be, but it's still a fairly common occurrence.

Recently an individual, having settled his issues with the government, called for a public inquiry. I believe that the opposition more or less publicly supported that call for a public inquiry. I pointed out to the media that public inquiries have their place and we have called them where we thought it was appropriate to do so; that they should be rarely used and only used where they do have a value. And I think I made the point in almost exactly this way, that public inquiries have a, particularly in these type of circumstances, great human and financial cost.

And next time somebody calls for a public inquiry, that call will have to be weighed in light of what can be accomplished, what could conceivably be accomplished, because of course you can't predict the outcome weighed against the likely human and financial costs.

**Mr. Morgan:** — So what you're saying, if I can summarize it, is you based your cost estimate of the Milgaard inquiry on the Stonechild inquiry and you're saying the next one will be based on what the last one cost — that your starting point will be \$10 million for the next one.

**Hon. Mr. Quennell:** — Well not necessarily. But we have . . . I mean, the next inquiry that our Government of Saskatchewan might decide to hold might be for reasons entirely dissimilar to the reasons for either the Milgaard inquiry or the Stonechild inquiry. The circumstances might be different.

But certainly the experience that we've had with the inquiries that we have held will illuminate and enlighten us as to what we can expect. I suppose the more of these inquiries or anything else and the more of any type of project that you're engaged in, the more different types of experience and costs you can weigh against to calculate what another one with entirely different circumstances might cost.

For example, if we were to have an inquiry, hypothetically, into a commercial arrangement, say, similar to one that was called for briefly by some members of the Legislative Assembly . . . I think it lasted for about a day, the call for a public inquiry. Well if you look at the review of 350,000 documents in Milgaard and imagine timesing that by 10 or timesing that by 20 well yes, the financial cost in Milgaard could inform you of what a cost might be in an inquiry of an entirely different nature that had involved many, many, many more documents.

For example, I wouldn't say oh yes, that inquiry will cost \$10 million because the Milgaard inquiry cost \$10 million, but our experience in Milgaard, our experience in Stonechild will . . . obviously would give us more experience than our experience in Stonechild alone gave us about the cost of an inquiry.

**Mr. Morgan:** — Minister, my suggestion to your department is that the next time you're called upon or considering an inquiry is that your department officials sit down and identify who the likely witnesses might be and make a reasonable guesstimate how long each one of them might be examined under oath. And

then allow a number of days to write a judgment afterwards and then the necessary and appropriate support costs for that. And treat it as if you're estimating any other kind of a project rather than just looking back and taking a guess.

I don't know what benefit we're going to get from the Milgaard inquiry and I look forward to seeing the decision with the hope that it provides some benefit. But I think the public has a right to know and I think it's important for you as the minister to know that when you make the decision to enter into an inquiry, have a reasonable cost of what it might be so you can determine whether the benefit is worthwhile. It may make your decision different. And I'm not second-guessing the decision on this one. Anyway that's my suggestion.

There is an amount in here, \$200,000 for the Legal Aid Commission which you had indicated was to assist with the Hillson settlement. Is there other money going to the Legal Aid Commission for the Hillson settlement by way of . . . in the original budget for this year or will there be some allowed in next year's budget?

**Hon. Mr. Quennell:** — The judgment is approximately \$271,000 with costs. Some amount of money was set aside notionally for dealing with the issue of a judgment if it was adverse to Legal Aid Commission for 2005-2006, which must have been approximately \$71,000. Clearly that wasn't enough and another \$200,000 is required from the Department of Justice to the commission to make the commission whole so that the \$200,000, as I said, is not coming from the programming of the commission.

**Mr. Morgan:** — So if I were to go back to the original budget estimate for this year, for 2005-2006, I would find \$71,000 in there? Because I can't.

**Hon. Mr. Quennell:** — No. There would never have been a line item. It was just a surplus amount.

**Mr. Morgan:** — Was that an amount of money that was additional to what they had asked for originally?

**Hon. Mr. Quennell:** — An amount that was not required for the budget. So there was a surplus amount in the commission after they . . . after, in 2005-06.

**Mr. Morgan:** — So what you're telling me is that the government is going to provide \$200,000 and they're going to absorb the other money out of their surplus or whatever excess money they have?

**Hon. Mr. Quennell:** — . . . thousand dollars and some has been absorbed.

**Mr. Morgan:** — Which is money they could otherwise have used for salaries or additional programming or whatever they do.

**Hon. Mr. Quennell:** — Well I don't think the \$71,000 would have been anybody's salary but . . . theoretically. Okay. What Mr. Crook is advising me is that the \$200,000 is the amount that the Legal Aid Commission requested from the department.

**Mr. Morgan:** — You had indicated in the House that your intention was that you would provide sufficient additional funding that it would not cost the Legal Aid Commission any money. Mr. Crook just informed you that the total cost of the judgment was \$271,000. Is that your understanding?

**Hon. Mr. Quennell:** — That's my understanding, yes. And the \$71,000 was not required for the budgeted programming in the year that it was received by the commission.

**Mr. Morgan:** — What about the cost of private counsel that was retained by Legal Aid? I understand there was two different firms that were retained by the Legal Aid Commission to defend this matter and the cost of those was relatively substantial.

**Hon. Mr. Quennell:** — Total Legal Aid, fees paid by the Legal Aid Commission over a two-year period — \$44,233.62.

**Mr. Morgan:** — . . . thirty-three. And 30 cents?

**Hon. Mr. Quennell:** — And 62 cents.

**Mr. Morgan:** — That was to two different firms, is that correct?

**Hon. Mr. Quennell:** — I can't answer that right now.

**Mr. Morgan:** — I presume that your officials can get that information for us. I just want to confirm that that is the total amount that was paid to the two different firms. And then in addition to the \$44,233 there would have been a face value of the judgment? And how much was the face value of the judgment which will include the amount of money for severance pay and pension contributions?

**Hon. Mr. Quennell:** — The total cost of the judgment, and that includes pre-judgment interest, post-judgment interest, and taxable costs is the amount that I provided — \$271,580.89.

**Mr. Morgan:** — Two hundred and seventy-one how much?

**Hon. Mr. Quennell:** — \$271,580.89.

**Mr. Morgan:** — And was that the actual amount of money that was paid to Mr. Hillson?

**Hon. Mr. Quennell:** — That entire amount has been paid.

**Mr. Morgan:** — So the actual amount of money that was paid out as a result of this was \$271,580.89 plus the amount of money that was paid out which you indicated was \$44,233.02. So the reality of it is we're about \$320,000 in total.

**Hon. Mr. Quennell:** — \$315,000.

**Mr. Morgan:** — So of this \$315,000, your department is providing an additional 200,000 in these budget estimates and the rest, the \$115,000 is being absorbed by the Legal Aid Commission?

**Hon. Mr. Quennell:** — Yes. I was just trying to determine whether that was over two years or not but the vast bulk of it

would have been in the previous fiscal year.

**Mr. Morgan:** — But that's the amount. I didn't ask which year. I just wanted to know the total amount that came . . . Shortly following this, the CEO[chief executive officer] of the Legal Aid Commission, Jane Lancaster, left the commission. Was severance paid to her and how much?

**Hon. Mr. Quennell:** — Mr. Chair, I wouldn't describe it as severance, but I want to give a full answer because I don't want to mislead you either intentionally or unintentionally.

Jane Lancaster was appointed a full-time commissioner of the Saskatchewan Automobile Injury Appeal Commission effective September 2006. She left her former role as chief executive officer of the Saskatchewan Legal Aid Commission on June 29, 2006. Now she had served at the Saskatchewan Legal Aid Commission for 30 years, and at the same time the government was looking at expanding the capacity of the Automobile Injury Appeal Commission by two full-time members to address work load issues.

Now Ms. Lancaster's new position with the appeal commission is lower paying than her previous job with the Legal Aid Commission, and she is a civil servant with over 30 years of service. The government agreed with the commission's view that providing a top-up payment of approximately \$17,500 was a fair and reasonable thing to do. This amount represents the difference between her old salary at the Saskatchewan Legal Aid Commission and her new salary at the Injury Appeal Commission for an 18-month period.

**Mr. Morgan:** — There was an 18-month wage differential which was just under \$1,000 a month that will be paid and that sum will be paid by the Legal Aid Commission. Is that correct . . . or has been paid?

**Hon. Mr. Quennell:** — That amount has been paid by the Legal Aid Commission.

**Mr. Morgan:** — What about the salary for that individual between June 29 and September? Was she on salary by either the automobile accident appeal commission or by the Legal Aid Commission during that period of time?

**Hon. Mr. Quennell:** — She would have been paid by the Legal Aid Commission because that would have been paid holiday time.

**Mr. Morgan:** — So in addition to the \$115,000, the Legal Aid Commission will have paid out salary for the months of July and August, part of September, plus the 17,500 top-up.

**Hon. Mr. Quennell:** — The holiday pay, I believe, was due to her and so I mean, it wouldn't have mattered. At some point she's going to take these holidays and be paid out these holidays.

**Mr. Morgan:** — Minister, earlier this month you expressed some displeasure with the RCMP — and I agreed with you on it — for not having hired the six additional officers on the missing persons' task force.

And you had indicated that you had been very patient, that you had raised the matter, that you had provided funding for this some time ago. And during the course of the year, you raised this with them on two or three different occasions before the individuals were actually hired. In your last interview on it you said, I express my displeasure and indicated I wanted something . . . words to the effect that you wanted them to go ahead and if that was interference, interfering with the operation of that, so be it. And if that was interfering, Minister, I think you're to be commended for having interfered.

Now that you know how much this has cost the taxpayer of Saskatchewan for the Hillson disaster — we're approaching a third of a million dollars, and the commission is absorbing well over \$100,000 — if you had this to do over again, would you have interfered?

**Hon. Mr. Quennell:** — Mr. Chair, there were four positions involved in the missing persons' strategy that were not filled until November, not six. To be fair to the RCMP, there was funding provided in the previous fiscal year, budget year, for the violent crime analyst positions and for the municipal positions, both of which were filled prior to October of this year.

So the funding for the four positions that were not filled did not start as early as the other positions, started April 1. And again to be fair to the RCMP, these are specialized positions, and you need the appropriate people to fill them. I was surprised when I learned in October of this year that those four positions had not been filled. And I understood, whether correctly or incorrectly, they would be filled before mid-November. And I think the words I used were disappointed, and I think I might have used the word frustrated to learn in November that they were not filled. I don't think I used the word displeasure, nor did I use the word interference, I believe.

A reporter asked if I had intervened. In fact I don't think I intervened in the sense that the reporter meant the word. I said that certainly I understood that my disappointment had been communicated to the RCMP, both in October and in November. And if that amounted to an intervention, I guess there was an intervention.

What Mr. Morgan is drawing an analogy to is far different. I'm not sure I want to get into this argument any more than he does today. Whether I ever expressed a personal view as to what the commission might decide in respect to Mr. Hillson or not, that certainly wouldn't have been directing them, to the commission, to take a particular action in respect to Mr. Hillson. And well I mean, it's just quite a bit . . . the analogy is very hard to stretch here.

I think Mr. Morgan in his question is at least conceding — which he hasn't conceded before — that this was a decision by the commission and not political direction. And since he's conceding that and he has said that when he did make that concession he would withdraw his charges of political interference and apologize to the Chair of the commission, I wonder if he might want to take that opportunity to do that this evening.

But the commission made a decision in respect to Mr. Hillson's

employment. The commission is chaired and has on its board senior lawyers whose judgment was that the questions of law, in fact, in this case were open to the interpretation that they had put on them. And they decided to, and being unable to reach a settlement with Mr. Hillson that was mutually acceptable to both parties, decided to have that tested, as did Mr. Hillson, in a court. They later decided, again independent of me, of the Minister of Justice's office, not to pursue an appeal. I respect their judgment in both cases. I stand by my decision not to interfere with the actions and decisions of commissions, such as the Legal Aid Commission, which need to operate at an arm's length from government.

I would be very upset as a citizen to learn that a politician had directed the Legal Aid Commission to terminate Mr. Hillson's employment, which I think was Mr. Morgan's original charge, and that is political interference. That would have been entirely inappropriate, but if you think that's entirely inappropriate, then you have to also believe it's inappropriate for a politician to decide the reverse because it's really the same decision, and it's a political decision about what the commission is going to do in respect to the future of Mr. Hillson.

**Mr. Morgan:** — I'm wondering, Minister, if you're frustrated and disappointed with the outcome of this, that it's cost the taxpayer \$315,000? I'm wondering if you find that frustrating and disappointing?

And my next question will be, if you had it to do over again, knowing what you know now, knowing that you had a third of a million dollars at stake on it, would you have done anything any differently? And I'll tell you right now, I would have. I would have told the Legal Aid Commission, you'll comply with the law, or I'll find a Legal Aid Commission that will comply with the law. This has nothing to do with the independent discretion and the autonomy of the Legal Aid Commission. This has everything to do with compliance with a simple statute that exists. To sit back and say that you're not going to make your departments and your agencies, your boards and commissions comply with the law is not acceptable to the citizens of Saskatchewan.

So my question to you now: are you frustrated and disappointed with this, and would you do the same thing all over again and spend another third of a million dollars? My question is what have you learned from it?

**Hon. Mr. Quennell:** — My answer on whether I would interfere with the commission is the same. No, I would not. That Mr. Morgan would tell them to comply with the law, well again I say some lawyers, senior to both Mr. Morgan and I, served on the commission at the time and their judgment without the benefit of 20/20 hindsight is different than what Mr. Morgan says his judgment would have been without the benefit of 20/20 hindsight. That may very well be the case. Of course . . .

**Mr. Morgan:** — The judgment of the public is the same as the Court of Queen's Bench, and that's a third of \$1 million gone.

**Hon. Mr. Quennell:** — Mr. Chair, I don't think . . . Mr. Chair, I wasn't finished answering the question.

Of course we would not like to spend any money that we don't want to spend, that we don't have to spend, that we're not ordered by a court to spend necessarily. In this case, Legal Aid Commission was ordered to pay this amount to Mr. Hillson. Sometimes, and in this case as I said, very experienced, senior legal counsel were unable to reach a settlement with Mr. Hillson. And the matter of what the law is, which wasn't simple to them, had to be resolved in a court.

We have a case now where a Mr. Art Dagenais wants \$1 million for malicious prosecution from the Government of Saskatchewan. We can't just always flip open the chequebook when somebody asks for money.

And there was, as Mr. Morgan probably realizes, extensive long settlement negotiations with Mr. Hillson that were unsuccessful, so there had to be a trial. Sometimes you can come to a mutual satisfactory conclusion — often you can — without a trial. In some cases you can't. But whether a minister should make a practice of stepping in when anything hits the front page of the newspaper and saying this is embarrassing, I want you to do it my way now. Well where do you draw the line, Mr. Chair?

**Mr. Morgan:** — I think that line is that the right way and compliance with the law.

My next question deals with the accommodation services. There's an indicational line item of \$1.4 million of additional funding. Is that all to do with additional courthouse security?

**Hon. Mr. Quennell:** — The \$1.4 million is to develop detailed plans for new courthouses in La Ronge and Meadow Lake, and install court security in Regina, Saskatoon courthouses and the Prince Albert Provincial Court. Security probably — well, not probably — will be a consideration in the design of the new courthouses in La Ronge and Meadow Lake. But not all the \$1.4 million is directed at security.

**Mr. Morgan:** — Is it the intention of the department over time to put that type of screening process in all court facilities in the province?

**Hon. Mr. Quennell:** — No. Those aren't the current plans. I think as . . . I would expect as courthouses are extensively renovated or new courthouses are built, that the security considerations will be different than they were when courthouses were built when we were not yet lawyers, or when Mr. Morgan and I were not yet lawyers.

The current installations of airport-style security are limited to the busiest courthouses in the province. I mean there's no reason to state that they would never be extended to other courthouses, even where we're not renovating or building new courthouses. But that's the current plan.

**Mr. Morgan:** — How do we know which courthouse may become subject to some kind of a person trying to bring a weapon or something into the court? Like I appreciate we have a need for it in our busy courtrooms, courthouses, but we also do in the smaller, the more remote court centres. And in fact, some of the more remote ones may be more difficult to get additional police officers if an incident occurs. And I'm just wondering if the department has a plan and what the plan might



cost.

**Hon. Mr. Quennell:** — Well we certainly don't have a costed out plan. I mean, there will be security measures taken at other courthouses in the province. The current request for supplementary expenditures involves the busiest courthouses with this airport-style security.

As Mr. Morgan will recall, legislation has been introduced into the legislature this sitting to clarify the powers of security people at the courthouses. And of course, that legislation will apply to every courthouse in the province.

**Mr. Morgan:** — There's been a couple of decisions recently that may affect the standard of review of the Court of Appeal, Housen and H.L., and we've also seen introduced a Bill to reduce the size of the Court of Appeal. I'm wondering whether these measures, the cost of these measures and other costs for the court, are going to be affected or reflected in other budget estimates and whether your department is contemplating anything to deal with those recent decisions by way of changing legislation. Because what I'm concerned about is whether we've got potential increases or decreases in court load occasioned by both the reduction of court size and if there's legislation dealing with the standard of review.

**Hon. Mr. Quennell:** — No. I think those are both — Mr. Morgan can correct me if I'm mistaken — but I think those are both civil decisions which would affect . . . If they affect any courts, they would affect the Court of Queen's Bench and . . .

**Mr. Morgan:** — I think H.L. is a criminal decision but . . .

**Hon. Mr. Quennell:** — Oh, okay. In any case we don't expect any greater costs because of those decisions.

**Mr. Morgan:** — Are you contemplating legislation that would change the standard of review? Is that something that's under discussion at this point?

**Hon. Mr. Quennell:** — There's some preliminary discussion around the standard of review for the Court of Appeal.

**Mr. Morgan:** — There is discussion right now?

**Hon. Mr. Quennell:** — Well there has been discussion with the court and . . . but there's very, very preliminary discussion. We would be having discussion with the legal community before we even began to think about bringing legislation into the House.

**Mr. Morgan:** — Would it be appropriate to consider that issue at the same time that you would consider changing the size of the Court of Appeal? Because that may affect the workload and I don't know whether that's something that would be a significant factor for workload or caseload with the Court of Appeal.

**Hon. Mr. Quennell:** — We don't view this as a workload issue. This won't affect whether the court should be reduced in size or not. We've taken the position and successive chief justices have taken the position — I guess two chief justices have taken the position; the former chief justice I think more

publicly and more strongly — that the court does not need to have nine members, that seven members is sufficient.

The court may want to see the standard of review changed and that certainly isn't determinative of what we might do. But we obviously take the court's views into consideration along with the views of others. I don't think the court sees that as a workload issue or it would impact the decision about reducing the size of the court. I didn't receive a representation from either the former chief justice or the current Chief Justice that we wait on the decision as to whether or not to reduce the size of the court until we decide what, if anything, we will do about the standard of review.

**Mr. Morgan:** — In some of the additional funds that are here — the police money and that — Mr. Crook had indicated at last year's . . . that they were under way with a new computerized system to try and track overdue fines. Is any of the funds that are in the supplementary estimates going towards that computer system or trying to update that?

**Hon. Mr. Quennell:** — No.

**Mr. Morgan:** — If Mr. Crook is available or has an answer, can he give us an update as to that process, as to whether it's meeting its timelines. I would like to know what the status of that is.

**Mr. Crook:** — I think the specific issue was the ability to generate outstanding fines reports for offenders automatically through the computer system. That was the specific issue and we are hoping to . . . we do believe that that change can be completed with the existing court system by the end of December 2007, which was the date that we had targeted for that change. That isn't the replacement of the new computer system involving both Justice department and Corrections and Public Safety. That work is ongoing but the specific change that was referred to as it relates to fines is being implemented.

**Mr. Morgan:** — So what you're telling me is that it's happening as it's supposed to and it should be up December of what year?

**Mr. Crook:** — December 2007.

**Mr. Morgan:** — I asked you a number of related questions about where the funds were going and the various times and dates. What I didn't ask you at that time was whether the intention was or it had the ability to track restitution orders as well. I know that is somewhat unrelated to the fine issue but as MLAs [Member of the Legislative Assembly] we often hear from people that have extreme frustration with restitution orders that aren't satisfied and I think it would be of some benefit to a judge to know that there was an outstanding restitution order when somebody comes back.

**Mr. Crook:** — I don't have an answer for you on that but I can certainly get that information.

**Mr. Morgan:** — If you would I would appreciate it. It's certainly something that as MLAs we often hear about.

I want to come back briefly to the accommodation issue and the

security costs. Would it be the intention of the department to come up with a plan or a strategy for the security systems throughout the province? Or is it not something they plan to implement? And where I'm going with this is I'm wondering whether there's a temporary or a portable facility that could be moved from courthouse to courthouse. When Queen's Bench sittings are on, it could be moved. And I certainly don't know but I'm wondering whether the department has considered that because I have significant concerns for the safety of our court officers and our judges, not to mention members of the public that are attending courts.

**Hon. Mr. Quennell:** — The department and particularly court services is reluctant to talk too publicly about security in the court and courthouses. The department wants to have appropriate security in all courthouses in the province. That will vary from courthouse to courthouse. As we proceed with the courts' capital program and new courthouses are built or courthouses are renovated, then these concerns about security and the level of security that we did not have previously — and I say previously, going back to when some of these courthouses were built — will be implemented in the changes that are made as time goes on.

I share Mr. Morgan's concern about security. We don't want to be telegraphing what changes we're going to be making too far in advance. Obviously we need the funds to make these changes here, but when we telegraph the changes we're making, I think we're telegraphing also the weaknesses that exist. We want to correct those weaknesses and we are proceeding to do so.

**Mr. Morgan:** — I look forward to those changes. Mr. Chair, I think we are close to the end of our allotted time, so if we could adjourn, that would be appropriate.

**The Chair:** — Thank you, Mr. Morgan. Minister, do you have any closing statements to make?

**Hon. Mr. Quennell:** — No I don't, just to thank the committee and . . .

**The Chair:** — On behalf of the committee I'd like to thank the officials and the minister for his presentation and the questions asked.

We'll take a little recess here while we go on to the next item of business before the committee.

**Mr. Morgan:** — I'd like to thank all the officials for coming out tonight. This is a significant intrusion on a rather unpleasant night to be out, so travel safely on the way home.

**General Revenue Fund  
Supplementary Estimates — November  
First Nations and Métis Relations  
Vote 25**

**Subvotes (FN01), (FN02), and (FN03)**

**The Chair:** — Reconvene the committee, Standing Committee on Intergovernmental Affairs and Infrastructure.

The item before the committee this evening is the consideration

of the supplementary estimates for the Department of First Nations and Métis Relations, vote 25, that can be found on page 14 of your Supplementary Estimates book. Mr. Minister if you would kindly introduce your officials please.

**Hon. Mr. Sonntag:** — I would be happy to do that. I have a very, very brief opening statement. Would you like me to do that at the same time or . . . at the same time?

**The Chair:** — I'll have you introduce the officials first please.

**Hon. Mr. Sonntag:** — Thanks very much. First of all to my immediate right is Nora Sanders the deputy minister. To her right is John Reid, executive director of policy. To my left is Laurier Donais, the director of finance and corporate services. Behind me and to the far left is Jennifer Brass, executive assistant to the deputy minister. To her right is Trisha Delormier-Hill, executive director, lands and resources; and Rob Spelliscy, director, gaming trust and grants, back and to my right.

**The Chair:** — Thank you, Mr. Minister. Now we'll take your rather brief introductory statement.

**Hon. Mr. Sonntag:** — Thank you very much, Mr. Chair, and committee members. I am pleased again to have the opportunity to appear before you this evening to answer any questions that you might have about the supplementary estimates for the Department of First Nations and Métis Relations.

Our original budget for the department for this fiscal year was 51.1 million. More than half of that is funding related to gaming that is distributed according to the terms of our gaming framework agreement. The department also received an additional 11.5 million in supplementary estimates this year. Eleven million of that was earmarked for gaming in accordance with the framework agreement because of the higher than anticipated profits from the four SIGA [Saskatchewan Indian Gaming Authority] and two Saskatchewan Gaming Corporation casinos.

Of the remaining funds, 100,000 went to the transfer of a position from Saskatchewan Environment to give the department additional senior policy capacity; 100,000 is going towards small grants to support Aboriginal events and initiatives such as powwows; and 250,000 was transferred to the department from the federal government for work underway by an independent committee that's planning the new Métis Nation Saskatchewan election. And further to that last point, the independent oversight committee was appointed by the federal and provincial governments at the end of June and is making real progress in organizing a fair and democratic MNS [Métis Nation of Saskatchewan] election.

So with those brief opening remarks, we'd be happy to answer any questions as relates to the supplementary estimates.

**The Chair:** — Thank you, Mr. Minister. Ms. Draude.

**Ms. Draude:** — Thank you, Mr. Chair. And to the minister and to his staff, welcome and thank you for coming out on this wonderful evening that I'm sure you would much prefer to be home roasting marshmallows or something warm. But we do

appreciate the opportunity to ask some questions on this additional \$11.5 million that the minister has indicated has been given to First Nations and Métis affairs. The majority of the money of course went to CDCs [community development corporation] because of the increase in gaming revenues. Is there a breakdown of this money to the various CDCs at this time?

**Mr. Donais:** — Yes, just in terms of response to your question of the 11 million for the gaming, 6.5 of that will go to the First Nations Trust, and about 4.4 will go to the community development corporations.

**Ms. Draude:** — Thank you. At some time — and maybe not tonight — can I get a breakdown of the money, the way it's been sent to the different CDCs and to the trust?

**Hon. Mr. Sonntag:** — We'd be happy to do that. We just don't have it here tonight.

**Ms. Draude:** — Thank you very much, Mr. Minister, I'd appreciate receiving it. The extra \$100,000 for the independent oversight committee to plan for the election, is the government still withholding funds from the Métis Nation?

**Hon. Mr. Sonntag:** — First of all just a correction, the amount was 250,000, not 100,000. And the answer to the second part of your question is yes we are.

**Ms. Draude:** — Is the federal government also still withholding the funds?

**Hon. Mr. Sonntag:** — Yes they are.

**Ms. Draude:** — And can you tell me the amount of funds that have been withheld since the decision was made not to fund the Métis Nation?

**Hon. Mr. Sonntag:** — We can get you the exact amount. It will be very close to three times 410,000, 1.2 million less one quarter because the money was withheld. The funds for the first quarter flowed in year one when it was withheld, so it would be somewhere between 1.15 million and 1.12.

**Ms. Draude:** — Thank you, Mr. Minister. I know from the last time we spoke in estimates that this money actually hasn't been held in a fund to be given to Métis Nation after the review is . . . after the election is completed. Is there an update on the way the money has been spent so far this year?

**Hon. Mr. Sonntag:** — I think this year would be a bit different than the other years where we tried to flow it out to as many Métis organizations as possible. This year the funds have gone exclusively to the independent oversight committee.

**Ms. Draude:** — Has the registry for the Métis election been . . . is it being worked on, or has it been completed to ensure that all Métis people are registered and will have a right to vote in the next election?

**Hon. Mr. Sonntag:** — It's not completed. The independent oversight committee is putting in place processes to actually put the registry in place right now.

**Ms. Draude:** — So are you anticipating the election to take place in early 2007?

**Hon. Mr. Sonntag:** — I think, right now it would be hoped that the election would happen if everything goes the way we hope it would — and there's no guarantee about that — but that it would happen in spring of 2007. So yes, sort of May 2007 would be nice.

**Ms. Draude:** — And at that time, the goal would be to ensure that all Métis people in Saskatchewan would have their card and would be registered to vote in the election. Is that a correct assumption?

**Hon. Mr. Sonntag:** — I think that's a fair assessment.

**Ms. Draude:** — Thank you. Mr. Minister, reading the news reports and news releases, I understand that you went to BC to talk to the department of First Nations and Métis affairs — I'm not sure what the title of the department is in British Columbia — to learn about the agreements that I believe had been signed with the federal government in BC. Can you give us an update on what BC has done that you feel is different from what we're doing here in Saskatchewan?

**Hon. Mr. Sonntag:** — Yes. We actually did a few things. First of all, on our way out we also met with the Westbank First Nation which is . . . most people obviously here in Saskatchewan won't know, but in British Columbia will be somewhat aware they're one of the most advanced First Nations as it relates to self-government. So we spent about a half a day with them on the way out. And because Saskatchewan is in discussions with the Meadow Lake Tribal Council on self-government, I actually have to say I didn't know before we got there that there was a relationship between the Meadow Lake Tribal Council and the Westbank First Nation. So we spent a fair bit of time going through some of the processes that they've gone through as it relates to self-government.

So that took up a good chunk of the time out there. We spent — I don't know — about an hour and a half with my counterpart. It was really more than anything to . . . it was the first time that I had met Mr. De Jong in that capacity, and so we spent a fair bit of time.

They, as you might be aware, signed — I don't know what the proper term is — an accord I guess. Not really an accord, it wasn't an accord . . . [inaudible interjection] . . . A document essentially just agreeing I think to work with the federal government on a number of initiatives with First Nations people in British Columbia. And we wanted to get a sense of how that was working there. I mean I can't say anything concrete came out of it. It was a good discussion, but that was really the . . . It was really a meet-and-greet the new minister.

As you might be aware, there have not yet been any federal-provincial-territorial ministers' meetings. It has caused all of the ministers across Canada of every political persuasion some concern, and as a result the ministers have been getting together a bit on different initiatives as well.

**Ms. Draude:** — I understand also from reading some of the press releases that BC has signed an agreement or maybe a . . .

[inaudible] . . . on education with the federal government and that also there was some recent agreements on a type of a new treaty process in British Columbia. Did you have discussions on those issues?

**Hon. Mr. Sonntag:** — If you want a bit more detail there, because officials met a little bit later, but I mean at my level we had . . . I mean the education was an actual agreement. And I just for the life of me can't remember the term they use as it relates to the post-Kelowna accord. It was closer to an MOU [memorandum of understanding] than an actual agreement as it relates to working with First Nations in British Columbia. But do you want to speak to the detail a bit more?

**Ms. Sanders:** — Yes, I'd be happy to. The education agreement, I think, builds on a process they've had under way in BC for some time where First Nations already had an umbrella organization that brought some common standards to their educational processes and so on, instead of having all the First Nations working independently. So the federal government is supporting work that BC and the First Nations there had already been doing for some time. And we did get a little bit of a briefing on that, and we've had some discussions further.

The self-government agreement . . . As we know, most of BC doesn't have treaties. There's a little bit of a treaty area in the northern part of the province, but most of the First Nations are non-treaty. And so there are a number of them where there have been negotiations under way for some time. And my understanding is that the recent signing there was of a self-government process that had been under way, under negotiation for a number of years.

**Ms. Draude:** — Thank you. Mr. Minister, too, one of the big issues that we hear about from First Nations across the province, but specifically in the North, is the Supreme Court ruling on the duty to consult and to accommodate. Can you tell what your government's practice is in line with this Supreme Court ruling?

**Hon. Mr. Sonntag:** — Sure. I suppose as you're probably well aware, it flows out of the Mikisew case. I think as a result of that, all jurisdictions across Canada have been, I think, put in a position to put together some consistent practices within their government. And as a result we've put together a document that we call the guidelines to — well here it is — it's the Government of Saskatchewan guidelines for consultation with First Nations and Métis peoples. And it's a guide for decision makers. We've put that out. It's available on the website, and we've sent this out to all of the stakeholders. And in addition to that, it's been sent out to all of the First Nations and as many Métis communities and organizations as we were aware of.

It is really, the way we describe it, the minimum requirements of government as it relates to consultation. This document is . . . I would describe it as the first step. We are asking for input now from First Nations and Métis communities as to how this process of consultation can now be properly implemented, so real consultation actually takes place in those different jurisdictions.

**Ms. Draude:** — Mr. Minister, from my understanding, the

Supreme Court ruling has talked about the necessity for government to negotiate and to consult with First Nations and not for companies. Can you tell me how . . . I know that your government has issues as policy but how are you intending to actually implement it?

**Hon. Mr. Sonntag:** — Well we shared it with the companies for starters. So the companies have all seen this. That was my reference to the stakeholders, but this is an important clarification to make. The Supreme Court ruling specifically speaks to the requirement to consult and to accommodate not to consult and negotiate. Negotiations may come out of some of those consultations, but it's not — it will be a point of contention, to be fair — but it is not, it is not, I think any, for sure, not our Department of Justice's view. And I think probably you would find that notion consistent across Canada that it's not a decision about negotiation.

**Ms. Draude:** — It's my understanding that there's actually been an action filed against the government by the Buffalo River Nation. Can you give me any input on this?

**Hon. Mr. Sonntag:** — I can confirm that is correct. About the detail though, it's in litigation. Can anybody speak in any more detail than that?

**Ms. Sanders:** — There has been an action filed against both our government and the federal government, but there's no detail yet as to the precise range of the claim made. And we haven't been in a position as yet to respond through the legal forum. It's certainly one that now there is a legal process underway. We'll be under the guidance of counsel in the next steps.

**Ms. Draude:** — So this, from my understanding then, would be the first time there has actually been litigation, been a case filed about the duty to consult and accommodate. Do you feel that your government has done due diligence when it comes to the work with consulting and accommodating, or has it been left up to companies?

**Hon. Mr. Sonntag:** — The Supreme Court ruling says clearly that the governments have the duty to consult, but there's an expectation that companies will also engage in dialogue with the affected Aboriginal communities. I think it's fair to say to this point we would have felt, our government and governments before, would have felt that they had fulfilled their obligations, but interpretations have evolved over the years.

**Ms. Draude:** — Mr. Minister, this is probably going to be one of the biggest issues as we go forward when it comes to developing our natural resources and working with First Nations to ensure that there's a voice and a partnership. So when it comes to existing developments like uranium and gold and precious metals in traditional lands, what is your government's position? What do you feel your duty is when it comes to the obligation to consult and to accommodate?

**Hon. Mr. Sonntag:** — I think it's fair to say that clearly as a result of the decision, I would argue we've done, maybe not as consistently as we should have in the past, but even before the ruling, I think the province and the different departments would have actively engaged the communities. But clearly now there

is a ruling that says on every action that the government is involved in, they have a responsibility to consult. The ruling still does not directly apply to businesses, but there is an expectation that they as well will engage in discussions.

**Ms. Draude:** — I understand that the businesses do have responsibility, but the first responsibility will lay with government. So before any licence or permit or agreement is made, there has to be a duty to consult with the First Nations. Is there extensive work going on right at this time with your department and with the various First Nations, because everyone is aware of the work and the potential that is there and especially in northern Saskatchewan? It comes to the oil sands, uranium, and mining. There is a tremendous amount of responsibility for this government in ensuring that we can develop our resources, but at the same time not infringe upon the rights of First Nations and the traditional lands. Does your government have some policy that, where there is work being done on a regular basis, a daily basis, an intensive basis to ensure that First Nations are consulted with?

**Hon. Mr. Sonntag:** — I'll let Deputy Minister Nora just talk a little bit about some of the details. She's been a bit closer. But let me just first of all say that I completely agree with your assessment that this will be one of the bigger issues that we will, as a society, have to deal with in the years ahead, and it needs to be dealt with very carefully and very appropriately.

What have we done? I refer you again to the processes that we have put in place. Right now we are actively in discussion with First Nations and Métis communities across the province to determine how best to put in place this process that we have set as minimum standards, how best we should implement the duty to consult. And I suspect in different communities it will vary from community to community. It won't be exactly the same practice wherever you go.

But I think it's fair to say all departments across government are now acutely aware of what their legal minimum requirements are. And to the best of my knowledge, those practices are currently in place, and we expect that there will be much more yet that we will have to do as time goes by. Is there anything you wanted to add to that?

**Ms. Sanders:** — I could just add that this is one of the most challenging issues both for our government and . . . as we discuss with our colleagues across Canada because we're following lines of cases, and it's one thing to have courts give general principles that apply in a particular circumstance that they were considering. It's another thing to come back and determine how those apply to a whole range of specific circumstances here. So it's as we get to a specific situations that we'll get it right. And that's exactly why there is that obligation to, when you get to those situations, to discuss with the First Nations involved, how they are affected and what we should be doing about that.

And we are . . . The issuing of the guidelines was a first step to try to have a deeper level of discussions with First Nations so that we were no longer just talking in the abstract and about cases from elsewhere. But we had a document here, and then we'll move ahead. We're dealing of course with an unprecedented period of exploration, and that makes these

issues very real.

**Ms. Draude:** — Thank you, Madam Deputy Minister. Has the federal government designed guidelines to follow?

**Ms. Sanders:** — My understanding is they're still working on it. They have been out, I think approximately a year ago, to consult about their consultation guidelines, but we haven't seen the guidelines yet. It's a live topic for them as well.

**Ms. Draude:** — Thank you. I guess I have to submit the governments of both levels are working on it, but First Nations are being frustrated by it, and I guess that's clearly indicated by the fact that there is at least one court case in the works because of the issue. Is this the only case that you're aware of at this time, the case between Buffalo River Dene Nation versus Canada and Saskatchewan?

**Hon. Mr. Sonntag:** — Yes it is.

**Ms. Draude:** — Because of this are you . . .

**Hon. Mr. Sonntag:** — . . . Saskatchewan right now. Yes, the only one in Saskatchewan.

**Ms. Draude:** — Because of this case, I would imagine that you are anticipating just one group of First Nations or one First Nations that feels like they are . . . that the Supreme Court ruling hasn't been adhered to, that there will be more. Are you planning on . . . All the work then that is being done in the North right now, are you thinking that there could be other court cases?

**Hon. Mr. Sonntag:** — Well I think you never know. So far everybody else is still talking. We're hoping that this process of consultation will substantially mitigate any need for litigation by any First Nation or Aboriginal community for that matter. Right now I don't think that we have any sense that there's any place else that is contemplating litigation.

**Ms. Draude:** — Is it your sense that this lawsuit is basically, the foundation comes from the need for government to recognize the traditional lands?

**Hon. Mr. Sonntag:** — I'm not sure I actually understand exactly what your question is. If I understand what you are saying, I mean traditional lands — as it relates to a whole host of issues, whether it's a consultation or self-government — is an issue that . . . There's lots of negotiation that needs to take place yet. So if you are asking specifically, does the duty to consult legally apply on traditional lands . . . is that your question?

**Ms. Draude:** — That's correct.

**Hon. Mr. Sonntag:** — And the answer is yes.

**Ms. Draude:** — Okay. Mr. Minister, I know that we are both aware of the Sipanok Agreement between Red Earth and Shoal Lake that's talked about quite often as well. And the discussions I've had with them lately — and I understand you've had similar discussions — indicate that they are concerned that the rights and the agreement has not been fulfilled and for this

agreement either.

I believe that the Sipanok Agreement expired in October 2002 and that you're in the middle of negotiating a new deal. Is that correct?

**Hon. Mr. Sonntag:** — I have some knowledge of it, but that's with the Department of Environment. We wouldn't specifically be . . . We're aware of the responsibility for consultation, but as it relates to that specific agreement, that's the Department of Environment that's dealing with that.

**Ms. Draude:** — So, does your department not deal with issues that are involving all the First Nations when it comes to their agreements with governments, or is each of one of these agreements specific to a department that's two different departments?

**Hon. Mr. Sonntag:** — We would play coordinating role. But these — wherever there are agreements — yes, they would be specific to each department.

**Ms. Draude:** — I know that there is huge concerns about this agreement, and I know that your department has had some discussions on it, and they are frustrated that the agreement that was signed in '92 has not met their expectations. Does your department have any input at all in ensuring that the needs of the First Nations is met when you are signing these agreements, or is it left up to different departments?

**Hon. Mr. Sonntag:** — Yes, we would, I guess, as a department — a role, I think the way I would best describe it in some ways it's kind of, it's a bit of a new role — but would be to try to ensure that the respective department, in this case Environment, was involved in the required consultation. And we would . . . I guess I wouldn't be surprised that, if sometime we would actually see as department, officially see the agreement, but it wouldn't be to our department to negotiate any new agreement on behalf of some other department. The department themselves would negotiate that.

**Ms. Draude:** — Mr. Minister, the Sipanok Agreement really is the idea, the duty to consult and accommodate really is important when it comes to the Sipanok Agreement and to ensure that the Department of Environment is looking at this with the interest of the First Nations in mind. How are you consulting with the First Nations to ensure that their voice, the voice that they have in the . . . their voice has been heard by this department?

I know that their interaction right now has been through this department, this level of government. And the frustrations that they have when it comes to ensuring that their voice is heard is . . . The responsibility must be laying with one specific department. I find it hard to believe that they would be asked to go to various ministers. For myself, my discussion and my question to you on traditional lands and the duty to consult, this Sipanok Agreement to me is a prime example of how it would have to be . . . that your department should have been forefront in the matter.

**Hon. Mr. Sonntag:** — I think it's fair to say that would not be the case. In any one of these agreements, it would be — I think

even by the Supreme Court ruling — would be first of all the requirement for the consultation to take place. But if there was an actual agreement that flowed out of that, it will be the department. And just for clarification, our department has been made aware of this, this Sipanok Agreement by the respective First Nation and First Nations, but most of the dialogue has taken place between those First Nations and the Department of Environment. We've had very little role in this agreement.

**Ms. Draude:** — Does your department, are you in consultation with Department of Environment on a regular enough basis to determine how close you are to actually inking a new agreement for the one that expired in 2002?

**Ms. Sanders:** — We are not as aware certainly as the Department of Environment officials would be on this. Our involvement with the other departments, including the Department of the Environment, is to make sure that they are well aware of the obligations, the consultation guidelines, and then often it's as needed. If we can be helpful in bringing a meeting together, we take a role. Certainly when the document gets to a later stage, we take a role and we do try to keep in regular touch with departments, but there are a number of negotiations going on, and the thinking is that it's better for the department that is well aware of the subject matter to exercise the obligation to consult.

And as in fact the Mikisew Cree case had to do with Parks Canada, not the Department of Indian and Northern Affairs, because it was a Parks Canada action that was being questioned by the First Nation. And I think the fundamental thing about those cases is that it's an obligation of all of government to make sure that the consultation is done, and as a department we try to work with other departments to ensure that they're aware of that. On the specific Sipanok Agreement, I don't think any of the officials here are current on where environment is with those negotiations.

**Ms. Draude:** — Thank you. In the mid-year budget update, there was a section on the Primrose Lake Air Weapons Range, and it has a statement that the federal and provincial government have been negotiating terms for a \$19.5 million economic development fund for the four northwest communities. And you have listed Ile-a-la-Crosse, Beauval, Jans Bay, and Cole Bay. Why wasn't Buffalo River consulted as they're on the northern border of Primrose Lake Air Weapons Range?

**Hon. Mr. Sonntag:** — This court action that you're talking about I believe is a discussion between Métis communities, and that's why the First Nation you're referring to was not involved.

**Ms. Draude:** — Why wouldn't the First Nation be involved . . . [inaudible] . . . take into consideration the duty to consult and accommodate.

**Ms. Sanders:** — My understanding was that there had been a settlement between the federal government and two First Nations previously. I know Canoe Lake was one — we're just trying to recall the other one — but some years back.

The current negotiation or current issue was in relation to claims by Métis communities, and we were involved because

the federal government was involved in trying to bring a resolution to their claims with respect to the Primrose Air Weapons Range. I'm not aware; I don't think the issue had been raised by Buffalo River at that point in the same way. But those particular negotiations had to do with four specific Métis communities that were known to have an interest in that area.

**Ms. Draude:** — And so then I guess, Mr. Minister and Madam Deputy Minister, then you're saying that the reason why they're not being consulted is because they were never, because they never asked?

**Ms. Sanders:** — The Buffalo River, we're aware because of their lawsuit that they stake an interest in a very large piece of territory in northwestern Saskatchewan. I don't know that we'd ever had on the record prior to their initiation of a lawsuit the extensive nature of the lands to which they were expressing an interest.

And I think it's because there wasn't an awareness of them having a particular interest that they were not . . . there was no . . . the federal government had settled previously with the two First Nations that they believed had an interest there, and they were then moving to settle with the four Métis communities that they believed had an interest. Those were the communities we understood as having an interest. And I don't know at this point whether Buffalo River will be recognized as having any interest there, which they would need to be therefore consulted about.

**Ms. Draude:** — Thank you. I guess this underlines my real concern that there are probably actions, if not taking place, at least being contemplated in many areas with First Nations communities who feel that their rights, especially on traditional lands, have been overlooked. And I would think that we are probably on the verge of seeing a lot more issues of the same kind coming forward if there isn't work being done with the First Nations, each First Nations on a regular basis on a large variety of permits and agreements and licensings, especially when it comes to traditional lands. That whole area is still up in the air. What is your government's stand on traditional land claims?

**Hon. Mr. Sonntag:** — Let me just say, for clarification I think it's an important point to make as it relates to traditional lands. The Supreme Court ruling — at least the way our province has interpreted it, and I think it is consistent across Canada — is that the duty to consult applies to traditional lands. The issue though, as I alluded to but wasn't maybe very clear at the beginning, is that the definition of traditional lands is something that yet needs to be sorted out because for every First Nation there will be a whole host of what are their traditional lands. And very often you will find disagreement from First Nation to First Nation about what are their traditional lands. So a lot of that needs to be sorted out.

And I think that partially answers your question as relates to Buffalo River as well. As it relates to traditional lands and self-government, was your question at the beginning? I'm sorry, June, Ms. Draude. Say that again.

**Ms. Draude:** — I guess my concern was how your government is going to be dealing with claims like this on a whole variety of issues when it comes to the fact that traditional lands may not

be fully defined yet.

**Hon. Mr. Sonntag:** — Well I think we can only act when we have the information. If we're unaware at the time, it will be difficult. We have, I think, the . . . And I'm not a lawyer but, I mean, the legal duty to consult is based on where there is an action by the province that clearly will affect a First Nation or Métis community, in what is understood by all parties to be their actual First Nation or their traditional lands. Where there's no dispute about whether or not it is their traditional lands, then there is a legal duty to consult. I think the grey area comes when it's not clear about whether or not those are actually the traditional lands oftentimes.

**Ms. Draude:** — Thank you. I'm going to move onto another topic, and this is just a brief comment. And again in the budget update book, it talked about 65 per cent of northern communities have a bacteriological compliance with water regulations. That should make me happy except it means that 35 per cent don't. And this again, we're talking about northern communities but we're not talking about on-reserve. What is your work with the federal government to ensure that on-reserve water supplies are safe, and what is your goal to ensure that 100 per cent of northern communities have compliance with water regulations?

**Hon. Mr. Sonntag:** — We can just give you a little bit of an update. I know the Department of Environment and the Saskatchewan Watershed Authority has — and particularly SaskWater — has been working very, very closely with many First Nations. They have a number of agreements on the provision of water into First Nations and Aboriginal communities. I think their relationship right now is more with the First Nations. And I know your question was not specific to First Nations but northern communities.

I think it's fair to say that the province . . . I mean, we recognize this is a big issue that needs to be addressed. And as I said, the corporation SaskWater and the Watershed Authority is working as closely as they can with many of the First Nations.

**Ms. Draude:** — Mr. Minister, the Northern Revenue Sharing Trust Account I know goes to . . . I think it's Department of Northern Affairs is the issue, but I know there are 35 municipalities that receive funding from this trust account, but there are no First Nations bands that get money from this account. Can you tell me why?

**Mr. Reid:** — My understanding is that the way . . . From the very outset, the understanding was that, for infrastructure on-reserve, the federal government provides that sort of funding, and that other account was set up to provide for other non-First Nations, for people off-reserve, proper infrastructure and that related sort of activities, and that's the reason for the distinction.

**Ms. Draude:** — Okay thank you. There was a couple of press releases lately from the minister talking about two issues. One of them was housing on-reserve and the fact that the province has indicated they are considering getting involved in building houses on-reserve. Can you tell me where this project is at this time?

**Hon. Mr. Sonntag:** — Well I think it's . . . First of all they weren't press releases. But I think it's fair to say that we recognize that all residents of Saskatchewan, everybody that lives in Saskatchewan is a resident of Saskatchewan, and much like we have done with the . . . some of the infrastructures relates to roads and some of the funding on education.

We've decided to cross some of those jurisdictional boundaries. We recognize that housing is a huge issue on many First Nations. There has been no decision made to move forward on that initiative, but it's fair to say that we recognize that at some point people need to be treated fairly and equitably right across our province. I think it's fair to say that our government's concern on a number of initiatives is that if you're going to cross some of these jurisdictional boundaries and sort of start funding in an area where the province hasn't funded before that it doesn't just provide an opportunity for the federal government to withdraw, and lives for those First Nations people are not any better if it's just the same amount of money going into the pool.

And I would argue that has happened to some degree already on our 65 million that we put into the northern roads strategy. There was a commitment by the government of the day and then by those in opposition at the time, who are now government, that that funding would be . . . there was commitment there would be matched funding on a lot of that, and it's not there now.

So I think if we do get into that, there would have to be some considerable commitment by the federal government that there would be no withdrawal and that we would actually make lives better for First Nations people. But as it relates to the specific issue of housing, there has been no decision made to move forward there yet.

**Ms. Draude:** — Well I apologize if it wasn't a press release, but I do know that there was enough of a media hype about it that it did manage to raise the hopes of First Nations people so that . . . I guess I don't believe that's fair in raising people's hopes if there is really no intentions to do anything about it.

But by doing that, by even talking about it, then it leads me to wonder why the fact that when I just asked about the Northern Revenue Sharing Trust Account and you had indicated that it was going to go to 35 municipalities because the federal government was dealing with the reserves, then everything else has to be looked at. It can't just pick and choose about which one, which issue you're going to talk to the federal government about and which one you're not. That's the whole frustration that I know people in the North are feeling is specifically this reason, is that it's a political football between two levels of government, and it's not getting better. It's getting worse when these issues continue to be brought up.

Mr. Minister, the housing on reserve, one individual that I spoke to lately told me that the housing shortage on reserve is acute. And yet at the same time, Sask Housing has homes that they're actually, just off-reserve, they're actually selling to individuals who live in Alberta and are flying back and forth from Fort McMurray or different areas. They have a permanent home that they got at a reasonable price, and one level of your government is selling homes when we have First Nations that

are living in not-the-best housing conditions. How can that be justified?

**Hon. Mr. Sonntag:** — Well I can't speak to the specific issue about Alberta residents, and that should be something that should be raised with the Minister of Community Resources to be looked into. But the notion of selling these homes was a government policy decision, and it's purely about home ownership. It's about affording the opportunity for disadvantaged people who have paid rent for years and years, recognizing the equity in some ways that they would have acquired had they been making payments and affording them the opportunity to actually own their own homes.

**Ms. Draude:** — So then that could be looked at in the same breath when you talked about the idea of building homes on reserve because they have that . . . Now the homes that you're selling, that the Minister of Community Resources is selling, would obviously be a lot less expensive when it comes to actually taking ownership by First Nations people who don't have a lot of money. That would be one of the options to have to ensure that there was housing that people could afford on reserve.

I guess my concern is that we don't have enough . . . The different departments of the government aren't working in the best interest of First Nations at all times. It seems to me that there are different rules and different events happening. It doesn't seem like there's a consistent picture.

**Hon. Mr. Sonntag:** — First of all, maybe this is obvious; I'm not sure. But just the way you asked the question, I'm not . . . I don't want to offend you, but just the way you asked the question, it sounded to me like . . . I want to be clear. There was no, there's no . . . the province doesn't own any . . . there's no Sask Housing on any First Nation. So there wouldn't be any houses for the province to sell because they don't own any houses on reserve.

I know that Sask Housing works and is working very closely with the FSIN [Federation of Saskatchewan Indian Nations] on this issue, because I think we all recognize that it is a critical issue for many, if not most, of the First Nations in our province.

**Ms. Draude:** — And I agree with you. It is a huge issue, and it's probably one of the issues that makes it difficult for people to get the education they need and to ensure that they have a job. If their home is not considered equipped well enough to handle the person, it's not going to make it easy for them to have a job.

Mr. Minister, in the House the other day, the Minister of Highways talked about that your government's initiative to build highways into a number of reserves. And I believe that there was an indication that there were three reserves picked for this year. Did your department have any voice in which reserves were going to receive paved roads into their bands?

**Hon. Mr. Sonntag:** — Not really. I was involved in the discussions at the very start only because I was the Minister of First Nations and Métis Relations and the Minister of Highways at the time when we first started entering into some of the discussion with different First Nations. But that would have



been sorted out through, specifically, the Department of Highways.

**Ms. Draude:** — The decision to pave roads into a number of bands was done on what basis?

**Hon. Mr. Sonntag:** — I don't know that I can answer that specifically. It would have, my recollection would be — and I'm a little outside of my area now — but my recollection would have been that some of the higher priorities would have been where there was a willingness to work with, as an example, the RMs and the First Nation. If they could bring in more partners, my understanding is that they would have been a higher priority.

**The Chair:** — Mr. Allchurch.

**Mr. Allchurch:** — Thank you, Mr. Minister. Welcome to your officials tonight. I just have a couple questions, and that's in regard to Métis hunting and the regulations regarding Métis hunting and the court rulings that happened two or three years ago in Saskatchewan. And unlike other provinces in Western Canada, specifically Ontario, Alberta, regarding Métis hunting, the laws seem to be different in Saskatchewan as to the ruling with Métis hunting.

I've been contacted by many, many, many people regarding Métis hunting because I'm a Métis myself, but I don't really have an answer for them. Could you explain to me, is this in the right area regarding Métis hunting, and can you explain to me what is the role of Métis hunting in Saskatchewan?

**Ms. Sanders:** — Perhaps I can speak to that. The Powley decision set sort of a new standard nationally. And interestingly enough, in Saskatchewan we already had a similar standard north of the northern administrative line prior to that, so it didn't make any change as far as that was concerned. The questions are more as far as southern Saskatchewan as to whether . . . and areas south of the line. Alberta took a different approach from the rest of the country.

Most provinces have struggled to identify because the Powley decision was referring to whether the Métis had a connection, an individual connection to historical Métis community and a current-day connection to a Métis community. And a number of the cases that have been in the courts since the Powley ruling both in Saskatchewan and elsewhere in Canada have had to do with that question of whether there was a historical Métis community and whether the individual hunter had a current connection with it. So we have had cases on that issue in Saskatchewan and elsewhere in the country.

Alberta took a different approach and said we'll just count it as the whole province, and that hasn't gone as simply as I think they had hoped either, because there have been other groups — including First Nations groups — who didn't agree with that approach, and I understand that there's some review and discussion taking place in that province.

But I think that although we were not able to flow federal Powley money to Métis in Saskatchewan directly, for research in that area, we have tried to work with the Department of Environment very actively to ensure that the practices are very

similar to the majority of the country. Pretty well everyone except Alberta has been working along the same lines. We've been carefully, along with Department of Justice, the Environment department, monitoring updates elsewhere.

I think the issue is that the Métis person who has a connection to a historical community has the rights to hunt. The issues arise more when it's people whose lives are now urban or where there is a sense that there is not a historical Métis community. Those are where there have been issues. And I know that the Justice department has also endeavoured to, in these kinds of cases, narrow the issues so that they are able to agree on certain matters of historical research and other things that maybe remain still in contention.

**Mr. Allchurch:** — Well thank you. I know you're right as far as Alberta. Alberta followed the same line as Ontario where it was actually wide open, all four corners of the province. And there are some problems in Alberta with that regards, as it speaks right now.

But in Saskatchewan, I know north of that line is where the Métis could hunt, and that was years ago. There was changes made to that after the Powley report, and it was centred around communities that have a Métis distinction, whether it be Duck Lake or north up around Green Lake. But yet residents around that area still can't hunt.

So people are wondering where the distinction is and where do they go to find out where they can hunt if it's going by districts, because if they go to the Environment, Environment says it's not our jurisdiction. So where do they go to find out exactly where they have the right to hunt?

And if they're going to go by areas that have a resemblance to Métis settlements, you could take in the whole Carlton Trail for that matter of fact. You could use Beardy's, Duck Lake, those areas there which are Métis settlements. You can use a lot of Saskatchewan as Métis settlements. So where is the distinction, and where do people go to find out where this law applies because right now, they're scared to exercise maybe their right because they maybe don't have that right? It's not written in stone.

**Ms. Sanders:** — I think the . . . my understanding is that north of the line, the practices remain pretty well consistent. South of the line in a number of the communities you've mentioned, that's where there've been issues to work out. And I think the simplest thing for someone with a question would be to discuss it with the Environment people in the field in that area. And I know our department would be more than happy to assist in making a contact or connection if that were useful.

**Mr. Allchurch:** — That's the problem by going to the Environment offices; they don't know. They can't give an answer as to where you can and where you can't which causes problems in the Métis communities because they phone government to find out where they can hunt. And yet they can't because Environment does not know. That's why I thought I'd bring it up tonight.

**The Chair:** — Thank you very much. It now being 9 o'clock. Ms. Draude.

**Ms. Draude:** — Thank you very much. Thank you to the minister and to your officials. I appreciate the opportunity to discuss these issues. I think we agreed on many of them, and I think the big one that we will have before us for the next while, regardless of which side of the House people are on, will be the duty to consult and accommodate. And I believe the First Nations are going to have a lot of issues regarding this Supreme Court ruling, and I'm hoping that it's clarified for them so that we can go ahead with some of the economic development that we need in this province. But thank you, Mr. Minister, and to your staff.

**The Chair:** — Mr. Minister.

**Hon. Mr. Sonntag:** — Thank you very much to the committee members and to the members for the question. Let me just say, I don't want to be presumptuous, but in the event that I'm not back here with my officials again, I want to take the opportunity to publicly thank Nora Sanders, our deputy minister, who will be leaving us officially the end of December. That was a public release already by the way. So I thank her very much for the time she spent in our department, and I know she was helpful to all of us as members in the House. So thank you very much, Nora.

**The Chair:** — Thank you, Mr. Minister, and on behalf of the committee, I'd like to thank the officials for being here tonight. And now being after 9 o'clock, this committee now stands adjourned.

[The committee adjourned at 21:02.]