



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

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**STANDING COMMITTEE ON INTERGOVERNMENTAL  
AFFAIRS AND JUSTICE**

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Regina Rosemont

[The committee met at 15:00.]

**The Chair:** — Good afternoon, ladies and gentlemen, and welcome to this committee, Intergovernmental Affairs.

**General Revenue Fund  
First Nations and Métis Relations  
Vote 25**

**Subvote (FN01)**

**The Chair:** — Madam Minister, if you have any opening comments and remarks and introduction of your staff. We're looking at First Nations and Métis Relations, vote no. 25. Madam Minister.

**Hon. Ms. Draude:** — Thank you, Mr. Chairman. I'm going to reintroduce the officials I had the last time we had an opportunity to get together on estimates. At the table beside me I have Ron Crowe, the deputy minister; John Reid, acting assistant deputy minister; Kerry Gray, director of finance and corporate services.

Also with me today is Richard Turkheim, executive director of northern reserves and industry development; Seonaid MacPherson, executive director of strategic initiatives; Trisha Delormier-Hill, executive director of lands and resources; Giselle Marcotte, acting executive director of Aboriginal policy and operations; Bonny Braden, director of communications; and Jennifer Brass, executive assistant and adviser to the deputy minister.

I don't have any further comments myself, but I'm going to turn it over to Ron Crowe, the deputy minister, for a comment on staffing.

**Mr. Crowe:** — Good afternoon. It's Ron Crowe, deputy minister, First Nations and Métis Relations. I just wanted to bring to everyone's attention that today we formally announced the appointment of Toby Greschner as the assistant deputy minister for the northern affairs division of First Nations and Métis Relations. And we're really glad that he would take up the position and take up the challenge.

The appointment is effective May 1, so he will be closing out his duties and responsibilities in his present role and joining our ministry on May 1. And we're looking forward to working and utilizing the leadership of Mr. Greschner in the northern affairs division of First Nations and Métis Relations. He brings to us valuable credentials and experience, coupled with the fact that he is also a northerner, has been in the community of La Ronge for quite some time, and has served the communities quite well in his previous capacities. Mr. Greschner has glowing capabilities and skills that he brings to the role, and really pleased to have him come on board.

In terms of interest, we're closing in on the final stages of the assistant deputy minister for the First Nation and Métis affairs division of FNMR [First Nations and Métis Relations] and so we'll hope to be making an announcement sometime in the near future. But we thought that the members would be interested in the update of information as indicated in the last session that we

appeared here. We wanted to bring that update to the members.

**Hon. Ms. Draude:** — Thank you to Ron. I also am very pleased. I'd like to welcome Mr. Greschner to the FNMR. We're very pleased about the opportunity we will have to work with him and the vision that we share for northern Saskatchewan and the opportunities that we know lay ahead. So I just want to welcome him. I look forward to meeting with him in the near future. And I'm looking forward to any comments or questions from my colleagues.

**The Chair:** — Thank you. Thank you, Madam Minister. I'll also let the committee know that we have tabled a document from the minister and everybody should already have their copies. So that document has been tabled. And we would move forward with questions, and Mr. McCall is opening the questions I believe.

**Mr. McCall:** — Thank you, Mr. Chair. First off, welcome to the minister and the officials from First Nations and Métis Relations. Good to see you here today to further the work of consideration of estimates for First Nations and Métis Relations and for Northern Affairs. I'll be asking a few questions off the top and then we'll be shifting to a consideration of Northern Affairs for some time and then shifting back to more First Nations and Métis Relations related questions.

Again we welcome the announcement concerning the new ADM [assistant deputy minister], Mr. Greschner. Certainly his reputation precedes him and we look forward to the work that he will do on this vital file.

I think we've discussed a number of times in this committee the role of First Nations and Métis Relations both within government as the lead on First Nations and Métis issues — you know, the minister certainly agreed with that at other junctures — and also in terms of the role that First Nations and Métis Relations plays in terms of interactions with the federal government. And certainly we had a member's statement making reference to work that had been done on behalf of First Nations and Métis issues this very day in the Assembly.

I guess my question would be that there are a number of issues that are certainly germane to what's going on and the critical role that the federal government plays. One of those issues is of course post-secondary education. And there has been a fair amount of discussion over the past year in particular as regards the post-secondary student support program — and not so much the funding in it or the adequacy thereof although that's certainly a big discussion in and of itself — but the fact of where that federal program is going to be housed.

And certainly First Nations are very concerned about the housing of that program. At the last special assembly of the FSIN [Federation of Saskatchewan Indian Nations] in Prince Albert, there was a great deal of deliberation devoted to this topic. And their concern is that the federal government is going to be shifting post-secondary student supports and the administration thereof out of Indian and Northern Affairs Canada and into Human Resources and Skills Development Canada.

Given that this is universally a concern out there in First Nations, I was wondering what action the minister's been taking on this file to reinforce that point with her federal colleagues.

**Hon. Ms. Draude:** — Thank you, Mr. Chairman, to the member for the question. And I agree with the member that advanced education is very important to and critical to the future, not only in the First Nations but to the province. And the member has indicated that we have talked about the role of FNMR working with the other ministries.

I know that the Minister of Advanced Education has spoken numerous times with the federal minister and we support the work that that ministry is doing. We respect the professional work that they are doing within the ministry and with the federal government, and I know that the word that we have heard from the Legislative Assembly has been given to our ministry and to the Minister of Advanced Education, and that word has been given to the federal government. And we will be supporting the work that the Minister of Advanced Education, Employment and Labour brings forward.

**Mr. McCall:** — But again, Mr. Chair, does the minister, on behalf of the government, have a position on the issue in terms of the housing of the post-secondary student support program federally? Does she agree with First Nations that it should not be moved to HRSD [Human Resources and Skills Development] Canada but that it should remain with INAC [Indian and Northern Affairs Canada]?

**Hon. Ms. Draude:** — Thank you to the member. The fact that the federal government has capped education funding at 2 per cent since 1996 is a big concern for not just First Nations and Métis Relations but for all of government. Both my colleagues in education are very concerned about it. We have been pushing from all three ministries to make sure that the federal minister understands that that has to change. It is the federal government's responsibility for on-reserve First Nations and for advanced education. So we definitely have let the minister know that, however this is funded, it has to be funded adequately.

I believe that the way it's working right now, the opportunity there is limited because there isn't enough funding. I'm hoping that the federal government actually puts adequate funding in place for First Nations so that we don't have to have the discussion about where it's housed, but to make sure that every First Nations that wants to attend a post-secondary education institution of some sort will have the funding that they have a right to.

**Mr. McCall:** — I guess, you know, certainly we in the official opposition agree with the minister. The cap is abhorrent and hurts the strategic interests of the province of Saskatchewan, let alone the damage it does to First Nations in this province. But again that's a broader discussion.

My question in particular for the minister, given that this is where the debate is at right now: what actions has the minister undertaken to . . . First and foremost, does the minister agree with where it's housed right now? Does the minister agree with First Nations in terms of post-secondary student support should

continue on being administered by INAC?

**Hon. Ms. Draude:** — Mr. Chairman, and to the member opposite, this is the kind of question that, looking at the options that I know that are available right now would work, that would seem to be where it should be. I haven't looked at any other options, and it's not up to me as government to look at it. My big question and the question for our government is, is there adequate funding?

I would think that if INAC is where it should be and that's where the federal government determines it's going to be, then let's provide adequate funding, period. I don't believe that any of us are here to say nothing should ever change. Maybe it should stay there. I'm quite comfortable with it where it is, if it was sufficient.

So to go on from there, I have actually spoken to the federal minister about it, as has my colleagues, and said that this has to change. The fact that it has been underfunded is not right, and what is the federal government going to do to deal with it? I would hate to say that this is the only way it should be done. Right now I would think it's the right way. I haven't seen any other proposals. So my message to the federal minister is, fund it.

**Mr. McCall:** — I guess again I was looking for clarification on the minister's position as to where it's housed, which is a point of debate right now in terms of the federal government and its actions. And I think I have that, so I'd thank the minister for that. Can the minister provide to the committee documentation of the work that she has undertaken to advance that case in terms of dates of meetings, in terms of letters sent to the minister, in terms of arguments raised at the federal-provincial-territorial level, in terms of the inadequacy of the cap and the fact that the cap should be removed?

**Hon. Ms. Draude:** — To the member, I can give him dates. We don't have the dates here right now, but we've had at least three meetings where we've had a discussion about this issue. And besides the meetings that I have had with the federal minister, I know that my colleagues have had meetings as well. So I will undertake to provide the member opposite with the dates of the meetings that we have had face to face with the federal minister. And when you have the opportunity, I'm sure you will advance the same question to the other ministers involved.

**Mr. McCall:** — Thank you, Madam Minister. And I do want to back up a bit. There were a number of questions raised at the last committee meeting to which you had undertaken to provide further information. That has been provided, to my understanding, so I'd thank the minister for that and welcome her undertaking to provide further information on this score.

A second question I have under the heading of post-secondary education: could the minister describe for us the role that she has undertaken with regards to the future of First Nations University of Canada, and where the ministry's involvement in that file is at.

[15:15]

**Hon. Ms. Draude:** — Thank you again to the member. I have

been in constant contact with the Minister of Advanced Education, Employment and Labour. We've had a number of meetings within the ministry. I've attended one meeting with him with the university board, First Nations University of Canada board. And the work that he is doing, the specific project work that he is doing is under the purview of that ministry and he has my full support. Whenever there is any change in the status of the project, we have ongoing discussions with him.

**Mr. McCall:** — I guess if the minister could enlighten the committee as to the status of the project, as she terms it.

**Hon. Ms. Draude:** — I would believe it would be better if the minister answers that directly. I haven't talked to him this week about it and last week was a week of holidays, and I'm not sure where he's at on the discussion. I am quite confident that there is ongoing discussions as I haven't heard anything from the minister, so I believe that he must be satisfied with the progress at this time.

**Mr. McCall:** — Okay. But in terms of there being a decision point where, you know, certain conditions must be met or further funding is not available, what's the minister's awareness of that aspect of the file?

**Hon. Ms. Draude:** — The last time that I spoke to the minister about this, he was working very well with the board at the First Nations University and with the project supervisor, specific group that he has involved in the negotiations. I can't say any more than that right now. I just know that he is confident that things are going ahead, and that the overall goal of ensuring that the First Nations University of Canada can provide ongoing education is the goal of all of our government.

**Mr. McCall:** — But surely there's a timeline that is attached to that work and, you know, complete with deadlines that have, you know, as recently as the last few months realized certain monetary penalties for First Nations University of Canada. So what are the deadlines and what are the timelines for the project, Madam Minister?

**Hon. Ms. Draude:** — Mr. Chairman, and to the member, I am aware that all the funding but I believe it is \$100,000 has been given to the First Nations University of Canada as per the original agreement, a discussion that we have had. I am not aware of the next time frame that is being discussed and I'm sure the member will have an opportunity to ask the Minister of AEEL [Advanced Education, Employment and Labour] that question.

**Mr. McCall:** — Again, and certainly these are points we'll follow up with the Minister of Advanced Education and Labour, but again, as the lead, as the minister on point for First Nations and Métis issues in the Government of Saskatchewan, surely you must know what the timeline is.

**Hon. Ms. Draude:** — Mr. Chairman, maybe the member opposite hasn't heard me so I'll repeat it one last time. I've had an opportunity to speak to the minister on an ongoing basis about the issue. The last time I talked to him about it, he was very confident about the progress of their relationship. Most of the money has been disbursed. I'm not sure the exact date for

the next timeline, but I am sure that if the member opposite wants to talk to the minister at any time, whether it's in estimates or whether it's calling him up, I'm sure he can get that answer.

**Mr. McCall:** — Moving along, Mr. Chair, a third question on post-secondary ed and then I'll cede the floor to my colleague from Athabasca.

It's a question that deals with, in particular, with the Kawacatoose First Nation licensed practical nurse program. It's a particular example of the more general sort of policy decision that was taken to extend post-secondary education, moving it on-reserve, by the provincial government. The licensed practical nurses turned out their first graduating class last spring. I had the pleasure of attending, along with the member from Arm River-Watrous — there he's giving us the high sign there — and the member for Saskatoon Massey Place.

I ask about the Kawacatoose program because it's one of a number of programs such as the partnership with Peter Ballantyne in terms of providing distance education for nursing or the program with Cowessess around another licensed practical nurse program. This is something that I think we need to do more of. I think the opposition thinks that. I think in different circumstances the members opposite, the government of the day, have agreed with that.

So I was wondering if the minister could tell us about the status of the Kawacatoose First Nation licensed practical nurse program. Will that program be going forward?

**Hon. Ms. Draude:** — Thank you, Mr. Chair, and to the member opposite. I agree totally with the member opposite that this Kawacatoose licensed practical nurse program is an overwhelming success. I've had an opportunity to meet with the chief and some of the members from the council and they are rightfully proud of the success of this program and of the graduates, and that they are continuing on this year.

It is largely a commitment of the community and as a request of the community to have this program. I have no knowledge that there was any changes but again I'm going to reiterate that it is a commitment of the community, the band themselves, and in working in a relationship with the Minister of Advanced Education, Employment and Labour. And I have not heard that there's any change in that relationship.

**Mr. McCall:** — Well I'm glad to hear that, Mr. Chair, and certainly we look forward to the minister continuing to champion and ensure that this valuable program continues and grows, as well it should.

On a related subject, the Kanosis proposal around a MRI [magnetic resonance imaging] facility located in the Regina vicinity, could the minister describe for the committee what role the Ministry of First Nations and Métis Relations is playing with regards to that proposal and its status.

**Hon. Ms. Draude:** — Question for the member: what First Nation were you speaking of?

**Mr. McCall:** — I believe the title of the proposal is Kanosis but

it's originating out of Kawacatoose First Nation.

**Hon. Ms. Draude:** — Thank you for that question. I know that the member opposite is aware that our government, through the Minister of Health, has a patient-first review. And we also have an overall policy review of the ministry itself. So we know that the government or that the ministry is reviewing policies, not just for the First Nations when it comes to MRIs, but there's also discussions with private MRIs and with Métis. It's an ongoing review at this time.

The member opposite is, I know, aware of the fact that our ministry's mandate is to work beside my colleagues when it comes to initiatives such as health and education initiatives. So we will be looking at this as a government.

**Mr. McCall:** — Just to clarify, Mr. Chair, to the minister, does that mean then that the decision framework or the decision timeline for whether or not the government supports something like the Kanosis proposal or project, does that mean that the patient-first review must be concluded before any sort of decision is taken? Or if the minister could be a bit more clear.

**Hon. Ms. Draude:** — I'm sorry to the member opposite. I can't talk about the deadline; I'm not aware of it. I'm sure again this is something that the Minister of Health can clarify. But I do know that as a government, we had the opportunity to meet with First Nations leaders who wanted to provide leadership in areas of services that they could provide to not just to First Nations and Métis people, but to the people of the province. And we were open to discussions with them.

We've had meetings not just with First Nations but with Métis leaders who have discussed opportunities, and it is again making sure that we have policies in place that will benefit everyone in this province. So I'm sure that the Minister of Health will be able to give you a final answer on dates.

**Mr. McCall:** — Perhaps the minister will understand, or perhaps not, will understand my frustration. It's fine for the minister to have meetings with First Nations and Métis stakeholders on these issues, you know. That's certainly within the purview of the ministry. But the public accountability, in terms of the actions and undertakings of the ministry, this forum is one of those places where it should happen.

So if the minister's continual response to questions concerning meetings that she's undertaken, policy discussions that she's integrally involved in, if the answer is continually to put us off to other ministries, you know, we can take note of that, and we'll certainly follow up where we need to. But again the First Nations and Métis Relations is there to be the leader on First Nations and Métis issues in the government. So again what is the relationship of First Nations and Métis Relations to this particular file?

**Hon. Ms. Draude:** — To the member opposite, we have a joint letter that was signed by the Minister of Health and myself regarding the proposals and discussions about services that may be provided by First Nations. And I can give a copy of that letter to the member opposite, but I am sure that the member opposite will understand — hopefully the member opposite will understand — that the job of First Nations and Métis Relations

is not to have a professional in every area of government. That's why we are working with and beside our other ministries.

We have four major areas of expertise within this ministry. We have the area of communications, northern affairs, finance accountability, corporate services. We look after treaty land entitlement, we look after gaming, and besides that we work with the other ministries. There would not be a reason to have the professionals making decisions on health, on education, on social services specifically for First Nations when we are as a government work together on these initiatives.

I'm very pleased and honoured to be the spokesperson for First Nations and Métis people and I'm often the door that will provide an opportunity to have meetings with other ministers. That is my goal, my role, and I believe that it's being successful. It is an opportunity to have another voice around the table when decisions like this are made. And I am very pleased that because of the work that we are doing within FNMR, there is an understanding of issues in other government ministries, a greater understanding of the discussions and concerns First Nations and Métis people have.

**Mr. McCall:** — Well I guess, you know, thanks, Mr. Chair, to the minister for that, but of course we're looking to be let in on that understanding as well and to precisely understand the role of the ministry as it pertains to these public policy matters. So, you know, we're not being obtuse; we're just trying to do our duty in terms of providing public accountability for these decisions.

At this time I will cede the floor to my colleague from Athabasca who has some questions on a number of issues.

**The Chair:** — The floor recognizes Mr. Belanger.

**Mr. Belanger:** — Thank you very much, Mr. Chair, and welcome to the minister and to her officials. I look forward to having some very good discussions on a wide variety of issues.

[15:30]

And also I thank my colleague from Regina Elphinstone who has the lead role in the critic area of Indian and Métis affairs, and I must point out has done an admirable job of attending functions, paying respects on behalf of our caucus to a number of important events, and of course attending as many passings of many of the First Nations and Métis leaders that we've had over the last number of years. It was always nice to know that he was there representing our caucus and showing a lot of respect to the First Nations and Métis people. And I think that's very important to note.

Madam Minister, again I thank you for your time you're giving us this afternoon. And just to get right to the point, one of the things that we spoke about recently in the Assembly here was the whole notion of the effects of the duty to consult as expressed by my colleague when it impacts northern Saskatchewan.

As you know, it's such a tremendous challenge and what the province initiates or views as a duty to consult to what the First

Nations and Métis people view as a duty to consult is radically and worlds apart. I think I made that statement in this Assembly time and time again. And I want to reiterate that as part of my discussion for Northern Affairs. As the Northern Affairs critic, I want to focus my comments specifically to the North, but to also point out that it does have a lot of effect when we talk about duty to consult as it pertains to Indian and First Nations members of northern Saskatchewan.

And I defer to my colleague, the member from Regina Elphinstone, on the province-wide discussion on that, being the critic for Indian and Métis affairs, when it comes to this issue. But there are certain points that I would like to raise as well to complement some of his work.

Before I get into that, Madam Minister, I just want to know who made the decision — obviously you as the minister would have to assume that responsibility — but who made the decision and why was the recommendation made to amalgamate Northern Affairs with First Nations and Métis Relations.

**Hon. Ms. Draude:** — The decision was made by our government.

**Mr. Belanger:** — Now when you say our government, it's obviously a recommendation that you would have to bring forward. So is it safe to say that you brought the recommendation forward to amalgamate Northern Affairs with First Nations and Métis Relations? Because no other minister can tell you what to do with your department without your blessing. Is that correct?

**Hon. Ms. Draude:** — To the member opposite, no, that's not correct. If the member opposite would like to look back you will see that the announcement was made on my responsibility as Minister of First Nations and Northern Affairs as one title. It didn't happen after I became minister. It happened before, and I was given responsibility for both areas at that time.

**Mr. Belanger:** — One of the things that's obviously troubling, Madam Minister, is that the purpose of having an independent and a stand-alone department called the Department of Northern Affairs — and not DNS [Department of Northern Saskatchewan] per se but the Department of Northern Affairs — when we assume a ministership, when I was a minister, we didn't want to be a subvote under Economic Development, which had been the case for many, many years. And we wanted to be a stand-alone department with our own deputy minister, our own staff, and our own programs and our own vision for northern Saskatchewan.

We did not want to be — if you use the phrase — an affiliate or a subsidiary of another department. We, northern Saskatchewan, wanted our own Department of Northern Saskatchewan, or Department of Northern Affairs. And there's a number of reasons for that and you're probably aware of the reasons.

Number one is that we occupy half the land mass of Saskatchewan. We're predominantly Aboriginal people — I would suggest maybe between 65, 75 per cent, if not greater, of the northern population. We in northern Saskatchewan probably occupy some of the richest reserves in uranium, forestry, and

tourism opportunities and yet the problems persist over the years as we're well aware of in terms of having high unemployment, having poor infrastructure, and certainly having a lot of these socio-economic problems that we speak of many times in this Assembly.

So we thought having our own department, having our own stand-alone department with its own deputy minister and its own staff and having a total focus on northern affairs, on northern issues, was very important for northern Saskatchewan.

Now I served as minister of a couple of portfolios at a time, so I know the strain that a minister has. But always there was time dedicated for specific northern affairs issues. We were not amalgamated with any department. The focus was the North.

Now northerners are telling us and they're probably telling you, and you're probably telling your officials, you need to have a specific northern affairs focus and strategy, period. Now the first mistake I think your government made was amalgamating Northern Affairs under Indian and Métis affairs. I think that was a disservice to northern Saskatchewan, and I'll go on to the reasons why after I hear your response.

It does a disservice to northern Saskatchewan primarily because we are now simply a subvote. And how much do we get out of that process? I wouldn't mind finding out exactly what your budget is today. I'm having trouble trying to add what exactly is in the budget and what the money is for. Because what I see, Madam Minister, is a weakening. I see a lot of shuffling of some of the resources.

We know that the attention isn't there any more so I need to ask you, do you think amalgamating Northern Affairs with another online department — such as an important department as Indian, Métis affairs — does justice to northern affairs issues?

**Hon. Ms. Draude:** — Thank you, Mr. Chairman. To the member opposite, yes, I believe that we are doing justice to northern people in Saskatchewan. Yes, I do. I heard the member opposite talking about when he was minister. Well there was a decision made by the people of the province on November 7 two years ago, or nearly two years ago, that there should be some changes made, and this was one of the changes that was made.

I've heard the member opposite talking about, we did not want to be . . . That's not what we wanted. Mr. Chairman, I would think that there are people in the North who have a voice that should be heard as well.

I'm pleased to be able to tell you what Joanne Griffith from New North said in a newsletter in January when she said:

2008 flew by quickly, as with a new government in place in the fall of 2007 there has been a lot of relationship building to begin . . . however we have been received quite well and are working with many Ministries to enhance the quality of life in the North.

That's the goal of our government — to enhance the quality of life in the North.

What I have heard many times when I went to the North, not just as a minister, but before in opposition, is that the northerners are tired of being apart from Saskatchewan. They want to be part of Saskatchewan. They want to be involved in the opportunities that we have.

And I agree with the member opposite. There are many resources in the North — not just natural resources but human resources — and we'll have an opportunity to work with the people in the North and with the natural resources that are in abundance in that area to ensure that the 86 per cent of the people that are in the North that are Métis or First Nations can be very involved in our economy.

I'm very pleased with the fact that my colleagues . . . The Minister of Highways did a tour in the North. I'm very pleased with the Minister of Advanced Education, Employment and Labour just came back from the North. In fact he spent half of his Easter break in the North talking to many people who were very pleased that he was up there. I've made trips up there with the Minister of Environment, with the Minister of Social Services. I've understood that Enterprise and Innovation have had discussions in the North.

And what was happening in the North under the NDP [New Democratic Party] government, under the old regime? Hadn't changed in many, many years. We don't want things to remain the same in the North. We want progress. So to do things the same way and expect a different result isn't what's going to happen.

I am honoured, pleased, and very excited about the opportunities we have in the North with initiatives such as Enterprise Saskatchewan and the other work that will involve northerners in the economics of our province. So to the member opposite, I'm very happy that I have the opportunity to be minister, not just of First Nations and Métis Relations, but of northern Saskatchewan as well.

**Mr. Belanger:** — Well first of all, Madam Minister, I appreciate your comments, and really I appreciate your view of the North because I think it's important we understand the North, and that's the first step I think. And I want to kind of park the politics aside from some of the discussion that we need to have today in terms of what I view as the weaknesses of your budget. And I can tell you right now that I don't think the election of November '07, that the people of Saskatchewan said, hey we'll vote for you guys if you guys amalgamate Northern Affairs with Indian and Métis affairs.

I don't think that was the mandate that the people of Saskatchewan gave you. That's an internal decision that you guys made. And so you know, that whole notion of yes, they told us to make these changes — but you guys are making changes based on your philosophical positions. And I think on this particular matter that really, quite frankly, you've said to northern Saskatchewan that, you don't deserve your own ministry. You don't deserve your own department. You don't deserve your own focus. You don't deserve your own deputy minister. You don't deserve your own staff. You don't deserve your own plan. That's what you're saying.

The people of Saskatchewan when they elected your

government in 2007 didn't say, as one of the criteria for us voting for you, please do away Department of Northern Affairs. They didn't say that. So your argument and your logic is just very, very weak, and I think misrepresentative of the fact that it's not what was given to you as a mandate.

Now I understand New North — that's the entity that you wish to use for some of your statements to back up your logic — well I got a press release of Wednesday, March 11, 2009, and I quote, "New North vice-chair Bruce Fidler has recently accused the province of ignoring problems in northern Saskatchewan." The same article, and I quote, "Meanwhile, Draude says if northern mayors want a meeting with Premier Brad Wall, they have to make a formal request and not rely on a news release."

So be careful when you made reference to certain entities in northern Saskatchewan to try and back up your logic or your thinking, because the individual they made reference to was a staff member. It's not a member of the executive nor is she a mayor.

But I go back to my earlier point in northern Saskatchewan. You look at the problems in northern Saskatchewan — and I live in the North — and I see a lot of the challenges with youth suicide. I see a lot of the lack of services for people that may want to get out of some of the addictions they may have. I see problems with the roads. I see problems on First Nations land with housing.

I see a lot of the youth that are involved with activity that is not complementary to what the elders have taught them nor what the elders have built in our communities, and I see a lot of values disappearing, good values. But the same token, I see a lot of resources being taken out of the North. Now this obviously didn't happen overnight but in recent years we've seen a spike, an increase in suicides in northern Saskatchewan.

I think in recent months, northerners are feeling a bit more ignored and neglected. Now where did they get that feeling from? Now what we see is that many northern leaders, First Nations and Métis leaders, they are putting a lot of emphasis on this duty to consult and duty to accommodate. They're putting a lot of emphasis. They're saying this may be our answer. This may be the solution that northern people want and then, when northern leaders ask for revenue sharing as one of the ideas, then immediately that idea is quashed.

Now when we had the Department of Northern Affairs in place, Saskatchewan Northern Affairs to be exact, their focus was totally northern. And in a region that deserves and needs attention, such as northern Saskatchewan, I've listed a number of areas that need attention and the minister is aware of those areas as well.

[15:45]

In an area that is desperate for some kind of support, that is calling and crying for some kind of initiative and action on a number of fronts, the first thing you do is you amalgamate the Department of Northern Affairs with Indian, Métis affairs; you lumped them in together. And some of the issues that you raise, as an example, like I think in my opinion Northern Affairs has been ignored and neglected under your government. It has been



severely neglected.

One time there's a plan to put four enterprise regions. You had proposed it go down to two regions. And secondly I understand you've also discontinued the northern loan fund. Is that a correct statement to make? Is that the truth? So you looked at the crisis developing in these northern communities, they're feeling isolated and abandoned — abandoned by your government — and you say you've been given a mandate at the November 7 election to do so, to make these decisions. Well that's got to be the coldest and most callous answer I've gotten off any minister since I've been sitting here.

Because the bottom line is, this area needs attention. And it's not as if northern Saskatchewan is not contributing to this province. We are contributing a great deal. We're contributing a great deal. At the very least what we ought to get from this government, what we ought to have from this government is a recognition and acknowledgement of our problems and an action plan to help us address it. And if you don't address it and you don't acknowledge it, then there's going to be a lot more trouble for the North. And that's one of the things, I think, it's important that you know as a minister. What is being done to dismantle the Department of Northern Affairs, what is being done to ignore what the northern issues are is simply not going to fly in northern Saskatchewan.

I can say this budget, this amalgamated budget that you have presented here, is a pittance of what is needed in northern Saskatchewan to address some of the chronic problems that we have on First Nations land, on the Métis communities, and of course, with our non-Aboriginal residents.

So I'm going to ask the minister again for clarification. Have you reduced, proposed four enterprise region down to two regions? And if so, what are those regions, to be specific?

**Hon. Ms. Draude:** — Mr. Chair, thank you to the member opposite. And I know the member started his last little discussion about saying not to be political and then went right into being political. So I guess maybe I'm going to.

My immediate comment will be, in 2007 on November 7, the people of the province did not say, let's get rid of Northern Affairs. He's right. The people of Saskatchewan said, make sure the North is part of Saskatchewan. Get this divide out, this wall that's between northern Saskatchewan and southern Saskatchewan. Let's have an opportunity for everyone to share equally in the benefits of being part of Saskatchewan.

The member opposite talked about Northern Affairs and revenue sharing. I'm not sure if he believes that there was revenue sharing in the North when he was the minister of the fund. I know there wasn't. But I also know that there is needs in the North that haven't been addressed.

And I know that quotes that I have that I'm sure the member opposite would like to remember as of December 17 when the former minister of Northern Affairs, Joan Beatty, said:

Unfortunately as governments . . . we have not done so well. We have not done . . . [well] to fulfill the treaty commitments. We have been slow to move forward.

There's a “. . . need for better housing, [for] protection of our lakes . . . [for] support for trappers and fishers . . . [for schools], access to good education and skills training . . .”

Those are all things that were happening when those members were in government. And then not only that — on March 2 of this year, the member from Regina Northeast said, “I think that perhaps not enough attention has been paid in the past to the plight of the northern residents and the needs of the northern residents.”

The members are right. We can't continue to do things the way we have always done them. That's why as government, and we've been in government now for 16 months, we've made improvements to electrical services in northern communities. We've provided northern residents cleaner water and upgrade sewer services. We've made improvements to school in Buffalo and in Beauval and in Pinehouse and in Ile-a-la-Crosse. There's cellular coverage in Denare Beach.

There's been nearly \$22 million worth of highway improvements in the P.A. [Prince Albert] district. The government has funded new schools in La Ronge. There's more money for northern taxi operators. There's \$133,000 for building communities programs. There's money that's been given to various communities for water and sewer treatment plants. STC [Saskatchewan Transportation Company] finally expanded service to the North for communities in La Loche, Buffalo Narrows, Ile-a-la-Crosse, and Beauval.

Yes, there's work to be done. And yes, we are going to try and do things differently because what was done before wasn't working. That's why with the enterprise regions — and I know I have a file here on the enterprise regions — we're very pleased to be able to work with the northern people to put things in place that maybe looks different than it did before.

I know that before there was some regional development corporations, and there was an evaluation done under the former government. When the NDP was in place, they looked at it and there was a review done, and they developed an evaluation. And some of the criteria, some of the information that was brought forward said that, first of all, they had not developed into regional development entities that were originally conceptualized. It said that that RDCs [rural development corporation] did not have the capacity to deliver essential development services required by business and individuals.

The evaluation said that membership is primarily from northern political organizations — that's municipal governments and First Nations — and does not represent northern businesses, industries, entrepreneurs, youth, or Métis people. The evaluation also said it was largely under-resourced and, in the majority of cases, it lacked capacity. It also said that it was ineffective as enabling instruments for business development and employment growth in northern Saskatchewan.

It said that it had to be strengthened. The evaluation report that was done said that a program had to be strengthened to provide developmental services at both regional and local levels. It had to enable more regional thinking and approaches to northern economic development and it had to help build capacity and independence of northern organizations, businesses, and

individuals.

So, Mr. Chair, we took that information. We took the information that was given to us by the evaluation that was done of the program put in place by the former government, and we looked at enterprise regions in the North. The mandate of these enterprise regions is to assist the region to increase business and industry competitiveness, to realize its economic potential, and to compete globally — not just in northern Saskatchewan, not just in Saskatchewan, not just in Canada, but globally — because there are the natural resources and the human resources in the North that we are proud of.

And the way we'll have an opportunity as a government to showcase if we do it right, there are strategic directions that Enterprise Saskatchewan regions will be given. We're going to build regional economies. We're going to foster a culture of enterprise and innovation. We're going to build on the competitive advantage of being in the North, and we're going to engage leadership and effective governance. Is it going to be easy? No. Is it worth a try? Yes, it is. Will we succeed? It may take some time, but yes, we will because we're going to be working with the people in the North who know the changes must and should be done. And I'm looking forward to the opportunity.

**Mr. Belanger:** — Well, Madam Minister, I like the one phrase — I don't want to bring in the Gary Tinker Federation here because they're non-political, but they're very effective at what they do in northern Saskatchewan and they're one of the strong leaders and they're working very closely with a number of associations and groups. And certainly on the disability front, they're leaders.

But one of the phrases they use, and I always remember that, is they use the phrase from compassion to action. And that's a pretty good phrase, I think. And it's a phrase I think you ought to stick in your mind as a result of this particular session because as much as you want to put a positive light on what's happening in the North, I can almost guarantee that 99 per cent of the initiatives you've announced just now were under the old regime, and that really nothing innovative nor exciting has come from this government as of to date.

Now I think the important thing is — I know and I think you know in your heart — that Northern Affairs is not important to your government. It is simply not important. I can almost guarantee you that during budget finalization the Northern Affairs estimates, the discussion about the estimates probably lasted about 15 minutes. And of that 15 minutes, there's probably a 10-minute introduction by officials as to what's going down in terms of Northern Affairs. And that's it.

Now maybe I'm wrong; I hope I'm wrong, but I think I'm right. Probably at the most, time allocated for Northern Affairs budget in your budget finalization was probably 15 minutes tops — 15 minutes.

Now what I think's important here is that in that 15 minutes, the decision time it took to make a decision on the future of Northern Affairs, you've closed the door on highways projects. I think you closed the door on housing projects. I think you closed the door on one of the biggest social dilemmas we're

seeing in years in northern Saskatchewan, and that's youth suicide.

You know, through our letter-writing campaigns to petitions for highways and home care, through telephone calls, emails, the people of the North are crying out. They're saying, don't just take our resources — our uranium, our forestry, our tourism opportunity, our gold, and all the other commodities coming out of the North — don't just take that stuff out. You need to put something back in, some very positive initiatives in the community. If everything's going so great the two years that you've been government, coming on to two years, then why do you have five or six ministers flying into a couple of communities to talk about issues facing two or three communities?

Out of respect for the communities, I'm not going to mention the communities' names. But following a meeting I asked the question, how much money did they put to help you guys look at the issue of youth suicide? I think the figure I got was 60,000.

I asked the Métis locals, how much have you guys got to deal with the duty to consult and accommodate? I think the figure I got was 200,000 for the entire province. Oh. Was there anything specific for the North where all the resources are, where all the lands are? No, nothing specific on that front.

So northern Saskatchewan people, whether they're First Nations, Métis, or non-Aboriginal, are saying it just does not make any sense to see all the development in northern Saskatchewan surrounding our communities — surrounding our First Nations communities, our Métis communities, and our non-Aboriginal communities — all the resources around our communities, it just does not make sense why we have the level of poverty and lack of services that we have now.

And you made reference to Ms. Beatty. I think Ms. Beatty is a fine individual, a great northerner, and speaks from the heart and the mind, and has a lot of respect as many other leaders in the North have.

Madam Minister, northern people are crying out to you as the minister responsible, to make sure you don't forget the North. They want you to go and champion for them the reason why Cumberland House's road was cancelled by your associate minister.

They want to know why nothing concrete was done to help young people battling some of the drug abuse that is being impacted and affected by these communities. They're crying out to you for social and economic justice — that's what they're crying out for you.

And there's duty to consult, the duty to accommodate — it's a tool that they emphasize time and time again because they're telling you, use that tool.

And one of the questions I often ask as I sit here, how much influence does our Minister of Northern Affairs have on other ministries? Do you guys have an interdepartmental affairs committee to talk about how northerners and Aboriginal people can be part of the Saskatchewan that you talk about?

There's a phrase I often use, and it's not mine, and I'm not sure who it's from, but I've heard it before. And that phrase is, it's not a good Saskatchewan for any of us unless it's a good Saskatchewan for all of us. And right now, Madam Minister, northern Saskatchewan does not feel like they're part of your government or this province, despite the fact that they contribute so much to this province.

[16:00]

They contribute a great deal to this province. So where is it in the scheme of things in terms of importance? And the first thing that you do is you amalgamate with another department, make them a subvote.

In recent months we've ignored the issues. We've neglected the North. And I haven't heard you deny it so I'm assuming that you reduced the proposed four enterprise regions down to two. I think I'm correct on that one. And you've also discontinued the northern loan fund. Now where does that put the grant fund?

And all this information that we're getting and all the information that we're receiving, it just doesn't come across my desk. People are calling us. They're telling us what's going on, whether it's the RCMP [Royal Canadian Mounted Police] being understaffed in our regions or new rules around housing in terms of some of the repair programs.

Apparently now you can't be in any arrears with grant or you can't be in any arrears of land taxes. Well those are new rules that were recently instituted in the RRAP [residential rehabilitation assistance program] and ERP [emergency repair program] program. Does that have effect on northern people? Absolutely, because some of them may be in arrears of their rent or their taxes. Why? Well because of all the things you've got to take care of. Those are probably, especially land taxes, are probably the last on their priority list because of some of the challenges in some of these communities.

So the thing I'm trying to figure out here is, where does northern Saskatchewan and its people fit in when it comes to their importance, their issues, their values, and their problems? And I haven't seen it. I haven't seen no evidence of that.

Now I could list off to you the bus service or the cellphone coverage or the forestry agreement or the abandoned mines or the Primrose bombing range settlement or some of the housing construction we done over the last number of years. Or we can talk about some of the power line services and the improvements made, or even the natural gas service to La Ronge or some of the subsurface agreements with the mining companies — I can talk about all that stuff — or some of the effort on commercial fishing or trapping or any of the initiatives you want to talk about. We can sit here and talk about it for hours because I can explain all that stuff to you. Why? Because our government had experience in doing that stuff. It may not have been perfect, but there was effort made to build up the quality of life.

And one of the questions I have specifically as a result of your relationship — you're well positioned — is under your capital grants budget here. This is a really important answer for me because there's a number of reasons why I want to ask this

question.

But on capital asset acquisitions, under First Nations and Métis Relations, it says something like \$550,000. I'm trying to figure out what costs \$550,000 to amalgamate Northern Affairs — which I think was what, five or six staff? — into the Department of Indian and Métis Affairs. Like what capital costs were those? And you had to buy some desks? And since the northern loan fund program was discontinued — and correct me if I'm wrong on that one — is that another \$217,000 off? And the grant program, is that gone? Enterprise regions reduced. So I look at all these lists and I say, well my goodness, is this a death by a thousand cuts and is this what they call compassion?

Madam Minister, the bottom line is northern people need your support and your leadership on many fronts. They don't need compassion. We got that in tons. We can sell that by the tons right now. Madam Minister, we need action and we need commitment, and based on your budget, I give this government and this budget a big fat F as a grade. Thank you.

**Hon. Ms. Draude:** — Mr. Chairman, to the member opposite, I'm very glad that it doesn't matter to me what kind of grade he gives my government. What matters to me is what the people in the North will actually get from having a government that is talking about making sure the northerners are part of Saskatchewan, are able to actually succeed.

For over 16 years, the people in the North had a government that talked about compassion and yet they didn't see it. They didn't see it when it came to decisions by an NDP government that wanted to decide no, I don't have money in the North, but I've got money for tappedinto.com. I've got money for Navigata. I've got money for Craig Wireless. I've got money for NST [NST Network Services of Chicago]. I've got money for Clickabid.com. I've got money for SPUDCO [Saskatchewan Potato Utility Development Company]. I've got money for Channel Lake. I've got money for Guyana. I've got money for Coachman Insurance. I've got money for mega bingos.

Do they have money for the North? No. That was what the northerners heard for years from the government.

I have to tell you, Mr. Chairman, I have a huge level of respect for the northern leaders. They have been working in areas and under circumstances that have not been great. For 16 years we didn't see a commitment to roads or to cell service or to building schools or to making sure that advanced education was a priority.

The member opposite said that he could almost guarantee that we only spent 15 minutes in cabinet talking about northern affairs. Well I wish I knew what he wanted to do for the guarantee because I would win, because northern affairs was not just talked about in one discussion. It's talked about in Environment; it's talked about in SaskWater; it's talked about in Education; it's talked about in Advanced Education; it's talked about in Social Services; it's talked about in Highways; it's talked about in Health. It is no longer just one little department where you can say, it was something with the North. Go put it over into that little ministry with what the member said is five or six people. What it is is a whole government looking at an issue that's important to a whole

government.

He talked about the fact that there was two enterprise regions instead of four. There never was going to be four. I don't know where that number came from. There were going to be two enterprise regions because that's the way we can make the best use of the people, the resources, and ensure that we no longer are talking to each other around the table — we're talking to a global world, a global economy.

Mr. Speaker, because of this government we have 80,000 people taken off the tax roll. That's money that's now available to people if they want to spend it in their community. Because of our government, because of the fact there's no longer education tax on property, we have people who have more money to pay for their taxes and to spend on issues that are important to them.

Mr. Speaker, the member opposite said that northerners were crying out to me. Well I don't think they're crying out to me but they sure want to talk, because they're excited. And I'm going up there this week again to talk to them, and I'm excited about that opportunity.

The member opposite brought up the fact that there is an absolutely tragic event occurring in the North right now with suicide and suicide attempts. That didn't just affect this ministry, it affected seven ministries. Seven ministries wanted to know what they could do to help. And it wasn't \$60,000. It was considerably more money and there's discussions about what we can do. But it's not just a government-led initiative; it's how we can work with individual communities. What will work for one community won't necessarily work for another community.

So it's important that we do get input from the various groups of people who are impacted because we are losing lives and people, and there is an attempt at suicides in so many areas, it breaks our heart. That's not what we want young people doing. We want them to be excited about opportunities, about going to school, about building their future.

Mr. Chairman, I'm going to let my officials discuss some of the monies that was put forward in various funds. But I do want to indicate that the \$550,000, as we discussed in the last time we had estimates to a great extent, the reason why we're spending \$550,000 is — the member opposite knows — because it was a separate ministry, there was a separate department, a separate area, a separate group of people working in isolation away from the FNMR, who is trying desperately to work with the First Nations and Métis people right across our province.

So now our government has seen fit to make sure that we can move that department — that one group of people that were housed by themselves in a separate building — and move them together, to renovate offices, to make sure that people are talking together. If there's an issue that's affecting one of the communities, instead of phoning or going over to the other side of the city, we can walk down a hallway or talk to them. It's important to have people who care about the same issue talking together on a regular basis.

So, Mr. Chair, with your consent, I'm going to ask my officials

to discuss the money that was given in consultation and the money that was given for the loan funds.

**Mr. Crowe:** — Thank you, thank you, Minister, and thank you, Mr. Chair. Just a couple observations here. I just wanted to clarify a couple of things for the vast amount of the resources out of the duty to consult, Consultation Participation Fund, are in fact supporting northern communities in their consultation endeavours. And we work with them to develop the proposals, the budget, and to ensure that it meets the guidelines that exist for participation in the Consultation Fund. So a good chunk of the resources really go to support some of the activities in the North.

Just for the Métis communities, about 671,000 has went towards the Métis Nation, including some of the locals where there's significant development happening in their particular traditional lands and territories.

In terms of the loan fund, the cut that we made, that was made for the loan fund was related to the commercial loans aspect or portfolio, and essentially the take-up on that program was very limited and it just did not justify the kind of work and staffing that was there. One loan for 250,000 in the past year just wasn't sufficient to justify continuing that.

What we did do is keep the primary producers aspect because we recognized that the primary producers is a unique aspect of northern culture and northern life. We recognize there are times when it's difficult, the economy gets tough, the take-up on some of the product that they provide, it gets a bit difficult. So we do recognize that and want to continue the primary producers aspect in that portfolio so that the primary producers, those that practise traditional pursuits, have the support that's necessary from Northern Affairs division.

**Mr. Reid:** — John Reid, acting ADM. The small grant programs remain the same. They haven't been cut. They remain the same.

Another point I'd like to mention too, to members opposite, and that is regarding the \$300,000 towards the enterprise regions. That money is going to be found through redirection of priorities internally within the ministry.

As you know, we have a budget of about \$88 million. Of that, about 73 million is flow-through for gaming and . . . [inaudible] . . . but the remaining \$15 million is discretionary funding through programs and service and staffing.

So we intend to fund that \$300,000 for the enterprise regions through management of positions, for example, management of travel. So we're pretty confident that out of those \$15 million discretionary fund, we can find \$300,000 and redirect it toward the northern enterprise regions.

**Mr. Gray:** — It's Kerry Gray, director of finance and corporate services. The 550,000 that the member mentioned for relocation services is an estimate for relocation, design and renovation of floor space to move the two offices together.

**Mr. Belanger:** — I just want to clarify. You're saying to move the two offices together, that's the cost of half a million dollars,

to amalgamate the two offices?

[16:15]

**Mr. Gray:** — There were three sort of options put together and which the details are still being worked out. And so the renovations and the planning is still under way. And so the identification of 550,000 from Government Services was to do that work that I explained — renovations, planning, and moving the offices together.

**Mr. Belanger:** — Well I think maybe I'll get into an office moving business because you're paying half a million dollars to amalgamate two offices for northern Saskatchewan? That's probably your largest expenditure as a department. Is that a correct assessment to make?

**Mr. Gray:** — I think the majority of that money will be spent around the renovations of office space in that the space that's become available needs to be reconfigured. And so, as you know, shortage of construction people and shortage of materials, shortage of labour, vast majority of that is for construction.

**Mr. Belanger:** — Well I'm pretty sure that northerners will be pretty pleased to hear that half a million dollars will be used to amalgamate two offices.

Getting back to the grant program, getting back to the grant program itself, I understood your officials, Madam Minister, say that of the two regions, 300,000 will be given to each region. And that will be used for "staffing and travel costs", so on, so forth. I just need to clarify, of those two enterprise regions that you indicated as going to be put in the North, I'm still not convinced it was two. I understood that at one time there was four regions being proposed and you guys cut it down to two.

So we can argue about that all day, but the question I have is, of the northern grant program that was in effect through the Northern Development Agreement or Northern Development Fund itself, how much actual cash will be available to each region for a grand total that Northern Affairs has for their grant program for business?

**Mr. Crowe:** — If I can try and answer the question. The 300,000 that's been set aside to assist or to begin is essentially just to begin the consultation process towards developing the northern enterprise regions. That's to begin the consultation and to also close out the obligations that we have to the regional development corporations as well. We do have some obligations to serve appropriate notice and so we will be mindful of those responsibilities.

What our intent is, to work with the northern communities, the business and industry representatives, community representatives, First Nations, Métis communities to develop. And I'm getting into details that I think will be announced in very short order.

But the plans are in works to begin that consultation process so that we can work towards developing northern enterprise regions where, on our initial estimates, we'll be able to generate

and receive up to collectively between 8 and \$900,000, subject to approvals, but conditional upon the kind of approval and recognition in the kind of work that has to be done in the planning process of this. So the \$300,000 is going towards fulfilling our commitments, to ensuring that there's a proper planning process, there's community engagement, and the work that is going to be needed in order to build the northern enterprise regions.

But I don't want to get into those details because there is a meeting established in the very near future to unveil some of those details, and I think I'd be getting ahead of the minister if I was to present all of that information at this time. But there's plans in the way, and there's opportunity for additional funding, provided that we . . . and subject to authorities, but at the same time also subject to the criteria that's in place for developing enterprise regions, particularly in the North.

**Mr. Belanger:** — Okay. I just want to finish it off and turn it over to my colleague from Cumberland, but I just want to conclude on three points.

Number one is that under the duty to consult, Madam Minister, as it applies to the South, it applies to the North. Your understanding and your view of duty to consult is radically and miles away from what First Nations and Métis people envision duty to consult is. I've said that in this Assembly 10 times if not 20 times, and I'm going to say it 100 if not 200 times. You've got to get the message that your vision of duty to consult and your government's interpretation of that is radically different from what the Métis and the First Nations envision.

And secondly is that exactly my point when it comes to northern Saskatchewan is I think you're dismantling the Department of Northern Affairs. That's my charge against you. And when I talk about that phrase, from compassion to action, the bottom line is you need to park your compassion, and let's start seeing more action when it comes to northern issues.

And the final point I'd make when it comes to northern Saskatchewan is that we contribute a great amount to this province. How many thousands of people work in northern Saskatchewan, whether it's tourism, forestry, mining, and the list goes on? We sustain a lot of families in Saskatchewan in general. And we don't need concern from a distance. We need action locally.

Because what's happening is northern Saskatchewan, people are tired of the same old, same old and they're also tired of being ignored and neglected. And all the programs that we've seen over the years that have had some success to it, we see Northern Affairs being dismantled.

Now I think on behalf of my constituents I can speak from the opposition perspective. Madam Minister, tell your government northerners are very intelligent, capable people and they're watching every move that this government makes. And so far they have not been impressed with the lack of commitment. In fact they have been angry over some of the cancelled projects in northern Saskatchewan. And quite frankly they're fed up with the lack of resources and opportunity that they envision for themselves and their children and their grandchildren.

And it's not a speech; it's a plea for action. And I think one of the things that's important overall is that we don't need concern from a distance. We need action locally.

I'd like to turn it over to my colleague from Cumberland now.

**The Chair:** — The Chair recognizes Mr. Vermette. There'll be a response first.

**Mr. Crowe:** — I just wanted to clarify a comment just so that there is no misunderstanding it. The \$300,000 that we talked about is to support the two northern enterprise regions that we're looking at. At present the existing RDCs receive a total of 168,000, so there is opportunity for enhanced funding and we will endeavour to work with the northern enterprise regions. I just wanted to make sure that I clarify that remark in case it was construed as something else.

**The Chair:** — Mr. Vermette.

**Mr. Vermette:** — Thank you, Mr. Chair. To the minister and officials, I guess, you know, listening to some of the conversation today and, to be honest with you, going back home and visiting my constituency which I have done quite a bit of and continue to do that, hearing the issues, the concerns, going to the homes on-reserve, off-reserve, meeting with the grandparents, mushrooms, the kohkums, meeting with the parents, the overcrowding of housing, some of the conditions that our young people . . . the babies and the overcrowding and the health conditions that they are getting from a crowding of space. And you look at respiratory problems that they're starting to have. Some of the houses are so old and the work is unreal that's in the North.

And you talk about witnessing things that are going on and hearing people tell you about the struggle and expecting a government to respond, and you as a minister, I believe, for the North have a responsibility. So if you're not hearing these messages by the petitions on roads and long-term care and different things we're going to bring forward, then I will be assisting my community members who talk to me about that. We'll start doing letters to you so that you're starting to understand what they're going through, and invite you to the communities to see what's going on. I would gladly like to see so you can lobby for some of these things because obviously we're not getting through and their message is not getting through. And to me that is sad when I see what's going on.

And we can sit here and say about different sectors are getting dollars. And, you know, where it's positive things, I'm willing to give compliments when it's needed to areas. You know, the work and the efforts that Churchill, you know the school getting announced — the community and the kids, the letter-writing campaign, and the organizations that wrote letters of support sent to the minister — I believe they heard the message and I commend that that was done.

I look at some of the dollars. And you talk about the revenue that you have and the spending that your government did, but then I look at what's back home and I look at the conditions and the people saying, well how come we can't have this, how come we can't have that, how come this can't be better for our kids, for our family? Why do we deal with the addictions? And

I mean you're hearing it from my colleague.

I've expressed it in here and I'm going to continue to bring petitions and letters and whatever it needs to get you and your government to hear what's going on because obviously you don't get it. And that really concerns me, that your department and yourself . . . Maybe you say you have compassion, and I'll grant you that. I'll give you that but I also, I go back home and I just recently did my rounds to Pelican, Deschambault, Sandy Bay. I'm doing my rounds in the communities, meeting with people, listening to what they have to deal with, attending some of the funerals and the wake services because some of the addictions that are there and some of the tragedies happen because of that.

You know, I've commended the staff that's out there trying to deal with that — you know I can't take away from that — the people that are out there doing the work and trying to help, but they need more resources. And I guess maybe there's more work needs to be done, as the North, and I've said this with the leaders — whether it's First Nations, Métis, municipal leaders — to come forward, to work hard to get a message across to you and your government the assistance that they're needing, the amount of dollars that you guys budgeted, the housing, you know. I look at the roads and yes, they were there before.

And you know, I'm a new member elected to this House and I'm trying to learn and I'm trying to see what's going on. And I do have compassion to what's going on. It is affecting my home community. It does affect my grandchildren, my children. The conditions are there.

But I'm going to do all I can, you know, to bring that message to you to make sure. Maybe somehow, you know, we're missing it, but I'm going to go back and going to spend some time with my community members — some of the mayors that are telling concerns, some of the band councillors, some of the chiefs, different people — talk to them. There's got to be a way that we come together to bring a message to you and your government.

You know, yes, in areas you are doing some things, I'll give you that. But there's areas where there is such a need and a response. And, you know, I look at your ministry in Northern Affairs and the opportunity you have to work with your colleagues and to express the needs that you see. And maybe that didn't come across for whatever reason.

But I guess I see I have my work to do, and the community leaders have their work to do, the community members have their work to do to get the message across to this government that the North has a lot of resources. People see the resources going out — they talk about it — but they sure don't see it coming back. And there's concerns.

You know, you mentioned, and I just caught wind of it when I walked in, that you guys hired a new position in La Ronge. Toby Greschner I believe is the name I heard, and I'll give you that — he has worked a long time. I have worked with Toby Greschner with the school division as he worked for the Education department. And you know, yes, you've hired a northerner and a person I hope, and knowing him, has worked hard for the northern issues in education. I hope he will be

effective as he has in education as he will for Northern Affairs. So with that, I will give you that, that it's good to see a northerner and somebody that's up in the area, I'll give to the ministry and your department, you know, that.

But I guess, you know, it's frustrating and I understand that. We all have our frustrations and our passions for our areas, our homes, and when there's things happening. But sometimes when you see so much of it, so much, you know, how many — and I say this — tragedies that are happening in the North and in my constituency that we have to go to, to support our community members to deal with their loved ones that they have to deal with because for whatever reasons, whether it's drugs, alcohol, the conditions, they're no longer here with us. It's hard. It's tough.

[16:30]

So I say to you, and I guess, I hope, your commitment to what we bring forward to you as a minister and as a person . . . And I hear you, because you say you have compassion, so I hear that and I believe you're sincere, but I have to say sometimes the message isn't getting through to your government then. And that to me is sad. But we will do all we can. And I will approach the people that I need. I've been getting a lot of calls, a lot of talking, letters, different issues that have to be addressed in the North and I will continue.

And like I'm new, and I've said I'm newly elected. So there was problems before and there's enough blame to go around, and that's fine. But I just want to assure you that I'm going to do all I can to make sure you have a good understanding of our issues, where we're dealing with, so that it's not, well I didn't know that's going on. You'll be well informed as to what's going on. So I will try to do that, and I mean that with respect to you, as your ministry and your departments. Anyway thank you.

**Hon. Ms. Draude:** — Thank you, Mr. Chair, and thank you to the member for that statement. There is absolutely no doubt in my mind about the compassion and commitment the member opposite has for his people and for the North. That is well evidenced by the work that you do and the words that you speak. I know that there is a huge commitment. No one goes into this job because they think it's going to be easy. And I'm looking forward to the opportunity we'll have to discuss issues.

I'm pleased that Mr. Greschner is someone that you believe can work well in the North. That's what we believed as a government, as a ministry when he was hired. There's lots of work to do in the North. There is. I don't live up there, but I have been up there and I do hear, I do hear what's going on. And the member from Sutherland was given the responsibility by our Premier to listen to the addictions issue. And she was up in the North as well and talked about to, not just to the stakeholders, but the people who maybe can start providing answers. And we know that it can't be done just by government. It must be done working with the communities in the North and with the individuals.

Our Premier was given credit by the leader of the FSIN for his compassion, for his understanding about the issues on-reserve, about the housing issues, and that was the forefront of his

discussion in Ottawa when it came to what some of the needs.

So our government is looking at these issues. We know there's huge problems but we also know that there's solutions. And what we'd like to do, what we're going to do, is try things differently. We know that there's economic opportunities in the North. We know that there are natural resources and human resources that when we put them together and work with the communities, we can change the North.

People need jobs. That's one of the things I hear a lot. We need to be able to go to work. We need the pride in ownership. We need to be able to have a car and travel down roads that are . . . And I'll admit there's lots of work to be done on roads as well. But we need to be able to be part of the same community. That's the work that we want to do.

One of the focuses we had in our ministry in this budget was talking about the economic side of it, and that is the enterprise regions. How do we build the capacity and enable the northerners to be part of what is growing in the North and the potential in the North? How can we make sure that they are not just skilled, but business owners? How can they be part of growing the economy and being able to take a rightful place when it comes to making the decisions not just in government but in business?

And that's what we are going to be doing with the help of northerners, with the help of First Nations leaders, with the help of Métis leaders, with the help of people like yourself who are leaders in your community and are respected. How do we get together a team of people and ensure that some of the opportunities and the work that is laid out before us in enterprise regions to build regional economies, to foster a culture of enterprise and innovation, to build on the competitive advantage of being in the North, to engage leadership and effective governors? That's not a small task for anybody.

But if we don't start down the road of saying, let's do it so that when work is given out, First Nations and Métis people and northerners have just as great an opportunity as anyone else to take on the contracts, to build the businesses, to hire the people, to make sure that the world is different in a number of years from now than it is right now.

The whole ideas of, the whole thought and knowledge that there are people who are living in conditions that have to be changed, you and I both know it. We've both been up there. And I've been at a number of events where the member opposite has been and talking to the people just as I have.

And so the goal is, how do we change it? If there are things, if there are issues or concerns that you have in some of the work that we're doing . . . And mark my words: we are going to do this work. But how do we do it in a way that involves a community so we aren't as government saying, this is the way it should be done? I'll be more than willing to listen to your concerns or your advice if there is some issues that we should be dealing with — not just in the economic area, but in social areas. Talk to us. That's what government is for.

But at the same time we have a mandate to change what is happening in the North when it comes to things like the

enterprise regions as opposed to RDCs. We're going to be working on those initiatives. And at the end of the day the report card will be, how has the life of northerners changed? And that will be my goal, and that will be my mark as minister. So I thank you for your concerns.

**Mr. Vermette:** — You know, the petition I've been serving in this House, and Highway 135, Highway 123, then I guess you know about that, Northern Affairs minister? I think very clearly the people have let you and your government know that they're not happy, whether it's a five-year rolling plan or whatever they want to say, and it's been postponed for whatever reasons. The people have spoken, chief and council, mayor and councils, the community members have spoken very clearly to you and your government. So what is your answer to that?

**Hon. Ms. Draude:** — If the member opposite is asking for what is my answer to roads, is that the question?

**Mr. Vermette:** — I guess I've serviced petitions and served petitions in this House. Highway 123, Highway 135 that were previously announced by the Highways minister, and promises made, commitments made, and now people have to go — chief and council, mayor and councils, and residents — for their safety have to have their MLA [Member of the Legislative Assembly] present petitions to deal with those.

As Northern Affairs minister, you said you want to know certain things, bring to your attention. I think the people have and I have. We have said to you, here's what they need. You had a budget and nothing happened. So I guess I'm asking, what are you going to do on those two projects?

**Hon. Ms. Draude:** — Mr. Chairman, and to the member opposite, I know that the questions on Highway 135 was brought forward to the Minister of Highways not too long ago. In fact I believe the member from Athabasca and the Minister of Highways had quite a lengthy discussion on that issue and Highway 123 to Cumberland House.

And I have the information that he used as he spoke to the members opposite and discussed the strategy and the urgency of the work that has to be done in the North and the all-weather roads that are important as they'll not just support individual communities, but they'll support economic development. And we can go through each one of those, if that's what the member likes, and I can reiterate what the Minister of Highways has said to his colleague and himself. But it really is part of the overall plan to develop our province.

There is lots of issues in the North, but I believe that when we look at the infrastructure deficit in our province, not just in roads and in highways and water and sewer systems but in the total infrastructure of our province including power facilities, there's work to be done and there has to be a balance.

And that's what we're doing as government, just as the previous people, the members opposite did when they were in government — they made decisions. And we are balancing the need to ensure that the infrastructure is rebuilt, that social issues are being addressed, and that the people of the province deserve to remain proud of the fact that Saskatchewan is a have not province, that we are . . . not a have not province. We are

definitely a have province, pardon me. Too many years are used to saying have not.

We enjoy our stance and we have to balance the spending issues with the revenues that will be coming in and making sure that we take the needs of the various communities into account as we deal with this issue.

So I'm hearing what the members have to say, just as I hear my colleagues from our side of the House talk about the roads that need to be fixed in their areas and the water treatment plants that have to be fixed and the needs right across the province.

So there is a huge responsibility that the member opposite . . . I know he wasn't in government at the time that the NDP were sitting on our side of the House, but there was decisions made at that time. And we are making decisions right now that I believe is in the best interest of Saskatchewan as a whole.

Our Premier is making everyone proud on the world stage, by saying, yes, we have . . . Saskatchewan is not an island, we're not totally immune, but we are doing our best to ensure that we can continue to lead when it comes to the potential for economic driver and for creating jobs and for ensuring that people are getting off the tax roll and that we can fund the education portion of property tax — that's the work that we're doing.

I'm proud of the work that we're doing, that my colleagues and our Premier is doing, and we will continue along this line, this way. And I will continue to bring the issues that I hear from northern Saskatchewan up in not just in caucus but in cabinet, as will my other colleagues. They all have a responsibility in the North because the North is part of Saskatchewan. It's not separate. It's not apart from, it's a part of, and that's the goal we have and the philosophy we have as a government.

**Mr. Vermette:** — Well I guess in your response to, and I believe it's actually in the article and I'll quote it, but it's from *The Northerner*, April 2, 2009. And it talks about the enterprise regions and your commenting on different things happening in the North, and the article, it refers to:

The province is waiting for the Peter Ballantyne Cree Nation to provide a council resolution that will transfer the roadway to the province.

“Also a consultant (has been hired) to complete design work and we expect that to be done this year” . . .

Now are you referring to, and I believe it's highways because that's what your article says. So anyway, curious about that when I saw this article, and I'm going to be talking with chief and council to see what part of it they know about this. If this article is out there, obviously we should all be knowing about it, but anyway I just share that. There's an article from your . . .

**Hon. Ms. Draude:** — Mr. Chair, I just think maybe, I'm not trying to correct the member, but I think if he rereads the article, you'll see that the words that he's quoting right now is from the Minister of Highways.

**Mr. Vermette:** — I'm not sure. It's in your article, but with



your whole comments, so could be right but they're referring to that.

**Hon. Ms. Draude:** — I believe that, Mr. Chair, I apologize. I believe that the words that were just quoted right now from the member from Cumberland area is words that were brought forward by the Minister of Highways. And I'm sure that there was, that discussion is taking place, and if there's further comments on it, he can come through my ministry or I'm sure the Minister of Highways would be pleased to discuss the issue with him.

**Mr. Vermette:** — Okay thank you, and that will be coming. My last question I have, and, you know, you referred to the announcement of the federal government and Lawrence Joseph giving the Premier a compliment on the article in the paper for the 60 million for First Nations housing. Where do you see it, as Minister Responsible for First Nations, do you see that this government is on-reserve and off-reserve First Nations? Are you guys going to match that or do better this time?

**Hon. Ms. Draude:** — Mr. Chairman, we're really pleased with the funding that's come from the federal government. We know that there is lots of work to be done on- and off-reserve. I'm sure that when the Minister of Social Services looks at the housing requests, most of the requests she's had is from places like northern communities or from some of the communities that have needs that are outside, that are the responsibility of the provincial government.

So the discussion right now is that the Premier heard the chief of the FSIN, Lawrence Joseph, when he indicated that the housing issues on-reserve, that is the responsibility of the federal government, is something that should not be tolerated. It's not something that Canada as a great nation should be subjecting any of our people to live in housing that is not adequate and below not adequate; it's not healthy.

So he brought this issue forward to the Prime Minister and to the other premiers as an important issue, something that obviously the Prime Minister must have agreed with or his cabinet agreed with, and there was funding for on-reserve housing. So we're pleased that this initiative is going forward and that we were able to work with the FSIN to get their voice heard.

**Mr. Vermette:** — I thank you there, and I guess my last comment I'll make, and then I'll be done with my questions, Mr. Chair. Maybe all the challenges and the announcements the federal government is making with schools and some of the announcements they're making for First Nations communities — again I go back to that — maybe the provincial government with its dollars can match some of those infrastructure that we're talking about, you know, be asking for the commitment. Maybe the provincial government has the dollars to match those that the federal government is doing with infrastructure. So I put that to you anyway, that way.

Mr. Chair, at this time I have no further questions. I thank you for the time, and thank you to the minister and her staff.

**The Chair:** — Any other questions? The Chair recognizes Mr. McCall.

**Mr. McCall:** — Thank you very much, Mr. Chair. I guess the remaining questions that I have will pertain to the duty to consult, so I don't know if the minister and her officials want to shuffle the deck or anything like that, but . . . Come on down, Ms. MacPherson.

The guidelines that have been tabled by the provincial government and the exploratory tables had been rejected by the Métis Nation of Saskatchewan and rejected by the Federation of Saskatchewan Indian Nations, so where does that leave the process arising from duty to consult?

**Hon. Ms. Draude:** — Thank you, Mr. Chairman. To the member opposite, we have not officially had a rejection from the MNS [Métis Nation of Saskatchewan] on the draft guidelines. We know that the FSIN from the Chiefs-in-Assembly passed a motion, but we also know that we've gotten letters and I've had meetings with chiefs who say that they are not in agreement with all of the guidelines, that there should be changes made, and that is why the deadline or the time frame for discussion on our guidelines has been extended to June 1.

This is a very important document. We're well aware of the fact that this is the opportunity to ensure that First Nations and Métis people are truly involved. We also know at the same time, it's the government's responsibility to consult. So there is a balance that we are working with, and I am looking forward to the submissions, more submissions, as we receive them and the very thoughtful thought process and the input that we're getting from leaders, from First Nations and Métis people right across our province.

**Mr. McCall:** — Well, Mr. Chair, to the minister, I've in front of me a resolution from the special legislative assembly that took place in February for the Federation of Saskatchewan Indian Nations, a resolution that was passed I might add unanimously by the chiefs in attendance, that states and I quote from the second, be it therefore resolved clause, "that the chiefs and special legislative assembly reject the draft Government of Saskatchewan First Nation and Métis consultation policy framework."

Arising from that, there is of course media reports for this, Mr. Chair, in which the minister lectured First Nations that they shouldn't be communicating through press releases. Again I ask, in light of this, in light of this rejection of the provincial position, where does this leave the negotiations around duty to consult?

**Hon. Ms. Draude:** — Mr. Chairman, again I tell the member opposite, that the negotiations are and the discussions are going on. The member read a resolution from the chiefs in assembly that were in attendance at that meeting, and we've had discussions with chiefs who've said that they weren't in attendance at that time.

At the same time, we know that there are ongoing discussions, and we are still receiving on a regular basis input from First Nations leaders, input from Métis leaders, who suggest there should be some changes made. We are aware of that. That's why the document that was put out clearly stated right across every page, draft guidelines. That's why we asked for input, and

that's what we are very grateful on a regular basis to receive. And this will be balanced with the work that we are doing within government, and we appreciate the work and the time that the leaders have put in to supplying us with their information and their input.

**Mr. McCall:** — If I could get clarification, Mr. Chair. At the start of this last response from the minister, she said that it was a matter of some chiefs. And is she of the opinion that the FSIN is not the representative body for the opinion of the affiliated 74 First Nations in Saskatchewan?

**Hon. Ms. Draude:** — No, Mr. Chairman, that is not what I'm saying. I'm saying, and the member clearly read, that there were the chiefs in attendance. I am telling the member opposite that there are some chiefs who told us they were not in attendance. I'm not questioning what the FSIN's authority is.

**Mr. McCall:** — With respect, Mr. Chair, that's a fair amount of, you know, hairsplitting in terms of either the FSIN speaks for the FSIN or it doesn't. Is the minister saying that the FSIN does not speak for the 74 affiliated First Nations in this province?

**Hon. Ms. Draude:** — Mr. Chairman, to the member opposite, there was a number of comments I heard, starting with the round table last May, and they were from a number of chiefs who clearly stated to me, the FSIN, we deal with each First Nations on the duty to consult — the First Nations, it is a responsibility to deal with the First Nations. And that's the comments that we heard from a number of chiefs. So I respect the work that the FSIN is doing. I also know that there are chiefs who are saying there could be changes made.

I don't know if the member opposite wants to talk about hairsplitting, or if he wants to talk about what would be best interests of the province of Saskatchewan if we can be working together to make sure that we have industry moving ahead, that we have economic opportunity moving ahead because the chiefs in this province have said to me — to a one — that they believe in development, that they want to have economic development opportunities in this province. They are saying that they don't agree with all of the guidelines. That's fair. But they are saying that they want to be involved in the economy, and we have to make sure we balance that.

And that's what my job is, and I would think that as an elected member, that's probably what your goal would be too, I hope.

**Mr. McCall:** — Mr. Chair, there's been widespread commentary from both First Nations and Métis leaders around the need to get resource revenue sharing on the negotiating table. And again, if the minister's interested in what these important stakeholders are saying, you know, the guidelines have been rejected. Does this mean that resource revenue sharing is back on the table, or is it still off the table? Can she clarify that for the committee?

**Hon. Ms. Draude:** — The Premier has talked about resource revenue sharing not being part of what we are discussing. But on the other hand, what he's talking about is ensuring that everyone in this province can be part of the wealth of the province. How do we share in the wealth of a province? How

do we make sure that there are hospital facilities? How do we make sure that there is infrastructure? How do we make sure there's power and gas? How do we make sure that everybody is eligible for, or can get an education, the kind of education that everyone deserves?

There are a number of issues that aren't part of our draft guidelines. We are aware of it. When we had meetings with the First Nations and Métis people, they talked about five issues that are not part of the guidelines, and that's what we clearly stated that would be part of the next phase of discussions.

They talked about sharing in the province's economic prosperity. That's one of the issues that we are going to be discussing. They talked about environmental stewardship. That's something that must be discussed. They talked about traditional land use mapping and data collection. That's an important issue for industry and for government. When there's an opportunity for some industry to come into the province, who do they talk to? Whose land is it? What ceremonial sites . . . What type of cultural opportunities are there in an area that could be involved in any kind of economic opportunity or any dealing on lands?

We also have to talk of consultation capacity. I have talked to a number of chiefs who have clearly stated to me that as a First Nations when they have industry bringing to them binders of discussion paper or binders of information from environmental standards industry, biologists, the rest of them — words, discussions that are very involved, very technical and very professional — there needs to be help to understand, to analyze, and to see how this information that's been given from industry will actually have an impact on the traditional land of First Nations and Métis people, and that there is a requirement and an obligation as government to make sure that we can help develop the capacity so that the First Nations and Métis people understand what's happening.

I think if the member opposite had seen any of this information that industry gives, there would be a great understanding of why there needs to be help because the technical information is enormous.

And the other, the fifth and important discussion that we need some input in is the dispute resolution. As we move forward to ensure that we meet our obligation and our duty as government, the duty of the Crown, how do we ensure that we are consulting in a way or that we're discussing issues with the First Nations and Métis people in a way that everyone knows what's going on and that people can be involved in the economy and that our land is looked after and that we're talking to the right people. And that's a huge challenge and something that I think that we as a government must step up to the plate, and we are stepping up to the plate to deal with.

So yes, there are discussions that we need to have, but there has to be some information sharing, and I'm looking forward to that phase.

**Mr. McCall:** — Well, Madam Minister, in terms of last year's process, the First Nations and Métis Relations turned back — what was the number? — \$1.1 million of the Capacity Fund to the treasury. And if you don't have the wherewithal within the

department to get those funds out the door to meet that need which you've just said is so great, how does that work?

And I'll tell you how it doesn't work is you wind up with situations like Enbridge. And I think it's going to be interesting days ahead. The minister's put June 1 as the new deadline for submissions around duty to consult. When does the minister anticipate final guidelines being in place for the province of Saskatchewan?

**Hon. Ms. Draude:** — To the member opposite, we will receive input up and into the beginning of June, and then when we put together the information and have it pass through the various government ministries and go through cabinet, I'm hopeful that it'll happen within early fall.

**Mr. McCall:** — Well it's going to be interesting days ahead, Madam Minister. With that I recognize the time on the clock. I thank the minister and her officials for joining us today in the consideration of estimates for the Ministry of First Nations and Métis Relations. Thank you.

**Hon. Ms. Draude:** — Thank you, Mr. Chair. Mr. Chair, I'd also like to thank the members opposite for their very thoughtful questions, and their dedication and commitment to the work they're undertaking.

I also want to thank the people that are working with me in this ministry. I believe it's unique because we're dealing with a very special group of people in this province, and that's our First Nations and Métis people. And every one of the people I'm working with in my ministry and in my office feel the same commitment and are working towards a common goal. And I consider it an honour to work with them because they are all working very, very hard for the same goal of achieving a difference for our First Nations and Métis people and the northerners in our province. And I'd like to publicly thank them.

**The Chair:** — Thank you very much, Madam Minister. If there are no further questions, this committee will go into recess until 7 o'clock. Thank you.

[The committee recessed for a period of time.]

[19:00]

**Bill No. 86 — *The Saskatchewan Financial Services Commission Amendment Act, 2009***

**Clause 1**

**The Chair:** — Good evening, ladies and gentlemen. Welcome back to the Intergovernmental Affairs. And we've moved into Justice, and I'd ask the minister to introduce his people and any opening remarks. And I'd ask them when they, first time only, when they come to the mike to introduce themselves so Hansard has a good record.

We are in consideration of Bill No. 86, *The Saskatchewan Financial Services Commission Amendment Act, 2009*.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined

tonight by Darcy McGovern on my right. He is the senior Crown counsel, legislative services branch. On my left is Dave Wild, chairperson of the Saskatchewan Financial Services Commission.

Mr. Chair, I have some very brief opening remarks. The amendments to *The Saskatchewan Financial Services Commission Act* accomplished two main things. They provide for the creation of the Saskatchewan Financial Services Commission fund to better protect consumers by enhancing compliance and enforcement activities, and they also clarify the role of the Saskatchewan Financial Services Commission with respect to the administration of *The Securities Act, 1988*.

The Saskatchewan Financial Services Commission, sometimes referred to as SFSC, is the regulator and quasi-judicial adjudicator with respect to financial services in this province. This includes the credit union system, insurance, pensions, securities, trusts and loans, payday loans, and mortgage brokers.

If it is to sustain and protect Saskatchewan's economic growth, the SFSC must respond in a timely manner to the demands of investors, issuers, retirees, financial institutions, and other market participants.

To ensure the commission can meet these needs, amendments are proposed in this Bill to *The Saskatchewan Financial Services Commission Act* to establish a special purpose fund. The revenue derived from the fees charged to the regulated entities under financial services legislation will flow into the fund and be used to pay the ongoing operating expenses of the commission.

This fund will be administered by the SFSC under the direction of the Treasury Board and the Minister of Justice and Attorney General. There will be full transparency and accountability with respect to the operation of this fund. The fund will be subject to the oversight and the direction of the SFSC, which is a seven-person panel of financial services experts appointed by the Lieutenant Governor in Council. In addition the accounts and financial statements of the fund will be audited by the Provincial Auditor.

This Bill requires the commission to table an annual report in the Assembly regarding the operations of the fund. This step will enhance the ability of the Saskatchewan Financial Services Commission to ensure ongoing compliance with respect to its legislation. It will allow the commission to add resources to help prevent financial services fraud by educating consumers and more effectively punishing wrongdoers under the existing enforcement proceedings. The Act also makes a series of consequential amendments to *The Securities Act, 1988*. These reflect that SFSC now performs the function of the former Securities Commission under that legislation.

*The Saskatchewan Financial Services Commission Act* allows the commission to take over certain functions under various financial services legislation as a way of providing improved regulatory financial services. The changes in this Bill reflect the status quo that Financial Services Commission now serves as Securities Commission in *The Securities Act, 1988*. Accordingly, rather than having to read the two Acts and regulations together to understand that the SFSC performs this

function, this Bill makes the amendments necessary so that both Acts reflect the reality that the SFSC has performed and will continue to perform these functions.

Thank you, Mr. Chair. We are pleased to answer any questions.

**The Chair:** — Thank you, Mr. Minister. And I believe Mr. Nilson is asking the questions, so the floor is yours.

**Mr. Nilson:** — Thank you and good evening. I appreciate the explanation that you've given about this particular legislation now and over the last few months as we've worked our way through this. I do have some specific questions that I would like to get on the record. Some of them are a bit general. Some of them are very, I suppose, technical or speculative.

The first question is, can you lay out for me the jurisdiction of the Saskatchewan Financial Securities Commission and which kinds of financial transactions and activities it governs vis-à-vis what the federal government might do, so that the general public, who might be watching or reading this transcript, can understand where the boundaries are on the Saskatchewan Financial Services Commission?

**Hon. Mr. Morgan:** — I'll let my officials answer, but I can give you some of the ones that are the most significant ones. Our legislation allows us to regulate and deal with credit unions, but not Credit Union Central, as Credit Union Central is federally regulated under the Office of the Superintendent of Financial Institutions. It allows us to deal with provincially operated trust companies, but not ones that operate in a number of jurisdictions.

So the examples would be the Mennonite Trust would be under provincial jurisdiction; Concentra would be under OSFI [Office of the Superintendent of Financial Institutions]. Insurance companies would be the same type of situation — ones that operate exclusively in our jurisdiction would be ours, and the others . . . But I think I'll let the officials . . .

**Mr. Wild:** — Dave Wild, Chair, Financial Services Commission. There's two aspects of our regulation. One's the prudential or solvency side, ensuring that financial institutions have sufficient capital to conduct business, and the other's the market conduct side, and that's where consumers are interacting with the financial services community, and we're dealing with market practices.

On the solvency side, we don't have any jurisdictions over banks. Banking is exclusively federal jurisdiction. With respect to most of Canada's insurance industry, it is regulated from a solvency perspective by the federal government, so all of the major life insurance companies, most of the P and C [property and casualty] insurance companies would be regulated from a solvency perspective by OSFI, a federal agency.

With respect to market conduct, though, we — with the exception of banks — we have jurisdiction to regulate the market conduct in Saskatchewan of any entity operating in Saskatchewan. So on the insurance side, we don't have a lot of responsibility with respect to the solvency of insurance companies, but when it comes to the sale of insurance in Saskatchewan, that's where our jurisdiction would take over,

and we'd be interested in things like the licensing of brokers, life insurance brokers, for example.

So it's by far and away the easiest to say what's excluded, and that's banking and the solvency side of insurance companies. But other than that, pretty much the whole financial services sector that operates in Saskatchewan is subject to our jurisdiction.

Now we have a number of arrangements, as you'll be aware, to ensure easier, more efficient administration where we're relying upon decisions of other regulators in other provinces. That doesn't mean we've lost jurisdiction. That simply means we've found ways to share our jurisdiction in a more efficient manner.

**Mr. Nilson:** — Can you explain how your jurisdiction works when new products arise which aren't necessarily insurance solvency issues or banking products? And how do you decide, or how does the commission decide, or maybe the better question is who decides whether you would start to regulate these products?

**Mr. Wild:** — Oh I mean, looking sort of beyond your question, you're absolutely right that there are products now that are very complicated, that are hybrid in nature. They're not deposit. They're not security. They're not insurance. They're aspects of all of those.

And it can be very challenging to determine jurisdiction, particularly when there's a banking aspect to the product. That's really when we have the most challenge. Obviously if there's a product that may fit under insurance law or trust and loan law, we don't have as big an issue because, you know, both Acts we administer.

But if there's a banking aspect to it, you're right, there can be an interesting challenge, and there has been court challenges on that issue. The Alberta government wanted to license bank subsidiaries that were selling insurance in Alberta and were met with some resistance by the banks. And that ultimately went up to the Supreme Court, which decided that that was insurance, that wasn't banking, and should be subject to provincial jurisdiction.

And in the end, certainly we look to public interest, you know — what risks are inherent in the product to the consumers. And we'll find a way to protect, whether it's us or the federal government, you know, we'll find a way to co-operate and work through the issues and make sure that the public is protected.

**Mr. Nilson:** — To give an example of something that's caused a great deal of difficulty for all of us as it relates to our pension plans and other investments, these mortgage-backed securities and the securitization of very risky mortgages, would that be in your jurisdiction to review, and what kinds of warning signals are there that show up that allow you to step in or not step in when it's basically an international phenomena?

**Mr. Wild:** — Securities, now whether they're backed by a mortgage or some other vehicle, would be subject to *The Securities Act* of Saskatchewan. It's important to recognize that the securities Acts are not primarily designed as gatekeepers in

the sense of allowing or disallowing products into the market. Our primary focus is through disclosure. You know we want full, plain, true disclosure of a product, and if we can get that, then the marketplace can determine whether or not that's a product that's worth investing in or not investing in.

What becomes an issue is when we have an asset-backed security paper issue, for example, where disclosure was left wanting. There wasn't a lot of good disclosure about what the risks were with respect to that security, what could go wrong with respect to that security. And so we certainly have learned a lot of lessons with respect to asset-backed commercial paper.

We've learned lessons about the credit rating agencies and the need for the regulation of the credit rating agencies. We've learned a lot about how the products are sold and the due diligence that needs to be done by dealers before they sell a product to a retail customer. They should understand the product themselves before they go selling it. You know, we've learned a lot about the people that are manufacturing these products and the responsibilities they have for ensuring that products sold into the retail market in particular are appropriate for the retail market.

So it's not primarily a gatekeeper role though, in terms of keeping bad products out. It's ensuring that products are properly disclosed and letting the market determine whether or not it's a worthwhile investment.

**Mr. Nilson:** — Who has taken up the job of reviewing the credit rating agencies?

**Mr. Wild:** — Well, just about every security regulator in the world now is on that topic. The Canadian Securities Administrators — which is a collection, a body of securities regulators in Canada — produced a paper in October which laid out a number of lessons learned from the asset-backed commercial paper issue, and certainly front and centre was the role of credit rating agencies. And we put that out for comment, and the proposal was that we do develop a regulatory regime around credit rating agencies.

Now there is only one credit rating agency domiciled in Canada. There aren't many in total, but most of them in operation in Canada would be domiciled outside of Canada. So it's very much a co-operative, international effort here.

But we're looking at things like ensuring a code of conduct is adhered to by the credit rating agencies; ensuring that there's greater disclosure of how they arrived at their ratings, some understanding, a peek behind the curtain of the credit rating agency as to how they come up with particular numbers; disclosure of compensation, how the credit rating agencies are paid; and ensuring that conflicts are out in the open.

So there is a variety of recommendations that we've put out. Comment period's closed. We will be moving forward with a particular rule around the regulation of credit rating agencies. It will be us in concert with the rest of the Canadian securities commissions.

**Mr. Nilson:** — So how would the cost of this particular work be covered in your model that you have now, which is a

self-funded model? Would there be a national fee that's divided up among all of the different agencies, or an international fee that's divided among countries? Because obviously this is important for Saskatchewan residents, that we have somebody on the job, and part of this legislation is to move the cost of how to do this on to the users of it by direct fees without charging an individual fee to every person in Saskatchewan, although . . . But anyway, can you explain a little bit how that's supposed to work?

**Mr. Wild:** — We haven't yet talked about the fee model behind the credit rating agency regulations, but I can easily foresee a fee structure that would have principles in it that would call for a principal regulator. So we wouldn't have, you know, 13 commissions across Canada being the primary regulator of Dominion Bond Rating Service. You know, there'll be one primary regulator that's responsible for that. The rest of us rely on that.

So likely the lion's share of the fee associated with that regulation would go to the primary regulator, but certainly also there's a concept of access to our markets. And the fact is that anyone who wants to do business in Saskatchewan, whether or not we're their primary regulator, should be paying for that access to our market because, you know, ultimately we could still take enforcement action. Even if we're not a primary regulator, we still could incur costs with respect to a credit rating agency or some other market entity.

That's generally the principles we've followed. You know, for the primary regulator we get a higher fee, but everyone pays who wants access into our capital market, Saskatchewan's capital market.

**Mr. Nilson:** — Is there any mechanism for reviewing products that have a guarantee backing them? And could you explain how that works.

**Mr. Wild:** — Certainly. For the most part, guarantees have come through the insurance side. It's an insurance product and securities regulators have dealt with it only sparingly. It's primarily been the insurance regulators that have led the focus on guaranteed products. There is certainly a solvency question to it. If an insurance company is guaranteeing something, they better have capital, sufficient capital set aside. So the solvency regulator, OSFI, the federal agency would ensure that they have sufficient monies to meet their guarantees.

But there also is an issue of market conduct, and this is where the provincial insurance regulators could come in. They would examine the insurance contracts to ensure that there's, again, proper disclosure of guarantees, that the consumer understands the trigger points and what could happen under certain conditions within the marketplace. So it really would be the insurance regulators at the provincial level that would ensure that the consumer's put in a position to make an informed decision around guarantees.

**Mr. Nilson:** — Do we have any mechanisms that you regulate that are similar to some of the US [United States] municipal guarantee legislation, you know, where they have major bonds for projects that are then guaranteed by local or regional groups of municipalities?

**Mr. Wild:** — Not that I'm aware of. But I can't answer with any great certainty.

**Mr. Nilson:** — I guess my question is coming out of the many, many years of litigation around the Washington state bonds, where basically they were the safest investment possible at 2 or 3 per cent return. And the whole system collapsed, and people didn't get their money, and they ended up in a Philadelphia courtroom for 12 or 14 or 16 years. And it related to the, I guess, communal funding of a major power project.

And so I'm just wondering if there is anything that relates to that interplay between a government guarantee of a product which then is sold widely, internationally, and then what would the role be of the financial securities commission?

**Hon. Mr. Morgan:** — I don't believe that we as a province have engaged in that type of guarantee, where the province has guaranteed or that there's been groups of municipalities or any of the type of entities as you referred to. We as a province want to ensure that things like Saskatchewan Savings Bonds are our provincial instrument, that of course are issued by the province, and I think there should not be . . . Because they're not a third party one. And I think that's what the Washington state issue was, that they were effectively third party ones and who ultimately was responsible. I don't think as a province we've engaged in that at any point in the present or in the past, nor am I aware that it's being contemplated anywhere.

**Mr. Nilson:** — I'm aware of that, but my question is, does this particular institution have the ability to raise the red flags and regulate or warn the public or at least make sure that the proper information is there because that really was the question after all of those years of litigation.

**Mr. Wild:** — There's nothing in our legislation that would take it out of our hands. You know, there's no jurisdictional impediment to us examining that issue. Perhaps I could take the question away and respond to you in writing, if that's okay.

**Mr. Nilson:** — No, I would appreciate that because it is, you know, it often becomes a question when you're going to raise large amounts of money in a municipality or a group of municipalities that somebody needs to be there taking a good, hard look at it. And it appears that it falls under the jurisdiction of this particular commission, if anything was done like that in Saskatchewan. But even though it sounds like there hasn't been anything so far, but it's clearly a possible model. So I look forward to your response on that one.

Now you've indicated that this — your new commission — is going to be called a special operating agency. And as I understand it, you made a choice between it being a Crown corporation or a special operating agency. Can you tell me how other provinces run this, and how many are Crown corporations, and how many are special operating agencies? And then give an explanation as to why you chose the special operating agency model as opposed to a Crown corporation.

**Mr. Wild:** — With respect to security commissions, if we look west of Nova Scotia, all of them are Crown corporations except for Manitoba which is a special operating agency. So BC [British Columbia], Alberta, Ontario, Quebec, New Brunswick

are all Crown corporations. Manitoba is a special operating agency. PEI [Prince Edward Island], Newfoundland and Labrador, and Nova Scotia remain appropriation. And the territories, I'm really not sure how they're organized, but I'm assuming they're appropriations as well.

Why we chose this? Variety of reasons. The major one was there simply wasn't justification for all of the overhead that a Crown corporation attracts to run as an entity. We're a small organization; we have 35 bodies today. We've been given approval by Treasury Board and cabinet to move that on up — and we appreciate that — but we're still going to be a small agency at the end of the day. And we don't need to set up all of the human resource and, you know, accounting, and IT [information technology] functions that go with being a Crown corporation. It just wasn't necessary. It wouldn't add any value to it.

Secondly, on the issue of accountability, we do think that this is, you know, a better model in terms of accountability, in terms of the minister's direction of our commission, control of Treasury Board over our expenditures, items like that. We just think it is a more accountable, responsive approach than the Crown corporation model would be, not to say our Crown corporations aren't accountable.

**Mr. Nilson:** — So as it relates to funding, is the plan that the agency will be fully funded by fees in year 1 or year 5 or year 10, or can you give some indication of how that plan is proposed to be laid out?

**Mr. Wild:** — Immediately we'll be in a fully funded position. We take in approximately 11 to \$12 million in fees under the various financial services statutes. We're talking about a budget, an annual budget a little north of \$4 million, so there'll be a significant gap between our revenues and expenditures. We intend, through the legislation, to create a reserve of \$1 million which will be held year after year for extraordinary expenditures, extraordinary market conditions, something related to the need for more regulatory resources. But we can set up that \$1 million reserve and fund our annual expenditures quite easily from day one.

**Mr. Nilson:** — What is the risk to that ongoing funding of a national securities agency such as being very strongly proposed by the federal Finance minister, and has that been taken into account in your planning?

**Mr. Wild:** — Certainly that first and foremost is the decision of cabinet, not of the regulator. About half of our commission is engaged in securities regulation. So it is a fairly major portion of our business, but everything is scalable and each of the — we call them divisions — each of our divisions is fully self-supporting. So the revenues we collect with respect to pension regulation would fund the pension division. The monies we collect with respect to financial institutions would fund the financial institution division. So it's a very scalable commission in that sense.

The fees would come down obviously if we didn't have securities regulation, and our expenditures would drop accordingly. But that wouldn't threaten the continued operation of our other regulatory areas.

**Mr. Nilson:** — One area of interest in looking forward, and because I don't recall any particular problem in this area yet, but do you have a mechanism in the regulation that deals with conflict of interest as it relates to the total institution?

And I guess the example would be is that there is some problem in Saskatchewan, which effectively involves everybody in Saskatchewan, that might have a way of regulating a particular issue. And I guess what I'm thinking is in the prosecutions branch, if there's a problem, they ship it to Alberta for the Alberta prosecutions to deal with or other areas go to other provinces. Is there a similar mechanism that's in place now that would cover that?

**Mr. Wild:** — There's a variety of mechanisms. There's two general functions of our commission. One's policy development. So we spend a lot of our time thinking about rules and approaches to regulation. And the commission has a very significant influence over the policy around regulation. In fact under *The Securities Act* we have the authority to make rules which can become law.

And the other aspect of our commission is the quasi-judicial function where we actually hear matters of dispute, quite specific matters of dispute — where there's non-compliance with one of our Acts, and there's been a finding, and that makes its way up to the hearing level.

With respect to both of those sides, on the policy side the conflict is handled in a couple of ways. One is through the appointment process. We have seven commissioners on our commission. I'm the only full-time employed commissioner; the other six commissioners are part-time commissioners. And it has been the tradition that those commissioners are retired or out of the practice, that none of them are active. None of them are active, you know, in the industry.

But even then we get them to declare annually, all of us, their investment holdings. So they have to fill out a form, send it to me and the minister with respect to how they're invested. And then so in that manner we can gauge their conflicts and of course there's policy in place for them to declare conflicts on policy questions.

Flipping over to the enforcement side, the commissioners don't get involved on enforcement matters until it is at the hearing level. So we have a Chinese wall between us and the staff, the enforcement staff. And really the conflicts there would be more at the staff level that we'd have to guard for. We ensure that staff that have reviewed files and are pursuing particular investigations are subject to review by the management so management knows what files are being put on the shelf and what are being pursued.

So we manage conflicts that way, and then the commissioners, when the file is closed, the commissioners review each and every closed file. It's not going to be the subject of a hearing so we're not conflicted at that point from reviewing the file, but then we can judge whether or not it was handled in an appropriate manner and conflicts would come up there for enforcement staff were in conflict. Certainly though we have all sorts of opportunity if we find ourselves in a conflict position to manage it by engaging other regulators. So we could readily

move files off to another regulator for investigation, you know.

[19:30]

**Mr. Nilson:** — Has that happened to date?

**Mr. Wild:** — No, not since I've been there.

**Mr. Nilson:** — Is that how a matter that might involve a joint venture between a private company that's out raising money and one of the Crown corporations that we have now where . . . Give an example. Some of the European Crown corporations that trade on the New York Stock Exchange where the government might own 30 to 40 per cent and then the rest of the shares are owned publicly, and they in turn then are involved in some efforts. If we had similar models developed here in Saskatchewan using the government-owned corporations, how would you deal with the regulation of products that they might put forward?

**Mr. Wild:** — Well certainly we'd have to talk about the conflict. I don't sit on hearing panels. I would clearly be the one that would be in conflict because I'm an employee of the Government of Saskatchewan, paid by the Government of Saskatchewan, but I don't sit on hearing panels, so I wouldn't be in conflict. I don't see how the part-time commissioners necessarily would be in conflict. They're not paid enough money to make it a conflict. But if that came up, certainly we could appoint, the minister can appoint, someone other than a commissioner to hear matters, and then they're not bound to be a Saskatchewan person. It could be anyone that the minister would like to appoint to hear a matter. And certainly if we felt we were all in conflict, we'd raise it in a big hurry with the minister, and there is mechanisms to address that.

**Mr. Nilson:** — But clearly it would be within the purview of the commission to make sure that the information was public and that everybody knew how the particular instruments or methods of raising money were being sold to the public. But from what you've said, there isn't any specific reference to that in the legislation, past or present, and as you indicated earlier, there isn't any major change in policy. But what you've told me is how you think you would deal with it if it arose.

**Mr. McGovern:** — That's correct. The existing section 20 of the Saskatchewan Financial Services Commission does provide for jurisdiction with respect to conflict of interest matters if we wanted to address it more specifically in the regulations where you did have an issue that required something to be addressed that was out of the ordinary or required a more legislative structure to set it up. So section 20 of the Act does provide that regulations regarding conflict of interest matters can be addressed.

**Mr. Nilson:** — Okay, I thank you for that clarification because I can foresee some particular challenges that might arise if we went into some fairly large products which included a combination of guarantees, new borrowing mechanisms, and maybe some new instrument that none of us have ever seen or heard so far. And it's I think assuring to know that you have the ability to go in and make sure that those things are clearly laid out for the public and if in fact there is some conflict, it can be passed over to another review body in another province or

wherever is necessary. So was that a fairly accurate statement of that perspective?

**Mr. McGovern:** — I think so and I think, as Mr. Wild has indicated, the commission under this legislation is given a fairly broad mandate. And certainly if you look at section 9, for example, commission's responsibility includes other matters including "providing for the development of policies to protect the interests of consumers of financial services." And so that's the broad umbrella that you've been discussing I think in terms of the commission being able to not necessarily be pigeonholed in an area, but rather to take a protective approach generally to financial services products.

**Mr. Nilson:** — And just for clarity, problems usually arise when somebody raises a question. What is this? Am I protected? How do I get more information? And it's often those kinds of simple questions that then trigger a review by the agency.

**Mr. Wild:** — Absolutely. Our best source of information really is the market. An extraordinary number of our complaints come up from brokers and credit union managers and people that are out in the industry and have seen these products being sold.

**Mr. Nilson:** — Okay, well thank you for the information about this, and I think that ends my questions as it relates to this particular legislation.

**The Chair:** — Thank you very much. If there are no more questions, we will vote this one off. This is Bill No. 86, *The Saskatchewan Financial Services Commission Amendment Act, 2009*. Clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 16 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 86, *The Saskatchewan Financial Services Commission Amendment Act, 2009*. Is this agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — I would ask a member to move that . . .

**Mr. Brkich:** — I'll move that Bill 86 be adopted without amendment.

**The Chair:** — Moved by Mr. Brkich, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Thank you one and all. Mr. Minister, have you got any closing comments?

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'd like to thank my officials for the work that they've done on this and thank them for being here tonight.

**The Chair:** — Thank you very much. We'll now pause for a short break and we move into the next part.

**Bill No. 44 — *The Agreements of Sale Cancellation Amendment Act, 2008***

**Clause 1**

**The Chair:** — We now move to Bill No. 44, *The Agreements of Sale Cancellation Amendment Act, 2008*. I'd ask the minister to introduce his staff and, their first time to the mike, if they'd say their name for Hansard. And if you'd open with opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined tonight by Maria Markatos, Crown counsel, legislative services branch. I have a very brief opening statement.

The existing agreements of sale cancellation Act requires that all proceedings by a seller to end a contract or agreement for the sale of land proceed before a court. When it was enacted in 1917, the Act was intended to address the unequal bargaining positions that often existed between sellers who provided financing and less sophisticated buyers. The Act was intended to address the situation where a buyer had established equity in the land through payments but had not yet acquired title. By requiring the seller to proceed with an action before the court to cancel the agreement for sale, the equity established by the buyer would necessarily be taken into consideration.

The Act was not intended to address sales of land where one payment transaction takes place between the parties following which title is transferred, nor does it cover the situation where the seller does not provide financing. The Act was not intended to provide prospective buyers with a bargaining position from which to retain a portion of their deposit if they decided not to proceed with the purchase.

The Bill will clarify the current Act by adding a definition of contract or agreement for the sale of land. This will limit the application of the Act to situations where the purchase price is paid over a period of time, specifically more than six months, and title is not transferred to the buyer until all of the payments have been made.

The proposed amendments will also define agreement for sale in each of *The Land Contracts (Actions) Act* and *The Saskatchewan Farm Security Act*. This will ensure that, in each Act, agreement for sale is given the same meaning. Each of the Acts will continue to protect purchasers who enter into an agreement for sale over a period of time and establish equity in land. Discussions with interested parties have continued since this Bill was introduced in the fall.

Through our continued review of this Bill, we have decided not to proceed with the proposed amendment to *The Limitation of Civil Rights Act*; accordingly section 6 of the Act will not be supported by the committee members this evening. As such, the amendments will give sellers greater certainty regarding when an action to cancel must proceed before the court. However buyers will also maintain the protections that are currently available to them.



Mr. Chair, I can advise that Mr. Chisholm will, later this evening, will be proposing three amendments. We have provided copies of those amendments to the members of the committee, and I understand that we have to have the discussion on the main portion of the Bill first and that we deal with the amendments later on. Given that we've provided them, I would certainly welcome questions on any aspect of the Bill or the amendments as we go through and that may save asking questions on it later on.

What I'm going to do now, with leave, is ask Ms. Markatos to just briefly review each of the three amendments so that we can proceed to have a meaningful discussion.

**Ms. Markatos:** — Thank you, Minister. Maria Markatos, legislative services.

The first amendment is to clause 3 of the printed Bill. It will strike out “six months from the date possession is granted to the purchaser” and substitute that with “six months from the date of possession as set out in the contract or agreement or in any amendment to the contract or agreement.”

And there was a concern raised — case law brought to our attention — that wouldn't actually apply to the proposed amendment, but it did raise a concern that the date of actual possession may not be the same as the date of possession agreed to in the contract. So that would be the amendment to clause 3 of the printed Bill.

Clause 5, the amendment to clause 5 would be the same, changing that “six months from the date possession is granted to the purchaser” and substituting “six months from the date of possession as set out in the agreement or in any amendment to the agreement.”

The next and last amendment would be to clause 7 of the printed Bill. There will be two changes to clause 7. The first would be striking out that same part, “six months from the date possession is granted to the purchaser,” and substituting with the same provision or wording I indicated earlier. And the second is adding “, other than in section 25,” to that definition. And that's to make sure that the protections that a buyer is granted in *The Saskatchewan Farm Security Act* against actions on the covenant are retained.

[19:45]

**The Chair:** — Thank you very much. And if there are some questions, Mr. Nilson will be doing them. Thank you. The Chair recognizes Mr. Nilson.

**Mr. Nilson:** — Thank you very much and good evening. Could you explain in lay terms the problem that has arisen here as it relates to this particular legislation. Clearly there have been some issues that have arisen which have basically caused lawyers involved in transactions, possibly real estate agents involved in transactions, that they feel as if they're hard done by, and they would like to get the law changed — or clarified might be a better way to put it — so that a number of problems can be eliminated. And so I'd appreciate it if you'd give a lay explanation of what the problem is here.

**Hon. Mr. Morgan:** — Sure. I'll try and do that and certainly I'll let Ms. Markatos follow up. The problem that would happen would be somebody would make an offer, often with possession some months away, with a relatively significant-sized deposit, and a vendor would say, yes, I'll accept that offer. And then the purchaser would decide, for whatever reason, they were not going to proceed with it. The vendor has taken the property off the market.

And then as possession date approached, if the purchaser had just simply changed their mind — not a conditional offer but, you know, all conditions had been removed — the purchaser would just say, well I have a binding agreement for sale. If you want out of this, you give me back all or most of my deposit. Failing that, you can go to court and go through a cancellation process. And the cancellation process for a vendor is the same as it is on a foreclosure, with applications to Provincial Mediation Board, appointments for applications for leave. And it's a long and expensive process.

Most vendors, when they accept an offer, aren't aware that by having accepted an offer that they really put themselves in a position of effectively having to foreclose to cancel it. It was our belief that it was an unfair position to put a vendor in and we wanted to equalize it. At the same time, we wanted to protect a purchaser's rights where a purchaser was acquiring equity in the property or financing it over time.

So that was the balance we struck. And initially we had some discussion as to whether we wanted to remove the covenant to pay, and we decided we wanted to leave the existing protection that's in existence with 2.1 of *The Limitation of Civil Rights Act*, so that in effect, if an agreement does end, that the vendor can retain the deposit but not sue for a shortfall or sue for the remaining balance of the purchase price.

I don't know whether that answers the question or whether you want something else from Ms. Markatos from a technical side.

**Mr. Nilson:** — Well I think there are a number of questions that arise. Just for, once again, for clarification, is this a problem that comes up in a market where the prices of or the values of property are increasing dramatically or decreasing dramatically?

**Hon. Mr. Morgan:** — I think you could probably find it more in an increasing market where, as we saw a few years ago, people would make the offers quickly to try and get a piece of property taken off the market so they could try and either remarket it through intending to flip the property before closing by way of signing their agreement for sale or deciding the property would appreciate enough that they would make an unconditional offer and be able to look for financing later on and then . . . or just simply change their mind on it.

But in an overheated market, they would make an unconditional offer with possession some months away — often without giving due consideration to what a purchase price should be or what fair market value might be.

So I think it would likely come into play more often in times of an overheated market than the other way, although it could certainly come into place the other way where property values

have fallen off and a purchaser simply wants to get some leverage to get their deposit back. So it could come into play both, but my guess is it would be more in the case of an overheated market.

**Mr. Nilson:** — When did this proposal first show up in the Justice department, so that it could be looked at as a problem so that this solution could be drafted and brought forward here?

**Hon. Mr. Morgan:** — I'm thinking it was some time within the last year.

**Mr. Nilson:** — Okay. So it's something that's come up in the last year. And does it come from the legal profession primarily or from the real estate profession or where does it come from?

**Hon. Mr. Morgan:** — From the legal profession.

**Mr. Nilson:** — The protections that are changed — because that's effectively what happens here and, I guess, basically the balance of power in the transaction, the balance has changed — who benefits from the change? Is it the vendor or the purchaser?

**Hon. Mr. Morgan:** — Clearly there is a shift from the purchaser to the vendor, the logic being that the purchaser had an unfair negotiating position because they could say to the vendor, you can't even go and remarket this property until you go through a cancellation proceeding.

Furthermore some of the purchasers would actually register a caveat on the property to claim their interest as a purchaser under an agreement for sale. And then the vendor was virtually hamstrung and would end up giving, you know, would give back virtually all of the deposit just to be done with it. And that certainly imposed an unfairness. You know, a deposit should be there to ensure good faith and that people have an honest intention of completing a transaction.

**Ms. Markatos:** — But purchasers will continue to have the same protections that they had under the agreement for sale cancellation Act. If a vendor wants to cancel that agreement for sale, they will have to proceed through the court. So if a purchaser has established equity in the land, that will come before a court and they should be given some sort of recognition for that.

**Mr. Nilson:** — So there hasn't been a change in the position of the purchaser other than it relates to the procedural issues. Is that correct?

**Hon. Mr. Morgan:** — That's a fair assessment.

**Mr. Nilson:** — How does this law or this proposed change compare to what happens in Alberta and British Columbia and Manitoba?

**Hon. Mr. Morgan:** — There's a number of different approaches and I'll let Ms. Markatos . . .

**Ms. Markatos:** — What I've been able to find is that none of the other provinces have a similar sort of protection for purchasers that is set out in *The Agreements of Sale Cancellation Act*. So there isn't a similar kind of Act. Alberta

does have similar protections for purchasers that are set out in *The Limitation of Civil Rights Act* or our limitation of civil rights Act. But Alberta and Saskatchewan are the only provinces that have those protections for purchasers.

**Mr. Nilson:** — Does that mean that these protections were ones that were created during the '30s, that relate primarily to Saskatchewan and Alberta and the perceived difficulties with banks from the East, which I think generated quite a bit of our lending legislation?

**Hon. Mr. Morgan:** — Ours actually came into place in 1917, but there's been a variety of amendments over the years. Interestingly it's BC and Ontario have actually gotten rid of the . . . [inaudible] . . . and they've actually gone further than we have. And it would be possible in those jurisdictions to maintain an action on the covenant.

And our limitation of civil rights Act, our intention is to keep that intact. There was certainly requests from members of the legal profession that we should do away with that protection as well, and I'm not sure that it's something that anybody wants to do at this point in time. We've always wanted to have a fairly well-crafted balance between vendor and purchaser.

**Mr. Nilson:** — So then we still have distinctive Prairie legislation, if I can put it that way, in Alberta and Saskatchewan when you compare it to Ontario or British Columbia.

**Hon. Mr. Morgan:** — Yes.

**Mr. Nilson:** — Okay. Well I know that what happens, this kind of legislation just sits there for decades until something changes in the market, and clearly it sounds as if the dramatic increases in values have put some extra pressure on the legislation. And so my sense of it is that we may actually see another adjustment to this in the next couple of years as we figure out the problems that may arise with this particular legislation. Is it your plan to continue to monitor this area?

**Hon. Mr. Morgan:** — I think so, yes. There's certainly the request from the profession that we look at doing away with the protections that are currently for the action on the covenant. We've decided not to do that. We think this is an appropriate step to take at this point in time because it changes the procedural provisions but doesn't change the underlying legal position of the parties. It's only changed from a procedural one. But I think this piece of legislation, as with any of them, should be monitored to see the effects that it has on the market.

And I don't know what's going to take place, whether we're in for another boom upward. You know, I'm an optimist; I'd like to see prices continue to rise. At the same time, it's probably healthy for us to have a cooling-off period as well.

**Mr. Nilson:** — Okay. And I think the amendments that you've described that we'll deal with as we go through the various clauses are effectively just one amendment around further clarification of the wording except, I guess, for the last one which deals with the question of other than section 25. So can you explain in more detail what the effect of that particular third amendment is again so I won't have to ask the question when we get to the clause.

**Ms. Markatos:** — *The Limitation of Civil Rights Act* does not apply to actions under *The Saskatchewan Farm Security Act*. So section 25 sets out its own provision that's like section 2.1 of *The Limitation of Civil Rights Act* restricting actions against personal covenants. So where an agreement for sale in this case is cancelled, the vendor would be limited to getting the land back and not being able to pursue an action against the buyer for the purchase price, and it's the same provision that's in *The Limitation of Civil Rights Act* since we're now going ahead with that amendment. It seemed appropriate that the definition of agreement for sale shouldn't include section 25. If the definition did go to section 25, then it would create a gap in between that six-month period where purchasers that were involved in an agreement for sale less than six months would possibly be subject to an action for damages.

**Mr. Nilson:** — So then the simple explanation is that there's no change in the law. And you want to make sure, absolutely clear, that there is no change in the law and that that ability to recoup costs and other things related to the action is not the law in Saskatchewan yet.

**Hon. Mr. Morgan:** — That's a fair statement.

**Mr. Nilson:** — Okay. Well thank you very much and I look forward to dealing with the clauses.

**The Chair:** — Thank you very much. And if there are no more questions, we will start with the voting this Bill No. 44, *The Agreements of Sale Cancellation Amendment Act, 2008*. Clause 1, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clause 2 agreed to.]

### Clause 3

**Mr. Chisholm:** — I'd move an amendment, Mr. Chair.

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

**Mr. Chisholm:** —

#### Clause 3 of the printed Bill

Amend section 1.1 of *The Agreements of Sale Cancellation Act*, as being enacted by Clause 3 of the printed Bill, in the portion following clause (b) by striking out "six months from the date possession is granted to the purchaser" and substituting "six months from the date of possession as set out in the contract or agreement or in any amendment to the contract or agreement".

[20:00]

**The Chair:** — Moved by Mr. Chisholm:

#### Clause 3 of the printed Bill

Amend section 1.1 of *The Agreement of Sale Cancellation Act*, as being enacted by Clause 3 of the printed Bill, in the portion following clause (b) by striking out "six months from the date possession is granted to the purchaser" and substituting "six months from the date of possession as set out in the contract or agreement or in the amendment to the contract or agreement".

Mr. Chisholm has moved an amendment of clause 3, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Do committee members agree with the amendment as read?

**Some Hon. Members:** — Agreed.

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

[Clause 3 as amended agreed to.]

[Clause 4 agreed to.]

### Clause 5

**The Chair:** — Clause 5, I recognize Mr. Chisholm.

**Mr. Chisholm:** — Thank you, Mr. Chair. The proposed amendment regarding clause 5 reads as follows:

#### Clause 5 of the printed Bill

Amend 2(a.1) of *The Land Contracts (Actions) Act*, as being enacted by Clause 5 of the printed Bill, in the portion following subclause (ii) by striking out "six months from the date possession is granted to the purchaser" and substituting "six months from the date of possession as set out in the agreement or in any amendment to the agreement".

**The Chair:** — Mr. Chisholm has moved an amendment to clause 5. Do committee members agree with the amendment as read?

**Some Hon. Members:** — Agreed.

**The Chair:** — Is clause 5 as amended agreed?

**Some Hon. Members:** — Agreed.

[Clause 5 as amended agreed to.]

**The Chair:** — Clause 6, is that agreed?

**Some Hon. Members:** — No.

**The Chair:** — Those in favour of the motion please say aye. Those opposed to the motion say no.

**Some Hon. Members:** — No.

**The Chair:** — I think the nays have it. The clause is defeated.

#### Clause 7

**The Chair:** — The committee will resume with consideration of Bill 44, clause 7. I recognize Mr. Chisholm.

**Mr. Chisholm:** — Thank you. Mr. Chair, the proposed amendment for clause 7 reads as follows:

Amend clause 3(a.1) of *The Saskatchewan Farm Security Act*, as being enacted by Clause 7 of the printed Bill:

(a) in the portion preceding subclause (i) by adding “, other than in section 25,” after “means”; and

(b) in the portion following subclause (ii) by striking out “six months from the date possession is granted to the purchaser” and substituting “six months from the date of possession as set out in the agreement or in any amendment to the agreement”.

**The Chair:** — Mr. Chisholm has moved amendment to clause 7. Does the committee members accept that as read?

#### Clause 7 of the printed Bill

Amend clause 3(a.1) of *The Saskatchewan Farm Security Act*, as being enacted by Clause 7 of the printed Bill:

(a) in the portion preceding subclause (i) by adding “, other than in section 25,” after “means”; and

(b) in the portion following subclause (ii) by striking out “six months from the date possession is granted to the purchaser” and substituting “six months from the date of possession as set out in the agreement or in any amendment to the agreement”.

I think we’ve got it sorted out now. Do committee members agree with the amendment as read?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Is clause 7 as amended agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 7 as amended agreed to.]

[Clause 8 agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 44, *The Agreements of Sale Cancellation Amendment Act, 2008*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — I would ask a member to move that we report Bill No. 44, *The Agreements of Sale Cancellation Amendment Act, 2008* with amendments. Mr. Chisholm moved that it’s agreed. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. And that concludes Bill No. 44. I’d like to thank the minister and his staff, and if there’s any comments on . . .

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. In this particular Bill, I’d like to thank Ms. Markatos for the work that she did. It was not an easy task and somewhat of a moving target as it progressed through, and she did a masterful job of dealing with the various issues and dealing directly with a number of members of the legal profession that had strong feelings on it. So I want to thank her for her hard work in what was not an easy task. So thank you.

**The Chair:** — Thank you. And if there are no other comments, we will move into Bill No. 45, *The Credit Union Amendment Act, 2008*. And we’ll give the ministry a few minutes to move in their staff.

#### Bill No. 45 — *The Credit Union Amendment Act, 2008*

#### Clause 1

**The Chair:** — Thank you very much. Move into Bill No. 45, *The Credit Union Amendment Act, 2008*. Mr. Minister if you would introduce your staff and any opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I am joined this evening on my right by Catherine Benning, senior Crown counsel, legislative services branch; and Jim Hall, registrar of credit unions, Saskatchewan Financial Services Commission.

Mr. Chair, *The Credit Union Amendment Act, 2008* amends *The Credit Union Act, 1998* by changing the composition of the board of Credit Union Deposit Guarantee Corporation. The corporation is a body corporate created pursuant to *The Credit Union Act, 1998*. It was formed in 1953 as Canada’s first deposit protection agency. It has successfully delivered on its mandate of protecting depositors of Saskatchewan’s 65 autonomous credit unions by providing an unlimited guarantee on all funds on deposit, and acting as the in-house regulator of credit unions.

The current structure of the corporation board is not in keeping with similar deposit guarantee corporations in other jurisdictions. In those cases the majority of board members are government appointments or otherwise independent of the regulated entities. This amendment will provide for a seven-person board composed of three independent members, two Government of Saskatchewan members, and two credit union affiliated members.

With five out of the seven board members from outside the credit union system, the legislation achieves the goal of a more independent board. Credit Union Central and the Credit Union Deposit Guarantee Corporation have been consulted and are satisfied with the proposed amendments. We welcome your

questions on this Bill.

**The Chair:** — Thank you very much, Mr. Minister, and I'd ask that when the new people step up to the mike for the first time if they'd introduce themselves so Hansard has an accurate recording. Mr. Nilson you have the floor.

**Mr. Nilson:** — Thank you very much. It's a pleasure to be here this evening to look at this amendment to this legislation. I recall, I think 11 years ago, we were going through a similar process to bring in the new credit union Act, which was a result of a lot of hard work by many people, which then laid out the next decade's worth of work. And I'm not certain, but I think it might have been on my daughter Ingrid's birthday that we were in front of a committee 11 years ago as it relates to this particular matter as well.

But my question is, this change that's here, was this one that was identified fairly quickly after 1998, or is it a particular issue that has developed over the last, you know, two or three years so that it comes forward now? Perhaps you can give a bit of history of why we're making this change now.

**Mr. Hall:** — Jim Hall, registrar of credit unions. This change has been discussed for some three or four years and I don't think it was any particular issue. It was just in looking at the governance of regulated entities generally and of self-regulatory entities that it was determined that it would be better if there was more independence brought to this particular institution.

When you look at other institutions — guarantee corporations, ConCorp, Assuris — they all have independent members. So it just seemed natural that an important institution like this should have some more independence as well.

**Mr. Nilson:** — And if you can perhaps explain in simple language what the actual effect of this legislation would be, I think that would be helpful for the record, as I think it's clear, but just to understand who has been on the Deposit Guarantee Corporation board over the years and how that will change now with this legislation.

**Mr. Hall:** — Currently right now there's five members on the board, and the majority of those members are there as a result of affiliations with Credit Union Central. So three of the five would be Credit Union Central appointees, and then two would be government appointees. And traditionally it's been the CEO [chief executive officer], as required by the legislation, together with the president of Central, plus one person from the credit union organization, which would be nominated by, you know, through the delegate process.

And then on the government side, it's the deputy minister of Finance or his or her delegate, and the same with the deputy minister of Justice.

[20:15]

The way that it's going to change now, there will be seven people. Five of those will be independent. No, I'm sorry, four of those will be independent. There will be an individual appointed by Credit Union Central. There will be another then, the CEO of Credit Union Central, so two Credit Union Central

appointees. And then the deputy minister of Justice is appointed and the deputy minister of Finance is appointed. So those are the same as now.

There will be two individuals appointed by Central, but they can't be affiliated with Central or a credit union — they must be independent — and those appointments are made in consultation with the deputy minister of Justice.

And then on the government appointee side, it's an individual who is independent of government, not an employee of the public service or a Crown corporation, and that person is appointed by the Lieutenant Governor in Council in consultation with the CEO of Central and the Chair of Central.

**Mr. Nilson:** — So are all of the members appointed by the Lieutenant Governor in Council in the final analysis with nominations from the various places that you've said, or is there an independent ability to appoint?

**Mr. Hall:** — There's only one individual appointed by the LG in C [Lieutenant Governor in Council]. The others are appointed by Central, but in consultation with the deputy minister, so there's only one LG in C appointment.

**Mr. Nilson:** — So then the status as a board governing this particular institution is set up by the legislation and there's no other intervening ability of the Lieutenant Governor in Council to adjust the appointments.

**Mr. Hall:** — With the exception of the one appointment that's made directly by the LG in C, yes.

**Mr. Nilson:** — So basically this is something that's come out of a common understanding and out of the regular consultations with the credit union movement and with their leadership working together with you as regulators of this particular industry. Would that be correct?

**Mr. Hall:** — That's correct.

**Mr. Nilson:** — Are there any changes that are foreseen in how this legislation or this institution operates by these changes that you can anticipate at this point?

**Mr. Hall:** — Well I think the biggest change with the independence, with the three independent members, you'll see perhaps more involvement of the board because there'll be less of an insider's view of the way that the board has done its business now because of the majority of the appointees by Credit Union Central. So I think you might see more questions about, you know, the direction and that kind of thing. Naturally when you've got more independent people there, they might have a different view of things, but I don't anticipate that it'll be a major change.

**Hon. Mr. Morgan:** — We've been, as a province, been very well served by the credit union movement through its history. We've been very well served by the Credit Union Deposit Guarantee Board. No individual investor in our province's history has lost money as a result of a default or a credit union getting into trouble. As a matter of fact, our credit unions have done remarkably well and have continued to do remarkably

well in times of global turmoil, and I think they are to be commended from that.

But I think what this Bill reflects is we want to have a very strong governance model; that's what the credit union wishes to have. And we're now seeing a consolidation of credit unions into two or three larger credit unions, so the risk isn't as diverse or spread out as when you had a larger number of smaller credit unions. What we've got now is with the consolidation of ones in Saskatoon and Regina, if one of those were to get into trouble, you know . . . So I think we would want to have a very good, a very strong governance model with as sophisticated people on it as we can.

So this came about as a result of discussion with the credit unions and at a time when the system was healthy, so I think this is a positive step that the credit unions wish to see taken.

**Mr. Nilson:** — Just going to some questions that I raised earlier about jurisdiction of the Financial Services Commission, does this legislation or this institution have the ability to deal with situations where a Saskatchewan-regulated credit union wants to make arrangements with an Alberta or a Manitoba credit union, given the consolidation moves that are taking place? And I guess the flip side of that is, or does that automatically move them, if they tried to do that, out of the supervision of the provincial regulator?

**Mr. Hall:** — No credit union has the ability or the capacity right now to merge or consolidate with a credit union in another jurisdiction. *The Credit Union Act* has some unproclaimed provisions that would require regulations before there could be any crossing of borders.

A Saskatchewan credit union could do business in another jurisdiction provided that jurisdiction allowed them to, but no other jurisdiction has that legislative . . . They haven't made those amendments. And conversely there's been no regulation that's been passed to allow a BC or an Alberta or another corresponding credit union to do business here. They can only do business for three very limited purposes and that's to register a security, to be a member of the co-op superannuation plan, or to take action on a debt. But they can't come into the province, and conversely no credit union can go into another province.

**Mr. Nilson:** — And there's nothing in this legislation that either hinders that or facilitates that move.

**Mr. Hall:** — There's no change there whatsoever.

**Mr. Nilson:** — Thank you very much for the information, and I have no further questions.

**The Chair:** — Okay. If we have no other questions, we'll vote Bill No. 45, *An Act to amend The Credit Union Act*. Under the title and clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 and 3 agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 45, *The Credit Union Amendment Act, 2008*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — I would ask a member to move that we report Bill No. 45, *The Credit Union Amendment Act* without amendment.

**Mr. Bradshaw:** — I'll so move.

**The Chair:** — Mr. Bradshaw moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Thank you, Mr. Minister. Any closing comments?

**Hon. Mr. Morgan:** — I would once again like to thank my officials for coming here this evening and for the work and consultation that led to this Bill. I understand, Mr. Chair, that we're scheduled to take a break. We're slightly ahead of schedule. I don't know how long you wish to schedule a break for. If we can start early I guess we may well finish early.

**The Chair:** — We will pause for a break and, depending on when you're ready, if that's agreed with both sides, as soon as possible. So we'll take 10 minutes or something, whatever it takes to get your committee ready. Thank you. We pause for a short recess.

[The committee recessed for a period of time.]

### Bill No. 43 — *The Trespass to Property Act*

#### Clause 1

**The Chair:** — Okay, ladies and gentlemen. With consent of the committee we're going to adjust the agenda and move to Bill No. 43, the trespass amendment Act. If there are no objections we will continue with that. And, Mr. Minister, I'd ask you to introduce your people, and the first time they come to the mike if they would say their name in the mike so Hansard has a good recording of that. And, Mr. Minister, your comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. On my left, I'm joined by Susan Amrud, executive director, public law division. On my immediate right is Mary Ellen Wellsch, senior Crown counsel, legislative services branch. And on my far right we have Shannon Carson, Crown counsel, civil law division.

I have a brief opening statement with regard to this Bill.

Mr. Chair, I am pleased to be able to offer opening remarks concerning Bill 43, *The Trespass to Property Act*. This legislation is the result of requests made across Saskatchewan. For example, rural municipalities, shopping centres, and police forces have all requested a law that permits the prosecution of trespassers. As a result, extensive consultations were

undertaken before the Bill was drafted and introduced.

These consultations included organizations concerned with hunting such as the Saskatchewan Wildlife Federation and the Saskatchewan Outfitters Association. They also involved municipalities and police forces. We also consulted with the Federation of Saskatchewan Indian Nations and the Métis Nation of Saskatchewan.

I want to point out that this Act will make it an offence to trespass only where the individual has appropriate notice that he or she must not be on the premises or participating in a particular activity. It does not apply to people that are hunting, trapping, or fishing. Other legislations such *The Wildlife Act* continue to apply.

As well, the Act provides that persons acting under “a right or authority conferred by law” will not be committing trespass. Therefore people engaged in lawful demonstrations and peaceful assembly will not be in contravention of *The Trespass to Property Act* since these acts are protected under the Charter of Rights and Freedoms.

Case law continues to develop to define those rights. Consequently it is neither necessary nor desirable to attempt to define Charter rights in provincial legislation. With these opening remarks, I welcome your questions respecting Bill No. 43, *The Trespass to Property Act*.

**The Chair:** — Thank you. Mr. Quennell will be asking questions. The Chair recognizes Mr. Quennell.

**Mr. Quennell:** — Thank you, Mr. Chair. So I think as the minister remarked, but just to clarify, the legislation has no effect on hunters. That’s governed by the legislation. Is that correct?

**Ms. Wellsch:** — Mary Ellen Wellsch. That’s correct.

**Mr. Quennell:** — And it has no effect on fishing. Is that correct?

**Ms. Wellsch:** — That is correct.

**Mr. Quennell:** — It has no effect on snowmobiling. Is that correct?

**Ms. Wellsch:** — That is also correct.

**Mr. Quennell:** — So who wanted this Bill?

**Hon. Mr. Morgan:** — Well the original request came from police chiefs, police officers, and municipalities that were, you know, dealt with other types of trespass — people that had private property. And I think the feeling from police chiefs was that they wanted a tool that they could deal with that would not require them to go through the procedure required for criminal trespass where they would have a summary offence provision where, if there was a neighbourhood issue with somebody going on someone else’s property and they were asked to leave and refused to, that they would be able to give somebody a summary offence ticket or, you know, that type of situation what it was specifically intended to deal with.

**Mr. Quennell:** — And that’s it? You mentioned shopping mall owners as well.

**Hon. Mr. Morgan:** — Certainly shopping mall owners would be able to avail themselves of the legislation. If they had asked somebody to leave, if they refused to leave or came back after having asked to leave, then they would certainly be entitled to have that individual charged.

**Mr. Quennell:** — So it’s slightly different. Did shopping mall owners or an association for shopping mall owners or counsel for shopping mall owners ask for the legislation?

**Hon. Mr. Morgan:** — I think the request largely came at a request from police officers and rural municipalities and rural property owners, was where the request came from.

**Mr. Quennell:** — Yes. I’ll just get to that rural municipalities and rural property owners. The legislation doesn’t cover hunting. It doesn’t cover fishing. It doesn’t cover snowmobiling. So why did rural municipalities, for what . . .

**Hon. Mr. Morgan:** — I think the same issue where there was issues of minor or petty trespass. A number of other jurisdictions have petty trespass legislation. But I’m going to let Mary Ellen answer that.

**Ms. Wellsch:** — This is a resolution from Saskatchewan Association of Rural Municipalities that called for petty trespass legislation, and it’s cited, “Whereas, vandalism, theft, shot livestock and crop damage costs landowners considerable money, time and vexation;” And that seemed to be the reason behind their request for it, as well as the rural policing issue.

**Mr. Quennell:** — And in your consultations, assuming there were consultations with the Saskatchewan Association of Rural Municipalities, did you mention that or was it discussed that this legislation wouldn’t govern hunting because of the concern of shot cattle? That that would continue to be governed by the legislation?

**Ms. Wellsch:** — We shared drafts of the Bill with the Saskatchewan Association of Rural Municipalities, yes.

**Mr. Quennell:** — Because I’m not sure that the legislation necessarily adds much to some of their concerns. But okay.

Now I take it from the minister’s remarks that he’s not supportive of the amendment that I shared with him this afternoon. Is that correct?

[20:45]

**Ms. Wellsch:** — We don’t think the amendment is necessary actually because as the minister said, the Bill already states that a defence to charge of trespass is being there. This is in section 7(2)(b), “under a right or authority conferred by law.” And there actually is quite a bit of case law to show that peaceful demonstrations are a protected Charter right and that other provincial legislation can’t override that provincial Charter right.

**Mr. Quennell:** — I have no doubt, Mr. Chair, that peaceful

demonstration or any kind of assembly resulting in somebody being charged because they were on private property usually accessible to the public would result in them having a defence. But that's not going to be clear to the police looking at 7(2)(b). And I think the legislation needs to be clear in respect to people's right to assemble and freely express their opinions in what is considered public property, whether it's publicly owned or not.

And if that's not expressly set out in the legislation then the way of determining if that is the case involves court cases and perhaps appeals of the legislation, when I think it much more clearly could be put in here that a demonstrator could show a police officer, this is a peaceful assembly; we're in a place ordinarily that the public has access to; and we're entitled to be here. We have a defence within the Act, as opposed to trying to make a legal argument that right or authority conferred by law includes the Charter of Rights.

I appreciate that if this legislation doesn't permit peaceful assembly it's unconstitutional and that would be read down. But I believe the legislation could expressly set out people's right to demonstrate, to assemble.

**Hon. Mr. Morgan:** — The protections that people have under the Charter notwithstanding what we may choose to legislate. If we chose to legislate what we think the Charter might say, if the case law coming from the Supreme Court regarding the Charter were to change, it would make it difficult or may render this legislation not in compliance with the Charter.

The Manitoba legislation was passed some time ago. Since that time the Supreme Court has come out with several decisions and we think it preferable to allow the court to dictate the changes or interpret the Charter as time passes. And if we leave the Bill silent to what the rights are, they're reflected in the Bill, that you know the rights exist. And I think it's incumbent on police officers and people that would be prosecuting under this Act to ensure that they stay up to date with changes in legislation that come down and I think we want the Bill to be able to reflect the ongoing changes.

I certainly appreciate the concern that you're expressing that you want to protect those rights. We believe that they are protected by both the Charter and by the Supreme Court and to try and define those or enshrine them in writing now puts a time cap on it as what's happened in Manitoba, so we think it better just to leave it so that if the Supreme Court chooses to change it, then the Bill stays up to date.

**Mr. Quennell:** — Well I guess we'll respectfully agree to disagree. It seems to me always preferable for police services in provinces to keep track of the legislation both provincial and national as opposed to trying to interpret Supreme Court judgments.

My last question — and Mr. Nilson will have a question or two, I think — is in respect to section 16 and the perceived need for this legislation. The legislation, as I read clause 16, makes it subordinate to all other provincial legislation, so hunting and wildlife Act, the snowmobile legislation, etc., etc., and that's fine. But it also says that if it's in conflict, as I read it, if there's

any conflicts between the provisions of this Act or municipal bylaw, the municipal bylaw prevails — not just the regulations of other provincial legislation, but municipal bylaws prevail.

So first of all section 16 seems to be recognition that the municipalities can legislate in this area. They can all legislate bylaws on trespass, provide the authority for police officers to enforce those bylaws and that if they do do that, and their bylaw is any different than this Act or if there's a conflict, their bylaw wins out according to this Act, if I'm reading that correctly. So this seems to be a trespass law for municipalities that didn't want a trespass law, and because they didn't bother passing their own bylaw. And if there was a perceived need on the part of police officers or police services and others for this law, provincial law, why so shy about deferring to municipal bylaws?

**Ms. Wellsch:** — The reason this Bill defers to municipal bylaws is because if a municipality has a bylaw that's more or less restrictive respecting its own property, we think that they should be given deference by the province and each municipality can tailor its bylaws to meet the unique needs of the community, whatever those may be. It also accommodates differences that may be required between urban municipalities and rural municipalities respecting trespassing.

**Mr. Quennell:** — I guess it begs my question, if municipalities can tailor their own trespass bylaws and the province says it won't interfere with that, then doesn't this legislation just end up being legislation that applies to municipalities that didn't bother to pass bylaws and, one would assume, therefore don't want trespass bylaws?

**Hon. Mr. Morgan:** — I'm not sure really what . . .

**Mr. Quennell:** — Mr. Chair, if I may, Saskatoon passes trespass bylaws. They govern — not this legislation, according to section 16. Okay. Well then Saskatoon didn't need this legislation. Regina passes a trespass bylaw. It governs, not this legislation. Regina didn't need trespass legislation.

The village of Perdue doesn't pass a trespass bylaw. This legislation governs because they don't have a trespass bylaw, but what's the evidence that they want one? What's the evidence that they want this legislation if they don't pass a trespass bylaw? So I'm wondering what the demand for this is, first of all because legislation can pass their own bylaws and (b), if they choose not to pass their bylaws, haven't they made a decision that that's not an area that they care to necessarily have legislated in? And so where's the demand from those municipalities?

**Hon. Mr. Morgan:** — We believe it's appropriate to have the legislation. We don't think we need to demonstrate that each individual municipality chose to. What we've left it open is that if a municipality chooses to or another entity chooses to legislate as well or legislate something in addition to it, I mean that's certainly their right to do that.

We feel that we want to have a standard piece of legislation. We feel there is a significant request for it so we want to see it exist across the province. If municipalities choose to do something, we don't wish to interfere with their right to do something



either in addition to or . . . It may be that certainly municipalities have unique needs or something that's different from this and we don't want to conflict with that. But we want this to be sort of the bare minimum and to the extent that we've got a standardized model across the province, we've given it to them.

**The Chair:** — The Chair recognizes Mr. Nilson.

**Mr. Nilson:** — Thank you. How many of our 12 or 13 cities have trespass bylaws right now?

**Ms. Wellsch:** — To the best of my knowledge, none of them have trespass, specifically trespass bylaws. I don't know how many of them have specific situation bylaws. I know there's one in the city of Saskatoon that deals with the use of parks after 10 o'clock at night.

**Mr. Nilson:** — How many of the smaller urban municipalities — so the towns and villages — how many of those entities have trespass bylaws?

**Ms. Wellsch:** — I don't know the answer to that question.

**Mr. Nilson:** — How many rural municipalities have trespass bylaws?

**Hon. Mr. Morgan:** — We suspect not any. We haven't canvassed the individual municipalities but we suspect not any. They've chosen through SARM [Saskatchewan Association of Rural Municipalities] to make the request and I think they've chosen to because they want to have a standardized piece of legislation. We've certainly circulated copies of it to the SARM membership and they're supportive of the Bill . . . [inaudible] . . . so it may preclude the need for them to pass individual legislation.

**Mr. Nilson:** — If your answer is correct, why haven't you given them a wide open ability to change this law rather than have a common law across the province?

**Hon. Mr. Morgan:** — If they choose to, if they feel the need to do something in addition to or in place of, we want to give them that option. You know, they feel there is the need to have it. They've made the request to us through SARM, so we want to give them the starting point. If they choose to do something differently, that goes back to, you know, this other resolution from both SARM and SUMA [Saskatchewan Urban Municipalities Association]. So we have it from both SARM and SUMA.

**Mr. Nilson:** — So where did the idea to have a common trespass law for the whole province, where did the idea come to give them a complete exemption to it, if a local community wishes to create that exemption?

**Ms. Wellsch:** — This came through consultations, and as the minister mentioned, we had a large number of consultations with urban and rural municipalities — with their city solicitors, with their police forces — prior to introducing the Bill. And this came up as an idea that came out in consultations.

**Mr. Nilson:** — Did the original requests for trespass legislation

have the exemptions for hunting and fishing and snowmobiles?

**Ms. Wellsch:** — The original request wasn't that specific. It talked about a law of general application, a province-wide law. This is the SUMA resolution from 2006 and it called for "legislating at provincial level to prohibit trespassing on property".

**Hon. Mr. Morgan:** — I think there was a sense that the existing legislation dealing with hunting and snowmobiling served its purpose adequately. I don't think there was any expression of dissatisfaction with the existing legislation. I think what the desire was, was to have a piece of legislation in addition to that that would deal with, I don't know whether I want to use the word casual trespasser, but a trespasser that was not caught by the other types of legislation. And I think we'd given some examples of how those, you know, a neighbourhood trespass where somebody goes into somebody else's yard.

We wanted to give the police another tool. The police asked for it; the municipalities have asked for it. And, you know, I've always been concerned about the heavy hand of a senior level of government saying to a municipality, you can't do this or you can't do that. So what we've said effectively is, you've wanted to preserve the right to pass your own legislation if you think you have unique circumstances, as Saskatoon does with the parks piece. So we want to be able to keep that portion of their rights alive to legislate in the area, but have a standardized trespass, petty trespass law across the province.

**Mr. Nilson:** — Well after listening to explanations, a number of different ones over a few months, I'm still a bit mystified why this legislation came forward — other than a simple procedural one to give police officers the ability to use a piece of legislation for a specific purpose on a very small group of people — because so many of the trespass issues that arise, when I hear about them, are covered by these other pieces of legislation. It's the hunting and the fishing and snowmobiles and the all-terrain vehicles that are the bigger issues that this doesn't even deal with that.

So I guess I'm surprised, and I still don't totally understand where this particular legislation comes from.

[21:00]

**Hon. Mr. Morgan:** — The request came from both urban and rural municipalities, from police officers. I don't think that we as a government would want to say to a homeowner or a property owner, you can't prevent yourself from having somebody come onto your property to hike, to berry pick. You've asked them to leave and they're not going to leave, and we're not able to give you any kind of assistance as a government.

What we think we want to have is a province where homeowners and property owners have some significant rights that they're able to exercise over their property, that if they chose to put signs up or direct people that they cannot come on their property any more, that should be their right to do that. They've indicated, through the municipalities and through the police officers, that they wish to have that. When we went through the consultation process, we didn't hear from property

owners that said, I don't wish to have that.

And it's certainly open to a property owner to say, anybody who wants can come into my property — I'm running a shopping mall; I wish it to be open to the public, and I wish to have everybody come here. But at the same time, if somebody at a shopping mall wishes to say it's 6 o'clock or whatever time it is, that they wish to close their mall to the public and ask people to leave, then we should give them the legislative right to have an enforcement procedure in place by way of this legislation, so that they could insist that people leave at the closing time or whatever the circumstances are that would warrant their right to limit public access.

But your point is that if somebody wishes not to use this legislation, they're welcome to not call the police or put signs up. You're welcome any time.

**Mr. Nilson:** — Well you know, it's not very often that this issue shows up in the media or in places where the question of trespass arises, but one of the places it did show up is in the whole issue in Ontario around Caledonia and the occupation of the land I guess, both by the community members and the First Nations people. And how it came up is that the then Ontario opposition leader, John Tory, said, “. . . [We're going] to crack down on illegal occupations such as the long-simmering standoff between native and non-native protesters in Caledonia by beefing up the province's trespassing laws.”

And subsequently some of his own aides said they're not quite sure how he was going to do that. But is there any hint — this happened in 2007 and I think early last year — is there any aspect of the legislative issue that came out of the RMs [rural municipality] or the urban municipalities that relates to some of the problems that obviously the county in Ontario had?

**Hon. Mr. Morgan:** — I wasn't privy to the discussions that were had within the municipalities when they put the . . . And I don't think anything came out of the consultations that dealt specifically with that.

But if your question is would we as a government be willing to use that if there was a sit-in on private property where there was oil drilling taking place, I think the answer is yes. If there was a piece of property that was owned or leased by an oil company or an exploration company that had a lawful right to do that, and they asked people to leave, then it may well be something that might be used in that — subject of course to the Charter of Rights and Freedoms and subject to the jurisprudence from the Supreme Court.

**Mr. Nilson:** — So is this an enhancement of the law then so that after this law is passed, then it will give more rights to oil companies and provincial government to deal with these particular kinds of protests that might arise?

**Hon. Mr. Morgan:** — I don't look at it in terms of rights. I look at it in terms of we want to ensure that property owners or people that are in lawful use of their property continue to have that, and it's an enforcement mechanism to ensure that those rights are protected. If I'm a homeowner and somebody comes onto my property and I ask them to leave, I want to ensure that the police have got the ability to charge that person or ensure

that they leave. They have a variety of rights through injunctions and other methods as well, and if this gives the right to a property owner to ensure that they have exclusive access to their property in a legal sense, they certainly have that.

**Mr. Nilson:** — So is it your understanding then that this is provincial criminal law?

**Hon. Mr. Morgan:** — Certainly not. Certainly not in the context that it would infringe upon something that contravenes, that would be subject to a charter challenge. It was looked at very carefully. It's a provincial summary offence mechanism that people would be charged for that in the same manner they would with a liquor offence or a highways offence.

**Mr. Nilson:** — Okay. Well I have no further questions.

**The Chair:** — Mr. Quennell, any more questions? If we have no more questions, we will move on with it, Bill No. 43, *The Trespass to Property Act*. Seeing none, clause 1, short title. Is that agreed?

**Some Hon. Members:** — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 6 inclusive agreed to.]

#### Clause 7

**The Chair:** — Clause 7. I recognize Mr. Quennell.

**Mr. Quennell:** — Thank you, Mr. Chair. I have an amendment to bring forward. Would the Chair like me to read it into the record:

Clause 7 of the printed Bill is amended by adding the following subsection after subsection (2):

“(3) Any person who in the exercise of peaceful assembly or expression on any walk, driveway, sidewalk, roadway square, park, or parking area at the site of or in conjunction with the premises in which any business or undertaking is operated and to which the public is normally admitted without fee or charge, communicates with the public, either orally or through printed material or through any other means, is not guilty of an offence under this Act whether the walk, driveway, sidewalk, roadway, square, park or parking area is owned by the operator of that business or undertaking or by any other person, or is publicly owned, but nothing in this subsection relieves the person from liability for damages he or she causes to the owner or occupier of the property.”

**The Chair:** — Does the committee accept the amendment as read? Are there any discussion before we vote on it? If not, do the committee members agree with the amendment as read? I would ask for a vote. Those in favour, say yes.

**Some Hon. Members:** — Yes.

**The Chair:** — Those opposed, say no.

**Some Hon. Members:** — No.

**The Chair:** — Have we got it clear now? We will go through it again because there was confusion. Do the committee members agree with the amendment as read? Those in favour? I think the nos have it. The amendment is defeated. We go to clause 7, without amendment. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 7 agreed to.]

[Clauses 8 to 19 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows Bill No. 43, *The Trespass to Property Act*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. I would ask a member to move that we report Bill No. 43, *The Trespass to Property Act* without amendment. Ms. Schriemer moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Thank you very much. Mr. Minister, any closing comments?

**Hon. Mr. Morgan:** — I'd like to thank my officials for coming out tonight and for the work that was done on this Bill. It was a lot of work done with the consultation and the discussions through the province. So I appreciate the work that was put into it, so thank you.

**The Chair:** — Thank you very much to the committee. And do we need to recess at all to move into the next, or can we just switch players in a few minutes here, and we will go to consideration of Bill No. 51.

### **Bill No. 51 — *The Provincial Court Amendment Act, 2008***

#### **Clause 1**

**The Chair:** — Thank you, Mr. Minister. We will now move into Bill No. 51, *The Provincial Court Amendment Act*. I'd ask the minister to introduce his people and ask them when they first step to the mike to give their names so that *Hansard* may have their name for the records, and, Minister, for any opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined on my left by Tony Koschinsky, senior Crown counsel, civil law division, and on my right by Catherine Benning, also a senior Crown counsel, legislative services branch. I have a brief opening statement.

*The Provincial Court Amendment Act, 2008* will provide that with respect to allegations of misconduct, the Judicial Council will retain jurisdiction over judges for two years after they have resigned or retired. It will also provide detail respecting the

valuation and division of a judge's pension on spousal relationship breakdown. At present a provincial court judge who may be the subject of a complaint of misconduct is able to avoid investigation and discipline by the Judicial Council by resigning. The existing legislation only gives the council jurisdiction over current judges.

The new provision is consistent with professions legislation in Saskatchewan allowing discipline of former members. This includes *The Legal Profession Act, 1990*, *The Medical Profession Act, 1981*, *The Pharmacy Act, 1996*, and *The Veterinarian's Act, 1987*.

For sitting judges, the penalty most often considered for serious misconduct is removal from the bench. Although a former judge cannot be removed from the bench, the Judicial Council may make any other orders that it considers appropriate. This may include a reprimand, a requirement for a formal apology, and compensation of the victim if appropriate. This provision also provides the Judicial Council an opportunity to investigate the behaviour of a former judge, which allows the council to further define acceptable behaviour for judges.

The pension amendments have been done with the request of the judiciary. The amendments will provide detail respecting the valuation and division of a judge's pension on spousal relationship breakdown. The changes proposed are modelled on the defined benefit pension provisions in *The Pension Benefit Act, 1992* that apply to non-statutory pensions in the province. For statutory plans such as the judges' pension plan, administrative provisions must be found in the governing legislation.

We welcome your questions on this Bill.

[21:15]

**The Chair:** — Thank you very much and the Chair recognizes Mr. Nilson.

**Mr. Nilson:** — Thank you and welcome to your staff. You've indicated that the changes, as it relates to the division of pensions, the changes are modelled on *The Pension Benefits Act*. Does that mean that they're different from *The Pension Benefits Act* or the same or sort of the same, or what do you mean by model?

**Hon. Mr. Morgan:** — I'll let Mr. Koschinsky of some particulars.

**Mr. Koschinsky:** — It's Tony Koschinsky here. Modelled I think is an appropriate description although the process is identical. The fact is that a provincial court judge's pension consists of a registered pension portion as well as an additional allowance to result in a judge getting a 3 per cent accrual rate for their pension. To say that it's modelled means that the same rules that apply to the pension portion apply to those additional portions that are not technically speaking a pension, as well as the pension part. The language that's used here is very much the same as is used in *The Pension Benefits Act* for pensions.

It's also the same process as is used for the statutory pension plans that apply to teachers, the municipal employees' pension

plan, and the provincial government old plan. What it does is it provides for an order or an inter-spousal contract to be recognized by the administrator of the plan and divided in accordance with that order in the same fashion. There's a limitation in it to a maximum of 50 per cent of the judge's allowance, his pension and the supplementary allowance, which is the same provision as appears in those other statutory plans as well as in *The Pension Benefits Act*.

So I think it's fair to say that, you know, it's not only modelled, but with respect to the pension portions, it's exactly the same, and that same rule applies to the additional amounts that the judges receive as part of their retirement stipend.

**Mr. Nilson:** — Pension plans for judges have been divided in situations like this over the decades since pensions became clearly matrimonial property. Does this change the pattern that the courts have developed to divide pensions, or does it just confirm what courts have been doing?

**Mr. Koschinsky:** — It shouldn't change that part of it. The orders and inter-spousal contracts should still be more or less the same. It does add the statutory limitation to 50 per cent which wasn't in the previous legislation for the judge's plans. That same lack of limitation, if you will, also appeared in the other statutory plans, but that's been changed over the years to bring them into conformance with *The Pension Benefits Act*. And the same policy has been applied here as well.

**Mr. Nilson:** — So this is one aspect of paternalistic legislation that has actually been included as opposed to eliminated. It's quite clear Saskatchewan's pension legislation over the years has removed a lot of those rules that are meant to protect somebody, but what you're saying is here this one has been added in. Is that correct?

**Mr. Koschinsky:** — Correct.

**Mr. Nilson:** — That's correct?

**Mr. Koschinsky:** — Yes.

**Mr. Nilson:** — So that there is a protection of the employee judge under this one or the employee civil servant under other legislation or under *The Pension Benefits Act*. Employees generally basically saying, we don't want you to give away more than half of your pension under the legislation because we're concerned about possible other ways we might have to support you.

**Mr. Koschinsky:** — It's a fair comment. The policy is a long-standing one. The intention of pensions themselves is to reward, if you will, or recognize service as well as being a form of deferred compensation for employees in the case of ordinary pension plans and for judges here. If all of the pension were to be (a) capable of being divested in a marital breakdown situation, the value of there being a pension is lost from that relationship. And I guess the policy is that that part of the relationship is a valuable one and it's there to be protected, and it's been protected in the other types of pensions that Saskatchewan regulates in the province.

**Mr. Nilson:** — Well thank you for that explanation. I just am

kind of smiling to myself because that argument as it related to 100 per cent of the pension was exactly the argument prior to 1982, that this has to be protected 100 per cent for the employee. But I accept that things have changed, but it's quite curious that you're in fact limiting the ability of parties to enter into contracts and divide pensions in a way that they see fit as opposed to that general rule.

The other question or area of questions that I have here relate to this ability to create other remedies, I think is what was described, when there's a discipline hearing for a judge. It appears that the ultimate remedy really is to remove somebody from their job, and so therefore it's quite difficult to see what's the point of going after somebody for two years after they've left their job.

And so perhaps you could give us some idea of what other remedies you're talking about here that would make any sense when clearly the ultimate remedy would have already been in place.

**Hon. Mr. Morgan:** — I'm going to let Ms. Benning answer the question as to the specifics that are available. We find it troubling that a process that may have been started or could have been started is effectively thwarted by the resignation of the judge.

There's two potential circumstances. The judge may, for whatever other reasons, choose to resign and be unable to remove the cloud that would be over his or her head as a result of an investigative process that's under way. And also you know, the converse is true, that if a judge chooses to resign, that ends the process.

And there may be a public benefit in having the process completed: one, for a denunciation of a judge's conduct; secondly for learning from it, from, you know, do you need other regulations? Is there other things that, you know, you benefit from having the hearing go ahead?

You may simply want to have an order made that a judge would apologize to somebody for their judicial misconduct. You know, I have some difficulty seeing where that would happen, but if a judge's comments in a courtroom were utterly inappropriate, maybe that would be a direction that would come out of a Judicial Council hearing. And you would not want to have the position thwarted that, you know, a judge that might otherwise be on the eve of retiring to say, well I'm now going to resign and I don't have to go through that.

I think in the last number of months we saw the Cosgrove hearing took place where the judge's conduct was so incredibly problematic for the judicial system. And I watched, you know, the proceedings and saw that process take place. And I think in our province we would want to preserve the jurisdiction. We would not want to see that type of misconduct that we would lose the remedies that may happen or the ability to have the Judicial Council comment on judicial inappropriateness.

Fortunately we have judges in our province that I think have set very high standards for themselves. They work very hard to maintain the standards. There's a high degree of collegiality between the judges so that they work to continually elevate the

standards. I've practised law for some 30 years, and I've certainly noticed that the ability of judges to be polite, courteous, and develop their skills has improved significantly over the years. And I think they were at a high standard in 1978 when I practised. And I'll certainly let Ms. Benning add whatever she would.

**Ms. Benning:** — Catherine Benning. The Act as it exists today allows the council to make an order dismissing the complaint. So that's a key point, that if the investigation proceeds and it is found that the conduct was not of the nature of misconduct for which there needs to be a disciplinary order being made, that it is also important to have an opportunity for the individual judge to have it noted that the conduct was not of the nature of misconduct.

Then there also is the opportunity, if the conduct of the judge constitutes misconduct, for the council to make any order that it considers appropriate. The provision does enumerate a number of specifics around the order that could be made, most of which apply to sitting judges.

The one that could potentially be noted to a former judge or retired judge is reprimanding the judge and just indicating that the behaviour was inappropriate. Beyond that, of course, they are allowed to make any other order that the council considers appropriate. And the potential is that it would be the nature of a direction to apologize to the complainant and that it may be appropriate to award compensation to the complainant in certain circumstances.

**Mr. Nilson:** — So from what you said, is it possible for this review panel to order the judge to pay personally to individuals, or is that paying taxpayers' money as a remedy? I'm not sure I understand what you're talking about here.

**Ms. Benning:** — That the order be made for the judge to pay as opposed to the Judicial Council to pay.

**Mr. Nilson:** — So it's possible for an order that the judge would pay personally for some of his conduct to complainants.

**Ms. Benning:** — Yes.

**Mr. Nilson:** — And that's a remedy that's available right now?

**Ms. Benning:** — That is a remedy, under the general provision, that the council may make any order that it considers appropriate.

**Mr. Nilson:** — Has that ever been done?

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

**Mr. Nilson:** — Yes. I guess I would be quite skeptical whether that's ever a remedy that would be developed. It's my understanding that the costs of pursuing a hearing for somebody who has actually taken an honourable step and left the court, but the costs of then continuing under your new legislation would be costs of the taxpayer. Is that correct?

**Ms. Benning:** — Certainly the cost of any hearing and investigation work would be borne by the taxpayer through the

operation of the council.

**Mr. Nilson:** — So the ultimate solution — and I always like to think about what's the solution for the community — if there is some cloud or some problem with a particular judge, often the solution is that that person would leave. So if they resigned, then it ends both the costs of the investigation side but also any further costs. And so what you're really doing here is extending costs to the communities through the taxpayers for this particular process.

**Hon. Mr. Morgan:** — There's no doubt the process, as it goes through, has a cost to it. I don't think the Judicial Council would want to undertake something that would be regarded as frivolous or something that's unnecessary. I think the people that are on the council would want to have the right to pursue the matter where they felt it was in the public interest to do so. And there certainly will be some costs that are there if they choose to exercise their right. But I'm assuming they would exercise their discretion and not, you know, would not pursue something that was of minimal benefit. I think they would want to do so with the intention of doing it where there's a perceived need to remove a cloud or resolve facts or do something where there will be some ongoing benefit, either to the judge, to the individuals that may have made, advanced the complaint, or to the province at large.

[21:30]

**Mr. Nilson:** — Did the Judicial Council ask for this change?

**Hon. Mr. Morgan:** — No, the request did not come from Judicial Council.

**Mr. Nilson:** — Earlier, in other pieces of legislation, you've been quite expansive in describing where the requests have come for for changes for the legislation. Could you explain where this change has come from?

**Hon. Mr. Morgan:** — This one came from government. This one was one that I felt was important to do. I made statements while in opposition that I felt it was appropriate that we not have situations exist where the ability of a professional governing body ends on resignation.

And we've seen a number of the other pieces of legislation that I mentioned in my opening remarks where with regard to lawyers, with regard to other professions we felt it was appropriate as a province in those situations to try and extend the jurisdiction of the governing body past a resignation or retirement. And we felt it was appropriate to do so here.

**Mr. Nilson:** — So from what you said, this was a personal request by you as the minister for this legislation and that's the start of this legislation?

**Hon. Mr. Morgan:** — I certainly, you know, went through the ordinary process of going through the committee process, but I was certainly the one that initiated the process.

**Mr. Nilson:** — And as you've said, it was based on some of your perspectives when you were in opposition as opposed to perspective as the Minister of Justice?

**Hon. Mr. Morgan:** — That is correct. I had the views then, and I continue to have them now.

**Mr. Nilson:** — Okay well, I think it's important that that get on the record. I would say that, as a former minister of Justice of many years, I do not agree with this legislation. And I think I will turn it over to my partner here.

**The Chair:** — The chair recognizes Mr. Quennell.

**Mr. Quennell:** — I only have one question or at least, there may be some supplementary questions. Well no, I have two.

First of all I just want to clarify. I think it is clearly on the record, but amongst the enumerated specified orders a Judicial Council can give, there's no suggestion that compensation to a member of the public is one of them, that that is a reach into the general, any other orders. Is that correct?

**Ms. Benning:** — Correct.

**Mr. Quennell:** — And I guess that leads me to my second point which is, in the minister's comments — with the committee's indulgence — in the minister's comments, he compared this to professional legislation. In answer to some of the questions, he compared this to professional legislation — law profession, medical profession. Now I want to suggest that the analogy is a false one. Lawyers, doctors deal with individuals. In case of lawyers, perhaps persons, but still members of the public. Individuals, in the case of doctors, who are patients, persons. Either individuals or corporations, in the case of lawyers.

When a lawyer or a doctor has, through negligence or deliberately, harmed a person with whom they have a professional relationship, I understand why, particularly in the case of compensation but also in the case of discipline, you may not want that person to be able to escape from the jurisdiction of the governing body. To say that the judicial branch of government is a governing body or is a professional association or a professional body as opposed to a branch of government and that the Judicial Council is just the governing body of a professional association, I think is a false analogy.

And what the judge owes a duty to is not the individual people who appear in front of the judge but a duty to the public at large. And that's where, I think, the type of orders that one would make in the case of members of a profession aren't the type of orders that the Judicial Council is going to make.

And with Mr. Nilson, as a former attorney general, I think this legislation's inappropriate in part because — as the minister almost conceded in his remarks — the Judicial Council is not going to use this legislation. They are not going to spend money that the courts could use in a better way pursuing somebody who has resigned from the bench or retired from the bench because there is no individual that's going to be harmed. It was public harm. And the greatest sanction that you could possibly have is to remove them from the bench, and their ability to cause that harm.

So we have a piece of legislation that no one, I think, reasonably believes is going to be used — this section, this clause. Nobody reasonably believes that this is actually going to

be used. And it is here — and I think Mr. Nilson made these comments and elicited this answers — it is here because of comments that perhaps were not all that well thought out by the Justice minister when he was the Justice critic.

But I appreciate that was more of a speech. But I would appreciate some explanation on the part of the government of the day as to in what way they feel that the judges and the Provincial Court should be reduced or treated as if they were a professional body and that this was disciplinary legislation.

**Hon. Mr. Morgan:** — I will give you some of the public policy objectives. This legislation will strengthen the Judicial Council's ability to define acceptable behaviour and condemn unacceptable behaviour for judges. It will enhance public confidence in the judicial system through the consistent application of behavioural standards for those given the privilege to assess the behaviour of others. And it will provide a public record of the discipline hearing for a judge and ensure that future employers and professional associations are aware of the unacceptable behaviour. This is particularly important if the former judge seeks to practise law in another jurisdiction, and a record of the disciplinary proceedings assist in the Law Society's decision to allow the former judge to become a practising member.

You commented on the fact of where a judge owes a duty to and a judge owing a duty to the public and to the judicial system. And I certainly don't disagree with you on that comment. But I think a judge owes other duties as well. If a judge makes an error in law, the error in law is determined by a Court of Appeal or an appellate court. If a judge makes an inappropriate comment or treats litigants inappropriately, that has to be dealt with by the Judicial Council.

And we expect high standards of the judiciary, and by and large those are met. They owe a duty of courtesy and respect to counsel that appear before them. The ability of Judicial Council is important, that they have the right not just to say that this is the end of a judge's career. They need the right to make a public denunciation of judicial misconduct and have the right to reprimand people.

It's my hope that the legislation is not used, that they were not in a situation where we have to discipline any judges for anything, that the Judicial Council does not have to do that kind of work. But periodically situations do arise, and it is not the intention of this government to allow the process to be thwarted by a simple resignation. We think it goes beyond that, and we think the need for public confidence in the judicial system is of paramount importance.

**Mr. Quennell:** — So the minister believes that being removed from the bench or removing yourself from the bench is less serious a sanction than an apology or an order for an apology or a reprimand.

**Hon. Mr. Morgan:** — It's not something I would debate, which is the most serious sanction. The ultimate sanction is removal. And as far as dealing with a judge, that may be the end of the judge's career. But for the sake of public confidence in the judicial system, there may need to be a public denunciation. There may need to be some direction given. There may need to

be something further other than that, and it is the intention of this legislation to give that.

**Mr. Quennell:** — Just to clarify, and it's my last question. There is no evidence that that need is perceived on the part of the Judicial Council because they didn't ask for this.

**Hon. Mr. Morgan:** — The Judicial Council did not. I believe the Judicial Council would likely be supportive of wanting to have this happen, but we're not having public hearings that we're asking them to come here. As a province, we believe that this is essential to have.

**The Chair:** — Thank you. If there are no other questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 6 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 51, *The Provincial Court Amendment Act, 2008*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. I would ask a member to move that we report Bill No. 51, *The Provincial Court Amendment Act, 2008* without amendment.

**Mr. Chisholm:** — I so move.

**The Chair:** — Mr. Chisholm moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Mr. Minister, if you have any closing comments.

**Hon. Mr. Morgan:** — I would like to thank my officials for the work that they've done on this, and I would like to thank them for being here this evening.

**The Chair:** — Thank you very much, ladies and gentlemen. Being there no other business, could I have a motion to adjourn?

**Mr. Bradshaw:** — I will so move.

**The Chair:** — Mr. Bradshaw has that motion. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. This committee now stands adjourned.

[The committee adjourned at 21:42.]