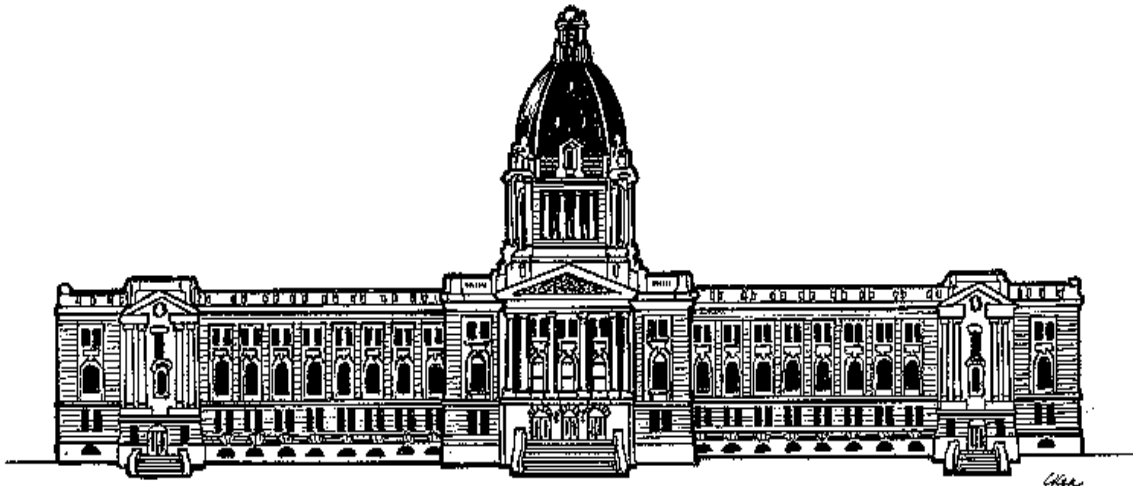




STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE

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**STANDING COMMITTEE ON INTERGOVERNMENTAL
AFFAIRS AND JUSTICE**

Mr. Delbert Kirsch, Chair
Batoche

Ms. Deb Higgins, Deputy Chair
Moose Jaw Wakamow

Mr. Fred Bradshaw
Carrot River Valley

Mr. Greg Brkich
Arm River-Watrous

Mr. Michael Chisholm
Cut Knife-Turtleford

Ms. Joceline Schriemer
Saskatoon Sutherland

Mr. Trent Wotherspoon
Regina Rosemont

[The committee met at 15:00.]

**Bill No. 61 — *The Local Government Election
Amendment Act, 2008***

Clause 1

The Chair: — Good afternoon, ladies and gentlemen. Our committee is gathered here to look at Bill No. 61, *The Local Government Election Amendment Act, 2008*. Mr. Minister, would you please make your introductions, and ask your officials when they . . . first time at the mike, to say their name so that Hansard knows who's there, and if you would also, with your opening comments.

Hon. Mr. Hutchinson: — Thank you, Mr. Chair, members of the committee. It's a pleasure to be here once again. With me today is Maryellen Carlson, the associate deputy minister for Municipal Affairs; also Mr. John Edwards, executive director of the policy development branch; and finally, Ms. Sharon Cooper, senior legislative and policy analyst.

So with respect to *The Local Government Election Act*, I have the following introductory remarks that might help provide some context for our discussion afterward.

The purpose of the LGEA [*The Local Government Election Act*] changes that we're talking about here are to address issues that have arisen as a result of recent municipal elections: to ensure municipal elections are held in a fair and efficient manner; to provide appropriate legislative authority for requirements that ensure the eligibility of voters before they cast their ballot; and finally, to make supplementary changes that are warranted to strengthen, clarify, or improve the role of the Act's provisions to ensure elections procedures are adhered to.

There are a number of key issues, and I'd like to take a moment to address them one by one if I could. First of all, residency requirements. The wording of the residency requirements needs some clarification. It is currently unclear that the requirement for six months residency in Saskatchewan meets residency in the six months immediately preceding the election or the nomination, as the case may be.

Second of all, changes to urban provisions. The Saskatchewan Association of City Clerks, that's SACC, reviews election practices and procedures after each round of urban and school division elections and often recommends legislative amendments to address issues that have arisen. Included in its recommendations for this year are two items: first, an amendment to increase the distance from a polling place where election advertising is permitted from 50 to 100 metres; and second, an amendment to reduce the minimum time requirement for opening a special poll from two hours to one hour.

The next item is filing disclosure of campaign expenses. The city of Saskatoon, as many may be aware, has proposed a provision that would permit a council to withhold a candidate's deposit until the candidate files the forms required by the city disclosing campaign expenses.

By-election discretion is our next item. The Rural Municipal Administrators' Association of Saskatchewan, RMAAS, has proposed that RMs be provided with discretion regarding the calling of a by-election to fill a vacancy in an election year. In an RM, every year is an election year for half of the council because of the staggered elections that they have.

Next item is eligibility of councillors to run for mayor in a by-election. The Saskatchewan Urban Municipalities Association, or SUMA, has requested that the legislation be amended so that a councillor is not required to resign to run for mayor in a municipal by-election. If elected as the mayor, the person would be deemed to have resigned as a councillor before taking office as mayor.

There are a few other changes not requested by stakeholders but being proposed by Municipal Affairs, based on concerns raised by municipal administrators in the recent RM elections.

The following changes are proposed: with respect to the voters list, the legislation currently provides that a voters list may be produced for an RM but does not specify how this should be done.

Second, the appointment of election officials. The legislation currently provides for RM election officials to be appointed by council. It would be more convenient for the returning officer appointed by council to be responsible for appointment of additional election officials.

And finally, clarification and elaboration of various provisions. Changes are requested in several areas that would make the RM election provisions more detailed and similar to the provisions for urban municipalities.

Thank you, Mr. Chair.

The Chair: — Thank you very much. Now if there are any questions, and I believe Ms. Higgins has the floor.

Ms. Higgins: — Thank you very much, Mr. Chair. And to the minister, thank you very much, with your officials, for being here this afternoon to answer questions that have arisen over the Bill before us.

There was a number of comments that I had heard about the amendments to allow a councillor to stand as candidates in a by-election for mayor or reeve without resigning their council positions.

Has this ever happened, where you have not had the ability to fill or have a quorum at council meetings? Because I think, I'm looking at your comments when the Bill was first tabled:

. . . an election were to be held and several councillors wanted to run for mayor, they would all have to resign their council position. Council might lose a quorum as a result.

Has it ever happened?

Hon. Mr. Hutchinson: — Thank you, Mr. Chair, for the

question. I do know that this is at least a theoretical possibility, as discussed by our partners, our municipal stakeholders. I'm not actually aware if it's happened before, in fact. Perhaps Mr. Edwards will be able to help us a bit.

Mr. Edwards: — Thank you very much. John Edwards, Municipal Affairs. We compiled some numbers in response to the comments that you had made and found that from the fall of 2006 to the current time, there were in fact 14 mayoralty by-elections, so there's clearly potential for problems to arise with that number in that short of space. There were no similar situations for RMs for reeves or for northern municipalities. Those were all urban ones.

Ms. Higgins: — So then if a councillor decided to run in a by-election for mayor or reeve without resigning their council position and were successful, then they would have to resign their council seat to take on the role of mayor or reeve? And then would there have to be a by-election for the councillor, or would it just remain empty until the end of the term?

Mr. Edwards: — The way it works now, of course, is that they would have to resign in order to run for election. The proposed amendment for urban municipalities will change that and allow them to continue in office as a council member in a mayoralty by-election if they're contesting that, and then they would be deemed to have resigned if they were successful. If they were unsuccessful, well they would continue on in their council seat.

Ms. Higgins: — Then it wouldn't give any problem with quorum. So then my assumption is, is that the seat would just, if they were successful, the councillor seat would just remain empty until the end of the term. Is that what we foresee as happening?

Mr. Edwards: — Another by-election would be required for the council seat.

Ms. Higgins: — It would be. Okay.

Hon. Mr. Hutchinson: — Well thank you, Mr. Chair. The only other thing I'd like to add in as an appendix to that comment is just that the point of the legislation as proposed by our stakeholders is simply to eliminate the possibility of losing quorum. And I think the language reflects that in that it deems the council seat to be vacant once that councillor has in fact won the mayor's seat.

Ms. Higgins: — Okay. Thank you very much. When we get on to the section that talks about campaign expenses, now my understanding is this just allows the municipalities to be able to put forward requirements. That's what it does. The province isn't by any means putting forward any type of requirements. This just allows the municipalities to put forward bylaws of their own, or if they so wish.

Hon. Mr. Hutchinson: — Precisely so. It simply tries to respond in a diplomatic and appropriate way to the current situation in Saskatoon where disclosure of campaign expenses have in fact been adopted by bylaw. We're certainly well aware that a number of other municipalities have not taken that step, but we're simply allowing the possibility to accommodate both of those sorts of outcomes.

If a bylaw requiring disclosure is adopted by the municipality, this new legislative amendment simply accords with that; it simply follows in line with that.

[15:15]

Ms. Higgins: — Thank you, Mr. Minister. Also when it comes to the issue of voters lists, there has been some interest shown for the concept of voters list to be expanded. I think it was the rural municipalities that had had some discussion on this or voiced some consideration that this would be a good idea. So then this just allows the opportunity for that, and the rural municipalities would have the responsibility to compile this from their own lists however they decide to do that?

Hon. Mr. Hutchinson: — Yes. The general answer can be supplemented by a detailed answer from Mr. Edwards, but the idea here is to simply provide more flexibility. There is a lack of clarity, we were thinking, in the current legislation regarding the compiling of these lists. There's just a bit more specificity in the language that will be helpful.

Mr. Edwards: — This concern came to us from a number of rural municipal administrators who wanted more instruction in the legislation on how they would compile a voters list if they chose to do so. The provisions for urban municipalities are already in the Act. Urban municipalities already have the authority on a discretionary basis to compile a voters list. Most choose not to do so because of the cost, but the authority is there.

Ms. Higgins: — Thank you very much. When we look at some of the comments that were made in the House, when we look at the comments that were made and the proposal that came forward from SUMA to change the term of office from a three-year term to a four-year term, and in your remarks when you moved the Bill, you stated that while there was support from the municipal and education sector, other stakeholders had expressed concern.

So I guess I would ask, there isn't an extension of terms to the four years that had been discussed earlier on. And what stakeholders expressed concern? If you could expand on that a little, and why the concern that was expressed obviously changed the minister's mind to go against SUMA's recommendation for a four-year term.

Hon. Mr. Hutchinson: — Well we haven't actually decided to go against the recommendation. A more accurate way to describe it is to simply suggest that we have decided to take a little bit more time before making a decision on this particular issue.

It's clear that there is a consensus amongst the board of SUMA that they would like to see this thing go ahead at some point in time. But there are also opposing views and views expressed by others who are saying they're not really opposed to it so much as they would like to have a bit more time to consider it before making up their minds. With that in mind, we simply decided to extend the period of consultation and ask for a wider variety of opinions.

Ms. Higgins: — So what consultations have happened so far,

and how much longer do you expect them to take?

Hon. Mr. Hutchinson: — With respect to the kinds of consultations, certainly we've had stakeholder opinions from the various associations — SARM, SUMA, and New North — but we've also received a number of comments written in email, I understand, from individuals and groups across the province.

What we would like to do is provide a little bit more of an opportunity to canvass those remarks. And we're now entering into discussions with the associations to seek their help and their guidance as to how best to do this.

Ms. Higgins: — So then, Mr. Minister, I would ask, in the legislation that we are dealing with today, in the new section 17.1, current section is repealed and the following was substituted — school division to conduct election.

So it provides an opportunity to . . . Now we know that municipalities, when there is a municipal election, that there is also elections for school boards. That's when they're attached.

But what you're doing here is allowing that to be split and the school boards to, actually on designation of the minister, to conduct the election. And that:

“ . . . the minister, after consulting with the affected school division, may issue an order notwithstanding any other provision of this Act.”

And then you have 17.1(2), (a) and (b) that:

“ . . . requiring the school division to conduct the election.”

So why are you separating this then? Has there been problems in the past, or is this just in the circumstance that there may be different timelines in place for the school divisions and the municipalities?

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. Mr. Edwards will help address this particular question.

Mr. Edwards: — That's an existing provision in the Act. The change that's being made is simply to replace the reference to Minister of Learning with Minister of Education, but it's actually an existing provision.

When school divisions run their elections, they're at the same time as urban municipalities. In the urban municipalities the municipality does it for the school division, but obviously that's not necessarily the case in rural parts.

Hon. Mr. Hutchinson: — The other comment that I could offer with respect to this particular provision is that on the odd occasion we will find other references being changed from Department of Education to Minister of Education. We've had to go through the legislation line by line, page by page obviously to make sure that we're completely up to date with regard to our references.

Ms. Higgins: — So then the pure changes in 17.1 are only to change the designation of the Minister of Learning and Minister

of Education. Why would you repeal a whole section and put forward a substitution? Because it doesn't even refer . . . it refers to *The Education Act* but it doesn't refer to the Minister of Education or what previously would have been known as the Minister of Learning.

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. I can provide a general understanding of this particular issue. Our understanding is that this is the preference of the folks in Justice. I think it simply reflects their preferred style for addressing this particular kind of issue.

Ms. Higgins: — But there is no reference in the new section 17.1 to the Minister of Education. So then why would you be repealing it purely for the sake of changing the designation of Minister of Learning to the Minister of Education? I need some clarification please.

Mr. Edwards: — The existing wording in the Act is as follows:

If a municipality is required pursuant to this Act to conduct a school board election, and if the municipality, on written application of the Minister of Learning, satisfies the Minister of Learning that conducting the election would cause undue hardship for the municipality [etc., etc.] . . .

It includes a couple of more references to Minister of Learning. They've reworded it in a way to avoid having that happen in the future.

Ms. Higgins: — Thank you very much for the explanation, Mr. Minister, I think that is it for the questions that I have specific to this. I guess just a comment. I know you'd said that the proposal to change the terms of office, that you were doing more consultation — when do you expect to come to some kind of a decision on this process?

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. It's difficult to actually specify a particular timeline at present. What we're doing is pursuing this opportunity to have discussions with the stakeholder groups, like SARM and SUMA and the New North in order to engage them in the discussions. And as soon as we have an outline of that, we might be a little bit closer to specifying a date, but we don't actually have one available at the present time.

Ms. Higgins: — Are school boards being included in the consultations? Because my understanding is that this would also apply to the school boards.

Hon. Mr. Hutchinson: — Well the answer to that question, Mr. Chair, is yes.

Ms. Higgins: — Okay. Thank you very much. I have no other questions at this point in time, Mr. Chair.

The Chair: — Thank you. If there are no more questions or comments from any members of the committee . . . Seeing none, clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 34 inclusive agreed to.]

Clause 35

The Chair: — I recognize Mr. Brkich.

Mr. Brkich: — I have an amendment on clause 35:

Clause 35 of the printed Bill

Strike out subsections 160.04(3) and (4) of *The Local Government Election Act*, as being enacted by Clause 35 of the printed Bill, and substitute the following:

“(3) Except in the case of an annual election held in the last year of a councillor’s term of office, no councillor or person who has been declared elected to a future term of office as councillor pursuant to section 160.16, 160.23 or 160.24 is eligible for nomination or election as reeve unless he or she has, before filing his or her nomination paper, filed his or her resignation as councillor with the administrator.

“(4) A resignation filed pursuant to subsection (3) takes effect:

(a) in the case of an annual election, at the first meeting of the council following the annual election; or

(b) in the case of an election other than an annual election, immediately”.

I so propose.

The Chair: — Thank you, Mr. Brkich. Mr. Brkich has moved amendment to clause 35. Do the committee members agree with the amendment as read?

Ms. Higgins: — Mr. Chair, is there an opportunity for some questions?

The Chair: — You have the floor, Ms. Higgins.

Ms. Higgins: — Thank you very much, Mr. Chair. We haven’t seen the amendment up until this point, so I would ask that there is some explanation given as to why now that we are seeing these changes proposed on a Bill that’s currently before the House.

Hon. Mr. Hutchinson: — Certainly, Mr. Chair, and thank you very much for the question. The proposed House amendment that we’re looking at today restores the original wording of the Act with some minor changes in order to increase its clarity. Concerns were raised by the Saskatchewan Association of Rural Municipalities and the Rural Municipal Administrators’ Association about amendments to section 160.04 in the proposed Bill which deals with nominations.

The originally proposed amendment would have allowed a councillor to run for reeve without resigning his or her seat, but

SARM and RMAA [Rural Municipal Administrators’ Association of Saskatchewan] believe that the proposed amendment may result in an inequity. In the annual election for reeve, a councillor in the middle of his or her two-year term could retain his or her seats and run for reeve, while a councillor whose term was ending would have to choose between running for reeve or councillor. That’s the perceived inequity from the perspective of the stakeholder associations.

With this in mind, the government is responding to these concerns by restoring the original wording of the Act. The provision will continue to require sitting RM councillors to resign to run for reeve.

[15:30]

Ms. Higgins: — So could you run through this again for me? So someone that’s at the end of their term doesn’t have to resign, but someone that is in the middle of their term would be expected to resign to run for mayor or reeve. So then there’s time limits in here. Could you slow down a minute and just give me a better explanation?

Hon. Mr. Hutchinson: — I’ll introduce an answer in general terms, and Mr. Edwards will be able to provide some more detail.

My understanding of your comment is that that in fact is what the original amendment would have proposed in order to solve the problem originally advanced by our stakeholder associations. But on reflection they’ve come to the agreement, a consensus, that this in fact would . . . By solving a problem, we create another one. And with that in mind they’re considering it better, all things considered, to simply go back to the original wording. Now Mr. Edwards will be able to provide some background.

Mr. Edwards: — So the current arrangement for RM elections is that there’s a two-year term and half the council goes each year. So it’s staggered terms. Currently if there’s an election for reeve, a councillor who’s interested in running who is in office would have to resign his seat.

The situation for those RM councillors whose term is ending is, is well they get to choose between running for council or running for reeve. The amendment that’s in the Bill would have enabled those RM councillors who are halfway through their term to hold on to their council seat while they run for reeve, and then if they’re not successful in being the reeve, they still continue on in their capacity as a councillor.

So the consensus of SARM and the Rural Municipal Administrators’ Association was that they preferred the current situation as reflected in the Act to the changes that were in the Bill that were originally included in response to a request from SUMA for urbans. The difference, of course, is urbans are not on staggered terms. They go for three-year terms and then everybody’s finished.

Ms. Higgins: — Excuse me. Then the changes, when you’re reverting back to the original, the former wording of the Bill, will only affect the RMs; it won’t revert the wording for urbans.

Mr. Edwards: — That's correct.

Ms. Higgins: — That's correct. Okay. So I have to ask the question, why now? Would this not have been discussed with rural municipalities before the initial Bill was tabled? And when were the consultations done on the Bill?

Mr. Edwards: — There were consultations before the Bill was put together and introduced in the House. We thought the consultation process had finished, although we had not received a response from the Rural Municipal Administrators' Association. When they saw the Bill, they got back to the ministry and said oh, hold on. We've got some difficulty with this one that we hadn't spotted previously.

So we've worked with the Rural Municipal Administrators' Association and SARM on the issue and the outcome is the House amendment today. They prefer to just go back to the original wording.

Ms. Higgins: — So then in the minister's initial comments to the House, when you felt that if there was a number of councillors running for reeve that would have to resign their seats and plus you were having the staggered terms, so you would have half your councillors where terms were expiring, then is there the concern or is there the possibility of the issue of not having quorum for your meetings? Does that arise out of reverting back to the original wording?

Mr. Edwards: — The numbers that I gave you earlier, where I pointed out that from fall 2006 to the current that there were 14 situations where there were mayors who had by-elections, but there were no reeves. So we think the potential risk of that happening is pretty low for RMs. We're prepared to go with what the stakeholders are recommending.

Ms. Higgins: — Okay, thank you very much. Okay.

The Chair: — Mr. Belanger.

Mr. Belanger: — Thank you very much, Mr. Chair, and to the minister and to my colleague. I know this may not be totally appropriate, but I want to take the opportunity to introduce a guest with leave of the committee, if that's fine.

Some Hon. Members: — Agreed.

The Chair: — Leave's granted.

INTRODUCTION OF GUESTS

Mr. Belanger: — Thank you very much, Mr. Chair. In the Speaker's gallery we have a gentleman from Beauval, Saskatchewan. Rene Lafleur has travelled here and is a great fan of watching politics in general. And as you know, Beauval is a long ways away from here. So I want to take the opportunity to welcome Mr. Lafleur here. And he always watches the proceedings on TV because he's keenly interested in what's going on. So take this opportunity to welcome Mr. Lafleur to the Assembly today. Thank you very much.

Hon. Members: — Hear, hear!

Bill No. 61 — *The Local Government Election Amendment Act, 2008* (continued)

Clause 35

The Chair: — Thank you. Being no other questions on clause 35. Is clause 35 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 35 as amended agreed to.]

[Clauses 36 to 61 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. 61, the local government 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. 61, the local government amendment Act, 2008 with amendment.

Mr. Bradshaw: — I so move.

The Chair: — Mr. Bradshaw, thank you. We have to clarify here. It's Bill No. 61, *The Local Government Election Amendment Act, 2008*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. Okay. Mr. Minister, have you any closing comments on that one?

Hon. Mr. Hutchinson: — I would just thank the members for their time and their consideration. Thank you very much, Mr. Chair.

The Chair: — Thank you. Is there any change of staff or anything that you want to do? Do you need a break, or should we just move into the next Bill?

Ms. Carlson: — There is other officials joining us.

The Chair: — Okay. Should we give a five-minute break?

Hon. Mr. Hutchinson: — Thank you very much. Five minutes would be appreciated.

The Chair: — Five-minute recess.

[The committee recessed for a period of time.]

Bill No. 85 — *The Municipal Grants Act*

Clause 1

The Chair: — Thank you, ladies and gentlemen. The item before the committee is Bill No. 85, *The Municipal Grants Act*. Mr. Minister, if you would introduce your officials and ask

them their first time at the mike to say their names for Hansard.

Hon. Mr. Hutchinson: — Certainly. Thank you very much, Mr. Chair, members of the committee. Ms. Maryellen Carlson, associate deputy minister is here, as is Mr. John Edwards, executive director of policy and development branch. Also is Elissa Aitken, the director of policy and legislation; Mr. Kyle Toffan, director of grants administration; and Mr. Chris Gunningham, manager of strategic initiatives.

I'll begin with my opening remarks with your permission. The purpose of this Bill is to authorize the Minister for Municipal Affairs to make grants such as municipal operating grants to municipalities. This new Act provides the legal framework for the municipal operating grants program and replaces *The Municipal Revenue Sharing Act*.

[15:45]

The municipal operating grants program was announced in the 2009-2010 provincial budget. Under this program, municipalities will receive the equivalent of 90 per cent of a full percentage point of provincial sales tax this year, growing to a full percentage point next year.

In the 2007 election, government committed to develop an operating grant program for municipalities that includes some of the province's own-source revenues. The new program meets this commitment. This program was the result of lengthy consultations with the municipal sector about its operating costs and needs.

I'd like to take this opportunity to thank all of the people who participated in this review, including representatives from SARM, from SUMA, from cities, New North, municipal administrators, city managers, and Municipal Affairs, just to name a few.

Now there is a very small amendment, and perhaps because it's more of a housekeeping amendment in nature, I'll introduce that at this time as well. An error apparently was discovered in how municipality is defined in the Bill. The House amendment that we're proposing today corrects that error by clarifying that municipality includes a city as defined in *The Cities Act*. Thank you, Mr. Chair.

The Chair: — Thank you. And, Ms. Higgins, are you asking a question?

Ms. Higgins: — Yes.

The Chair: — The floor recognizes Ms. Higgins.

Ms. Higgins: — Thank you very much, Mr. Chair. This piece of legislation turns what was once a revenue-sharing process into a grant. So in the minister's view, does that make the provision of dollars much more discretionary than it once was?

Hon. Mr. Hutchinson: — No, not at all, Mr. Chair, and thank you so much for the question. The idea from the outset, as learned from our consultation with all of the municipal sector tables, was that the need was for an ongoing program that would provide more stable and more predictable funding to

enable better planning by the municipalities in meeting their future needs.

Ms. Higgins: — So we all know that regulations are much more easily changed than legislation — not necessarily less scrutiny. Internally, I would assume and I would hope, that there would be as much scrutiny. But legislation needs to come to the Legislative Assembly and has a process of public scrutiny that it undergoes, where regulations are more of an internal process. And it's purely up to the discretion of the government as to what type of scrutiny they put regulatory changes under because they can be done through order in cabinet.

So do you feel that there is an opportunity to change regulations more easily than there is legislation, and that by putting this process more into the regulatory format, that there is an opportunity for changes without that public scrutiny?

Hon. Mr. Hutchinson: — Thank you very much, Mr. Chair, for the question. Perhaps our understanding of the process and the nature of the debate is slightly different. Certainly with respect to enshrining this particular program in the legislation, there is always opportunity to change it. In fact, doing a little bit of research, we are told that *The Municipal Revenue Sharing Act* was amended 24 times in the last 25 years. So there's certainly opportunity to change the legislation at any particular point in time, just as much, I would expect, as there is for regulation.

Opening up the legislation we feel perhaps takes more time and is a bit more vulnerable to such vagaries as scheduling difficulties. With putting it in the regulations, we think it's a better process. The debate on the amount provided and the nature of the program, we feel properly belongs in the budget debate. And certainly by putting this particular program within the regulations appended to the Act, it does provide for that sort of ongoing public consultation. It's a good venue for discussing these sorts of issues.

The legislation we also feel is not necessarily the best place for details. It should focus more on general policy direction.

Ms. Higgins: — Well as long as I'm clear that the minister recognizes that there is no public scrutiny when it comes to regulatory changes. So as long as we understand that you're quite comfortable not having the revenue-sharing amounts brought through legislation, as they have been done over the last many years, I mean I just want the understanding that you realize that this really does take any changes out of the purview of this House and out of any type of public scrutiny, to be changed in cabinet or by cabinet order instead of being done publicly. I understand that. So we may disagree on whether it's the best process or not.

So, Mr. Minister, I know we had talked about census numbers previously and that the new operating grant is being determined on a per capita basis. And we're always dealing kind of behind on per capita numbers when we're dealing with census. I believe the last one was 2006. That's the numbers that we're dealing with and we all know that there has been many changes in the province of Saskatchewan in many of the communities from '06 to the current year.

Alberta, I'm told, has a process where if cities have done a census and the numbers are substantially different from the census numbers that are used by the provincial government, that they will use those numbers in distribution of grants. Would the provincial government be willing to look at that kind of a change to per capita changes, distribution in this province if the communities themselves had done some type of a census?

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. Actually I think we have two questions. Ms. Carlson will address the second one with respect to the per capita. I'll try to tie a bow around the first one, if I can, with my comments.

We would look at the business of changing the regulations as being the result of further consultations with the stakeholders. What we would want to do is to consult with SUMA and SARM and New North — you know, our valued public sector partners — on an ongoing basis to examine the success of the new municipal operating grant program. From those ongoing consultations, we'll gather ideas about how, if any, changes should be introduced — which of any changes might be introduced.

There's certainly the opportunity for that ongoing consultation to make sure that we do understand the public's needs as expressed by the representative stakeholder groups, and it's very valuable consultation indeed.

Ms. Carlson: — In answer to the second part of your question. Firstly, it is only the cities and towns and villages who have their operating grant distributed on the basis of per capita. Rurals and the North use a different formula that is specific to their particular needs and the pressures that they experience. So that's answer number one.

In terms of adopting Alberta's principle of allowing a community to, by some agreed upon means, you know, establish a new census figure, we have been in consultation with both the association and the community who has in fact requested that, and come to realize that because if you make a change in the operating grant mid-year, not only does that positively impact that particular community, but it negatively impacts everybody else.

And so there comes the question of, so how many recounts does one then need to drive as a consequence of this? They are costly. And so how many communities or the province, in fact, how much money do we spend recounting? And so there has been, at least at this point, discussion suggesting that we will maintain, for the purposes of the operating grant, the StatsCan census numbers. But we are open to recounting the population for other purposes not directly linked to money that may be advantageous to a community.

Ms. Higgins: — So could you give me examples of what other type of counts would be advantageous to a community other than for the dollar distribution?

Ms. Carlson: — In the particular situation we are discussing right now, it is one where a community would move from a town to a city. And they would just desire to be known as a city and to participate in those events that cities are. So for them, it is worth their while.

Ms. Higgins: — But then don't other expenditures raise accordingly too? I'm thinking of maybe costs or charges for RCMP [Royal Canadian Mounted Police] or policing or . . . may go up?

Ms. Carlson: — Anything related to financial considerations would not be changed unless a census has been done. So they've agreed to that. Anything to do with money has to be . . . we will rely on the Stats Canada numbers.

Ms. Higgins: — Mr. Minister, just to make a comment on the issue with changing from legislation to regulation. If the previous Bill, because it was legislation and was in the House and under public discussion for a longer period of time — even though it had gone through the initial round of consultations that you had talked about — and since the RMs have made comment that they would prefer that it be left with the original wording or the previous wording, if that had been done in regulation, we would have been long past that time and you would have again been changing regulation. So there is some value . . . I mean, I firmly believe there is some value having it in the House, having the discussion, and letting the various parties look at changes and have some time to consider it. So that's just more of a comment really than a question.

Can I ask if we have come to or if the government has come to . . . the process had also included when looking at a different way of distributing or a different formula for distribution of revenue sharing, or grants as they're now called, and to come to a permanent solution. There was a process that was under way to come to a clear understanding of what responsibilities fell in what sector — whether provincial or municipal or federal, urban, rural. Has there been a definite agreement that has come to on that side of the debate?

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. The answer is yes. What we decided to do when getting into the discussions a number of months ago was to seek the advice of all four tables, i.e., that is to say, the cities, towns and villages, rural municipalities, and northern municipalities, simultaneously, and then to have all of the finance folks available too. So that any and all discussions of which particular provincial revenue source might be entertained as a possibility for municipal operating grants would all happen at the same time, so there wouldn't be a lot of toing and froing. Having set ourselves a target of trying to come up with a final program proposal in time for the budget intake in the fall of last year, we were going to have to move briskly. So we did. We got organized, and we had all those discussions.

One of the discussions that came forward with each of the four tables, and assisted by finance, was this issue of the distribution formula, not only just which source and how much would there be, but once you've created a pool of dollars, how would it be distributed to each of the four tables.

So what we did was we engaged each of those four sector groups in detailed discussions of the distribution model, and it was generally agreed that some changes would be preferred. What happened then was that an analysis of the particular needs was brought forward by each of those four tables. So in other words, what was finally proposed and accepted is based directly on the outcomes of those four discussions.

Ms. Carlson has further detail to add to this particular answer.

Ms. Carlson: — The only other comment that I would have is that as it relates to the rural pool and its distribution, we agree that there needs to be some further work done simply because there is some substantial growth in certain RMs that are beginning to look almost urban rather than rural. The challenge of determining how to modify their current distribution is too complex in the time that we had this year, and there's agreement between the association and ourselves to spend the next year consulting how we might modify that. So that's one area where we understand collectively we need to do more work.

[16:00]

Ms. Higgins: — My understanding was — and I think you answered the question, but I was just looking; I'll look again for a bit of clarification — part of the debate had always been how much money should be in the pool. But to come to an amount that was deemed appropriate, we first needed to know who was responsible for what services in the area because there's many lines that blur and many areas that overlap.

So instead of having this kind of jurisdictional debate as to whose responsibility was what, has that piece been kind of settled? Not just the distribution in the pool size — I understand there's always debates there and probably always will be some — but more for the service side. I'm curious as to that because it was a very large undertaking. And I think from all of the comments I have heard, all of the partners and stakeholders felt that it was important. And I know they appreciated the opportunity to be at the common table and have the discussions.

Ms. Carlson: — You are correct in that piece of work was substantial and was initiated early on. And the foundation of that discussion was what are our roles and responsibilities, where are we both actively interested, and then which areas are of greatest provincial interest. It was surprising as we worked through the long list of activities that municipalities are involved in, the province and in many instances the federal government also has some role to play.

But for the purposes of the operational grant, we chose in each case to focus the funding around those activities where the provincial interest was most substantial, and we were in agreement on what those were. And then we based our cost assessment and hence the size of the pool on our shared interest in those areas. And so in each case it was thoroughly vetted, and there was agreement.

Ms. Higgins: — So then will you see future changes, or do you see this as really guidelines and a base to move forward on any other initiatives that may be put forward in the future infrastructure? I mean there's just umpteen, whether it's water projects will fall under infrastructure, and I'm sure infrastructure is seen as falling under the operating grants. So I wonder if there is any flexibility in this moving forward or do you see it, however the services and responsibilities have been divided, do you see that as being a fairly permanent template for moving forward?

Ms. Carlson: — To begin with the discussion that we had was

focused on the operational requirements of municipalities. We took great effort to separate infrastructure out of the operating grant. It was felt that the funding through that comes through different mechanisms, and that municipalities were saying they had pressure on both sides, and so we chose to focus on solving the operational piece.

I think there is also an understanding that although we are all satisfied with the work that has happened, that there will be times when we'll want to, in the future, look back at this work that we've done and review it and say, are we still believing that it is appropriate for modern times or does it need to be reviewed. And so there is some discussion at this point of at least opening the door to revisiting the foundational pieces, perhaps every four of five years, and make sure we're appropriately aligned.

Ms. Higgins: — Thank you very much. Mr. Minister, can you give us a bit of an explanation as to how the PST [provincial sales tax] was chosen as the kind of vehicle for operating grants?

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. Certainly I would be delighted to offer some background and some context. In our discussions with the four tables it was made clear, extremely clear, that the expectations of our municipal sector partners were that not only that there be more money in the agreement, but that it could grow with the province's economy. There's certainly an understanding that there might be a little of risk to this too, in case there's a recession that comes our way. But what the mayors and the reeves and councillors expressed again and again was they want something that can grow with the economy.

A number of different ideas were suggested. The two that were chatted about the most were PST on the one hand, and gross domestic product, GDP, on the other. In trying to decide which of these two was the most appropriate choice for our needs as a province here in Saskatchewan, it was made clear that if we wanted to use the GDP we're going to have to get in touch with Ottawa on an ongoing basis. Some of the numbers that we need will be coming from Ottawa.

That increases our reliance on outside sources and perhaps slows down the process. So we decided in the end that as PST was probably just as accurate and useful a reflection of the growth in our economy. And in addition, these are all figures which are made in Saskatchewan, if you will. We don't have to go outside our borders to find any of this information. It was agreed by all parties that PST would be a valuable way to go.

Ms. Higgins: — So when you were looking at PST being the vehicle that was most appropriate to use, then I would assume — and maybe wrongly so; I'm sure you'll correct me — then that there is no expectation from this government that PST would be reduced or increased or any changes. You're looking at it as being stable at the percentage it is now.

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. I'll introduce an answer, and I think Ms. Carlson may have some backup detail to provide as well. What we're suggesting in this particular Act is that the amount of dollars put into the pool for grant distribution would be equivalent to 1 per

cent. So even if we were to change it — let's imagine that there was a decision made to reduce the PST by a percentage point — it doesn't actually affect the value of it. So an amount equivalent to 1 per cent remains the same figure before and after any such change.

Ms. Higgins: — So then does this also do away with any discussion . . . We've just seen Ontario go to harmonizing their provincial tax with GST [goods and services tax]. Does this do away with any opportunity for harmonization or any inclination to harmonize the PST with the GST, or does that target of 1 per cent of PST still stand whether it's harmonized or not, because harmonization changes the amount and also the type of tax. So is there any consideration in the provincial government moving to harmonization, being we're seeing Ontario at this point in time do it also?

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. Well certainly we understand that some of the other provincial jurisdictions have either gone the way of harmonization or at least have agreed to consider it. Some of them favourably disposed and others have rejected it. It's a debate which may return to Saskatchewan at some point in the future.

I don't think that adopting this particular formula for grants and distribution predisposes us towards going towards harmonization or hanging back and saying we're not going to go there. I don't think it actually prejudices the debate one way or the other.

Ms. Higgins: — So then does the legislation lay out itself . . . Sorry and I didn't notice it, that it would remain at a value equal to 1 per cent of the current PST or PST as it currently is. I'm not sure. Or is it something else that again is put in regulation?

Hon. Mr. Hutchinson: — Ms. Aitken can provide some more detail on this question, Mr. Chair.

Ms. Aitken: — Thank you. That kind of detail would be in the regulations laying out the guidelines for the program.

Ms. Higgins: — So is there opportunity to see what will be in the regulation? I know there is an opportunity for committees to also review regulation. It has been done previously. And being there is so much of the detail being put now into regulation instead of the legislation — the dollar amount, I mean — there's all of the operating, what you intend to do, and how it's laid out is really all rolled into regulation now. So is there opportunity for this committee, Mr. Chair, to actually review some of the regulations?

Mr. Chair, the question was sort of to you also . . . is if there is an opportunity for committees to also review regulation, being what we are seeing in both of these Bills is quite a bit more detail being rolled into regulation and not being contained within the legislation as it currently or previously had been, if there is any opportunity for committees to review regulations also.

Ms. Carlson: — I will answer the question in part. It is the ministry's intention to take all drafts of the regulation to the associations, to our MSSP [municipal sector strategic plan]

tables so that there is complete transparency in the drafting of the regulations. That's just our commitment as a ministry to do that.

Ms. Higgins: — Well no, thank you very much. And I appreciate the clarification. So then once this legislation is passed, when does the money flow? Because my understanding, it's retroactive to the first day of this fiscal year which would be April 1. So do you need the regulations that lays out the detail to be approved and passed, or will it be done when this legislation is passed?

Hon. Mr. Hutchinson: — I'm advised that the normal payment schedule is June and July of each particular year. And we certainly expect that with the passage of this Act and its appended regulations that we'll be able to stick to that schedule.

Ms. Higgins: — Okay, so split into two — June and July? Or it just goes out into two groupings or two payments? I'm not sure quite what you mean. And I should know this, sorry.

Hon. Mr. Hutchinson: — Mr. Toffan will answer that question. He's a little bit more familiar with how these things are done on an ongoing basis.

Mr. Toffan: — Sure. Basically they start in June, but each jurisdiction, each municipality type has a different schedule. So for some they're split over a longer period of time, like 10 months. For some they're split over a two-month period depending on the amount they get and the type of municipality they are.

Ms. Higgins: — Well then the operating grants are paid on — how? — like on a monthly basis, or is it a one, single payment to the municipalities?

Mr. Toffan: — Again it depends on the size. So if the size is under a certain threshold, then it will be one payment. But if it's a very large payment, then it will be split over a certain period time.

Ms. Higgins: — Thank you very much. I don't think I have any more questions. I think that's it, Mr. Chair. Yes, I don't. Thank you very much to the minister for offering up himself and his officials this afternoon for questions. And, Mr. Chair, that's all the questions that we have.

The Chair: — Thank you. If there are no more questions or comments by any members . . .

Ms. Higgins: — I apologize, Mr. Chair. I did have one other one. It was more about New North. I know there was a number of concerns. Now I'm not actually as up to date on them as I probably should be, but I know there were a couple concerns from the North as to if the agreements were appropriate and addressed the concerns from the North. Sorry, it's pretty vague, but this is the question that was given to me if we addressed through the agreement the issues that were from the northern municipalities.

Hon. Mr. Hutchinson: — Thank you for the question, Mr. Chair. If I understand correctly, perhaps this is the most appropriate response. Certainly what's in the proposal meets the

expectations as understood in the table discussions. We did talk with the cities and with the towns and villages at table 2. Table 3 was RMs, and table 4 was northern communities and of course their representative association, New North.

So we do know that it reflects the discussions that were at the table. And in addition, there are some other provisions that have come out of special programs and most recently the KPMG review that was authored in very close consultation with our northern sector partners.

[16:15]

Ms. Higgins: — So everyone is happy. That's what you're telling me?

Hon. Mr. Hutchinson: — We believe so. Could more be done? Obviously. The work is never done; that's for sure.

But we do know that we have a program which meets the expectations of our sector partners in the main, and there's obviously a good relationship that's been established — a respectful, trustful, even cordial relationship actually, to be more specific. And so we'll be engaging in ongoing discussions to monitor the success of this program and all of the other issues that might arise out of it.

Ms. Higgins: — Thank you very much, Mr. Minister. And I guess — I found my scribbled notes and have deciphered my own writing here — there was an issue with recognizing the northern municipal trust account. That was more the specifics that someone had referred to me, and I had jotted it down for a bit of a question. So I don't know if I'm . . . You're looking puzzled; that worries me.

Ms. Carlson: — No, I'm thinking. In the review of the northern pool, the NRSTA, the northern revenue sharing trust account was involved. They were active participants with us and were also fully engaged with the consultant KPMG throughout the whole process. We know they play a very important role, and they were included.

Ms. Higgins: — Thank you very much. And Mr. Chair, that for sure is the end of my questions, so thank you very much.

The Chair: — Thank you. If there are no other questions, comments from any members? Seeing none, clause 1 short title, is that agreed?

Some Hon. Members: — Agreed.

[Clause 1 agreed to.]

Clause 2

The Chair: — Clause 2, I recognize Mr. Brkich.

Mr. Brkich: — I have an amendment. I wish to:

Amend clause 2 of the printed Bill by striking out clause (d) and substituting the following:

“(d) “**municipality**” means a municipality as defined in

The Municipalities Act, a city as defined in *The Cities Act* or a northern municipality as defined in *The Northern Municipalities Act* and includes the City of Lloydminster and the City of Flin Flon, Manitoba, with respect to the boundary area as defined in *The Flin Flon Extension of Boundaries Act, 1952*.”.

I so move.

The Chair: — Mr. Brkich has moved an amendment to clause 2. Do the committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Carried. Is clause 2 as amended agreed?

Some Hon. Members: — Agreed.

[Clause 2 as amended agreed to.]

[Clauses 3 to 12 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. 85, *The Municipal Grants Act*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 85, *The Municipal Grants Act*, with amendments.

Mr. Brkich: — I so move.

The Chair: — Mr. Brkich moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I'd ask the minister if he's got any closing comments.

Hon. Mr. Hutchinson: — Thank you, Mr. Chair. Simply to thank the members of the committee and yourself for your time and attention today.

The Chair: — Thank you very much. If no one else has any other comments, we are in recess until 7 o'clock this evening. Thank you and thank you all for your participation.

[The committee recessed for a period of time.]

[19:00]

Bill No. 68 — *The Arts Professions Act/ Loi sur les professions artistiques*

Clause 1

The Chair: — Good evening, ladies and gentlemen, and welcome to this evening's session. The item before the committee is Bill No. 68, the arts professional Act. And would you please introduce your people. And one point, before your

first time to the microphone, please say your name so that Hansard has record of it. With that, Madam Minister, if you would introduce your staff and any opening remarks.

Hon. Ms. Tell: — I would like to introduce our deputy minister, Van Isman, seated beside me; Susan Hetu, our executive director of culture and heritage; and Justine Gilbert, creative industries analyst. So just the four of us here tonight.

I'd like to begin with some opening comments, as I spoke to my colleague that we're going to do this. And please, I'm not one that likes to be too long-winded. This may take a little while, but I'm hopeful that possibly some of the questions that you may have may be answered by my preamble.

This province is blessed with a wealth of artists. Bill 68, *The Arts Professions Act*, will help artists make a living in their chosen creative profession. It provides the framework to facilitate relations between artists and engagers by promoting the use of contracts and supporting more structured business practices.

As we move forward to a discussion on Bill 68, I would like to begin our proceedings with a brief overview of *The Arts Professions Act*, a snapshot of the diversity in the sector, a review of the history surrounding the existing legislation, and the current plans of government regarding the socio-economic status of the artist.

First an overview of the current Bill 68. *The Arts Professions Act* does the following: provides a definition of the term professional artist; recognizes the contribution artists make to the cultural, social, economic, and educational life of the province; recognizes the importance of fair compensation for professional artists for the creation and use of their works; lays out a number of policy principles, such as the right of artistic and cultural expression and the right of professional artists to form associations.

It provides a contract framework to define transactions between engagers and artists, including the treatment of intellectual property. It requires government to abide by the Act — in other words the Crown is bound. It builds on and repeals *The Status of the Artist Act*, 2002. It will promote better business practices and require documented written contracts between artists and engagers, commits the government to undertake the following: the promotion of artist work as a public good; respect for scale agreements and protocols respecting working conditions established by artists' associations; the establishment of an advisory committee to examine any matter the minister considers appropriate.

The Arts Professions Act also picks up on some of the elements of the previous Bill 68, which was the result of public hearings throughout the spring of 2007. The elements include: the definition of a professional artist; recognition of the importance of professional artists; policy, principles, and the use of written contracts.

Bill 68 in 2007 also introduced collective bargaining of scale agreements between registered artists' associations and representative engagers' associations. *The Arts Professions Act* does not endorse or prohibit voluntary collective bargaining

agreements between artist association and engager associations.

I would now like to speak to the diversity within this sector. The arts profession sector is extremely diverse. It is one of our province's great human resources, adding much to our quality of life. The sector includes: the visual arts — painters, craftsperson, photographers, sculptors, graphic designers, etc. Literary arts — writers, playwrights, illustrators, book designers, editors, translators, etc. Music and sound recording arts including musicians, authors, lyricists, composers, singers, conductors, etc. Media arts, film and video, such as directors, editors, content designers, scriptwriters, lighting and sound technicians, videographers, etc. Performing arts including actors, dancers, singers, choreographers, etc.

There are also many different kind of engagers both for profit and not-for-profit, including: commercial galleries, public galleries, artist-run galleries, and art dealers, book publishers, magazines, journals, periodicals, music producers, music manufacturers, orchestras, symphony, radio, film, television outlets, and producers, theatre, ballet, dance, opera, broadcasters, film and televisions companies, dance studios, community arts groups, new media companies, Internet developers, and a host of other commercial entities in the hospitality sector, such as bars, hotels, and cafés.

The 2006 census shows us that Saskatchewan has about 3,000 artists or just over half of the province's labour force. Their earnings average \$15,388 per year. This is well below the labour force average of 30,773.

Artists tend to be self-employed. At 44 per cent, the percentage of artists who are self-employed is four times that of the overall labour force. An employer-employee relationship generally does not exist for artists. Most artists want to maintain their self-employed status so they can continue to be eligible to deduct their business expenses from their income.

Maintaining copyright ownership is important to ensuring future income. Under Canadian law, the first owner of copyright created by an employee in that type of relationship is the employer — not the artist.

In some sectors, voluntary collective agreements already exist. The Alliance of Canadian Cinema, Television and Radio Artists or, in other words, ACTRA, Directors Guild of Canada, DGC, and American Federation of Music, AFM, these bodies provide basic rates of pay, hours of work, and regulate working conditions. Their legal basis is in contract law rather than labour law. In addition the industry associations have established standards for the sale of work, such as CARFAC [Canadian Artists' Representation/le Front des artistes canadiens] and the Craft Council.

I'd like to take a few minutes to give a brief history of our precursor legislation to *The Arts Professions Act*. Concerns about the socio-economic status of the artist originated in the 1970s through a process initiated by the United Nations Educational, Scientific, and Cultural Organization, or another is UNESCO. In 1980 UNESCO issued its recommendations on the status of the artist which proposed measures for implementation by governments wishing to improve the social, economic, and political status of artists.

In 1988 Quebec became the first Canadian jurisdiction to pass the status of the artist legislation. The federal government followed suit in the early 1990s. In 1993 Saskatchewan established the minister's advisory on the status of the artist, known as MACSA [minister's advisory committee on status of the artist], to provide recognition to artists and arts organizations that would result in the development of practical measures to improve the standard of living of artists working in Saskatchewan.

Cultural workers believe that the lack of legislative recognition as professionals imposed serious obstacles for increasing their self-reliance. In response to renewed interest, government introduced *The Status of the Artist Act* in 2002. The Act formally articulated government's commitment to status of the artist issues. This legislation, which continues to this day, provides a definition of artist, provides for the establishment of an advisory committee, recognizes the contribution of artist to society, and includes a number of policy statements.

In September 2002, pursuant to the newly adopted legislation, an advisory committee referred to as MACSA 1 was appointed for a one-year term to explore measures to enhance the status of Saskatchewan artists. This work proceeded under the leadership of Joanne Crofford.

MACSA 1 — sounds kind of like Air Force One, don't you think? — submitted a report in 2003 and recommended amending the status of the artist legislation to include voluntary collective bargaining and mandatory collective bargaining where government funding was involved. However MACSA 1 concluded that there are a number of extremely difficult issues associated with collective bargaining. How would mandatory collective bargaining fit with self-employed status of artists? How would the certification process work? How would mandatory collective bargaining impact existing national collective agreements?

In 2005 and 2006, the recommendations were studied further in a second committee referred to as MACSA 2 under the leadership of Glenn Hagel. MACSA 2 commissioned an independent analysis on the impact of legislation with collective bargaining for artists in two jurisdictions — Quebec and the Government of Canada. The analysis suggested that the impact of the federal and Quebec legislation in this area has been limited. The Quebec legislation has increased the use of contracts and, apart from that, the main elements have included confirmation of existing voluntary agreements, a few additional engagers in the field, and no expansion of bargaining to other cultural sectors.

Research also suggested that if collective bargaining resulted in increased cost to engagers, they were likely to oppose it or, in some sectors, move production outside of the province. This is a concern as artists have an ongoing economic interest in having positive relations with engagers.

Analysis also indicated that due to a cumbersome bureaucratic system, the cost of the federal system, with respect to the status of the artist, is extremely expensive.

MACSA 2 also undertook consultation with Saskatchewan artists, engagers, and associations and found that collective

bargaining was not considered a high priority for Saskatchewan artists.

As stated on page 100 of the 2006 *Final Report of the Minister's Advisory Committee on Status of the Artist*, indeed most artists had difficulty connecting with and finding meaning in collective bargaining. They struggled to understand how collective bargaining would impact their work in a meaningful way. Instead artists place priority on issues that directly impact their bottom line — increased market access, improved business skills, and enhanced access to information to support their careers, such as greater knowledge of general contracting.

A separate group, comprised of representatives from the Saskatchewan Arts Alliance, the Saskatchewan Arts Board, and SaskCulture, found that legislating the right to collectively bargain was one way to increase respect for artists. However no consensus could be drawn by the group members on when collective bargaining should be established, what forms it should take, and if it makes sense for all artists. As a result, this group agreed that collective bargaining should not be the focus of any amendments to the existing status of the artist Act.

In seeming contradiction to the research and the feedback received, the 2006 *Final Report of the Minister's Advisory Committee on Status of the Artist* recommended the establishment of collective bargaining in legislation.

In the fall of 2006, Bill 40 was introduced. Upon first reading, the Bill was referred to an all-party committee for investigation of the collective bargaining issue. The committee held public hearings and recommended that the status of the artist be amended to introduce collective bargaining. Accordingly Bill 68 was crafted and was referred to the standing committee. However it did not make it out of this committee before the spring 2007 session of the legislature.

The current government had misgivings about Bill 68 in 2007. We took the opportunity to step back and reconsider how best to improve and help improve the social economic status of the artist. We knew that artists wanted to be and should be fairly compensated, and they want to share the same benefits afforded to all workers. Artists had advised that creating markets for their work and increased funding to the arts was necessary.

Artists also want respect. They want to be valued by the public for the important contribution that they make. We also knew that, until recently, Saskatchewan has lacked an explicit policy framework within the cultural sector.

To work on these issues, my government has identified a vibrant and thriving arts and culture sector as a key strategic priority — key to our enviable quality of life and pride in our communities and our economic development. We feel that there are a variety of measures set out to help improve the socio-economic well-being of artists: through statute via *The Arts Professions Act*; through grants and supports which are provided on an arm's-length basis by Saskatchewan Arts Board; through policy directives such as the sector development plan that has artists as key focus; and through programs such as the active family benefit to support greater access to cultural programs for the general public, culture on the go program to support touring and increased market access, creative industry

growth and sustainability program to encourage greater commercialization and entrepreneurship among our creative industries.

[19:15]

Moreover, Enterprise Saskatchewan has established an arts and culture sector team to identify and remove the barriers to economic viability in this sector. Our goal is to implement a vision where everyone participates in and benefits from arts, culture, and heritage experiences. Richard Florida, the author of the creative class and other books, argues the creative sector is the key advantage an economy can have. Similarly the Conference Board of Canada's recent report, *Valuing Culture*, clearly shows that the cultural sector is a pillar of the economy in the 21st century.

Together with *The Arts Professions Act*, innovative and creative new programming, and a cultural policy, my government is taking active measures and demonstrating a strong commitment to enhancing the social and economic status of the artist. With the proclamation of Bill 68, Saskatchewan will join three other jurisdictions in Canada that have status of the artist legislation.

Quebec adopted two statutes in 1988. One focused on the interests of artists who work independently, such as writers and visual artists. This statute is a source of writ contract language that we are proposing in Bill 68. The second establish an enforceable system of collective bargaining for self-employed artists working in the performing arts for example the film, theatre, and music.

Canada enacted status of the artist legislation in the early 1990s. It created a framework to regulate the relationship between associations, guilds, and unions representing professional artists and producers operating in federal jurisdictions such as the National Film Board, the National Arts Centre, the CBC [Canadian Broadcasting Corporation], and the National Gallery.

The province of Ontario established the *Status of Ontario's Artists Act* in 2007. It recognized artists' unique economic and social contributions, introduced an arts and culture strategy, conveyed government's commitment to enhance the social economic status of the artist, and declared the first weekend of June as Celebrate the Artist weekend.

In addition to a jurisdiction review, my ministry conducted further consultation with stakeholders. Stakeholders generally agreed that the following items are a positive step forward: the definition of artist, professional artist, and engager; promoting better business practice via written contracts between professional artists and engagers; mandating treatment of intellectual property within contracts; collective bargaining not being required within the new legislation; and education included in the implementation of the new legislation.

The Saskatchewan Arts Alliance was the only group that thought collective bargaining was important. Even in this latest round of community dialogues held across the province, once again artists did not identify collective bargaining as a priority.

Stakeholders did raise a number of concerns. For instance they did not like the working title but instead expressed preference

for something that included reference to an artist as a professional. We listened. We acted. The name is now *The Arts Professions Act*.

There were also concerns about the original definition of a professional artist, which did exclude photographers. Participants suggested that holding a business licence should be added to the list so that photographers would not be excluded from this important legislation. We listened. We acted. Holding a business licence has been added to the list of possible criteria for defining a professional artist.

Several stakeholders were also disappointed the new legislation did not address the Government of Saskatchewan's policy on intellectual property when purchasing goods and services. They suggested that while it is reasonable for government to acquire the intellectual property rights to a work purchased, it is unfair to force photographers to waive their intellectual property rights during registration in order to simply gain access to information about potential work within the government. They argued this policy is inconsistent with the principles outlined in the existing statute. We agree. And again we listened and we acted. The registration to become a supplier for the Government of Saskatchewan has been changed so that artists will no longer be asked to waive their rights simply to become a registered supplier.

With all this feedback, our ministry created *The Arts Professions Act*. For some time now artists and business sector have not spoken the same language. This enabling legislation is designed to help strengthen that relationship by promoting effective business practices. This Act focuses on the business side of making artistic endeavours lucrative.

Specifically the legislation provides a definition of professional artist; recognizes the amazing contribution artists have to the cultural, social, economic, and educational life of our province; ensures contracts between engagers and professional artists are recorded in writing; ensures contracts clearly acknowledge the transfer of any rights from professional artists and provides a framework to define these transactions; and includes elements that are designed to increase protection for artists and their intellectual property, and binds the Crown, thereby improving government contracting with artists.

These measures ensure that professional artists and engagers each have a clear understanding of the transaction, with the aim of preventing contract disputes down the road. Thorough documentation increases the ability of both the professional artist and an engager to enforce the terms of the contract, compared to a verbal agreement or a handshake.

The Arts Professions Act is to be proclaimed in the spring of 2009 legislative session and comes into force on June 1, 2010. This timeline has been provided to give the groups, both engagers and professional artists, an opportunity to comply and learn about the legislation. This is particularly important for those who are not using contracts. This period of time will also provide time for government to work with the creative industry sector organizations such as SaskMusic, along with the Saskatchewan Arts Board, and business associations such as the chamber of commerce and the Saskatchewan Hotel and Hospitality Association to ensure they are able to provide

supports to their members and to implement the legislation.

The need for education and access to information around contracting was a key theme expressed during consultations, and our implementation plan will work to fill this need.

Our government is committed to creating an environment in Saskatchewan that is attractive for artists to live, work, be professional, and be successful. In my November 2007 mandate letter, it stated that in my capacity as minister I was to amend *The Status of the Artist Act* to protect the intellectual property rights of artists that contract with the Government of Saskatchewan and its agencies, and require written contracts between engagers and professional artists. *The Arts Professions Act* does just that. It is another promise that my government has kept.

Mr. Chair, committee members, I thank you for the opportunity to speak to Bill 68, and I look forward to the dialogue and discussion as we move forward here this evening. Thank you.

The Chair: — Thank you very much, Madam Minister. Now have questions. I understand Mr. Nilson will be asking questions so, Mr. Nilson, you have the floor.

Mr. Nilson: — Thank you very much for that thorough description of how we got to where we are right now. I'm sure that there'll be a few questions that I have that will relate to that history. But also I think the most important thing in our discussion tonight is where are we going because my sense of this particular legislation is that it's a piece of what we need to do, and it answers some questions. But, I think, I'm interested — and I'm fairly certain that quite a few members of the public are interested — in how this fits into a broader perspective on the arts. And I know you've tried to outline some of that, but some of my questions will, I think, relate to that.

Do you see the next piece of legislation being legislation that will respond to the concerns of many artists that they would like to have some collective bargaining rights that are enshrined in legislation.

Hon. Ms. Tell: — Can I ask you to please repeat the question? Did you say the next piece of legislation?

Mr. Nilson: — Yes. And that's based on my assumption that we're not done yet. I mean this is a step along the way. But there are quite a few questions that aren't answered in this particular legislation, and one of the real issues is getting secure, I think, bargaining rights for artists in general.

Hon. Ms. Tell: — I think I spoke fairly extensively on the consultations and what we heard from artists. And what we heard from artists is that collective bargaining is not a priority for them — for artists individually — and we have no intentions of introducing any legislation in relation to collective bargaining. As I said, this legislation is about artists, and it being about artists, we listen to what the artists told us.

Mr. Nilson: — Now previously you said that when you were discussing the legislation that basically died in this committee in the spring of 2007, that your party, I guess your government, had misgivings about this legislation. Can you explain what you

meant by that?

[19:30]

Hon. Ms. Tell: — I wasn't of course around in government at that particular point in time. The information I have received however is that the Act focused on collective bargaining, and artists did not see collective bargaining as a priority. Artists placed priority on issues that directly impact their bottom line. And I've already articulated some of those — increased market access, improved business planning skills, and enhanced knowledge of general contracting. There were also concerns about the lack of consultation with the private sector. Those are the three areas. And the reason when I speak about misgivings, those were the issues we were referring to, or I was referring to.

Mr. Nilson: — Okay, thank you for that explanation. So generally there was not a willingness to look at the whole collective bargaining issue in this new legislation, and that's quite clear actually when you read the legislation. I guess my question is if there is a request from the artists in the province or segments of the artists for collective bargaining legislation, will you look at bringing that forward?

Hon. Ms. Tell: — In '07 and '08 we had conducted extensive consultations. Also during this past spring we did community dialogues. The issue of collective bargaining from artists is not a priority.

I think it's prudent on government to take a pulse check on legislation at, you know, sort of predetermined intervals to make sure that it's addressing the needs. But the extensive level of consultation with respect to status of the artist and of course the community dialogues that took place this winter, you know, we are very certain of the fact that artists at this point in time do not want and do not consider collective bargaining a priority.

Mr. Nilson: — What you said before was that there's a situation in this legislation where it doesn't put any block on collective bargaining with engagers. What will the policy of the government be if a group of artists who actually work with the government or with one of the government agencies wants to enter into a collective bargaining arrangement for their members who are artists?

Hon. Ms. Tell: — If that is the wish of the artists entering into a contract with the Government of Saskatchewan, as per our legislation, this is not stopping them from doing that. And government will continue and do the business as per normal based on contract law.

Mr. Nilson: — So your answer is yes or no?

Hon. Ms. Tell: — Well absolutely, you know, there's nothing here prohibiting. Yes, they will speak and engage with artists if they're wanting to enter into some sort of contract — absolutely — or bargaining agreement.

Mr. Nilson: — So that means that a group of musicians who provide intermittent services for government agencies could end up then working out a system of payment and scale and all of those kinds of things.

Hon. Ms. Tell: — Yes.

Mr. Nilson: — So we're in a situation where some of this kind of work can take place, but it's not going to be the norm.

Hon. Ms. Tell: — Yes, you're right in a sense. We're not legislating collective bargaining. We're not prohibiting any either. But we will, just like any other sector if they wish to enter into an agreement, a collective bargaining agreement or collectively bargain, so to speak, by all means.

Mr. Nilson: — Does that mean that if there's an ability to organize and come under the Labour Relations Board for a group of employees, that they could do that?

Hon. Ms. Tell: — We consider that of which you refer to as more contract law and, you know, as opposed to utilizing the Labour Relations Board in certification and that type of thing. But voluntary agreements are entered into and can be entered into right now. So we're considering it as contract law.

Mr. Nilson: — Okay. Well maybe we can return to that subject a little bit later. Now let's go to look at the definition of artists. Can you explain how, you know, whether this includes every artistic field? It sounds like it does from the description. And maybe the best way would be for you to tell me which groups of artists would not be included in this legislation.

Hon. Ms. Tell: — Well as you see by the definition, it's extremely comprehensive. I mean, to think of a situation that would not, would probably be like my grandmother doing basket weaving. I mean this is fairly extensive. If you're earning income and meet three of these, you know, three of all these categories, then you'll be considered a professional artist. So I can't really think, other than the basket weaving example, of anybody that wouldn't be included.

Mr. Nilson: — Okay. Now in previous legislation, there were references to multimedia arts and Internet arts, and those, especially the Internet arts part, is not included anywhere in this legislation. Does that mean that it's not included or that's been missed or, you know, why would that be in the 2002 legislation, but it's not in this legislation?

Hon. Ms. Tell: — I'll refer you to the interpretation of the . . . Under the interpretation section of the Bill, clause 2, and it would be (c), where it states, "electronic, recording and media arts, including film and video." We are understanding that to include what you were referring to.

There is a mechanism though, and I can get you the section number of the Act, that allows to expand the list as technology changes, as society changes that we have the ability to change the list. And that's in the regulations 10, under the regulations:

The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act.

So we do have a mechanism to add things that we may not see

here today. And (b), of course:

prescribing additional artistic fields for the purposes of the definition of "artist" in section 2.

Mr. Nilson: — Okay. I just ask that because it appeared to be an area where there's actually a fair amount of money flowing, and it looked as if it had been removed. So you are assuring me that the intention is to include this, but the wording isn't there right now. So that was the intention. Is that correct?

Hon. Ms. Tell: — Yes, that's correct. We believe though if you're looking at that section that you'll see that the wording is there. Are you seeing that? Have you seen that one? I just want to make sure that we're talking about the same thing.

Mr. Nilson: — No, I understand what you read to me about all of the possibilities of adding and doing those things. I understand that completely. And I mean this appears to have all kinds of discretionary additions possible in the legislation. And I'll ask some questions about that.

But one of the questions that always arises in legislation is what is specifically stated or intended at the beginning because then it makes it easier to add variations of those items as you move forward. And it just stuck out a bit that the whole area of art and the Internet was somehow not there when it was there a few years ago. And that is an area which is quite difficult to deal with because of just the nature of that particular medium.

Hon. Ms. Tell: — Yes, and our intent is that it is there.

Mr. Nilson: — Well thank you very much for that. Now this legislation is clearly intended to cover a whole number of areas, and that was very clear from the long list of groups that were to be included. I would appreciate if you could explain to me how this legislation would work in different areas.

And the first area I would ask about is in the literary arts, in the publishing and illustration and writing, and if you could explain what the difference will be for a writer or an illustrator or an editor or publisher after this legislation is passed. Like what will be enhanced?

[19:45]

Hon. Ms. Tell: — Okay in answer to your question — I hope I've interpreted it correctly — it's the contracts between the engagers and the artists or the literary artist or whatever the case may be.

In the contract, they'll spell out the length of time of the contract. The ownership of the intellectual property, that will be determined within the contract. Dispute resolution process needs to be defined in the contract, and that can be, you know, the specifics of that, but it would be unique obviously to the two parties involved. And of course then the compensation expected and agreed to will be part of that contract.

Does that answer your question? I realize it's not specific, but these things are applicable to all.

Mr. Nilson: — The question is what will be enhanced when

this legislation is in effect? And so clearly it's adding this whole structure of contract with its many, many variations obviously depending on what's going to happen. And I understand that's why there's a whole year for education about this — be interesting whether that's long enough to actually do all of that.

But okay, so that's for in the whole area of the written word and book world. Is that the same thing that would be enhanced if I was a painter or if I was a sculptor, or is there some other added benefit in that area?

Hon. Ms. Tell: — With respect to visual artists or the sculptors or whatever the case may be, CARFAC has established industry standards nationally and provincially. And not every group has those standards, so in this particular case, we would expect and encourage that in the contract the national and provincial standards would be spelled out in the written contract, in the written agreement.

Mr. Nilson: — Okay, well thank you for that. And would this be a similar situation and the same enhancement as it relates to the film and video area which I guess is the ACTRA people? Is that correct?

Hon. Ms. Tell: — Just take you through this chart here a bit if I can. Film and television actors under ACTRA, ACTRA has 11 national collective agreements. They include CBC TV, CBC Radio, CTV [Canadian Television Network Ltd.], Global TV, and National Film Board. ACTRA negotiates collective agreements on behalf of members over a range of performance areas. These agreements set out the minimum fees and working conditions for performers. ACTRA acquires audition and casting calls preference for ACTRA members. Contract lists of members are sent to engagers.

So what we're saying here is that we will . . . Of course these take precedent; this is over and above. Not all organizations or not all artists are covered by associations such as ACTRA, and we will encourage and obviously respect these collective agreements that are in place.

Mr. Nilson: — So the enhancement of the legislation then really applies to those who aren't part of agreements already in place?

Hon. Ms. Tell: — Yes, you are correct.

Mr. Nilson: — Okay. Does this legislation in any way add protection for artists whose work may be used in commercials or other situations where intellectual property is used and purchased, because this often is an area where there have arisen some problems over the years.

Hon. Ms. Tell: — The legislation, an important element of the legislation is to deal with intellectual property and to ensure that there is written agreements to speak specifically to intellectual property. And the artist and the engager, with respect to dealing with a contract, they should have clauses on how the intellectual property is going to be addressed and be very specific. And again that speaks to the education process that we're going to have to go through, the member associations are going to have to go through to ensure that artists and member associations understand what is needed.

If the intellectual property in whole or in part is being transferred to an engager, it should be included in the contract. If there is no transfer or it is not stipulated in the contract, the intellectual property defaults to the artist as per the *Copyright Act*, and that's a federal Act.

Mr. Nilson: — Okay, so then the answer to my question about this enhancing or expanding rights doesn't necessarily do that. It acknowledges existing rights under other pieces of legislation.

Hon. Ms. Tell: — The legislation is designed to strengthen the contracts between professional artists and engagers. And you know, with the education process, obviously there's some very important terms and verbiage that is going to be needed to be inside or included in the contract. I think that ensuring that their intellectual property is very clear and spelled out will create an understanding by both parties. Yes, there's an inherent right under the Copyright Act; most people aren't aware of that. And I think by spelling it out in plain English as to what that means, I think will only serve to clarify.

Mr. Nilson: — Okay, thank you. Now I'm going to move on to something we've already been talking about which is this definition of professional artist. And as I understand it, and the ways it's worded in the legislation, it means that the person is an independent contractor and that they actually get paid something to do the work, and then as a third factor they have to meet three of the following criteria. And those criteria are: public or peer recognition; the activity has to be presented to the public; the person has to have received some kind of training or acquired traditional knowledge; or they're a member of an organization representing their artistic activity; or they hold a copyright or have royalties from that copyright; or they have a business licence.

So basically three out of those last six criteria if a person is an independent contractor. They get paid for it and they have three out of these six characteristics, then they fall in the definition of professional artist. And it appears to be quite a broad definition which is I think the intention in the legislation.

If one is a member of a team of artists that's doing a particular project, can they meet that definition under (a) of an independent contractor?

[20:00]

Hon. Ms. Tell: — There are groups, obviously, such as the Regina Symphony Orchestra for an example, that is a team of artists or musicians. In that case, obviously there's contracts in place and they are, you know, covered under a specific contract.

There are situations of course that a group of independent artists can come together to perform or do some artistic endeavour, but they would still be considered independent artists, but they're coming together to do something specific. So we believe that they would still be covered under the current definition as professional artists. They'd still be independent, even though they're coming together to perform or to accomplish something.

Mr. Nilson: — Does that then mean that this group that comes to work would have to have an individual contract for each

member of their troupe, if I could put it that way?

Hon. Ms. Tell: — I don't have the legal background that you do. But our belief and understanding is that, in that particular situation, an engager could have one contract citing the participants in one contract, and that would serve to provide the service required.

Mr. Nilson: — So the answer then is that it would comply with the legislation if they had a contract with a lead spokesperson of that particular group. Is there some place in the legislation which gives the minister or the Lieutenant Governor in Council to set out further definitions of this? And I guess the obvious question there is, will there be a whole series or regulations further defining the sections around the contract around professional artists?

Hon. Ms. Tell: — At present we have no plans to create regulations for *The Arts Professions Act*. In speaking to what you spoke about earlier, the partnership, an engager can have one contract that may include three individuals.

What we're anticipating — and these are only what ifs; of course the what ifs often come to be — that an engager could engage in and have a contract with a band. Within that band, there may be a leader and the other two, for instance, may be employees of the leader of the band. So the contract would be with the leader of the band.

So the other two would be considered as somewhat of an employment relationship. So the contract within would have to be with the leader and the engager. If there's problems arise between the employment or the other two members with the leader of the band, then of course that's a different set of circumstances and it's not a concern for the engager at all. But I mean, there are very many different types of situations that can arise, and we've tried to, as best we can, anticipate as many as we can. But we don't see that we need to broaden or do anything in relation to some of these situations at this particular point in time.

Mr. Nilson: — So it sounds like unionizing the members of a band versus against the leader of the band is fine, but unionizing all of the musicians and having that ability to bargain with an engager is not fine. Would that be correct?

Hon. Ms. Tell: — Well I don't think for one minute that we're saying that, if there's an employment situation between members of the band and one person in the band, that that would be necessarily considered a union or a traditional union experience. It could be whatever agreement that they have between the two of them, of course subject to different sorts of regulations and laws.

Mr. Nilson: — Now you made some comments about the whole role of photographers and the fact that somehow they didn't feel included in the previous definition of the professional artist, and so that therefore you put in the clause about a business licence to help them. Could you explain that for me again because I don't totally understand how that works?

Hon. Ms. Tell: — This particular clause was added in response to consultation with professional photographers of Canada and

Saskatchewan who felt there was a gap in the definition that we provided. And so that would be (i) through (vi) dealing with professional artists, specifically with photographers. They feared, given the previous criteria — so the (i) through (vi) — they feared that some professional photographers would be excluded. Adding the additional criterion would close this gap so that professional photographers would be considered professional within this current legislation.

Mr. Nilson: — And can you explain . . . So that basically, they couldn't meet the other criteria. Although when I looked at it myself, it seemed like it shouldn't be too hard for a photographer to meet those others, but like I don't have any objection to this. It's just kind of a curious change and I still don't totally understand it.

Mr. Isman: — Van Isman responding. I'm going to read an excerpt from one of the consultations that was done in the summer of 2008 where an individual indicated, and I'm reading here directly:

I'm not sure that most professional photographers would meet the criteria of professional artist as they do not own copyright in their work, many do not have formal training or put their work in exhibitions or shows, etc. Please consider including "has a registered business name" or "has a PST number" or as additional option criteria.

So in other words, what we had heard — and there was a number of other indications where this had been raised — where they were concerned that they may only meet two of the six criteria that had been presented, whereas in fact they were professionals and earning their income from their craft. Accordingly that's why it was added.

Mr. Nilson: — Okay, thank you. Now if someone is in breach of this legislation, what happens?

Hon. Ms. Tell: — There are no penalties for not using written contracts. This proposal, what we're trying to do with this legislation is to encourage the use of a system or effective business practices. When we were consulting with artists, it was important for them to make this legislation to encourage, to mandate written contracts between artists and engagers, professional artists and engagers. The artists did not want to see the engagers penalized. And we believe — and I believe rightly so — that if we are not going to penalize one side for not having a contract, we weren't going to penalize the other side.

This particular legislation, it's intended to assist in strengthening business practices; it is not intended to be punitive. And the artists were very clear with us that the last thing they wanted to create was an acrimonious working relationship between the engagers and the artists, that that relationship is important. And hence we decided that we weren't going to penalize anybody for not having written contracts in place. There are always, and always has been, the civil process through civil court should there be a dispute in relation to contracts.

Mr. Nilson: — So can you explain again what the purpose of this legislation is if it has no enforcement mechanism?

Hon. Ms. Tell: — It's to encourage better business practices between the artists and engagers. It is not about punishing artists and engagers.

Mr. Nilson: — So if I'm a musician and I want a contract to perform somewhere, there's no requirement on a business that requires a musician to actually enter into this contract?

Hon. Ms. Tell: — Well I think we need to give our artists . . . And I realize that that's not your intent in your question. But if you're going to engage with somebody that isn't going to follow what you want to follow, then I guess you do not perform the service for them. If an artist wishes to have a written contract and the engager isn't interested in having a written contract, I guess you just don't do it for that particular person. And again, I think that that is common sense, and I don't see any artist undertaking something that isn't within their liking if the business arrangement isn't within their liking.

Mr. Nilson: — Maybe we should go back to the beginning again about why artists as a professional group need legislation. I know you said and laid out quite clearly the status of artists in society. Their incomes are substantially less than others, and my understanding of the long years of work in this area is that the whole purpose is to provide fairer compensation for a whole group of people in our society who quite often are not compensated at the rates that they should be compensated.

So you seem to say that that was the purpose of this legislation. But if there's nothing in the legislation that enforces it, I'm wondering, you know, why are we doing this?

[20:15]

Hon. Ms. Tell: — The legislation supports an environment in Saskatchewan that is attractive for artists to live and work. This legislation is part of that environment. It is only, is one aspect of it. The development of our cultural policy, culture on the go, all these different implementation programs that we have set out with sustainable funding, is all part and parcel of it — increasing market access.

This is one aspect and it's a statement of principles. It is legislation that says, here is a professional artist. It speaks to the value of principles — a principle statement, enabling legislation, guiding legislation. We in no way wanted it to be prescriptive or punitive. This isn't the environment that we're working in here and that artists are working in. This is not what they wanted from legislation.

The statutory process is not overly onerous. It does have some requirements for either artists or engagers, and it is designed to systemize, legitimize that relation between them — the artist and engagers — to ensure artists are treated fairly. It is not anticipated that it will be any more difficult for artists to obtain work in the province.

So is there a magic pill to creating a situation and an environment in this province or across the country where we can absolutely, definitively say, this will increase the income of professional artists? No, I don't think so.

However I think it's incumbent upon government to create the

legislation, define what a professional artist is, assist with strong and effective business practices, ensure understanding between the engagers and the artist. But also is that we have designed and put together a series of programs, processes, that not only demonstrates to the province of Saskatchewan, the people in Saskatchewan and Canada, you know, methods upon which our artists can display their work, improving education and understanding. People in Saskatchewan need to understand what it is they have and in turn will value the contribution of artists throughout the province and throughout Canada.

We're simply compiling a series of processes here. One is the legislation. There are many others that we have undertaken as our government. And we are hopeful that we can participate in creating an environment in Saskatchewan that will be conducive to a strong realization of the value, the true value of artists in this province and how they participate in our economy. And in doing that, if we are successful, I'm hopeful that the economic impact on individual artists will be realized.

But can I say absolutely, definitely, that this will do it all? No, I can't. But what we are saying is that we are doing what we believe we need to do as government, what we believe artists want us to do, and participating in this positive environment, this vital sector that just needs a little bit of help. And that's what we're trying to ensure here.

Mr. Nilson: — Well my understanding of public policy is that it usually has either a carrot or a stick. It either has incentive or enforcement to make it work. So what you're saying quite clearly here is there's no stick; there's no enforcement on this legislation. So does that mean that there's a great big carrot or a whole bunch of carrots or a whole bunch of enhancement that's going to make this work? Maybe you can explain that.

Hon. Ms. Tell: — If there is no written agreement, there's an assumption that there is no agreement. With no agreement, it limits — extremely limits — the engager or the artist from utilizing the civil court process to get what they feel they deserve.

So the encouragement, the guiding legislation is that if there is no agreement, if there's no written agreement, there's no agreement. So that's part of the education process that we are going to be embarking on and ensuring that there's an understanding why it's important common understanding. But also if it gets to the point where there's a major dispute in dealing with a contract issue, that they're even more limited by getting any recourse through the civil process if there is no written agreement or contract between the two parties.

Mr. Nilson: — So that is the enforcement mechanism then, that if there is no written agreement, there cannot be any other contractual arrangement or implied contractual arrangement at all. Well that's, I mean, that's an interesting proposition. But I think we started off with the sense that artists are rather vulnerable workers in many ways within our society and often have been taken advantage of over many years, which is why their incomes are quite low.

And so if in fact our job or our intention in this legislation is to somehow enhance the status of artists as professionals, it seems to me that we would want to at least have some rules

somewhere around how this legislation could be enforced. But it doesn't sound like that's here. And I guess my question would be, is there any intention of changing that as we move forward? Because clearly there's a gap there.

Hon. Ms. Tell: — At this point in time we have no intention of making any changes with respect to this Act and the enforcement. I think what we didn't want to see happen . . . And you cannot, in fairness, make rules and penalties for one side of the equation and not make it for the other. This was not the intent of this legislation. It's to create an understanding. This is something that has never been done before. There'll be an education process. And we are hopeful.

Are we going to be successful in 100 per cent of the cases? No. But we are wanting to ensure that there's an understanding and there's a benefit, that people see, both artists and engagers see the benefit in having written contracts. We have made this mandatory. And we're strongly encouraging groups to fulfill that particular obligation.

My thinking is, is that you cannot . . . And as I said earlier, you can't penalize one side of the equation without the other side. This is not what this is about. And we didn't want to make it about that. This is about guiding legislation. This is about enabling legislation and a statement of principles.

And I suppose if we have a number of problems, and as we do our assessment as we move forward, if there's a number of problems associated to it, well then, you know, I mean we're not opposed to looking at it again. But at this point in time, we have no intentions of looking at it with respect to imposing penalties on either side.

Mr. Nilson: — Section 3 states, "The Crown is bound by this Act." Does that mean that the Crown, which includes obviously all of government and the Crown corporations, does that mean that all of those groups will not engage artists without written contracts?

Hon. Ms. Tell: — You are right. They are bound by this legislation, you know, I mean even probably more stringently than anybody else. And we are expecting full compliance.

Mr. Nilson: — So the plan is that the government will lead by example right across the board when it works with professional artists.

Hon. Ms. Tell: — That's correct.

Mr. Nilson: — Now in section 7 it says that "The Government of Saskatchewan undertakes" to a number of different things. But I'll go to "(b) to respect the working conditions of professional artists." But it puts a big condition on it which wasn't there in previous forms of legislation or in the 2006-07 legislation. It says, ". . . as far as it considers it reasonable and appropriate . . .".

Can you describe what that condition will mean insofar as one deals with artists and others? Because I'm not quite sure why you put such a big condition on the government doing what this legislation is supposed to do, which is to protect artists.

Hon. Ms. Tell: — The section you're referring to is nearly identical to the section of the 2002 status of the artist Act, which is the current legislation. Reasonable and appropriate is a common legal phrase which speaks to fairness, duty, prudence, specific circumstances, and action appropriate to a particular situation.

As you're aware, we are frequently faced with many competing interests and must always act fairly, transparently, and with respect to broad public issues when considering any particular situation. This wording allows for flexibility to do just that.

Mr. Nilson: — Well I understand what that clause means. It basically means it gives absolute discretion to the Crown to not do what's in the legislation. So I understand that.

I think that's why the legislation that was brought forward in '06-07 actually changed that, so that the legislation would be enforceable against the government or against anybody else, but especially against the government because it wanted to eliminate that discretion. And so I take it that your answer is, well we kind of like this law, but there may be times where we won't, so we're going to keep ourself protected with this absolute discretion.

[20:30]

Hon. Ms. Tell: — I think if you take a look at section 7 again, and again we're referring back to "The Crown is bound by this Act" as defined in section 3. This is in no way intended, nor is it or in . . . The intent of writing this in here has nothing to do with the Government of Saskatchewan, that they are not bound by this Act. They are absolutely bound by this Act and with written contracts and protection of intellectual property.

If you look at clause (a) "to promote artistic work, including innovation and creativity, as a public good and service to the community," what happens, as I'm sure you're aware, is that some of these things become somewhat . . . what word is it?

A Member: — Subjective.

Hon. Ms. Tell: — Subjective. And this is just allowing us the flexibility to ensure that the public good is addressed. And, you know, you can't cover off every known circumstance in every piece of legislation. But this in no way removes the Government of Saskatchewan from abiding by the contracts and the intellectual property.

Mr. Nilson: — Okay. Well I thank you for that explanation. And I appreciate having it on the record, so if anybody ever gets involved in any dispute around this legislation, it's clear the intention is that the government will be bound, and this kind of discretion in this clause is not intended for use in that context.

When you look at the legislation, it also continues the whole concept of the advisory committee. Can you lay out what your intentions are for the advisory committee as we move forward because I think that may shed some further light on this particular legislation?

Hon. Ms. Tell: — It's another piece that's been put in the legislation. An advisory committee may be established at any

time at the minister's discretion to investigate any issues they deem appropriate. And I guess it's just a way of making sure that something arises that we don't necessarily anticipate in legislation that requires further exploration, that we have the ability to do that. At this time, I as Minister have no plans to establish any advisory committees at this time.

Mr. Nilson: — So there is no intention to establish an advisory committee around the whole issue of pension plans for artists?

Hon. Ms. Tell: — At this time, I have no intentions of establishing any advisory committees.

Mr. Nilson: — Just to be clear then, there's no intention to have an advisory committee around the whole issue of workers' compensation legislation and artists?

Hon. Ms. Tell: — If I can speak to that particular issue specifically — and I don't believe we need an advisory committee for this issue — Workers' Compensation is currently reviewing the workers' compensation legislation. We have asked that artists be considered as part of the review, in particular the exclusion under the legislation. Of course you're aware that they exclude both artists and farmers, so we asked that artists be considered as part of the review, and I guess we'll wait and see where it shakes out.

But we are definitely . . . With defining a professional artist and having that defined, we are hopeful that it'll make it easier for Workers' Compensation then to take another look at the benefits not afforded and hopefully will be afforded to professional artists.

Within any independent entrepreneur or self-employed individual, they have the opportunity to contribute to the Saskatchewan Pension Plan and that hasn't changed. That will be maintained.

Mr. Nilson: — And so to confirm once again, you have no intention of creating any committees to work on these. There's a whole number of issues obviously that artists are concerned about and some of the ones that we just talked about — pension plans for artists and the whole issue of occupational health and safety and workers' compensation. Another area obviously is professional development, education, and training, and you wouldn't have any committee on that. Or another area which is the whole area of taxation of artists, there's no intention to have any committee working on that area as well.

Hon. Ms. Tell: — The ministry is always in consultation and dialogue with various groups and artists and constantly compiling information and gathering information, and nothing in this Act will preclude that from continuing. However at this point in time, developing or implementing an advisory committee to look at some of these issues in a formal sense is not under consideration.

Mr. Nilson: — So this clause in the legislation is there because it was present in previous versions, and it has a possible use somewhere down the road. But right now there's no intention to use it?

Hon. Ms. Tell: — That's correct, yes. We want to keep that

open. And there may be something that requires more attention in a more formal sense, and we want to make sure that that's available to the minister should it be required.

I think we need to look at the fact that we have been in consultation and dialogue and public meetings on the status of the artist legislation and now *The Arts Profession Act* for a good number of years. We believe that what we've put forward here in relation to this piece of legislation is what was desired by the artists and in the best interests of the Saskatchewan people.

And at this point in time, we have no reason to believe that there's any burning issue in relation to artists and engagers in the province. And we don't have intention of creating any advisory committee at this time.

Mr. Nilson: — Well may I humbly suggest you may wish to create an advisory committee to deal with the whole issue of enforcement of this legislation because I think that's going to become a problem very quickly because there doesn't seem to be any reason to comply with the legislation on the face of it. And clearly when you come forward with new legislation like this, you would normally have some way of either providing an incentive or creating a penalty if people are not involved. And it seems to me that might be an area where you would want to get some advice. So that's a suggestion.

Now let's go on to what appears to be the heart of this legislation, which is the individual contract. And it's quite, you know, it's very comprehensive. I think that's a very positive situation. Can you explain where you obtained all of the terms that are set out in the legislation — which I guess is sections 9.1, well I guess right through the whole section of section 9. Are you basing this on some national forms of contract or contracts at a particular area, or is this sort of a compendium of a whole number of areas? I think it would helpful for future generations trying to sort out this legislation if we could understand where these terms came from.

Hon. Ms. Tell: — The language that you refer to with respect to the contract is very similar to the language agreed upon in the 2006 *Minister's Advisory Committee on the Status of the Artist*, final report, page 27, under the leadership of Glenn Hagel. So that's where it was all gathered from.

The Chair: — We've been asked to have a short break here, so if we could pause for a five-minute break. This committee stands recessed for five minutes.

[The committee recessed for a period of time.]

The Chair: — The committee will now resume consideration of Bill No. 68. Mr. Nilson has the floor again.

Mr. Nilson: — Thank you very much. Just go back to section 9 again, which sets out all of the terms of the contract. Is my understanding correct that originally the intention was to have all of those terms in the regulations, and then what this legislation does is puts them in the Act with the ability in the regulations to add or subtract items? Is that an accurate description of what we're seeing? So that basically it's an affirmation of what was there in the previous legislation, but the advantage is that it's all laid out in section 9.

Hon. Ms. Tell: — Correct.

Mr. Nilson: — Thank you very much. Now you indicated earlier that you had no intention of creating any regulations for this legislation, so I just want to ask you some specific questions around that for the record. And I think I know what your answer will be in each question.

But if we go to section 10 to the regulation-making powers, then section 10(a) is a standard definition, so that's there if it's needed. But section 10(b) allows for regulations to prescribe "additional artistic fields for the purposes of the definition of "artist" in section 2". Is it correct that there's no intention to add any artistic fields at this time?

Hon. Ms. Tell: — You are right again.

Mr. Nilson: — Thank you. If we go to section 10(c), the regulation-making power, it says that there's the ability to exempt "engagers, professional artists or transactions or classes of engagers, professional artists or transactions from the requirement" for a written contract. Can I ask you is there any intention to exempt any groups of engagers or professional artists or transactions or classes of engagers from the requirement to have a written contract at this time?

Hon. Ms. Tell: — There's no intention to exempt any classes of artists or engagers at this particular point in time. Clause 10(c) merely allows for flexibility in the future once the Act has been implemented and evaluated.

Mr. Nilson: — Thank you for that answer as well. Is there any intention to use section 10(d), which is once again regulation-making powers, to add additional elements to written contracts pursuant to subsections 9(2) or (3)?

Hon. Ms. Tell: — At this time we have no intention at all of using that clause to add anything with respect to regulations.

Mr. Nilson: — So I think I've heard you clearly and correctly say that we won't be seeing any regulations proposed for this legislation now or in the next year. Is that correct?

Hon. Ms. Tell: — You heard me with respect to no intention at this time to add anything. Putting a time line on anything in relation to this, I think, is probably not a good idea. But at this time as we're sitting here today, I have no intentions of making any changes.

Mr. Nilson: — Well thank you for that answer, and I will interpret to say that if a problem arises that needs to be fixed, you are willing to look at a regulation that would fix a problem. Is that correct?

Hon. Ms. Tell: — That is correct.

Mr. Nilson: — Thank you very much for those answers. Now the whole purpose again of the legislation is to deal with people who are in fields of endeavour that often are quite vulnerable. And my sense of why we enact legislation is often to protect people like that or to enhance their position. And I think this legislation has the possibility of doing that, but it seems to back off in a couple of ways.

One is enforceability because it doesn't seem to be any mechanism to do that. Another one is just in how its been reworded to talk about, sort of, promotion of professional artists, but not protection or enhancement of the rights of professional artists.

I'd appreciate if you'd give me some of your thoughts about where this legislation is going to go because, as you can tell from my comments, I think that there's been a substantial stepping back from the original goal which was to protect a whole group of people in our society who are undercompensated for the good work that they do.

[21:00]

Hon. Ms. Tell: — During our consultations, and again I'm going to come back to this, that artists wanted us to focus in on practices that would improve, you know, improve their business practices and also ensure understanding between the engagers and the artists of what the expectation is. So that obviously is through the written contracts.

And protection, with a written contract, you know, it does spell out what the expectations are. It professionalizes an interaction rather than having a handshake deal. It does make it more business oriented. And that's what we heard when we conducted the consultation, that that's what, in part, that's what artists were seeking. Written agreements of course protect both the artist and engager. And we believe that's a good, sound business practice.

The other area that we heard concern from and, you know, much harder I suppose to illustrate or highlight through any legislation, is that of respect — and artists want and deserve of course to be treated with respect — and that their craft is something that is valued, and valued enough that it's deserving of written contracts by both the engager and the artist.

And really that's what this legislation is intended to provide, is recognition, number one, of professional artists. And that they are important enough to our society, to our life here in Saskatchewan that we're requiring written contracts, because their work is that important, and to provide a dispute mechanism that, should the need arise, that there is a way to resolve some disputes. And that's what we heard. That's what we heard during the consultation.

And is this piece of legislation perfect and fits and fulfills every need? No, it's not. It's a part of a puzzle that we believe was necessary to highlight artists in this province, and the legislation is but one piece of highlighting the value artists have in our communities.

Mr. Nilson: — Thank you. I appreciate that perspective. And I know ultimately respect is about paying people properly for what they do, and I think that's important. And there are some methods of enhancing that particular issue in this legislation, but I urge you to listen carefully as to how we can further expand that.

I also appreciate and encourage you to expand the role of a number of the other programs that you talked about, whether it's grants or whether it's methods of rewarding people who

engage artists using contracts under this particular legislation — or other carrots as I put it — other positive things that can be done.

And you know, it's not an easy task to spell out all of the different forms of protection that are required or the forms of promotion. But I hope the goal of this legislation is to enhance the compensation of artists generally, to protect the work that they do so that it's not diminished by having some of that sent to other places where maybe the prices would be even lower than what they are here, and also to make sure that people can get the proper training so that they do qualify to be professional artists. And we do have all those opportunities now to a point, but clearly they need to be expanded.

So I think early on you said that this is part of an overall cultural policy and that clearly that's what you're working on as a ministry and as a government, and I guess we all are as a community. So I encourage you to see this as a first step.

And as you can tell from a number of the questions that I've had tonight, I think there's some areas where you haven't been quite as bold as you should have been on setting out protections for workers or promotions in the sense of positive things to do for the artists as people who are an important part of our society.

But at this stage, I don't think I have any more questions, and I appreciate the work that you've done on this so far. But I do encourage you to look at the whole question of enforcement or positive incentives to encourage the core of this legislation because we don't want a piece of legislation in name only because it can quickly become that, or maybe it is that already given the inability to enforce it.

So I don't have any more questions tonight, and I will assume that the legislation will move on at this stage. But I strongly encourage you to look at some of the areas that aren't as strong as they could be and possibly bring back some new, enhanced legislation in the fall. So thank you.

The Chair: — Okay. Thank you very much. If there are no other questions or comments, if there are no questions, comments, seeing none, clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 12 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. 68, *The Arts Professions Act*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — I would ask a member to move that we report Bill No. 68, *The Arts Professions Act* without amendment.

Mr. Brkich: — I so move.

The Chair: — Mr. Brkich moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. Thank you one and all. If you have any closing comments, Madam Minister.

Hon. Ms. Tell: — I don't think so, other than thank you very much. It's been enjoyable and I'm sure we'll do it again. Thank you.

The Chair: — Thank you one and all. Mr. Nilson wants to make a comment.

Mr. Nilson: — Yes, I just want to say thank you to the minister, but especially to the staff and specifically the ones who have been working on this file for years and years and years. I think the good news is, it's not over. This one will continue because there's lots of work to do but do appreciate the work that's been done so far. Thank you.

The Chair: — Thank you very much. I would now ask for a motion of adjournment.

Mr. Bradshaw: — I do so, so move.

The Chair: — Mr. Bradshaw. This session is now adjourned. Thank you one and all and good night.

[The committee adjourned at 21:12.]