

Legislative Assembly of Alberta

Title: **Tuesday, November 25, 2003** **8:00 p.m.**
 Date: 2003/11/25
 head: **Government Bills and Orders**
 head: **Committee of the Whole**
 [Mr. Tannas in the chair]

The Chair: I'd like to call the Committee of the Whole to order. I wonder if the committee as its first item would agree to a brief introduction of guests.

[Unanimous consent granted]

head: **Introduction of Guests**

The Chair: The hon. Member for Edmonton-Rutherford.

Mr. McClelland: Thank you very much, Mr. Chairman. To you and through you to colleagues it's my pleasure to reintroduce Sarah Monkman, who is in the Speaker's gallery. As members will know, Sarah Monkman is a former page here and was of great assistance to us for two years, 2000-2002. Sarah is now a student at Grant MacEwan. She's in a two-year general studies program leading to a career in nursing. So, Sarah, would you rise, and we would be delighted to give you the traditional welcome.

Bill 44

Personal Information Protection Act

The Chair: The hon. Minister of Government Services.

Mr. Coutts: Thank you, Mr. Chairman. I'm pleased to rise this evening in Committee of the Whole to discuss Bill 44, the proposed Personal Information Protection Act. Just a few general comments before bringing in some amendments.

I want to speak about the content of the bill, and I want to talk briefly about the importance of the bill. The Personal Information Protection Act will help protect Albertan's personal information by establishing clear, concise, and commonsense rules for the private sector when collecting, using, and disclosing personal information. If Alberta does not enact the Personal Information Protection Act, the federal private-sector privacy act will govern personal information in Alberta's private sector on January 1, 2004. The Personal Information Protection Act will address Alberta's private-sector needs better than the federal act. Our legislation is drafted to make it easier for small businesses to follow. For these reasons the government of Alberta strongly supports the proposed Personal Information Protection Act, and we urge the opposition to join with us in supporting this bill.

I'll turn my comments to the content of the bill for just a few moments before the amendments. As the members know, Bill 44 had first reading in the spring 2003 session, but it was held over until the fall session to allow time for additional stakeholder input. Stakeholder input has led to a number of proposed House amendments to Bill 44 and a few consequential amendments to other government statutes to ensure their consistency with Bill 44.

So, Mr. Chairman, with your permission I propose to address the House amendments and the consequential amendments this evening as we go through committee, through the substance of the bill, and I am pleased to introduce these amendments to Bill 44, which I wish to move as a package and have voted on as a single vote.

Section 1 of the bill sets out a number of definitions including the terms "business contact information," "investigation," "personal information," and "organization."

We are making a few House amendments to the definition section. First, the term "credit reporting organization" is being defined to clarify the provision in the act that uses this term.

Secondly, the definition for the term "investigation" is being simplified but not substantially changed.

Third, the term "organization" is being clarified to address how the act deals with contractors and agents of an organization. The reference to contractors and agents is being moved from the definition of the term "organization" to section 5, the provision of the act that deals with compliance. This amendment is housekeeping in nature and will make it clearer that organizations are responsible for their contractors' and agents' compliance with the act but that contractors and agents must still comply with the act.

Finally, the definition of "personal information" is being modified. Currently personal information is defined to exclude business contact information. On the advice of our drafter the exclusion of business contact information is being removed from the definition section to the section that deals with all of the other exclusions from the act, which is section 4. This amendment is housekeeping only and will not change how the act addresses business contact information. Business contact information will still be excluded from the act when it is used for the purposes of contacting individuals in their capacity as an employee or an official of an organization.

When it comes to the reasonable standards in section 2, the bill sets the standard for compliance with the act, and that standard is the reasonableness standard. This standard is important because it ensures that the act is flexible for small and medium-sized businesses. If businesses act reasonably, they have no problem with complying with the act.

Section 3 establishes the purpose of the act, and the purpose is to govern an organization's "collection, use and disclosure of personal information" in a manner that balances the privacy rights of individuals with the need of organizations to collect, use, and disclose personal information for reasonable business purposes.

Under Application in section 4 it establishes what is not governed by the act. The act does not govern matters such as the collection, use, or disclosure of personal information for personal or domestic purposes, artistic or literary purposes, or journalistic purposes. The act also does not govern personal information that is collected by the Freedom of Information and Protection of Privacy Act.

We are making a few House amendments to section 4. First, as mentioned earlier, we are moving the exclusion of business contact information from the definition section to section 4.

Secondly, at the request of Health and Wellness the exclusion for health information in section 4(3)(e) is being amended. This amendment will exclude from Bill 44 all health information "where that information is collected, used, or disclosed by an organization for health care purposes."

The third House amendment to section 4 will exclude from the act personal information in records deposited in archival institutions prior to the coming into force of the act where public access to the records has been unrestricted.

The fourth and fifth House amendments to section 4 will exclude political parties, constituency associations, and candidates for public office from Bill 44. The personal information held by political parties and constituency associations is already protected under the Election Act, which includes serious penalties for misuse of this information.

Section 5 indicates compliance with the act, that "an organization is responsible for personal information . . . in its custody or under its

control.” As mentioned earlier, we are making a House amendment to section 5 to clarify that organizations are responsible for their contractors’ and agents’ compliance with the act but that contractors and agents must still comply with the act.

When it comes to policies and practices under section 6, this establishes that organizations must develop and follow reasonable policies and practices to meet their obligations under the act. Organizations must also make information about their policies and practices available upon request.

Where it comes to consent under section 7, section 7 states that unless the act allows otherwise, an organization must obtain the consent of an individual when the organization collects, uses, or discloses the individual’s personal information.

Under Form of Consent in section 8 it provides that consent can be given orally or in writing or it can be implied when an individual volunteers his or her personal information to the organization. Organizations can also give individuals the choice to opt out of the organization’s collection, use, or disclosure of the personal information.

Section 9, where we look at withdrawing of consent, allows individuals to withdraw or vary their consent as long as there are no legal obligations and they’re not affected.

Consent obtained by deception: section 10 states that consent obtained by deceit is not valid.

Limitations on collection in section 11 requires organizations to “collect personal information only for purposes that are reasonable.”

Limitation on sources for collection: section 12 states that organizations can collect an individual’s personal information from someone other than that individual if the act allows this information to be collected without consent.

When it comes to section 13, requiring notification for collection, organizations are to notify an individual of the purpose for which their personal information is being collected and the name of someone in the organization who can answer questions about the collection. However, this requirement does not apply if the individual voluntarily provides his or her personal information.

8:10

Collection without consent: section 14 describes the situations where consent is not needed for the collection of someone’s personal information. These situations include where the collection is authorized or required by law, the collection is for a legal proceeding or investigation, or where the information is publicly available.

We are proposing three House amendments to section 14. Two of them are housekeeping in nature. One clarifies the intent of the opening paragraphs of section 14, and the other clarifies the meaning of section 14(g). The third House amendment to section 14 adds to the act another situation where consent is not needed for collection of personal information. The additional situation is where the collection of information is from a public body that is required or authorized by legislation to disclose the information.

Section 15 allows an organization to collect personal employee information without consent in certain circumstances. We are proposing two House amendments to section 15. The first amendment will require organizations to provide notice to employees prior to the collection of their personal employee information unless the information can be otherwise collected without consent under the act. The second House amendment to section 15 is the deletion of a requirement for organizations to destroy the personal information of potential employees if these individuals are not hired after a recruitment process. The act’s general provisions regarding record retention address this issue sufficiently.

Under section 16 a limitation of uses requires organizations to use personal information only for purposes that are reasonable, and

section 17 describes the situations where consent is not needed for the use of someone’s personal information. This provision mirrors section 14, which deals with collection of personal information without consent, and the situations where consent is not needed for the use of someone’s personal information include where the use is authorized or required by law, the use is for a legal proceeding or an investigation, or where the information is publicly available.

We are proposing two House amendments to section 17. These amendments mirror two of the House amendments proposed for section 14. One of the amendments is housekeeping in nature, and it simply clarifies the intent of the opening paragraph of section 17. The House amendment to section 17 adds to the act a situation where consent is not needed for the use of personal information. The additional situation is where the information is collected from a public body that is required or authorized by legislation to disclose the information.

Section 18 allows for an organization to use personal employee information without consent in certain circumstances. This section mirrors section 15, which deals with collection of personal employee information without consent. One House amendment is proposed for section 18, and it mirrors one of the amendments proposed to section 15. The amendment will require organizations to provide notice to employees prior to the use of personal employee information unless the information can be otherwise used without consent under the act.

Limitations on disclosure: section 19 allows organizations to disclose personal information only for purposes which are reasonable.

Section 20 describes the situations where consent is not needed for the disclosure of someone’s personal information, and this section mirrors sections 14 and 17, which deal with the collection and use of personal information without consent. The situations where consent is not needed for the disclosure of someone’s personal information include where the disclosure is authorized or required by law, where the disclosure is for legal proceedings or investigations, or where the information is publicly available.

There are four House amendments proposed for section 20. Two of the amendments mirror amendments proposed for section 14. The first amendment is housekeeping in nature, and it simply clarifies the intent of the opening paragraph of section 20.

The second House amendment to section 20 adds to the act another situation where consent is not needed for disclosure of personal information. The additional situation is where the disclosure of information is to a public body that is required or authorized by legislation to collect the information.

The third House amendment to section 20 clarifies the position that allows disclosure without consent for the prevention of fraud. The amendment has been requested by Alberta Revenue to ensure that regulation of the securities industry can continue its presence under the act. It clarifies that this provision also allows disclosure without consent for the prevention of market manipulation and unfair trading practices in the securities industry.

The final House amendment to section 20 is housekeeping in nature and clarifies that disclosure without consent under section 20(n) can only be carried out by a credit reporting organization.

Section 21 allows for an organization to disclose personal employee information without consent in certain circumstances. This section mirrors sections 15 and 18, which deal with collection and use of personal employee information without consent. One House amendment is proposed for section 21, and this amendment mirrors one of the amendments proposed for sections 15 and 18. It will require organizations to provide notice to employees prior to the disclosure of their personal information unless the information can otherwise be disclosed without consent under the act.

Section 22, when it comes to business transactions, allows organizations to collect, use, and disclose personal information without consent to another organization where the one organization is selling its business to another organization. There is one amendment proposed for section 22 that is housekeeping in nature, and the amendment will ensure that there is no conflict between this section and any other section in the act.

Sections 23 and 24, access to personal information, define two terms. Section 24 sets out the process an individual needs to follow to obtain access to his or her own personal information held by an organization, and it's important to note that the act only allows an individual to request his or her own information. The act does not allow people to request information about other individuals or about the organization itself. Section 24 describes the situations where organizations either may or must refuse access requests.

We are proposing two House amendments to section 24. The first amendment will ensure that individuals can only request access to their own personal information contained in a record. An organization will not be required to provide access to personal information disclosed in oral conversations. The second amendment clarifies that an organization does not have to provide access when access would reveal the identity of an individual who provided an opinion about the individual if the opinion was provided in confidence.

Section 25 gives individuals the right to request an organization to correct their personal information that is held by that organization, and section 26 establishes how individuals make requests for access to their personal information.

Section 27 requires organizations to make reasonable efforts to help applicants with access requests, and section 28 gives businesses 45 days to respond to an applicant's request for access unless the time period is extended under another section of the act.

Section 29 requires organizations to advise applicants whether access will be granted or why not. If an access request is granted, section 30 allows organizations to either provide the applicant with access to the records or copies of that record.

Section 31 allows organizations to take an extra 30 days to respond to an access request or, with the permission of the Privacy Commissioner, longer if the request would interfere with the operation of the organization.

Section 32 gives organizations the right to charge applicants reasonable fees for access requests.

Section 33 states that organizations must make reasonable efforts to ensure that personal information they collect, use, or disclose is accurate and complete.

Section 34 requires organizations to make reasonable security arrangements to protect personal information in its custody or under its control, and section 35 allows organizations to retain personal information as long as is reasonable for legal or business purposes.

The role of the commissioner in section 36 sets out general powers of the Information and Privacy Commissioner, and these powers include conducting investigations if complaints are received, holding inquiries into potential breaches of the act, and informing the public about the act.

Section 37 gives the commissioner the power to allow an organization to disregard an access request if the request would unreasonably interfere with the organization's operations or because the request is frivolous.

Section 38 describes the commissioner's powers when the commissioner is conducting an investigation or holding an inquiry, and we are proposing one House amendment to section 38. The House amendment would allow the commissioner to publish any findings or decisions in a complete or abridged form.

8:20

Sections 39, 40, and 41 place limits on the use and disclosure of statements or information provided to the commissioner during an investigation or inquiry, and sections 42 and 44 are general provisions relating to the operations of the commissioner's office.

Sections 45 and 47 allow how individuals initiate a complaint with the commissioner or ask the commissioner to review an organization's decision, act, or failure to act.

Section 48 establishes who the commissioner must notify when he receives a complaint about an organization or a request for a review into the conduct of that organization.

Section 49 gives the commissioner the power to mediate complaints or any matter under review. Sections 50 and 51 set out the procedures for a commissioner's inquiry. Sections 52 to 54 address what the commissioner can order at the conclusion of any inquiry and how long organizations have to comply with an order of the commissioner.

Section 55 applies to professional regulatory organizations such as the Law Society of Alberta or the governing body of engineers. Section 55 allows professional organizations to develop and follow a personal information code instead of the act as long as the code is consistent with the act. [Mr. Coutts' speaking time expired]

The Chair: I wonder if we might get unanimous consent to allow the minister to finish his comments so that we might get this on the table.

[Unanimous consent granted]

The Chair: The hon. minister.

Mr. Coutts: Thank you very much, Mr. Chairman, and thank you for the indulgence of the House. I have three and a half more, and I'll keep reading at the same speed and get it done. It is important to get this on the record.

We are proposing two House amendments to section 55. The first amendment ensures that the commissioner has the power to apply provisions of the act where a personal information code is inconsistent with the act or silent on the matter. The second amendment clarifies how a professional regulatory organization can obtain the minister's approval to have a personal information code stand in place of the act.

In terms of nonprofit organizations section 56 establishes that the act only applies to nonprofit organizations when they collect personal information in the course of a commercial activity. Section 57 states that the organizations are protected from legal action if they act in good faith when disclosing or failing to disclose personal information under the act.

Section 58, protection of employees, provides that organizations cannot take negative employment action against an employee if the employee in good faith informs the commissioner that the organization has contravened the act.

When it comes to offences and penalties, section 59 sets out all of the offences and penalties under the act. Under damages for the breach of the act, section 60 gives an individual the right to seek compensation in court if the commissioner has found that an organization has breached the act.

Section 61 sets out who can act on behalf of an individual in exercising an individual's right under the act, and section 62 contains the authority for cabinet to make regulations under the act. Regulations on unforeseen matters, which appear in section 63,

allow cabinet to amend the act through regulation, and a House amendment deletes this section.

Section 64 requires a legislative review of the act to start within three years of the act coming into force, and section 65 states that the act is to come into force January 1, 2004.

Included with this are the consequential amendments, Mr. Chairman. The Personal Information Protection Act makes a number of consequential amendments to other government statutes. The consequential amendments will ensure that the collection, use, and disclosure of personal information through these statutes will occur within the spirit and intent of Bill 44. In addition, a couple of the consequential amendments will permit disclosure of personal information for proper corporate governance matters.

The list of statutes being consequentially amended is as follows: Cemetery Companies Act, Charitable Fund-raising Act, Co-operatives Act, Credit Union Act, Financial Consumers Act, Insurance Act, Loan and Trust Corporations Act, Religious Societies' Land Act, Securities Act, Societies Act, and the Vital Statistics Act.

Thank you for your indulgence, Mr. Chairman, and I now move that we adjourn debate on Bill 44 in committee.

[Motion to adjourn debate carried]

Bill 43 **Post-secondary Learning Act**

The Chair: We have an amendment, which at the moment is known as amendment A1.

The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Chairman. Pursuant to Standing Order 32(2.1) I would request unanimous consent of the House that when division bells are called during consideration of amendments of this bill, the time of those division bells be reduced to one minute. I believe we have the consent of the opposition.

[Unanimous consent granted]

The Chair: Hon. Minister of Learning, go ahead.

Dr. Oberg: Thank you very much, Mr. Chairman. To continue debate?

The Chair: The first item that I must deal with is how we're going to divide this thing, so if you're speaking to that, please go ahead.

Dr. Oberg: Mr. Chairman, following consultation with the opposition, it has been agreed that the amendments currently on the floor and tabled by myself be split up in the following way to accommodate specific discussion, voting, and subamendments.

First of all, the main amendment we propose will still remain amendment A1. Section L, or tuition fees, in the amendments will be broken out to become A2. Section Q, which is regulations, will be broken out to become A3. Section S, which is labour, will be broken out to become A4. Section U, arbitration, will be broken out to become A5. Section Z, audits, will be broken out to become A6. Finally, Mr. Chairman, Section II, business plans, will be broken out to become A7.

Thank you.

The Chair: The opposition concurs with this split? Agreed? Okay. We're ready to go, then, on amendment A1 under the outlined

scheme, which means, then, that we're dealing with a whole bunch of things: A to K, M to P, R, T, V to Y, AA to HH, and JJ to PP.

The hon. Member for Edmonton-Mill Woods on amendment A1.

Dr. Massey: I'm sorry, Mr. Chairman. Was A1 section 62? [interjection] The rest of the amendments? Okay.

So in just talking, then, generally to the rest, let me start by thanking the minister for agreeing to pull out those portions of the amendments that we would like to focus on – we appreciate that; it makes it easier for us to deal with the number of amendments that are before us – and also for agreeing to the one-minute bells, because if there should be standing votes, that will, I think, expedite the business of the House. I think there are some general comments to be left with the number of amendments that are left.

8:30

Mr. Chairman, the process that the government used where they introduced the bill in the spring session and then consulted with groups over the summer and fall has many strengths, but it does have some downsides, and one is the number of amendments that you end up trying to deal with. I've got my bill tabbed, and it's a purple sea of tabs trying to keep track of all the information. Nevertheless, it was a process that the government undertook, and I think that having met some of the interest groups, it has allowed the interest groups to have their input, not always got the reaction that they wanted, but at least they had the opportunity to make and suggest some changes.

The minister earlier in the day tabled letters of support from a number of the institutions across the province, and we've had calls and contact from a number of the administrators and people in charge of those institutions in support of Bill 43, as we have with a number of the employee associations, not that they're universally happy, but they feel that the changes and the work that they did on Bill 43 has been recognized, and at this point they're for the most part satisfied with the provisions of the bill. There are a couple of sections that they aren't and that we'd like to raise, and that's why we've asked for those sections to be parceled out for further deliberation this evening.

So with those sort of preface remarks, Mr. Chairman, I think that if you look at the amendments in total, one of the concerns – and I think we've mentioned this before – that we've had with the bill is the centralizing of power in Edmonton. It seems that this is consistent with a number of pieces of legislation that have had a similar impact in funneling decision-making into Edmonton. I know that there are good reasons for that, but I also know that it's done at a price.

One of the concerns that it raises for us, particularly with Bill 43, is the treatment of all of the postsecondary schools in the province as one group. One of the great strengths, of course, of the Alberta system has been the uniqueness of the postsecondary learning institutions in the province. You only have to travel to Keyano College, SAIT, the University of Calgary, or the University of Alberta, and you realize how unique each of those institutions is and the special kind of niche that they have developed for the kinds of courses and programs that they offer students. The fear of the kind of centralizing that's gone on in the bill and goes on and is reflected further in these amendments and also the Campus Alberta initiatives are going to have a negative impact on that uniqueness. I think it's going to be, maybe in retrospect, something that we'll regret down the road.

I can understand, you know, Campus Alberta and the need to try to develop a seamless system across the province where pieces are interchangeable, but I also am worried about the quality of the offerings that would be made under such an arrangement. As I said,

I worry about the uniqueness of institutions being lost in this one huge massive system with pieces that are supposedly interchangeable, and it would be, I suspect, the future to see whether or not those fears are realized.

There are a number of good things that I personally support. I like the notion of students being able to access degrees and programs close to their own homes. I realize, given the vast geography of this province, that by not offering programs locally, we rule out further education and the pursuit of particular interests by a number of Albertans.

I referred to the quality. I think that sometimes we overstate the quality fear in terms of institutions. If you look south of the border and even with our own province, institutions become known for their reputation. When people attend a community college, I think they judge the credential that they receive from that college and value it every bit as much as the credential that someone earns from one of our major universities. So I think the institutions have a reputation and are known for the work that they do, and again I think sometimes the quality fears are overblown.

The sections in the amendments that have been proposed with respect to Campus Alberta I think are a move in the right direction and do focus on quality.

So with those general comments about Bill 43, I think I'll conclude my comments, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Strathcona on amendment A1.

Dr. Pannu: Yes. Thank you, Mr. Chairman. I'm pleased to rise and speak to the proposed package of amendments with the exception of those six that will be dealt with separately. I also do want to acknowledge the minister's attempt to make a decision on these amendments in a way that will I think help us deal more effectively with the bill and the amendments to it before us. So I am pleased that we have come to this agreement.

On the amendment A1, to distinguish it from the others, I have some concerns that I expressed during debate in the second reading of the bill. The primary concerns that I have still remain. The excessive centralization and over co-ordination of the system I think lead to one key concern that I have about the bill. The bill is being a sort of omnibus bill which tries to incorporate under one piece of legislation a very diverse group of postsecondary institutions, starting with highly research-based and -driven universities to a university that deals primarily with distance learning and another university in Lethbridge which prides itself on focusing very much on providing quality undergraduate degrees, although not exclusively undergraduate programs, to technical institutes to public colleges and many other colleges which, in addition to providing a large number of educational experiences, are on the borderline of high school and postsecondary, are focused on skill development and are directly related to work or labour markets.

8:40

All of these institutions draw attention to a great diversity, and any piece of legislation that tries to, of course, deal with this diversity under one piece of legislation is likely to run into some difficulties. To make the notion of Campus Alberta a seamless system I think is a far too ambitious ideal although it's desirable that within the, say, university-based related programs or courses the transferability issues should be dealt with in a way that facilitates students' attempts to get postsecondary education, leading them to complete their university credentials or degrees by moving from one institution to the other without much difficulty.

So some standardization, some harmonization is, indeed, important and desirable, and on that I think there's no difference of opinion, but the notion of Campus Alberta to me is based on perhaps an assumption which I find difficult to validate or find valid, that all these institutions can be sort of blended within the system in a way that makes it seamless. It is neither possible nor I think desirable.

One of the great characteristics of the postsecondary system is and should be ability to innovate, ability to be flexible, ability to experiment both within institutions and between and among institutions. This kind of flexibility, this kind of ability to compete with each other in pursuing in ways that are novel and fresh and nonroutine academic activity, academic work, I think is a highly desirable quality of a vibrant, productive, creative postsecondary system.

The Campus Alberta notion I think would make great sense if we were to assume that the only reason for being a postsecondary system is to feed into the economic growth or development initiatives and needs of the province. Clearly, an educational system, a postsecondary system, which includes universities, colleges, technical institutes, and other types of colleges, to define its purpose entirely and exclusively in terms of the relevance of their work to economic growth or economic development is really to start going down a path which in the not too distant future is likely to prove to be not only futile but very, very harmful to the future development – social, political, economic – of our very diverse and dynamic province and provincial community.

Universities particularly exist not only within the boundaries of a province; they have a sort of international and national context. The conditions that they're called upon to meet, the imposition of requirements on them in terms of the development of courses, programs, and variety in the research efforts and others must therefore be not so restrictive as to make it difficult for them to see themselves as part of this national and international network of scholarly and academic activity I call the international academic marketplace.

We have in Canada, for example, a national Association of Universities and Colleges, AUCC, which in a sense is an accrediting body. Most of the postsecondary institutions, degree-granting colleges and universities, aspire to get the seal of approval with respect to their work from this national academic association called the AUCC.

Necessarily, then, the notion of Campus Alberta must remain accommodative to this national body and its standards, its accreditation requirements, its expectations, and the desire on the part of its member institutions and those institutions which aspire to become members of it to be able to freely participate in the mandate of this organization called AUCC and to be able to keep their membership, retain it if they already have it, or to be able to meet the requirements of this body to become members and, therefore, enjoy the accreditation of this body. The requirements in the bill therefore, I think, must be considered in light of any possible conflicts between the requirements that may be outlined by way of legislation here and the requirements for accreditation that may be deemed necessary by the AUCC.

At this point I simply want to raise this point. I think we need closer scrutiny of the provisions of the bill to see whether there is potential for difficulties that might arise in the way the provisions of this bill interact with those requirements and expectations that the AUCC sets out for its membership of institutions and for the accreditation process that it uses and the accreditation requirements that it uses.

One other point I would like to make by way of general comments on amendment A1 is the need for a respect of autonomy of

institutions. The historical experience of academic systems, the history of academic institutions that are the envy of the world, clearly draws attention to the fundamental necessity, fundamental need for these institutions to enjoy as great an autonomy in defining their purpose, defining their goals, defining their missions as possible.

Again, I think the notion of Campus Alberta in a sense, in my view, will take away from that autonomy that is seen to be so necessary and that historically has proved to have such a critical role in allowing these institutions to become world leaders in the academic world and the academic community. So the principle of autonomy would seem to be something that may be compromised if the notion of Campus Alberta as broadly defined here and outlined here in the bill is taken to its logical conclusion.

So uniqueness and diversity of institutions within a system and autonomy of each leading institution within the system are important. The notion of Campus Alberta and the desire to create sort of a seamless system may run counter to these two principles to some extent. At least that's my concern.

The third point that I made has to do with the national context in which the whole question of accreditation of courses, programs, and institutions has to be addressed. It can't be seen as primarily a provincial matter as it seems to me is assumed in Bill 43, specifically the portion of it that we now refer to as amendment A1.

With those remarks, Mr. Chairman, I'll conclude my preliminary remarks and move on to the other members.

8:50

The Chair: The hon. Member for Edmonton-Ellerslie on A1.

Ms Carlson: Thank you, Mr. Chairman. I'm happy to add my comments and concerns on this particular bill, Bill 43, the Post-secondary Learning Act, specifically to the amendments that we have labeled A1.

I always think it's better if the government does a little more consultation up front and irons out the problems in proposed legislation before it hits the floor of the Assembly. It's much easier for us to deal with, it's easier to get buy-in from people in the community if they can be part of the drafting of the legislation, and I think generally speaking it's beneficial for everyone concerned.

When that doesn't happen and when the government looks to change legislation that is comprehensive such as we saw when they first brought Bill 43 in in the late spring, then there are bound to be extensive amendments. The good news is that if there are extensive amendments, the government has listened to at least what some people have said. The bad news is that we end up seeing them in this Legislature at a very late date without a great deal of time to consult stakeholders and review the bills. Generally speaking, the government likes to bring them in in one big honking package like we've seen this time, and that isn't very conducive to thorough review and examination, Mr. Chairman.

Fortunately, the government agreed to pull some of the more contentious issues out of this particular package for individual debate, and we have before us now amendment A1, which, in fact, covers many, many sections of this particular bill. While some of them I don't have a depth of knowledge on to comment, there are some concerns that I do have about some of these amendments in A1 that I would like to put on the record and in some instances some things that I like.

For instance, in section A, when we talk about the applied degree being able to be granted by public colleges or technical institutes on the completion of the appropriate course work, for the most part I am in real agreement with this. It is nice in a province like Alberta that

we can try to make education accessible to people. Allowing some of these other organizations to provide degrees certainly increases the possibilities for people in more remote areas of Alberta to get an education. It isn't always that they can't afford to come to the city to take their education, but they don't always choose to do so, Mr. Chairman, for lifestyle considerations.

It seems to me, particularly when I talk to young women across this province, that they're apprehensive about pulling up stakes at home and moving to a large city and finding accommodation and fitting into that kind of a venue. Generally speaking, in those first transition years out of high school they want to go for more education in a place that's closer to home, and this certainly gives them that potential. As they become a little more comfortable, then they can make the choice whether or not to move to a larger area where there are universities. There's another upside to that. Generally speaking, the public colleges or technical institutes have much smaller class sizes, and most students would agree that that's a real benefit in their first year. As they make the transition to more self-directed study, it's helpful to them to not be in very large classes.

The downside of having these kinds of applied degrees, as I see it, is that you lose the research ability that the larger institutes have.

So you have to wonder what kind of impact that has in the long term on the students and on the institute's ability to be leaders in whatever the particular field is that they're offering. Without research it's really tough for learning institutes to grow and to build and to think outside of the box and develop new ideas and technology, which has been a hallmark of Alberta institutes. I think we have to be cognizant that this could present an issue and that over time it might be a problem in this province. With that caution, I hope that the minister plans to monitor this in some fashion, and I hope that all of the directly affected institutes will be reporting back to the minister on how they see that impacting their ability to provide education to the students and to still be leaders in a variety of fields.

There's usually quite a large differential in price for tuition in colleges and other institutes as compared to universities, and a large component of that is often tied to research dollars. So if people don't understand the necessity or the importance of research and they base their decisions on where they're attending solely on the basis of a cost, then I think that we could have some long-term problems in that regard. However, given the long waiting lists that we currently have for the universities and the high level of marks that students have to attain in order to be admitted in the first instance – perhaps I'm overly concerned about this – I think a cautionary flag should go up. I think that it is something that should be watched not just for the next year or two but, more importantly, watched and monitored for the next 10 to 15 years because I think that's when we're going to see that the impact is really over the long term rather than over the short term.

The next part of the amendment that I want to talk about in A1 is section G, and that's a section that talks about the changes for the institutes and colleges to "establish a process for the review and approval of proposed programs of study to be submitted to the Minister." I don't actually have an opinion on this one, Mr. Chairman, because I'm not sure what the minister does when he gets all of the that information in. Is he trying to co-ordinate a standard level of programming, or are you just archiving the information? I really don't know what you do with it, and I wouldn't mind if you would answer that question for me.

The next concern I have is section P, that talks about the borrowing abilities that are being given to the institutes. I have a problem with educational institutes having access to being able to borrow money whether it's general overdrafts or for more

comprehensive changes to the institute like infrastructure changes. I know that many of the financial institutes would completely disagree with me on this one, but I think that it is the responsibility of government to make sure not only that the institutes have their money on time, when they need it, but that there is a long-term planning function in place so that retrofits and expansions and upgrades and regular significant maintenance and repairs are done and are done in a capital manner in accordance with funding from the government.

What we see in section P are several areas of changes with regard to borrowing abilities. The first one, in 73(1), talks about

A board may borrow from any bank or treasury branch or from any other person any sum of money required to meet the expenses of the public post-secondary institution until the time the revenues for the current year are available.

This is an out for the institutions to be able to meet their expenses if the government doesn't have the money forthcoming in a reasonable time period. I would expect the financial institutions to be handling the other moneys they have available to them in a way that is consistent with those moneys becoming available at the time they need them.

9:00

It seems to me that this is particularly addressing the government's timing issues around money. That's been a pet peeve of mine in this Legislature since I was first here, and that is that the government often doesn't have its budgets ready for approval by the end of the fiscal year, and by the time those approvals are given, people are somewhat into their fiscal year and do have real problems with shortfalls of cash. It isn't just educational institutions. It's everyone who receives money from the government, be it small nonprofit organizations or otherwise.

So there's an extra administration burden placed on these financial institutions, including a cost of borrowing for the interest charges. What they need to do is then have staff in place to do the planning. If the money doesn't come in by here, where do we go for the money? How are we going to negotiate the interest rates? How are we going to pay it back? What happens if we take a short-term loan and the money still isn't available? What if there's some last-minute change in the dollars available? Higher is not a problem, but lower certainly is a problem. So it creates unnecessary stress on organizations.

I believe that it should be a requirement of governments to have their budgets in to Legislatures by February when the fiscal year is March 31 and fully debated by March 15 so that moneys can be disbursed in a time that works with the year that the government uses for their fiscal time period. It just seems to be good common sense, and anything less than that creates a lot of unnecessary paperwork and concern for the people receiving the moneys.

Section 73(3) talks about:

Subject to the approval of the Minister, a board may for the purposes of the public post-secondary institution, as defined in section 73.1, borrow by way of temporary loans from any bank or treasury branch or from any other person any sums of money on any terms the board determines, by way of an overdraft or line of credit or by the pledging as security for the temporary loans of notes, bonds, debentures or other securities of the board pending the sale of them, or instead of selling them, or in any other manner the board determines.

Once again, I just think this is an unnecessary clause to have. Proper timing for institutions is doable and should be the way that business is conducted. It isn't like I don't know what I'm talking about here, because that is my background. Prior to being in politics, I did a lot of work with organizations to ensure that the timing of their money

received coincided with the time that they needed it. It isn't that tough to do. A little planning and you can be there.

Then they go on to talk about debenture borrowing in section 73.1(1), and this talks about borrowing sums of money from time to time and issuing notes, bonds, debentures or other securities. It then goes on to list a number of the conditions, which really result in no conditions. It seems to be pretty easy to access them.

Debenture funding usually occurs for large kinds of infrastructure concerns or developments or buildings. This specifically speaks to a move away from the government being a base funder for educational institutions and, I think, paves the way for P3s and other kinds of expansion opportunities for these institutions that, I'm pretty sure, 20 years hence we're going to be concerned about and say: this was a very bad idea. I don't think that debenture borrowing is the way that we should be looking at for our educational institutions to be financing their expansions or major renovations. So I really don't like that one and would have like to have seen that as a stand-alone amendment that came up for debate that we could show to a few people prior to having this debate this evening.

Other than that, it seems like the rest of the amendments in this package of A1 are not of any really grave concern to me. I look forward to debating the more contentious amendments that are on the floor for a little later this evening.

So with that, Mr. Chairman, I will take my place and listen to the rest of the debate on this particular amendment.

[Motion on amendment A1 carried]

The Chair: We now move to amendment A2, which is section L. The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Chairman. You almost need a program to follow what we're doing this evening.

Amendment A2 is that portion of those amendments that refer to section 62, and section 62 is the part of the bill – I guess it's been the most contentious part of the bill – that sets the tuition rates in our postsecondary institutions or sets out the laws that have to govern it.

One of the things that was done in the early '90s was the placing in the act of a tuition cap of 30 percent. I remember talking to students at the time and asking them why they had agreed to 30 percent. Their response was that they had no choice, that the minister of the day told them that he wasn't willing to talk to them unless they were willing to accept a 30 percent cap. Now, whether that's true or not, that's how the history of the 30 percent cap was related to me. But the 30 percent cap represented a change in public policy in our province, a change that would see students and their parents and families bearing a greater portion of postsecondary school costs. It's had a significant effect on students and, I think, a number of unintended consequences.

The cap has allowed tuition rates to rise. I know the minister is fond of pointing to the ranking of tuitions that various institutions in the province enjoy, but it would seem to me that of all the provinces in the dominion, ours is the one that could provide leadership in having the very lowest of tuitions. No other province is as blessed as we are. I think no other province is in the position to recognize the huge, huge benefits of having a well-educated population and has the resources to do something about it.

We constantly hear the notion of education being treated as an investment, and that analogy still bothers me, the notion that we view everything we do within the context of a business model, but I think there are some sound economic arguments for having the best educated population that we possibly can and particularly the best postsecondary programs and graduates that we possibly can.

9:10

Nevertheless, the 30 percent cap has been in place. A number of institutions will never come anywhere close to that cap. I suspect that Keyano College, a number of places, will never be close to the 30 percent, but there are a number of others – and the minister has mentioned the University of Lethbridge – that are approaching the cap. What this provision does is really nullify the effect of having a 30 percent cap, because if they reach the cap, then some other provisions kick in which allow them to exceed the 30 percent cap that's in place. They are allowed to increase the tuition in the following year to match the "Consumer Price Index plus 2%, which must not result in a decrease or be greater than 5%."

So there are provisions for tuition in this portion, and this amendment opens the door for institutions to far exceed 30 percent, and if the institutions took advantage of it year after year, we could see where the tuition could represent a significant portion, well past 30 percent, of the operating cost of the institution. In fact, there was, I think, a sobering communiqué from one of our technical colleges today that they're going to be over a three-year period looking at a 26 percent plus increase in tuition. I suspect that should this become enacted, that's going to be more the practice than not, and we're going to see some rather large tuition increases that will affect the kinds of students that attend our institutions and will affect the kinds of programs that students choose when they're thinking of pursuing a postsecondary education. There's already some evidence that students from middle-income families are becoming underrepresented in postsecondary populations.

So it's with that in mind, Mr. Chairman, that I would like to propose an amendment to what we are calling amendment A2, to section L.

The Chair: Hon. member, a subamendment?

Dr. Massey: Yes. A subamendment to section L.

The Chair: The subamendment will be known as SA1, which is amending amendment A2. A subamendment to A2. So SA1 amends amendment A2.

Did you want to go ahead?

Dr. Massey: Thank you, Mr. Chairman. The amendment before us reflects, I think, some of the current thinking of student leaders in the province with respect to what they would like to see in a tuition policy, but I take full responsibility for it because there are some pieces that are not of their doing.

What it would do first would be to strike out section L and then to substitute the following. I think it's fairly clear what we have in mind. First of all, "tuition fees at public post-secondary institutions shall not be increased beyond 2003-2004 levels until" – and then these are the provisions; so, actually, there's a tuition freeze – "the Minister establishes an independent panel to conduct a comprehensive review of Alberta's post-secondary institutions."

So, first of all, we'd like an independent panel to look at our postsecondary schools, and we've mentioned this a number of times during the session, Mr. Chairman. I think it's becoming imperative that the province look down the road in terms of where we are going 10, 15, 20 years from now with respect to funding our postsecondary institutions. I think there's a need to try to make sure that those institutions are going to be, firstly, adequately funded so they can do the job that they're mandated to do and, secondly, that it be affordable for students and, third, that there be some predictability with respect to funding.

Mr. Chairman, in funding Alberta's postsecondary institutions, the problems that we face are similar to the problems faced in all the

provinces, and to my knowledge no province has taken the lead. I don't think this can be done solely by the province, because the federal government has a role in this, but I think there has to be a real attempt to sit down and hammer out a long-term plan that would bring some stability to the funding of postsecondary schools and help take the pressure off institutes continually having to turn to students to make up operating costs. So the first part of our amendment is to have an independent panel review the postsecondary institutions, and this is consistent with what the Learning Commission has asked for.

Secondly, the panel's report would be forwarded to the minister, who would share copies with the members of the Assembly and make the report public. So the minister would make public those recommendations that refer particularly to tuition, and "upon completion of the report prepared under subsection (1), . . . tuition fees must be set in accordance with the regulations."

The third one would really place the 30 percent cap and make it a real cap, that they should not exceed 30 percent of net operating expenditures. If the review is undertaken and does its job, then I would think that the yearly battle we have over tuition might no longer be with us.

Then, fourthly, "This section does not apply in respect of students in apprenticeships programs under the Apprenticeship and Industry Training Act."

So, briefly, that's our subamendment with respect to section L of the government's amendment. Thank you, Mr. Chairman.

9:20

The Chair: The hon. Leader of Her Majesty's Loyal Opposition on subamendment SA1.

Dr. Nicol: Yes, on subamendment SA1, Mr. Chairman. I'd just like to talk about the importance that we place on having an absolute built into tuition fees. I know that the whole system of what is fair and what is equitable in terms of institutions starts to come up when we start to talk about a cap, or a limit, being put on tuition fees as a percentage of an institution's operating grant, but we also have to look at the long-term effect that this has on students. You know, the way the original amendment is being applied in the sense of having a cap with exceptions leads to what creates some discussion about: is the exception appropriate? In effect, we end up in a situation like we heard about today, where SAIT is talking about applying for exceptions to bring in their tuition on a regular basis at levels above what the base level would allow but being subject to that exception.

I know the minister has pointed out the fact that the University of Lethbridge in my home community supports this kind of an idea, but it's more a reflection of the fact that the funding formulas don't reflect the difference between institutions rather than that all institutions should be treated the same, with one set of regulations. When we look at it from the point of view of what is the relevant cost of educating a student and who gets the benefits, if we used the 30 percent as the approximate ratio between the public good and the individual good of the student, then we should be making that kind of a relationship exist for all students. But when we come along and say at some point in time that an institution, whether it be a technical institute or a college or a university, can apply for exemptions, then we're saying that they're going to be treated differently based on their circumstances.

What we should be doing is making sure that the funding formula we use to measure operating expenses is unique and equal across all those institutions so that that relationship between the public and private funding of a student's education is consistent no matter which institution you go to and no matter which program you're in.

A situation came up today in a discussion I was having with a couple of individuals about funding for education. We were talking about capital funding as well. Some of the institutions now are in effect using their operating grants to fund capital projects. What's happening is that they're leasing space, and they're building this into their operating grants, especially if they're getting research grants that have that option built into them where they can expand space. Well, that jacks up the operating grant of the institution so that they can subsequently jack up tuition by 30 percent of that capital cost as well. This in effect varies, then, by institution, whether an institution needs to expand capital assets through the operating grants or whether they expand their capital assets through a capital grant that doesn't get included in their operating grant.

So what we in effect have is a real discrepancy being created between the management of institutions. We're encouraging institutions now to start managing to increase their operating grants so that they can increase tuition and further increase their revenues by having higher tuition to carry on their programs. This reflects on the fact that we don't have the right funding formulas. I guess that as we start to look at who gets the benefit out of an education, yes, the individuals do, but we also do get this kind of benefit at a societal level from having individuals with quality and abundant levels of education and a large percentage of our population with postsecondary education.

We don't want to be in a position where we're creating discrepancies. By giving exception to the rules under regulation, we're in effect making political decisions about the relative shared costs of an individual's education and the institution that that individual may end up taking that from. We should take the politics of ministerial decision-making out of whether or not a student goes to this institution or takes that program at an institution. That, in effect, is what the current amendments would end up doing by giving institutions the right to apply for exemptions to the 30 percent level of tuition as a percentage of their operating grant.

Mr. Chairman, I don't want to spend a lot of time on it, but I just want to make sure that we get a chance to look at it. It's better to change the formula and the way we measure operating revenues and operating expenditures than to try to create political situations where who can make the best argument or who can't make the best argument gets the option to change their tuition fees. That, in effect, makes tuition policy political instead of a policy based on what is appropriate, fair, and equitable for all students in this province.

So I would encourage everybody to support this subamendment because this basically says: let's make sure that all students relative to the operating costs of their institution are treated fairly. So I hope everybody supports it.

Thank you, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Chairman. I, too, am very much in support of the subamendment presented by the Member for Edmonton-Mill Woods and am very much opposed to the government's amendment as we see it in A2. It's a very important issue that we talk about in terms of tuition fees. There are all kinds of outstanding issues that need to be resolved about how they are determined and whether or not institutions have started at the same place, that there's a level playing field out there. It is clear, I think, that there isn't when you take a look at the government amendment talking about different rules for different organizations.

I very much support the establishment of an independent panel to conduct a comprehensive review of institutions and then that that report and recommendations are forwarded to the minister and then,

hopefully, acted on with regard to tuition fees, because what we have right now is a situation where many students are just scared off by the costs and that there doesn't seem to be any continuity from year to year. When they're planning their education and if they're lucky enough to have parents who are helping to finance that process, it would be nice to know in a three- or four- or five-year bundle what kinds of expenses they're truly looking at and be able to incorporate that into the process.

I know that there are lots of institutions and lots of faculties who don't support tuition caps, who would like to make the changes, and certainly we have this discussion at home quite often. I understand the argument that to be globally competitive, you have to pay higher priced salaries to attract some professors. I understand that argument, and I want Alberta's institutes to be globally competitive. I want people to be paid fair and reasonable salaries, but I don't think you do that on the backs of students. I just don't think that's right.

I fundamentally believe that in Alberta we should be committed to providing accessible and affordable education, particularly postsecondary education, for anybody who wants it. If we really think that lifelong learning means from cradle to grave, then we have to facilitate that process. One of the best ways we can do that, one of the best economic drivers we can have for our economy, is to provide free or as close to free postsecondary education as we can. There are lots of countries who have done this and who have proven beyond a shadow of a doubt that that is the economic driver that you're looking for.

9:30

I do not believe that fiddling around with caps or lifting caps or increasing the percentage that students pay for tuition facilitates that process in any way, and it does not attract the best possible students to our institutions to do that. They need some certainty in their lives. There are other ways to be able to fund institutions, and I think that this subamendment brought in by the Member for Edmonton-Mill Woods certainly addresses those issues and starts us on a path to finding a resolution that is long term in nature and that is sustainable for this province and for the students of this province for a long time to come.

So I very much support this subamendment, and I very much do not support the government's tuition fees amendment. Thank you, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Glengarry on subamendment SA1.

Mr. Bonner: Yes. Thank you, Mr. Chairman. It is a pleasure to rise this evening and speak to Bill 43, subamendment SA1, as proposed by the hon. Member for Edmonton-Mill Woods. Certainly it is a needed amendment to Bill 43, and it is a required amendment at this particular time because it occurs at a time in our postsecondary institutions when tuition fees are rapidly becoming out of reach for many of our students. Certainly, while the students do benefit from education at a postsecondary institution, the benefits to us as a society are great.

As well, Mr. Chairman, we do have to put on a permanent cap that isn't flexible, and that is exactly what this particular amendment will do. Under section 62(1)

tuition fees at . . . post-secondary institutions shall not be increased beyond 2003-2004 levels until

- (a) the Minister establishes an independent panel to conduct a comprehensive review of Alberta's post secondary institutions, and

- (b) the panel's report on recommendations are forwarded to the Minister who shall immediately furnish copies of it to all members of the Legislative Assembly and to the Clerk of the Legislative Assembly and in so doing the report shall be made public.

Of course, this is essential because this is, certainly, one of the recommendations that will address the concerns of the student leaders at many of these institutions.

We all know today that students do encounter many hardships, particularly those that don't have the luxury of living at home while attending a postsecondary institution. As well, not only is tuition one of the major hurdles that they face, but they face the increased costs of transportation, food, shelter, and textbooks. When I see the price that my daughters have had to pay for textbooks, in excess of \$100, these costs certainly provide a big burden.

So with this amendment, when we cap the tuition fees, this has gone a long way to make education very affordable for students and certainly will give them some certainty when they are trying to plan their careers. It is one of those situations where we do have today students who have an average debt of somewhere in the vicinity of \$25,000 when they graduate. We don't want to see that escalate because we all realize the benefits that we get from a well-educated populace.

Now, then, as well, one of the reasons that I support this particular amendment is that these fees will be set. They will not be allowed to increase. The amendments that were put forth earlier indicated that those institutions that reach their 30 percent cap will then be allowed to increase their tuition fees to the consumer price index plus 2 to 5 percent.

So it is with those few comments, Mr. Chairman, that I will certainly support the passing of this particular subamendment, SA1, and I would urge all members of the Assembly to also support this worthy amendment. Thank you.

The Chair: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Chairman. I'd like to briefly speak to subamendment SA1, that's being debated before the House. The amendment, first of all, speaks to the fact that the amendments proposed by the minister under amendment A2 do not satisfy either the students or, certainly, this member with respect to the issue of the capping of the tuition fees. What the amendment A2 does, in fact, is to allow institutions which have reached a 30 percent ceiling to go beyond that, and institutions that haven't yet reached there have been given the legislative undertaking that once they reach that point, then they'll be able to go beyond it as well.

So changes that the minister has made other than putting the magnitude of the increase beyond 30 percent in legislation – and that magnitude is defined as consumer price index plus 2 percent or 5 percent, whichever is greater. That guarantees, as a matter of fact, that the minimum increase beyond the 30 percent level maximum guaranteed to institutions would be up to 5 percent. To me that doesn't at all address the concerns that students have expressed over the last six or seven months that this bill has been available publicly and for public debate and scrutiny.

Mr. Chairman, the current level of tuition fees is so onerous for so many students and their families now that many students from middle-class families, families whose income levels are such that students coming from those families cannot even qualify for student loans, are beginning to make decisions not to go to postsecondary institutions because in the absence of their ability to avail of the student loans, they simply cannot see themselves funding their way through postsecondary institutions. So already, even in institutions

where the tuition fees are below the 30 percent ceiling, many young men and women in Alberta wanting to go to those universities and institutions are saying: "No. I can't afford it. It's not for me."

The issue of affordability is already a major issue even though the 30 percent ceiling has not been reached by many of these institutions in the province. Students are in fact beginning to stay away. They're beginning to decide not to go to college or university because of the high cost of going there.

Tuition fees are one portion of those costs which, certainly, is subject to some control by way of public policy. That's where, I guess, the government's tuition fee policy becomes so critically important for students. They know that this is subject to influence by public policy. This particular amendment A2 and the subamendment to it, proposed by the hon. Member for Edmonton-Mill Woods, speaks to that condition, that affordability and accessibility are already at stake. Affordability is already being denied by the current levels of tuition fees that prevail at the institutions which haven't yet reached 30 percent.

9:40

In spite of the fact that that is the case, this amendment proposed by the minister fails to acknowledge that problem of unaffordability and accessibility and, in fact, prescribes continuing, unending increases in tuition fees year after year even beyond the time when the 30 percent limit is reached. Clearly, I think that amendment proposed by the minister as A2 is unacceptable and hence the subamendment SA1 by the Member for Edmonton-Mill Woods.

The amendment proposed by the Member for Edmonton-Mill Woods in the first part, at least, calls for a tuition fee freeze up to a certain time, until such time as an independent panel conducts an investigation. I'm not entirely satisfied with the second part, but certainly to the extent that the amendment speaks to the need to freeze tuition fee levels at the current level, I'm supportive of this amendment.

Mr. Chairman, there is urgent need for this Assembly to speak strongly and clearly in favour of making postsecondary education accessible and affordable, affordable for all families and young men and women coming from all parts of Alberta. Merely granting institutions the powers to grant degrees in places which are now colleges is not enough. We must control the cost for all students regardless of where they live in this province so that they are not deterred and discouraged from their plans and aspirations to enter postsecondary institutions and get a diploma or a degree depending upon their ability to earn it, not depending on their ability to pay for it.

So I am with some reservations supportive of the amendment that the Member for Edmonton-Mill Woods has put before the House. Thank you.

The Chair: Before actually voting on the question, in case there is a division, a reminder to all the members of the Assembly: it's one minute between the bells as agreed to earlier this evening, so altogether it's about two minutes and 30 seconds. Judge yourself accordingly.

[The voice vote indicated that the motion on subamendment SA1 lost]

[Several members rose calling for a division. The division bell was rung at 9:45 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Bonner	Massey	Pannu
Carlson	Nicol	

Against the motion:

Cao	Horner	Nelson
Cardinal	Jablonski	Oberg
Cenaiko	Jonson	Ouellette
Danyluk	Kryczka	Rathgeber
DeLong	Lord	Renner
Ducharme	Lukaszuk	Snelgrove
Evans	Lund	Stelmach
Forsyth	Marz	Strang
Friedel	Masyk	Tarchuk
Griffiths	McClelland	VanderBurg
Hancock	McFarland	Vandermeer
Herard		

Totals:	For – 5	Against – 34
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[Motion on subamendment SA1 lost]

9:50

The Chair: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Yes. Thank you, Mr. Chairman. I would like to make a subamendment to amendment A2. That is the section dealing with tuition fees in the proposed amendment by the minister.

The Chair: Hon. member, would you provide the table with copies, and hopefully you'll have the original.

Dr. Pannu: Indeed, yes, Mr. Chairman.

The Chair: And the rest of the copies for other members.
Go ahead, hon. member.

Dr. Pannu: Okay. Mr. Chairman, I move subamendment SA2 to amendment A2 to Bill 43, the Post-secondary Learning Act. I move that it be amended by striking out section L and substituting the following. Section 62 is struck out, and the following is substituted.

62(1) Subject to subsection (2), the board of a public post-secondary institution other than the Banff Centre shall set the tuition fees of the public post-secondary institution in accordance with the regulations.

(2) The board shall not set tuition fees in excess of 2003-2004 levels.

So that's the amendment, Mr. Chairman. It's very straightforward. It's clear in its intent. It seeks to radically amend amendment A2 and calls on making changes with legislation to freeze tuition fees at the 2003-2004 academic year level.

The justification and the reasons for this amendment are very clear. As I've said already, a very large number of postsecondary students in this province are victims of the financial hardship that skyrocketing tuition fees that have tripled over the last three years have caused for them. Not only is it the case with students coming from modest-income families or low-income families; it's becoming a problem for middle-income families and students coming from them. The budgets of all families, including middle-class families, are stretched to the limit, and there's no more room for parents to further subsidize the postsecondary education costs of their children.

So it's necessary that this bill must take cognizance of this

situation and take appropriate actions, and the action required, Mr. Chairman, as I say, is to begin by freezing the tuition fees at the level at which they are during the current academic year, and then in the following years this Legislature should consider, in fact, a reduction in those tuition fees rather than allowing them to increase endlessly year after year as proposed in amendment A2 by the minister.

So I ask all members for their support for subamendment SA2 to amendment A2. Thank you.

The Chair: The hon. Member for Edmonton-Mill Woods on SA2.

Dr. Massey: Thank you, Mr. Chairman. The subamendment as put forward by the Member for Edmonton-Strathcona, I think, again underscores the importance of the provisions in this bill with respect to tuition, and I regret that we're having to deal with it this way, but the whole business of tuition as seen from a student and a parent's perspective has been dealt with, I think, very unsatisfactorily.

What we would have here, again, would be a freeze for the 2003-2004 levels. I would hope, again – and it was the proposal that we made in other forums – that if there is a freeze put in place, there is an attempt to rationalize the tuition policy. I think this would be a good intermediate step, but I think that we need much more. We've seen what freezes have done in other provinces. When they were lifted, there has been a rapid increase, and I don't think that that's sound planning either.

I think the student proposal that there be an independent committee look at tuition fees makes sense, but we need more than that. We need to rationalize the financing of postsecondary institutions in the province. We need, as I think I've indicated on a number of occasions, a long-term plan. I don't think the kind of ad hoc budgeting that's done with respect to tuition and financing of our institutions is viable any longer, and we desperately need to rationalize what's being done.

I think that if the notion of having students pay more of the freight with respect to their postsecondary education were put to the vote in the province, it would fail. I think that there's widespread public support for making sure that postsecondary education is as affordable and accessible as possible for students, and I don't think the provisions in the bill as amended by the government do that.

So I support the subamendment that we have before us and hope that it will receive the sanction of the Assembly.

Thank you, Mr. Chairman.

[The voice vote indicated that the motion on subamendment SA2 lost]

[Several members rose calling for a division. The division bell was rung at 9:59 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Bonner	Massey	Pannu
Carlson		

Against the motion:

Abbott	Horner	Nelson
Cao	Jablonski	Oberg
Cardinal	Kryczka	Ouellette
Cenaiko	Lord	Rathgeber
Danyluk	Lukaszuk	Renner

DeLong	Lund	Snelgrove
Ducharme	Magnus	Stelmach
Evans	Marz	Strang
Forsyth	Masyk	Tarchuk
Friedel	McClelland	VanderBurg
Griffiths	McFarland	Vandermeer
Hancock		

Totals: For – 4 Against – 34

[Motion on subamendment SA2 lost]

The Chair: We're ready to vote now on amendment A2, section L, as moved by the hon. Minister of Learning.

[The voice vote indicated that the motion on amendment A2 carried]

[Several members rose calling for a division. The division bell was rung at 10:05 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Abbott	Herard	McFarland
Cao	Horner	Nelson
Cardinal	Jablonski	Oberg
Cenaiko	Jonson	Ouellette
Danyluk	Kryczka	Renner
DeLong	Lord	Snelgrove
Ducharme	Lukaszuk	Stelmach
Evans	Lund	Strang
Forsyth	Magnus	Tarchuk
Friedel	Marz	VanderBurg
Griffiths	Masyk	Vandermeer
Hancock	McClelland	

Against the motion:

Bonner	Massey	Pannu
Carlson		

Totals: For – 35 Against – 4

[Motion on amendment A2 carried]

The Chair: We now proceed to the next item, which is amendment A3, which is section Q. Are there any comments? The hon. Member for Edmonton-Mill Woods.

10:10

Dr. Massey: I'm on my feet so that I don't miss an opportunity, Mr. Chairman.

Section Q, the amendment as proposed by the government, would amend section 78(1)(a). If you go back to the original bill, 78(1) talks about the accountability of boards and, in particular, the business plans. The government's proposal says:

Each year a board must prepare and approve a business plan that includes

- (a) the budget and other information required under the regulations, and
- (b) any other information required by the Minister.

This amendment Q as proposed by the government would strike out "and other information required under the regulations." On the

whole section and particularly that section that says, "Any other information required by the minister," and then subsection (2), "The business plan approved under subsection (1) must be submitted to the Minister on or before the date specified by the Minister," we've had some discussion with the minister about the requirement on the submission of business plans, and there has been reference to two other statutes and their bearing on the preparation and submission and approval of business plans by the ministry.

This is particularly troubling with respect to the independence of universities. Other institutions, I think, are different from universities with respect to the role that universities are expected to play with respect to criticism. Universities are expected to be open forums, and they're expected to provide social criticism of our institutions. Often that involves criticism of governments, and it seems to me it places universities in a possibly very difficult position should they take issue with the government of the day and then have to depend upon that same government for the approval of their business plans. So that is the root of the difficulty with this section, Mr. Chairman.

I think we've seen examples in this House of members upset with reports that have been produced by institutes. I remember a report that was produced by an institute that examined the role of government cuts on women and children in the province and how that report was met with outrage that was expressed in this House and a suggestion that something should be done with respect to the institute that had commissioned and issued the report. So I think that there are examples of when the government has been displeased, to say the least, with criticism coming from institutes and from university quarters, and the worry is that they're going to lose some of their independence.

Though it's been practice for universities to submit those business plans, we think that this is the opportunity to see that practice discontinued and to ensure that universities are the independent institutions that I think universities, at least universities with international reputations, have become known for: their independence and the independence of the thinkers that work in those institutions. We think that anything that would harm that is something to be avoided.

So I would like to propose an amendment, Mr. Chairman, that would strike section 78 out of Bill 43. I have copies of that.

The Chair: This is subamendment SA3. Do you have the original?

Dr. Massey: Yes, I do.

The Chair: That's needed for the official records. Has the minister got one?

Dr. Oberg: Yes, I have.

The Chair: The hon. Member for Edmonton-Mill Woods on subamendment SA3.

Dr. Massey: Thank you, Mr. Chairman. I'm sorry if some of the members are upset that we're spending so much time on this bill, but this is a huge bill. Bill 43 is an important bill, and it's the first opportunity that the opposition has had to make suggestions and to try to effect some change. So I know that the evening is long for some of the members, but as I indicated, this is an important piece of legislation. It's worthy of our examination, particularly when we're faced with the number of amendments that the government has put forward.

The subamendment I've put forward is straightforward. I've spoken to it already. We're asking that section 78, that would have the minister approving the plans and in fact controlling some of the information that is submitted by in particular universities but in this case all boards, just be removed from the original bill.

Thank you, Mr. Chairman.

The Chair: The hon. Minister of Learning.

Dr. Oberg: Thanks, Mr. Chairman. Very, very quickly, if we were to vote for subsection 78, it would not change the universities' need to put in business plans as that is under the Government Accountability Act. The reason it is included in this act is that the Government Accountability Act does not apply to the Banff Centre, and we are currently ensuring that the Banff Centre, being a public institution, puts forward its business plans to the ministry as well.

Thank you.

The Chair: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Chairman. I rise to speak to amendment A3 and the subamendment proposed to it. The amendment that is made in A3 doesn't go far enough to ensure that the minister and the government, that is the state, do not through this legislation give themselves the right for interference in the independence and autonomy of postsecondary institutions, particularly the university.

10:20

In my opening remarks earlier this evening on Bill 43 and its study during committee I drew attention to certain principles that should guide any legislation and policy affecting postsecondary education institutions and particularly universities, and one of those principles was the principle of autonomy. Mr. Chairman, it's of absolute and critical importance that the independence of universities be maintained. A healthy, democratic, open society in fact must guarantee for its own openness, in defence of its own democratic institutions and processes and values, that we guarantee to institutions such as universities the full freedom that will allow the researchers, the writers, the speakers, the faculty, and the academy as a whole to be able to speak freely and without restraint about matters of public good, common good, public policy.

So the amendment proposed here, A3, retains within it the powers for the minister to seek any other information than would be necessary just for financial accountability. I think that challenges the fundamental principles of a democratic and open society in which the universities play a very key role in encouraging debate, in presenting dissenting views, in presenting fearless but thoughtful criticism of people and groups in authority and in power. The state is one of the most powerful institutions in our modern society, and therefore it must not reserve for itself the right to demand and receive any information of the universities that its representatives might require.

[Mr. Herard in the chair]

Information with respect to financial accountability: yes, that certainly is part of the business plans, and that is a reasonable requirement given that public funds, taxpayers' money, is being spent on that. But taxpayers also expect as democratic citizens their institutions such as universities to have the full freedom to express themselves on matters that the members of universities – academics, students, administrators – think are critical to the preservation, protection, and enhancement of public interest and common good.

Since this amendment A3 in my judgment strikes at the very root of what the university is about – free speech, free thought, expression of dissent, and undeterred criticism of powers that be – I think that the subamendment proposed by the Member for Edmonton-Mill Woods does go a long way in removing what I consider to be a very, very flawed part of Bill 43 in its amended form.

So I speak in favour of the subamendment as proposed by the Member for Edmonton-Mill Woods.

[Motion on subamendment SA3 lost]

[The voice vote indicated that the motion on amendment A3 carried]

[Several members rose calling for a division. The division bell was rung at 10:27 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Abbott	Herard	McFarland
Cao	Horner	Nelson
Cenaiko	Jablonski	Oberg
Danyluk	Jonson	Ouellette
DeLong	Kryczka	Renner
Ducharme	Lord	Snelgrove
Evans	Lund	Stelmach
Forsyth	Magnus	Strang
Friedel	Marz	VanderBurg
Griffiths	Masyk	Vandermeer
Hancock	McClelland	

Against the motion:

Bonner	Massey	Pannu
Carlson		

Totals:	For – 32	Against – 4
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[Motion on amendment A3 carried]

10:30

The Chair: We now have for our consideration in committee amendment A4, which is to the part that's section S.

The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Chairman. The amendment for section 88 strikes out the section that is in the bill and substitutes a section entitled Compulsory binding arbitration, and 88(1) says:

Where a dispute that arises during the negotiation of an agreement under section 87 cannot be resolved by the board and the academic staff association of

- a public college,
- a technical institute, or
- a public post-secondary institution established after the coming into force of this Act,

the board or the academic staff association shall refer the dispute to compulsory binding arbitration.

- Where a dispute that arises during the negotiation of an agreement under section 96 cannot be resolved by the board and the graduate students association of a university, the board or the graduate students association shall refer the dispute to compulsory binding arbitration.

So these are the two sections of this particular part of the bill that have caused some consternation. I believe, if my history is correct, and I think it is, there has not been a strike by academic staff in any of our institutions in the history of the province. Now, as I say, I stand to be corrected.

I think that in the past associations have voluntarily given up this right, have made provision in the contract that would disallow strikes and would prevent job action. So the strike provisions are being struck from this bill, and they're being replaced with binding arbitration. I think, given the practice and the history of negotiations in the province, that it's an unnecessary restriction.

I think it's a solution that is being proposed before there's a problem. It's unnecessary. I think it's inflammatory. I think that trying to prevent and to solve problems before they arise in this case is maybe well-intentioned but I think in the end does a disservice with respect to employees. I think the provisions are, as I said, unnecessary, and I think it's unfortunate that they're here, Mr. Chairman, and I would urge members of the Assembly to vote against it.

Thank you.

The Chair: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Chairman. I rise to speak to the subamendment to amendment A4. Amendment A4 represents a very, very minor retreat from the position that was taken by the minister, who is the sponsor of the act, in the original motion where, of course, strikes and lockouts are prohibited. The language itself is very hostile to some very fundamental democratic rights in the area of employer/employee relationships. The Alberta labour code, although it's not the model to be followed in the rest of the country, does include the right to strike as a legitimate democratic civil right. So the provisions in the original draft were in that sense quite odious, odious to democratic principles and democratic values.

The retreat from that is a good sign, but the retreat seems to be merely symbolic because in effect the substitution of the prohibition of strikes with compulsory binding arbitration and that being the only avenue available to employees and employers amounts to the same thing. It still takes away the right to strike, and, Mr. Chairman, removal of the right to strike as provided for in this legislation is unnecessary in the sense that the incidence of such decisions or such actions has been rare indeed. The 40-some years that I have spent either directly in postsecondary institutions or being around them tell me that it's a very, very, very rare occurrence.

But democratic rights must be respected regardless of whether they're exercised or not. If democratic rights are respected only if those who have these rights give the undertaking that they will exercise them, then there's no point in having such rights. So even if it were the case that strikes had been used in the past more frequently than perhaps once – one occasion has been brought to my attention – that's no reason to be apologetic about the demand about the expectation that this right must be respected, must be retained in legislation for employees of universities.

The compulsory arbitration is no substitute for the right to strike. It doesn't in any way diminish the severity and the real intent of this legislation, which is to extinguish this fundamental and democratic right of employees. For that reason alone, I'm opposed to amendment A4. I don't think it does anything at all to show respect for that fundamental right to strike that in a democratic society is a common thing. It's not something that's an exceptional right that somehow needs to be rolled back now because its existence and its exercise have done some irreparable damage to the postsecondary system in this province. They've no such evidence. It has not been exercised. Even if it is exercised, there is no reason to take it away.

It seems to me that the attempt in this bill to take away this right from university employees, university faculty, students is another step towards taking this right away from all categories of public service employees, and that is simply not something that should be acceptable in our province and to this Legislature.

I have expressed, I think, my strong opposition to the provisions of amendment A4, and the only way that we can improve this bill with respect to this particular issue is by simply striking out section 88 altogether from the bill. So I speak in favour of the amendment proposed by the Member for Edmonton-Mill Woods.

Thank you, Mr. Chairman.

10:40

The Chair: Hon. member, I'm sorry. You kind of lost me. Right now I don't have an amendment on the floor from Edmonton-Mill Woods.

Dr. Pannu: Mr. Chairman, I stand corrected. I'm ahead of myself. I think you're right. I apologize for the error.

The Chair: The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Chairman. I think it's safe to say, though, he doesn't like what the government's doing, and neither do I.

When you take a look at this particular amendment, where they bring in compulsory binding arbitration, you have to ask yourself the question: why would they bring this particular amendment in? It seems to me that when we look at amending legislation, there should be a good reason for doing it, something substantive. It corrects an existing problem, or it changes current legislation to fall in line with practices that have changed or something of that nature. When we take a look at this, when you take a look at staff that haven't gone on strike – I also don't remember an instance of that ever happening in this province – you have to wonder why the government would think they had to bring in a heavy foot and put in place compulsory binding arbitration when there's never been an existing problem.

Does the government have information that we don't have? Are they expecting some ongoing problems, or are they just pursuing a political philosophy? If they're just pursuing a political philosophy, which is to stop people from organizing or having a right to have some say in how they are employed and how they are compensated for that employment, then I have a real problem with these kinds of amendments.

We don't want to see unnecessary amendments and legislation coming forward in this Assembly. It's a waste of everybody's time, and it often brings in legislation that is punitive in nature and does not help the process of us getting the business done of educating students and having world-class education facilities in this province.

So I am completely opposed to this particular amendment, and I am very surprised that the government would have brought it in at this time.

The Chair: The hon. Minister of Learning.

Dr. Oberg: Thank you very much, Mr. Chairman. Very quickly and very briefly in response to the hon. members who have just spoken, last year Mount Royal College was within about four hours of a strike and/or lockout which would have lost approximately 3,000 students their one semester and their one year.

The Chair: Any further debate?

[Motion on amendment A4 carried]

The Chair: Our next amendment for consideration this evening is amendment A5, which is item U in the package, amending section 92. Any comments with respect to this amendment? The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Chairman. I'm pleased to make some comments about the A5 amendment. This is the section with respect to model dispute settlements, Mr. Chairman. Briefly, the amendment as proposed by the government is that

if an agreement concluded or renewed under section 87(1) does not contain provisions respecting the matters set out in section 87(3)(b), (4)(e) and (g), (5)(d) and (e) or (7), as the case may be, the agreement is deemed to contain the provisions set out in the regulations in respect of which the agreement is silent.

If you go back to the original bill, I think you have to reference it in 92(1):

If an agreement between the board and the academic staff association of a university does not contain the provisions required under . . . 87(3)(b), the agreement is deemed to contain those provisions set out in the regulations in respect of which is silent.

Sorry, Mr. Chairman, but you have to find your way between the different provisions of the act.

The provision that they're referring to is:

An agreement between the board and the academic staff association of a university shall, with respect to the employment of academic staff members, contain provisions respecting at least the following matters:

- (a) establishment of salary rate and wage rate schedules for the purpose of setting the salaries or wages payable;
- (b) procedures respecting the settlement of differences between the parties arising from the interpretation, application or operation of the agreement.

So it's saying that those provisions with respect to wages must be included. It's part and parcel of the writing of agreements in the negotiations that go on between the board and the associations that we're concerned about and the dictating of those provisions in legislation.

I think that that briefly is what the amendment is about, and our concern, as I indicated, is that the provisions of agreements are being dictated by the act and not being left to the two parties involved to work out and determine.

The Chair: I wanted to just ask a question for clarification so that the chair might understand. In section 92 in the amendment A5 there isn't a number subsequent to 92, so is this amending subsection (1), (2), or (3) of this section?

Dr. Oberg: Three.

The Chair: Okay.

The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Chairman. I see that since my colleague from Edmonton-Mill Woods started debating this particular amendment, we've been joined by more people in the gallery, and if it sounds confusing to you up there, it's confusing to us too.

10:50

We have a big bill. We have a huge package of amendments. We have huge sections that this act refers to that are being deleted or somewhat deleted or slightly changed. While we've had these amendments for a few days to look at them, there hasn't been an

opportunity to take them out en masse to stakeholder groups, and we are getting feedback coming back to us in bits and dribs, and the government does not stand up and defend their positions on these particular amendments. So it's very slow going tonight. At least the government consented to break part of this big amendment package out so that we could deal with some of the more contentious issues as they come forward.

This one, amendment A5, the model dispute settlement provisions, is quite contentious, Mr. Chairman. It takes away the right for people to negotiate their livelihood, and that's a real problem as far as I can see it. There is nothing good about what they've eliminated from the act, and with the model dispute settlement provisions that they've put in place, once again how academic staff can negotiate their contracts is going to be decided by a political mandate rather than equal partners coming to the table and being able to negotiate an agreement that is compatible for everyone concerned. So I certainly find this to be an offensive amendment and will be quite pleased to vote against it.

Dr. Pannu: Mr. Chairman, this section of the bill and amendment A5 reflects once again a sort of authoritarian streak that runs throughout this bill, and that's why I find it unsettling that we are rushing through this at this speed. It's a bill which has provisions which are highly consequential for everyone working at postsecondary institutions, and there's no real debate on the floor with respect to the possible consequences of these provisions.

This particular amendment really does nothing to reassure me that the minister and the government are not trying by way of this bill to centralize more and more authority and power in their own hands at the expense of the rights of both employers and employees at each of the postsecondary institutions to have the opportunity to engage in meaningful negotiations and determine what is going to be contained in the agreements that they negotiate and what's not to be contained in there. That should be a matter for open and free negotiation between employers and employees and not a matter that should be determined or decided in the end by user regulations, by the minister, or by the government.

So it's yet another, I think, instance of the authoritarian nature of this whole bill and how it strikes at the very root of what values should inform our postsecondary institutions, not only in specific instances but in general. The very culture of postsecondary institutions must be such, and the legislation should encourage the development of culture so that it is such that it encourages democratic values, strengthens democratic values, respects democratic principles and the democratic way of doing things, making decisions, interacting with each other in business matters that pervade every aspect of the institutions. After all, these are institutions which are the sites where our future leaders are growing up, are learning and growing as persons, as citizens as well as scholars and experts, and to infuse these institutions with a sort of authoritarian set of values as embodied in this act is highly disturbing and unsettling for me.

So I'm opposed to this particular section. In the original bill it's section 92, and its amended form as expressed by A5 still falls far short of what I expect the Ministry of Learning to be wanting to do in order to strengthen democratic values and democratic decision-making in postsecondary institutions. So I'm opposed to this amendment, Mr. Chairman, for that reason.

The Chair: The hon. Minister of Learning.

Dr. Oberg: Thank you very much, Mr. Chairman. No offence to the previous speakers, but quite simply what this amendment states is that if certain factors are not included, if they are not negotiated

within the contract, then they will be deemed negotiated as per the regulations.

I'll give you an example. Number 5(e) states, "Procedures for determining rights relating to copyrights and patent matters involving discoveries made in the course of employment." Quite simply, Mr. Chairman, if these are not ironed out in their contract, there can be a considerable amount of difficulties for the professor who has made an invention, for example.

So all we're saying is that if they are not in the contract, they will be deemed to be in the contract by virtue of regulation. This in no way stops the two parties from being able to negotiate what is in the contract.

[Motion on amendment A5 carried]

The Chair: Our next item for consideration is amendment A6, which is item Z on page 13, dealing with section 97. Comments? The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Chairman. This particular section, section 97, has been of great interest to students because it directly affects the operation of their organizations.

Section 97 and the five subsections of the bill as circulated last May have been struck, and in their place is this amendment Z. Under section (1)

each student organization of a public post-secondary institution shall provide audited financial statements annually to the board of the public post-secondary institution and shall make the audited financial statements available to students of the public post-secondary institution on request.

(2) Where an investigator appointed under section 99 finds irregularities in the management of the financial affairs of a student organization, the Minister may
and it goes on to say,

- (a) suspend or terminate the term of office of one or more members of the council . . .
- (b) appoint an administrator to exercise the powers and perform the duties of the council until a new council is elected, and
- (c) take any other action that the Minister considers appropriate to remedy the irregularity.

And then

(3) An administrator appointed under subsection (2)(b) shall be paid the remuneration and expenses determined by the Minister out of the funds of the student organization.

So for students it's a hard provision to swallow, and it strikes, I think, at the view that's built into this bill of students and student organizations.

Mr. Chairman, the overwhelming majority of students attending postsecondary institutions are adults. They're 18-plus. They form student organizations. They're duly elected by the student body, and I think they've always viewed themselves as fairly independent, that they are really in charge of their own affairs. The history of student organizations in the province – there have been literally thousands of student councils over the years, and they've conducted their affairs as we would expect an adult organization to conduct its affairs in the interest of its membership.

11:00

So I think it's with that kind of background, that sort of context, that students find the provisions of the bill and the way they're being treated somewhat offensive. These particular provisions with respect to audits are troubling for students. Again, it seems to be a paternalistic approach to student organizations by the government, that students feel is unwarranted. They find these provisions unacceptable, Mr. Chairman.

I would like to now move a subamendment that I think would

better reflect how students would see the whole business of audits handled.

The Chair: This will be called SA4. You've given me the original?

Dr. Massey: Yes.

The Chair: Good show. The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you. The amendment would simplify section 97 and provide that

each student organization of a public post-secondary institution shall make publicly available audited financial statements when a simple majority of students who are members of the student organization have indicated in a plebiscite that the organization should prepare an audited financial statement.

I think the intent is rather clear, Mr. Chairman. The organizations are required to adhere to a number of regulations and procedures. They have internal mechanisms for dealing with their financial affairs. They have public obligations with respect to those financial affairs, and the notion of an outside investigator being appointed and all the provisions of the subamendment I think they feel are unnecessary given the kinds of obligations that they already have.

My colleague will speak briefly about the costs involved under section 97 with respect to audits. The proposal in the amendment would simply relieve the student organizations of those costs, yet there would be a provision that should students want audited statements made public and distributed publicly, that could be handled, and the mechanism is suggested in the subamendment.

So with those comments, Mr. Chairman, I'll conclude.

The Chair: The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Chairman. I do not like the government amendment brought in, A6, but I certainly do support the subamendment that was brought forward by the students to our caucus. Once again I ask: what's the purpose of having put this original amendment in place? Have there been consistent problems with the kinds of financial statements that have been provided by these organizations?

What happens is that all organizations provide some form of financial statement. Most of them are at least review engagement reports where accountants have looked at them, have compiled the figures, and have some verification of the information provided to them. If these organizations are required to go to audited statements for each financial year, then they are looking at substantial cost increases. A review engagement report can be compiled, depending on the size of the organization, for anywhere from \$700 to \$1,500. I've never seen an audited financial statement for even a very small organization that came in with a price tag of less than \$5,000.

So where are the students supposed to get this kind of money? They're students. They don't have money in the first place by the time they end up paying out money for their tuition and for their living accommodations and for their student loans and for their books and for their ability to eat once in a while. Then if they belong to a student organization, look at the fees that are going to have to be charged to be able to provide this service, which I don't see as being a necessary service.

Now, this amendment the way the government has brought it in is a way to force students to disband and to minimize those students who can afford to join organizations. So we bring a class tiering system into student organizations, which I think is completely

against any philosophy that we should be supporting at the education level. Definitely for the financial constraints but also definitely for the real ceiling this puts on students' rights to be able to organize and to form associations, this has got to be one of the worst amendments we've seen.

The benefit of having student organizations is immense. The ability for them to participate in educational processes, in democratic processes, their rights to free speech and to bring contentious issues to the public for discussion and for debate is of importance, as all generations have recognized and all times in history have recognized. This is the fountain of new ideas. This is where we get the out-of-the-box solutions, and this is what propels us to next-generation innovations. If we start to put a lid on these organizations, we are really stifling their independence and their creativity and their ability to fully participate in the same way that all of us had an opportunity to participate when we were students.

So I'm going to support this subamendment and vote against the government amendment.

The Chair: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Chairman. Amendment after amendment continues to disappoint those of us who have a very different vision of postsecondary institutions and the kinds of procedures and rules and values by which those institutions and their members should live and act. This audit requirement and the minister's attempt to give to himself the power to dismiss duly democratically elected student bodies and send investigators to do the job for them carry a message which is very unhealthy when you combine it with other sections of the bill.

11:10

I must, Mr. Chairman, with your permission apologize to the House for not being able to find my way through the procedural maze. I had an amendment to section 93 of the bill on student affairs. I wanted to amend that section to again remove some of the limitations set around the ability of a student organization to define the purposes of the organization independently of what the purposes of the institution's members may be. Both the provisions of section 93, which obliges student bodies to conduct their affairs consistent with the purposes of the public postsecondary institution, and the provisions of this section 97 as amended by amendment A6 in my view take away from these duly elected bodies and student bodies in general the right to exercise their liberties and freedoms, which are the rights of all of us as citizens and as adults and as members of a democratic community.

So I stand opposed to amendment A6 and would like to support the subamendment introduced by the Member for Edmonton-Mill Woods. Thank you, Mr. Chairman.

[The voice vote indicated that the motion on subamendment SA4 lost]

[Several members rose calling for a division. The division bell was rung at 11:14 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Bonner	Massey	Pannu
Carlson		

Against the motion:

Abbott	Horner	McFarland
Cao	Jablonski	Nelson
Cardinal	Jonson	Oberg
Cenaiko	Kryczka	Ouellette
Danyluk	Lord	Rathgeber
DeLong	Lukaszuk	Renner
Ducharme	Lund	Snelgrove
Forsyth	Magnus	Stelmach
Friedel	Marz	Strang
Griffiths	Masyk	VanderBurg
Hancock	McClelland	Vandermeer

Totals:	For – 4	Against – 33
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[Motion on subamendment SA4 lost]

The Chair: Our next item, then, for consideration is amendment A6 as moved by the hon. Minister of Learning. All those in support of amendment A6, please say aye.

[The voice vote indicated that the motion on amendment A6 carried]

[Several members rose calling for a division. The division bell was rung at 11:18 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Abbott	Horner	McFarland
Cao	Jablonski	Nelson
Cardinal	Jonson	Oberg
Cenaiko	Kryczka	Ouellette
Danyluk	Lord	Rathgeber
DeLong	Lukaszuk	Renner
Ducharme	Lund	Snelgrove
Forsyth	Magnus	Stelmach
Friedel	Marz	Strang
Griffiths	Masyk	VanderBurg
Hancock	McClelland	Vandermeer

11:20

Against the motion:

Bonner	Massey	Pannu
Carlson		

Totals:	For – 33	Against – 4
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[Motion on amendment A6 carried]

The Chair: We next have for our consideration this evening amendment A7 as moved by the hon. Minister of Learning.

The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Chairman. These are the provisions in the amendments with respect to the Lieutenant Governor in Council regulations. The original bill has an extensive list of powers that are given to the cabinet, to the Lieutenant Governor in Council, and the amendments as proposed in section II are just as extensive. One of the questions it raises is one that was raised in a previous piece of legislation that we examined earlier today, the privacy legislation,

where the federal Privacy Commissioner made some comments about regulations. To paraphrase what the commissioner said, it was that regulations should be made with respect to minor housekeeping items with respect to that legislation.

That certainly stands in contrast to what is being authorized here. It says:

- The Lieutenant Governor in Council may make regulations
- (a) defining, for the purposes of this Act and the regulations, any word or expression used but not defined in this Act;
 - (b) respecting tuition fees, for all boards other than the board of Banff Centre, including regulations
 - (i) respecting the publication of information . . .
 - (c) respecting the application of section 62 to students.

So with those sections on tuition they can make regulations and effect its application.

- (d) listing pension plans . . .

Almost every aspect of the legislation is detailed or possibly affected by the regulations that are laid out in section 124 of the act.

I believe, Mr. Chairman, that this goes too far, that the kind of regulatory authority being given to the cabinet is really, really being overdone. I wonder, if the legislation is as good as we would hope it would be after the government has presented it and consulted with groups across the summer and fall period, why there would be need to delegate to the Lieutenant Governor in Council the powers that we see listed under this section of the act. I think it's unfortunate. I think it also contributes to the feeling that somehow or other the act hasn't been carefully enough thought through in places to stand alone and not require additional modification and changes by the cabinet.

We've raised the whole business of regulations in previous debates, Mr. Chairman. I think we've made some small progress. The Minister of Justice was good enough to post the provisional – I think it's provisional – or draft set of regulations with respect to legislation that was going to be put forward. I think that that was a step forward, because as we all know, the devil is in the detail of the regulations. But I think the whole business of leaving to regulations so much of the authority for what happens has been sort of a slippery slope that we've gone down in the province, and I think this is an example of where we shouldn't be going with respect to the regulating ability of the cabinet.

Thanks, Mr. Chairman.

Ms Carlson: Mr. Chairman, I too speak against this particular amendment. It's my belief that this government would be quite happy if it could say that Bill 43 were changing postsecondary education and that all the detail will be in the regulations and we'll figure it out later, because that's what we've seen time after time in this Legislature with bills that they've brought forward. They like to spend the least amount of time in here. They do not like to defend their policies. They like to bring in legislation that is very loosely put together, that does not have a lot of definitions or defining moments in it, and everything is pushed off to the side to regulations, where they can do them behind closed doors and where they don't give anybody, public or opposition or anyone, the opportunity to review and have some input in them.

As the Minister of Justice knows, this isn't a common practice. Other jurisdictions post their regulations well in advance of the legislation being debated. He's tried to do that with some of his legislation, and that's a positive move. What it does is put the detail out there for people to see where the intention of the legislation is in terms of where it's going to go, and then there's an opportunity for stakeholders and other directly affected parties to look at it, to debate it, to talk amongst their organizations, to see whether or not the

regulation is going to be a positive or a negative impact and then negotiate with the sponsoring government members to change them as necessary.

Not here. Not with this government. They bring in a flawed bill from the beginning, have to take months to go out to people and try and get it fixed, and then bring in another huge package of amendments that still aren't very good. We bring in subamendments to their amendments to try and improve it, and still the bulk of the issues are going to be dealt with in regulations. Well, that's just poor legislation, it's just poor government, and I'm not going to vote for it.

The Chair: The hon. Member for Edmonton-Strathcona.

Dr. Pannu: Thank you, Mr. Chairman. This is the last of the amendments, and it certainly is reflective of the general tone of the bill. The skeleton is in the bill and the substance is in the regulations, and in this Legislature, which should be insisting on dealing with the substance, the matters that really affect and are going to impact students, faculty, institutions simply are not going to be available to this House for debate.

11:30

In debate as it has been in this House tonight on this very important bill, only one side has been speaking. There can't be a debate if there's a sort of monologue going on here, which is regrettable, I think. Putting much of the substantive matter into the regulations, which are to be decided by the cabinet, where there's never going to be an opportunity for this House to look at them, debate them, criticize them, analyze them, examine them, is a practice that must sooner or later stop, but I don't expect the present government to take steps to move in that direction.

The powers of this Legislature have been moving gradually into the hands of the executive, and this particular amendment is a good example of how that shift in relative powers of the Legislature and the executive have changed over the last six and a half years that I've been part of this process. I regret that, and I must say that I will be voting against this amendment.

Thank you.

[Motion on amendment A7 carried]

[The clauses of Bill 43 as amended agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

[The voice vote indicated that the request to report Bill 43 carried]

[Several members rose calling for a division. The division bell was rung at 11:33 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Tannas in the chair]

For the motion:

Abbott	Horner	McFarland
Cao	Jablonski	Nelson
Cardinal	Jonson	Oberg
Cenaiko	Kryczka	Ouellette
Danyluk	Lord	Rathgeber

DeLong	Lukaszuk	Renner
Ducharme	Lund	Snelgrove
Forsyth	Magnus	Stelmach
Friedel	Marz	Strang
Griffiths	Masyk	VanderBurg
Hancock	McClelland	Vandermeer

[The Deputy Speaker in the chair]

Mr. VanderBurg: Mr. Speaker, the Committee of the Whole has under consideration certain bills. The committee reports Bill 43 with some amendments. The committee reports progress on Bill 44. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly. Thank you.

Against the motion:

Bonner	Massey	Pannu
Carlson		

The Deputy Speaker: Does the Assembly concur in this report?

Totals:	For – 33	Against – 4
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Hon. Members: Agreed.

[Motion to report Bill 43 carried]

The Deputy Speaker: Opposed? So ordered.

The Chair: The hon. Government House Leader.

Mr. Hancock: Mr. Speaker, I would move that we adjourn until 1:30 p.m. tomorrow.

Mr. Hancock: Thank you, Mr. Chairman. I move that the committee rise and report Bill 43 and report progress on Bill 44.

[Motion carried; at 11:40 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]

[Motion carried]

