

Legislative Assembly of Alberta

Title: Wednesday, May 10, 2006 8:00 p.m.

Date: 2006/05/10

head: **Committee of Supply**

[Mr. Marz in the chair]

The Chair: I'd like to call the Committee of Supply to order.

head: **Main Estimates 2006-07**

Finance

The Chair: I recognize the hon. Minister of Finance.

Mrs. McClellan: Well, thank you, Mr. Chairman. It's a pleasure to present the Ministry of Finance's estimates for 2006-07, and I'm sure it's a pleasure for everyone to know that this is actually the last department in estimates. It's been an interesting and I think productive and useful exercise.

I have some staff in the gallery. As always, we have a little trouble seeing up there with the light behind them, but I believe Brian Manning, my deputy minister, is there. Bonnie Lovelace is there. Bonnie is the senior financial officer. Nancy Cuelenaere is there. She's the person we phone late at night when we can't find something. She's our acting controller. Darwin Bozek from financial services is there. Marie Iwanow is our new communications director. Maureen Osadchuk from my office I think is no stranger to any of you.

Mr. Chairman, as Minister of Finance I was proud, on behalf of my colleagues in government, to present Alberta's 13th consecutive balanced budget. It is a budget, we believe, that addresses current needs while leveraging today's very strong fiscal standing to help prosperity for future Albertans. We have a lot to be proud of in this province. Our accumulated debt has been eliminated. We still maintain the highest credit rating of any province in Canada, and we have the lowest overall tax load in Canada.

This budget does build on Alberta's tax advantage. There are measures in this budget that will help us maintain our competitive position and enhance the fairness of the tax system. Albertans have already saved \$1.5 billion from cuts to personal income taxes between 1999 and 2001. That is a significant number. That includes, of course, implementing the introduction of the 10 per cent single rate.

These savings have been protected year after year by indexing our tax system to inflation. I think that's very important. Albertans will save an additional \$77 million in 2006 as a result of the continued indexation of the provincial income tax system, along with an extra \$100 increase to basic spousal and eligible dependants tax credits. As well, another very important program, the Alberta family employment tax credit, which benefits low- and middle-income working families, will be fully indexed to inflation beginning July 1, 2006.

Mr. Chairman, along with the enhancements to the personal income tax system, these changes mean a typical working family with two children can effectively earn up to \$37,000 before paying any provincial income taxes. Another 140,000 low-income Albertans are also benefiting from changes to health premium insurance subsidies that were introduced in April of this year. The income threshold to qualify for subsidies was raised by \$5,000, saving Albertans about another \$30 million this year.

We've heard some criticism about our reduction of the corporate tax rate. I'm not sure that anyone in this House at this point would

suggest that that was a wrong move, but it's important to put on the record why we feel it's important to continue our target of an 8 per cent corporate tax rate. We were able to move it to 10 per cent this year. What that does is recognize that Alberta and Alberta companies compete in a global economy. It's not just simply a domestic economy anymore. This will save our businesses about \$265 million this year – \$265 million, because there have been a lot of other numbers cast around – and it will help us in our world-wide competitive position. What may be more important, it sets a foundation for tomorrow's economic growth and job creation. Of course, just to finish the tax section, Alberta has no general sales tax, no capital tax, and no payroll tax.

Maintaining a competitive tax regime isn't the only way that we're helping Alberta's future prosperity. We're also making very significant contributions to savings. Budget 2006 allocates another \$1 billion from the estimated surplus into the heritage fund plus another \$242 million for inflation-proofing. That's on top of \$1 billion that was deposited as of third quarter and \$345 million of inflation-proofing last year. We've also been able to add \$750 million to the advanced education endowment fund in the 2005-06 fiscal year. We'll also be adding an additional \$150 million to the medical research endowment fund. I think that fund speaks for itself, and everyone would agree that that has been an amazing investment.

The Alberta cancer prevention legacy fund is being established this year with a \$500 million deposit. Proceeds from that fund will go to support the fight against cancer, and as I said in our budget speech, this will be in collaboration with other countries, with other provinces, and maybe, just maybe, we'll find a cure for some of the cancers that our citizens will face.

I want to just do a very quick overview of our ministry key roles, just to remind all of us. There are a number of key areas and functions. They include the office of budget and management; pensions, insurance, and financial institutions; treasury management; and ministry support services. The ministry also includes, of course, the Alberta Capital Finance Authority, the Alberta Pensions Administration Corporation, Alberta Treasury Branches Financial, Alberta Securities Commission, Alberta Insurance Council, the Credit Union Deposit Guarantee Corporation, and their subsidiaries.

Alberta Finance's vision is "financial leadership that strengthens Alberta." We believe this budget speaks to that. Our mission is to "provide corporate financial services and manage the province's financial affairs and policies in the interests of [all] Albertans."

Our business plan, I'll just touch on very briefly, has five high-level strategic priorities. These include Alberta's fiscal framework, Alberta's tax advantage, investment management, securities regulation, and pension plan governance. In addition to those priorities, of course, Finance will continue to do the day-to-day managing of the province's finances.

We have three core business goals that support our strategic priorities. The first is fiscal planning and financial management. Our goals are to have "a financially strong, sustainable and accountable government"; to have "a fair and competitive provincial tax system"; and to administer revenue programs "fairly, efficiently and effectively."

Our second core business is investment, treasury, and risk management. Our goals there are to soundly manage financial assets and liabilities for current and future generations of Albertans and, of course, to demonstrate effective leadership in risk management.

Our third core business is financial sector and pensions. Our goals there are to effectively regulate private-sector pensions, insurance, and financial products and services; to ensure that Albertans and local authorities have accessible financial services; to ensure that the

securities regulatory system is effective and efficient; and to ensure that public-sector pension plans in Alberta are sustainable.

8:10

Mr. Chairman, that's a quick overview of our priorities and goals for 2006-07, and now I would just touch on a very few highlights from our budget estimates. Our ministry revenue is estimated at \$12 billion, an increase from the forecast of \$11 billion for 2005-06. Investment income for 2006-07 is \$305 million lower than the '05-06 forecast. That is because public equity returns are expected to return to longer term averages which are lower than the projected returns for '05-06 and the effective rising interest rates on fixed income returns. Internal government transfers are \$68 million lower than the '05-06 forecast because of a reduction in the surplus available for transfer from the lottery fund. That is a result of increased funding to ministries in support of various public initiatives. Personal and corporate taxes are estimated to be \$1 billion more in '06-07. This is partially offset by the reduced corporate income taxes as a result of lowering the rate. In addition, revenue from premiums, fees, and licences is estimated to be \$4.2 million higher, and net income from our commercial operations is projected to be \$22 million higher.

The ministry's program expense is estimated to be \$690 million. This is an increase of about \$84 million from the '05-06 forecast, and I would like to take just a moment to explain those increases to you. This provides additional funding for the access to the future endowment, a \$23 million transfer. You would all understand that those transfers from that fund and others I'll mention come out of Finance's budget. Access to the future endowment, a \$23 million transfer. Transfer to Health from the cancer prevention legacy fund, about \$25 million. Research funded by the medical research and science and engineering research funds, \$15 million.

Now, the department's spending in Alberta investment management is another part of that, and that is to improve operation capacity, capabilities, and quality assurance, additional private investment capacity, and we are growing and we have to face relocation to address some space requirements.

I want to also just take a couple of minutes to highlight a few other areas in our estimates that I think you will find of interest. Our capital investment for '06-07 is estimated at \$6 million. Of that, \$3.9 million is for the department for the administration of revenue and rebate programs, management of investments, and network infrastructure. Alberta Pensions Administration Corporation accounts for \$1.3 million to undertake various strategic and operating initiatives and, maybe most importantly, to replace computer equipment.

The number of full-time equivalents is always of interest to members, and we do expect our ministry's full-time equivalents to increase by 48. Thirty-one of those are within the department, including 29 FTEs in Alberta investment management to sustain current investment operations, to meet private investing obligations, and to improve operation capacity, capability, and quality assurance. The remainder are increases for the Alberta Insurance Council, the Alberta Local Authorities Pension Plan Corporation, the Alberta Pensions Administration Corporation, and the Alberta Securities Commission.

Mr. Chairman, this is a really quick overview of Alberta Finance's business plan and budget estimates for 2006-07. I look forward to hearing comments and questions and answering as many of your questions tonight as possible. However, as in the past if we don't have the time to get all of the answers to you tonight or if I don't have the answer, I will commit to getting back to all members in writing before our budget is passed. They heard that.

Thank you, Mr. Chairman. I look forward to questions.

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

Mr. R. Miller: Well, thank you very much, Mr. Chairman. It's my pleasure to rise this evening and participate in the estimates for the Department of Finance. I would like to thank the minister for her opening comments and particularly for her comment at the end of this evening's dissertation, where she asked her staff upstairs to have answers to us before the budget is passed. That's definitely a bit of a commitment on her part and on their part, and I appreciate that very much. The minister has always been good to her word in the past, and I appreciate that as well.

I would like to begin by acknowledging my staff who is present here tonight. Dave Kincade is in the public gallery, and I share him with four other opposition MLAs, so you can imagine how hard he works. He was here until well after midnight last night helping prepare me for this evening's debate.

So I'm going to start off, Mr. Chairman, and rather than editorializing a lot, which I am sometimes prone to do, I'm going to try to ask specific questions either to the fiscal plan as it relates directly to the Department of Finance and in some cases more broad questions as they relate to the government's fiscal plans in general, similar to the comments that the minister made a few minutes ago.

I have to start off talking about the overall government liabilities, which is a conversation that began yesterday during question period and continued a little bit today during question period. The minister accepted that we would discuss it tonight, and I think it's important that we get that out of the way. My questions yesterday were regarding the government's total liabilities as represented on page 43 of this year's fiscal plan tables. What I'm looking at there particularly is where it says: total liabilities, \$18.420 billion. In the same book last year on page 39, fiscal plan tables, the number was \$15.610 billion. Specifically, that is what I was speaking to in questions yesterday and today. It's an increase of nearly \$3 billion in total showing in this year's balance sheet summary as opposed to last year's balance sheet summary.

My questions yesterday were if the minister could explain why that number is nearly \$3 billion higher than it was a year before and why we're exposing Alberta taxpayers to nearly \$3 billion more in total liabilities given the current economic boom that we're experiencing. Whether it's accounting 101 that the minister was going to share with me or accounting 505, I don't really care, but I know what my eyes see. My eyes see a nearly \$3 billion increase in that line item year-to-year, so that was the question as it related to that in particular.

The other thing I want to point out is not a secret. The minister has acknowledged it in the past, but I'm not sure that most Albertans understand. The minister talks about the net assets of the government, and I will acknowledge that the number is a pretty healthy-looking number, but we must always bear in mind that even in their own subnotes they remind us that the net assets do not include – in fact, under the Fiscal Responsibility Act they explicitly exclude – pension obligations. In this case that amount is \$5.621 billion for this year, the majority of which is the unfunded teachers' pension liability. I've mentioned in this House before that that liability will cost us somewhere in the neighbourhood of \$30 billion to \$32 billion over the lifetime of the agreement if we don't address it now. So it's not quite as rosy a picture as the graph would represent.

8:20

Now, moving on to a specific question. On page 59 of the fiscal plan there's a reference under loan guarantees to Canadian Western Bank. That one in particular caught my eye, and believe me, I'm a big fan of Canadian Western Bank. I bank there. I've banked there

for years and years and years – in fact, long before they were Canadian Western Bank, when it was North West Trust – so this is no slight on Canadian Western Bank that I'm raising this issue. But I am curious. It shows \$2 million as a forecast for a loan guarantee for Canadian Western Bank, and then under the estimated liability a negative \$1 million, so I'm assuming that means a total loan guarantee for Canadian Western Bank of \$1 million, and I'm curious as to why that is there. What is the loan for? Why is the provincial government issuing a loan guarantee in the first place? I think it speaks once again to the question of whether or not the government is, in fact, out of the business of being in business, particularly since we all know that the Alberta government is the sole shareholder of Alberta Treasury Branches, so we have a major investment in banking to begin with. I would like some explanation as to that.

Also, while I'm talking about the business of being in business, I noted that Order in Council 163/2006 this year approved the incorporation of not more than 40 provincial corporations under the administration of the Minister of Finance. I'm wondering if I could have some explanation as to what those corporations would be and why we need them.

Now, on to the issue of resource revenue, and I won't spend much time here because I spoke to it earlier in the spring session. We see once again where the government is allowing themselves to use \$5.3 billion of nonrenewable resource revenue as opposed to \$4.75 billion. Year after year we see this amendment to the Fiscal Responsibility Act where they allow themselves to use ever more of that nonrenewable resource revenue, and it always causes me concern – in fact, a great deal of concern, perhaps more concern than almost anything else in the budget – because we all know that that revenue is not going to be there forever. Everybody in this House and, I'm going to guess, by now most Albertans have heard me rail on about that. I really do believe it's important. I believe not only should we have a solid surface plan, as the Alberta Liberals currently have, but it is time for a nonrenewable resource revenue savings plan as I have advocated and many others have over the last year and a half or so.

While we are looking at that, I do want to just touch on the rebate cheques, which have been mentioned in the past. Although it wasn't my first choice of a way to deal with surplus revenue, certainly there were some Albertans that desperately needed that money. I found it interesting, however. The other day we had School at the Leg., that I spoke to, and I asked all of the kids how they spent their money, and but for a very few they purchased video games. I was disappointed to hear that. I really was because I had hoped that a few might have invested the money a little more wisely. A few went on trips with the family, that sort of thing, and a couple actually had put it into investment savings, education savings plans, and so forth. But, unfortunately, as I was afraid, I'm thinking there will not be much of a legacy left from that particular program.

The minister acknowledged the other night when I was speaking to her in reference to some of the letters I've received as finance critic that, in fact, there were some cheques that went astray, particularly in Ontario where CRA, who had been hired to administer the program, had incorrectly entered some postal codes, so some Ontario residents were receiving cheques. I'm curious how many Ontario residents actually received that cheque and what the total cost to Alberta taxpayers was for that and whether or not there's any effort being made to recover some of that money.

The minister talked about taxes, and I'm just going to touch on this really briefly. I know that I'm going to run out of time this evening, and I'm disappointed about that, but there are certainly a couple of points I'd like to make about taxes, both personal and corporate. Once again, way too much paper. I'm going to move on, and I'll find that.

In reference to taxes, then: certainly, the health care premium tax, which I've talked about, again, many times in the past, wondering why we can't eliminate that. I'm well on the record for that, so I don't have to spend much time there. In particular, though, as far as personal income tax versus corporate income tax, she mentioned the \$265 million cut for corporate income tax this year. When I add up the basic spousal and eligible dependent tax credit of \$77 million and the \$30 million in health care premium subsidy threshold improvements, it's \$107 million, so I see a 40 per cent difference in terms of tax cuts to corporations versus tax cuts to individuals. I've talked before about being a small business person, and I appreciate tax cuts for business. My question really is: I'm curious as to why we're giving more of a break to businesses than we are to individuals.

Now, also in terms of the amount of revenue that's being raised by tax, there seems, again, to be a bit of an inequity in terms of not only the amount of revenue that's being raised but also the forecast for the future in terms of what's going to be raised in the future when it comes to personal income tax versus corporate income tax. Again, I think that should be causing some concern for Albertans given that, certainly, corporations are doing very well in this province right now, yet we're collecting about 2.5 times more in terms of percentage of income tax from personal income tax than we are from corporate income tax. I'm concerned about the inequity of that again, that perhaps individuals are bearing more of the brunt than they should be as opposed to corporations.

A couple of specific taxes I want to talk about. There was a notice on the Alberta Finance website recently about the fuel tax and the taxability of kerosene. Apparently it has been noted that tax collectors have been incorrectly selling kerosene without collecting the tax. I'm wondering how much tax is estimated to have slipped through our hands, whether or not the voluntary disclosure that is expected of those tax collectors is going to recover the amount that we think we've lost, and what steps are being taken to ensure that it's not happening with other hydrocarbon fuels?

We have a bill before us in the House right now which is the Alberta Corporate Tax Amendment Act. In that there are two things that caught my eye. One is an amendment to the Elections Finances and Contributions Disclosure Act where related corporations apparently currently have a loophole that allows them to go beyond the \$1,000 total tax credit. So there are amendments being made here. Once again my question would be if the minister and her staff could identify for me how much tax has managed to slip through Alberta Finance's grasp by not having corrected that loophole sooner.

Then, likewise, there's an amendment being made to the Insurance Act. Apparently, some insurance companies were avoiding paying their insurance tax. This amendment is clarifying the way companies are defined by the Alberta Insurance Act to make sure that, in fact, that 3 per cent tax is collected. Again my question would be: how much tax has slipped through our hands over that period of time?

There's also a question about the special broker tax. I have to admit that I don't understand an awful lot about this special broker tax, but if I go to page 203 of the estimates, the numbers in terms of what we've collected in the past and expect to collect in the future on the special broker tax jump around a fair amount. Budgeted last year was \$750,000. The forecast is that we're actually going to collect \$1.75 million, and that's also the estimate for this year.

I'm curious about that because I've had some correspondence from a person who has done some work with Alberta Finance. I will table the correspondence either this evening or tomorrow. I'm going to guess, however, that the minister is probably aware of it. This

person is concerned that millions of dollars may be slipping through our hands because, again, of some loopholes in that special broker tax and the way it's collected and administered. So I'm curious about that. I'm wondering if maybe some steps may have been taken already to correct that, and maybe that's why the number jumped from \$750,000 to \$1.75 million. I don't know, but that is the question that I had in my mind.

8:30

Income trusts. I just want to go there quickly. Certainly, it's recognized by the Alberta government. In fact, in a document on their website called the Alberta Tax Advantage, they refer to the fact that Alberta may be losing an awful lot of money on income trusts. I think the number was about \$400 million per year. It indicates on the Finance department website that as part of the ongoing review of the tax system this issue is being examined. I'm curious to know where that's at now, whether or not there's going to be some action on income trusts.

While I'm mentioning it, I noted that the B.C. Securities Commission is warning their investors in British Columbia to do their due diligence, to be very careful with the homework when it comes to investing in income trusts. The alert cautions people to review carefully their current investments because in fact they may unknowingly or unwittingly be invested in income trusts right now. I didn't see a similar caution on the Alberta securities website. So I'm curious as to whether or not we should be at least cautioning people in Alberta about that, making sure that they're aware of the risk that they may be exposed to unknowingly.

We had an exchange in the House today about a particular restaurant bill that was submitted and paid last year as it related to the automobile insurance review board. But I think that those questions, although they were very specific to one meeting, did speak to a broader issue, and the minister referred to a hosting policy. I think that was in reference to my questions about the purchase of alcohol. I'm wondering if I might have access to that hosting policy so that when we're looking at these sorts of expenses in the future, we'll have a better understanding as to exactly what the hosting policy is.

I'm also curious to know whether or not the policy is or was that a credit card receipt only is good enough when an expense for hosting is claimed. That's all we got back from the access to information request that was sent in. There may have been more information although it wasn't indicated in the response from freedom of information that anything was excluded in relation to a breakdown of expenses. I'm curious whether or not it's department policy that a credit card slip is good enough. If that is still the case, then I would certainly suggest that we should be amending that policy so that all Albertans would have an opportunity to know exactly what they're spending money on when it comes to those sorts of hosting expenses.

I'd just like to mention that the Edmonton Oilers are apparently ahead 1-nothing. Both the minister and I are anxiously waiting to receive news, and I just had that passed to me.

Now, the Alberta heritage savings trust fund. The minister mentioned the billion dollars that's going in this year plus the billion dollars that was put in from last year's money. I could spend the rest of my time tonight talking about the heritage savings trust fund. But what I will say is that right now the Fiscal Responsibility Act mandates that the return on investment less the management fees and less the inflation proofing has to be put into general revenue. I would strongly suggest that we should change that piece of legislation so that the return on investment minus those costs can stay in the heritage savings trust fund, where it belongs.

I'd like to mention investing in tobacco. I've asked questions in this Legislature before. I actually have a motion on the Order Paper, Motion 608, that would mandate that we divest ourselves of investment in tobacco companies. We specifically excluded investment in tobacco companies in the government's Bill 1 this year, the cancer act that the minister was referring to. Unfortunately, with my motion being 608 and the session winding down – I think we're at Motion 510 right now – clearly this is not going to be dealt with in the House this year. But it's important, I think, in today's climate that we recognize that investing in tobacco companies, although it may return a profit, is certainly not ethical anymore. I think it would be prudent for us to divest ourselves of those investments.

Very quickly I'd like to touch on the payday loan companies. There has been some talk from the federal government that they may actually allow the provinces to regulate payday loan companies. Right now they're actually limited at 60 per cent interest, which I find incredibly high, but I've read some reports that at times on very short loans these companies are charging up to 50,000 per cent interest, which is incredible. So I'm curious whether or not there's been any action taken on this matter by the provincial government, whether or not we're preparing for that eventuality. It certainly looks like it's going to go ahead, and I'm wondering where we're at with that.

I look forward to some answers either this evening or later. Hopefully, I'll have another chance to get up and ask more questions. Thank you.

The Chair: The hon. Minister of Finance.

Mrs. McClellan: Yeah. I'm going to really quickly try and whip through some of these. I really appreciate the hon. member and the manner that he's raised these issues tonight. Rather than long dissertations we've actually got some really good questions here, and I hope I can provide some really good answers back.

On the heritage savings trust fund. You're right: it was legislated that the dollars would go back to general revenue and, of course, also legislated that when we were debt free, we would begin to inflation-proof it. Until that legislation is changed – and it may be at some future point – of course, we are investing dollars into the fund, which are about equal to leaving the money in the fund. To me, that was incredibly important, and we've talked about that. I want to see that fund grow. I want to see it as a revenue stream for future years when it may be needed.

On tobacco companies. We did have this conversation, and we had the question at one point. I believe I checked on how much investment there was in tobacco companies, and I believe the numbers – and my staff will probably be shaking their heads violently either up and down or back and forth – are about one-quarter of 1 per cent of the investments, so not significant. I don't think it would be difficult to say that you wouldn't have a direct investment in a tobacco fund. But you know that there are funds that are – I've been searching for the right word; I've lost it out of my head – a conglomerate of businesses where you might have a small portion of that that might be a tobacco company. But the point made on direct investments into tobacco companies, I accept that recommendation, and we'll certainly raise it with our investment management group.

Hosting policy. You know, we talked about this in the House. I suppose that \$75 a person is not a high cost for an entire meal at a rather upscale restaurant. I don't eat those very often. Many of us in this House probably don't. At times you're compelled to. Most of my receipts are from Dairy Queen, Joey's Only, and the pizza

places. Actually, in many ways I prefer their food. But I have a personal policy in that if there is wine used at a meal that I'm hosting, I pay for that separately. I don't drink it myself, but I don't object to anyone else having a drink of wine with their meal. In fact, physicians will tell you that a glass of red wine is probably good for you; it's not good for me if I want to keep my driver's licence. I haven't learned the difference between a glass and a pail, so besides the headache not drinking it at all is a good thing for me.

I'll get you the information on the special brokers' tax. I suspect that your assumption is the correct one. I didn't have time while I was trying to make notes to look that particular page up.

Income trusts. I have nothing really new to report to you except to say that it is a part of our overall tax review. You're right on the estimate. It was our number that it could be as much as \$400 million there.

As to whether we put anything in on a caution, I don't think so. I think that perhaps my staff will help me there. That might be more in a consumer line than our role, but they'll tell me.

On the tax slippage I can tell you that there's not a lot. You know, it's not impossible, but as soon as this is found, it's rectified, and tax is collected as much as you can from companies that may have missed paying.

8:40

Kerosene. I don't have the answer; I'll get it for you. But I think we only collected about \$5 million in total on propane, so I would suggest that kerosene would be a much smaller part of the sales. So the slippage there would be less, but of course you don't want any. If you have a tax and it is to be collected, it should be collected in the manner in which it was put in place.

Health premium. We'll continue to discuss that. I think you agree that the move we made this year to take another 140,000 Albertans off of that roll was a good move. I will just take some exception to the comparison between the corporate tax and the personal tax because while our personal tax saved about \$107 million this year, we have saved Albertans \$1.5 billion over a period of from '99 to this year because we implemented those changes first. The same with small business: we reached our target on small business first. I have heard from some small business owners that they would like us to consider revisiting that again and look at either increasing the threshold, which we raised to \$400,000, or another part of the per cent or a percentage drop. Certainly, we said that we accepted their entreaties on that, and we would look at that as part of our overall tax review.

On the cheques astray: not many. I don't have the final figures. I'm sure one of my staff probably does. Canada Revenue Agency made every attempt to have those cheques returned, and I think they'll probably be quite successful. I do want to reiterate: it was a wise thing to use Canada Revenue Agency to deliver those cheques. We don't have a database that is as complete as theirs. I have said that that entire exercise will cost us under \$10 million. If anybody can administer a program of \$1.3 billion to \$1.4 billion for \$10 million, I think we'd be overjoyed if all of our administration costs were that low. We have found Canada Revenue Agency in this case very good agents to work with. They've been very accommodating with people who have been missed, have worked with them to get their '04 tax return filed if they happened to be a spouse or someone who didn't. If they were persons who had children and hadn't registered for the child benefit because they didn't qualify, they've been very accommodating with those folks.

I think we've been able to address most of the concerns people had. The toughest one in that one were the people who had lived in the province who left at the wrong time or, indeed, who came back

at the wrong time. You have to set a date. September 1 was our date. That was our centennial date, if you wish, and we had to set a date. You have to set a time. The hardest one was to correspond or talk with those folks on the phone who just missed that deadline or date, but as I pointed out to them: when you decide to do this, you have to choose some dates. You have to put some parameters around the program. The Auditor General will be watching very closely to make sure that we stuck to those parameters.

On the increase in revenue: we do have a surplus plan. I think that using some of those revenues in savings, in the heritage fund, in our various endowments is a good way to save. I'm in support of saving more, but I'm also conscious every day in this Legislature of asks from the House – sometimes all sides, most times one side – for more money for health, for more money for education, for more money for seniors, for more money for continuing care. What we really do is try to strike a balance to ensure that we continue to have the best health delivery system, the best education system, the best system for caring for our people who are vulnerable. I have some confidence in that because I happen to have had the responsibility of being the minister responsible for seniors, and I know that many of the programs that we have in this province are not available to people in other provinces at all. I speak of AISH for one, a program that's very good but not available. So it's a balance.

As our economy grows, as our population grows, we will attract more people. We certainly find seniors coming to this province in record numbers. Our net migration of all people is still positive. We still continue to attract a large number of seniors from other provinces. There's a reason for that. We're pleased and proud that they choose Alberta to be their home, some of them because they've followed their children that have come here to work, some of them because they just see the benefits of what's available for seniors in this province.

The other point I want to make is on the personal tax side. I would just remind all members that our personal exemption is double anywhere else in Canada, including the federal government, and I remind all members that on the tax side, if we taxed at the same level as the province next to us, which is British Columbia, we would collect an additional \$7.2 billion in taxes. That's \$7.2 billion that Albertans have that citizens in other provinces don't have. I think it's positive, and it's good for our people.

On the creation of corporations the simple explanation is that through our investment management division they set up those corporations for managing investments. So if you watch the OCs, which I'm sure that you do, you will see periodically where we remove a number of those companies. They're holding companies for investment, and when we're finished with that particular investment, we pass an OC to end that company. So that's really what that is.

Canadian Western Bank. Nobody really told me, but I'm going to make what might be an educated guess. Ag Financial Services: sometimes the syndication on loans for our small businesses will take last position. Maybe that's where it is. It's a small amount. But to our small businesses, particularly our value-added businesses, financing is sometimes difficult. We're very happy in the agricultural sector, which is one of our largest manufacturing sectors, to be able to work with our companies and syndicate or broker a loan utilizing other banks with it. I'm sure that somebody in my department will give you the absolute on that.

Overall government liabilities. We addressed that earlier today. I don't have the last year's figures, but if I look at the columns on page 43, I see a 2005 actual on liabilities of \$18.687 billion. I see a forecast for '06 of \$17.927 billion, and I see an estimate for '07 of \$18.420 billion. Those are the figures I'm looking at. I don't know

where – the \$15.610 billion might have been an estimate of something somewhere, or it might have been a calculation, but we will continue to have that discussion, and I'm sure we'll be able to sort that out.

That's as far as I'm going to go there. I appreciate all of the questions, and for anything I've missed I'll be sure to get the answer to you.

The Chair: The hon. Member for Cardston-Taber-Warner.

Mr. Hinman: I guess there's a benefit to being here early.

Thank you, Mr. Chairman. I appreciate the minister and the answers that she has given so far and for the details that we received in the financial statement. There is no question that Alberta is the place to be. When you look at page 63 of the fiscal plan, it's very encouraging to see our provincial tax rates there compared to the rest of Canada. That's very encouraging, but the question always is: are we doing the best that we can do?

8:50

I just want to turn to page 65, first, on the historical fiscal summary, and go over a few things there. On line 2, corporate income tax, it shows that it's levelling off. I believe that in 2005 it's about \$2.6 billion, and it goes down to approximately \$2.18 billion by 2008. This province, if my memory serves me right, promised a corporate tax reduced to 8 per cent. We haven't reached that yet, though we've attracted many corporate headquarters and things here to the province, and I'm wondering if that drop is because there are future plans to drop it another 1 per cent per year.

[Mr. Danyluk in the chair]

I guess I'm somewhat curious because, normally, when taxes are dropped, you see an increase. As we see in personal revenue tax, we've been lowering it, and you've raised the basic exemption, yet it's continuing to rise, which is encouraging, showing good economy and prosperity. But it's not showing up in the corporate income tax. That raises some curiosity for me there on why you feel it's going in that direction.

Another question. On line 7, other own-source revenue: I'm not quite sure I understand exactly what that is. Trying to link that with previous pages, it seems like they don't quite add up. If the minister could expound on that a little bit, I would appreciate what exactly is entailed on that line.

Turning to page 62, Alberta being the place to be and the benefits that are there and the surplus that we're having, I ask the questions on behalf of Albertans: why are our premiums, fees, and licensing charges all going up? It just seems like we should be able to hold it where we're at or even reduce it in some areas; for example, provincial camping and those areas where Albertans truly can go out and enjoy what the province has to offer and want to stay at home. Yet we're edging those up and looking at further increases next year. I'd encourage the government to reconsider that on behalf of Albertans so that we could enjoy our home province and not see an increase in fees, especially at this time of fiscal surpluses.

On page 61, full-time equivalents. This is a question that I've asked before, and the Premier continues to keep saying many times during question period that we have 22,000, but on page 61 it shows that we've got 26,800. We're looking at 27,000. I guess my question is on the accuracy, making sure that this is the accurate one, and perhaps understanding that a little bit better.

Page 60, the allocation of lottery fund revenue. Something that's been brought up many times and I think will continue to be debated

is that we see under Gaming that the biggest allocation goes to horse racing and the breeding renewal grant program. I believe I've asked once, and I didn't get the answers on the actual revenue generated from horse racing and what percentage is going back to horse racing. It just seems lopsided that horse racing, a fairly small industry, is getting such a huge percentage when many of our municipalities and charities and other things really rely on the community facility enhancement program and community initiative program, which together is just barely \$68 million, almost equalling the entire horse racing and breeding program. I just wonder, you know, in having to set priorities, you've mentioned it in here many times before, including this evening, that it's a tough balance. Everybody is wanting more money. I'm curious about what the actual gross revenue is from that because the Minister of Gaming always says: that's just a percentage going back. If you could enlighten us on that, I would appreciate it.

I also was curious about the Canadian Western Bank, and because it's been brought up, I won't worry about repeating that. That was something of a benefit for us to understand that.

The question that I have at this time is on the overall spending. I don't have the page number written down here. Of a \$32 billion budget, in a short period you've got the revenue going down to \$30 billion, if my memory serves me right.

Mrs. McClellan: What page?

Mr. Hinman: I can't find it. I don't have it written in my notes. I apologize. I've got to go from memory now.

I believe that we're looking at a \$1 billion to \$2 billion loss in revenue, that you forecasted two or three years down the road, yet our spending has already surpassed. Maybe that's going back to page 65, line 10, for a total revenue of \$30 billion, which is already less than our current spending. That raises a great deal of concern that we're already past a sustainable budget when by 2008 we're down to \$30 billion in revenue.

One of the questions that I guess I have – on page 64 you have an excellent chart showing the changes in prices and, you know, how it affects the dollar, the natural gas prices, or the exchange rates going up and down. But when I look at the production above that, it shows that production levels really aren't going off and that we're able to sustain those production levels. So I guess I'm concerned. What are we trying to show there? You know, is it: let's not show that we have too much money so that we can restrain the budget? Yet we're spending an enormous amount in the projections. So I worry a lot about that.

It brings up a question. When I look on page 64 at the bitumen production, we're going from 1.2 to 1.4 to 1.5. With that increase and the price holding there, I'm wondering if this government has a schedule or an estimate on when that royalty relief that those big corporations are receiving to pay for their infrastructure is coming due. When will that kick into the budget? Is it after 2008, 2010? We've heard a lot about that, and I'm just wondering if you have some estimates. Because of the increased price and the royalty that they're getting back, are we going to have a crossover there? Perhaps you could share that with us. That would be helpful.

Just an aside, I guess. With the dollar value and your chart on page 64, I'm wondering if you have any estimates – I've been told that in health care there's a huge cost in U.S. dollars for equipment and things that we're bringing in and drugs and whatnot. With the dollar rising, would that offset and show a significant reduction in our health care expenses? I've had many people from the Calgary health authority and other areas indicate to me that we should be seeing some balancing there between the two. If you could share something on that, that would also be helpful.

A question – and I can't remember where I picked it out, so I apologize; it's mentioned in a few places – about alternative financing. I'm wondering if that's just P3s or whether the government has some other programs that they're looking at. My question in regard to that is: when we look at these P3s, and I guess I kind of look at P3s going back to some of our history, whether that's the magnesium plant that the government got into or Swan Hills – it seems like there was another one, but I can't remember now; I didn't write it in here – we've learned that we get hooked for that anyways. I guess that Gainers is one that shows up in here, where we still have a debt that we're paying for, and it's been so many years. I was shocked to see that still coming forward. [interjection] Yes. He still smiles at us, thanking us.

With such a great rating, that you mentioned earlier, the triple-A rating, do we really do better? Do the studies show that rather than just going out and tendering it and having it done as opposed to a P3 where those people have to look at their expenses and overall, if they're borrowing money to put that in place – what's there? Are they at prime plus 2? Are they a double-A, a single-A rating? Are we really benefiting the province with the great triple-A rating that we have and the surplus that we have in entering into P3s? It's just, I guess, a question that many people have asked me. You know, if we have the money, why would we be going to second or third sources if in fact we can pay it and we're not having to pay any interest? It does cost them more. They're borrowing. They don't have the good rating. It's another area where curiosity definitely intrigues me.

9:00

I want to turn now to page 44, on the revenue again. One of the specific questions that I have is – we've had a tremendous sale on lands and, you know, a \$3.4 billion forecast for this year on land leases and those areas, and then our income goes down significantly, almost to a third in three years. I guess that I was wondering on those leases: how long term are those? Are we looking at a five-year lease? How do you estimate that and realize that it's dropping that much? Is there the potential like the crude oil and everything else that it's going to stay the same and that income could continue if the market stays where it is? Or are we definitely in a thing where this was the year where we put up a huge amount of our leases, and they were bid, and now we're not going to have any income for five years? If you could tell us a little bit on, you know, what percentage. Do we have 10 per cent a year coming up and they just rotate through smoothly? Or is this cyclical and coming and going and there is no chance of an increased, I guess, revenue coming in from land sales like we've had this current year?

On page 59 one of the things that caught my eye is the Agriculture Financial Services Act. We're going down from \$35 million to \$30 million. In such a tough time for agriculture it raises my curiosity on why loans would be going down so much, what the forecast is. The loan guarantees are being reduced there. I'm just kind of wondering if you could explain that bit of phenomena for us.

I guess just a few things that I'd like to ask and repeat once again. What are the plans for reducing corporate income tax? Are you planning on fulfilling the promise of reducing it to 8 per cent? What is the schedule? It just seems that in such a time we really need to look at and address legislation on what to do with the surplus.

It just seems wrong. When we have such a tremendous amount of money coming in – and both you and the Premier have mentioned that it's much harder to govern with so much money than it was without money – perhaps the best way to reduce that money and to not look like we're so flush with it is to have legislation rather than policy on what we're going to do with that surplus. Currently it just

seems like there's a policy, and policy is very easy to change; whereas, we grabbed the bull by the horns, we passed legislation, and we said that all surplus was going to go to pay off the debt, and it served us very well to do that. It just seems like the right thing to do to pass legislation now on what we're going to do with that surplus.

We can have good budgets. We can look at, you know, infrastructure, health, education, all of those things, and put in a good budget. Let's stick to that budget, and then when we do have a surplus – and I do once again want to thank the government for always being conservative. I see nothing wrong with pitching it in low and coming out smiling, especially if we have the discipline on what we're going to do with that surplus. To me that's very much up for debate. But it just seems like we should be putting 50 per cent of this surplus into savings and perhaps 50 per cent going back to the taxpayers. You know, like I say, I'm open for the debate wherever you want to go on that, but if, in fact, that was the law, then we wouldn't have all of this tussling over who's going to get it. We've got this extra money, and it just seems like it causes us a lot of grief, as it does with most families when all of a sudden they have a windfall. Everybody all of a sudden is your best friend, and everybody has these special needs, and we've got to have it. So I think legislation would be in the interest of Albertans.

The things that I want to point out and one that I brought up the other day: the propane tax of \$5 million that you referred to earlier tonight. Propane is one of the green powers. It's clean. Why don't we reduce that? We produce 10 billion litres of propane in the province, and we only use 2 billion, 20 per cent of our production. It just seems like that's an area where we could put the incentive in and remove that tax off propane, which I believe used to be back in the '80s or '70s. If we could utilize that, what it would do to benefit Alberta and the pollution that we have. So I would encourage the minister to look into propane and see if there's a way that we could increase the incentives.

Once again, the number one concern is to eliminate health care premiums. That would be a great benefit. You've taken a step. Everyone appreciates reductions, but we could reduce government size. You'd have full-time employees that you could utilize elsewhere by eliminating that whole area. We continue to encourage you to do that. Yes, we have the highest basic tax exemption, but we could continue to raise that and benefit those people, perhaps, to the low-income cutoff level of \$20,000. I'm not sure how much. If you could tell us what percentage of that \$5.8 billion we'd lose by raising it another \$5,000, I'd appreciate that.

To look at when we have the surplus to actually refund – you've mentioned that Canada Revenue did a great job of distributing that, but do we not have our Alberta tax? We're being charged at 10 per cent. It just seems like the logical thing: when there's a surplus, that means that we've overtaxed. We've got a windfall. To me it seems like the first place it should be going back is to those people who have paid tax if we're not going to put it into savings. We could do that on a refund on the personal tax. We collected \$5.8 billion. You have the numbers. You could've given \$1.4 billion back, you know, 25 per cent refund back on our personal tax or, on the same point, on our property tax.

Every town, municipal government is definitely struggling. We see the inflation there more than anywhere, trying to keep up with infrastructure, the roads in those areas. I'd encourage the government to look at refunding property taxes. I also would like to encourage the government to look at perhaps increasing the per capita payment to the different municipal governments so that they could look after more things on their own. These surplus revenues: if there was to be a per capita dividend of, for example, the \$400 that

was given out this last year, if that went to municipal governments. There are many of those that still have debts that they're having to address. It just would be great if, in fact, they could receive that money and that they could be out of debt and not have to look at increased property taxes.

To close, there's no question, I guess, that we've started many funds. I've forgotten what page those are on now, but we've got the Alberta Cancer Prevention Legacy Act, the Alberta Heritage Savings Trust Fund Act, the Alberta Heritage Foundation for Medical Research Act, the Alberta Heritage Foundation for Science and Engineering, Farm Credit Stability Act, scholarship act, and the Financial Administration Act. We've got many of those that have been created and the one that has been mentioned twice here already, but we still have that liability for the teachers' pension fund plus two others. I've got my notes all messed up here now so I can't remember which other pension funds they were but, basically, amounting to \$4.8 billion, if my memory serves me right. Why do we not start a fund and at least put this surplus in there? If it takes us four years, one year, or 10 years to deal with the teachers, let's put it in there now and have a trust fund.

Thank you very much.

Mrs. McClellan: Well, again, another great series of questions, Mr. Chairman. In the interests of making sure that other members can get in and make their comments, I'm going to try and rattle off a few of them pretty quickly. On the whole issue of education property tax – I'm sure that's what you're talking about – I'm sure that the Minister of Municipal Affairs would want to speak to this, but I will just quickly remind you that there is an exercise occurring. The minister is leading with the AUMA, AAMD and C to establish roles, responsibilities, and relationships. Once that exercise is done, I think we'll all clearly understand whose role it is, whose responsibility it is to pay, and maybe the more important discussions around there are the building of relationships because it is the same taxpayer.

9:10

We did reduce our mill rate by 7 per cent. As you've read in the papers recently, this was much appreciated by cities, I'm sure by all municipalities. Some of them will use that room; some of them will allow savings to taxpayers.

On the Alberta tax, a 10 per cent flat rate, you have choices when you make tax changes. Raising the personal exemption is one way to do it. It's a way that we can do it that we can assure the sustainability of it. Remember that we index that, and remember that in Alberta it is double what it is for any province in Canada, including the federal government.

[Mr. Marz in the chair]

So you have a personal tax advantage there. I'll be honest. I favour increasing that exemption. I think you're absolutely right: if we don't need the tax dollars, we shouldn't collect them. They should stay with people. But the one thing I want to make sure of is that when we make a tax reduction, it isn't at the expense of funding important programs like health, education, support to seniors and those who are vulnerable. We depend on those revenues on a sustainability basis.

While we're enjoying high revenues now, I have been here when those revenues weren't there, and I had to be a part of making some very painful decisions on reductions. It was not easy. Our entire civil service, our entire medical, teaching, universities: all of those people took rollbacks, which were not something that we would

want. In fact, the people in this House did too at that time. Better that you ensure that you could fund these things on a sustainable basis out into the future so that you do not have to face that.

So we're careful when we make our tax reductions, but you will not have to convince me to continue to do that as long as we can sustain it. It's proven that if you leave more money in people's pockets, Albertans will generate the economic growth here. That is well demonstrated.

Should we legislate surplus? Perhaps at some point that would be a good thing to do, but I would suggest that at this point, when we have just come off of debt elimination, it was important in this past year that we invest in infrastructure. So to tie your hands with those infrastructure pressures there might not be the wisest thing; however, as it turns out, when you look at saving, giving back, and investment in capital, we almost came to that point in the end of how much we saved through endowments, the heritage fund and how much we put into capital and then how much we gave back. It's not that off. So maybe there is a point we could do that.

Propane tax. Certainly, I'll look at that. As part of the tax review I know that my staff have done that. You make a good point on it being a green fuel.

Health care and the rising dollar. Most people know that in my other life I'm a farm person, and we happen to buy equipment that is manufactured in the U.S., and most of the parts that we buy are manufactured there. We can never understand how long it takes for that change in the dollar to show an advantage in the lowering of the cost of machinery and parts. I expect it's the same in medical equipment and drugs. It seems to go really fast one way and not quite so fast the other. I would expect that there should be some change there because certainly we're hearing that manufacturing businesses in this country are feeling it, so we would hope there would be some balancing. But we'll do some investigation on that.

P3s. We really have one P3, and it's a darn good deal. If you could enter into another one of a similar nature, I would expect that most people would recommend it. While it may seem that it costs you a little bit more at the outset, the fact that you can have a warranty and maintenance on a road for 30 years and get it in under the time frame, which is incredibly important in this city, where we're seeing such, such growth, and have those access and ring roads is important and the same with Calgary.

But remember that all of those are examined. There are no automatics there. We have an external committee that gives us advice on those, gives advice to the Minister of Infrastructure and Transportation as well as Treasury Board, and that is a method of alternative financing that we will continue to look at as an option but only if there's an advantage to us to do it. Although we have a triple-A credit rating – and, yes, if we were borrowing, which we're not in a position of needing, we would borrow at a favourable rate – it may make the better sense in the long run to do a P3 if you're getting things like maintenance, warranty, and coming in a year or two earlier certainly doesn't hurt.

The provincial tax rate. You asked about the corporate tax rate on page 65. Remember that we started at 15.5 and we're down to 10 per cent. Yes, we are going to 8 per cent, but that's not what those figures show. It's not an automatic. When you reduce the rate, you would expect that it would take two to three years for the economic advantage to start to show the benefit back. It may be sooner in this economy, but as always we're prudent and conservative in our estimates.

The premiums, licences, and fees going up. That's a difficult one in some ways, but we really consider that that is a cost of doing business. That's really what it's to cover. We've heard a lot about our campgrounds needing refurbishing, upgrading. Our campground

rates are pretty reasonable. In fact, for persons who don't have a lot of disposable income, there are a great number of absolutely free camping facilities in this province. So it's a balance. They need it to keep those campgrounds in good shape, to make sure that they're good places for people to visit. But our rule here is that your premiums, your licences, and your fees cover the cost of doing business.

FTEs. I spoke to hours. I'll check on what you asked on the numbers that are quoted to make sure that we're quoting from the same thing. I will give you that information at another point.

Horse racing. It's not going to help to explain this because this isn't a rational discussion. The rational discussion is simply this. The Minister of Gaming got up in this House one day and answered this question as best as I've ever heard anyone do it. If you don't put a quarter in a slot machine, if you don't lay one wager at a racetrack, they will generate nothing. So what Horse Racing Alberta gets is what they earn. I think you understand that.

However, you did ask a question on how much of that goes to the fund. I checked the figures with the good minister rather than having him get up and do it. He said I could, so we'll see how I do. Fifty-one per cent goes to Horse Racing Alberta, 15 per cent to the operator, and the balance to the lottery fund. So you can just do the math. You asked what the total was. I didn't have time to do it. I will after I sit down. But that is it.

I do want to mind everyone that 8,000 people are employed in that industry. I invite people to go over there, which isn't very far, to Northlands Park, and go to the backstretch. I especially invite the member who has this in his constituency. I do. I'd be honoured to go with you. I think that if you had the opportunity to go to that backstretch to talk to some of the people there who have gainful employment, who are so proud of the jobs that they have there – and these are people that wouldn't necessarily have a job anywhere else. The self-esteem, the pride, and the joy that these people have in working with a beautiful animal like a horse to me is worth it right there.

9:20

But beyond that, the financial contribution to this province is significant. It's a part of the proud history of this province. Alberta has the most horses per capita, if you wish, of any province in Canada. The horse industry has been a very proud part of the Alberta history, not just in racing but saddle. You need the complete industry. You really do.

Spruce Meadows. Who can measure the value of Spruce Meadows to Alberta and to Canada? The number one facility, above Aachen now. The number one facility in the world. Attracts people from everywhere who come for the beauty of show jumping and dressage to some point, but the international contacts that are made there and the emphasis on international is incredible.

The pleasure of horses. The stables that are just down the road here give so many people a lot of joy. I used to bring my grandkids to the zoo for a little while. You know, they live on a farm, and they'd come and go ride the horses at Valley Zoo. I said: what's wrong with this?

The horse industry in its entirety is so important to this province, and I think we all had a little thrill when Brother Derek was racing at Santa Anita and won and a little sadness when he raced in the derby last Saturday and came in fourth, but still some pride that an Alberta owner had a horse of that quality.

So if you have time some time, go over, especially on Alberta days, special races that are for Alberta-bred horses only, and just look at what this industry does do for the province. If everything that we were involved in had the type of return this one does, it would be quite great.

Royalty relief in the oil sands. I think the larger part of the return will start to come in in '08 and upward. We'll get that information absolute for you from the Minister of Energy because I'm going off of memory. Uh-oh, I'm getting a letter on the horse, I think. Maybe not. We're starting to get revenue of some significance now, but that, of course, changes when the capital investment is paid. It seems to me that it starts in a more major way in '08, and then maybe '11 is the next larger part when this comes off.

Production restraint land sales. Land sales are a function of the market, and we have a lot of land. We're not selling it all, even though those were very high sales. But I think it's a function of the marketplace today that encouraged people to make those investments. I will ask the Minister of Energy to give you the absolute, but when they buy a lease, they have to develop it in a certain time frame or it reverts. I don't remember exactly whether it's five years or what it is. That's just a little bit outside of my bailiwick.

I know that you had a few other things, but I know that there are others that want to get into the conversation.

The Chair: The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thanks very much, Mr. Chairman. I appreciate the minister leaving me some time to get in on this discussion. I'm going to, I think, just want to talk about some broad policy ideas, throw out maybe some of my ideas and ask the minister in sort of a broad sense what her thinking is with respect to some of these ideas.

I'd like to start with the question of the resource revenues that the province receives and the royalty rates that we receive. I'm wondering how the minister sees looking at royalty rates on our oil and gas, which are the declining revenues, on the coal-bed methane, and on the oil sands side. I note that the royalty regime that we've got in place now was done I think when oil was about \$15 a barrel. Is it suitable for today's market? I guess from our perspective royalty rates should return a maximum amount of the value of the resource, which does belong to the people of Alberta, without in any way significantly impacting the exploration and development of the resource. We want to see the resource continue to be developed and exploited for the benefit of the province, so we wouldn't want the royalty rates to really interfere with that, but we wonder if you couldn't sustain, actually, a significant increase in royalty revenue given the world-wide shortage that now exists.

It's apparent, Mr. Chairman, that we're either at or very near the world tipping point in oil, where the supply of oil will no longer be sufficient to meet the demand on a global basis. That's the case that I think most economists believe, that we're going to see sustained, almost permanent, upward pressure on oil prices. I see that the department is estimating in 2006-2007 a price of \$50 a barrel. Well, it was past \$50 a barrel some time ago, and I think most estimates are that it's going to continue to rise. We're at \$70 now, and some people are talking about the days of a hundred dollars a barrel of oil being not too far off.

I see that in the budget the government lists a number of firms that are engaged in forecasting oil and gas prices and so on, and I saw the graph about the high, the medium, the low, and the aggregation, and some of the information is not publicly available because it's proprietary and is purchased by the government on the understanding that they won't release it. I for the life of me can't understand how we're expecting the price of oil next year to be \$50 a barrel. I think being conservative in your estimation is a good thing, believe it or not. You'd rather be a little under than a little over, but you don't want to be way out either way. I think that we have often been way out. Looking back over the last 10 years or so, that's been fairly common.

I want to talk a little bit about tax policy. The government is continuing the policy which was announced by Steve West, when he was the minister, of taking the corporate tax rate from 15 per cent down to 8. I happened to be at the Edmonton Chamber of Commerce luncheon as a newly elected MLA when Dr. West made that proposal. He also talked about a long-term plan for education property taxes, which I want to come back to as well. I guess the question I have for the minister is: what purpose is served by continuing to reduce corporate taxes? What is the policy objective? In a hot economy, a very hot economy has the minister received any advice or suggestion that, in fact, cutting corporate taxes at this point may be very inflationary?

We know and I know that not only municipalities in the public sector but small- and medium-sized businesses are very hard-pressed to find labour, and the cost of labour is rising very dramatically. Even McDonald's is advertising for workers and has jumped up its hourly wage by at least a couple of dollars, as far as I understand. I've talked to several mayors in the province whose engineers are being enticed away with very, very lucrative offers and contracts. So they're losing their qualified people. I guess this is just my take on it, but if you cut the taxes of the biggest corporations in the province, then how does small business and how does the public sector compete with them in attracting the necessary labour and as well the materials and supplies that they need?

9:30

I'm very, very concerned that this corporate tax, quite apart from philosophical differences, is not a good economic policy at this particular point in Alberta's economy. I wonder if the minister has looked at that because we do have – and I could read from my notes. We looked up some economists and so on who have said that there's a real concern about the impact of this particular tax cut on the economic balance. It has the potential to create imbalances in the economy, and it could in fact wind up hurting small- and medium-sized businesses who can't compete.

The other thing that Dr. West talked about that time was a long-term plan for education property taxes. I know that the government has not followed through on that commitment. They're moving sort of in the direction. In other words, they're reducing the amount that they take in the mill rate, but because of growth and so on, they're actually taking more from the property taxes. I'm wondering if we're ever going to get to the position where the province returns to a policy of gradually getting out of collecting property taxes altogether.

I know that the Alberta Urban Municipalities Association, when I met with their executive a few weeks ago, indicated to me that one of the things that they're continuing to be hopeful for is that the province will eventually vacate the property tax and give them the room that they need. I know that the Minister of Municipal Affairs, although he didn't promise that it would happen at the last convention of the AUMA, did promise to work at it. So I am particularly interested in hearing about that and where we're going.

There was an increase in the amount of nonrenewable resource revenue that can be spent on program spending to \$5.3 billion in this budget. I wonder if the minister is concerned that we are becoming too dependent for our ongoing program spending on nonrenewable resources. From our perspective, we believe that the nonrenewable resources of the province and the revenues that flow from them really don't just belong to us or our generation to be spent on the things that we want right now. These resources have to be seen as the property of all generations, including generations to come.

There are a couple of things. There's a philosophical point about

how much you are prepared to expend from your nonrenewable resource revenues to sustain programs today. The other question, of course, comes about from the narrowing of the tax base, and it ties in with the government's approach of cutting taxes generally and specifically cutting corporations' taxes. Has the minister looked or has she received reports from her staff saying that we're becoming too dependent on this and that when these resource revenues are no longer available, we might once again have to make some very, very tough decisions in this province? You know, that's certainly one of my big concerns.

There are some things in one of the government's documents. Here it is, Alberta's tax advantage, on page 134. It says that with no general sales tax, payroll taxes or capital taxes, Alberta's tax base is relatively narrow compared to other jurisdictions. While this is [beneficial] to Albertans, it also comes with some risks. A broader range of taxes means more stable revenues. With relatively fewer revenue sources, predictable funding for key public services is at more risk in the event of an economic slow-down. Consequently, it is inadvisable to eliminate or dedicate more taxes.

In fact, we are continuing with this reduction, and I'm really concerned about the twin problem of overusing our one-time resource revenues and narrowing our tax base from more stable and ongoing sources.

I'd like to ask the minister if she could just elaborate a bit on what the government's savings policy is with respect to revenues that have been received from nonrenewable sources and how she sees that playing out in the future, the role of the heritage savings trust fund and so on.

Another concern – and it has come up a number of times in the House – is the whole idea of off-budget spending, which has been growing and growing. I think we heard the Minister of Education talk about dealing with the problems with school renovations and new school construction in terms of coming from the unallocated surplus. That was within a few days, really, of the budget being brought forward.

Is there a policy to avoid doing that? If there isn't, what is the policy? What does the minister think it should be? Can we get to the point eventually where we are actually trying to accurately predict our resource revenues, budget them not for spending necessarily but budget them and try to budget as accurately as possible for the full coming year, so rather than constantly being surprised by these massive surpluses, actually budgeting for the surpluses and identifying needs ahead of time? So that's a concern.

I had an idea that I wanted to suggest to the minister, and that was based on something that happened a couple of years ago at the Alberta Urban Municipalities. There was a large surplus from the Municipal Financing Corporation. I'm not sure what its name is now. I know that it's been changed. There's a new name. It was appropriated by the Provincial Treasurer to be spent in terms of debt reduction, but the municipalities sort of rallied around it and got an agreement from the then Municipal Affairs minister, who is now the Minister of Environment. I was there, and I heard his speech, in which he said that this would be made available for municipalities to invest in energy reduction programs. It was called the ME First program.

I thought it was a good initiative. It represented a partial victory for the municipalities, but the problem with it was that it was sort of an incomplete plan because as they paid off their loans – they could borrow from the fund, invest in energy reduction programs, and then earn savings. They would earn savings, and they would repay the fund, but the money went back into general revenues rather than back into the fund. So it would've been preferable if the money was

repaid directly to the fund because then the fund would become permanent.

This is sort of our extrapolation of the ideas. We could take a billion dollars from the unallocated surplus and create a permanent green fund for municipalities and potentially also for universities and colleges and schools and hospitals, for the medical system, allowing those institutions to borrow money to invest in energy reduction, and then they take the savings from that and they repay the fund. When they've repaid their loan to the fund, then they continue to benefit from the reductions in their operating costs, but the fund is intact and is available for further investment for the whole public sector. This idea, Mr. Chairman, could also be extended sometime in the future and be made available to farms, to small businesses, and to individual homeowners. It's something that we've been proposing, and we think that it's something that has a great deal of merit.

When I was on Edmonton city council, the administration came forward with a proposal for about a \$350 million expansion of the E.L. Smith water treatment plant. Instead, we established a water conservation strategy for the city, and we were able to defer that expenditure for 10 years and save people a lot of money on their water bills because the capital cost would've been added, of course, to their water bills.

So it's just an example of the value of actually investing in these kinds of conservation programs. There's big money over time that can be saved.

9:40

I'd like to ask the minister about the Alberta Securities Commission, not about scandals or anything but really about whether or not she thinks that it's advisable that every province has its own securities commission and whether or not it might make more sense – and she's probably had some involvement with this – to negotiate with the other provinces. I'm not saying with the federal government when I say national. Rather than federal, have a national regulator. We think that it might be a good idea rather than having a patchwork of regulation across the country. It really makes more sense in today's financial world to have a single national regulator. We think it should be based in Calgary. We think that that would make a lot of sense. Calgary is a very important financial centre in this country, and I think it would make a lot of sense. So I wonder if the minister is pursuing that, what she thinks of it, what the progress might be.

I'd like to ask the minister also – and she doesn't have to respond to this tonight necessarily – just what the state of the regulation of the auto insurance industry is and whether or not the program there has met the objectives of the government and what the upcoming review is going to entail and what her objectives are in pursuing that.

Lastly, Mr. Chairman, I'd like to ask a little bit about the Alberta Treasury Branches and what the government's plan is for the long run in that. I know that it's not exactly the most small "c" conservative thing for the government to do, to have its own bank, but I advise them not to be embarrassed about it because we think it's a good thing. One of the things I know in my area is that the banks have abandoned some of the lower income communities, and the only financial institution that's available to many people is Alberta Treasury Branches, and it's a valuable contribution.

I think the same thing happens in many small towns and rural areas of this province. That's a really good objective from our point of view, the government continuing to own the Treasury Branches, because surely if they privatized it, then the shareholders would demand that the Treasury Branches do exactly what the banks have done, which is to leave the low-profit or negative – I don't know – areas without financial services. I'm assuming that that's why the

government has resisted what would seem to be its natural ideological bent on that. I just want to know from the minister if the government is going to continue to ensure that low-income areas in cities and rural areas and small towns continue to have financial services by maintaining the ownership of the Alberta Treasury Branches.

Mr. Chairman, that concludes my list of questions and comments, and I look forward to the minister's response. Thank you.

The Chair: The hon. minister.

Mrs. McClellan: Thank you very much. Very good comments. Alberta Treasury Branches is business as usual. They do provide a valuable service. As long as they provide a valuable service and they're still needed, I and this caucus will certainly support maintaining them. You're absolutely right; they provide a valuable service in our rural communities but also in our urban communities.

There's one other that I just have to mention – I know you would agree – which is that credit unions have filled a very important role in many of our communities, urban and rural, and are an important part of the financial mix that's available to people in this province. I was asked by my boss one time about Ag Financial Services, ATB, credit unions. Credit unions, of course, are a little bit different. We don't own those, but we do regulate them. The other two, we have a stronger, maybe, role in. My response was that the need is still there. They still serve a very valuable purpose and still have a mandate in this province.

Auto insurance. There will be a review again this year. They'll be looking at rates, of course. They will be looking at about a year's experience under the new system, a little over a year actually, and looking at it and making sure that if there are any adjustments, they'll recommend them but make sure that it is meeting what we intended. I can tell you that the overall, general answer is yes. We see far fewer people driving uninsured, and that was a great concern to us. Very few people now are being picked up with no insurance, so that tells us that it is affordable for people to have insurance. Who wouldn't carry insurance voluntarily if they could afford it? So it has worked on that side. The rates are coming down. I won't know for some time whether they recommend another rate reduction, but that'll be coming in the next weeks, I guess. So far so good. I think it is meeting its mandate, but we'll have a better idea.

On the Alberta Securities Commission. I know that you don't want to talk about scandals. Neither do I, but I do want to put it on record that there have been three thorough investigations of the Alberta Securities Commission prompted by some different sources. In all cases the Alberta Securities Commission: there was no fault found. I said consistently from the beginning that I was confident on the enforcement side that there was not an issue. That has been proven by an RCMP investigation, by an Auditor General investigation, and by an internal investigation. I'm pleased to say that the human resource issues that did exist there are being dealt with and that the Securities Commission is implementing all of the Auditor General's report, as I understand it, meeting with the Auditor General on a regular basis to make sure that the implementation of those recommendations is proceeding properly.

You asked about the national regulator. I'm not hung up entirely on this, but I do believe that going with the passport system, where all provinces with the exception of Ontario have signed on to it, has been a great exercise. In September of last year we implemented the first stage, filing a prospectus, and I was quite amazed at our securities ministers' meeting to find the number of companies that were taking advantage of that. Whether or not it is deemed right in the end to go to a national regulator, I can assure you that all of the

work that we've done on pursuing harmonization will be beneficial to that exercise.

We had the opportunity to meet with Purdy Crawford, who did the report for the Ontario minister, Minister Phillips. All of the provinces had a chance to dialog with him, and I think, in fact, that he and a member of that panel as well – there were two there; one from eastern Canada and one from Ontario – were surprised at some of the questions and concerns that some of the provinces had and realized that especially for our juniors, small companies, of which we have a lot and many other provinces do, there are some issues that they have to look at when they talk about a national regulator. Ontario, although they aren't a signatory, have been at the table with us working on this. Some of the amendments that we were putting through this House last night on securities Ontario was doing at the same time. It's an exercise that's great.

I would agree with you entirely that if there was to be a head place, it should be in the most dynamic financial markets in Canada, which would be here. It would seem to me that what they are talking about in the Crawford report is a national regulator, not a federal regulator – nobody agrees with that – and looking at it regionally as well, how you'd function understanding the difference in markets in this country, understanding the diversity of that, and some of the issues that some of the smaller provinces in particular have with this issue. So a good exercise.

We're meeting again in June, actually, in Ontario, the home of the one that isn't a part of it, which I think speaks to how much cooperation there is among the provinces to see this done. That's a little update there, and we'll have more of an update after that meeting.

On savings and the heritage fund I don't think we have any arguments there at all. I agree that we need to save where we can, but we want to make sure that we're providing the right amount to our other programs as we do it. I want to see more savings and something that has a revenue stream for us down the road.

9:50

The one thing I can tell you about forecasting energy that I've learned over 19 years is that you will almost always be wrong, and I'm always hoping that it's on the right side of wrong, that we're under in our estimate, not over. I think that I'll add you to the list of eight that we have here and see where you fit.

Mr. Mason: We've got a better track record.

Mrs. McClellan: Well, we all have in hindsight. I have a better one, too, in some things.

It's hard to get energy analysts. I mean, we're having some saying, you know, that \$50 is the right place. Well, that is the middle of what the analysts said. Some are saying as much as \$120, and some are saying: no, we think it will settle at \$50. Some are saying: maybe \$45.

I think what we have to remember is that one of the reasons that Alberta has been so strong on not wanting revenue from resources in the equalization formula is how volatile it is. There is probably about a \$5 billion risk factor in there now. That's a lot higher than it was five years ago. We saw oil drop back to under \$60 not very many days ago, it seems. It's been above \$70, and it's been below \$70. You can have something happen in South America. You can have something happen in OPEC nations. You can have a Katrina. The only sort of stable way you have is on production and refining. Then we find that the refinery capacity has been estimated incorrectly in some of our bigger using nations as well. One month we hear that they have more than enough supply, and then all of a

sudden: oops, we're short. So it's a mug's game, I think, but we're going to do our best, and we're going to be on the conservative side of it.

A narrowing tax base: I couldn't agree more. I've said it publicly. One thing that came home to me in our tax review is that we have a very narrow tax base. We have to be extremely careful in making decisions as to reduction in taxes to ensure that we can sustain those reductions and still provide the dollars that are needed for our programs.

There's a section in here that I think is a very telling one. It was referred to earlier. It's page 65, and it gives you your income sort of blobbed together, your revenue and your expense for the departments. If you just look at that, it's a pretty interesting story. It speaks to the volatility of some of our revenue streams. Taxwise, pretty steady. We have growth, more people, more jobs, better jobs, higher taxes coming in. We're able to lower them, but we do have to be careful on that.

I don't use the words "nonrenewable resource" very much anymore if I can remember not to, because I'm more convinced than ever that this resource is going to be around for a long time. We know that we have at least a century in the oil sands, and we know that almost every year there's a new technology, a new methodology of recovering that that is more environmentally friendly, that is more economical. I don't think anyone would have predicted the change of technology that has transpired in that area. Of course, higher prices will dictate more aggression in getting better technology. Something that I think we can contribute to Kyoto is sharing some of this technology that we are implementing here that is more environmentally friendly, and I'm talking about using CO₂ and other methods for recovery.

Coal: a tremendous amount of coal, the lowest sulphur burning coal probably in the world. I believe that our efforts in clean-coal technology with our partners will bear some fruit that will be beneficial to us.

Coal-bed methane: a lot of deposits there, and again the technology is improving, and we see improvements in recovery there.

Should the royalty structure be reviewed? I think that the minister has already spoken to that and talked about looking at that. While we show some declining revenues, I think that we're going to have an income from that long into the future. While we should be conservative and recognize that we do have a lower revenue on bitumen and some of those other heavy oils, it's still an important resource that will be here. I believe that we need to value add more here and improve the technology for doing that and then sell that to the rest of the world, which is a good thing.

On the reduction of corporate tax in the hot economy, the real reason for reducing the corporate tax is to make our businesses more competitive in the global marketplace. Right around the city of Edmonton there are about 160 companies – small businesses, granted – that manufacture food and beverage, so agricultural products. That has grown from about 110 companies. Probably there are more than 160. The minister of agriculture might leap up and say: boy, are you behind. They ship to over 100 countries in the world, and they have to be competitive on that basis. So it's really more of a global issue.

One of the things that we learned when we did our tax review, the first thing that hit me, was how narrow our tax base was; secondly, how competitive we are in Alberta within Canada but how uncompetitive Canada is with the world. We have to look at that, remember that we compete in a global economy. We want to make sure that these small companies that are all around our city here – I've visited some of them. They're wonderful stories, whether it's the beautiful little cakes that are being shipped all over from here. A

young man who was a chef in British Columbia saw a wonderful opportunity, built a business, and ships these cheesecakes not only in Canada but to the U.S., expanding all of those markets, and had to do a huge expansion on his plant recently.

Mr. Mason: Does he qualify for the corporate tax rate, though?

Mrs. McClellan: Well, yes, he probably is above the small business now. He probably started in one range and went to the other. That's one of the reasons we did small business first, raised our threshold to \$400,000. I think there's some real merit in looking at either raising that threshold or reducing that rate again to make sure that they're competitive.

I have something I'd like to share. The Canadian Bankers Association – love or hate bankers, they are the financiers in this country. I have a letter from them – it's written to me – about our budget. I think it's important that we share it, and I'll just read a part of it. It says:

On behalf of the members of the Canadian Bankers Association (CBA), I am writing to congratulate you on Alberta's budget for 2006-07. Largely due to your government's sound fiscal policies, Alberta has one of the most robust economies in the country, no debt and is in the enviable position of having the fiscal flexibility to further strengthen "Alberta's tax advantage."

You can read it for yourself, but it does talk in that as well about the important priorities of health, education, and infrastructure, and it talks about it in relation to the importance of a competitive personal and corporate and business tax regime. They did encourage us to work towards our anticipated rate of 8 per cent. They say:

We believe that the current and anticipated reductions to the CIT rate will make the province's business tax advantage very compelling and set the foundation for future economic growth in the province.

That's the point I want to make.

10:00

The corporate tax reduction is not all about today. It is about the future and down the road encouraging people to invest here, to bring your investment to Alberta: a good stable tax regime, a good quality of life, wonderful opportunities for your families. I'll tell you, when people look at coming to Alberta to invest, they don't just look at taxes. They don't just look at good government. We'd like to think that. They look at quality of life issues too. They want to know if there are good recreational facilities for their families, good educational facilities certainly first of all, good cultural activities. They want the whole enchilada, if you wish, and we're proud to say that many companies large and small are saying: yes, this is the place to do business; yes, this is here for our family.

Thank you.

The Chair: I hesitate to interrupt the hon. Minister of Finance, but pursuant to Standing Order 58(4), which provides for not less than two hours of consideration for a department's proposed estimates, I must now put the question after considering the business plan and proposed estimates for the Department of Finance for the fiscal year ending March 31, 2007.

Agreed to:

| | |
|---|-----------------|
| Expense and Equipment/Inventory Purchases | \$1,129,463,000 |
| Nonbudgetary Disbursements | \$65,793,000 |

The Chair: Shall the vote be reported?

Hon. Members: Agreed.

The Chair: Opposed? That's carried.

The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Chairman. I'd move that the committee now rise and report the estimates of the Department of Finance.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Danyluk: Mr. Speaker, the Committee of Supply has had under consideration certain resolutions, reports as follows, and requests leave to sit again.

Resolved that a sum not exceeding the following be granted to Her Majesty for the fiscal year ending March 31, 2007, for the following department.

Finance: expense and equipment/inventory purchases, \$1,129,463,000; nonbudgetary disbursements, \$65,793,000.

I would like to table the document for the official record of this Assembly.

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

Hon. Members: Concur.

The Deputy Speaker: Opposed? So ordered.

head: **Government Bills and Orders**
Second Reading

Bill 40
Post-secondary Learning Amendment Act, 2006

The Deputy Speaker: The hon. Minister of Advanced Education.

Mr. Herard: Thank you very much, Mr. Speaker. I must say that I'm very pleased to rise and move the Post-secondary Learning Amendment Act, 2006, for second reading.

In relation to this amendment I would like to highlight that our review of the advanced learning system has been completed, and the steering committee's report has now been finalized and is under consideration. One of the outcomes of the review will be an affordability framework, and this framework will identify a broad sweep of initiatives to improve the affordability of Alberta's advanced education system. A revised tuition fee policy is one of the initiatives within the framework.

This amendment to the Post-secondary Learning Act is necessary to prepare for the introduction of a new tuition fee policy. The amendment is proposing to repeal clauses in the Post-secondary Learning Act that set out the principles that guide tuition increases by public postsecondary institutions as reflected by the current tuition fee policy. Mr. Speaker, the repeal of these clauses will remove any legislative barrier to implementing the new policy by allowing the establishment of tuition fees in accordance with the regulation.

We need to make these amendments immediately so that government can make true on its promise of a new tuition fee policy in place and working for students by the fall of 2007. Failing to repeal and amend these sections would likely delay the implementation of a new tuition fee policy until September 2008 as public postsecondary institutions will have to follow existing sections when setting tuition fees. If we were to allow that to happen, under the current legislation average tuition in 2007-08 would increase 6.5 per cent at universities and 9.8 per cent at colleges. My commitment as

Minister of Advanced Education is to introduce a new tuition fee policy this fall so that we don't have to see increases of this magnitude ever again. A new tuition policy for implementation in the fall is strongly anticipated by key stakeholders. They expect to see it this year. This amendment is about being responsive to stakeholder concerns and, in particular, those raised by students around the existing tuition fee policy.

The new policy will be developed through further discussion and dialogue with stakeholders as we realign the existing regulation to support the new tuition fee policy. That's where I think most people who haven't been there and done that would not understand that making changes to regulations is an onerous number of steps. You have to be able to demonstrate that you've had consultation with stakeholders. It's not just a matter of preparing an OC for cabinet and, like magic, things change. You have to consult, and you have to prove that you've consulted with stakeholders. So I think that that's what maybe a lot of people don't understand because they've not been there and done that.

I strongly urge the Assembly to support this legislation as it paves the way for a new tuition fee policy for students, something which should not be delayed. With that, Mr. Speaker, knowing that we will be addressing Bill 40 in second reading on Monday, it's my pleasure to adjourn debate.

[Motion to adjourn debate carried]

Bill 41

Unclaimed Personal Property and Vested Property Act

The Deputy Speaker: The hon. Deputy Government House Leader on behalf of the Minister of Finance.

Mr. Renner: Thank you, Mr. Speaker. It's my pleasure to stand today and move second reading of Bill 41 on behalf of the Minister of Finance. Bill 41 is the Unclaimed Personal Property and Vested Property Act.

The first goal I'd like to accomplish with this legislation is to establish a primary repository and claim system for the unclaimed or abandoned property of Albertans. To accomplish this, Bill 41 would require all holders to pay or deliver assets that remain unclaimed after the end of a specified holding period together with all information on the apparent owners to a central repository. Owners will be able to research a single registry to determine if the administrator holds assets that belong to them or that they are entitled to. A single-stop repository makes the process of locating unclaimed assets easier for all owners.

To accomplish the second goal of establishing a clear process to manage and resolve issues relating to property that vests in the Crown after a corporation is dissolved, Bill 41 proposes several measures. First, Bill 41 proposes a five-year limitation period during which a corporation can be revived. Experience has shown that very few corporations are revived after five years. Once the deadline has passed, the corporation cannot be revived, and any remaining property vests permanently in the Alberta Crown.

10:10

It is anticipated that property that vests in the Crown would include land. The legislation proposes a process that will enable the Crown to take title to the land and remove existing encumbrances with sufficient warning. At the same time, creditors would retain the right to enforce any security interest they might have on the property. In both cases, Mr. Speaker, claims for the return of such property or proceeds will be allowed for 10 years from the date the property is transferred to or becomes vested in the Crown. From an

administrative perspective this legislation will empower the Crown to conduct searches to find vested property, administer and invest property, and minimize legal liability and risk.

In summary, Mr. Speaker, this legislation will establish clear rights, obligations, and procedures for managing vested property. With that, I would like to move that we adjourn debate on Bill 41.

[Motion to adjourn debate carried]

Bill 39

Energy Statutes Amendment Act, 2006

The Deputy Speaker: The hon. Member for Stony Plain.

Mr. Lindsay: Thank you, Mr. Speaker. Today I'm pleased to rise and move second reading of the Energy Statutes Amendment Act, 2006.

Alberta has recently become an economic force in Canada that is far beyond its size. It is a Canadian leader in almost all economic indicators from growth to employment, from the education of the workforce to productivity, from average family income to standard of living. This is due in large part to the productive energy industry in Alberta. Alberta is increasingly being recognized as a global energy leader. Investors are clamouring to be a part of Alberta's energy future. Activity in Alberta's energy industry has grown to record levels across the province. Exploration, development, production, technological advances, improved environmental technologies, and protection: the list is long.

These amendments will ensure that Albertans' benefits from resources are optimized and enable both industry and government to continue to operate efficiently and effectively. As we are all aware, Alberta's competitive market is stimulating investments and growth in the energy industry. To ensure that the competitive natural gas retail market continues to operate with integrity, amendments need to be made that will enable comprehensive monitoring of the market participant behaviour.

The Gas Utilities Act will be amended in this bill to allow the retail natural gas industry to operate with similar regulations to the competitive electricity market. Amendments to this act include allowing Alberta's Market Surveillance Administrator to oversee the retail natural gas market to ensure fair and efficient competition, aligning regulatory-making powers to reduce the number of regulations in place for both the electricity and natural gas retail markets, putting a mechanism in place to ensure that the MSA is able to recover its costs for monitoring the natural gas market, improving alignment of the retail natural gas market with the retail electricity market to support convergence of the natural gas and electricity retail policy.

The energy industry in Alberta helps to ensure that Albertans enjoy prosperity and an extraordinarily high quality of life. Budget 2006 estimates that nonrenewable resource revenues will be \$11.4 billion for 2006-2007. In addition, the Crown owns 81 per cent of the province's mineral rights. Key amendments to the Mines and Minerals Act will allow the rules regulating taking and managing royalties in kind to be clarified. Although the act currently provides for the Crown to take its royalty in kind, which means that the Crown collects a percentage of the hydrocarbon product that is produced under the current regulations, the Crown only takes royalty in kind for conventional oil. If the Crown decides at some point to take and manage royalties in kind for other minerals, the regulations setting out the rules for doing so will need to be clarified. Before making such a decision and before any changes are made to these regulations, consultations with the industry and further government reviews will take place.

Corresponding amendments are also being made to the Mines and Minerals Act clarifying the technical rules with respect to the business of selling or swapping the products that the Crown receives as royalties in kind. For example, more revenue can sometimes be made from the royalties in kind by swapping one type of oil for another, which may attract a better price. By clarifying the technical rules within the act, the Crown will be able to optimize the value of our resources.

Other amendments to the Mines and Minerals Act will include increasing efficiencies such as allowing electronic transfers to take place and reducing red tape, such as eliminating the need for order in council approval for routine subsurface storage agreements, such as the storage of natural gas or petroleum liquids. It is important to note that in order to undertake the subsurface storage activity, all regulatory approvals and environmental requirements must be met.

There are nine acts that are being amended in this bill, in many cases to ensure that the industry continues to operate efficiently and effectively. Of these nine, there are two that are spent and being repealed, the Natural Gas Price Administration Act and the Natural Gas Pricing Agreement Act. These two acts are no longer relevant as they served to implement Alberta's role during the regulated gas price environment prior to deregulation of the gas pricing in the mid-1980s. It is important that this industry and the acts that guide it continue to evolve to ensure that it operates with the best interests of Albertans. Thank you.

Mr. Speaker, I move that we adjourn debate on Bill 39.

[Motion to adjourn debate carried]

head: **Government Bills and Orders
Committee of the Whole**

[Mr. Marz in the chair]

The Chair: I'd like to call the Committee of the Whole to order.

**Bill 31
Health Information Amendment Act, 2006**

The Chair: We are debating amendment A1. The hon. Member for Edmonton-Centre.

Ms Blakeman: Thank you very much, Mr. Chair. I'm delighted to be able to join the debate on Bill 31, the Health Information Amendment Act, 2006, in Committee of the Whole. Actually, if the chairman doesn't mind, I'd like to make some general comments before I move amendment A1, but you're free to circulate it at this time.

The Chair: It's already been moved, hon. member, on May 3.

Ms Blakeman: Oh, is this the one that's on the floor?

The Chair: This is amendment A1. Adjourned debate on amendment A1.

Ms Blakeman: Okay. So this is the one that's removing something. Hang on.

The Chair: The amendment reads as follows. The bill is amended in part A: section 2(b)(ii) is struck out.

Ms Blakeman: Okay. Thank you for the clarification.

This is an interesting one. In the health information review

committee that happened in 2004 the whole section around health service provider information and how much of that information was given out was one of the major points of discussion, and in the end the committee asked that a second committee be constituted. That question got passed on to that committee, which has yet to be formed, to deal with because there were some huge issues that we just couldn't deal with in the time that we had. There was somewhat of a guillotine hanging over us as the election was looming in the fall of 2004, and there was urgency felt by the chairperson of the committee to pass certain parts of what we had reviewed in the Health Information Act. Things we couldn't get to appropriately were just passed on to the next committee. As I said, one of the big issues there was around health service provider information, which at this point is very limited as to what information is released.

Now, a number of, in particular, pharmaceutical companies were very interested in getting access to more information about health service providers. Mostly what this is about is getting at prescribing information, so for marketing purposes they could see, you know, what kinds of drugs a doctor was prescribing, allowing them to analyze them and get at them to try and convince them to prescribe their particular version of an antidepressant drug, for example, as compared to the one they were currently using. There was great resistance to adding on any more information than could be allowed under the rules right now.

10:20

So the idea that's in this act of adding in the registration number after the licence number I found was very interesting, and for whatever reason – I don't know why, and I can't remember the member's explanation for this – that has again caused some controversy, it appears, and that has been pulled out. I have no objection to that happening at this time, so I'm satisfied to have the registration number removed and that clause deleted from the amending act, which means it would never go forward into the existing act. I'm sure we'll hear about this again in the future, but at this time I'm fine with it being pulled. I think we have to go back and examine the whole issue of health service provider information, and I don't think it should be done piecemeal, and this is somewhat approaching it from a piecemeal point of view. So removing the addition of the registration number is fine.

Thanks.

The Chair: Are you ready for the question?

Hon. Members: Question.

[Motion on amendment A1 carried]

The Chair: The hon. Member for Edmonton-Centre. [interjection]

Ms Blakeman: I so enjoy working evenings with the Member for Drayton Valley-Calmar because he just gives me so much energy to speak longer and keep going. He's just my own little version of the Energizer Bunny, just gives me lots of grist for the mill. [interjection] Thank you so much. I appreciate your thoughtful consideration of my working evenings.

What I would like to do. I have a series of amendments to progress through this evening, Mr. Chairman, but I would like to set the context for them because they are all more or less related to the same originating point.

Now, I had mentioned that I was one of two opposition members that sat over a period of about six months on the health information review committee. One of the issues that came up that I really

objected to is contained in recommendation 31 coming forward from the committee. What I'm seeing in this amending bill is I think what I disagreed with so much in recommendation 31 is getting mixed in with recommendation 32, which was basically about prescription fraud, and recommendation 34, which was about individuals perpetrating fraud in the health service sector. What I'm seeing in addition in Bill 31 is the government sort of anticipating health service provider fraud. So there are two different clauses there: one coming at it from the point of view that an individual is committing fraud, getting health services they shouldn't be getting, and then there's a second section that deals with health service provider fraud, taking advantage of the system. We did not particularly deal with those separately in the committee, but they're appearing separately in the bill.

The concepts that I was disagreeing with so much that are captured in recommendation 31 are sort of sprinkled and mixed in with recommendations 32 and 34. That was the prescription fraud and the individual perpetrating fraud in the health services in obtaining it or dispensing it. I'm just going to go through this for you. Recommendation 31 from the committee read that "the Act should be amended to mandate disclosure, without consent."

Now, let me put this in context for everyone. This is individually identifying health information, so from this information those involved can tell who it was, exactly what happened to them, where they live, all their health information, basically, and the individual is not able to give their consent and in many cases wouldn't even be aware that the information has now been disclosed to somebody else. So those situations need to be very, very carefully laid out.

Essentially, the Health Information Act is an act that sets out all the rules and says that you can't disclose people's personal health information, and then it goes through and says except. So it's exception-based legislation, except in the following circumstances, and they try and keep a really tight hold on that. There are a number of provisions where it talks about, you know, the least amount of information being given out with the highest level of anonymity and a number of other precautions, but that's how this is meant to work.

So let me go back again. Recommendation 31. "The Act should be amended to mandate disclosure," individually identifying health information, "without consent, to police services" of the patient's name, their address – that's their home address – their location in the facility, the date of admission, the name of the physician, the nature of the injury.

The reasons given at the time were "for purposes of obtaining a warrant or subpoena." So the police don't have the information. They're fishing for it. You can't get a warrant unless all the information is filled out. When you go on the Internet now and you try and purchase something or get involved with something, it actually will not process unless you fill in all the blanks. Essentially, that's what happens when you're trying to get a warrant. You have to fill in all the blanks or the police have to present the warrant with all the blanks filled in or they can't get it. If they're missing information, they can't get the warrant. So here they're trying to get the information they want to put in the warrant.

So the committee's recommendation that I was so exorcized about. Getting this information – that was the information – individually identifying, without consent

for purposes of obtaining a warrant or subpoena, and when the police have reasonable grounds to suspect that the person seeking health services has been involved in some form of criminal activity; and makes a request for that information; or (b) a custodian . . .

Now, a custodian is someone involved in the health system that is what we call inside the arena, so they're a custodian of health information.

. . . has reasonable grounds to suspect that the person seeking health services has been involved in some form of criminal activity.

So that was the original recommendation, and the reasoning behind it was fairly extensive.

But let's look at the situation that we have right now. Essentially, the police are able to get this identifying health information without consent if the situation is life threatening, if there is imminent danger, or if it is involving vulnerable people. So mental capacity – and they can do it under the Child Welfare Act, they can do it under the Protection for Persons in Care Act, and they can do it under the Fatality Inquiries Act. So there are already a lot of circumstances all covering urgency and imminent danger under which circumstances the police can receive this information.

So I say: why else do they need it? If they're seeking this information, it's not life threatening, it's not urgent, then it's sort of casual. Well, I've got nothing better to do right now, so I think I'll wander in and bug the nurses to get this information. It's not involving vulnerable people, so we're not in danger of somebody we should be protecting as a society, you know, being imperiled in any way. None of those circumstances apply when we're looking at changing this legislation because we've already covered it in the legislation.

So why are we doing this? Never made sense to me. This was to make it easier for police to get information on people. Well, we've got to be careful when we do that, and I think that in the interim, between when this committee met and now, we start to get a better understanding of why this becomes so important. Information once in a database in this day and age and with the electronic databases doesn't disappear. There's no time bomb that explodes or is programmed into a database that says: five years from now this information will be wiped out because we won't need it anymore. It stays in there forever, and every time somebody calls up that particular individual's information, bingo, it all pops up on the screen, including, my friends, your individually identifying health information that was obtained without your consent. In some cases you won't even know that they have it. Why would we be letting the police fish for that information?

10:30

Something else I want you to think about: is this really how we want our health professionals spending their time? Considering how backed up we are in the hospital system – every day there are questions about overcrowding and difficulty getting people through the system and stressed hospital staff and people working overtime and not enough staff to cover this, and we're now going to pass a law to change an act so that the police can go in, pull a nurse or a doctor or a hospital administrator aside, and: I'm looking for John Doe, and I think he's in this hospital, and I'd like you to give me all of this information on him.

Now, it's not life threatening. Nobody's in imminent danger. We have other ways of accessing this information if it's to protect a child or someone with a mental illness or an elderly person or a person in care. Why would we allow that? It's a shopping trip. Yet that's exactly what is being anticipated here.

Let's be clear. This is a recommendation the committee passed, and I was on that committee. I voted against it, but the committee overall voted for it. Now, it's not hard when in this configuration you always have an overwhelming number of government members on any of these committees, and they just vote it through. That's exactly what happened here, but I still disagree with it.

Okay. So let's look at some of the other reasonings about why this isn't a good idea. What you're trying to do is find the appropriate balance between privacy rights of an individual who is seeking

care and treatment and, basically, police requirements for personal information. I've already argued about why the police shouldn't be needing to get this personal information, because it's a fishing trip and they should find that information through the other sources and other processes that are available to them.

We had a number of people present to us, and each one of them was asked to sort of go through a survey of the issues that we had before us. A little less than half the people recommended no change in the existing law, but some, and in particular the police, wanted more discretionary authority, which covered any circumstance, to be able to draw this information out, and that's the situation that we're anticipating with the changes in Bill 31.

Now, one of the things we need to be careful about here is the co-operation of everyone in providing health information into the system. As people become more and more aware that their information is going to go into an electronic database that will be kept and shared, we all understand that that's probably a good thing. We want to know that if we're unconscious or arrive in an ambulance, the other treatments we've had and the fact that we've got allergies to things and that we've had various tests, all of that information is available to the health professionals that are going to treat us. But we have to trust that that information is only going to be used for the purpose of treating us for whatever ailment we might be arriving at the hospital with.

People get very reluctant to start giving additional information if they think that that information is going to be used for some other reason, which is why we have to be so cautious with health information. People start withholding information and only give a partial picture, which really makes our whole idea of electronic health records very difficult to manage if we believe now that we've only got partial information and partially correct information.

Now, I want to go back over the kind of information that would be requested and why that's important. Part of what we were looking at here is what's called registration information. That has a particular definition here. Under the act registration information includes elements such as name, their personal health number – now, what does that tell you? Well, the personal health number is going to give you some indication of whether they qualify for health services in this country. It's going to tell you, for example, what their immigration status is.

So you get additional information by getting some of these basic information categories. You get bonuses, in other words. The health number gives you the bonus of often finding out whether there are dependants that are listed under the same number, what their immigration status would be in Canada, and some other information. You get the gender. You get the date of their birth. You get their home address. Now, wouldn't that be handy if you were trying to get information for a warrant? You go in, you say, "I'm looking for John Doe, and I want this information on him," and gosh, you get his home address out of it. Well, that's the information you were looking at for your warrant. Bob's your uncle. Off you go. You got what you needed. Our health professionals had to spend time digging that out of the files to give it to the police officer.

This is not to say that police officers don't have other ways of getting this information. That's their job. They have all kinds of processes to draw upon to get this kind of information. There are certain tests there that the police need to meet in order to get that information. Protecting the public's privacy and making sure that our processes of law enforcement are being abided by is exactly why those tests are in place. So I see this as an end run around some of those tests.

Continuing on: health service eligibility information. Again, you pick up some of the things I was talking about with the personal

health number. Location information in the hospital: well, that gives you some bonus information too. Are they in the maternity ward, or are they in the orthopaedic ward, or are they in surgery? That would tell you a lot about why they were in the hospital.

Billing information. Well, you can get scads of information from billing information. You get some idea of their financial status. You may be able to pick up credit card information. That's likely to give you an itemization of what procedures or tests they've had so far. Remember, this is all going to end up in a database somewhere in the bowels of the police service, and every time – five years, 10 years, 25 years from now – they call up your name on that computer, bingo: up it all comes for anybody to read out.

Now, just think back to what happened around the Overtime affair. They were accessing that information for no reason that was justifiable under the circumstances. That could happen to any one of us in here. It goes on forever. That information is never deleted off that file.

Now, I think the other thing we need to keep in mind here is the Charter and whether what we're contemplating passing in Bill 31 is Charter proof. This government doesn't seem to care much if stuff is Charter proof. I've stood here many nights and talked about the fact that something they were about to do was not going to be Charter proof, and I've been proven right way more times than I ever wanted to be, Mr. Chairman. I have some sympathy for the Greek character of Cassandra, who kept making predictions that were absolutely true and everybody hated her for it. Well, I know how that feels.

I believe that this will not be Charter proof. When we look at what the Charter is about, what we want to be sure of – even though you may have legislation that limits a guaranteed right, it can sometimes be saved under section 1 of the Charter, which is saying that all rights are subject "to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." So is what we're doing in legislation justifiable in a free and democratic society? I would argue no because we just are not sure enough about enough things that we are contemplating here.

In order to survive a section 1 test, there's the two-part Oakes test. The first part is that the objective of the law must be of sufficient importance to justify limiting a Charter right. Second, the means chosen must be reasonable and demonstrably justified by showing that the law (a) is rationally connected to the objective and (b) uses the least drastic means to accomplish the objective – in other words, that if it impairs the right, no more than necessary to accomplish the objective – and (c) it's proportionate. It must not have a disproportionately severe effect upon the person to whom it applies.

10:40

I would argue that releasing individually identifiable health information without the individual's consent in circumstances that are not urgent – they are not life-threatening; there is no imminent danger; it does not affect vulnerable people, those with a limited mental capacity, children, elderly, or other vulnerable people – is not reasonable.

So I have a series of five amendments that are flowing from the argument that I've just laid out for you. The first amendment I would like to move at this time, and that is amendment A2.

If it's all right, I'll just keep talking about it while it's being distributed.

The Chair: We should distribute them so that the members can see what the amendment is. Then you can proceed after they're distributed, if you don't mind.

Ms Blakeman: Just wait?

The Chair: Yes.

Ms Blakeman: I think we're close to it. With your permission I'll continue.

The Chair: Yes, I think you can proceed.

Ms Blakeman: I'd like to move amendment A2, which is amending section 7 of Bill 31, which affects the proposed section 37.1(1) by striking out clause (a). This is part of where I see recommendation 31, which is the police stuff and giving the information to the police, being mixed in with the other recommendations. Specifically, I see it appearing as clause (a) under 37.1(1). I'll also note that all of the amendments that are added in under section 7 are in addition to what's already in the original bill. So this is all being tagged on to the end of a section that's about limiting fraud and abuse of health services.

Section 37.1(1) reads:

- (a) that the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada, and
- (b) that the disclosure will detect or prevent fraud or limit abuse in the use of health services.

Now, I'm fine with (b), and I'm fine with the way it flows to that. But I'm not fine with (a) because I think that's a back door way of the government being able to empower the police to collect that information based on whether an offence has been possibly committed under a statute or regulation of Alberta or Canada. Again, by whose definition? Who's making that decision? Is it the custodian that's supposed to know the Criminal Code here? Or are the police coming in and saying, "We believe there's been a gunshot, and it should be dealt with"?

I'll let the member respond. I think I've laid out the argument fairly clearly, and I look forward to an opportunity to respond again.

The Chair: The hon. Member for Calgary-Nose Hill.

Dr. Brown: Thank you, Mr. Chairman. I will address a few of the comments of the hon. Member for Edmonton-Centre. I wish to emphasize, first of all, that it does provide in the bill that the "custodian may disclose individually identifying health information" in all of the various sections which she had referred to. The key word is "may." As the hon. member is aware from her participation in the Select Special Health Information Act Review Committee, the original recommendation which was brought forward by the committee was that it should mandate disclosure in those specific instances.

The hon. member is quite right to be cautious about these individual freedom issues and privacy issues because these are delicate matters and there has to be a balance struck between the privacy rights of the individuals and the overriding obligation and rights of society and of the public good as a whole. So what the department has tried to do in bringing forth these particular amendments is to strike the right balance. Whether or not that is exactly the correct balance I guess time will tell. The act, as the hon. member alluded to, has several provisions that already enable custodians to disclose individually identifying information in certain circumstances, but I think the overriding thing that I would like to emphasize is that this is permissive and not compulsory, and it is the subject of considerable discussion.

As the hon. member had pointed out, not only is the issue of privacy one which is paramount in this particular issue, but it also

affects the rights of the physician in the sense of the obligation of confidentiality and the protection of the confidence between the patient and the doctor, which is paramount. I think that that was one of the overriding provisions that mitigated against making it mandatory for the physician to disclose that information because we are dealing with some ancient protocols there, like the Hippocratic oath, with respect to disclosure of information.

What the legislation now does is attempt to strike a balance. So it's a two-part test that must be passed before that custodian releases information of an individually identifying nature. First of all, it must be shown that there's a reasonably founded belief that the information relates to an offence. Secondly, it has to get by another test, which is perhaps more appropriate, and that is that the custodian must in their own judgment, on balance, say whether in their judgment the release of the information is justified. They have to have a reasonably founded belief to start with, and they also must believe that in their judgment the release is justified, that on balance the public good dictates that they should release that information. So it is discretionary, as I said.

In section 7 of the bill, as far as I can see, the information does not give the person's address. It talks about the name, the date of birth, and the personal health number and so on. In the case of the health care provider it does provide the business address and so on. I would agree with the hon. member that there may be challenges under the Charter of Rights and Freedoms at some point. As to whether or not the right balance is struck in this present instance, I guess only time will tell, when the courts have some adjudication on it. But I think that what the legislation does as it presently exists is try to strike a reasonable balance in terms of discretion where the overriding concerns of the public good seem to outweigh the infringements on personal privacy.

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

Ms Blakeman: Thank you for that information. Yes, he is correct. The original recommendation from the committee – and I regret that I neglected to focus on that – was that it was mandatory. I appreciate the fine distinction that this is not mandatory, but I would argue that that matters not a hair's difference. When you're a nurse on duty at 4 o'clock in the morning and a police officer walks into your nursing station – and our police, when they're on duty, are in full garb with everything clanking off their belt, in uniform – and they come up and request information, I don't know how good a job we're going to be able to do to make it clear to that health service provider that they don't have to give that information. I haven't seen any indication that there is a massive education campaign going to be accompanying the proclamation of Bill 31.

10:50

It's something that we see happen. I've spoken to people that are health professionals that say, you know, that they're under immense pressure from their colleagues as a result of interactions with police and others that were requesting personally identifying health information, and they've said: "Sorry. I know the law, and I'm not giving you the information." They've come under immense pressure, and there have been complaints to their superiors and a number of other things. And they were right. They were absolutely right. They were doing everything that they should have done, but not everybody understands that, and they end up feeling huge pressure, to the point, I think, that one of them felt workplace harassment. They were doing what they were supposed to do, but it's very hard for people to understand that when we've got a police officer – we're a law-abiding society. We willingly give our police

power. So when they show up saying, "I want this information," most people tend to go: "Oh. Okay, officer. If you are asking for it, it must be legit. I'll hand it over." Not necessarily the case.

I guess what I'm arguing here is that if the sponsoring member believes that the word "may" in this amending legislation will be enough of a test to pass, that it would guarantee a balance and a protection, I would argue that that is a pretty slim protection here.

It's very useful, for those that are following along at home and on the Internet, to be examining Bill 31 with the original bill, the Health Information Act, in your other hand because you don't always get the full picture of what's happening here. So when we look at how 37.1 and the other sections that flow in – there's 37.1, 37.2, 37.3 – they all flow following the section 37 appearing on page 30 of the original act. Those numbers will change, obviously, if these amendments go through.

Section 37 is "Disclosure of health services provider information" and starts out by saying:

A custodian may disclose individually identifying health services provider information without the consent of the individual who is the subject of the information . . .

So we're talking about a health professional here.

- (a) to a health professional body that requests the information for the purpose of an investigation, a discipline proceeding, a practice review or an inspection relating to the health services provider, or
- (b) if the disclosure is authorized or required by an enactment of Alberta or Canada.

Then it goes on to section (2). They can "disclose health services provider information," and then there's a whole long list of what kind of information they can give. That's where the previous amendment would have fit, and this is

other than home address, telephone number and licence number, to any person for any purpose without the consent of the individual who is the subject of the information, unless the disclosure . . .

And here's where you get into the exceptions.

- (a) would reveal other information about the health services provider, or
- (b) could reasonably be expected to result in
 - (i) harm to the health services provider's mental or physical health or safety, or
 - (ii) undue financial harm to the health services provider.

Then this section in Bill 31 fits in because it follows after the existing section 37. So that's where you get into

37.1(1) A custodian may disclose individually identifying health information referred to in subsection (2),

which was that whole list,

. . . who is the subject of the information to a police service or the Minister of Justice and Attorney General where the custodian reasonably believes . . .

And then the rest of that flows from that.

So I think there's an argument here that there's some confusion about whose individually identifying health information is actually being discussed in this section because the first time I read it, my notes on the side say "patient," but in fact, I think we're actually talking about the health service provider. Makes it even more interesting.

I would still argue that to be on the safe side, we should be taking out section (a). I hear the argument – I actually got this from Parliamentary Counsel and from the sponsoring member – that this is a two-part test, what's set out here: "that the information relates to the possible commission of an offence" and "that the disclosure will detect or prevent fraud or limit abuse in the use of health services." I question whether, in fact, that is really the way it would play out. I see section (a) being used as a back door to gain that information that I talked about earlier.

So I would ask all members to support my amendment A2, which would delete section (a); that is "that the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada." I hope I can gain the support of everyone in the Assembly.

Thank you very much for allowing me to argue the case.

The Chair: Are you ready for the question on amendment A2?

[Motion on amendment A2 lost]

Ms Blakeman: Ah, well, one down.

We're continuing on with section 7 because my next amendment is continuing with this. But I just want to note that I skipped over section 37.2, which is noting in Bill 31 "Disclosure to prevent or limit fraud or abuse of health services by health services providers." Again, I think that there's a bit of a problem there about how this is all flowing because it looked like the first one was supposed to be about patients, but flowing as it does under the existing section 37, I think we're talking about health service providers there as well. I did not take the same clause, the corresponding clause, out of 37.2 because it was clearly about detecting fraud in the health services. Just in the way it's written, I did not see this as being used with the same sort of backdoor access.

But when I move on to 37.3, "Disclosure to protect public health and safety," this one I really see as a back door, as a way of empowering the police to request this information. I'm doing the same thing here in that I'm taking out section (a) because of what you have and the way it's worded under 37.3(1):

A custodian may . . .

And I note "may."

. . . disclose individually identifying health information referred to in subsection (2) without the consent of the individual who is the subject of the information to a police service or the Minister of Justice and Attorney General where the custodian reasonably believes

- (a) that the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada, and
- (b) that the disclosure will protect the health and safety of Albertans.

Now I think this is really the clause that reflects the intent of Bill 31.

At this point I would like to move amendment A3 and ask that it be distributed.

The Chair: Okay. We'll refer to this amendment as A3.

You may proceed, hon. member.

Ms Blakeman: Thank you. This amendment is asking that Bill 31 be amended in section 7 in the proposed section 37.3(1) by striking out clause (a). So it's exactly the same clause. It's the one that refers to the information relating to the possible commission of an offence under a statute or regulation of Alberta or Canada.

Again, how is the custodian supposed to know this stuff? The clause above it says, "where the custodian reasonably believes," and then "(a) that the information relates to the possible commission of an offence." Well, how are we expecting a doctor or a nurse or a radiologist or a licensed practical nurse to be up to speed on what would be an offence under a statute or a regulation of Alberta or Canada? You're asking a lot. They're health professionals. They're there to do a different task than to be knowledgeable about why the police might be searching for information on an individual.

I think that if you take that out, you can read this clause straight through, basically saying that they can disclose this if they believe

that the disclosure will protect the health and safety of Albertans. I still have problems with this concept, but I think that if we take out (a), we've made it less dangerous.

11:00

Essentially, what we have here is that it's far too vague. It is not defined, and that's one of the things that we test for when we look at the Charter. How defined is it? How narrowly defined is it? This is wide open. It could be anything according to what we're reading here. So I would argue that it's not allowing reasonable limits, and I think this one actually fishes the most.

Now, there could be an argument made here under public health and safety of Albertans that this is a terrorism clause, but I don't see anything else in there that is putting that concept in context. Therefore, I think that without a great deal of other information putting that in context, we can't accept that that's what it's for, that that's the good reason, that that's the reasonable limit, because it's not specifying it enough. It is simply just too vague.

I would look forward to the response from the member, and we will proceed with this amendment. Thank you.

The Chair: The hon. Member for Calgary-Nose Hill.

Dr. Brown: Thank you, Mr. Chairman. Again, I am sympathetic to the concerns expressed by the hon. Member for Edmonton-Centre, but take examples of things like gunshot wounds or stab wounds, someone coming into an emergency room who's intoxicated and has been injured in an accident and says that they've been involved in a hit-and-run accident, somebody who is mentally deranged and alluded to threats against their spouse, or something like that. I think we could all agree that in those circumstances there are overriding concerns of health and safety and that there may well be hard evidence in front of the health care service provider that very likely a criminal offence has occurred.

Again, what we have attempted to do is strike a balance here. Whereas in the original recommendations in such circumstances as gunshot wounds there would be a mandatory disclosure on the health care provider's part and some obligation to do so, this does provide discretion in instances where it was deemed in the best judgment of the health care provider that those types of things ought to be disclosed to the police or to the Attorney General. So I think that, again, one would have to assume that some judgment would apply on the part of those custodians of that information.

As I said, it is limited in its scope to the name of the individual, the date of birth, and the nature of the injury or illness. If it was a stab wound or a gunshot wound, I suppose that would be relevant. So I think, again, the key is the fact that this is discretionary on the part of the custodian and it's not mandatory.

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

Ms Blakeman: Well, thank you. The member has now opened up a number of other areas that I wanted to talk about. We need to deal with the problem here. If the problem is that we have gang members, for example, going into hospitals with gunshot wounds, and they get to sit in there, get our public health care system helping them, and then sneak off, and we don't catch them, and we've helped to heal them, deal with the problem. There is legislation that exists in Ontario and in other locations in which there is mandatory reporting of gunshot wounds, and in that you could include knifings and severe beatings, which, as the member noted, are identifiable and there's a high likelihood that the person incurred those in some sort of illegal activity.

If that's your problem, deal with it. Bring forward the legislation that deals with that, but don't open up people's personally identifying information without their consent and disclose that to police service employees based on that. If that's your problem, deal with it. Bring in the legislation. But don't use that as a reason to open up the rest of this can of information for anybody else to get access to.

And you are already covered for that. If you've got a situation where someone's in imminent danger – you know, there was a car accident, and somebody else might be out there – you are already covered for getting that information under the clauses that already exist and the surrounding laws that already exist around that, which is the “imminent danger” and “life-threatening.” If you've got somebody coming in and you think there's a spouse somewhere bleeding in the bathroom in the house, you're already covered to get that information.

So quit using those excuses as a way of justifying what's happening here because it does not describe the situation that it is intended to deal with. You're already covered for that stuff. Don't bring examples of someone with a mental health issue in here because those are already dealt with somewhere else. So you are unable to provide me with examples of exactly what situations you are anticipating that would be covered by this legislation because everything else you've described to me is already covered, under “imminent danger,” under “life-threatening,” under the provisions that are already available under the Mental Health Act, under the provisions that are already available under Fatality Inquiries, Child Welfare, and Protection for Persons in Care.

What is the situation you're anticipating here? You can't describe it. Every example that I've heard raised about why you need to be able to get at this information about people is already covered. So you're not giving me examples of why you need this. Therefore, I say: then, you don't need it, if you can already get the information in the other areas through the other provisions that are given to you through this legislation and other legislation. Those are the examples that keep being used to justify this. You can already get that information. What, exactly, is it that you want to use this information for? Nobody can give me those examples. I sat through days of public presentations, and all of the examples that were brought forward by the police services were already covered. None of them applied to what was being contemplated here.

Again, I say: what is it that you're trying to get at here? If you're trying to deal with suspicious activities that you want health professionals to report to the police, then specifically put together legislation and ask them to report that. As I said, you've got model legislation to work from in Ontario. That was mandatory reporting of gunshots, and I believe that knifings and severe beatings were included there, and if not, they could be, because those would be the obvious ones we'd be seeing. But this, you know, car accident stuff and the mental health person and the spousal beatings and imminent danger to a spouse at home: sorry; we're already covered for that. So don't use those examples as a justification for what's happening here.

Given that the member just gave me such an excellent argument, I would urge everyone to support amendment A3. I'll call the question, assuming nobody else wants to speak to this.

The Chair: The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: I want to just suggest, Mr. Chairman, that given the concern expressed by the hon. Member for Edmonton-Centre, that, in fact, this clause would provide the police services with additional access to people's personal health information with no particular good reason that is not already provided for, I am persuaded and will

throw the full weight of my caucus behind this amendment. I'm sure that will prove decisive.

Mr. Chairman, I think we need to be very, very careful in light of what's happened in the United States with the passage of the PATRIOT Act. You know, the stoking of fear always needs to be guarded against. In the United States with the PATRIOT Act it was clear that this was a pre-existing agenda – a pre-existing agenda of the FBI and other law enforcement agencies – that they had not been able to get through the democratic process because people stood against it and said: “We're not a police state. We have democratic values, we have things that we believe in, we have rights, and we have protections. The individual is protected from the state, and there have to be certain tests that need to be met before these can be overridden in the interest of the greater good.” Of course, the PATRIOT Act swept that away.

11:10

Now, this is by no means the PATRIOT Act, and it's by no means as serious, but it represents the same thing in principle. There is an unnecessary and an unjustified intrusion into people's rights as individuals by the state without adequate justification and without appropriate tests.

I take the hon. Member for Edmonton-Centre at her word because I have not heard the government side refute her arguments, and I think that until such clear evidence can be provided that the hon. Member for Edmonton-Centre is wrong, we must support the amendment. If the government can provide that evidence and that justification at a later time, we can always come back to this and legislate it there. In the meantime, Mr. Chairman, I do not feel that it's appropriate to retain this clause in the bill.

Thank you.

Dr. Brown: I want to deal with what I think is an incorrect assumption on the part of the hon. member with respect to the issue of gunshot wounds and stab wounds. The present legislation talks about a disclosure if a custodian “believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger,” imminent meaning immediate. Somebody that staggers into an emergency room with a gunshot wound or a stab wound, while they may well have signs that would indicate that they'd been involved in a criminal activity or been the victim of a criminal activity, would certainly not fall within the parameters of being in imminent danger or causing imminent danger to anyone else.

I take the hon. member's point regarding the fact that maybe there should be mandatory legislation to report such particular instances. We haven't gone that far because of the concerns. There was some considerable discussion on the issue, as I said, of the fact that we're dealing with doctor-patient confidentiality and so on, which is something that has to be safeguarded except in exceptional circumstances.

I think that one has to assume that the custodian of the information is going to use discretion on when it's in the public interest and when, in their judgment, they should disclose the information. As I said, things like gunshot and stab wounds are not covered right now under the existing legislation. Perhaps there should be some further strengthening of the bill which is there, to mandate those particular disclosures. But we haven't gone that far because we're trying to strike a balance, the balance between this relationship between the custodian – the health care provider, the pharmacist, or the doctor – and the patient, on one hand, and the public good or the public safety, on the other hand.

I think, as I said, it's a discretionary thing, and, yes, one could assume that there might be abuses, but one must also assume that we

need some discretion there in order to allow the disclosure in those circumstances which are exceptional like I described, like the gunshot wounds, like the knife wounds.

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

Ms Blakeman: Thank you. One more point that I want to raise, just to put this in context. When we're talking about the custodian, that is our health professional: that is our nurse at the nursing station or our physician or our LPN or whoever. Given the circumstances that we keep hearing from this government about the situation that the health care services are in today, how busy everybody is and how pressed we all are to be providing these services, now we want to be taking our health care professionals, pulling them off of what they actually do to provide health care services so that they can be rooting through to give information out under circumstances that I still argue are unnecessary. They're already compelled to do it in the ones that I've listed. This is how we're using our health professionals? This is what we want them to spend time doing? More than that, we also want them to stand there and consider whether this is appropriate or not. They have very little certainty because they're now going to have to know the law and interpret it. I sure hope they get assistance to do that because it would be very unfair to place this burden upon them without some kind of training, and I hope the money comes to do that.

That's what we're creating here: an expectation that we're going to expect our health service providers to understand this, to be able to stand there and make the decision, no matter how busy they are, about whether this is appropriate or not, understanding all the context that's in it. I would still argue that this is not a good use of our health care professionals, in this day and age in particular, to be having to go through this process, especially when I argue that I've yet to hear a good argument about why we need to be disclosing this information under the circumstances outlined in this bill.

Those are my arguments. I hope I've convinced everyone here to support me, and I'll call the question.

The Chair: Are you ready for the question on amendment A3?

Hon. Members: Agreed.

[Motion on amendment A3 lost]

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

Ms Blakeman: Thanks very much. I would like to move amendment A4, and I'll let that be distributed.

The Chair: We'll distribute those first.

Okay. You may proceed hon. member.

Ms Blakeman: Thank you very much. This is amending section 37.2, striking out subsection (4). Bear with me while I walk through this one because this appears at the end. We're back to 37.2, which was the “Disclosure to prevent or limit fraud or abuse of health services by health services providers.” They go through the usual thing about they may disclose the information, possible commission, detect or prevent fraud, or limit abuse in the provision of health services, the kind of information that they can release.

Then we get down to section (4), and that is: “Individually identifying health information may be disclosed under subsection (3) without the consent of the individual who is the subject of the

information.” Well, what does subsection (3) say? Let’s go back. Subsection (3):

If a custodian discloses information under subsection (1) . . .

That was the original section.

. . . about a health service, the custodian may also disclose individually identifying health information about the individual who received that health service if that information is related to the health service.

So we’re a little suspicious about Dr. X. We think Dr. X might be defrauding, so we have approached custodians of health information to release us information on Dr. X., and there’s a long list of the information that they can give. But Dr. X is also treating some patients, so we have patient A. Now what this would allow is that for patient A, who has been treated by Dr. X, their individually identifying health information would be released to the investigating authorities here, the police or the Attorney General, without patient A’s knowledge. Interesting, interesting, interesting.

11:20

I have to say: why? If you need me as a patient to be a witness against a doctor that you think is being fraudulent with health care services, then you can come and ask me, and I’ll probably be very glad to help. We’re all aware, you know, of having a good, strong health care system. I’ll probably be willing to help. But I think it is very wrong of you to put a clause in this bill that gives my individually identifying health information to the police service or to the Attorney General without my knowledge and without my consent. It’s wrong, wrong, wrong. I cannot come up with any circumstance under which that would be acceptable. This is, I don’t think, any of their information. If they need to be able to get at you to be a witness, they can come and ask your permission. I don’t see any reason why they can’t do that. As a matter of fact, I thought that at one point somewhere in here I read that you had to get written permission from somebody and that that was part of the tests that were met.

And this person isn’t even guilty of anything. You’ve got those other provisions in here that are about people where you think it’s an individual. That was section 37.1, where you thought it was an individual who was perpetrating fraud. You’ve got the sections in there to cover them. This is someone that isn’t even guilty of anything, and you’re taking their individually identifiable health information. All those tests, all your family’s genetic history, everything they have about you becomes part of this knowledge that gets passed on. You’re a victim here, and they want access to that information without your knowledge, without your consent. Wrong, wrong, wrong. I can see no acceptable reason for doing this.

That’s why I want to strike completely subsection (4) out of section 37.2. You can go after those doctors you think are committing fraud. Absolutely. Go for it. Remember, earlier I had mentioned that this was the section that I had left alone and left it there. But you absolutely should not be going after individuals’ health information without their knowledge, without their consent in order to try and get a health service provider.

So if I haven’t officially moved amendment A4, I’m happy to do so at this time. I would ask everyone’s support in deleting this particular subsection out of Bill 31.

The Chair: The hon. Member for Calgary-Nose Hill.

Dr. Brown: Thank you, Mr. Chairman. I would like to address some circumstances about that information relating to “the individual who is the subject of the information.” That is the way it’s phrased. It might be intrinsic to the investigation of the health care

service provider. I can think of a number of instances; for example, where numerous prescriptions are written, perhaps to the same individual, and where those prescription drugs are known to be illicitly trafficked and where many of those drugs can be abused by people for nonprescription uses. Also, where multiple procedures perhaps have been billed to the same persons, it would be necessary to verify whether or not those procedures had been carried out. If there was suspicion on the part of the authorities that there was fraud taking place with a health care service provider, they would need to check with the individuals who were allegedly the subject of those procedures to see whether or not they had been properly carried out and in order to verify whether or not there had been fraud.

So I think that the fact that the custodian would have to give that information is intrinsic to the fact of investigation. I don’t think that you could properly investigate those particular instances unless you did have that information.

The Chair: Are there others? Are you ready for the question on amendment A4?

Hon. Members: Question.

[Motion on amendment A4 lost]

Ms Blakeman: Mr. Chairman, I would like to move amendment A5.

The Chair: We will distribute those right away.

I believe you can proceed, hon. member.

Ms Blakeman: Thanks. This amendment is striking out the entire section 9 of Bill 31. Now, Bill 31 is amending section 42(2) of the original bill, so let’s look at section 42(2). Well, to do that, you’ve got to look at section 42(1). This is notification of purpose of and authority for disclosure. So 42(1) is:

A custodian that discloses individually identifying diagnostic, treatment and care information must inform the recipient in writing . . .

This was the clause I was thinking of.

. . . of the purpose of the disclosure and the authority under which the disclosure is made.

Now we get into the exceptions. Subsection (2) says:

Subsection (1) . . .

What I just read.

. . . does not apply where the disclosure is

- (a) to another custodian . . .
- (b) to the Minister or the Department under section 46, or
- (c) to another custodian under section 47.

And here we get into what’s included in section 9:

- (d) to a police service or the Minister of Justice and Attorney General under section 37.1, 37.2 or 37.3, or
- (e) to the individual who is the subject of the information.

So the same problem here. It’s supposed to be in writing to the individual that’s involved except in those various circumstances that are already laid out. The government is now looking to add two more circumstances and once again to a police service – uh-uh, don’t like that – and the Minister of Justice and Attorney General under the sections we just went through: 37.1, 37.2, and 37.3. This is essentially a consequential section that flows from the earlier section, and I can understand why it’s in here, but for all the same reasons I didn’t like what’s happening in the additions to 37, I don’t like this.

I want to be very clear here that in my original notes I think what we’re really considering here is that this is about people that are

outside of the arena. When we talk about health information – and forgive me for repeating this because I know it's really kind of boring to a lot of people – the way health information is set up is that you have what's called an arena, and it's difficult. There are a number of tests to get access to the arena, but once you're in that arena as someone who collects health information, you are pretty much free inside that arena to share that information around with everybody that's in there. In other words, everybody, once they get access to that arena, has passed all the tests, and they're legit. They are okay. They have the gold star of approval, and they can share that information back and forth under a lot of circumstances. The information is prohibited in most cases from being shared outside of that arena except for special circumstances.

My note is saying that part of the purpose of section 42 is to deal with those that are outside of the arena. That makes me even more cautious when I see section 42 being amended by what's under section 9 because I'm concerned that we have opened up a gate in the arena for this information to now pass out to custodians that are not particularly approved, and my examples here are things like the WCB. So I have a real concern about what's being considered here.

11:30

We also have no definition of why the information is being given to the police. I understand that it's consequential to the 37s, but I still think it's problematic. If I'm correct in my reading of 42, which is about dealing with people outside of the arena – I think we really have lost control of what we're doing if that's the case.

So I would urge everyone to support this amendment because I think we need to be very careful of when we exclude people from protection. It needs to be done for a very good reason, and I'm not seeing that reason forthcoming. But I will listen carefully to what the sponsor of the bill has to say.

Dr. Brown: Just very briefly, Mr. Chairman. Section 9 adds two particular clauses there. One is the one, as the hon. Member for Edmonton-Centre mentioned, that's consequential to the changes of 37.1, 37.2, and 37.3. There certainly may be instances where an investigation may be prejudiced if the information was released by the prosecutor's office or the police. The Attorney General is what I mean by prosecutor. I can see where in those particular instances it may be prejudicial to an investigation to disclose it.

In the case of the second instance, to the individual who is the subject of the information, obviously where an individual, John Doe, seeks their information, it would be redundant to have to disclose to that individual that they themselves had obtained the information; for example, if they were seeking damages in a motor vehicle accident claim or something and they sought the information on their own behalf. This simply adds as another category, the person who is the subject of the information, and exempts them from the requirement of having to inform them. I think that is intuitively obvious why we wouldn't have to inform them. Presumably they would've had to have obtained the information, so they would've known about it.

Ms Blakeman: I disagree with that interpretation. When we go back and look in the original bill at what 42 says, it's talking about that a custodian disclosing individually identifying information has to inform the recipient in writing of the purpose of the disclosure and the authority under which the disclosure is made except – and these are the reasons that you would have to be excepting it, and you're adding in two additional categories for why you're excepting it. So the person is not getting the information.

Dr. Brown: Just very briefly. The requirement there is to notify the recipient in writing of the purpose of the disclosure and the authority

under which the disclosure is made. If we're talking about the individual subject to whom the disclosure was made, it seems – as I said, I think that that individual, obviously, has the information. There is no point to it.

The Chair: Are you ready for the question on amendment A5?

Some Hon. Members: Question.

[Motion on amendment A5 lost]

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

Ms Blakeman: Thank you. This is my final amendment. I would move it as amendment A6.

The Chair: We will distribute those immediately, and as soon as that's done, then we can proceed.

You may proceed, hon. Member for Edmonton-Centre.

Ms Blakeman: Thank you. This is amending section 10, and this is striking out subclause (ii) under section 46(1)(b). Essentially, this is saying that “the information is prescribed in the regulations as information the Minister or the Department may request under this section.” I really don't like this stuff being sent to regulations, and the regulations on implementing this bill are bindersful anyway.

I really don't like adding in clauses in which more decisions can be made by regulation for a couple of reasons: one, because this is intimate information. People should be able to access it pretty easily, which you can do about legislation, about statutes. You can access that online or through the Queen's Printer. It's much harder to get at regulations, much, much harder. It's almost impossible to tell that regulations are being changed because those are usually done by cabinet behind closed doors, and all you get is an order in council that comes out in the *Gazette* at some point, so way after the fact. You have no idea of why they made that change, what the discussion was that went on, who was in favour of it, who wasn't. There's very little, if any, public input on any changes that happen.

Whereas, if you leave it in legislation, it has to come back before the Assembly. You can have people in the public gallery watching the debate. The *Hansard* is available of who said what and why they felt strongly about something for or agin it. You can have a standing vote in which you can see, you know, who was in favour of it and who wasn't.

I really, really disagree, especially with health information, with empowering more decisions to be made by regulations, which is basically more decisions to be made behind closed doors, where the public gets no input on the decision-making or on any changes. And it's much harder to get this information. It's hard for me to get this information, and I supposedly have easier access to it. It's really hard for members of the public to get it, and we're talking about people's individually identifying health information here. So that's my reasoning for wishing to see this subsection taken out.

This is appearing in the original bill under division 2, Disclosure for Health System Purposes. Section 46 is dealing specifically with disclosure to the minister or the department. It starts out, “The Minister or the Department may request another custodian to disclose individually identifying health information for any of the purposes listed in section 27(2),” and then it goes on with a long list of why and how. But, essentially, this would be how the minister would deal with it, who they can disclose it to. All of that's laid out in the legislation.

This particularly would be falling under 46(1)(b), which is

if the information requested relates to a health service provided by the other custodian

- (i) that is fully or partially paid for by the Department, or
- (ii) that is provided using financial, physical or human resources provided, administered or paid for by the Department,

and then you get these additional services, anything that's prescribed in the regulations.

11:40

Part of my suspicion here is about how we will investigate possible fraud if we end up with more private provision of health services or health services that are paid for with private insurance. How do we ensure that we have protected everybody? The issue here is that if we see continued attempts at privatization – maybe not this year; maybe next year or the year after – I'm struggling to see if what we're encoding here is the ability to investigate the public system but not the private system except by using Criminal Code. I think that that can be more problematic because the tests are different. I don't think we want to see a system set up where we can't properly pursue private providers or private insurers of health services because we've set something up oddly here.

My initial concerns were around putting more decision-making into regulations, which I am never in favour of, but also my increasing concern is that what we may be setting up here is a difficulty in being able to use the same legislation to pursue potential cases of fraud or questionable provision of health services by a private provider or services that are paid for by private insurance providers.

If I haven't moved amendment A6, then I'm doing it now, and I urge everyone to support amendment A6. Thank you.

Mr. R. Miller: Well, just very quickly, Mr. Chairman, I would be remiss if I didn't echo the comments of my colleague for Edmonton-Centre when it comes to moving legislation into regulation or allowing ever more regulations to be put into place and taking away the ability of this Assembly to examine those rules before they're passed. It's been my pet peeve since I was first elected to this Chamber, and we continue to see it time and time again in any number of bills where that has taken place. So I have to take every opportunity to express my displeasure over that.

Often we hear arguments made that it's necessary because the Legislature doesn't sit often enough or it's too inconvenient to wait until the Leg. sits or that sort of thing. But that simply isn't good enough in an age where there is more and more being demanded of our governments in terms of openness and transparency. To be allowing such decisions as this to be made in the cabinet room by Executive Council without a guarantee of public debate is simply not good enough. I do understand that often there will be public consultation and stakeholder input and so forth, but it's not guaranteed to take place, as it is when it's legislation and when it's mandated that it be presented in front of all 83 members of the Legislature to have the opportunity to speak to it.

So I felt it necessary that I, as I suggested, echo the comments of my colleague for Edmonton-Centre in this case because it's just one more example of many where this is being done, and I think that ultimately the province suffers for it, and the people of this province suffer for it when we let this continue to happen.

Thank you for the opportunity to make those comments, Mr. Chairman.

[Motion on amendment A6 lost]

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

Ms Blakeman: Thank you very much. Mr. Chairman, if I may interrupt the proceedings under Standing Order 32(2.1) and request that if a division is called, the bells be shortened to a two-minute interval.

Mr. Mason: Just on this?

Ms Blakeman: On the bill.

The Chair: This is a motion for unanimous consent on division to shorten the time to two minutes between the bells. Is that correct?

Ms Blakeman: Yeah, but I don't think it needs to be unanimous.

The Chair: I'll recognize the hon. Member for Edmonton-Rutherford.

Mr. R. Miller: Just a point of clarification, Mr. Chairman. I believe that the Member for Edmonton-Highlands-Norwood is questioning, if this is approved by unanimous consent, whether or not it applies only to this particular bill or if it applies for the rest of this evening's sitting.

Ms Blakeman: My intention was that it's for the next vote, which I believe would be a vote on the Committee of the Whole proceedings on Bill 31.

The Chair: The motion is to reduce the time to two minutes between the bells on Bill 31. It requires unanimous consent.

[Unanimous consent granted]

The Chair: We have had the vote on the amendment, and that was defeated, so we're back on the bill.

Does anyone wish to participate in the debate on Bill 31? The hon. Member for Calgary-Nose Hill.

Dr. Brown: Thank you, Mr. Chairman. I would like to address a few of the points that were raised during second reading and the Committee of the Whole debate which preceded, on May 3.

The hon. Member for Edmonton-Glenora referred to section 5(vi)(r) and asked whether it was also involving disclosing health information without consent to insurers. The answer is yes, the amendment is intended to enable the disclosure of limited health information without consent to third-party insurers for payment purposes.

Another question was asked in relation to what protections are in place for health service providers who choose not to provide confidential health information. They may make this decision in response to a request from the police if they feel that they shouldn't disclose the information because of their relationship with the client, and that's what I alluded to earlier with respect to discretion. Currently, the health service providers are protected under the act. It states that no action can be brought against "any person acting for or under the direction of a custodian for damages resulting from anything done or not done by that person [acting] in good faith while carrying out duties or exercising powers under this Act." So that would include any failure to do something where the individual has discretion under the act.

The hon. Member for Edmonton-Calder asked about section 5 and felt that it hinted at some possibility of private health insurance. The amendment is simply intended to enable the disclosure of limited health information without consent to third parties for payment

purposes. These third parties are primarily private health insurers. This would facilitate insurance that is already in place such as dental plans, drug plans, coverage for chiropractors, physiotherapists, and so on.

He asked what situation or circumstances this legislation might be anticipating, how disclosure to police services and the Minister of Justice and Attorney General or the minister of health would help the good, and what sort of situation would require disclosure for the sake of public safety. I think I've discussed that at some length already.

The Mandatory Testing and Disclosure Act is a separate piece of legislation. It is not considered partner legislation to Bill 31. Assuming that the Mandatory Testing and Disclosure Act is passed and proclaimed, it is that legislation which would be relied upon to enable disclosure of health information for that purpose.

11:50

Regarding the issue of electronic disclosure, the proposed amendment would only remove the requirement to note the disclosure in a log because of the fact that the electronic system has automated audit capability as I alluded to earlier when I spoke to the bill. The automated audit capability, as I said, duplicates what a disclosure log would normally do.

The hon. member asked what information is available for disclosure and wanted more illumination on section 10. The intention at this time is to mandate the provision of community drug dispensing information from the health system. The information is currently being collected by community-based pharmacies. While some are already providing this information on a voluntary basis to the pharmacy information network within the electronic health record, the information is more useful for planning and evaluation purposes if a complete picture is available. Mandating the collection of this information would enable better monitoring of drug utilization and improve understanding of drug trends. The cost of pharmaceutical drugs, as we all know, is one of the major drivers behind the increasing health care costs. The department is required to complete a privacy impact assessment and to forward it to the office of the Information and Privacy Commissioner for comment before they implement any such regulation.

The hon. Member for Edmonton-McClung asked about health information privacy related to research studies. These proposed amendments do not impact on clinical trials. Patients enrolling in clinical trials consent to their participation. The consent form does specify what will happen to their health information. It's my understanding that the sponsor of the clinical trial receives information in a standard, preset, and nonidentifiable format.

Regarding residents in long-term care and prison inmates the Health Information Act requires custodians to take reasonable efforts to obtain administrative, technical, and physical safeguards. These safeguards are designed to protect the confidentiality of health information within their custody or control and to protect privacy. The proposed amendments do not directly impact on the protection of health information.

The hon. Member for Lethbridge-East raised a point about how informed people are regarding the rights about their personal health information. Health information is collected, used, and disclosed within the health system for treatment and care purposes. Patients receiving health services do have a right of access to their own health information, and they can express their wishes as to how their health information is disclosed by a custodian. The exchange of health information for the provision of treatment and care is certainly not a new practice. In determining how much information is disclosed for treatment and care purposes, custodians certainly must consider the wishes of the individual.

Within the electronic health record a custodian can honour an individual's expressed wish by masking the information in question. While the mask expresses the individual's wish to limit the disclosure of the information, that mask can be removed by health care providers with an individual's consent. They can also unmask that information without consent if there's a safety or quality of care issue. Unmasking activities are logged and monitored. The proposed amendments have no impact whatsoever on that particular issue.

The hon. Member for Edmonton-Strathcona had asked: what conditions are anticipated under which third parties would have access to this information for purposes of payment for services? As I previously mentioned, this amendment is intended to enable the disclosure of limited health information without consent to third parties for the purpose of processing payments. An example would be where third-party insurers adjudicate the payment of health services or products without requiring the individual's consent.

Regarding fraud and its potential the amendments in Bill 31 are intended to address fraudulent activities within the publicly funded health care system. Of course, we have an obligation as the government to ensure that the public funds are not abused. The amendments specifically address fraud perpetrated either by an individual in section 37(1) or in the case of the health care service provider in section 37(2). I have spoken quite extensively on those provisions earlier in the debate on the amendments by the hon. Member for Edmonton-Centre.

Mr. Chairman, these are my comments, and I ask for the support of the House in committee.

The Chair: Are you ready for the question?

Some Hon. Members: Question.

[The voice vote indicated that the clauses of Bill 31 as amended agreed to]

[Several members rose calling for a division. The division bell was rung at 11:56 p.m.]

[Two minutes having elapsed, the committee divided]

[Mr. Marz in the chair]

For the motion:

| | | |
|-----------|------------|-----------|
| Abbott | Graydon | Mar |
| Ady | Groeneveld | McClellan |
| Amery | Haley | Mitzel |
| Boutilier | Herard | Morton |
| Brown | Horner | Pham |
| Cao | Jablonski | Renner |
| Cardinal | Knight | Stevens |
| Danyluk | Lindsay | Tarchuk |
| DeLong | Lougheed | |

12:00

Against the motion:

| | | |
|----------|------------|--------|
| Blakeman | Mason | Taft |
| Bonko | Miller, R. | Tougas |
| Elsalhy | Pastoor | |

The Chair: The hon. Member for Edmonton-Highlands-Norwood.

Point of Order
Division

Mr. Mason: On a point of order, Mr. Chairman. The Speaker has previously ruled that in a standing vote, when the bells are finished ringing, in order for a member's vote to be counted, he must be in his seat at the time the bell stops ringing. He has actually dealt with that, so I would respectfully suggest that the hon. minister of intergovernmental and international affairs', or whatever it is, vote is not to be counted.

The Chair: When his name was called, the hon. member was in his chair, in his place. Do you have a citation? I just don't have anything to refer to.

The hon. Deputy Government House Leader.

Mr. Stevens: This is an observation, and I don't have a citation given the circumstances, but clearly the hon. member was in his seat. I mean, he wouldn't have been counted and called upon if he hadn't been in his seat. There is this principle called de minimis, which is essentially that you ignore those things that are of such a small nature that they have no consequence whatsoever, and I think it applies in these circumstances. So if you do the count and you give the vote, then you'll see that it doesn't make any difference whatsoever one way or the other.

The Chair: I would point out from the chair's perspective that I didn't see the hon. member until the hon. Minister of Justice sat down because the view of the hon. minister was blocked by the Minister of Justice. When I was able to observe the hon. member, he was in his place. I would say that there is no point of order.

Totals: For – 26 Against – 8

[The clauses of Bill 31 as amended agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Opposed? Carried.

Bill 20
Freedom of Information and
Protection of Privacy Amendment Act, 2006

The Chair: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Yes, Mr. Chairman. I'm pleased to rise to speak to Bill 20 in committee. I have to say that I have some very considerable concerns about this bill. I've been here for a while now, and I have participated in a number of exercises that we conduct in this place: oral questions, motions for returns, written questions, and then certain activities outside the House such as requesting information from government departments through the Freedom of Information and Protection of Privacy Act. I also had the opportunity to serve on a committee just a couple of years ago that was an all-party committee to review as per the legislation the Freedom of Information and Protection of Privacy Act.

As a result, I've become quite familiar with some of the processes

around information related to this government. One of the things that I've noticed is that when one asks a question of government ministers, they often stand up and say that this is one of the most open and transparent governments in the country. We hear that over and over again. You know what, Mr. Chairman? At first I believed it. I honestly did. I thought: "Well, isn't that great? They're telling us that they're really open and they're really transparent." Then I sort of noticed that they weren't.

Mr. Elsalhy: How long did it take you?

Mr. Mason: It took me about two days, hon. member, to realize that the government was not, in fact, one of the most open and transparent governments in the country. So I was puzzled as to why the government kept saying that.

It was certainly worth my while to participate in the select special committee on the Freedom of Information and Protection of Privacy Act. I did learn quite a bit about it. One of the things I learned, Mr. Chairman, was that, in fact, there were a great deal of exemptions even though the act had as one of its noble goals allowing the public to peer into the government and the concept that the information that the government gathers really belongs to the public and that only when there is good reason should that information be kept from the public. In other words, only if there's a good reason should the government keep something secret. The best reason, of course, is that people's personal information is given to the government for certain specific purposes and that the government holds that in trust and is only permitted to use that information for the purposes for which it was collected.

We had the interesting discussion around the provision of information collected by the motor vehicles branch to private companies that were involved in selling parking. In that particular case, the information was not collected from people for that purpose yet was being used by the government for commercial purposes. In other words, the government was paid for this information, which was then used by the company to tow away cars that had not paid. It was used in order to go after people – I should clarify, to go after people – who had parked on the lot owned by that parking company without paying or, at least in the view of the company, had not paid or their ticket had expired. So they used that information, then, to pursue the person who owned that motor vehicle for back payment, and that was not why it was collected at all.

12:10

That's the first and fundamental reason why we should be exempting people's information, why it should be kept secret, why I shouldn't know, for example, what the hon. Minister of Gaming paid on his taxes or any number of other things, because frankly it's none of my business. The information is collected from him by the federal tax department and the provincial government. The provincial Finance department has information and they get information, but that's held in trust because the only reason it was collected from the hon. Minister of Gaming was so that they made sure that he paid his share of taxes to run this wonderful province and wonderful country that we have. So that is clearly an excellent reason why information should be protected.

Then there are other reasons. It's interesting because I have some familiarity with this from a municipal government. The provincial government passed legislation in the Municipal Government Act which controls the kinds of information that municipal governments can keep secret, and it's limited very specifically to certain things. If you're getting a legal opinion, you're entitled because of solicitor-client privilege – if somebody's suing you, you're entitled to get a

legal opinion as a municipality in order for you to fight that lawsuit in the courts, and you don't want the person suing you to have access to your legal advice any more than the city should have access to the plaintiff's legal advice. So that's exempt, and that's a very, very reasonable exemption.

You may have, for example, certain kinds of business advice if you're involved in a business. It might be a municipal initiative. Say you had a power company, and you're involved in a competitive business. You'd certainly be allowed to protect that information because it's competitive. If you own Edmonton Power, for example, or the city of Calgary electric system before it was made into a corporation – I'm going back a little bit because I don't want to talk about the new corporate entities that have been established but rather the old electrical departments that the major cities had or, for example, any other utility that might be owned by a municipality that might in some ways be in competition – you don't want your opponents, you don't want TransAlta to know what you're doing if you're Edmonton Power, so you need to be able to protect that sort of thing.

Similarly, related to that, a municipality or a government might engage in a competitive bid process. So you have different companies bidding on some kind of a job, some kind of a contract with the municipality or with the government in which they are trying to make the case that their company should be selected, and they provide you with information to back up their bid, which is of a competitive nature. They don't want their competitors to get that information just because they provided that bid information to a municipality and the principle is that the information should be made public wherever possible. You don't want to have that situation occurring. So there's a legitimate reason for competitive information. Now, having said that, Mr. Chairman, I think this government abuses that and hides behind that.

I guess, Mr. Chairman, that what I want to say is that there are fairly strict requirements around the ways in which municipalities can release public information or hide information from the public. They have to meet certain very specific tests. But this government doesn't abide by the same rules that it sets for municipal government in this province. In fact, this government is providing itself with an awful lot more in the way of reasons to hide information from the public, and there's no justification in doing so unless, of course, the government has something to hide.

The government doesn't want people to be looking over its shoulder, and it has a number of ways of doing that. One way is to make it expensive. Sometimes you get, you know, these massive bills that opposition parties can't afford or public interest groups can't afford or the general public could never afford.

Mr. Elsalhy: Maybe they look at it as a revenue stream.

Mr. Mason: My hon. colleague suggests that maybe the government looks at it as a revenue stream. Well, maybe they do, but I think there's another more profound reason why the government does that, and that is because they want to create an impediment to citizens asking for information. It makes it hard to ask for information broadly and forces the citizen to focus very specifically on documents. The problem with that, of course, is that the citizen or the interest group or the opposition party often doesn't know exactly which document it is that they want. So they can't ask for it unless they already know what it is. In many cases that's impossible for them, so it creates a real barrier.

The second way in which the government thwarts the access to information for its citizens is to engage in lengthy delays, bureaucratic processes, and, in fact, simply refusing to meet its obligations,

because there are, actually, no penalties for failing to meet its obligations under the act. In other words, the government can ignore the Information Commissioner or legal requests for information, and they often do so because there are no teeth in the act. There is no real compulsion on the part of government: there are no fines, ministers can't lose their jobs, there is really no sanction against the government if they fail to comply with the act in a timely fashion.

We have a recent example of that. That recent example was our request for information around the Aon report. We wanted to know who bid on the Aon report, what their bids were, what the reasons were for the selection of Aon as opposed to some of the other bidders on the contract. We wanted to know the terms of reference for the project that Aon was undertaking. We were stonewalled at every stage. The department requested extensions, which were granted. When their extensions ran out, the commissioner directed them to supply it by a certain date. That date came and went, Mr. Chairman, and the Department of Health and Wellness still did not provide us with the information.

We had to take it public. We had to raise it here. We wrote to the commissioner saying, "What are you going to do?" But, of course, there wasn't a sanction, so the government was able to take its own sweet time about releasing that information.

In the end, for all the time and trouble that we had taken and the lengthy period of time that had gone by, most of which was allowed for under the act and was quite legal and some of which wasn't legal at all, all we got was a handful of documents, a couple dozen pages that were sitting in the filing cabinet all along. It wasn't that the government had to do any fresh research or do any digging or undertake a massive search. They, in the end, gave us a handful of documents, only part of what we'd asked for, that were just sitting in the filing cabinet or were sitting on some administrator's desk or perhaps even sitting on the minister's desk. We don't know. But they made us go through all of that hoop.

12:20

So, Mr. Chairman, in the absence of any real teeth and penalties on the part of the government for failing to comply with the act, it is a toothless piece of legislation, and it does not protect the principle that the public is entitled to its own information that is held in trust by the government unless there's a good reason why not. So that's the second thing.

The third thing, which is really of a lot of concern, is that the government has all kinds of exemptions from the requirement, far too many. So ministers' notes, briefing notes, all kinds of things that are there that may be relevant, that are important, that are information that's been produced on the public's behalf and with the public's money: those things are kept completely outside the purview of those things that can be obtained under the act. This act, Mr. Chairman, extends those things. This act provides the government more fig leaves to hide the truth from the public.

These things, quite frankly, fly in the face of the general direction in this country. We've got the Harper government, which at least in some ways is actually doing what this government is not doing, and that's keeping things a little bit more open and accountable. Mr. Chairman, you cannot keep the government accountable if the public is in the dark.

Briefing notes, which are offering advice to cabinet ministers on their departments and pressing public issues, will be kept out of reach until 2011. Documents from a provincial internal auditor, which evaluates and improves on how the province spends taxpayers' dollars, will be sealed till 2021. This act, according to a recent *Edmonton Journal* editorial, "is already notorious for making it time-consuming, costly or nearly impossible for Albertans to attain

government information. Now the . . . Conservatives are making it even tougher, concerned more with protecting government documents than freeing up information for the public.”

So, Mr. Chairman, it's not just, as far as we're concerned, to pass this document. A recent letter to the editor said: This is just a continuation of a cleverly crafted program to stop the flow of information to Albertans. What do we really know about West Edmonton Mall, Alberta Treasury Branches, the Alberta Securities Commission, the Swan Hills toxic waste disposal plant, and electricity deregulation? The list goes on and on.

Mr. Chairman, this is really a bad bill, and it's uncalled for. The government already has more protection from releasing the public's information to the public than just about any other government in this country; in fact, I would say the universe. The government loves to say: we're the best government in the universe. I would say that they are one of the most closed governments in the entire universe, based on my limited experience of the universe. I do think that we need to do something different.

Mr. Chairman, if I may, I would like to introduce an amendment, and I will provide copies to you for distribution.

The Chair: That would be amendment A4.

Chair's Ruling Division

The Chair: While the amendment is being distributed, I will take the liberty to give a brief update on voting in division based on the point of order that was called. I would like to refer members to *Beauchesne's* 818(2), which states that “the doors of the committee room are deemed to be locked while a division is being taken, and the vote of a member not in the room when the question is put will be disallowed.”

Also, *Beauchesne's* 306 states:

- (1) A Member must be within the House and hear the question put in its entirety, in one of the official languages, or the Member's vote cannot be recorded. It is not sufficient to hear it while in a gallery or behind the curtains.
- (2) Members must be in their own seats should they wish to vote and should remain in their seats until the division is complete and the result announced.

Based on 818(2), the member in question was indeed in the room. When the member was asked to vote, he was indeed in his seat, and when the chair noticed him respond to the vote, he was indeed in his seat. So, hopefully, that clarifies the matter.

Debate Continued

The Chair: I see that the amendments are distributed, hon. Member for Edmonton-Highlands-Norwood, so you may proceed on amendment A4.

Mr. Mason: Yes. Thank you very much, Mr. Chairman. I'd like to speak just briefly to this amendment. The last time this bill was debated in committee, an amendment to entirely strike out section 4 was, as I understand it, defeated by the House. That section exempts ministerial briefing notes and backgrounders from FOIP. We've seen several examples of those being denied in the written questions and motions for returns. We think that it was a bad . . . [Mr. Mason's speaking time expired]

The Chair: Does anyone else wish to speak on amendment A4?

Mr. Elsalhy: Mr. Chairman, can I just seek clarification, please, if I can stand on 29(2)(a) and ask a question to the hon. sponsor of the amendment.

The Chair: You don't do that in committee.

Mr. Elsalhy: Okay. So I'll speak to the amendment then.

The Chair: You can ask a question during your comments, and the hon. member can respond when he rises again.

Mr. Elsalhy: Very good.

Okay. I'll speak to the amendment briefly, Mr. Chairman. The hon. sponsor of this amendment is hoping to strike out subsection (4)(a) and subsection (5) under section 4. Now, what section 4 proposes to do is basically to conceal documents that are “for the purpose of briefing a member of the Executive Council” – i.e., a cabinet minister – “in respect of assuming responsibility for a ministry.” Subsection (5) is talking about those records that are described in this clause not being open for review or open to be released till at least five years have elapsed since that member of the Executive Council was appointed with respect to that particular ministry.

Now, we have a bill here before us, Mr. Chairman, that proposes two things. On the one hand, it proposes to give ministers more power in terms of their ability to make decisions behind closed doors and to move things from legislation to regulation. It basically allows the minister to expand their role and their powers.

12:30

The other thing that this bill does and this amendment does is that it allows them to conceal for at least five years the information that is given to them when they join cabinet. So on the one hand you have them grow their powers, and on the other hand you make them less transparent and you make the information that is given to them less available.

We feel that this is a negative turn, and it has potentially a destructive impact on how things are run. If we are in fact trying to clean up government and to alleviate the concern that members of the public have with this government that it is secretive and that it is not open or transparent enough, definitely, if we allow this to go forward, we are not achieving that.

Now, I started thinking about the five-year period, and you can't help but notice that this would be for the most part more than one electoral cycle, one election. So it was interesting to note that this basically has the effect of hiding information that might hurt that particular cabinet minister at least until they get re-elected. We feel that this is not the way to be conducting government affairs, and it is definitely something that we find grossly offensive.

The hon. Member for Edmonton-Highlands-Norwood was talking about fees and how fees are an impediment to access. I want to add that a FOIP application is almost like a maze now. It's like an obstacle course. The applicant has to navigate through the obstacle course to reach the information having to contend with delays and stalls and, you know, sometimes applications to the Privacy Commissioner to disregard the application and all that. Once you get the information, if you can afford the fees and if you can be patient enough to tolerate the long wait, then three-quarters or 80 per cent of that information is blacked out. So, really, what value are we getting from that access to information, which in my view has turned now into something that is closer to restriction of information than it is to granting access?

Ministerial briefings. In a meeting with the former Minister of Government Services, he indicated that ministerial briefings are just advisory in nature and that this amendment dealing with section 4 would simply make preparing for session easier. We don't view it as just advisory. We view it as an integral part of how any particular

portfolio functions and how a minister makes decisions. We think that the opposition, members of the public, and whoever else needs this information should be allowed or should be entitled to receive it.

I have to remind this House that on the federal stage what led to the Gomery inquiry federally was a ministerial briefing note. This government received a commendation from the federal Auditor General on just one aspect when it comes to transparency, and that is basically how we hire our deputy ministers. Other than that, they did not find anything positive with how this government functions. I bet you that when somebody, you know, either in cabinet or outside tells you that you can't get any more transparent and that this is the utmost example of openness and good governance, what they are referring to is basically: "Yes, we're okay because you can't find where all the errors are, and you can't look. Once you start looking, we will deny you the information."

We've heard the comments that were made about a month ago or five weeks ago with respect to the skeletons, and in a quick turnaround to try to do some damage control, it was referred to as gaps in policy. Well, let us look for those gaps in policy, then, to try to fill them and to try to satisfy not just members of this House but also members of the public at large that those gaps of policy are being looked at. And if, in fact, we unearth other skeletons that have a bigger impact, then, yes, we do have a right to look for them and to find them.

We live in a democracy, Mr. Chairman. I know my hon. colleague from Edmonton-Decore is trying to muzzle his laugh, but we do. People expect us to function as a democracy, not a tyrocracy, which is basically a tyrannical democracy or a corpocracy, which is a democracy run by corporations. This is a democracy that should be run by the people. We're here, opposition and government, to serve the people, and serving the people entitles everybody who seeks information to get that information, notwithstanding, of course, what the honourable sponsor of the amendment was referring to, when it's information that is not really necessary to be shared or that is detrimental if shared. Those are exceptions. Otherwise, the majority of applications should be granted, and the fees should be reviewed based on a true assessment of the actual cost, not used as an impediment or to generate revenue. This government is extremely secretive as it is, and they don't need to make it worse.

The government tells us that what's in Bill 20 is a mere house-keeping measure and a minor ineffectual administrative change, but again, Mr. Chairman, I beg to differ, and Albertans beg to differ. You know, I was thinking that if one would conduct a survey to gauge public support for this Bill 20, for this amendment to the FOIP Act, and if we actually, in fact, asked them what their views are of this government with respect to this particular area, what would people tell us? What would they say, and what would their answers be?

I came up with an imaginary or a hypothetical survey, which I asked a few people, and this is basically how it's structured. The question would be: do you trust what the Alberta government tells you? You would see that about 18 or 19 per cent of people would say: very rarely. They don't trust what the government tells them. The government, the way it's structured and the way the Public Affairs Bureau is structured, is to tell us how to think and tell us what to believe. They're not there to seek information from us or to gauge support. They're there to condition us and to tell us what to believe and how to think. Twenty-eight per cent would say: not usually. Thirty-six per cent would say: hardly ever. And seventeen per cent would say: are you kidding me?

An Hon. Member: Are you?

Mr. Elsalhy: I'm not kidding you, no.

You would get the usual stuff at the end of that survey, talking about the survey as being accurate within a margin of 3.5 per cent 19 times out of 20 and all that.

The next stage in that imaginary survey would ask people: do you think this Alberta government is open and transparent? Sixteen per cent would tell you: only selectively. They're selective with respect to which information they share readily and happily and which information they withhold and guard fiercely. Twenty-four per cent would tell you: no, definitely not. Forty per cent would tell you: you make me laugh. And twenty per cent would say: where do you come from?

The point is, Mr. Chairman, that this is a government that tells us how to think and what to believe. It promotes itself as a bastion of democracy and transparency where, in fact, it is a dungeon of secrets and skeletons. This is an administration that is solely interested in its own survival, and if that takes becoming more secretive and opaque, they're all for it, of course.

Their arrogance is another layer. You add arrogance to ignorance, and arrogance, Mr. Chairman, is what's going to lead to their demise. They believe that there will be no consequences to their actions. That's why they're pushing ahead with this Bill 20 although we told them that half of it is bad and half of it is offensive. They think that there is going to be no consequence and no result to their actions and that they're immune to public outcries and public outrage, and there is not going to be any loss. But I have to let them know that on this particular issue they stand to lose big time because the public will definitely reach the point, at one point in the future, you know, when they realize that this is not the way to run government and that if we expect a certain degree of transparency and it's not being offered, then maybe this government has to go.

At this hour, Mr. Chairman, I couldn't help but think about my children. My children are very little, but at some point in the future they would look back at the decisions we made in this Assembly, and they would ask me as their father how could I have agreed to something that maybe they would not understand in the future. I'm hoping that one day I'd say: "No. I didn't support 50 per cent of that bill. Fifty per cent was great, and I did in fact support it, but the other 50 per cent was offensive."

12:40

My kids' favourite movie character is Shrek, Mr. Chairman, and I'm not sure if you've watched his series of movies, but Shrek is an ogre. In one of his movies he was talking to his sidekick, Donkey, and he told him, "Ogres have layers." I don't think he was referring to layers like this government is proposing, layers of secrecy and opacity. He was referring to the complexity of his emotions. He was more human than humans. He was sensitive and caring.

Now, are these attributes that are shared by this government? I doubt it. The absolute opposite of openness and transparency is secrecy and opacity. Does this government view FOIP requests as a nuisance? Are members of the opposition and, indeed, citizens of this province wasting this government's valuable time when we ask for information, or does this government have an obligation to share this information? What do they have to hide? Again I say it, for the third time on the record: those who have nothing to hide, hide nothing.

Now, the sidekick found the explanation by Shrek to be a little confusing, so he asked for elaboration, and Shrek tried to give him an example by comparing himself to an onion. Mr. Chairman, an onion has layers, and the more you peel, the closer you get to that centre part of that onion. The more sheaths you remove layer by layer, the closer you get to the heart. The closer you get to the heart, the stinkier it gets. It gets more sour, and it's basically intolerable the closer you get to the heart of that onion. So I hope that one day,

after we unpeel all the layers of this government's onion, the heart would not be as poisonous as we think it is in this side of the House.

In short, I would definitely express my support for this amendment. What it tries to do is to basically salvage some of the good components of this bill, and it allows us to come back at a later date and say: "Well, you know what? We tried, and we basically made it less offensive by removing a section that is terrible." I commend the hon. sponsor of this amendment for bringing it forward, and I urge all the members of this House to vote in support of that amendment.

Thank you, Mr. Chairman.

The Chair: Hon. members, I've just been informed that the Oilers won 3-2, for those that haven't heard.

I'll recognize the hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Chairman. That's good news, indeed, and it inspires me because I now believe that my amendments also have a chance of winning, or at least four out of seven of them, perhaps.

Mr. Elsalhy: You mean against those sharks?

Mr. Mason: Yes. Well, we're quite used to taking on the sharks, Mr. Chairman.

I didn't really quite get a chance to explain the amendment. The section that would be amended is section 4, and 4(a) is struck out. It says that the right of access does not extend" – and that is that the right of access to the people to get the information that belongs to them does not extend – "to a record created solely for the purpose of briefing a member of the Executive Council in respect of assuming responsibility for a ministry." In other words, the information that's provided to a new minister about his or her ministry and the issues that need to be dealt with and so on are going to be secret under this change.

[Mr. Lougheed in the chair]

Well, our amendment, which I move on behalf of the hon. Member for Edmonton-Strathcona, will strike out the section that would exempt the notes and briefing materials prepared for new ministers. We think that this might well include some of the infamous skeletons that the former Minister of Infrastructure and Transportation was talking about while he was still the Minister of Infrastructure and Transportation and before he entered opposition Siberia because he was a little bit too frank and forthright just for the moment. So we think that those skeletons should be dug up and we should know what's there. Perhaps, by making this amendment, we'll in fact be able to do that.

The section that is being deleted by this amendment provides additional cover for the government, additional reasons to exclude requests for information, and we think it's unacceptable. So our amendment seeks to remove this fig leaf that the government is attempting to apply, and we hope that all hon. members in the interest of true freedom of information will support the amendment.

Thank you very much, Mr. Chairman.

The Acting Chair: The hon. Member for Cardston-Taber-Warner.

Mr. Hinman: Thank you, Mr. Chairman. It's a pleasure to get up this evening and once again speak to the amendment on Bill 20, the Freedom of Information and Protection of Privacy Amendment Act. I guess I just want to start by reading from the dictionary the word

"freedom." It's always been hard for me to understand how we can have the Freedom of Information and Protection of Privacy Act, yet it seems like it's the protection of information. Freedom: the power or right to act, speak, or think freely. That's the first one. Two, the state of being free, unrestricted use of something; three, the exemption or immunity from; four, the power of self-determination attributed to the will, the quality of being independent of fate or necessity. It seems to me that perhaps we're looking at number three or four there, the self-determination and the protection from having that information.

It's bothersome to be in the opposition and wanting to ask a question or get information only to be shut down by the Speaker or to not have access to that information. [interjection] The Speakers always kind of tended – and these things are going back a few years, and I'll grant that some have been a long time.

The information isn't there. It isn't available. It just seems wrong, Mr. Chairman. The purpose of government is to serve the people, and the only way we can serve the people is if we're open. There definitely is not an openness in this government, and this amendment to strike (4)(a) and (5) is very much – you have to ask the question: what could possibly be the purpose of those two clauses other than the protection or the exemption of accountability to the people? It seems very much like this is a shell game. Everybody has been to the circus or been to the street where there's a nut under the cup and whether or not you can follow it as this guy moves it fast enough. The number of times that ministers are moved, that portfolios are changed, that names are changed, it's impossible to know where the nut is and under which cup. They won't even lift them to let anybody look, and they say that it's not there.

Mr. Knight: We know where the nut is; we don't know where the cup is.

Mr. Hinman: Good. Keep focused on it, then, because you're going to lose it one day.

It seems like the purpose of this bill without this amendment is that if you make it difficult enough and if you make it cost enough or if you make them wait long enough, we'll be exempt because there'll be no one left to watch when the cups are finally lifted and you see what's been going on.

So I'm very much in favour of this amendment. I once again urge the people of this Assembly to look at it and realize what is the purpose of this Legislature. It's to serve the people. It's to be open and honest with the people. The people should be able to come in here and have a virtual tour not only of this building but of what goes on in this building. They don't have a virtual tour; they have no tour. To be able to hide information for five years: there's only one reason that anybody who is on the outside can see for that, and that's because they want to retain power, and they want to take something, manipulate it, take advantage of it.

In order to show your openness to want to help the people, have the doors open, have the notes open, have the information open. That way, people will have trust and faith and will support a government that they know is working for them. I would hope that we'd all look at this and accept this amendment for the benefit of Albertans throughout the province.

Thank you.

12:50

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

Mr. R. Miller: Thank you very much, Mr. Chairman. In fact, it's a new chairman. It's nice to see you there.

It's my pleasure to speak to this particular amendment. I just want to expand a little further on what my colleague from Cardston-Taber-Warner was saying a minute ago. Recently in this House during question period the Member for Edmonton-Gold Bar has been pursuing a line of questioning related to the ring road in Edmonton and very questionable land purchases, I would submit, and then subsequent sales of land by this government. He has been chastised both by the minister responsible and at times by the Speaker for asking questions that are 20 years old.

One of the big concerns that we have here is that with some of the changes that are being recommended by this amendment to the FOIP legislation, we will not even have access to material. In this particular case it's five years. In other places in the bill it's 15 years. I can clearly foresee the day when, if I'm still fortunate enough to be in this Assembly, the members of the day are going to be asking questions of the government, and they're going to have the Speaker chastising them for asking questions that are 20 years old, and their answer is going to be that they didn't even have access to the information until that time. That is a scary thought.

[Mr. Marz in the chair]

I mean, the reality right now is that this particular line of questioning that I referred to goes back to the point where it's before the current Premier. What is being suggested by the amendments to the FOIP legislation is that in almost every case the questions would be going back to former Premiers because the access to the information would be so restricted that you wouldn't even have an opportunity to see it and develop questions, to write questions until in this case five years and in some cases 15 years. So it really, really is a regressive piece of legislation. Certainly, this amendment, if it were to pass, addresses that, and I think it once again moves us towards a much more open and transparent government, and that's what people want.

I was hoping to have had the opportunity to reference this during my budget debates this evening, and I didn't have the opportunity. The Federal Accountability Act is currently before the federal Parliament. My colleague reminds me, and it is true, that it has been tabled in this Legislature, the entire act, and it's a sessional paper, so it's readily referable by all members.

Some of the 13 points that are mentioned in here: strengthening the role of the Ethics Commissioner, toughening the Lobbyists Registration Act, ensuring truth in budgeting – that's the one that I particularly wanted to speak to this evening, and I could expand on it, but as I say, it's a sessional paper, and it's available for all to see – making qualified government appointments, cleaning up the procurement of government contracts, providing real protection for whistle-blowers, strengthening access to information legislation. That's the one I was looking for.

Mr. Chairman, the reality is that access to information at the federal level is already so much easier and so much less expensive than it is here in this province. We have the federal Tory cousins of this government increasing access to information, making it more available, more transparent, more accessible to the citizens of this country while at the same time their provincial Tory cousins here in this province are going backwards. We're going the other way. We're making it more restrictive.

One of the things that I really like is the idea of separating the access to information from the protection of privacy because what we find so often with this FOIP legislation is that it tends to be much more about protecting the government's privacy than it does the freedom of information. The idea of having the Information Commissioner separate from the Privacy Commissioner I think

would make great sense. Separate those two; separate the legislation. That would go a long way towards addressing some of the problems and difficulties that we in opposition have accessing information. It would go a long way towards addressing some of the difficulties that the media have in accessing information. Clearly, it would go a long way in terms of addressing the difficulties that citizens of this province have in accessing information.

So I applaud the moves that the federal government is making. By and large they mirror recommendations that my colleagues, including the Member for Edmonton-McClung, made in a written submission to – remind me of the name of the committee.

Mr. Elsalhy: The conflicts of interest committee.

Mr. R. Miller: The Conflicts of Interest Act Review Committee received a written submission from the Official Opposition caucus which was surprisingly similar, as it turns out, to the election platform of the federal Tory cousins of this government and, in fact, surprisingly similar to the Federal Accountability Act, which is currently before the federal Parliament.

So I would certainly like very much to see this particular amendment passed. It would be refreshing given that every other amendment that we have had before us to this point on this Bill 20 has failed.

Mr. Elsalhy: Doesn't it surprise you that they don't even stand up and debate it?

Mr. R. Miller: I am surprised, actually, that it is only the Official Opposition that even has comments to offer on these amendments. By and large, we seldom don't even hear any sort of a rebuttal from members of the government.

Mr. Elsalhy: Because they don't care.

Mr. R. Miller: Well, I'm not so sure that it means that they don't care. Perhaps they just suspect that legislation should pass through this House without any comment or observation by members of the opposition at all. I know that we have a Premier who is on the record many times as saying that he doesn't believe that we need an opposition in this province. I'll be honest, Mr. Chair. I've heard some people in this province echo his sentiments, and that is probably the scariest thing I've heard in my lifetime, actually. We all know what happens when you have a government that has no opposition. We've seen many examples of it through history, and I don't think any of us wants to go there.

Frankly, I don't believe that the Premier really means that when he says it either. I certainly hope he doesn't mean it. [interjections] Well, I have some members telling me they disagree. They believe that perhaps he does believe it. I'm not sure, but it causes me concern any time I hear anybody say that because, as I say, we all know what happens when you have governments that don't have any opposition, and it's not a pretty sight.

In particular, now, this amendment would strike out subsection (4)(a), which is the one that says:

The right of access does not extend

- (a) to a record created solely for the purpose of briefing a member of the Executive Council in respect of assuming responsibility for a ministry.

Then it also would take out subsection (5). This is the one that refers to

- a record described in that clause if 5 years or more has elapsed since the member of the Executive Council was appointed as the member responsible for the ministry.

Personally, I would have preferred to have seen the previous amendment passed, which would have struck the entire section (4) out of this bill. But if that's not going to happen – and clearly it won't because it's already been dealt with by this Legislature and has failed, as I said – I think the very least is to allow us access to these records that were provided for briefing.

1:00

I asked questions in question period today on a meeting of the Automobile Insurance Rate Board that was attended by the Finance Minister, and perhaps there was a briefing that took place there. I would like to know what business was discussed at that meeting, and I know for sure that many Albertans would like to know as well. So just one example, I suppose, Mr. Chairman, of access to information that is becoming more and more difficult as opposed to making it easier, more transparent, more accessible. As I say, that goes against the wishes of the people of this province, I believe, and it certainly goes against the trend of both the federal Parliament and other provincial Legislatures across this country.

With that, I would strongly recommend that the members of the government join those of us in opposition and extend at least in this one case a little more access and openness to not only members of the opposition but, as I said, to the media and particularly to individual citizens of this province.

Thank you.

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

Ms Blakeman: Thanks very much, Mr. Chairman. There have been a number of speakers in the opposition supporting this amendment to strike out subsection (4)(a) and subsection (5), and I just wanted to speak briefly on the record in supporting this amendment.

FOIP is one of those great, frustrating, should have been a great idea – and, boy, did it get perverted somewhere along the way – situations that we see develop with the government. I think most new governments coming into power talk a lot about openness and transparency, and certainly if they're coming from an opposition view, they understand exactly what that means.

I'm coming up to my 10th year here, and I tell you that when I started, I couldn't get any information. I spent an extraordinary amount of time just trying to find out basic stuff of what was happening in the ministry that I was responsible as a critic for. We weren't sent media releases. We weren't told about media conferences that were being called. You know, if you could manage to get down to this building and go by the doorway where the notices were posted, then you'd know about it, but if you were operating from any constituency office, I mean, you just didn't get that information. It didn't get faxed to you; that's for sure. The government put more effort into making sure we didn't know what was going on. Now at least with the advent of the web and every ministry having a website and regularly posting their media releases and calendars of events and public hearings and things that they're holding, it does make it easier for us to get at information, but when you go to other levels of information that the government has collected, the net closes very quickly. It's interesting how this government likes to put out that they are so transparent and open, yet being able to get at real information gets more and more difficult.

We've just done the Committee of Supply debates on all of the budgets, and I can tell you that the amount of information that's released in those budgets has decreased every single year. Now you just look at a series of line items. You have no idea what programs are covered in there, how many FTEs were assigned to them, all kinds of really important information if you're to be judging whether

this government is producing good value for the taxpayer dollar. You can't get that information.

Here we have another example in Bill 20 where the government is cutting off the flow of even more information, and really, information is the currency of democracy. It needs to circulate freely and to be widely shared in order to be useful to the economy of democracy, if you want to put it that way, and we get exactly the opposite out of this government. I would argue that that impairs the government's ability to do a good job and for its bureaucrats to implement the policies that the legislators develop, and it makes it much more difficult for the citizens to hold the government accountable.

You know, what goes around comes around, and what ends up happening is you end up with an electorate that is totally disengaged from what we do in this room because they can't understand it, they can't get the information for it and why should they pay attention to it, and then we have trouble with voter turnout. So it does all go around.

In this particular case this amendment is trying to restore the right of access to be able to examine basically the briefing books that are provided to Executive Council when they move into a particular ministry. Putting in place that there is a five-year clause, that you can't see the information until five years has passed, is just another way of cutting off information to the opposition, to the media, to members of the public, and to stakeholder groups in the community. I disagree with it absolutely, and I would urge everyone to support the hon. member's amendment.

Thank you very much.

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

Mr. Bonko: Well, thank you, Mr. Chairman. I've been trying to get up a couple of times. I'm speaking on amendment A4 as well, just for clarification.

You know what? It does seem pretty simple. When you do have a FOIP Act that is secret, why would you in fact put more regulations in there to make it more secret? Obviously, the government does have something to hide. It's pretty obvious.

I spoke to a couple of kids – kids we're talking; we're talking junior high, even high school – just about general facts, about the ability to be able to get information and how the government is supposed to provide that information. They talked about them being transparent and accountable, and they understood what transparency and accountability were. To be able to deny information for five years in one instance and up to 15 in the other they thought was completely ridiculous, and the question that came to their mind was: "Why? Why would they want to do this?" The question is: why? If this was such a great piece of legislation the first time, why was this not included? This would never have passed to this stage already. When it came in about four years ago, citizens had their concerns about FOIP. Now, four years later, we're talking about even more prohibitive information being sought, and people are not going to be able to get it.

We had a couple of instances just a little while ago when people tried to in fact get airplane logs. Well, we were given the run around the terminal because it was a big deal. It was secret. That's just ridiculous. Then today in the session we asked about a \$900 food tab at a restaurant for approximately 12 people. It's not the cost of the tab. The point of it was that it came out as just a receipt with no explanation. When you're on the public purse, you need to have accountability. Citizens are paying the tab here. They go to the polls. They're expecting to have leadership, leadership in the form

of democracy, leadership in the form of transparency, leadership above and beyond what the average citizen, in fact, is accountable to.

Mr. Elsalhy: Honesty.

Mr. Bonko: Yeah. They're asking for honesty.

The basic principle that people want is to be able to trust their government. There was a poll and government came at the very bottom. Used car salespeople came ahead of politicians, and that's exactly the reason why. When you have bills like this that prohibit people from getting any information, why do you trust them?

Mr. Elsalhy: It wouldn't be acceptable.

Mr. Bonko: No. It wouldn't be acceptable anywhere else.

I do support amendment A4 that was brought forward by the member this evening, which would strike out two sections, (4)(a) as well as subsection (5), which would again lead to the outrageous amount of time that one would have to wait. Fifteen years. Like I said the other night, that's the entire government that this one has been operating for. That's like four elections. How many times can one go to the polls and hold their nose and vote and think that they are in fact getting good money for the whole piece of it?

The whole thing, Mr. Chairman, is that I ran, and one of my platforms was accountability. So far I feel that I have been accountable to my electorate. That's why I'm here at this hour, because I don't believe this is good government legislation that's going through. I think that people need to know that this is the type of stuff that does try and go through in the wee hours because most people are asleep. Most people aren't listening. They're asleep, and they're hoping that people are watching over them. We are watching over them and over their rights. In fact, when you wake up the next morning and find out that legislation has gone through that restricts information for five and up to 15 years, that's just ridiculous.

I think that those comments should in fact be on the record and encourage people to support it. We talked about the third way and how people could see an actual effect on their lives. They may not see the effect now, but later on the effect will be there when they need to have information or they start asking more questions. We have a younger and younger population that's coming up that's inquisitive, that, in fact, is more engaged in politics now than ever before. They're not old enough to vote, but if they were, I could see them saying that they would not vote for this particular piece here this evening.

1:10

An Hon. Member: Are you sure?

Mr. Bonko: Absolutely. I'm sure they would not.

An Hon. Member: Who would they vote for?

Mr. Bonko: Well, they wouldn't vote for the legislation if it was just the legislation.

The Chair: The hon. Member for Edmonton-Decore has the floor.

Mr. Bonko: Thank you, Mr. Chairman. I would, in fact, ask, because I'm going to speak just a little bit longer just to get this particular piece out. If the division bells are triggered, I would ask that we do shorten the debate from 10 minutes to two. That would

be the Standing Order 32(2.1) then, and that's for unanimous consent on this particular piece.

The Chair: You move that the bells be shortened from 10 minutes to two. Is that correct?

[Unanimous consent granted]

The Chair: Are you ready for the question? The hon Member for Red Deer-North.

Mrs. Jablonski: Mr. Chair, I'm going to repeat what I've said every time they've stood up to comment on these sections. I hope this time that they hear me and that they understand. By the way they're talking, you would think that we're hiding everything in this government forever. What we're doing is: we're simply making the briefing books of the minister, who are new ministers for a new session, unavailable for five years. After that they are available. They're opened up to the public. The public can look at them and see whether or not we were hiding whatever they're talking about over there; I have no idea. I believe that because of that, because they are accessible in five years, that we should not accept their amendment. [interjections]

The Chair: The hon. Member for Red Deer-North has the floor.

Mrs. Jablonski: I listened to them, Mr. Chair, but I guess that they're having a hard time hearing what I'm trying to say. The records of the chief internal auditor are available to the Auditor General whenever he requests them and whenever he wants them. The Auditor General represents the interests of the people of Alberta, and nothing is hidden from him.

Mr. Chairman, for those reasons these amendments are not necessary.

The Chair: The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Chairman. Well, I beg to differ with my hon. colleague from Red Deer-North. I'm looking at a release from the office of the Information and Privacy Commissioner dated March 8, 2006, and I'll quote just part of it. He says:

The Commissioner, however, cannot support a proposal to exclude Briefing Books from application of the Act. "This has never been an issue for this Office in the past. This amendment could be a very significant exception to disclosure. We already have a section of the Act which quite clearly establishes the ability to withhold advice given by officials and this particular amendment is not necessary."

That's from the commissioner.

Now, a noted political scientist in our province, Professor McCormick, from the University of Lethbridge, has some comments as well on what the government is trying to do. He said: this sounds like every secretive government's dream; this is a government that always likes to say it is in favour of freedom of information, but freedom of information is always a risk for a government; so what they want to do is look as transparent as they can while being as untransparent as they can, and that way they don't get burned.

Mr. Chairman, that sort of sums up my view. This amendment will remove from the act the specific aspects of the act that the commissioner does not support. He has said very clearly that it's unnecessary, that it's already dealt with, and it is not necessary.

So what does the Minister of Government Services say is the rationale for this? The Government Services minister has defended the proposed changes. This is the minister responsible. The minister

said that staff briefing notes and the internal auditor's records contain advice that a minister may reject and that that is why it should be kept secret: because it has an alternate view. It has something that the government has not done. It has received advice from its department, and it's chosen to do something else. Well, usually that's for some political motivation, Mr. Chairman. There's usually a political reason why a government rejects advice that it receives from its own administration.

So that's, as far as this government is concerned, the real reason why we have to exclude these things from freedom of information. The public might know what was suggested to the government might be the most appropriate course, and we can't have that, Mr. Chairman, because that might inform the public as to what the government is doing, what the government spin is, and so on.

I think, Mr. Chairman, the government is clearly trying to hide objective information that the public should know so that they can compare that information about what the government ought to do with what the government actually does, and that will help people divine the political motivations behind government decisions. That's what the government does not want to see. That is why they are making these changes in this act. That is why they're making this most secretive government even more secretive.

You know, it's interesting, Mr. Chairman. When I go out and go shopping at the grocery store or out in the community and so on, most people don't know about this bill, but when you tell them about it, they say: well, what does it mean? Well, basically you tell them that what it means is that the government is giving itself more reasons to keep information secret. They get angry. I'm very surprised at how much of an issue this is for Albertans. Even though many Albertans are not aware of this bill and what the government is doing – and no wonder; look at the time of day that we've been debating it for for the last week or so – when they find out about it, they're angry because the trend is against this. The trend we're seeing in Ottawa, the trend we're seeing across the country is not being reflected in this bill. The trend is to more openness and the public asserting its right to have access to its information and to disallow governments from hiding information from the public in order to serve their own political ends.

Mr. Chairman, FOIP has entered the lexicon of Alberta. When you say "to FOIP," it is a verb. It's an adjective. It's part of the language. But I've got a new definition for FOIP. F-O-I-P stands for: frequent opacity is prevalent. That pretty much sums up this bill.

So I urge hon. members to support this amendment and will remind them that this amendment is consistent with a recommendation of the freedom of information commissioner, who is against this clause of the bill. This amendment will take it out of the bill and make the bill consistent with the commissioner's view of what protections the public requires.

Thank you very much.

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

Mr. Bonko: Thank you, Mr. Chairman. This will be my last time to speak on this particular amendment as well. I heard the Member for Red Deer-North trying to explain the reasons for this, but I haven't heard anything. It was a futile defence, in fact, of a weak bill. I think most people talk about crimes taking place in the evening. Well, the passing of this bill would certainly be a crime against Albertans who, in fact, put their whole trust in the government to do the right thing.

The Member for Edmonton-Highlands-Norwood talked about his interpretation of F-O-I-P, and it certainly isn't freedom of informa-

tion. It's more like: fork off; it's private. We all know what I'm talking about. It's basically: "Mind your own business. This is government business. You have no reason to need it." That's why you put cost-restrictive pieces on it, and that's why we're making it more and more secretive as this government goes along.

Mr. Elsalhy: It's a crime.

Mr. Bonko: It is a crime. Absolutely it is.

So I will thank you for that last comment then, Mr. Chairman.

1:20

The Chair: Are you ready for the question on the amendment?

Hon. Members: Question.

[The voice vote indicated that the motion on amendment A4 lost]

[Several members rose calling for a division. The division bell was rung at 1:21 a.m.]

[Two minutes having elapsed, the committee divided]

[Mr. Marz in the chair]

For the motion:

| | | |
|----------|--------|------------|
| Blakeman | Hinman | Miller, R. |
| Bonko | Mason | Tougas |
| Elsalhy | | |

Against the motion:

| | | |
|-----------|------------|-----------|
| Abbott | Graydon | McClellan |
| Ady | Groeneveld | McFarland |
| Amery | Haley | Mitzel |
| Boutilier | Horne | Morton |
| Brown | Jablonski | Pham |
| Cao | Knight | Renner |
| Cardinal | Lindsay | Stevens |
| Danyluk | Lougheed | Tarchuk |
| DeLong | Mar | |

| | | |
|---------|---------|--------------|
| Totals: | For – 7 | Against – 26 |
|---------|---------|--------------|

[Motion on amendment A4 lost]

The Chair: Are there any other comments or amendments? The hon. Deputy Government House Leader.

Mr. Stevens: Yes. I move that we adjourn debate with respect to Bill 20.

[Motion to adjourn debate carried]

The Chair: The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Chairman. I move that the committee rise and report Bill 31 and progress on Bill 20.

[Motion carried]

[The Deputy Speaker in the chair]

The Deputy Speaker: The hon. Member for Airdrie-Chestermere.

Ms Haley: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bill with some amendments: Bill 31. The committee reports progress on the following: Bill 20. 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.

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

Hon. Members: Concur.

The Deputy Speaker: Opposed? So ordered.

The hon. Deputy Government House Leader.

Mr. Renner: Thank you, Mr. Speaker. Given the hour and the significant progress made this evening, I move that we now adjourn until 1:30 this afternoon.

[Motion carried; at 1:28 a.m. on Thursday the Assembly adjourned to 1:30 p.m.]

