

First Session - Fortieth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Human Resources

Chairperson
Mr. Matt Wiebe
Constituency of Concordia

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MANITOBA LEGISLATIVE ASSEMBLY
Fortieth Legislature

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ALLAN, Nancy, Hon.	St. Vital	NDP
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SELINGER, Greg, Hon.	St. Boniface	NDP
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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON HUMAN RESOURCES**

Monday, June 11, 2012

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Matt Wiebe (Concordia)

VICE-CHAIRPERSON – Mr. Mohinder Saran (The Maples)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Ms. Howard, Hon. Mr. Lemieux, Hon. Ms. Oswald, Hon. Messrs. Rondeau, Struthers

Mr. Briese, Mrs. Driedger, Mr. Saran, Mmes. Stefanson, Taillieu, Mr. Wiebe

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

Mr. Ron Schuler, MLA for St. Paul

Mr. Cliff Cullen, MLA for Spruce Woods

PUBLIC PRESENTERS:

Bill 23–The Local Government Statutes Amendment Act

Mr. Doug Dobrowolski, Association of Manitoba Municipalities

Mr. G. Henry Holowchak, private citizen

Bill 6–The Regional Health Authorities Amendment Act (Improved Fiscal Responsibility and Community Involvement)

*Mr. John Friesen, Eden Mental Health Centre
Mr. Gerald Pronyk, MARCHE - Manitoba Association of Residential and Community Care Homes for the Elderly*

Ms. Julie Turenne-Maynard, IHCAM - Interfaith Health Care Association of Manitoba

Mr. Daniel Lussier, CHAM - Catholic Health Association of Manitoba

Bill 8–The Highway Traffic Amendment Act (Use of Child Safety Seats)

Ms. Lynne Warda, Winnipeg Regional Health Authority, Injury Prevention Program

Bill 37–The Highway Traffic Amendment and Summary Convictions Amendment Act (Bicycle Helmets)

Ms. Lynne Warda, Winnipeg Regional Health Authority, Injury Prevention Program

Mr. James Beddome, Green Party of Manitoba

Bill 33–The Election Financing Act and Elections Amendment Act

Mr. Roy McPhail, private citizen

Mr. James Beddome, Green Party of Manitoba

Bill 34–The Public-Private Partnerships Transparency and Accountability Act

Mr. Jeff Browaty and Mr. Russ Wyatt, City of Winnipeg

Mr. Chris Lorenc, Manitoba Heavy Construction Association

Ms. Lynne Fernandez, Canadian Centre for Policy Alternatives

Mr. Chuck Davidson, Winnipeg Chamber of Commerce

Mr. John Loxley, private citizen

Mr. David Sauer, Winnipeg Labour Council and Manitoba Federation of Labour

Mr. Ross Eadie, City of Winnipeg

Bill 35–The Retail Businesses Holiday Closing Amendment Act

Mr. Lanny McInnes, Retail Council of Canada

Mr. Chuck Davidson, Winnipeg Chamber of Commerce

WRITTEN SUBMISSIONS:

Bill 6–The Regional Health Authorities Amendment Act (Improved Fiscal Responsibility and Community Involvement)

Doug Dobrowolski, Association of Manitoba Municipalities

Bill 34–The Public-Private Partnerships Transparency and Accountability Act

Doug Dobrowolski, Association of Manitoba Municipalities

Barry Brown, Maple Leaf Construction

Bill 35—The Retail Businesses Holiday Closing Amendment Act

Doug Dobrowolski, Association of Manitoba Municipalities

MATTERS UNDER CONSIDERATION:

Bill 6—The Regional Health Authorities Amendment Act (Improved Fiscal Responsibility and Community Involvement)

Bill 8—The Highway Traffic Amendment Act (Use of Child Safety Seats)

Bill 23—The Local Government Statutes Amendment Act

Bill 33—The Election Financing Act and Elections Amendment Act

Bill 34—The Public-Private Partnerships Transparency and Accountability Act

Bill 35—The Retail Businesses Holiday Closing Amendment Act

Bill 37—The Highway Traffic Amendment and Summary Convictions Amendment Act (Bicycle Helmets)

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Mr. Chairperson: Good evening. Will the Standing Committee on Human Resources please come to order.

This meeting has been called to consider the following bills: Bill 6, The Regional Health Authorities Amendment Act (Improved Fiscal Responsibility and Community Involvement); Bill 8, The Highway Traffic Amendment Act (Use of Child Safety Seats); Bill 23, The Local Government Statutes Amendment Act; Bill 33, The Election Financing Act and Elections Amendment Act; Bill 34, The Public-Private Partnerships Transparency and Accountability Act; Bill 35, The Retail Businesses Holiday Closing Amendment Act; and Bill 37, The Highway Traffic Amendment and Summary Convictions Amendment Act (Bicycle Helmets).

How long does the committee wish to sit this evening?

Hon. Jennifer Howard (Minister of Family Services and Labour): I suggest we sit until we've concluded our business tonight.

Mr. Chairperson: Okay, is that—is the committee in agreement? *[Agreed]*

We have a number of presenters registered to speak tonight as noted on the list presented before you—of presenters before you.

On the topic of determining an order of public presentations, I will note that we will—that we have out-of-town presenters in attendance, marked with an 'asterix' on the list. With this consideration in mind, what order does the committee wish to hear the presentations?

Ms. Howard: Is it the question if we should hear the out-of-town presenters first? Yes, I think we should hear the out-of-town presenters first.

Mr. Chairperson: It has been suggested that we hear the out-of-town presenters first. Is that the agreement of the committee? *[Agreed]*

Before we proceed with presentations, we do have a number of other items and points of information to consider. First of all, if there is anyone else in the audience who would like to make a presentation this evening, please register with the staff at the entrance of the room.

Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. If you need help with photocopying, please ask our staff.

As well, I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members.

Also, in accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters' list.

Written submissions from the following persons have been received and distributed to committee members: Doug Dobrowolski, president of the Association of Manitoba Municipalities, on bills 6, 34 and 35; Barry Brown, president of Maple Leaf Construction, on Bill 34.

Does the committee agree to have these documents appear in *Hansard*—in the *Hansard* transcript of this meeting? *[Agreed]*

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meeting are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I first have to say the person's name. This is the signal for *Hansard* recorder to turn the mikes on or off. Thank you for your patience. We will now proceed with public presentations.

Bill 23– The Local Government Statutes Amendment Act

Mr. Chairperson: I would like to call—I will now call on Doug Dobrowolski, president of the Association of Manitoba Municipalities.

Mr. Dobrowolski, do you have a written submission for the committee?

Mr. Doug Dobrowolski (Association of Manitoba Municipalities): Yes.

Mr. Chairperson: Those are being distributed now. You may proceed with your presentation.

Mr. Dobrowolski: Well, good evening. The Association of Manitoba Municipalities would like to state our views on Bill 23, The Local Government Statutes Amendment Act. This bill would require all municipalities outside the city of Winnipeg to put into place policies and practices aimed at strengthening accountability of municipal councils and supporting transparent decision-making process.

They propose amendments—the proposed amendments should support municipalities in governing objectively, fairly and with the best interests of their communities. The AMM, as the association that represents all 197 incorporated municipalities in Manitoba, share these priorities. We understand Bill 23's amendments would require each municipality to (1) follow a code of conduct that would set standards of behaviour for municipal council members and exercise the authority of censure of a member who has breached the code; (2) provide a notice and information to the public about capital projects prior to borrowing funds for projects so citizens would have information to enable them to voice their concerns before projects are—move forward; (3) follow a tendering and procurement policy to ensure spending decisions are objective and fair, and municipal resources are used in the most efficient and effective way; (4) follow a policy to ensure practices for use—for the private use of municipal equipment are clear and consistently

applied; and (5) report on council's response to any recommendation made in a report by the office of the Auditor General, so that citizens will be aware of the recommendations and will be able to hold their councils accountable for responding to them.

We understand Bill 23 would also expand existing legislation to reduce the potential for conflict-of-interest situations when municipalities work regionally.

Overall, these are positive changes and the AMM welcomes them. Municipalities, like any other levels of government, must be accountable to the ratepayers. Strengthening council accountability and ensuring transparent decision making is a good thing for everybody. For this reason, the AMM frequently invites Manitoba Local Government to address our members on topics of municipal conflict of interest and the needs of openness and transparency.

The Manitoba Ombudsman also has taken part in AMM events, and we partnered with the Ombudsman office to produce a guide called *Understanding Fairness*, a handbook on fairness for municipal leaders. Along with Manitoba Local Government and the Manitoba Municipal Administrators' Association, Mr. Speaker, we also produced, in partnership with Manitoba Local Government, a guide called *Once Elected... What is Expected?* for councillors following the 2010 municipal election. This guide includes sessions on conflict of interest and citizen access to information. In short, we take every opportunity to provide our members the information they need and our members are willing to participate in these events to learn as much as they can.

Manitoba municipalities make important decisions every day. These decisions have the power to impact the lives of our citizens, and our members take this responsibility very seriously. However, having straightforward and concise rules to follow is essential. Municipal elected officials work for a little pay, and many hold down full-time jobs while also serving their communities in a part-time capacity.

These positions are, in many cases, almost volunteer in nature. This is not to downplay the important work of our members do, but rather to stress the many different and time-consuming roles local community leaders must play. For this reason, we count on the provincial government to provide clear and transparent guidelines to put these amendments in place.

It is important that the new rules be straightforward so not to add to the municipality's already heavy workload. Of further concern is the proposed requirement for tendering and procurement policy. We can all agree that municipal resources must be used in the most effective and efficient way possible, and spending decisions be objective and fair. However, it is important that the proposed policy not create unnecessary delays to tendering and borrowing procedures. As well, we all know such delays typically result in rising project costs which can create financial burdens to municipal budgets already stretched thin.

In closing, we appreciate the Province of Manitoba's initiative in introducing legislation aimed at increasing municipal council effectiveness. Ultimately, the provincial government and the AMM are striving for the same results—strong and efficient municipal government. The proposed amendments should enhance our member's ability to achieve this status, rather than hinder it with complicated processes and time-consuming red tape. We will continue to closely follow the implementation on these changes. Thank you.

*(18:10)

Mr. Chairperson: Thank you very much, Mr. Dobrowolski, for your presentation.

We'll now move on to questions. Do members of the committee have questions for the presenters?

Hon. Ron Lemieux (Minister of Local Government): Doug, I just want to thank you and Joe for making your presentation and also for being supportive. Ultimately, the Province and AMM are striving for the same thing: strong and effective municipal government.

But I want to thank you, in particular, for your respect of this process and the democratic process. You are in McCreary, Manitoba, and one of your regional meetings that McCreary is located near Ste. Rose, and Doug went there today, returned tonight and then tomorrow morning he's off to Sandy Lake at their second regional meeting. So thank you very much for that, and I appreciate you taking the time, sincerely, to present to us tonight. Thank you.

Mr. Stuart Briese (Agassiz): Mr. Chair, I do concur with the minister on—I'm impressed with your dedication to come from McCreary. I know a little bit about some of the travels you do and it's great to have you here, and I also understand all the great work the municipalities do in this province.

Just in pertaining to the bill, on the conflict—the code of conflict it allows—after the code of conflict there's a section in here that says a council may censure a member if they determine that that member has breached the code of conduct, and that's all the bill says. It doesn't say whether there's any guidelines or on possible penalties. It doesn't say whether there's an appeal process, possibly, for a council that may be censured, and I just would like your comments on that, if I may.

Mr. Dobrowolski: As I mentioned in my presentation, we're hope there's going to be clear and concise details to this bill. And they'll—and also most municipalities have a policies and procedure manual where they outline a lot of that in their own council, because each council operates a little differently just because of where they're located and size of council. So a lot of that is put in their own policies and procedures manual.

Mr. Briese: Thank you for that. I'm still going to go on myself, having problems with that censure word in there.

But the other question I have on the bill itself is they—there's a requirement in here now for councillors, mayors and reeves to report all land they own anywhere in the province. I would see probably that it was—they should and do, at the present time, report their ownership in their own jurisdiction. But now it's being expanded to all over the province, what's your view on that?

Mr. Dobrowolski: I think this bill is all about accountability, and I think they should list all the holdings that they have, because if they're even perceived as a conflict of interest it only protects themselves that they've put this on their asset sheet.

Mr. Chairperson: Seeing no further questions, thank you once again for your presentation.

Now like to move on to the next out-of-town presenter, Mr. G. Henry Holowchak, private citizen. Thank you, Mr. Holowchak, you have written materials for the committee?

Mr. G. Henry Holowchak (Private Citizen): Yes, I do.

Mr. Chairperson: Okay, and the Clerk will assist you with distributing those, and you may proceed with your presentation when ready.

Mr. Holowchak: I'd like to thank you, ladies and gentlemen, for having me here today. I'm speaking in

regards to Bill 23 and, more particularly, in regards to The Municipal Act.

I do not believe the currently proposed censuring of a council member goes far enough to stem aberrant behaviour. If people are violating their oath of office and ignoring rules as laid out in sections 22 and 23 right now, I doubt they will be concerned about a locally written code of conduct. Censuring is a minor slap to the wrist for a continual offender.

I propose RM and LUD councils be mandated to initiate a recall election process once a recall with 20 per cent of the electorates' signatures are collected and given to council, and I propose this in large part because of the following information that has been brought to my attention.

This is regarding the RM of Siglunes and, specifically, to the reeve. We, a majority of council members wish to advise you that the manner in which you have been and continue to conduct yourself on behalf of our municipality will no longer be tolerated. When the head of council chooses to demean and degrade employees, ignore, deny, contradict and overrule councillors and members of the LUD committee and then, further, bully or exclude any councillor he disagrees with, or who disagrees with him, this only renders this council ineffective and dysfunctional. You might think that the sexual innuendos and comments you have made to female staff during your time on council are funny. They are not. This is sexual harassment; it is not acceptable in any way.

We are at a crucial time to recover from last year's flood. This is a time when we need strong and steady leadership to guide council and staff in a unified manner, encouraging team spirit for the overall common good of our taxpayers and residents. Instead, what you are delivering is undermining, demoralizing, unethical and potentially illegal behaviour towards council members and staff. You seem to think you're the only member of council and you conduct business, make decisions and obligate the RM, often without the knowledge of some or all of us. This will no longer be tolerated. We will—we were all elected to make decisions for the overall good of our municipality. This falls on seven members of council, not one.

We feel you have cost the municipality more money due to your many personality conflicts. You have exhibited irrational behaviour and have shown both bias and favouritism when dealing with taxpayers, the LUD, contractors and other

individuals, and you demand or bully us into going along with you. We will no longer allow this to continue. We will no longer pass a resolution after the fact to save you from embarrassment and financial responsibility. From this day forward, we will refuse to pay accounts that have been submitted for work ordered by you that have not been first discussed at a council meeting and passed by resolution. We have lost staff and could potentially lose all of our staff strictly due to your behaviour. We are at fault for not putting a stop to it before now. We are committed to not allowing that mistake to continue. Our staff is important to us as a municipality and we cannot deliver the services we have promised without training knowledgeable staff.

We intend to pass a resolution at the next meeting restricting you from speaking on behalf of the RM or conducting any business on our behalf, without first getting council's permission by way of a resolution. Although the act is very clear on the fact that councils cannot act without a resolution or a bylaw, we feel it is necessary and in the best interests of the RM of Siglunes to identify that the reeve in our RM has absolutely no more power than any other member of council. This will then become public knowledge. We've been embarrassed several times because you have made commitments and plans without telling us or the staff.

We all swore an oath before taking our positions. In that oath we promised to act faithfully, without fear, favour, or affection and will truly, faithfully and impartially execute the duties and responsibilities of that office. We do not feel that you are honouring that oath, and by not honouring it, you are causing harm to this municipality, its taxpayers, its staff, and its council.

Just to let you know, I and several other people attended a council meeting last week after the reeve received this letter and we saw this man be very demeaning, degrading and abusive to two councillors. So it appears that this letter, even though they are, in a sense, trying to censure him through a resolution, has not worked and they—and council did not, as they had promised, put forward that resolution to make it public.

Council is incapable of stopping the abhorrent behaviour and so will censuring. A recall election process is our best hope to stop the lunacy. Thank you.

Mr. Chairperson: Thank you, Mr. Holowchak, for your presentation.

I'll now move on to questions.

Mr. Lemieux: Not a question.

I'm certainly not prepared to deal with the specifics of this particular issue you raise, but I just want to say, and put on the record and be clear, out of the 197 municipalities that are in Manitoba currently, many of the municipalities has been pointed out by your—by a previous speaker, the president of the association, on how they work extremely hard for very little pay, have full-time jobs, and they do a tremendous job. And I know they don't need me defending them, but I have to tell you that it is concerning to have this raised. But I have to tell you that, this piece of legislation is meant to address a lot of what you speak and what you've touched on.

But, again, I want reiterate that those municipalities, and I hope people in attendance and are listening and also the transcript of *Hansard*, points out that municipalities overall in Manitoba treat each other with a great deal of respect; those elected officials do so, the democratic system that we have in place and municipalities are a mature, responsible government and councils are elected to make decisions that are in the best interests of their communities. And every four years, they have a report card or an election, and that they have to go before the public and they have to be accountable for what they've done. And that's what being a mature level of government is, and—but I do appreciate you taking the time this evening to come forward to express your views. And that's what the committee is all about, and that's why we have presenters like yourself and others give their views on legislation.

* (18:20)

Some may feel it's not going far enough. Others feel legislation's going too far, and so as a government we try to reach a balance to be accepted by the public on what we're trying to present, but I just want to thank you very much for taking the time to come to make your presentation to us.

Mr. Briese: I, too, would thank you for your presentation, Mr. Holowchak. That's what this is all about is for people to get their views on the record at these committee hearings. And you heard from the previous presenter, from myself speaking to the previous presenter, I have some concerns with the censure section of this bill too. So I do want to thank you for being here.

Mr. Chairperson: Seeing no further questions, thank you once again for your presentation.

**Bill 6—The Regional Health Authorities
Amendment Act (Improved Fiscal Responsibility
and Community Involvement)**

Mr. Chairperson: For the information of the committee, I will—there has been a late registrant, an out-of-town presenter that I will now call on. Would Mr. John Friesen please come to make your presentation. Mr. John Friesen. Mr. John Friesen, Eden Mental Health Centre. Okay.

Mr. Friesen, do you have a written submission for the committee?

Mr. John Friesen (Eden Mental Health Centre): No, I have an oral presentation.

Mr. Chairperson: Okay, please proceed when you're ready.

Mr. Friesen: My presentation is in regards to the bill about health care, and I'm chair of the board of Eden Mental Health Centre in Winkler. Eden Mental Health Centre is one of the programs of the Eden Health Care Services, and we receive about \$6.7 million each year through the Central RHA. We work co-operatively with the Central RHA in delivering the mental health services as well as mental health community services within the southern half—especially southern half of Central RHA.

We are—we work very well together with the RHA, very closely, very co-operatively, and at least during the last number of years, we have seen no difficulties in the way we've been operating. We keep them informed. We meet co-operatively when we make appointments—staff appointments, and we feel that at this point, we're not aware of any tensions or problems nor have we heard from the RHA that they have problems with the way things are operating. So we feel things are working well.

And so my feeling would be, and the feeling of Eden would be, that the proposed legislation would be unnecessary to solve problems because right now we're not experiencing any major problems in the way we're working with Central RHA. So that would be my submission, that, I guess, to quote an old adage, if it ain't broke, don't fix it. That's kind of our feeling. Things are working well. So thank you, that's my presentation.

Mr. Chairperson: Thank you very much, Mr. Friesen.

We'll now move on to questions.

Hon. Theresa Oswald (Minister of Health): Just very briefly, Mr. Friesen, I want to thank you for making the trip to come and share your views, and certainly to take this opportunity to thank you on behalf of all Manitobans and the people of your region for the extraordinary work you do with families who are living with mental illness. This is a service that is life saving and life changing, so we thank you for that.

And, certainly, I think the point, you know, very simply so, that you raise about a strong working relationship with the regional health authority being in existence now is a great thing, and we know that in many environments that that is the case and we're very, very grateful for that. We have had some situations where there have been some challenges, issues with fiscal transparency and accountability. We're hoping that we can build on the strength of relationships and care that exists in our existing system while at the same time strengthening for those areas, not yours, clearly, where we do need to do some strengthening and do some work.

So I appreciate your comments and would agree wholeheartedly that we don't want to amend in any way the things that are working beautifully. We want to ensure, in the areas where they're not working beautifully, that we set the table for that to be righted.

So thank you very much for your comments this evening.

Mrs. Myrna Driedger (Charleswood): Thank you, Mr. Friesen, for being here tonight and bringing forward your concern.

My question to you would be, what most concerns you about this legislation, are there some specific issues that you most worry about?

Mr. Friesen: The aspects, I think, that I noted and also that what will be presented in the briefs later on, I think related to one, the appointment of CEOs or some of the directors of the programs where we work very—well, co-operatively with the Central RHA and that we—I think we've been able to make very good appointments. And on that score, I think our concern always is that the person who is appointed to lead our institution has both a good relationship with the RHA and with the community. And that kind of

balance we would want to maintain, and if there be anything in the legislation that would jeopardize that we would be concerned.

I think another area is the use of surplus funds, which was addressed, I think, and I think on that score, too, we worked well with the Central RHA where we have occasionally had some surplus funds and they have been set aside for special projects. Sometimes we work, then, with special projects that would be the kind that the RHA might in other cases fund and they don't have to because we co-operatively decide we'll use some of the surplus money to do that. And it's sometimes possible to do something extra that might not be in the budget, but working together with the RHA about how we use those funds.

So, again, I don't think that has ever—that has become—I don't think that has become an issue. That's not an ongoing issue. We—we're not aware of that's an issue, and I think we've been able to work well with the funding in that respect as well. And I think the funding from year to year in the last number of years has been fairly minimal, so I think we have been fairly efficient in the way we have operated. I know from 2010 to 2011 our increase on a \$6.7-million budget was \$20,000, so—and in terms of what we received from the RHA.

Hon. Jon Gerrard (River Heights): Your Eden Mental Health Centre has an excellent reputation, and so thank you for the work that you do and the people who are working with you.

One of the things about this change is that it will considerably enlarge the geographic area that the RHA would be responsible for. Would that have implications for the Eden Mental Health Centre at all?

Mr. Friesen: Yes, it does have implications, and I think, as far as we're concerned, positive ones. We—the Central RHA and the South Eastman RHA are being amalgamated into one. We had, already, for a number of years, been in discussion with Eastman RHA to see whether we could provide mental health services—institutional mental health services for them as well, and working with two RHAs was sometimes complicated in terms of remuneration, funding and so on. By putting the two RHAs together we'll actually simplify that whole process and now we will be able to provide that and work directly with people in the former Eastman RHA, and some of the bureaucracy and red tape that hindered us working

together before will not be there now. So I think there's a positive.

So we don't see any particular negatives in bringing those two RHAs together in terms of the work that we do.

Mr. Chairperson: Thank you.

Seeing no further questions, thank you for your time, Mr. Friesen, your presentation. Thank you.

Seeing no further out-of-town presenters, I will now move to the beginning of the list and begin calling presenters in order.

I would like to call Mr. Gerald Pronyk, chair of the Manitoba Association of Residential and Community Care Homes for the Elderly.

Mr. Pronyk, do you have a written submission for the committee?

Mr. Gerald Pronyk (MARCHE - Manitoba Association of Residential and Community Care Homes for the Elderly): Yes, and I have some handouts.

Mr. Chairperson: Great, and if you give that to the Clerk, they will assist you and you may proceed with your presentation, then, when ready.

*(18:30)

Mr. Pronyk: Honourable ministers, MLAs and guests. Thank you for the opportunity to allow me to make this presentation. My name is Gerald Pronyk and I am the board chairman of the Manitoba Association of Residential and Community Care Homes for the Elderly, commonly known as MARCHE. And I'd also like to introduce Mr. Brian Schwartz and Mr. Andrew Argarenko [*phonetic*], who will assist us in this process.

Our MARCHE members are deeply concerned with respect to the provisions of Bill 6, on private health-care organizations, which we believe unilaterally enhance bureaucratic control in several areas that our members believe are crucial to the autonomy of private organizations and their ultimate ability to carry out their mission, including resident care.

Non-profit organizations are no less private and proprietary, no less a part of civil society than our commercial operations. Despite this, we are distressed to find that the government increasingly views our members as an extension of government. We, in the non-profit sector, find our autonomy

threatened and our proprietary rights jeopardized even more than the commercial sector.

It is one thing to enhance the accountability and efficiency of government bureaucracies—that is one dimension of Bill 6 that we take no position on these provisions. It is quite another to give bureaucracies new powers to intrude on aspects of great sensitivity and importance to autonomy of private institutions, including their ability to select and compensate their leaders and control their own operating surpluses.

Private institutions are an integral part of a free society. Their existence in the health-care sector means that there is more variety in choice in the system for residents and service providers. There's more opportunity for innovation and experimentation. Different groups of supporters, leaders and providers, with their distinctive ideas, traditions and experience and visions, can find distinctive ways to understand and meet the needs of residents and their families.

No. 1, we feel that Bill 6 contravenes a long-standing negotiated agreements. Bill 6 unilaterally overrides these agreements that have been negotiated between the government and our members, which provided assurances to those elements which Bill 6 attempts to restrain. Specifically, Bill 6 is contrary to the provisions of the service purchase agreements currently in existence with all PCH. Concerning property ownership, the rights for private organizations to retain and apply, at their own discretion, savings resulting in operational surpluses they achieve, through efficient operation, and the right to private organizations to hire their own senior staff and acknowledge that compensation arrangements can and do vary with circumstances in each respective personal care home facility.

Bill 6 is contrary to the faith-based agreement of 1999. Leadership is absolutely crucial to the ability of faith-based organizations to realize their distinctive missions. Bureaucratic interference in selection and retention of leaders threatens the autonomy of faith-based organizations at the most fundamental level. The sponsors of faith-based organizations also invest time, labour and money in them, and their ability to use their assets to achieve their mission is also of crucial importance.

The current negotiated service purchase agreements for MARCHE PCHs provides that the corporation is an independent and autonomous entity which has full and unrestricted rights and control of all matters relating to ownership of its property and

assets, its corporate structure, its sponsorship, governance and mission. The parties wish to embody the principles of the agreement on faith-related issues.

The next article, regarding collaboration, the WRHA and the PCH health corporation may each seek consultative input from the other in the selection and evaluation of its respected executive director. The consultation input will be of an advisory nature only.

The next article, the financial resources allocated to the PCH health corporation shall include funding for management and staff of the personal care home. The level of funding for an executive director will depend on the circumstances of the PCH health corporation, and this funding shall be included in the funding allocation for management for the personal care home.

The next article, the WRHA recognizes the need to provide incentives for efficient management across the system, and consequently it is agreed that the PCH health corporation may unconditionally retain the greater of 50 per cent of its operating budget in any fiscal year and two per cent of the global budget.

Article 21.2, the PCH health corporation retains the sole right to appoint, evaluate, and terminate its executive director and all staff.

To reiterate, Bill 6 is inconsistent with this whole range of carefully negotiated and long-standing agreements to protect the autonomy of private institutions.

Number 2, RHA control of surplus operating fund and the funds from ancillary services may become a disincentive for organizations to be efficient and innovative in their operation. Bill 6 authorizes Cabinet to regulate the use, dispose, or transfer of a health corporation's surplus operating funds or funds from operating ancillary services.

Whereas article 11.6 of the SPA incentivizes efficiency by private corporations and permits them substantial control over their operational surpluses, Bill 6 grants the government unlimited authority to regulate, prohibit, or restrict the use of such surpluses. Private corporations would lose the ability to direct the benefits of money saved through their innovation and efficiency for such purposes as providing additional services for patients or residents. And Bill 6 does not define ancillary service, and its potential scope of application is

unknown. It obviously extends to operations such as gift shops or hair salons, but it could also—could it also extend to operations such as the fundraising arm of an organization?

Thirdly, and lastly, Bill 6 creates unnecessary new mechanisms for bureaucratic control over contractual arrangements for organizational leaders. With respect to health corporations, or designated health-care organizations, as with RHAs themselves, parallel provisions regarding hiring and compensating organizational leaders are contained within Bill 6 as follows.

The RHA can, subject to the minister's approval, establish policies on compensation payable to CEOs and other senior staff. The employers must submit employment contracts to the RHA for review. The contract is void unless the RHA confirms it is consistent with compensation policy. RHAs would also require, for the first time, the power to issue directions concerning the process for hiring the CEO or any other senior officer of a health corporation.

The concern is Bill 6 would create new mechanisms for bureaucratic control such as the issuance of policies on compensation and reviewing contracts that are not subject to constraints concerning the issue of directions by RHAs which currently exist in The Regional Health Authorities Act. These constraints were enshrined in the legislation as a result of significant lobbying efforts by our members who were very concerned about the potential for intrusion into the autonomous governance of their organization by an unrestricted ability of the RHAs to issue directions. To now be able to effectively circumvent these constraints through the issuance of policies is contrary to the principles adopted when the legislation was put in place. The new, unconstrained authority vested in the RHAs over the selection and compensation of senior leaders is an unprecedented interference in the autonomy of private health organizations. The direction-making powers of all—of RHAs will extend to the process for hiring CEOs and senior officers, a new and profound interference with the autonomy of boards of private organizations. The RHAs are effectively authorized to engage in budget line item supervision, i.e., micromanagement of what senior officials are paid.

A corporation may no longer be able to move funds within its block grant or draw on additional resources on its own to hire or retain leaders in light of the distinctive needs and requirements of each

institution. The RHAs go beyond funders and setting objectives and standards to effectively controlling absolutely core aspects of internal governance, including the selection processes for leaders and determining their compensation. The leverage that RHAs will have over the selection and compensation of leaders will undermine the ability of private organizations to select leaders who can be counted on to be vigorous and loyal advocates of the organization rather than pliant to the demands of the regional bureaucracies who can influence their initial hiring, reappointment or salary adjustments.

* (18:40)

Mr. Chairperson: I'm sorry to interrupt, Mr. Pronyk, but your time has expired.

Is there leave of the committee to allow Mr. Pronyk to conclude his statement? *[Agreed]*

Leave has been granted. You may proceed.

Mr. Pronyk: Thank you. I'm just on the conclusion as well.

So, the conclusion: private health-care organizations are part of civil society. They consist of faith-based, non-profit organizations; secular non-profit organizations; and commercial operations. In addition to accountability to government regulations, they must respond to the needs and requirements of their owners, sponsors, supporters, and other stakeholders.

Private institutions have their own distinctive channels of accountability, in addition to government. Excessive government interference can impair the ability of organizations to respond to the needs and aspirations of their own constituencies. The government may be under the misimpression that it can afford to be less restrictive or less respectful of non-profits, because their investment is less mobile than that of the commercial sector.

The reality is that intrusive and unfair treatment discourages investment of time, energy, and financial resources by supporters within the province. Moreover, it presents a serious impediment to attracting much-needed investment in health care by national and international organizations. With exigent need everywhere, organizations including, specifically, non-profit organizations with a choice of where to invest will not be attracted by a province that does not respect the autonomy of the non-profit sector, does not respect its property rights and does not respect the sanctity of agreements.

We take no position on those aspects of Bill 6 in which the government attempts to streamline and better manage its own bureaucracies. We strongly oppose, however, Bill 6's attempt to increase the power of those very same bureaucracies at the expense of private corporations. In a democratic and pluralistic society, there must be space for private organizations to use their own resources and the talent, passion, and commitment of their own distinctive leaders, servants, and supporters, to find distinctive innovation and effective ways to increase the choice and quality of care available to patients.

There's been no demonstration whatever that this unprecedented and unprincipled attack on private autonomy is justified by any practical need. The government already has many tools to address any particular problems that may arise. We are aware of no incidents which could not be addressed within the existing array of government authority where a private corporation declined to co-operate with government in addressing real problems.

We, therefore, ask that Bill 6 not be passed in its present form. Instead, we request that it be revised to provide for the regulation and organization of RHAs only and any reference to private-health corporations be removed. Thank you.

Mr. Chairperson: Thank you very much for your presentation, Mr. Pronyk.

We'll now move on to questions. The Honourable Ms. Howard-Oswald, sorry. Ms. Oswald.

Ms. Oswald: Thank you, Mr. Pronyk, for your presentation and for those that assisted you in compiling the presentation. I note the list that's attached to the back. I certainly understand that you've had discussions with those folks as well.

Just a few comments, so that I can make sure that we're of the same understanding as we go forward. I want to assure you that, without question, we deeply value the work that faith-based organizations have done historically. I'm sure it can be argued that you built the foundation for health care before medicare came along. You are critically important in our history, and you're critically important today.

I want you to know that our view does not change as a result of Bill 6. I also want to emphasize that, of course, in 2001, we enshrined that respect into law, and that will not change. And that is, of course, that any directive an RHA may give a health

corporation must respect the unique role of faith-based facilities by ensuring three essential things, in my view: that they can respond to the spiritual and religious needs of their residents and patients; that they can provide care in a way that is consistent with the fundamental principles of their religion and faith; and that reaffirms that religious organizations can continue to own and operate their facilities, retain their identity and be governed by a board of directors.

I think there are a number of things that we can discuss, and I believe there will be ample opportunity to do that because many of the issues that you raised would rest, centrally, in the regulation making around this act which, in my view, we could not do without the contribution of faith-based organizations, where you would have a very strong voice. But I want to assure you, and those in attendance today, that this bill does not, in any way, say that your right as organizations to choose your CEO would be taken away. I think that that has been raised in discussion, and I don't think it's a true interpretation of what is in the act.

I think that there has been some questions about what you would be allowed to pay a CEO. That is not explicit in the act, but rather that a construct would be set up, a policy around which contracts would be contemplated. And as long as, you know, we didn't find ourselves as other places in the nation where we have half-million and million-dollar salaries for CEOs—I know there would be people in this room that would think it was a good idea but, no, I don't think that we can do that. It's not the Manitoba way. I think that the construct under which we're going to ask that contracts are built, you know, would just be consistent with what I believe Manitobans expect with publicly funded organizations.

There's more to say but I needed to get those two things out because I think that there has been some miscommunication, and I wouldn't want that to happen.

Mrs. Driedger: Thank you, Mr. Pronyk, for your comments and for your presentation. I, too, read into the legislation similar concerns that you have raised here too. So, while the minister is indicating one thing here, reading the legislation does appear that things are far—much more wide open than what she is indicating right now.

I want to ask you: Were you consulted at all about the bill before it was tabled?

Mr. Pronyk: Not to my knowledge, no.

Mrs. Driedger: Would it be fair to say that you were blindsided by what is coming forward in this bill around the hiring of CEOs and about what might happen to surpluses?

Mr. Pronyk: It seems that's the case.

Mr. Gerrard: You've been pretty clear about the problems here in this legislation and, you know, it's hard to understand why the legislation was drafted in this fashion given the operation—to my knowledge has been—it'd be good if most of the homes under this act.

So I would ask you, you know, what, you know, if you're dealing with a quality of care problem, are there not plenty of mechanisms for the government to ensure, or the RHAs to ensure, that things are being operated well?

Mr. Pronyk: Yes, I would think so. You know, the Department of Health has standards—standards people to go out and check what PCHs are doing on a very regular basis. And these are all in place, and if they are implemented effectively they would, in fact, be able to address any of the issues that may rise regarding quality of care.

Mr. Chairperson: Seeing that time for questions has expired, I'll thank you very much for your presentation, Mr. Pronyk.

I'll now call on the next presenter, Ms. Julie Turenne-Maynard, chair of the Interfaith Health Care Association of Manitoba.

Ms. Turenne-Maynard, you have a written submission for the committee?

Ms. Julie Turenne-Maynard (IHCAM - Interfaith Health Care Association of Manitoba): Yes, I do.

Mr. Chairperson: Okay, and you have assistants.

Ms. Turenne-Maynard, you may proceed with your presentation.

Ms. Turenne-Maynard: Thank you. Good evening everyone. The Interfaith Health Care Association of Manitoba is a volunteer provincial association of representatives of the Catholic, Baptist, Jewish, Lutheran, Mennonite, Pentecostal, Salvation Army, Seventh Day Adventist and United Church faith groups that promote a Judeo-Christian approach to health-care service, based on fundamental and moral principles in the institutions we represent as well as in the community.

The residents and clients we stand for, and in whom they entrust their care, are the elderly, the weak and the sick. I believe everyone present here this evening can attest to how important it is for our patients and elderly parents to be able to live and be cared for in an environment that is respectful of their language, culture and faith.

The following are issues of concern to our members regarding Bill 6. It contravenes the basic principles that have been negotiated in long-standing agreements with government and the regional health authorities, and it is tantamount to a breach of trust.

* (18:50)

Bill 6 is an affront to the legitimate and value-laden role and specific and significant contribution of the nine faith-based groups that own and operate health and social service organizations in Manitoba.

Bill 6 increases the ability of bureaucracies, the RHAs, to impose their will on private corporations in matters fundamental to their autonomy and the ability of private corporations to carry out their distinctive missions and mandates to innovate and experiment, to choose and retain their own leaders and to connect with particular communities of supporters that can all be crucial to the success in providing care that fits the needs and aspirations of clients, residents, patients and their families.

We believe that Bill 6 contravenes the basic principles negotiated and recognized by government. The owners of our interfaith health and social care organizations have a long and distinctive history in Manitoba that predates organized health and social care and the introduction of medicare, as stated by Minister Oswald.

Their contribution to health care in Manitoba can be traced back well over a hundred years. Our faith groups were successful in building schools, orphanages, personal care homes, community-based agencies, as well as establishing the first hospitals in western Canada, all created for the purposes of serving the needs of the vulnerable, including women, children and the socially and economically disadvantaged.

In an effort to protect the rights of the boards of faith-based health and service organizations to own and govern these institutions, the government of Manitoba and members of IHCAM entered into a memorandum of understanding respecting the governance of faith-related health-care institutions in

1994, which included and agreed upon definition of governance.

In addition to the 1994 MOU, the faith-based Winnipeg hospitals and the faith-based personal care homes in Manitoba negotiated agreements on faith-related issues known as the faith-based agreements, which recognized key fundamental principles, including the right to own and manage assets of the health corporation; the right to determine the vision-mission values and the culture of the health and social care organization; the right to preserve specific powers of each organization as provided for in the bylaws, the authority to appoint its CEO for the organization, the responsibility, control and accountability for human resources, including the medical staff; the right to establish medical ethics for the organization; the right to appoint and remove any of the board of directors of the corporation; and the right to negotiate a financial plan with the RHAs to cover costs and the delivery of approved services.

The faith-based agreements were followed by the negotiation of the hospitals' operating agreements and the personal care homes service purchase agreements, both of which incorporated the principles contained in the FBA. Recognizing the potential for intrusion into the internal governance and faith-based autonomy of its members, IHCAM was instrumental in lobbying government when the RHA directive authority amendments to the RHA act were being introduced in 2001 to ensure that checks and balances and certain limitations were built into the legislation to protect faith-based health organizations.

Bill 6, in its present form, is a breach of trust, as it clearly contravenes the basic principles of the faith-based agreement and subsequent operating and service purchase agreements in the following manner.

The bureaucratic supervision of the employment contracts is an unprecedented intrusion into the internal management of private health health-care corporations. The direction-making part of our RHAs will extend the process for hiring CEOs and senior officers and new and profound interference with the autonomy of boards and of private organizations.

The RHAs are effectively authorized to engage in budget line item supervision, such as in the micromanagement of what senior officials can be paid.

The RHAs will be able to impose their will concerning compensation by a new mechanism contained in Bill 6, one of issuing policies, reviewing contracts and approving or disapproving them. This new mechanism for bureaucratic control is not subject to any of the constraints that apply when RHAs make policy by the direction mechanism, as contained in section 29 of the RHA act, such as the duty to consult the health corporation, accommodate its concerns and try to first resolve problems by consultation, to provide reasons and refrain from breaching negotiated agreements with faith-based institutions that safeguard their autonomy.

The levers of directing hiring processes opens the doors for RHAs to intrude without limitation on matters such as selection criteria and approving or disapproving levels of compensation that can be used in practice to pressure corporations or their leaders into bending to the government will in other respects.

The RHAs, in crafting and interpreting guidelines on compensation, may not appreciate or be sympathetic to the distinctive conditions in the private sector, such as the CEO of a faith-based organization may have to have qualifications such as theological as well as managerial experience that can go far beyond what is expected of an RHA executive.

The CEO may be required to respond skilfully and invest a great expenditure of time and energy to stakeholders, such as the general membership of the close-knit faith community and its lay and religious leaders, and he or she may not have the same job security or mobility within Manitoba as someone in the secular, governmental sector.

Bill 6 would, potentially, prevent a health corporation from using either government grants or its own source of funds to hire, retain leaders who are essential to accomplishing both its secular and faith-based mission. The current service purchase agreements with PCHs provide that the PCH health corporation retains the sole right to appoint, evaluate and terminates it EDCO and all staff.

The practical, effective RHA compensation policies and practices is contrary to the faith-based agreement to interfere with the ability of faith-based organizations to hire and retain leaders they need to effectively carry out both their secular and faith mission, or dampen the ability of such leaders to forthrightly advocate for their communities. Bill 6's interference in the hiring processes and levels of compensation may, in practice, have the effect of

seriously impairing the ability of faith-based organizations to fulfill the assurance in the faith-based agreement that the parties agreed.

For example, the health corporation shall have the right to continue to respond to the spiritual and religious needs of its residents and ensure that its staff provide care and services in a manner which is consistent with the fundamental religious principles of their religious or faith to which the health corporation adheres.

Bill 6 would potentially prevent a private organization from using savings achieved by efficiency and innovation in its operations or from operating an ancillary service and using them for a variety of other purposes, such as providing additional services for patients and residents, returning the money to the faith community to be used for purposes such as assisting the needy or leadership training or using the money for capital projects.

The current PCH service purchase agreement recognizes the needs for incentives for efficient management and assures organizations that they may unconditionally repeat the greater of 50 per cent of its operational surplus and 2 per cent of its global budget.

Ladies and gentlemen, Bill 6 is an affront to faith-based organizations. Existing negotiated agreements already contain provisions for dealing with the hiring of CEOs and other staff as well as the use of surplus funds. The intrusive measures contained in Bill 6 are a major affront to the significant contribution made by religious orders and other faith communities in the areas of volunteerism, sweat equity, the significant investment of money, charitable endeavours and serving people on the margins of society.

There are compelling reasons why the principles enunciated in the faith-based operating and service purchase agreements are in place and must be preserved and not summarily expunged by the enactment of Bill 6. These principles are important because they recognize the many distinctive strengths that private corporations and their leaders may have over government bureaucracies in understanding their supporters and their patients, residents, and in finding distinctive and innovative ways to serve them.

A broader accountability mandate on the part of owners, governing boards and their executive leaders

towards the community, served peers, the RHAs and the faith communities.

Boards and their executive leaders must be able to influence an organizational culture, ensuring that it is caring and compassionate while focusing on the delivery of health services that best meet the needs of the people of the community it serves.

Bill 6 will significantly impair their ability to advocate effectively, particularly if RHAs are given unfettered powers to determine hiring practices, employment terms and conditions, et cetera.

The principles contained in agreements recognize the importance of being reflective of and responsive to local culture and unique population needs, creating a mosaic rather than the melting pot of approaches to care.

These principles recognize the ability to create partnerships across political lines in between diverse community organizations and the ability to engage distinct cultural and faith communities in order to call forth health-care vocations and inspire a communal commitment to caring for those in need among others.

Will restrictions of the use of profits be imposed on for-profit organizations? Why would government treat for-profits with so much more respect than the non-profits?

In conclusion, the members of the Interfaith Health Care Association of Manitoba ask that government acknowledge the long history of service our members have provided to Manitobans and respect the carefully wrought agreements, such as the service purchase agreements for PCHs, operating agreements for hospitals and the faith-based agreement that recognize and protect essential aspects of the rights of private organizations to control their own property, to govern themselves, to select and compensate their leaders and to carry out their unique missions.

We ask in the strongest possible terms that the intrusive aspects of Bill 6 not proceed and the provisions relating to private health corporations be removed. Their withdrawal, we stress, would not in any way preclude the government from proceeding with those aspects of Bill 6 that involve the organization and accountability of RHAs rather than private organizations. Thank you.

*(19:00)

Mr. Chairperson: Thank you very much for your presentation.

We'll now move on to questions.

Ms. Oswald: Yes, thank you very much for your presentation. It's comprehensive and certainly does provide me with a number of issues on which I am committed to reflect deeply. I wanted to add also that the issue concerning the surpluses, I believe that there has been some concern about the interpretation of that, and I want to clarify that the legislation does not say that faith-based health organizations will be required to give back the surplus, but rather, it suggests much what Mr. Friesen was suggesting earlier this evening, that there be a report about what is to be done with the surplus funds.

Times certainly are, today, where the public demands more and more accountability for funds that they are providing through their taxes and so forth. And so we are asking in Bill 6 that information be provided, be made publicly available, about what is to become of these funds. The bill doesn't say faith-based organizations shan't be able to use those funds. So I just wanted to be clear about that, and I did have a question.

This is going to sound cheekier than I mean it to be so let me put that caveat on it. I'm wondering if you believe—or what you believe, if any, might be a cap or a ceiling on the kind of salary that Manitobans would maybe expect a CEO of a personal care home to earn today, and should that be made public?

Ms. Turenne-Maynard: It really depends on the facility that they're managing. We have some of our institutions where one CEO is taking care of two or even three, and in circumstances such as that, I think it's important that their salary be reflected on it. So you can't go overboard, just like anything else in this province, but we do need to be cognizant of some facilities requiring some very strong capabilities from the CEO in which we're asking to not only manage the facility but to also adhere to the vision, mission and the faith-based side of things, which forces them to do a lot of extracurricular activities.

Ms. Oswald: Yes, and thank you very much. And I would certainly concur, and we believe the legislation reflects that there are—there's a real range of responsibilities that our CEOs are undertaking just in terms of sheer numbers of patients, numbers of facilities, and I want to be clear. The vast majority, 99.99 per cent, of these individuals are doing a splendid job every single day, but I think what we're

wrestling with a little bit, and what the public indeed, you know, wrestles with and consequently asks us, is there to be any sort of limit to what we pay CEOs, and is it appropriate for, you know an 80-bed PCH CEO to be earning more than the CEO of Health Sciences Centre or Boundary Trails Hospital? I guess these are the kinds of questions that we're wrestling with in here. I wondered if you had a comment on that.

Ms. Turenne-Maynard: I think those are things that we should be discussing together in order to be able to communicate in lieu of seeing a bill coming through where none of us were even aware that it was coming through, and in that, we can have those discussions so that it works well for our institutions as well as the province of Manitoba.

Mrs. Driedger: Thank you for your presentation. Obviously, there are a number of agencies and personal care homes and organizations out there that have read and interpreted this new bill in certain ways, and you're all obviously speaking with the same view. It appears that many of you are afraid that everything you've worked for over the last number of years is being stripped away by this legislation and that the rug is being pulled out from under the faith-based organizations.

What do you think should happen right now with those parts of the bill that you're concerned about? I take it that you're not opposed to amalgamation of RHAs because that is—you know, an attempt to move towards transparency and accountability, but there's a whole other whack of clauses in there that is certainly raising a lot of concern amongst non-profit personal care homes and faith-based organizations.

What should happen with those parts of the bill?

Ms. Turenne-Maynard: We're asking that they be extracted and then, in due process, have conversations and negotiations with the Interfaith Health Care Association of Manitoba, with the Catholic Health Association of Manitoba, with MARCHE, to ensure that all provisions are being looked at in the proper way.

Mr. Chairperson: Time has expired on the question portion. I do have two more speakers on this.

Is there leave of the committee to allow the two additional questions?

An Honourable Member: No.

Mr. Chairperson: Okay, leave has not been granted.

Ms. Turenne-Maynard: Thank you.

Mr. Chairperson: Thank you very much, Ms. Turenne-Maynard for your presentation.

I'll now call on the next presenter, Mr. Daniel Lussier, Chair of the Catholic Health Association of Manitoba.

Mr. Lussier, do you have a written submission for the committee?

Mr. Daniel Lussier (CHAM - Catholic Health Association of Manitoba): Yes, I do.

Mr. Chairperson: And you may proceed with your presentation, then, when ready.

Mr. Lussier: Eh bien, merci beaucoup d'avoir permis quelque temps de vous donner quelque pensées.

Translation

Well, thank you very much for allowing some time to share a few thoughts with you.

English

Good evening, and thank you for the opportunity to speak here tonight. My name is Daniel Lussier, I'm the CEO of the Catholic Health Corporation of Manitoba and chair of an umbrella group, the Catholic Health Association of Manitoba, CHAM, for short.

I'm here tonight to share CHAM's concern that portions of Bill 6 will make it increasingly more difficult for us to continue to do the good work that our members have been doing in the community for hundreds of years. It appears to us that the core of Bill 6 was created to better manage regional health authorities, which we have no comment on. But, found deeper in this bill, the government has added bits of legislation that we feel would change the way we work in partnership with the Manitoba government. Bill 6 would greatly enhance the control of government over aspects of our operations that are absolutely essential to our autonomy. This includes interference with such matters as our processes for selection—for selecting leaders and for compensating them.

As the Catholic Health Care Association of Manitoba has stated, in Catholic health organizations, it is the chain of mission that actualizes the mission of the corporation. The chain of mission links, in an unfettered way, the members of the corporation, the sponsors, the board of

directors and the corporation's CEO. It maintains a continuous bond of mission throughout the staff, volunteers, physicians and communities. It is for this reason that recognition for the board and CEO as independent leaders in carrying out the mission of the individual members within the system is a fundamental provision of Catholic health care.

Bill 6 also includes control over the operating surpluses we achieve through our own distinctive innovations and efficiencies. These kinds of intrusions are inconsistent with provisions for autonomy in service purchase agreements, the faith-based agreement, the respect previously provided in RHA legislation for such agreements, the principle of freedom of religious expression recognized by the Charter, as interpreted by the Supreme Court of Canada in cases such as *Ampspillin* [*phonetic*].

Our members have been reliable and resourceful 'organijations', delivering health and social services to thousands of Manitobans for many, many years. The changes added to the end of Bill 6 that relate to independent and non-profit agencies will affect the good work we do for the community. Our distinctive faith-based mission, the community support that rallies behind it, and our leadership are all crucial factors in enabling us, in our own distinctive way, to support the delivery of front-line care to those are ill and suffering. We cannot make our own innovative and distinctive contribution to the health-care system of this province if our autonomy is constantly eroded and we are subjected to even more pressure to act as just another branch operation of one centralized provincial bureaucracy.

We hope the members of this committee will review those sections, remove them and allow us to address your needs outside of hard-and-fast legislation.

Well, I'm going to give you a bit of history of how long we've been working alongside government to provide compassionate care for Manitobans. As an umbrella group, CHAM represents health and social service organizations spread around the province, that we all call communities of service. Our communities of service are delivered in five main areas of care: primary and community health care, acute care, long-term care, comprehensive services to people living with developmental disabilities, housing and social services.

Under CHAM—under the CHAM umbrella we represent 18 communities of service and their foundations, 9,500 full-time and part-time

employees, 1,700 volunteers, over 200 volunteer board members that we appoint, who then oversee \$460 million in combined annual operating budgets.

* (19:10)

Some of our organizations are large and you'll be very familiar with them. They include St. Boniface General Hospital, Misericordia, St. Amant Centre, Holy Family Home, Actionmarguerite, and Marymound. Other organizations are Sara Riel, Flavie-Laurent, Abri Marguerite, smaller services created more recently because we saw a need in our community. We often work with government to step up to those in need today, like people with mental disorders and the poor in our community. Most of these organizations were originally started by religious orders, like the Grey Nuns, the Oblate Sisters, the Sisters Servants of Mary Immaculate, the Benedictines, the Sisters of Misericordia, and the Sisters of St. Joseph. They created, built, and sustained everything from our very first hospital on the banks of the Red River just over 140 years ago to services for new immigrants landing in Winnipeg today. They did this because they saw a need in our community, and it was the mission to provide people with love, care, and compassion.

If I can just pause the history lesson, I would suggest that if we're all—if all of us in this room were looking for a vision of health care today, we would only need to look at their example: love, care, and compassion. And in fact, it's why we have so many committed volunteers today that support the health-care budget with their volunteer hours, because they also believe our institutions can be places of love, care, and compassion. And they provide that every day, bolstering the health-care budget.

Years ago, the sisters knew that their numbers were dwindling, but they still had the responsibility to ensure their good works would continue to provide compassionate care. In the case of the Grey Nuns, for example, they created a new organization and transferred the responsibility to govern their goods works to lay people. And the Catholic Health Corporation, or CHCM, was born to do exactly that. Today, CHCM is responsible for appointing the boards of directors to several non-profit independent agencies in Manitoba. We, as our partner faith-based health facilities, seek out the best members of our community who also believe in creating compassionate health care and that it contributes to efficient and cost-effective health care. Simply put, we know when we treat people with respect, they

have a more positive experience in our health-care system. These community board members take their jobs of continuing the tradition of compassion in care very seriously. These volunteer men and women serve the Manitoba taxpayers who provide government with funding that our members steward very carefully.

At CHCM, as within the other members of CHAM, we also provide these organizations with an accountability framework. We tell them that, in keeping with over 600 years—those are all the years of collective service of all those religious congregations I mentioned earlier—with over 600 years of collective service tradition, we expect them to continue to respond to unmet needs in the health system and community; strive for excellence by developing quality indicators that can help measure where we are and how to get better; be sustainable and make sure we can be as efficient as possible to get the work done while using resources wisely, including being accountable and transparent, not only to government but to our staff, the people we serve, and the families and people we care for; and be ethical in all we do.

With all this, we feel that all these organizations presenting today have been very valuable partners in the delivery of care here in Manitoba. We know that the traditions of our organizations have made us innovative and creative. Every day we find unique solutions to problems because we have a deeply rooted responsibility to serve our community.

Increased legislation brings a real risk of losing that innovative drive. It is a difference between a relationship with a government that manages and operates or a government that seeks accountability and monitoring. We prefer the latter.

In conclusion, our members were disappointed to see portions of Bill 6 that could change the work our dedicated community volunteers do every day in things like hiring senior management and how resources are spent. As stated before in the other presentations, there are already many ways and means that government and our facilities can come together in a co-operative spirit to address issues. The service purchase agreements are one forum to find common ground in the service of the public.

We urge, don't treat a special cause like a common cause. There may have been issues at one or two institutions, but were they not resolved through existing legislative framework and the co-operation of the health-care corporation involved?

And if not, surely the best approach is one that is finely focused on whatever change is needed to address a particular problem, not to create sweeping new powers for bureaucracy that expenses—at the expense of fundamental principles of long-standing agreements.

We respectfully request that those provisions related to health agencies like ours be removed from Bill 6 so that we can continue to work with government and build the vision of compassionate health care together. We would like to have an opportunity to have further discussion with government about how it wants to hold third parties like us accountable, because we want to continue to want to be a valued partner. Thank you.

Mr. Chairperson: Thank you very much, Mr. Lussier, for your presentation.

We'll now move on to questions.

Ms. Oswald: Merci, Monsieur Lussier. I just got in trouble from the Chair for talking too long, so I'm going to thank you for your presentation, reflect on it, and allow others to ask questions.

Mrs. Driedger: I'd like to thank you for the presentation, and a couple of questions.

I guess the first one would be that, as you were reading this legislation, is it your interpretation from reading the legislation that it looks like the government or the RHA could claw back any surplus that you might have at the end of a year?

Mr. Lussier: Well, it certainly gives them the ability to look at that as an option. I think, clearly, the way it reads today, yes.

I want to go back to, maybe, some fundamentals about this. I mean, this is about transparency and accountability, and I think all our organizations, and government as well, is quite wise to want to do things to make sure we can tighten that up. It's not only here in Manitoba; it's across the country.

It's just we need to find ways to balance transparency and accountability with control. And we go back to the two control pieces for us that are—have already been negotiated in agreements—are provisions around the hiring and selecting of CEOs and, of course, the use of surpluses.

So, again, you know, we're interested in dialogue around transparency and accountability, for sure; that's a responsible thing to do. But we feel it's very

important that we find a way to balance that off with control, and I think my presentation was clear.

Mr. Gerrard: Thank you for your presentation. Just two points.

I mean, one of the concerns, I suspect, is even though the minister may provide some reassurance that she's not going to grab your surpluses, that the legislation leaves that open to happen under a future minister.

And second point would be that you have emphasized, as have others, that the importance of the present structure is that you can be more innovative and creative than, potentially, under this new arrangement which is in this act. Can you perhaps give us an example of the innovation and creativity and why that's important to the work that you do?

Mr. Lussier: I mean, this is—I don't know if I'll be answering the question that you're looking for, but, I mean, for me, it's fairly obvious. If we work in a system that doesn't allow an organization to be innovative and creative with those resources, and if it has surpluses that it then can place towards initiatives that they feel might enhance care in their organization—for example, might be spiritual care, might be ethics—if you take that away, then what's the motivation to actually be efficient? Here's your money, spend it. I don't know if that's a signal that's healthy for organizations. I think that issue is an interesting one, and, again, I would submit, it's very much important for us to be able to drive our organizations as best they can to be efficient and, at the same time, hopefully, take some risks with those surpluses where maybe government may not want to take some risks.

And that's decisions that we feel our community-grounded board members, who are in our community, who are on our boards, who understand the patients, understand the clients, can make some really good decisions. And I think that's, again, a great balance between transparency, accountability, and allowing that control to continue to manifest itself in our organizations.

Mrs. Driedger: If the government doesn't pay attention to the presentations that were made tonight and listen to what you're asking for, what do you think is going to happen if they force all parts of this legislation forward?

Mr. Lussier: Well, I think all three organizations have already expressed a grave concern. I think it

would be a disappointing—very, very disappointing outcome. Personally, I would be disappointed on behalf of the mission that we're involved with. I go back with the Grey Nuns to 1844, and to have it come to that would be kind of disappointing. But, having said that, I can't give you a clear answer on that.

* (19:20)

Mr. Chairperson: Seeing no further questions, I thank you for the presentation, Mr. Lussier.

Bill 8—The Highway Traffic Amendment Act (Use of Child Safety Seats)

Mr. Chairperson: I now call on the next presenter, presenting on Bill 8, Dr. Lynne Warda, Winnipeg Regional Health Authority, Injury Prevention Program.

Dr. Warda, do you have a written submission for the committee?

Ms. Lynne Warda (Winnipeg Regional Health Authority, Injury Prevention Program): No.

Mr. Chairperson: You may proceed, then, when ready, with your presentation.

Ms. Warda: This presentation is on behalf of the Winnipeg Regional Health Authority's Injury Prevention Program, which has the mandate to prevent injuries among Winnipeg residents.

One of our priority areas is child occupant protection, particularly booster seats. I've been the medical director for this program, also called IMPACT, since 1998. I also practise as an emergency physician at the Children's Hospital where we see very serious and disabling injuries in children who could've been much better protected by a booster seat.

We were very pleased to see the introduction of Bill 8, which will facilitate booster seat use by allowing regulations to specify age and physical characteristics for child restraint devices. This will allow new regulations to specify car seat stages according to what current scientific evidence supports.

Despite a large body of research demonstrating the effectiveness of booster seats, rates of booster seats are very low. Of all motor vehicle occupants, children four to eight years of age are the least likely to be properly restrained, with only 20 per cent using a booster seat. We have confirmed this in Winnipeg, where our rates are 20.5 per cent.

Most parents not using a booster seat are not aware of the height recommendation of four foot nine or age nine and the rationale for using a booster seat. Many have no idea that children can sustain spinal cord injuries that could be prevented by the use of a booster seat. Over 80 per cent of parents indicate they would use a booster seat if there were a law.

Booster seats significantly reduce the risk of injury and death when compared to seat belt use. The magnitude of this effect is as much as an 82 per cent reduction in side-impact injuries, 45 per cent reduction in serious injury and 14 per cent reduction in injuries overall.

In closing, we would welcome the opportunity to participate in the development of these new regulations, as there is significant evidence that could make vehicle travel safer for each stage, from infancy onwards. Thank you.

Mr. Chairperson: Thank you, very much, Dr. Warda, and we'll now move on to questions.

Hon. Jim Rondeau (Minister of Healthy Living, Seniors and Consumer Affairs): I'd like to thank you very much, Dr. Warda, for your advice on the moving forward of this and your work, (a) on the announce—at the announcement, putting very hard science into basic, understandable English. I appreciate that. I thank you for your advocacy in this area. It's been a long time and I thank you for your hard work and your perseverance.

Mrs. Driedger: And I'd certainly echo that as well. I think that Manitoba's certainly learning as we've gone along and we've found that there are better ways to do it. The science is there—the research—you know, as you said to imagine it as a little child that might end up with a spinal cord injury or become a quadriplegic because they weren't in a proper seat is pretty devastating. So, just thanks for the persistence and advocacy to move this forward and appreciate that.

Mr. Gerrard: Thanks for all your efforts, and we're finally there.

The—one of the comments that you made was an 82 per cent reduction in inside injuries. Is that what you said?

Mr. Chairperson: *[interjection]* Dr. Warda? You may go ahead.

Ms. Warda: Sorry. Yes, 82 per cent reduction for side-impact collisions, so the effectiveness varies, depending on the direction of the collision, as well as the place that the child is seated in the vehicle. In all types of collisions, they are—have been shown to be effective. It's just they're more effective in certain collisions than in others.

Mr. Gerrard: A pretty dramatic effect and it's a good illustration of why this is so important. Thanks.

Mr. Chairperson: Okay, thank you, Dr. Gerrard.

I'd like to—before moving on, I'd like to ask the will of the committee if there's leave—I see Dr. Warda's also presenting on Bill 37.

Is there leave of the committee to consider or to hear her presentation on Bill 37 right away?
[Agreed]

Bill 37—The Highway Traffic Amendment and Summary Convictions Amendment Act (Bicycle Helmets)

Mr. Chairperson: You may present—you may proceed, then, when ready, Dr. Warda, thank you.

Ms. Lynne Warda (Winnipeg Regional Health Authority, Injury Prevention Program): I'll start by saying we were very pleased to see the introduction of Bill 37 to make bike helmets mandatory for children and youth. This progressive step forward will save lives and reduce serious head injuries in young Manitoba cyclists.

Over the years we worked with many partners across the province on safe cycling initiatives. In 2010, we launched the Ride2Win cycling safety campaign for children. We also have conducted observational studies on bicycle helmet use since 1996. We have supported the Province's efforts to reduce disparities by making helmets available to all families in Manitoba through a low-cost helmet program and through KidSport.

At the WRHA we have made free helmets available to lower income families in Winnipeg who would not be able to afford them otherwise. By introducing this legislation, the government has demonstrated that it understands how important helmets are in the face of a fall from a bike or a collision. We are very pleased that the government is committed to protecting child cyclists through this new bill. However, we would like to propose that

legislation addressing helmet use for all cyclists be considered. There are number of points to consider that would support this.

Adult cyclists are hospitalized as often as children and youth. In fact, they are overrepresented in the most serious collisions. More than 50 per cent of Manitoba cycling deaths and more than 50 per cent of serious hospitalizations are adults. Between 2001 and 2010, there were 102 major trauma admissions to Health Sciences Centre for cyclists; 64 of these were adults; 41 had a head injury, and only seven were wearing a helmet. Most of the in-hospital deaths were adults.

Adults have a very strong influence on helmet use in children. Children riding with helmeted adults are more than twice as likely to wear a helmet than those riding with non-helmeted adults. Our local helmet studies show a wearing rate of 100 per cent for children riding with helmeted adults, three times the average rate.

One of the best ways to protect a child is to protect their parent. Children whose parent has a brain injury are more likely to experience post-traumatic stress, depression, and emotional, behavioural and learning problems.

Finally, research shows that without legislation, the highest rate of helmet use you can expect is around 40 per cent. Our observational research shows that helmet use has increased from 23 per cent to 41.9 per cent between 1996 and 2011, but rates are levelling off. Helmet-use rates are highest in provinces with all-ages legislation. So legislation is the next logical step—step in increasing the number of cyclists of all ages wearing helmets.

In closing, we commend the Manitoba government for introducing this bill. We look forward to future increases in helmet use through all-ages legislation, and we will continue to support a broad, safe-cycling and active transportation strategy promoting cycling for health and many other community benefits. Thank you.

Mr. Chairperson: Thank you very much for your presentation, Dr. Warda.

We'll now move on to questions from the committee.

Mr. Gerrard: Thank you for making a strong plug for having adults included. It could be managed with

a simple amendment to this bill, which I think is what you're trying to recommend. Is that right?

Ms. Warda: Yes, we would fully support an amendment towards all-ages legislation.

Mr. Rondeau: I'd like to thank you, Dr. Warda, for the WRHA. I understand you're also working with the Red River Ex to give out about 600 or 800 helmets again this year. So thank you very much for your work on that and showing kids how to use them. So I'd like to say thank you to that.

On the whole education, I know you've been working with KidSport, you've been working with Red River Ex and others. Do you see other incentive-based things to get kids active in wearing the helmets again this summer before the law actually goes into place?

Ms. Warda: Yes, there is incentive-based programs that we have done in different parts of Manitoba. We call them caught you using your head. And we're just awaiting on some—the final news on federal funding for us to do a very major project in Manitoba starting in the coming weeks, we really hope, to be able to make that sort of a program widespread across the province for helmet use, not only for cycling, but also for skateboarding, inline skating and the other wheeled sports.

* (19:30)

So, absolutely, there is evidence to show that providing incentives to children and youth helps to increase the helmet use, even when there is legislation. So it can be a—sort of a companion strategy regardless of the status of legislation.

Mr. Ron Schuler (St. Paul): Yes. And thank you very much for the presentation. This is something that I have supported since being elected here as a member of the Legislature, and it also impacts me directly.

Could you, just for the committee—you're somebody who's done a lot of work on this, you certainly have done a lot of the research. How do you enforce a piece of legislation like this? Like, at the best of times, my teenagers listen to me about 10 per cent of the time and, like, how do you enforce this? Like, if you're not around and your kid jumps on the bicycle and cycles down the street, like, you know, what do the police do to this child? How do we enforce it? I'd be interested in hearing.

Ms. Warda: So, being one of the later jurisdictions to adopt helmet legislation, we've got—we've had a lot of discussions and lots to learn from our—the other jurisdictions in Canada.

For one, the public needs to know that there is a law. They need to know that there is the potential for them to be caught and to have a fine. Without a fine, the laws tend not to be very effective—or that without the threat of a fine, not that there—any jurisdiction does a lot of fining for non-helmet use. So first of all, the public needs to be aware. It's a lever for parents; it's a lot easier in those teen years for parents to be able to say, as the default, it's the law; it's not my opinion, it's not your—the other parents opinion, it's actually the law.

And then, finally, there does need to be periodic enforcement. So BC has, for—in particular, has been very successful in raising helmet use well above 90 per cent in most of the province. However, like anything, 'wif' you back off on the enforcement, the rates do drop off, so they're small blitzes.

You know, we've got contacts in BC that we chat about this quite often. It's not too onerous and the police are very much on board. But you do have to have some degree of enforcement.

Mrs. Myrna Driedger (Charleswood): Thank you, Dr. Warda. And, you know, congratulations for the advocacy you have done on this issue, because I really do think that the advocacy that has come forward from yourself; from Dr. Patrick McDonald, the head of pediatric neurosurgery; all the third-year pediatric residents who were out there getting a petition done; all of the pediatric and neurosciences nurses that got involved with emails; a number of other doctors that got involved in sending emails forward—I think your voices were heard.

And, you know, you took it from a perspective, certainly, that made a lot of sense because you were looking at the effects on kids and it was interesting. Just the other day when we heard about a little 8-year-old boy that CBC was reporting on, that fell and his helmet protected him from a head injury, just brings it all home.

And certainly the statistics that—you know, I've met with Dr. McDonald and certainly what he provided was very helpful. And the public comments that all of you made, I think, really you should take a lot of credit for moving this issue forward in Manitoba so that we can better protect kids.

Mr. Chairperson: Okay. Seeing no further questions, thank you very much, Dr. Warda, for your presentations.

Bill 33—The Election Financing Act and Elections Amendment Act

Mr. Chairperson: Now the call of the next presenter. I call on Roy McPhail, private citizen, to speak to Bill 33.

Mr. McPhail, do you have a written submission for the committee?

Mr. Roy McPhail (Private Citizen): No, I don't. It's oral.

Mr. Chairperson: Please proceed with your presentation when ready.

Mr. McPhail: Good evening and thank you for the opportunity.

I appreciate the hours that our elected officials put in these kinds of presentations, so I shan't be long.

The aspect of Bill 33 that I'm focused in on is section 81, decisions on allowance and regulations relating to the funding of the political process. I focus in on that because I know that there's a great variance in all jurisdictions as to how the political process is funded and that that process and how we fund the political process is highly controversial and critical, and the reason I feel that it's critical is that the voters are watching us when we make those decisions, and so we should be setting up a process in Manitoba that we're proud of.

And I'm generally pleased with the direction that Manitoba has been taking. Particularly, I was impressed when the NDP government brought in the banning of corporate and union donations. I think that was a very progressive step for us, and I think I'd like to see us go further down that road. So, relating to the section in question, I see that the wording of the new act is favourable to my perspective, specifically, clause 2, under factors for the appointment of the commissioner and what the commissioner can consider in determining the financing of the political process. Section (b) says that that commissioner can consider a number of factors: the expenses that the political parties incur, the amount of support those political parties have, and any other factor.

So, if you will indulge me, I'll speak past you to that commissioner, who, I hope, will read my

submission, and listen to what I believe to be a important factor for that commissioner to consider. And that is the enhancement of the relationship between the elected and the electorate so that whatever factors he or she determines will cause that relationship to strengthen, not weaken, and a measure of that strengthening of the relationship will be an improvement in voter turnout, an improvement in volunteership to political parties, and various other criteria that we could use to assess success. So, over time, if the commissioner takes on that role and sees his or her role as not only compensating the parties and permitting the parties to survive, but go beyond that to saying how do we get the relationship improved, then Manitoba can be a model for other jurisdictions.

I would go so far as to propose that the next time we amend The Election Financing Act, it actually be changed from election financing to the democracy enhancement act and that we maintain the audit function of the act but that, in addition to the audit function, we charge Elections Manitoba with the responsibility for working with the parties and the electorate to ensure that we reverse the trend towards cynicism and decay of that relationship, and we have people donating to political parties with the same enthusiasm they now donate to United Way and other causes. That's when we're truly solid in our democracy and not concerned about the preservation of that.

With that, I'll conclude and invite questions.

Mr. Chairperson: Thank you very much, Mr. McPhail.

We'll now move on to questions from the committee.

Ms. Howard: Well, thank you very much for your presentation and thanks for coming out and engaging in some democracy tonight. I think these—this is a very important part of the process when you come forward and tell us what you think of the legislation.

I also just wanted—I know you were trying to speak through us to the commissioner. In the bill, there is a provision for the commissioner to have—to invite public presentations. They can determine how they want to do that, but certainly in the past other commissions that deal with electoral issues like the Boundaries Commission has had some level of public presentation, so you may get a chance to speak to the commissioner yourself when that time comes.

* (19:40)

Mrs. Mavis Taillieu (Morris): Mr. McPhail, thank you for coming tonight to make your presentation and certainly for waiting your turn. I know sometimes when you have to sit for an hour or so and wait it can be difficult, but thank you for staying and doing this.

And I appreciate what you have been saying here tonight. The particular clause that you're referring to in the bill, the role of the commissioner is something that we are looking at because we're curious just exactly what the role of this—a commissioner may be, and what—who the commissioner may be, whether they'll be biased one way or the other.

And, certainly, things that you did say about permitting parties to survive, I think the issue with contributing to political parties is, as you say, it is controversial, and people have different opinions on that. And whether or not this is the same contribution as we've seen in past, or whether it's something new and different, allowing compliance within the electoral process which is—can be expensive, I guess, but certainly the other thing that you did mention is choice.

And I guess my question would be to you, when people make donations to political parties, should that not be their choice or should it be legislated?

Mr. McPhail: Great question, and I appreciate, as I sat for that hour, that is a fraction of the time that you sit in committee.

That there was a number of issues where there's all-party agreement to basically coerce the citizens, for instance, to wear bicycle helmets. So, ideally, we maximize choice in our society. And so from my perspective, as I look ahead 10 years and ask myself, how has Manitoba progressed on this aspect of choice, I'd say there's so much voluntary money flowing into the political parties that the commissioner wonders if there should be any public monies allocated.

In fact, at this point, I see that there seems to be a modest amount of money available for advertising during election campaigns and some activities between elections, but the more we can strengthen political parties to tune their messages and get them out to the citizens, the better, and the more we can have that as a voluntary aspect, the better. And I would encourage all parties to view the education of

the electorate, which needs to be by a non-partisan party such as Elections Manitoba, as an excellent mechanism for improving that participation so that when each party solicits those voluntary contributions they're—they have a receptive audience, someone who's already learned that they are responsible for the preservation of the democracy within their jurisdiction and they have a duty to support that process.

Mr. Gerrard: Thank you for your presentation.

Now, I just want to give you sort of an opportunity. You talk about enhancing the relationship between the electorate and the electors, and I think this is fundamentally very important. Take a moment to tell us what sorts of things you think can and should be done to do that.

Mr. McPhail: Those dreaded open-ended questions, Jon.

I guess, again, that citizen participation is growing all around the world, particularly through social networking, and I see huge opportunities here for the elected to tap into the new technologies. And I'm in the midst of reading Wael Ghonim's book about how the Egyptian peoples got pretty excited about their government and acted on social networks to cause change.

I don't think we're in a 'nascent' revolutionary stage here, but I think we can still find those tools and with sufficient motivation and direction, we can engage the population to a vastly greater degree now than we ever used to be able to, and the elected could easily find that rather than presentations in a committee room, there's quite massive participation occurring. We need to fund that. We need to teach the elected what is available and the electorate are already using those tools, so we need to direct some of that energy into the political process. That's one top-of-mind idea.

Mr. Chairperson: Thank you very much, Mr. McPhail.

The time for questions has expired. Thank you very much for your presentation.

Now call on our next presenter James Beddome, Leader of the Green Party of Manitoba. James Beddome, Green Party of Manitoba. Seeing as that Mr. Beddome is not here, his name will be dropped to the bottom of the list and called at the end.

Bill 34—The Public-Private Partnerships Transparency and Accountability Act

Mr. Chairperson: Now call on the next presenter, Councillor Ross Eadie, city councillor for the Mynarski Ward. Councillor Ross Eadie, city councillor for the Mynarski Ward. Seeing that Mr. Eadie is not present, his name will be dropped to the bottom of the list and called at the end.

There's been a request for the next presenter, Russ Wyatt, councillor, City of Winnipeg, to combine his presentation with presenter No. 8, Jeff Browaty, city councillor, City of Winnipeg.

Is there leave of the committee to allow them to present together? *[Agreed]*

Councillors, do you have written submission for the committee?

Floor Comment: No.

Mr. Chairperson: Okay.

You may proceed with your presentations when ready.

Mr. Jeff Browaty (City of Winnipeg): Thank you very much, Mr. Chairman, and members of the committee.

The City of Winnipeg and municipalities across Manitoba are struggling to provide quality infrastructure to all Manitobans, the same Manitobans that you serve. P3s are one of the very effective tools that we found to provide quality infrastructure, because they provide cost certainty, they provide guaranteed risk transfer, maintenance schedules that can't be passed off due to short-term budget goals, they avoid construction inflation, and they still receive full due diligence.

The City of Winnipeg has been very successful using P3 procurement. The Bill Clement parkway is maintained to exceptionally high standards compared to other Manitoba roadways. The Chief Peguis Trail, the first project in Canada to receive money from a federal P3 program through PPP Canada, that's a new federal P3 program through PPP Canada, and the Disraeli Freeway—I was shocked the other day, I just asked the question; timelines that they provided me in April of last year, they are being kept. They are on time right now. Knock on something, but—knock on wood. But, again, Disraeli is on time.

Taxpayers are getting value for money. That's what, effectively, we need to make sure that we provide our mutual constituents. The Province of

Manitoba, by comparison, has had some troubles in the past with major infrastructure procurement.

Look at the Manitoba Hydro headquarters—millions of dollars over budget. The south Perimeter Highway bridge, how many times was that project rebuilt and rebuilt, and we still don't know where that is in the courts. That's still out there. The Red River Floodway project—\$135 million-plus over budget plus six bridges that didn't get built under the original budget. Where's the cost certainty? Where's the guarantee for the taxpayers of Manitoba?

With P3s, it's about buying an end result. That's what Manitobans want to see. Here's where we are; here's how we get there. Ingenuity is huge. With the Chief Peguis Trail, for example, an underpass was added at Rothesay. The public servants, they figured the best way to do it was with a really big pumping station. The leading—the proponent that was successful in completing the Chief Peguis Trail, they were able to find a way to use gravity, a retention pond and as much smaller pumping station. They made them the lead proponent on it, saving the project millions of dollars and still providing flood—or major rainfall protection beyond anything else that currently exists in the city of Winnipeg.

* (19:50)

Now the question is and the name of the particular bill in front of you today is The Public-Private Partnerships Transparency and Accountability Act. Well, if it's about transparency and openness, where was that on this particular piece of legislation? Why wasn't the City of Winnipeg adequately consulted? Where was consultation with the industry groups that are involved in this? Where was the consultation with the Manitoba Heavy Construction Association? Where was consultation with the leading groups that have been involved in these projects that have been so successful in Manitoba?

The Chief Peguis Trail, by comparison, had extensive public consultation. Originally the public was asked, what did you want to see in this project? They said, we don't want to see a signalled intersection at Rothesay. We found a way, using P3 Canada money, to do an underpass there. They said they didn't want to see the very popular Northeast Pioneers Greenway, an active transportation trail, severed by a major arterial roadway. They found a way to add a pedestrian trail there—a pedestrian bridge there, within budget.

For the Disraeli, it was going to cripple northeast Winnipeg for 18 months. They wanted to close the whole thing down for 18 months. Despite what the member for Elmwood (Mr. Maloway) might tell you, it wasn't that member that quit and left for Ottawa in the middle of the whole thing. It was people like the MLA for—not Springfield, now, St. Paul, who got involved with it. The MLA for River East. She may have been a little quieter, but the MLA for Rossmere was involved. And, in fact, Mr. Chair, it was your predecessor, Gary Doer, who was very actively involved with the mayor of Winnipeg. I think the two most involved people, Mayor Sam Katz, and the mayor of—and former Premier Doer that got the job done to find the additional funding using very innovative P3 processes to find a way to keep the Disraeli open during construction. 18 months of traffic gridlock eliminated thanks to innovative thinking on the chief—on Disraeli there, and P3s.

Let's put this back on the backburner, ladies and gentlemen, members of the committee. Let's ensure there is no duplication. This proposal calls for not just the City Auditor to review every P3 project, but also the provincial auditor. Where is the—there's things out—in there—in this legislation that don't make sense. We are all for openness, transparency and fairness. Let's have a good open discussion about this before we proceed.

And I'd like to send this over to my colleague, Councillor Wyatt.

Mr. Russ Wyatt (City of Winnipeg): Thank you, Councillor Browaty. Hello Mr. Chairman, members of the committee, minister, members of the opposition.

I'm here, as well, as a member of our city council. I don't believe that P3s are the be all and end all. You're going to hear some presentations from folks saying that it's got to be through the public sector, and the public sector is the way to make it work, and that's the only way to do it. And I don't believe at the same time—I don't believe in that argument. I don't believe in the argument as well that P3s are the only solution and this is the solution that makes sense, this is the only way to go. It's one of the tools that we have, and we don't have many tools, to be blunt. We have set a limit as a council that we would not allow our P3s to exceed—our servicing cost of P3s to exceed 30 per cent of our combined gas tax, funding and cash to capital.

That money is worth—that's about, just over \$100 million. So that means that at the about

\$30-million mark, a little bit more, we are—we, as a council, have stopped ourselves in terms of what we are allowing ourselves to do in terms of P3s. Why? Because, in a sense, P3s are borrowing. It's a form of borrowing off the balance sheet. It's borrowing nonetheless. We've done that because we understand that it is not the only solution. But it has been one of the solutions that we've been using, and thank goodness we've had it. The reality is, we, and not just our municipality, but municipalities across Canada have not had the resources to do the kind of maintenance and the kind of long-term upkeep that we need to do on our infrastructure.

The part of the P3 program which is very innovative is the fact that we enter into a long-term agreement with the private sector so that after 25 or 30 years we are receiving an asset. After that period of time, and after using it for that period of time, that is in the same, like—kind of, condition the day it was built. Now that's huge. It show—it's huge because it ensures that we, as a municipality, are maintaining it, and we're doing it through a third party, through the private sector. It could be argued that we should be doing that, as well, through the public sector. And if we'd had the funds we probably would. But it actually holds us accountable.

It also brings innovation into the process. It gets the private sector involved. We have some business folks here today who are listening, who've been very innovative. Councillor Browaty talked about the Chief Peguis Trail. The Chief Peguis Trail, believe it or not, if we had built it as a city, we probably would have built a road which, I'm sorry if I'm going to bore you with this, but I'm a municipal official and kind of find it fascinating, we would have built a Portland concrete roadway, four lanes across. And then we have to maintain this Portland concrete roadway. The private sector came to the table, and they did the analysis, and they looked at the Portland concrete, and they looked at asphalt. And they actually elected to build a roadway out of asphalt.

We would've never done that as a City, but they did because they saw the analysis. They saw that it made—it was most cost effective for them to maintain the road as an asphalt roadway and turn it back to us in the same, like-kind of condition that it was built today.

I would encourage your government to think twice about the legislation, not because it actually makes a difference, because, at this point, as I mentioned, we're at our max. Not only that, you're

reducing the scope down from 50 to 20 million based on what you're saying here.

The reality is that the most successful P3 projects are a hundred million-plus. These are the ones that actually make a difference. If you look at what's happening in North America, around the world, in Europe, the successful P3 projects are big projects; they're not small projects.

I would ask that your government look at a different way of things, and I know I've talked to the minister about this before. In the past we have been kind of pitted against one against another, in terms of the City and the Province, especially when we go to contract in the private sector. Province issues a tender; we issue a tender. And sometimes money's thrown around like—they say, well, we're not sure we're going to get that project, but we'll throw in a high number and get it. Who—and what—who loses at the end of the day? Biz get closed, we have to pay high prices; the taxpayer—the residents of Manitoba lose at the end of the day, rather than us co-operating together and working together. Wouldn't it be great if we had a province where we say, you know what, there's a way for us to do P3s with the Province and the City co-operating together? You have room within your highways department to do those sorts of things.

And it's not a question of a threat against public-sector employees. It's not a question of a threat against jobs. Let me tell you something: the infrastructure is crumbling so fast, there is more than enough work for all of us to go around in terms of private sector and public sector. The problem is the money. There's not enough money.

And one of the things in terms of the P3 that's fascinating right now is that we do have a federal government—whether you agree with them or not ideologically, it doesn't matter—we have a federal government that has a program that's offering 20 cents on the dollar. And we just came back from an FCM conference, and cities across the country are scrambling for that money because there's not much of it left—to grab that money to be able to do infrastructure projects with leveraging federal dollars outside of Building Canada.

The message your legislation is sending—even though it's really—it's too late for us, really. If you'd done it maybe six, seven years ago, it might've had an impact on us. But the reality is the legislation you're sending, it's sending the wrong message, and

not just here in Manitoba—more importantly, across the country—that Manitoba's not open for business, that we don't want to encourage innovation, we don't want to have competition, we don't want to see that kind of participation in our economy which we desperately need. We need ideas, and we need more tools and I would encourage—respectfully encourage—I have great respect for this body and for all the members on both sides who put work and time and effort here—to reconsider this legislation.

Thank you, Mr. Chairman.

Mr. Chairperson: Thank you very much for your presentation, Councillors Wyatt and Browaty.

We'll now move on to questions from the committee.

Hon. Stan Struthers (Minister of Finance): Yes, thank you very much and thanks for coming down, both councillors, to the Legislature to give us some advice on this piece of legislation.

I want to make it clear that the message that you claim that we're sending—the message we want to send is one of consultation and accountability. We want to send a message of transparency and maybe, most importantly, value for money, because we know you're strapped for cash, we're strapped for cash. I hear from colleague Jim Flaherty that he's strapped for cash. We understand that we have to make the dollars go further and further all the time.

I do take your points that there are projects out there that haven't been successful. I've seen them in the public sector; I've seen them in the private sector. I read the other day of a 3P project that was a disaster, so I think that—it was the Halifax water treatment facility, and I think you probably know of that example.

I think it's responsible on our part to take a look at not only building on the successes but protecting our taxpayer against things that could go south. I would be interested if that's your approach as well, if you think that protection needs to be there and what that framework might look like if it's different than what we've put forward here.

Mr. Wyatt: Yes, you know, the key thing is, is you know the old expression, you know, we learned about computers years ago: garbage in, garbage out, right? The more due diligence you do—our staff are terrific. I mean, really, the legislation you have before us is there's really no other municipality,

maybe save Brandon in Manitoba, that could really—this legislation applies to. It's the City.

We have done a great amount of due diligence in terms of the P3s. Councillor Browaty refers to a City auditor. Our City audit department—arm's-length—it's accountable to council. It's actually a model that other cities look at in terms of operating an audit department in terms of the accountability and the due diligence they do. We—and it's we pride ourselves on that, because we have been burnt in terms of the public sector. Our water treatment plant—you know, over budget—publicly tendered out, and so we were very cognizant of that, and we pushed the public service back really hard in terms of saying, if we're going a P3 route, we want to absolutely ensure value for money is there.

*(20:00)

You're absolutely correct, Minister Struthers, is that the value for money is crucial, and it's tied in to the ability for us to be able to gain competition, for us to be able to sit down in terms of looking at the qualified proponents for a project and ensure that the work they do meets the specifications that we require, and that's where the design—we—we're—in an attempt to transfer the risk.

And, sometimes, more complicated projects are the better projects in terms of the P3, but you're transferring the risk away from the public sector to the private sector. Now, you could argue that you're also transferring the benefit; that if there's a benefit at the end of the day, it's also being transferred, but that's part of the process. If you have a risk, and they meet, and they're able to overcome that risk, there would be a benefit.

There's no doubt in mind that private sector is there for one reason; they want to make a profit, and that's their incentive in this. And there's—I don't think that's a bad thing because, at the end of the day, we, as a city, can turn around and say, we've delivered it on time, we've delivered on budget and we will have an asset after 30 years, like, kind of, quality that will be maintained—something that we can't say for all of our other assets. I wish we could. I wish we did have the monies and the resources to be able to say, boom, this is how we're doing it, but we can't. And that's why we limit ourselves to 30 per cent of that borrowing capacity, so—

Mr. Chairperson: Mrs. Stefanson. Oh, sorry, Mr. Browaty.

Mr. Browaty: May I just add to my colleague's comments.

I'm glad to hear the minister recognize the financial situation that all municipalities across Manitoba are in.

The two parts that I'm just going to reiterate again, we have independent value-for-money analysis done on the major projects that we've done to this point, as well as an independent fairness facilitator—parts of this legislation that are there. We've done P3s. The Province of Manitoba to this point has not. Please, you know, work with us to make sure that, you know, this comes together.

Mrs. Heather Stefanson (Tuxedo): Thank you to councillors Browaty and Wyatt for being here and for presenting to the committee tonight.

I do have a question for you. Councillor Browaty, in your presentation tonight, you talked about consultation, and that there was very little, if not—there was none—very little consultation that took place prior to this bill coming out. And now we've heard the minister say tonight that he wants this to be a transparent process, that he wants this to be a—that there—he wants the consultation process to be very transparent, et cetera, when it comes to the regulations because, as we know, that there's another process to this; it's not just what we see before us today, it's what comes out in regulations.

And so I'm wondering if you could indicate tonight, if there hasn't been a transparent process so far, in terms of the consultation that has taken place, do you believe that there will be consultations moving forward with respect to the regulations?

Mr. Browaty: The proof is, of course, down to the details of what's going to be in these regulations. To this point, I mean, there was initial consultation, I believe, with some city bureaucrats, back in 2010, regarding this legislation. It was a different picture. There was no allowance to give a copy of a draft legislation to anybody at the City.

I believe it was May of 2012, this year, there was a meeting between the department and the chief administrative officer and the chief operating officer. Again, no draft legislation was shared at that time, never mind, regulations. So, again, there has been very minimal consultation on this at all.

Mr. Chairperson: Time for questions has expired. Thank you very much for your presentation.

Mrs. Taillieu: Is my mike on? Okay.

Mr. Chair, I'm just curious. We have a couple of written submissions here and I'm wondering if those are going to be included in *Hansard*. There's a couple for Bill 34 and also one for Bill 35. Are those automatically included in *Hansard*?

Mr. Chairperson: We asked at the beginning of the committee to ensure that they would be in *Hansard*. So they will, yes.

I'd like to now call on the next presenter. Mr.—I'd like to call—now call on Chris Lorenc, president of the Manitoba Heavy Construction Association. Mr. Lorenc, I apologize for the mispronunciation of your name.

Do you have a written submission for the—

Mr. Chris Lorenc (Manitoba Heavy Construction Association): It's a common, common occurrence. I'm not offended.

Mr. Chairperson: And you may proceed then with your presentation and when ready.

Mr. Lorenc: Thank you very much, Mr. Chair, ministers, members of the Legislative Assembly.

The MHCA speaks for the heavy construction industry in Manitoba. Our industry directly or indirectly employs more than 15,000 Manitobans, and our organizational function is to work with all levels of government in support of economic growth and the associated enabling characteristics of sustained and strategic infrastructure investments.

As an industry, we support the use of P3s as but one method of providing municipalities, provinces and the federal government with access to investment in a cost-certain, competitive, performance-based contractual arrangement with appropriate safeguards for cost and investment 'value-add'. That, in a nutshell, is what P3 agreements offer. And we also support transparency and accountability for the expenditure and investment of public dollars, coupled with assurances of value-for-money analysis, appropriate risk sharing, financial structure and procurement process. Our association often speaks to and champions transparency and accountability principles. These, however, are not our areas of concern.

We are, quite frankly, concerned with Bill 34 from a number of other perspectives and, in brief, they include the following. First and foremost, we very disappointed that legislation introduced to

enable transparency and accountability was itself crafted and tabled without any apparent prior consultation with Manitoba private sector stakeholders and practitioners who would not only have an interest, but their experience to offer.

This is in very sharp contrast to what the City of Winnipeg did before it made a decision to proceed with a P3 Charleswood Bridge project, the first of its kind for Winnipeg. In that instance and acting on our advice and with our participation, the City struck a public-private sector stakeholder group of more than 30 individuals to assess the overall merits of so proceeding before making a project and process selection decision. That lasted well over a year. Such consultation did not proceed the tabling of Bill 34.

Manitoba companies have been awarded P3 projects, beating out international competition in the process. In two such projects with which I'm reasonably familiar, Charleswood Bridge and the Chief Peguis extension, costs came in significantly below budget, were constructed years ahead of time and will be returned to the City of Winnipeg after a 30-year lease period in pristine condition. In each of these cases the P3 contract protects the public with cost certainty and performance-based payments. No performance—no payment. We do not understand what caused sudden provincial alarm to table otherwise unannounced intentions of needed legislation to address accountability and transparency in the field of P3 projects.

Secondly, we were advised that if the Legislature passes the act, the regulatory development process would involve consultation and take a year or two, and only after that's concluded would the legislation come into force. The language in the act, however, is so broad as to enable virtually any definition a regulator wishes to impose without any transparent or accountable public debate. Regulations, see section 11, will dramatically shape the final ideology of the act. Such broad, unfettered authority to shape the law through regulation is, in itself, opposite of transparency and accountability which this legislation is ostensibly designed to address.

Third, our reading of the act suggests that First Nations are excluded from coverage from this legislation. Are we correct? Perhaps this is because of a division of federal-provincial jurisdiction, but the rationale is not stated and should be clarified.

Fourth, it would be helpful to understand what kinds of information relative to contract terms would

become part of the contract summary that the fairness monitor would have to release to the Auditor General which then, in turn, is made available to the public. The requirements of the contract summary provisions of this legislation cause the greatest anxiety for private sector entities who propose to engage in commercial P3 agreements. This is not spelled out except in the broadest of definition terms, subject to further interpretation and flesh provided through regulations.

* (20:10)

Accordingly, any such act, as a matter of stated principle and not subject to further regulatory definition or restriction, must protect from disclosure any and all commercial advantage, financial or intellectual property that allows a public or private sector partner to competitively participate. Absent such a restriction, the private sector will stay away in droves and the public sector and, by extension, the taxpayer, will be disadvantaged by being denied access to innovation in cost-certain, competitive, performance-based contracts.

The *Free Press*, in its June 5 editorial, "The Province Imposes Its Will," accurately made this point: There are actually—quote: "There are actually legitimate reasons why the private sector insists on confidentiality when bidding on public contracts. It wants to protect trade secrets, unique financing arrangements, labour-management issues and other factors that are considered proprietary. The Government of Alberta policy on P3s has a long list of facts it does not disclose, including its own business case for a particular project because it might jeopardize the government's competitive advantage. It also does not disclose commercially confidential information in the final agreement with the private sector." End quote.

Five: P3 projects are of value to a limited number of projects. In fact, partnerships Canada estimates that to be limited to approximately 20 per cent. Why is it that traditional design-bid build is not subject to the same scrutiny proposed for P3 projects? What is it about P3 projects that merit such a rushed review, and based upon what objective research findings or failed history?

Perhaps our greatest concern revolves around accessibility to P3 projects and the lost funding opportunities if the legislation and, ultimately, regulations dissuade private sector interest in participation. The necessity of P3s in today's world of budget deficits should be apparent to any

objective observer of Manitoba's roughly \$14-billion and Canada's roughly \$240-billion municipal infrastructure deficit. By appearing, as the act currently crafted does, to limit, interfere, add process and cost, all restricting municipalities' access to P3 delivery models, the Province will be directly preventing infrastructure projects from being completed on the municipal front, and because of the act's broad application to provincial infrastructure needs as well. Do you really want that impact?

In the context of living examples, the Charleswood Bridge, Disraeli Freeway and Chief Peguis projects, would not have gone ahead but for P3 financing models. Nor would the City of Winnipeg be discussing any major infrastructure projects like Plessis underpass or further Chief Peguis Trail extension as called for, in its adopted master transportation plans.

P3s have the ability to access innovation, cost certainty and risk capital in a manner considerably more accelerated than true—than through traditional financing models. Those advantages should be harnessed, not hindered. Absent access to P3 funding models will have the direct impact of significantly reducing the capacity to address our provincial infrastructure deficit challenges. And each of the AMM and the City of Winnipeg have publicly expressed concerns about the ability of the community of municipalities in Manitoba to access P3 funding with legislation as currently crafted. We would ask that the Province heed these publicly expressed concerns.

Minister Struthers, you have been referenced as saying that the Province's goal is to increase transparency and accountability, and we have no reason to disbelieve you, sir. Given that the government is on record and on side of transparency and accountability, then the government should have no difficulty in accepting that the act, as currently crafted, while presumably well-intentioned, is premature and should go no further.

For all of the above reasons, we recommend as follows:

That the government table consideration of Bill 34 and mandate a group of public-private sector subject matter experts and practitioners to review best practices across jurisdictions and recommend what legislation, regulatory regime, best practices and accompanying structure, if any, would make sense for Manitoba.

In conclusion—

Mr. Chairperson: I do—sorry, I do apologize for the interruption, Mr. Lorenc, but time has expired on your presentation.

Is there leave of the committee to allow Mr. Lorenc to conclude his presentation? *[Agreed]*

Mr. Lorenc: Thank you, Mr. Chair and members.

In conclusion, this or any elected government certainly has the right to pass any legislation or regulation it chooses, having been democratically elected. However, that right is tempered by a responsibility to exercise best efforts to ensure that proposed legislation or regulation respects the best interest of all citizens. Respectfully, in this instance and at this time in this moment, that responsibility has not yet been discharged, and it is no answer either to suggest that consultation will occur in the development of regulations which will perfect, explain, or clarify the legislation. This is particularly so when the act itself was not preceded by stakeholder consultation. Accordingly, we very respectfully call upon the government not to exercise its right of majority but its duty of responsibility and refer this matter back for consideration as the recommendation suggests.

Thank you very much, Mr. Chair.

Mr. Chairperson: Thank you very much for the presentation.

We'll now move on to questions.

Mr. Struthers: Thank you very much, Mr. Lorenc, on your presentation.

You do bring up a very good point that I'd like to get a little bit more of your thoughts on. We don't want to put ourselves in a position where we jeopardize federal money for projects. We don't want to put ourselves in a position where we drive up costs for projects whether the feds are involved or not. That's why we did look at Québec's model. We looked at other provinces' models. We looked at—and eventually, probably ours most looks like—the federal framework that's been in place for some time now. P3s aren't new, as you know, and I think there's been a lot of lessons learned through P3s and how we can make that process even better than it is .

We modelled ours after the federal approach. One of the differences, however, is we've added in a small consultation component to that because we think the taxpayer of Manitoba needs to be in on

these decisions from an early stage. Is that, in your opinion, the right move to make in terms of adding that consultation, and is there anything else in the federal framework that we should be incorporating into our framework or the opposite?

Mr. Lorenc: Respectfully, Minister, the legislation that is before us is not similar to other jurisdictions. Other jurisdictions create a standing authority. Whether you look at the BC, Alberta, Ontario, or Québec model, they each have created a Crown corporation with a specific mandate. The federal legislation created a Crown corporation mandated with the authority to deal with the process. There is nothing of that in this Manitoba legislation.

Further, again with the greatest of respect, I honestly don't know what your thinking was because you didn't share. You didn't invite the private sector to discussion. There was no opportunity to collaborate, to share experience, to offer advice, to have a dialogue to agree on something, disagree on other things. That is presumably what the act is intended to create, and if that's what the act is intended to create, we very respectfully ask you to table consideration of this legislation.

We're not opposed to accountability and transparency. We're constantly hammering that theme with every level of government that we engage in. The Gas Tax Accountability Act, as an example, is a result of our continuous lobbying of the provincial government to ensure that transparency and accountability. So we're not the enemies when it comes to the issue of transparency and accountability.

The City of Winnipeg followed our advice, and they struck that stakeholder subcommittee and we participate on that for over a year. And the outcome is the Charleswood Bridge that was built a year and a half ahead of schedule, a million dollars under budget, and that would not have happened but for a P3 arrangement. And those are the kinds of living examples that need to be part of the mix to determine the shape of the legislation, the kind of regulation that you need, the structure that might accompany it, and the terms of reference under which we will all participate. And, if you do that, you'll get the buy-in and you'll get the best legislation in Canada.

* (20:20)

Mrs. Stefanson: Thank you very much, Mr. Lorenc, for your presentation this evening and for being here at committee.

I think you bring up some very, very valuable points when it comes to this legislation, not only from the way it was brought about, but what is actually in the legislation itself. And we are, as I understand from the briefing that I have from the minister, we are the only jurisdiction in Canada that actually legislates this, outside of Québec that actually does that as well. But there's, as you mention, there are serious differences between what is done federally and what is done in other provinces.

You mentioned, specifically, some concerns with respect to the requirements of the contract summary and how the—that causes the most angst for the members of your organization. Wonder if you could just elaborate that—on that a little bit and just explain what this will do to the future of P3 projects if we don't have private sector involvement.

Mr. Lorenc: Let me give you a political analogy. Are Cabinet minutes ever made public? And if not, why not? Because secrecy is required for a government to function. You're not going to share your political strategy with members opposite. You're just not going to do that, and you're not going to do because you're not going to sacrifice the presentation, the alternatives that you wish to offer Manitobans.

In the competitive market, why would I participate in a public-private partnership if I have to disclose the technology I use, the labour relations strategies that I use, the financial advantages that I have, the commercial advantages that I can take advantage of, with my competitor? Why would I do that? Why would I come to this province and bare all of my competitive strengths so that my competitors can learn by what I have learned the hard way, which is risk, which is investment in technology, which is investment in HR, which is investment in capital, which is investment in engineering design, which is investment in equipment.

Why would I share that? Why would I open up my books for the public to take a look at? Your protection and the public's protection is the sanctity of contract. When you make a deal to purchase widgets from a company, do you ask that company how they make those widgets? Do you ask them what materials and supplies they get and how much they pay for them? You don't do that. You rely on the fact that they've given you the best price. You rely on the fact that you have a contract. You rely on the fact that you can take that contract to court and

hold that party responsible. And that is what P cubes give you.

Over and above that, they give you cost certainty. They give you risk transfer. They give you an asset back in pristine condition after 30 years. How is that possibly a detriment to the public? But, as a private-sector participant, I am certainly not going to come to this province and bare all of my commercial and trade secrets and benefit my competitors. I'll be out of business very quickly. And I have no intention of doing that.

Mr. Chairperson: Thank you very much for your presentation, Mr. Lorenc. Time for questions has expired. Thank you, once again.

Now I'd like to call on the next presenter: Lynne Fernandez, Canadian Centre for Policy Alternatives.

Ms. Fernandez, do you have a written submission for the committee?

Ms. Lynne Fernandez (Canadian Centre for Policy Alternatives): I do.

Mr. Chairperson: Okay. And you may proceed with your presentation, then, when you're ready.

Ms. Fernandez: Thank you very much.

The Canadian Centre for Policy Alternatives, Manitoba, has examined Bill 34, The Public-Private Partnerships Transparency and Accountability Act, and wishes to offer support for the bill. Our reasons for supporting Bill 34 are based in the substantial empirical research showing that P3s are often not the most efficient way to meet our infrastructure needs. They are also based on the lack of transparency common in the evaluation process, which leaves the public in the dark as to the true nature and benefit of the contract.

This lack of transparency is a result of two common issues: the complicated and sometimes manipulated evaluation process used to determine if P3s are indeed in the public's interest; and in what can be the deliberate withholding of key pieces of information from the public.

Given these concerns, there is a clear need for legislation that, as stated in the bill, enhances the transparency and public accountability of the decision-making process, followed by a public sector entity that uses the P3 procurement method for a major capital project. I will explain our concerns around these issues in greater details as follows.

Given the amount of empirical research that is critical of P3s, we were surprised that Minister Struthers believes that they can allow the public sector to build projects more efficiently and receive better value for the money being invested, as stated in the May 22nd news release.

Indeed, most research that supports the minister's statement tends to originate within the P sector—P3 sector itself. There is a strong P3 lobby group made up of such entities as the Canadian Council for Public-Private Partnerships. Membership on this council includes construction companies and consulting companies, such as Deloitte and Touche which was hired by the City of Winnipeg to opine on its plans to P3 its waste-water treatment plant and water services. This lobby group publishes reports that depict P3s in glowing terms and consultants such as Deloitte and Touche do not, to our knowledge, ever find a P3 proposal wanting.

Our research finds that when a critical and impartial eye is engaged, the evidence as to the efficiency of P3s is contrary to the opinions of the P3 sector.

Besides clear examples of P3s that have gone sideways, which I will turn to later, academic research into such tools as the public sector comparator have shown how easy it is for P3 proponents to frequently underestimate the ability of the public sector to improve and innovate.

P3 expert, Whitfield, also notices that even the OECD has its problems with the public sector comparator, admitting that it is too easy to manipulate them in favour of a P3.

There is also evidence that the transfer of risk from the public to the private sector is highly exaggerated. And even when risk is transferred, the private sector knows how to avoid it through layers of subcontracting and insurance, thereby still managing to pass the cost onto the public sector. The pricing of risk transfers is complicated and often obfuscated in complex contracts, yet it is crucial to determining value for money.

Speaking of legal contracts; they can add to the considerable transaction costs incurred by the private sector when pursuing a P3 contract. These transaction costs need to be considered carefully and objectively when judging whether or not to pursue the P3 option; they are often hidden during negotiations.

Construction costs and cost overruns must also be carefully anticipated and monitored as the following example demonstrates. The auditor general of Ontario revealed that the P3 used for the Brampton Civic Hospital had overstated the public sector comparator by \$245 million. It did so by inflating some design and construction costs and including some costs which it should not have. Other irregularities, including a questionable transfer of risk, led to a total cost overrun of \$168 million, which was far greater than inflation. The funding agreement in place meant that the Province of Ontario had to bear up to 30 per cent of the cost of this overrun.

Another crucial element in the evaluation is the discount rate that is used for the public sector comparator. Experts note that the importance of the choice of discount rate—the importance of the choice of the discount rate, the entire value for money calculation can be easily manipulated simply by slight changes in the discount rate. According to the literature, the rates used in Canada tend to be too high, thereby favouring the P3 option.

We have some real life experience regarding the difficulty in obtaining information. CCPA in Manitoba can attest to how difficult it is to obtain information around infrastructure projects and new service models proposed by the City of Winnipeg.

When the City first proposed to implement a municipal corporate utility that would be the public partner in a P3 contract with an, at the time, unknown corporate partner, we found it extremely difficult to get anything other than the most preliminary information or any reasonable explanation as to why the current service model needed to be changed.

The plan rapidly morphed into a new proposal which was more complex and perplexing than the previous. When the preliminary project was finally announced to have Veolia upgrade and run our waste water treatment plant, even city councillors were not allowed to know the details before they voted on it.

The secretive process was repeated most recently around the proposed water park, further demonstrating the City of Winnipeg's reluctance to provide key information to the public. Is—if, as Mayor Katz claims, P3s are such a good deal for Winnipeggers, he should have no problem allowing the public to see crucial details before a contract is signed.

We note that paragraph 5(3) of the act provides that the public partner must make information about P3 proposals available to the public, and we're very much in favour of that, but we also note that there's a proviso included that protects the competitive procurement process.

We respectfully request that when the regulations are established around this proviso, great care to be taken to ensure that crucial information not be withheld. Such information includes but is not limited to: full information regarding the public sector comparator, such as the discount rate; details regarding risk transfer; details around any private consultants hired to evaluate a P3 proposal so the public can confirm whether or not they are truly independent; the duties and responsibilities, financial and legal of each of the partners; how costs and benefits will be shared by the partners; full disclosure of all transaction costs; the impact the P3 will have on the local economy and the long-term implications of the P3 vis-à-vis existing and pending free trade agreements.

* (20:30)

know P3s don't always provide value for money. In his book, *On Global Auction at Public Assets*, Whitfield provides documentation for the many problematic P3s around the world. I will refer to a few close to home in British Columbia.

Forensic accountants, Ron Parks and Roseanne Terhart, found that there is a consistent pro-privatization bias in the way Partnerships BC compares costs when evaluating P3 proposals. They found that the Abbotsford Regional Hospital, the Sea-to-Sky Highway Improvement, the Academic Ambulatory Care Centre and the Canada Line, all P3s, were more expensive than if they had been done publicly.

Even right here in Winnipeg, we know that Winnipeggers are paying 11.5–.05 per cent in yearly interest to the private sector, while the City's costs of borrowing are currently less than 6 per cent, and with that I'm referring to the Charleswood Bridge.

To conclude, the minister clearly understands the degree to which the evaluation and awards process can be manipulated or this bill would not exist. Given that understanding, we implore the minister to ensure that all possible safeguards are in place to protect citizens and ensure that our tax money is, indeed, being used wisely. Thank you.

Mr. Chairperson: Thank you for the presentation, Ms. Fernandez.

We'll now move on to questions from the committee members.

Mr. Struthers: Yes, thank you very much, Ms. Fernandez.

The Infrastructure Canada officials have told us that they think that our legislation is consistent with the federal framework. You've made the case that we've got to be a little more wary about P3s. Should I take any solace in the fact that the federal framework—people who run the federal framework think ours is okay?

Ms. Fernandez: Well, we're pretty critical of the federal framework as well, so I would not take solace in that from our perspective. I think that the bottom line is that when you look at many P3s and when you look at the evaluation process, we often end up with projects that are not in the public interest, and that's really the bottom line. And that's what we ultimately want this legislation to do, is to protect the public interest.

So, I mean, whether or not it is in keeping with what the feds are saying, is perhaps something that's an aside. Ultimately, what we want to see is that this legislation protects the public—public investment and taxpayer's money.

Mrs. Stefanson: Thank you very much, Ms. Fernandez, for your presentation this evening.

Just a question for you: Do you believe that this legislation could reduce or potentially eliminate P3 projects in Manitoba the way it reads now and the potential within the regulations to define things?

Some of the things that Mr. Lorenc mentioned in his presentation tonight, when it comes to the requirements of contract summaries, may cause some angst among the private sector with respect to having to disclose some of the things. And he mentioned the disclosure of any and all commercial advantaged, financial or intellectual property that allows a public or private sector partner to competitively participate.

Are you concerned that because of that, that this may actually eliminate P3 projects which maybe should be on the table as an option to help the provincial government to be able to participate in more infrastructure province—projects in the province of Manitoba?

Ms. Fernandez: Two issues. First of all, I think that the Province should be revisiting, or any public sector should be revisiting the possibility that actually the public sector can do a very good job in bringing in some of these projects, and that there has been a complete exaggeration about the inefficiencies of the public sector vis-à-vis the private sector. That's been highly exaggerated, and I think that's well documented in Whitfield's book.

But, second of all, I think the detail are in the regulations. As the previous speaker spoke, and I think that there's certainly room for the Province to be negotiating and thinking about how those regulations can best reflect the interests of both the private and the public sector.

Mr. Gerrard: Thank you. Now in—previous speakers have held up the Chief Peguis Trail as an example of a P3 which has worked well. Would you agree with that, or did you see problems with it?

Ms. Fernandez: Would one—what—there's only one way you can answer that question and that's to have access to all the information. To my knowledge, I don't know if all that information is available. I know colleagues that we have worked with in the past on various projects to try and get information, the information is simply not forthcoming.

I don't know if all the information is out there for the public to be able to make an informed decision on that.

Mr. Chairperson: Seeing no further questions, thank you, once again, for your presentation, Ms. Fernandez.

Now I'll call the next presenter. Call on Chuck Davidson, vice-president of the Winnipeg Chamber of Commerce.

Mr. Davidson, do you have a written submission for the committee?

Mr. Chuck Davidson (Winnipeg Chamber of Commerce): No, only verbal.

Mr. Chairperson: Thank you very much, and you may proceed with your presentation when ready.

Mr. Davidson: Ladies and gentlemen and members of the Manitoba Legislature, I'm here representing the Winnipeg Chamber of Commerce founded back in 1873. The Chamber is Winnipeg's largest business organization and is dedicated to fostering an environment in which business and all Manitobans can prosper.

The chamber's vision is for Winnipeg to be a cost-competitive, technologically innovative city with a skilled labour force, modern infrastructure to support existing and emerging industries—a city with a bright economic future.

The chamber has twice been recognized by the American Chamber of Commerce executives as one of the top 10 fastest-growing chambers in North America, and, in addition, the Canadian Chamber of Commerce has acknowledged the Winnipeg Chamber of Commerce as an accredited chamber of commerce with distinction for our high standards of excellence in service for the past decade.

The chamber firmly believes that a positive and competitive business climate brings with it wealth, prosperity and a high quality of life for all of its citizens.

Through its membership, the chamber feels it can identify and provide valuable insight into currently held perceptions and concerns for Manitoba's future as well as potential solutions.

Mr. Vice-Chairperson in the Chair

The Winnipeg Chamber of Commerce is pleased to provide comment on Bill 34, The Public-Private Partnerships Transparency and Accountability Act, on behalf of our 2,000 member companies that employ approximately 90,000 workers in the city of Winnipeg. And I'm sure it will as no surprise to anyone to find that the Winnipeg Chamber of Commerce is in favour of the principles of public-private partnerships in the delivery of service.

We see benefits in P3s, and those advantages often stem from the bundling of tasks together, the appropriate transfer of risk and the creation of incentives that do not naturally occur within the public sector. These benefits can include the following, depending on the nature of the project in the form of the P3 model.

Bringing construction forward: P3s enable the public sector to spread costs of infrastructure investment over the lifetime of the asset. The private sector has strong incentive to complete the projects as soon as possible, because they tend to need the stream of revenues to repay the capital costs.

On-time and on-budget delivery: Payments are aligned to the delivery of the project objectives; thus, P3s have a solid track record of on time and on early construction completion. Changes to scope, key

factor to driving cost overruns and delays, are more difficult and costly and, therefore, less frequent.

P3s ensure assets are properly maintained. Well-constructed and structured P3s help maintain infrastructure by transferring maintenance repayments and requirements to the facility to the private partner, making maintenance a contractual obligation of both government and the private partner. A more complete life cycle perspective is, therefore, taken from the outset.

P3s ensure cost savings. Shifting long-term operation and maintenance responsibilities to the private sector creates an incentive to ensure long-term construction quality as the partner is responsible for these costs many years down the road. Experience from several countries has also demonstrated savings from P3s during the construction phase of the contract.

P3s provide strong customer service orientation. Private structure–sector industry infrastructure providers may be made responsible for the customer interface, and they rely on user fees from customers for revenue. And they may have a strong incentive to provide superior customer service.

And P3s enable public sector to focus on outcomes and core business. Properly structured, P3s enable government to focus on outcomes instead of inputs. Governments can focus leadership attention on the outcome-based public value they are trying to create.

In looking what other jurisdictions are doing in regards to P3s we find that the province of Ontario, Québec, BC, Alberta, and the federal government are very active in the P3 market and have been for years. Part of the challenge we have with Bill 34 is understanding exactly what the rationale for the bill is.

As far as we've been able to research, the Province of Manitoba has no clear policy in regard to P3s, nor does it appear to have any intent of getting involved with P3s. And that's unfortunate, as we've seen examples where this has proven to be extremely successful in other provincial jurisdictions. For example, Partnerships BC provides British Columbians through the planning, delivery and oversight of major infrastructure projects. As a company registered under The Business Corporations Act, Partnerships BC is wholly owned by the Province of BC and reports to its shareholder, the Minister of Finance.

* (20:40)

The mission of Partnership BC is to structure and implement partnership solutions which serve the public interest. They are committed to transparent operations and achieving wide recognition for innovation, leadership and expertise in public procurement.

Partnerships BC's core business is to provide specialized services ranging with advice to project leadership and management, to government and agencies with respect to identifying opportunities for maximizing the value of public capital assets and developing public-private partnerships. They also manage an efficient and leading-edge organization that meets or exceeds performance expectations. The company's clients are public sector agencies, including ministries and Crown corporations. And, to serve these clients effectively, Partnerships BC is also working to build strong relationships with private sector partners such as businesses, investors and a financial services sector.

The company's organization, staffing and governments reflect the support, this meshing of public and private sector interests, and this is a model that we would suggest that perhaps this government should be looking at.

Mr. Chairperson in the Chair

In looking at P3s from a municipal perspective, it appears as though there's also a clear process as to how they should proceed. For instance, Deloitte has outlined the process that the City of Calgary uses in determining whether or not to proceed with the P3. Based on best practices, they've determined that there are three levels of assessment that may be applied to determine if a project should be approved for P3 delivery: a screening assessment where high-level comparisons of project characteristics against criteria to assist in determining potential suitability of a project for P3 delivery. They look at strategic assessment, which is more detailed examination of the risks, the costs, the market of service providers and objectives and constraints to identify at the strategic level if a project should be procured as a P3, which P3 delivery model is most suitable, and whether or not further assessment is justified. And, finally, value-for-money assessment—an extension of the strategic assessment, including quantification of project risks and preliminary comparison of the relative costs of traditional procurement and P3 procurement through cash-flow modelling.

It's been mentioned as well tonight that the City of Winnipeg has been extremely active and successful in the use of its P3 projects as well. Of particular note, it's been mentioned as well, the recently opened Chief Peguis Trail project. In reviewing their money for-value-for-money audit that was published following the project, it is clear they followed a similar procurement process. This project that was completed on budget and almost a year ahead of schedule involved public consultation, independent financial analysis and oversight by the City auditor. We view some of the elements in Bill 34 as duplicating processes that already occur in ensuring accountability and transparency at the municipal level. And, while we are supportive of the 'cilly's'-city's willingness to enter in three-part-P3 partnerships, one criticism that we do have is that it is hard-have of them, it is that it is clear they have a process for moving forward the P3s, they could ensure that process is more easily accessible.

It is clear to us that the issue of P3s in Manitoba is one that needs further discussion and a clearer, more transparent policy process at both the provincial and municipal levels. We're concerned that Bill 34, The Public-Private Partnerships Transparency and Accountability Act, which was introduced to enable transparency and accountability, was itself created, crafted and tabled without any apparent consultation with Manitoba private sector stakeholders and practitioners, who not only have an interest but experience to others. If the government is truly interested in transparency and accountability and value-for-dollar legislation, it should have no difficulty in accepting that the act as drafted is premature and should go no further.

Therefore, the Winnipeg Chamber of Commerce makes the following recommendation. The Province of Manitoba should fairly and objectively task a group of public-private sector individuals with subject matter experts and practitioners with a mandate of recommending what best practices, legislation, regulatory regime, would make most sense in Manitoba.

The task force mandate should be to ensure that the tone of any such recommendation is welcoming of the opportunity to partner with the private sector. Thank you.

Mr. Chairperson: Thank you very much for the presentation, Mr. Davidson, and we'll now move on to questions from the committee members.

Mr. Struthers: Thank you very much, Chuck. I thought that was a very well thought out presentation and thank you for your advice. Thanks for coming out tonight.

Mr. Gerrard: As the Winnipeg chamber, you're well positioned to look at what's happening at the City, and what's happening at the Province. And, I mean, one of the requirements here would be to have things done by the City be double audited by the City and the Province.

I mean, does one need that sort of approach? Tell us what your perspective is on how the City and the Province should be proceeding.

Mr. Davidson: Well, that's one of the challenges that we see is the duplication of services that would occur. We do know that the City auditor does look at the projects that are put in front of it by the City of Winnipeg. We would see no need for the provincial auditor to do a similar process. We have to have faith in the job that's done by the City of Winnipeg. And we do know, by looking at the value for assessment in regards to projects like the Chief Peguis Trail bridge that was recently completed. That process was completed; it was done properly; and we can clearly see what the City of Winnipeg's process is when it comes to P3s.

Mrs. Stefanson: Thank you, Mr. Davidson, for your presentation this evening.

You—just wondering if there—is there any way that you think that this bill can be amended as is, or would you just prefer that we shelf—that the government shelf it altogether until a consultation takes place? I'm just wondering if you think that there's any way that amendments would enhance this bill at all.

Mr. Davidson: In our opinion, our thought is that this is premature, that we think that there's an opportunity here to look at P3s in a broader perspective, to look at what other jurisdictions are doing. There are models in other jurisdictions that work well in terms of P3s. The BC partnership, which I alluded to, is a perfect example of that. And that's the—we think that we should have a much broader look at how we deliver service and what the role of the private sector can be in terms of P3s when we're moving forward with that.

Mr. Chairperson: Seeing no further questions from committee members, thank you very much, Mr. Davidson, for your presentation.

We'll now call on the next presentation: John Loxley, private citizen.

Mr. Loxley, do you have any written materials for the committee?

Mr. John Loxley (Private Citizen): Written, but not copied. My apologies.

Mr. Chairperson: Okay, would you like to have them copied and distributed to the committee?

Mr. Loxley: I will send in a copy, if you wish, later.

Mr. Chairperson: Okay. Thank you, you may proceed within—with your presentation.

Mr. Loxley: Good evening. I'm a professor of economics at the University of Manitoba. I've been studying public-private sector partnerships in Canada and abroad since the mid-1990s. Together with my son, Salim, I am the author of the book, *Public Service, Private Profits; The Political Economy of Public-Private Partnerships in Canada*, published in 2010.

It is my pleasure to speak in support of this bill which is designed to make P3s more transparent and their proponents more accountable to the public. This bill is needed because P3s, both in Canada and closer to home in Winnipeg, have not been transparent, and public accountability, contrary to what we've heard, has been sadly lacking.

This legislation would ensure that medium- and large-scale municipal projects would follow evaluation and tender processes that protect the public interest. Transparency is a huge problem with P3s. Going back as far as the Charleswood bridge in Winnipeg, about which we've heard quite a lot tonight, it's been extremely hard to obtain information on P3 deals and especially with regard to value-for-money calculations and legal contracts. I was eventually successful in obtaining the Charleswood bridge contract through the access to information process. I don't believe Ernst Hansch has gone bankrupt as a result, but other people have tried to get this contract more recently and have failed. Even then, with the contract that I obtained, critical information, such as the maintenance payments, were blacked out. There was never any value-for-money evaluation for this 30-year project, as far as I know. And it is still, as far as I know, costing us over 11 per cent per annum in lease payments. I doubt anyone will be allowed to access more recent contracts, such as those for Chief Peguis Trail and the Disraeli Bridge. I have tried unsuccessfully to

obtain the risk analysis underlying the Deloitte Touche recommendation to proceed in these projects along P3 lines.

I've gone through the freedom of information process and have also appealed to the consulting firm without success. While the summary of this report is available on the City's website, the full report which presumably contains the detail one needs to know about why the recommendation was made is not made public, and officials hide behind the commercial sensitivity argument. But such risk analysis must draw on publicly available information if it's to be useful. Deloitte Touche and The MMM Group claim that the Disraeli Bridge P3 will offer value for money equivalent to that offered by two road projects elsewhere in Canada for which value-for-money was between 10 and 13 per cent. No figures were presented to justify this, but assumptions about risk transfer seem to underlie it.

Deloitte Touche and MMM then called for a detailed value of money calculation to be carried out. If this was done, it is not mentioned on the City's major project website. We do know that risk transfer was supposed to be crucial for the decision to P3 the Chief Peguis Trail. The PPP is said by Deloitte Touche to have a value-for-money of \$31 million, and risk transfer is said to account for more than all of that. In other words, if it had been reduced in the normal manner by the public, it would've been a cheaper project, and what makes it valuable as a P3, according to this evaluation, is that risk was transferred. So the value-for-money and the bottom line is \$31 million; the risk transfer is supposed to be \$51 million. This risk transfer is over a third of the cost of the \$148 million that the project cost. In this case, about \$14 million is said to be shifted on account of project planning and approval risks, just under \$10 million for design and construction risks and almost \$27 million on more than all the risks—other risks put together, for operations, maintenance and life-cycle risks.

* (20:50)

These numbers are very hard to believe and quite different from risk transfer in similar projects where most of it is said to occur at the construction phase. But neither the public nor the City Council, as far as I know, is allowed to see how these numbers were arrived at or to challenge them.

Since this risk analysis is so crucial to the decision to proceed with the P3 model, the question arises as to why it is not made public for public

scrutiny and debate. Risk transfer is said to justify P3 projects in Ontario and BC where P3s abound. Again, however, the risk-transfer process is not accessible and published numbers cannot be verified. In the UK, where PPPs have a much longer track record—over 700 compared to, say, 150 in this country—the British Association of Chartered Certified Accountants and the Manchester Business School have recently concluded that the general case for private finance is not proven. The benefits gained from additionality, by which they mean additional finance that P3s are supposed to bring to the public sector, risk transfer and improved decision making are too nebulous to allow certainty that they are outweighing the known additional costs that arise on average from the cost of capital, transactions costs and costs in terms of flexibility.

Also, in reviewing the global experience of P3s over the last 30 years—it's a global experience—the report concludes that value for money is difficult to establish convincingly, owing to the higher costs associated with private finance and the high premium payable for risk transfer. And there are important accountability issues around the commitments made to providers of private finance. Last month, the Public Accounts Committee of the Houses of Parliament in the UK repeated its views that P3s, or PFIs, as they're called in the UK, suffer from many weaknesses, including, and I quote: failures to demonstrate the value-for-money case satisfactorily; the use of long, inflexible contracts and the costly contracting process; the increased costs of using private debt finance since the global financial crisis; and now further evidence of inefficient pricing of equity. They found returns to equity sometimes exceeded 60 per cent.

It concluded that continual of the current model is unsustainable, yet it is upon the UK model that Canadian P3 practices are built.

Given this poor record, both here and abroad, the requirements of Bill 34 for transparency and the value-for-money calculations and an assessment of value for money by a fairness monitor both make eminent sense. The involvement of the Auditor General in the P3 evaluation reporting and monitoring process is also a major improvement on current practice. It is, after all, auditors general across Canada who've made major critiques of P3s. They have raised, and continue to raise, concerns about, and I list these: (1) dubious accounting approaches that attempt to place P3s off-book—you can see that at the Canada level and the Alberta

level; (2) self-sourcing and non-competitive bidding in Ontario, New Brunswick, Saskatchewan; (3) the lack of adequate public sector comparatives and a failure to demonstrate or deliver value for money or a risk transfer—Nova Scotia, New Brunswick, Alberta, Québec and Ontario auditors have all raised this different times; excessive costs of private borrowing—New Brunswick, Nova Scotia, Canada; poor contract specification and inadequate systems of monitoring and compliance—Ottawa, Nova Scotia, Ontario, British Columbia.

Some of these auditor generals' concerns are very recent. The problem has been that auditors general have intervened only after the fact when the damage has already been done.

In Bill 34, the auditor will have input up front which will reduce the most egregious errors. The Auditor General will also be reported to regularly, ensuring better project monitoring and compliance which has been a huge problem in projects which have been on the books for many years. The problem is that P3s have lifetimes of 20, 30 or more years, while MLAs, municipal councillors, school trustees, and other elected officers, as in First Nations, have much lower electoral lifetimes.

Furthermore, civil servants at all levels of governments turn over or retire, so the collective institutional memory is much less than the life of the P3. This has led to major accountability problems, especially in the school system in Nova Scotia, but it could arise at any level of government. The Auditor General will therefore reduce this systemic problem by supporting the institutional memory of the public sector.

The bill does not prohibit or even inhibit P3s which have a clear value for money. What it does offer is the prospect of weeding out dubious or inappropriate P3s. It will not add significantly to either project costs or delays. In the long run, however, it could contribute significantly to improving public finances, and it is for this reason that I support the bill. Thank you.

Mr. Chairperson: Thank you very much, Mr. Loxley, for the presentation.

We'll now move to questions from committee members.

Mr. Struthers: Thank you very much for your presentation.

Earlier tonight, we heard an argument that said that if we shine the light too brightly on this, the private sector won't participate. What do you say to that?

Mr. Loxley: P3s are highly profitable. The public—the private sector is lining up to get involved in these projects. I don't believe that—and don't forget, we're spending public money. This is public money, not private money; this is public money. It's costing us much more in terms of borrowing than it would do otherwise. I would say that the private sector has an obligation to be transparent. And I think this bill goes some way towards ensuring that.

Mrs. Stefanson: Thank you very much for your presentation this evening, Mr. Loxley. It was obviously very well thought out, and you have a very significant background when it comes to this subject, and so we appreciate you being at the committee tonight.

I do have a question just around transparency and just in the process that has taken place. Are you concerned at all—first of all, were you consulted on this legislation before it came forward, and are you concerned at all about some of the other presentations that we've heard tonight that where some other fairly significant stakeholders in the community have not been consulted?

Mr. Loxley: I don't know what the process was by which the bill has been brought about, but we have heard that practice across Canada was considered. And, if that was the case, then it seems to me that should be sufficient for this stage of the bill, and when the regulations are developed, any concerns that arise could be dealt with at that point. But the bill itself doesn't do anything significantly to increase costs or to reduce projects. Projects take a long time anyway in P3s. So I don't believe that some of the concerns that we've raised—heard are valid.

So, if I could also add, the—we've heard arguments that P3s provide cost certainty. You can get cost certainty by using designed-builds; you don't have to hand over the financing of projects, or the management and maintenance and operations of projects to the private sector. You can get cost certainty by tightening up on your requirements for performance. Most of the private sector—don't forget it's the private sector that builds projects, not the public sector. So, you know, I would ask if—is the private sector so incompetent when it's doing these

other projects? I don't believe it is. Most projects do come in on time in Canada.

And so I think that the cost certainty can be dealt with in different ways. I think that no one's arguing that we don't have—that we don't need a bridge or a road here or what have you. The question is how do you do it. Whether you do it the usual government way or the usual—or the P3 way, but in both cases the private sector is building, not the government. The government doesn't build. And then, thirdly, we heard that commercial confidentiality was so important it would drive the private sector out. I don't believe—I've had access to many P3 contracts. Some of them, of course, are three feet deep, legal contracts—very, very complicated. Publication of analysis of these projects doesn't undermine the performance of the private sector. In some cases the private sector has been aware that we have those projects.

* (21:00)

Mr. Chairperson: Seeing no further questions, thank you, Mr. Loxley, for your presentation.

Now I'll call on the next presenter, David Sauer, Winnipeg Labour Council and Manitoba Federation of Labour.

Mr. Sauer, do you have a written submission for the committee?

Mr. David Sauer (Winnipeg Labour Council and Manitoba Federation of Labour): I do indeed, and I have brother John Doyle, who is going to be up here just seated close if there's any data or anything I need on the fly, but he's going to be here to help me as well, and he'll be distributing it right now.

Mr. Chairperson: Thank you very much, and you may proceed with your presentation when ready.

Mr. Sauer: So, good evening. Thank you very much for hearing out the Winnipeg Labour Council and the Manitoba Federation of Labour. I myself am the president of the Labour Council and vice-president with the Manitoba Federation of Labour. It gives me great pleasure to add the voices of the Winnipeg Labour Council and the Federation of Labour to the chorus supporting the coming bill, here bill C34. It is a bill that opens a window into a process that has been shrouded in secrecy and hidden agendas for decades, a process that has been dubbed public-private partnerships. Recent elections in Canada have had the theme that we need more transparency in government. Citizens have a right to know what their

governments are doing with their power, what they're doing with public funds, who is benefiting from policy decisions, and they need to be assured that all these things will result in a better Canada. This is what bill C34 does. It requires governments in Manitoba to make their decisions under the public scrutiny so that everyone knows the issues involved and how a proposal that they will be paying for will benefit the public good.

This is a truly historic moment in Manitoba's history. When Bill 34 becomes law, ordinary Manitobans will finally have a place to table—a place at the table when important financial decisions are made. Our citizens, if the law is obeyed in letter and in spirit, will finally be able to make informed decisions as to whether or not government is governing in their best interest and not someone else's best interest. Greater transparency and a better informed voter, two concepts that political parties and their politicians should support. So imagine my surprise when I hear some politicians attack bill C34 and its provisions.

Why would some politicians and members of the business community be speaking out against transparency and a better informed citizenry? Why are those things wrong? What is it about the decision-making process that currently leaves public-private partnerships that can't exist in the day of light—or the light of day, excuse me. What is it about the idea of transparency, honesty, solid information that has resulted in a strong backlash against bill C34? Just exactly what is it about how things are done today that must be hidden, covered up and concealed from the very people that will have to pick up the tab when the deal is cut, signed and delivered?

Great secrecy and backroom dealing may well be business as usual around the corporate boardroom table. But the public purse and formulation of public policy that is based on fairness and justice is not the same thing as two companies cutting a deal. When politicians spend huge amounts of money—huge amounts of their citizens' money, there is no place for secrecy and backroom dealing.

The citizens of Manitoba need to be able to evaluate their government's actions based on full and accurate information. They need to know what all the options are. They need to be able to form a judgment on whether or not what is being proposed will benefit them and their communities. They need to know that their best interest is the single greatest consideration in the decision-making process. This is so, even

when it means a process that is a bit longer to get through with more costs attached to it. That is the reality of transparency and informed population. That is the cost of doing things democratically versus doing them expediently and behind closed doors.

It is no secret that citizens of Manitoba who make up our unions have had serious reservations about public-private partnerships for many years, about the lack of transparency and the information that is currently available to the general public when it comes to P3s. We have come to have these reservations based on our experiences with them across Canada, as in OP3 arrangements where government enters into a partnership with a private sector company or consortium in order to build capital projects, such as bridges, buildings or highways, or it could be making a hospital a reality which is then operated by the private sector, in other words, privatization of health care.

Many buy into the false promise of cheaper construction costs and cheaper operating costs. What's wrong with that? Everything. The most important issue is democratic control. Under the classic P3 model, the public winds up with no decision-making powers or control of the project; they have little or no access to information about the project or service because, after all, it's a privately owned company and it's none of your business. There is no political accountability for how this project is run or on behalf of the citizens.

This is no way to deliver public services at any level. It is exactly the opposite of the democratic process that Canadians have worked so hard to develop, because it denies citizens the opportunity to speak up on things they don't agree with.

Another high-profile issue is cost. Proponents of P3s claim that the private sector does a better job on these projects for less money and low operating costs. Again, wrong. The private sector does not have access to the low interest rates for financing its projects that government does. That higher borrowing cost is an important factor in overall cost to the project, money that sooner or later is recovered from the taxpayer, either in user fees such as highway tolls or in ongoing payments from the public treasury with any unexpected cost increases automatically being billed to the public.

On the other hand, if P3—if the P3 agreement requires the government to use its access to an advantageous borrowing rate to finance the project,

then why do we need a P3? Why can't we raise the project budget ourselves, retain full democratic control of it and hire private sector contractors to build it? Ongoing operating costs for private project—for a private project include a substantial profit margin from public funds because that is why private companies exist, to make money for their owners and shareholders.

This is money that can't be used for other public investment policies that will benefit the people of Manitoba. Unfortunately, this also means that often citizens pay twice for a P3 project: once through their taxes being used for the government's participation in the project, and, again, through user fees, management fees and whatever else is loaded into—onto their plate.

It is the responsibility of government to act in the best interests of its citizens when it comes to the provision of important services such as infrastructure, quality education and health care and the sound management of public assets. P3s have become an escape hatch for governments that are not willing to do the job themselves. They move the responsibility for action into the private sector and out of the public's control. The only way taxpayers of Manitoba can be assured that these things are being delivered in the best possible way and at a reasonable cost is to keep them under public control. Too often P3s cost more in the long run and undermine democratic control of our public services and our infrastructure.

Relying on freedom of information requests has proved pointless. I just have some examples here just to cite for you. I sent out one asking for a copy of the Veolia's business plan in reference to their contract with the City of Winnipeg. Surprisingly, I got back one saying this is interpreted as a denial because the records cannot be located or do not exist. I also had another one here asking for a copy of the contract between Veolia and the City of Winnipeg, very straightforward language. All of these that I've put forward have been very straightforward language that any citizen should be able to use to try and gain access, and again I wasn't able to get a copy of the contract between Veolia and the City of Winnipeg because disclosure would be harmful to a third party's business interests. Total cost of the police station on Dugald Road, actually after this one I got a little wise and so I tried to, you know, change some of the language and so forth, so I said the total cost of the construction, police station on Dugald Road; detailed costing for the construction of the police

station on Dugald Road; amounts of taxpayer dollars paid to each private company in the public-private partnership that constructed the police station. All three of these were denied. It was not the response—it was not responsible—and they're talking about the City—it was not responsible for the construction of the facility, so records related to the total costs for construction do not exist. All three FIPPA requests denied.

I have another one here asking for a copy of the master agreement, and again that was denied based on trade secrets—trade rights. It was interesting they brought up the Charleswood bridge; again, FIPPA denied based on disclosure of harm to third party's business interests. So I mean there is a bit of a—sorry—a pathway developing here, a pattern, right? So we're not able to get the information that we want. In this context it's difficult to find examples of P3 projects in Canada that have actually lived up to their advanced billing as they—as little as they have been. That may well be a question that this committee should be putting to witnesses who appear before you to argue against Bill 34 and to keep up the current P3 process.

It is against this backdrop that we offer the following advice: Declare a moratorium on P3s at least until there are concrete examples of them working available for public review. After that review, if partnerships are found to be a viable option at a particular moment in time, then the only way citizens can be assured that their interests are paramount is through being fully informed by having policy transparency and full disclosure. Making sure this happens is what Bill 34 is all about.

* (21:10)

Bill 34 is the right vehicle for the right purpose. But even a sound as a bill can often—even a sound bill can often be improved. Here are three small amendments we would suggest: We believe the threshold for projects is too high at \$20 million and should be reduced to a lower threshold of \$10 million—this will bring a larger range of important public activity under the provisions of Bill 34; we think the ongoing reporting on results under section 8(1)(b) should happen annually rather than every four years; we would like to see a requirement that profits or surpluses be retained by a—the private 'enty' entity is reported so that the public knows where their money is going.

Thank you for listening to our presentation, and I urge you to make these amendments to—and support Bill 34 in the House. Thank you.

Mr. Chairperson: Thank you very much for your presentation, Mr. Sauer.

We'll now move on to questions from the committee.

Mr. Struthers: I just want to say thanks for coming out tonight and giving us your advice. Thanks very much.

Mrs. Stefanson: Thank you, Mr. Sauer and Mr. Doyle, for being here tonight, and very—again, a very well-thought-out presentation and appreciate your bringing your viewpoints here on behalf of the organizations that you're representing tonight.

I do just have a question around—again, we talk about transparency and wanting to bring transparency to this process. We've heard from a number of—and part of that is bringing stakeholders together and offering advice and—through a consultation process. Were your organizations, were they consulted on this organization?

Mr. Sauer: The Winnipeg Labour Council and the federation, not to my—I don't know exactly. My organization, specifically, the Labour Council, was not.

Mrs. Stefanson: Does that concern you at all with respect to when they bring legislation forward where there is very little consultation on a piece of legislation that is entitled, transparency and accountability? Does that concern you at all, moving forward?

Mr. Sauer: Yes. With regards to this bill, I think I'm quite happy with the process that we've put forward here. This is information that we've long been pushing for. The labour movement has been pushing against P3s for quite a long time. I mean, we've been very consistent. I mean, it—if the government was following exactly what we were saying, we—you know, the labour movement would be calling for a complete ban on P3s, but we're not there. I think it's an important step in the right direction, absolutely.

Mr. Chairperson: Seeing no further questions, thank you very much for your presentation, Mr. Sauer.

**Bill 35—The Retail Businesses Holiday Closing
Amendment Act**

Mr. Chairperson: We'll now call on the next presenter, Larry McInnes, Retail Council of Canada—

Floor Comment: Lanny.

Mr. Chairperson: Sorry, Lanny—to speak to Bill 35.

Mr.—I apologize for the mix-up on your name, Mr. McInnes. Do you have a written presentation for the committee?

Mr. Lanny McInnes (Retail Council of Canada): I do.

Mr. Chairperson: Thank you, and you may proceed with your presentation, then, when ready.

Mr. McInnes: Thank you and good evening.

It's my pleasure, on behalf of Manitoba's vibrant retail sector, to provide this committee with Manitoba retailers' perspective on Bill 35 and the proposed changes to Manitoba's Sunday shopping legislation. Retail Council of Canada has been the voice of retail in Canada since 1963. We speak for an industry that touches the daily lives of Canadians in every corner of the country by providing jobs, career opportunities and by investing in the communities that we serve.

RCC is a not-for-profit, industry-funded association representing more than 45,000 storefronts of all retail formats across Canada, including department, grocery, specialty, discount, independent stores and online merchants. RCC is a strong advocate for retailing in Canada and works with all levels of government and other stakeholders to support employment growth and career opportunities in retail, to promote and sustain retail investment in communities from coast to coast and to enhance consumer choice in industry competitiveness.

RCC speaks on behalf of a sector that has more than 6,700 retail locations and employs 75,000 retail workers in Manitoba. Manitoba retailers support promoting greater hospitality opportunities for visitors to our province and Manitobans alike. Retailers have indicated this position to the government in the past by asking for the removal of restrictions regarding Sunday shopping to ensure the people visiting our province will have a full range of hospitality and retail opportunities, seven days a week.

Increasingly, Sunday is becoming the busiest and most important day of the week in terms of sales for retailers across the province. Manitobans have indicated in public polling that they would like to see the restrictions lifted on the hours that retailers can be open on Sundays so that retailers can provide greater access to their products and services on Sunday.

Retailers have indicated that the economic benefit of removing restrictions on Sunday shopping in Manitoba, both for employers and employees in retail, would be significant, and while not all retailers support expanding Sunday shopping hours, there is a clear industry consensus that retailers feel that they should be able to make that decision for themselves and not have government dictate to all retailers when their hours of operations will be. Having the ability to choose is a key component that retailers of all sizes and all formats agree on.

While RCC supports the proposed changes in Bill 35, we strongly believe that retailers should have that ability to choose when they can be open on Sundays to satisfy the demands of their customers. It is our hope that the—it was our hope that the restrictions on the specific hours a retailer can be open on Sundays would be removed. It should be up to the individual retailer to determine what hours of operation make the most sense for their business and allow them to best serve their customers. The Manitoba market and consumers should decide what a retailer's hours will be.

Experience in other jurisdictions across Canada demonstrate that there will not be a dramatic change in the hours of operations for most retailers and most malls. Most that do extend their hours will likely do so by opening either a few hours earlier or staying open a bit later if they had had the chance. Lifting restrictions would've also allowed seasonal adjustments to extend retail hours in peak sale seasons, such as in the summer, during the back-to-school shopping season and the Christmas holiday season.

Continuing to take a prescriptive approach and simply adding three hours to the current Sunday shopping hours and allowing retailers to only be open between 9 a.m. and 6 p.m. will not fully provide the flexibility that retailers have been requesting to respond to their customers' needs. Government will still be dictating store hours without taking into account changing shopping trends, market needs and a current unlevel playing

field by exempting certain retailers on Sunday. The status quo of some retailers being allowed to be open while others must be closed will also continue under Bill 35.

We continue to support the right of local communities to determine Sunday shopping rules that reflect the needs of their community. We, however, continue to support greater harmonization to avoid confusion and to ensure that retailers from distant municipalities are not disadvantaged.

RCC is pleased that the protection for commercial tenants that currently exists under the current act will remain in place as well. This was an important aspect of the legislation as it helped ensure that individual retailers are able to choose their hours of operation on Sundays rather than having those hours dictated by mall operators.

We were very pleased that the Labour Management Review Committee rejected recommending any further changes that would've significantly impacted how retailers can operate in Manitoba. We are glad outside of the hours of operations that both management and labour agreed with our positions and that this was reflected in the recommendations to the minister and is reflected in Bill 35. When the minister announced that LMRC would be providing recommendations that would shape the government's legislative changes, we contacted LMRC members and asked that their recommendations be based on four key guiding principles: choice, flexibility and fairness, a level playing field is created, and have common sense prevail.

While the management and labour caucuses were able to reach a compromise that will be better than the status quo for consumers, for retailers and their employees, it's unfortunate they were not able to reach an agreement that truly provided Manitoba consumers with greater choice and Manitoba retailers with a true level playing field. These are areas that Retail Council of Canada will continue to advocate the government on moving forward.

There is a clear expectation from both retailers and Manitoba consumers that these Sunday shopping hours will be expanded as soon as possible. In fact, we are already fielding calls, mostly from consumers wondering why Sunday hours have not already been expanded. So it is our hope that Bill 35 will be passed and proclaimed as soon as possible to allow municipalities to make any changes that they require

and to allow retailers who choose to expand their Sunday hours the ability to do so.

Thank you for your consideration.

Mr. Chairperson: Thank you very much for your presentation, Mr. McInnes.

I will now move on to questions from the committee.

Ms. Howard: Well, thanks very much, Lanny, for your presentation, and I know you've done a lot of work on this issue and we've had a lot of meetings and discussions about it. And I understand that the bill doesn't reflect what everybody wants on any side of the equation, but would you agree that the bill accurately reflects the consensus that the Labour Management Review Committee came up with?

Mr. McInnes: I would. It's my understanding that the bill reflects all of the recommendations that LMRC put forward and, as I said, we support it.

* (21:20)

Ms. Howard: Here's my other question: I know that you're the principal—that you have in your presentation is that retailers should be able to choose when they're open. But you also say that you respect local municipalities' ability to decide hours. Ultimately, local municipalities decide the hours within what we have in the bill, but there's many municipalities where there's no Sunday opening, and this bill will allow municipalities to say, in our place, we want things to stay 12 to 5, or 12 to 6, or whatever.

So, I just—you know, you find it acceptable that municipalities have the right to set hours, but the provincial government shouldn't have the right to set those hours.

Mr. McInnes: We believe that individual communities, local communities, have that—should have that ability to make that choice for what's best for them. But having a province-wide, one-size-fits-all approach is not what we had hoped for.

Mr. Cliff Cullen (Spruce Woods): Thank you, Mr. McInnes, for your presentation tonight.

And in your presentation, you talked about tourism, and you also talked about having a level playing field. I wonder if you could just briefly comment and give us a quick snapshot of where we're at in terms of Sunday shopping versus our neighbouring jurisdictions that might be impacted.

Mr. McInnes: Manitoba, even with the expanded shopping hours on Sundays, will still have the most restriction—restrictive provincial legislation in place. Now, with a move to 9 a.m. to 6 p.m., it will put us more in line with the reality that is happening in other jurisdictions: Saskatchewan, Alberta, BC, Ontario. But what it won't do is provide that level of flexibility that seasonal retailers and the high-volume sales periods for retailers, where they would look at possibly expanding their hours a little later in the day on a, you know, a few Sundays a year, that still won't be able to happen under this legislation. So you will still have national retailers who operate in every province with a universal standard operating hours for Sundays across the country, with the exception of Manitoba.

Mr. Cullen: So further to that, then, you talked about the seasonal component of it. Is there provinces out there that would allow that seasonal operation?

Mr. McInnes: With provinces leaving that decision up to municipalities and basically having it unrestricted in terms of the hours of operation, it allows for that to happen. An example would be a national retailer whose hours in every other jurisdiction on Sunday are 7 a.m. to 7 p.m. Under—even with these changes, they will not be able to have that kind of standard across jurisdictions right across the country, and so they'll still have, you know, in their national flyers they'll have their hours for all their stores except for Manitoba.

Mr. Chairperson: Seeing no further questions, thank you very much for your time, Mr. McInnes.

I'd like to now call on the next presenter, Chuck Davidson, vice-president of the Winnipeg Chamber of Commerce.

Mr. Davidson, do you have a written submission for the committee?

Mr. Chuck Davidson (Winnipeg Chamber of Commerce): I have another verbal.

Mr. Chairperson: Thank you very much. You may proceed, then, with your presentation.

Mr. Davidson: And I'll stay away from the introduction, because I was going to say a lot of the things about how great the Chamber is, and how long we've been around, and we got all these awards, and all that sort of stuff, so I'm just going to kind of get into the issue, because this is one that I can tell you that we've been waiting on for close to 20 years.

The Winnipeg Chamber of Commerce is pleased to provide comment on Bill 35, The Retail Business Holiday Closing Amendment Act on behalf of our 2,000 member companies that employ approximately 90,000 workers in the city of Winnipeg.

In 1994, for the first time, Manitobans were allowed to shop on Sundays, but with strings attached. Stores could not open before noon or remain open past 6 p.m., and for close two decades now such restrictions have remained in place.

Since that time, the Winnipeg Chamber of Commerce has continued to lobby to have those restrictions removed. Manitoba retailers support promoting hospitality opportunities for visitors to our province and Manitobans alike, and retailers have indicated this position to the government in the past by asking for the removal of restrictions regarding Sunday shopping, to ensure that people visiting our province have a full range of hospitality and retail opportunities.

Increasingly, Sunday is becoming the busiest and most important day of the week in terms of retail sales in Manitoba. Retailers have indicated that the economic benefit of removing restrictions on Sunday shopping in Manitoba, both for employers and employees in retail, would be significant.

While not all retailers support expanding Sunday shopping hours, there is a clear industry consensus that retailers should be allowed to make that choice for themselves and not have government dictate to all retailers when their hours of operation will be. Having the ability to choose is a key component that retailers of all sizes and formats agree on. Clearly, retailers operating in Manitoba want the ability to determine their own hours of operation.

Currently, Manitoba has the most restrictive Sunday shopping legislation in North America and is the only remaining province to regulate retail hours of operation on Sundays. And with more and more national and international retailers viewing Manitoba as a top market to expand their operations in, these antiquated restrictions are a competitive disadvantage for this province.

The Winnipeg Chamber of Commerce strongly believes that retailers should have the ability to choose when they can be open on Sunday to satisfy the demands of their consumers. And the Chamber sees three main reasons why Sunday shopping should be expanded in Manitoba.

One, freedom of choice for retailers and customers: The Chamber views Sunday shopping largely as a rights issue. Consumers and retailers, not governments, should decide who shops and who does not on Sundays, just as they do every other day of the week. We note that every other industry in Manitoba has the right to be open on Sunday except for the retail sector.

Employment opportunities: The Chamber believes that Sunday shopping generates job opportunities, and given the status of our economy, this is a factor that cannot be overlooked.

And finally, and possibly what's most important, consumer support for Sunday shopping. In October 2010, the Winnipeg Chamber of Commerce commissioned Prairie Research Associates in an omnibus survey. In Manitoba, we asked whether Manitobans support or oppose allowing retailers to set their own hours of operation, including on Sundays, to accommodate consumer demand. The results of that poll: 63 per cent of Manitobans support allowing retailers to set their own hours of operation on Sundays. When we look at the breakdowns of age, between 18 and 24, that number's 64 per cent; when we look at that key demographic, 25- to 39-year-olds, 70 per cent of Manitobans; from 40- to 64-year-olds, 60 per cent; 50-65 and older, 59 per cent. This isn't a rural-city issue either: Winnipeggers, 64 per cent support; in rural Manitoba, 61 per cent support. It is clear that Manitobans believe that we should allow retailers to set their own hours of operation based on demand.

And that is why we have some challenges with Bill 35, and we would ask members of the Legislature to amend this legislation and remove the restrictions on the specific hours that a retailer can be open on Sunday. As I've mentioned before, it should be up to individual retailers to determine what hours of operation make the most sense for their business and allow them to best serve their customers. The Manitoba market and consumers will decide what a retailer's store hours will be.

Experience in other jurisdictions across Canada demonstrates that there will not be a dramatic change in the hours of operation for most retailers and most malls. Most that do extend their hours will likely do so by staying open a few hours early, potentially at 8 in the morning, or staying open a bit later, to possibly 7 or 8 o'clock in the evening. This will allow seasonal adjustments to extend hours in peak sales seasons, such as in the summer, during the

back-to-school shopping season, and the Christmas holiday season.

Taking a prescriptive approach such as simply adding three hours to current shopping hours and allowing retailers to be open between 9 and 6 will not provide the flexibility that retailers have been requesting to respond to their customers' needs. Government would still be dictating store hours without taking into account changing shopping trends, market needs, and the current unlevel playing field by exempting certain retailers on Sunday.

We applaud the government for its willingness to address the issue of Sunday shopping. It has been 20 years in the making. This is something that we've been lobbying for, and, however, by continuing to insist on having restrictions on hours of operation in place, we believe you are missing a tremendous opportunity to deal with this issue once and for all.

I can assure you the Winnipeg Chamber of Commerce will continue to lobby all political parties until they treat the retail sector the same as they do any other sector and remove the restrictions on Sunday shopping hours and when they are able to operate. Thank you for your time.

Mr. Chairperson: Thank you very much, Mr. Davidson.

We'll now move to questions from committee members.

Ms. Howard: Yes, thanks very much for your presentation and thanks for your patience, not only tonight but in the decades that you've been putting this forward. I know this bill isn't everything that everyone had hoped it would be on either side of the question.

But I think, as you know, it is the consensus position of the Labour Management Review Committee. Employers and business are represented on that through the Manitoba Employers Council, so I take it from your comments that you disagree with the consensus; you disagree with the position put forward by the Manitoba Employers Council.

Mr. Davidson: We do, because we don't see it as a consensus. We see what was done at Labour Management Review Committee as a compromise. When you put business and labour in the same room, and ask them on two different sides on where they are on Sunday shopping, you meet somewhere in the middle, and that's what we've done with this policy.

Ms. Howard: So the argument that you continue to make is that this is about freedom of choice for retailers, that they should decide what hours they open. And yet at the final stage of this municipalities actually decide the hours that retailers are open, and it's been thus, and it's going to continue to be thus, and some places, there will be no Sunday shopping.

* (21:30)

We limit the number—we limit the hours that shops are open on Remembrance Day; we don't allow for them to be open before 1 o'clock. We limit it on Christmas, and Easter, and Labour Day, and Canada Day; we're going to continue to do that. I'm not sure if the freedom-of-choice argument that you're making extends to those as well.

Is it a blanket freedom of choice? Retailers should be open whenever they want and we have no business regulating that at all, or, are there some instances when you think either through municipalities making those decisions or on some days, when we should regulate the opening hours for stores?

Mr. Davidson: Well, the issue before the Legislature today, and the bill before us, is about continuing to regulate the hours.

Do we think it should be up to the municipalities? Absolutely, they should have a say in this. Would we like to see and what—do we know what would happen in Winnipeg if this were to pass and you were to allow wide-open hours? I guarantee that Winnipeg would allow wide-open hours.

The public policy, and where the public is, on this issue, is miles ahead of where government is on this issue. The public wants wide-open Sunday shopping, and I think we should allow them to have it.

Mr. Cullen: Thank you, Mr. Davidson, for your passionate presentation tonight.

One of the arguments that has been presented about expanding or making—allowing Sunday shopping to be wide open, is the—from the labour perspective. And, clearly, this legislation has made some changes in terms of workers' rights.

And do you think that this legislation has gone far enough to protect workers, you know, if they decide that they don't want to work on a Sunday? Does the current legislation, or the legislation as it's

proposed—does that go far enough to protect the rights of workers not to work on Sundays?

Mr. Davidson: We're fine with all parts of this legislation other than the hours. The rest of the legislation, we find, is workable. It's the hours—the hours is the only issue that we have a problem with.

Mr. Chairperson: Seeing no further questions, thank you very much for your presentation, Mr. Davidson.

**Bill 37—The Highway Traffic Amendment and
Summary Convictions Amendment Act
(Bicycle Helmets)
(Continued)**

Mr. Chairperson: Now call in the next presenter. I call in James Beddome, Leader of the Green Party of Manitoba, on Bill 37.

Thank you, Mr. Beddome. Do you have written submission for the committee?

Mr. James Beddome (Green Party of Manitoba): Not for this bill. Thank you.

Mr. Chairperson: Thank you very much and you may proceed then with your presentation when ready.

Mr. Beddome: Well, I want to thank you all for having me here today.

I'm very pleased to be able to provide some comments on this bill. I should, firstly, just disclaim that the Green Party of Manitoba does not have an official policy in regards to whether we should legislate people to wear bike helmets or not. We do, however, have a policy in regards to promoting cycling.

I can say that I very much appreciate, in one hand, what this bill is trying to do. But, on the other hand, I'm worried about what consultation was done with cycling groups and what impact this is going to have on people with limited means.

You know, it certainly makes sense to make sure kids wear bike helmets. You know, none of us want to see head injuries; I mean, I get that. But, at the same time, the idea of fining, essentially, parents for their kids not wearing a bike helmet could be really hampering on people. I've been there, where I rode my bike because I literally couldn't afford bus fare as a student. And there are people that are, you know, are in that situation. And I know there's talks about alternative means. I'm assuming that would be some

form of community service, but, I mean, even that itself can be taxing on people.

So I think that there needs to be a recognition of that. And I'm guided a little bit by what's being put out by cycling advocacy groups, like Bike to the Future, who focus that, you know—point out that, that this shouldn't be our primary focus: just trying to use the stick to make sure that people wear bike helmets.

I think what we need, similar to register, you know, suggestions, legislation, infrastructure and education.

And, if I can just provide some personal comments. Some of them may be aware—some of them might not be aware—but me and two other business partners, starting in the summer of, I guess, 2008, if I'm not—maybe 2007, we started a bike taxi business in Winnipeg.

Now, I will say, under The Highway Traffic Act, we qualified as a slow-moving vehicle, not as a bike. But let me explain one really interesting thing. When I was pulling two or three people, 600 pounds behind me on my bike, not surprisingly, I couldn't pedal as fast as I can when I'm not attached to a trailer. However, the fact that I took up an entire lane, I got no bother from traffic whatsoever. Yet when I get on my bike, and I can push 40 kilometres an hour, sometimes faster, I constantly have traffic wanting to push me to the right-hand side.

I'm what you might call a very defensive cyclist. I basically ride out and take a full lane. And I make no bones about it and if someone wants to yell at me they can yell at me. But I will tell you, I've read a lot of, you know, cycling studies in safety, that riding out is the best thing you can do. To ride in and act like traffic and not ride what I call the nebulous mirror lane, which is that space between the mirror of the car and the curb. It's extremely dangerous, you're in vehicles blind areas, and I yell at cyclists too, when they do that, and I yell at them when they're on the sidewalk.

I believe strongly that we should be treated like a vehicle. But I think that means we need an entire lane. And I would just note, we tell motorcyclists, you should ride as far left as practical—practicable—sorry about that—so that you are visible. Yet, a cyclist, that doesn't have the same heights, isn't the same size, should ride as far right? It just doesn't seem to make sense to me. I don't think it's as much of an inconvenience as people think, to slow down for a few moments, to find a moment to pass a

cyclist. And I think there needs to be a focus on that education aspect. There needs to be a focus on making drivers aware of that, because drivers are not aware of that.

And, you know, I've heard from cyclists. I'm lucky. I came off a farm; I was driving a truck at 10 years old and had to, you know, drive around the farm to do chores, so I get it. But, you know, there are a lot of cyclists I've talked to, my girlfriend being one, who said, I've never held a driver's licence. They don't know, necessarily, the rules of the road. So there's a need for education on both sides: both on the part of motorists and on the part of cyclists. And I think if we really focused on that, I think we could find a lot more common ground.

And I think that, you know, additional to that there's the need to build the infrastructure. And, you know, the government's own—your own convention, your membership said there needs to be a 5 per cent commitment towards cycling infrastructure of the budget. So I think, you know, there also, I think, needs to be an active transportation office and there needs to be dedicated staff to the problem.

So, you know, I'm limited—you know, I have some limited support for this bill because I appreciate what you're trying to do, but to just use the stick without trying to use the stick on motorists to say, you know, put a couple of plainclothes police officers in a bike and if someone passes them unsafe, ticket them. You wait and see how fast the word will get around to motorists that you better watch yourself because there's undercover cops riding on bikes that'll call—radio you in and have you ticketed up the road. There's a lot of ways that we can really improve this and educate both motorists and cyclists alike so that we can share the roam—road in better harmony. Thank you.

Mr. Chairperson: Thank you very much for your presentation.

We'll now move on to questions from the committee.

Mr. Rondeau: Thank you very, very much for your presentation.

Mrs. Driedger: I just want to say thanks for your presentation. I think you make some really interesting points in there, and, obviously, we do have still a ways to go in—you know, in Manitoba to

address this issue, but thanks for making an effort to be here to share those.

Mr. Chairperson: Thank you for your presentation, Mr. Beddome.

We'll now continue by calling the names that have been dropped to the bottom of the list, in order which they originally appeared. Okay.

Bill 33—The Election Financing Act and Elections Amendment Act
(Continued)

Mr. Chairperson: Call on James Beddome, Leader of the Green Party of Manitoba. And I apologize, I could have just, if I had been quicker here, maybe just saved you a walk back there.

Do you have any written materials on this bill?

Mr. James Beddome (Green Party of Manitoba): No, I don't, and that's fine. I figured as much, but I wasn't going to be presumptuous, so.

Mr. Chairperson: I thank you very much for your patience, and you may proceed with your presentation when ready.

Mr. Beddome: My presentation's really quick on this one. Basically—generally, I can appreciate what you're trying to do in changing The Elections Act. I think it's a good idea that we don't want to have federal and provincial election overlapping. But, the one thing that concerns me is that this wasn't workshopped in an Elections Act committee; it wasn't workshopped in an elections financing act committee. And I was able to talk to some of the wonderful people at Elections Manitoba, an independent agency, and I just want to put on the record, they have always been extremely professional in their dealings with the Green Party of Manitoba, and we've always appreciated their assistance.

And one of the things that worries me about this that I didn't even realize—I had quickly checked on the bill at first, and I didn't maybe scroll down or pay enough attention. It wasn't 'til today when I downloaded the bilingual PDF that I realized this is 143 pages-long act, and you're basically re-enacting, you know, elections law in Manitoba, basically almost rewriting the entire act. And I would suggest that to be bad form.

* (21:40)

And I'm not saying necessarily that something insidious is going on—and I'll be honest. I haven't had

time to compare all 143 pages of the, you know, current legislation to future legislation to see what you changed. I mean, I hope the intent of the change is to make it easier to read and more understandable, but I really think it needs to come through the independent office of Elections Manitoba. I really think it needs to be workshopped, and I don't think there's a need to rush this legislation through. I mean, we have—you know, 2015, 2016 is a ways off, so we have time to kind of carefully go over these and work in a collaborative process.

You know, there are two parties in Manitoba that are registered that are outside the Legislature, and I think they deserve to have their input on the act as well. You know, the election law impacts us all equally, or at least in so much as the number of candidates that we field. So, there's a real need to just kind of reconsider it on that front.

It's not necessarily that I can't appreciate what's trying to be done to avoid the overlap, but it's more the way that it's being done and that I think it would be better to have those recommendations stem from Elections Manitoba or at least be reviewed by them, so that that way there can't be any perception problems of undue influence. Thank you.

Mr. Chairperson: Thank you very much, Mr. Beddome.

Ms. Howard: Thank you very much for your presentation.

I know it's a big bill. I do want to assure you it's a big bill because it's a plain-language rewrite of The Election Finances Act and it's really, I think, one of the first times we've done a plain-language write of—rewrite of an act. And I don't do that stuff; the drafters do it, but it is designed to try to be easier for volunteers and parties and candidates and people that are involved in the electoral process but may not have, you know, the ability to wade through legislation. That was the intent of the design, so I assure you, it's not a substantive rewrite of the act. It's a plain-language write of the act.

And Elections Manitoba has been involved in some of the discussions. Not all of the changes in the act, but many of the changes in the act come from ideas that they put forward.

Mr. Beddome: Well, I guess, if, you know, I can respond. I know that I may be out of order here, because I believe you're not allowed to ask any questions, but I would appreciate clarification on any

small changes that have been made through this plain-language rewrite.

I would appreciate the opportunity of it going through an all-party committee so that it can be reviewed. So those are—you know, still remains some of the issues and, as I said, without having enough time to fully review it, I can't comment much further, and it's more just a comment on process so the independence of our elections is preserved. And I think there could be nothing more important or more integral to government than the independence of our elections.

Mrs. Taillieu: And thank you, Mr. Beddome for your presentation.

I can appreciate that you—when you look at that bill, it is a very large bill, and even though it has been rewritten in plain language, I know that it will take some time for you to look over it and make some specific comment on it.

But I would just look to then to provide some advice or some specific concerns that you would like to see considered if there—if you could.

Mr. Beddome: Well, you know, I have lots of my own sort of personal issues. My largest concern, I think, as I've tried to make clear, is more the process, and I'd really need to take some time to see what, or if any substantive changes are made.

I would say, there's been considerable controversy on the idea of giving political parties \$1.25 for each vote that they garner. And one thing I would say is I would say that's a much more equitable means of financing political parties than the current existing 60 or 50 per cent reimbursement. I think it's 60 per cent, federally, reimbursement for—if you beat the threshold of 10 per cent. And the reason I would point that out is that there are two reasons to that. One is when you do the 50 per cent reimbursement, (a) the value is much larger, and if I—I guess can be a little bit mean to the opposition—they made a big deal about saying no to 800,000, but were happy to take more than a million dollars in reimbursements. So you can see that it's actually a larger portion of funding. It's given all in one year after an election, and it's given for money that you've spent during the writ.

And I would say that's the wrong approach. What that incentivizes parties to do is to stuff the mailbox with 10 pamphlets and bombard the radio ads over short four- to six-week period, but doesn't

give them a reason to want to, you know, use longevity and campaign in between years.

Now, in contrast, the \$1.25 annual per-vote subsidy is actually much more fair because you must spend that amount in order to get that amount, so it actually incentivizes parties to spend in between elections and spend four years trying to reach out to the communities. So I would say, if, you know, we want to talk about financing for parties, I would say that actually we should take a closer look at the 50 per cent reimbursement than we ever should for the \$1.25 vote and—\$1.25 subsidy per vote.

And I would just say, I've asked a lot of Manitobans this: What do you think we should reward politicians for doing, earning your vote or spending money? And I'll let you guys figure out what most Manitobans tell me.

Mr. Chairperson: Seeing no further questions, thanks—thank you for your presentation, Mr. Beddome.

**Bill 34—The Public-Private Partnerships
Transparency and Accountability Act**
(Continued)

Mr. Chairperson: I will now call on the next presenter. I call on Councillor Ross Eadie, city councillor for the Mynarski Ward, to present on Bill 34.

Councillor Eadie, do you have any written material you would like to share with the committee?

Mr. Ross Eadie (City of Winnipeg): No, I have nothing written.

As a matter of fact, there's many issues. I'm sure a lot of you do understand how busy a city councillor can be. I have no official party, nobody to prepare materials, so I've been dealing with many issues that are actually fallouts of—well, not fully direct fallouts, but fallouts nevertheless of higher spending on P3s.

So today I was unable to prepare a written presentation, but I'm sure this will show up in *Hansard* on the committee and you can refer to it.

Mr. Chairperson: Yes. Please proceed with your presentation.

Mr. Eadie: And I just wanted to thank my voter John Loxley for bringing me to the podium. I've been talking to him many years about private-public partnerships and how they cost more.

So I'll start off my presentation just by simply talking about business. I'm actually a business admin grad and I believe, actually, in business. Business has a role to play, definitely, in our economy. It helps people have jobs so that they can pay taxes, and it generates income. Business, though, is a private sector enterprise. There's many things to protect that keep their competitive edge and it's very private, and they're very good at making money in circumstances where they can.

Inherently, business in itself is much more riskier than the public sector and its source of revenues. So we need to keep that in context when we look at—if we're financing building huge projects with that kind of money with that private risk there, I really haven't the foggiest idea how you can talk about risk transfer to a private sector when the private sector is inherently much more risky. And the point was made today, and I always said this.

And, before I was elected, many years before, I was involved in the consultations on how should the Chief Peguis Trail look when it was built. Because I have a disability, I was quite concerned that they build something that is accessible for pedestrians as well as for motor vehicles.

And so in that endeavour, we always note that there's a higher cost to pay for the P3s. And that's because the business sector wants to make more money, and they do need to do that because they have a higher level of risk, and the riskier the business, the more they want to make.

Now, mind you, I don't see, really, what the huge risk is in building roads, to tell you the truth. Yes, there can be some hidden structural problems underneath the ground that you're going to build a road facility on, but we live in Winnipeg, and the private sector who builds and constructs our projects anyway—because the City of Winnipeg totally lost its capacity to build anything brand new itself, which it might have been able to do back in the '50s and '60s, even into the early '70s—but the reality is, is that the private sector builds, and so we've had a huge amount of building experience in this city on marshes. Much of this city was marsh and it has problems underneath and we need to account for that. We live in a winter city; we construct things in that way. So, you know, those kind of risks are just things we face every day.

But, when we talk about the private sector, there is a big risk, and I'd like to—I'm really talking about the effects of P3s and risk. You might all be familiar

with the big private-public partnership where the private sector was building the housing for the Winter Olympics in Vancouver. And that private sector company who was building that project, they took it over and there was going to be sales and it was supposed to be a chance for government—to not cost as much for government because—when they were doing this because they were going to sell these as condos later on. So what did that private-sector company do, the P3? What did it do? It actually invested in a hedge fund that went totally under, and it cost—what was it? Somewhere around \$80 million extra. This was happening prior—a year or two prior to the Winter Olympics, and I was thinking, we're funding things with P3s and this is how they manage risk? The—like, come on, let's be serious here.

* (21:50)

I don't know that that—this is actually in the bill; it talks about figuring out what the risk and the risk cost is related to a P3 project, but I don't know that—and I hope that in the regulation we'll define some of the private sector risk and how they manage risk and how even that can be a risky way of doing it.

So, the public sector, of course, needs to be publicly accountable and transparent. We're spending people's money. We're not—we're taking taxes, we're publicly—we're supposed to be publicly responsible, and when we enter into these P3s, you've heard other presentations, you cannot get any information about how that money is being spent.

City projects that are built—you can look into our budget, you can find out; we have to tell you how much it costs to construct a street; we have to tell you how much it costs to maintain a street. That's all public information.

But, once you build a P3, all of a sudden, we can't find out. So what are some of those effects? Well, I like to point out something that—well, I think you probably heard from another city councillor, and I heard the mayor in the news the other day say, oh, we'll never get funding from the feds again for infrastructure projects, because we won't be able to get this P3 money from the federal government.

Well, I submit to you, and I don't have a—I didn't have a lot of time to calculate or figure all this out, but given that there is a higher interest cost—is partly built upon the risk factor that exists, and in the private sector it's more risky than the public sector. So, interest rates are already high, because of that, right? So that's in there.

So we have a higher cost for financing these projects, and we also have the higher costs—well, I don't know, because I've asked to try to find out what is the maintenance cost agreement, operating cost of the P3 that we're paying—because the reason I want to know that is, if the money is coming out of our overall budget for streets maintenance—which I deal with on a daily basis, inner city, my streets are falling apart.

If you live in River Heights, your streets are falling apart; in the older parts of the city everywhere, the streets are falling apart. And these extra monies that go into P3 are taking money away from us and, really—if you want to think it from this perspective, the money that the federal government gives—what did they give?—\$25 million to the Chief Peguis Trail extension. It's a \$148-million project over its life. I submit to you that 'alls' the federal government has done to us for the city, is give us the extra cost that it's costing us to have a P3.

So, really, we're nowhere with federal money. So when you hear an argument talking about well, we won't be able to get infrastructure money; nobody will do a P3; we'll never get innovation. That—that's just—you know what? That's just the-sky-is-falling kind of perspective.

Prior to P3s being implemented, the private sector made money. There are ways for the private sector to still make money in constructing projects that are more publicly available. If they have a design innovation that really improves what we're building for infrastructure, I have no problem. Let's reward them. Let's put in the contract and say, if you can come up with a better way to do this and you save money and there are some cost savings, let's share it. We'll share it with you, private sector, if you—you know, you're saying you could do this better.

And I would point out in the private sector in terms of doing better, the biggest cost-overrun project that I heard in the last 10 years was something to do with a water or a waste facility with the city—I wasn't a city councillor at the time, but I heard it went \$20 million over budget, and, oh, we have to have P3s, because we don't know how to manage it.

Well, it was private sector consultant—a private sector consultant—who made an error and, therefore, it cost us an extra \$20 million to build the facility.

So, you know, this whole misnomer about risk is wrong—but the costs, the maintenance costs—now, I would like to know, and I—it sounds like through regulation, hopefully, that I believe we're paying a higher maintenance cost—higher maintenance cost agreements with these P3s. For example, the Charleswood Bridge—it's in great condition. It's probably receiving a lot more money for the maintenance and operations of that bridge than we're putting into our own bridges, like the Arlington Bridge and other bridges.

So, for me, you know, I like to have this stuff measured. I don't see a problem with having a publicly accountable money spent on a P3, and the private sector will just have to understand; if they want to enter into P3 agreements, we represent the public interest, the government, the civic level, the provincial level and the federal level. The feds should have to report how this is working, too, because, you know what, really, as a business person, a business admin grad, I know that businesses lease because they can make more money. If we can afford to lease a car, and I know many people who can afford to lease a car so that they don't have the headaches of getting it repaired later on, they'll lease a car and change it over every two, three years. That is because they can afford that convenience.

In this city, you keep hearing about infrastructure deficit. Huge. We're talking billions of dollars of infrastructure deficit. Why are we spending the extra money on public partner—public partnerships? Let's measure it; if it makes sense, we go ahead with it—if it doesn't, let's not do it.

And I would point out that there's three different levels of doing things. You could do budgeting—well, actually, I'll give a great example on a provincial level, having been a school board trustee. When we were building a high school, we went through this process where we didn't set the final budget 'til about four months—we went to tender about four months before we set the budget, but we actually tested the market to see what was available at the time. What is it going to cost us? We took and managed the risk that way, as a public sector entity, and we looked at that and we actually ended up coming up with a budget that was pretty well right on the dime—

Mr. Chairperson: I'm sorry to interrupt, Mr. Eadie. The time for your presentation has expired.

Is there leave of the committee to allow Mr. Eadie a few moments to wrap up his comments? *[Agreed]*

Mr. Eadie: You know, you'll hear from other city councillors that this is devastating to us, but if we budgeted the appropriate way, which I think our budget process lacks something, if we set a budget three years beforehand and then we expect to build it for that, or two years beforehand and expect us to build it, it's not going to happen. And so—and that's an interesting final thought about the effects of a P3.

The Chief Peguis Trail got started as a P3; then they stopped because they realized they had to change the design and the whole process and the budget. So what they did is they restarted it and now they'll tell you that they came in on budget. There was—actually, it came under budget—was innovation and everything.

But, anyway, what I'd like to do is I'd like to see what the process was, what are they making on the maintenance agreements, so that I can make that judgment, as a city councillor, to say if I'm voting on another P3.

So thank you for bringing this legislation forward. I think it's about time. Many people have been talking about it in the community for a long time.

Mr. Chairperson: Thank you very much for your presentation, Councillor Eadie.

We'll now move on to questions from members of the committee.

Mr. Struthers: Thank you, Councillor Eadie, for your remarks tonight. I want to—appreciate you coming out tonight and giving us your advice. Thank you very much.

Mrs. Stefanson: No, I, too, want to thank you very much, Councillor Eadie, for coming out and being very patient waiting tonight. I know it's getting late, but just very much appreciate your comments this evening.

Mr. Chairperson: Thank you very much, Councillor Eadie, for your presentation.

That concludes the list of presenters I have before me. Are there any other persons in attendance who wish to make a presentation? Seeing none, that concludes public presentations.

In what order does the committee wish to proceed with clause-by-clause considerations of these bills?

Ms. Howard: Yes, I just have a suggestion for the committee. In order for us to proceed in a way that we group bills by minister and so we don't have a merry-go-round of seating up there, that we would start with Bill 6, then go to 8 and 37, then 23, then 33 and 35 and then 34.

Mr. Chairperson: Is there agreement from the committee to proceed in the order which the minister has proposed? *[Agreed]*

**Bill 6—The Regional Health Authorities
Amendment Act (Improved Fiscal
Responsibility and Community Involvement)**
(Continued)

Mr. Chairperson: Does the minister responsible for Bill 6 have an opening statement?

Ms. Oswald: Yes, Mr. Chair, very briefly, just to reiterate that Bill 6, of course, provides some enabling actions concerning the amalgamations of 11 regional health authorities down to five. In addition, there's an opportunity to strengthen community involvement, to work on improving the voice of local communities. We think that this, of course, is a very important aspect of the bill, and importantly, Mr. Chair, we heard from a number of groups tonight that have raised some interesting perspectives on the tighter controls on executive compensation and hiring and surpluses.

And, as I said to the speakers tonight, we're going to take a short time to reflect on the comments that were made by the presenters this evening. We know that those provisions were included in the bill for some very, very good reasons, not only because of, mercifully, a few rare circumstances in Manitoba that have inspired these inclusions, but also from some more egregious examples that we've seen in other jurisdictions such as the Ornge helicopter operations in Ontario, probably being the most obvious on the national stage.

* (22:00)

So we're going to, you know, in very short order, review very closely what these groups presented tonight, being their central concerns, weigh that against the reasons that those items went into the bill and come to some conclusions post-haste.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Driedger: I would indicate that, with Bill 6, we're certainly in support of the intent of the bill. We have long been champions of increased accountability and transparency and decreasing admin costs, and we've actually pressured the government for years and years to look at addressing the issue. Unfortunately, related to this bill, we do have some degree of skepticism that the way the government is doing this will save any money, and there is also some concern that I have that where the government's intent is to give the communities a stronger voice, I don't get any sense from this legislation that that is well articulated or clear in terms of how the minister is going to do that.

After tonight, too, it—I have some concerns about collateral damage that could be occurring from this bill in terms of the concerns expressed by the faith-based institutions.

Also, one of the things I'm hearing right now and is around the way the government is actually rolling out this amalgamation of RHAs, and I'm hearing from, actually, many levels of the chaos that people are feeling, the disorganization of this. There's a huge and significant amount of fear out there. Morale is poor, and I'm talking about the front lines within health care and within our own department. And there's a lot of people very, very concerned about this legislation, and people are expressing to me, too, the concerns that it could lead to a greater cover-up of information because there is such a great amount of power placed within the minister's purview, I guess, with this legislation.

So there's being—there's some very, very serious concerns that are coming forward on this, and, certainly, no plan and poor rollout are significant issues that are being articulated. And I would also indicate that, while the government's trying to restrain health expenses in the bill, I do not see any change in accountability that'll make it happen. And, as I said before, you can change the legislation all you want, but if you don't have good government oversight over it, it's not going to solve the problems that we're hearing and seeing out there.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the member.

During the consideration of the bill, the table of contents, the preamble, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there's agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particularly-particular clause or clauses where members have any comments, questions or amendments to propose.

Is that agreed? *[Agreed]*

Mrs. Driedger: I have some questions, and I wondered if it would be acceptable to ask them in a global manner before we get into clause by clause, just so that we can get through them a little bit quicker.

Mr. Chairperson: Is there leave of the committee to allow questions to be asked in a global manner? *[Agreed]*

You may proceed, Mrs. Driedger.

Mrs. Driedger: Thank you. There's just a few questions that have come up since I had a briefing with the minister, and one of the questions, and I guess it was articulated again tonight: Why was there no consultation prior to the tabling of this bill?

Ms. Oswald: As I said to the member earlier, we have been speaking with our regional health authorities, arguably since 2007, about potential amendments to the number of regional health authorities in Manitoba. We also conducted an external-independent external review of regional health authorities to look at a number of issues within the construct of the operations of regional health authorities. That specific review didn't contemplate amalgamation but made a number of other suggestions. And, again, as I said to the member, you know, we have spoken with the CEOs and board chairs, you know, over the course of five years, about potential for amalgamation. They've offered some advice about that. And, indeed, when we found ourselves in a situation where it became very evident that there would be perhaps some very dramatic changes in terms of funding for a health accord, or no accord at all, we needed to ensure that, while we continued to advocate to the federal government for, you know, fair and reasonable funding of health care across Canada, we had to make sure that we were making plans to streamline and really ensure that our costs went to the front lines, so that was the decision in making this bill. Some of these situations, you know, came outside of

our plans, and we had to be nimble and responsive to that.

Mrs. Driedger: Certainly with a change as significant as the amalgamation of RHAs and everything that that entails, including coming up with a \$10-million cost savings, can the minister table the review that was put together? I'm assuming that, you know, this whole amalgamation was fully analyzed six ways from Sunday, and, you know, looking at what other provinces have done in terms of looking at issues before they make major changes. I would have to assume that there was some kind of a document prepared that would, you know, say where the \$10,000—or, sorry; \$10 million came from, that would outline where 35 people would lose jobs. I'm hoping that that isn't all just pulled out of the air, that there is actually some way to review that and provide that external eye, so I'm wondering if the minister can table the review that came about as her department moved forward to look at this.

Ms. Oswald: Yes. We had this conversation in Committee of Supply, and so I would refer the member to some of the discussion that we had at that time so as not to hold up the work of this entire committee, but, in summary, I will say to the member that the department did work to analyze that over three years the target would be \$10 million and that we would see the elimination of between 30 and 40 executive positions across the RHAs. We know that we're going from 11 CEOs to five CEOs, and correspondingly we'll see other positions to be eliminated as such. So that's where that \$10-million number came from.

But, of course, we also know that within this context we're also asking our regional health authorities to increase their co-operation on items like bulk purchasing and co-operation on other types of buying, and we expect that we're going to see additional savings through that as we already have in some regional health authorities.

So, again, not to repeat the answer that I gave to her at length, this would be the gist of the analysis and the work that will be ongoing.

Mrs. Driedger: Who decides which 30 or 40 people will lose their job?

* (22:10)

Ms. Oswald: This work will be done in consultation with CEOs, boards and Manitoba Health. Of course, we're going to look at the best possible arrangements

for reducing these positions. We are committed to reducing these positions. Of course, if there are those individuals that are retiring, if there are others that are well-suited in those positions, that can move into positions that have been made vacant, of course, we're going to try to provide every opportunity for that to happen, but we are committed that there will be between 30 and 40 fewer positions. We are absolutely committed that we're going to protect front-line services, and so it's going to be a collaborative effort in how that transpires.

Mrs. Driedger: And considering Health is a \$5-billion-a-year budget, how did the minister come up with a savings of \$10 million over a period of three years?

Ms. Oswald: Again, I would reiterate, between 30 and 40 positions are going to be eliminated. This includes CEOs and their salaries and, over three years, the calculations have been estimated to be \$10 million. We believe that reflects an accurate, if not conservative, estimate.

Mrs. Driedger: And based on some of the concerns that were raised tonight, in terms of personal care homes and the hiring of CEOs, with this legislation does it mean that the WRHA or other RHAs can actually determine who will be CEOs in personal care homes? Or does some of that autonomy still stay with the personal care homes and their boards?

Ms. Oswald: Absolutely, it stays with the personal care homes and their boards. As it says in the legislation, and we discussed in a briefing, RHAs will be required to set out a policy, a construct, if you will, of what a contract might look like, which, of course, considers, you know, fair, reasonable, acceptable levels of—compensation levels that Manitobans would find to be acceptable for the nature of the work that that individual would be doing. That is to say, an individual who's a CEO of a personal care home with 40 beds should not be making more money than the CEO of the Health Sciences Centre. I think that's just common sense.

So there will be a construct, a policy, that the RHAs will be asked to make that will be approved by the minister's office. And the personal care homes will be asked to—when hiring a CEO, ensure that it falls within the parameters of that policy. But, absolutely, the personal care homes will have the authority and the autonomy to hire those individuals that have their face—faith-based principles in mind, and that have other qualities.

I would note one exception, and that would be if a person—or a personal care home, a faith-based organization endeavoured to hire somebody—endeavour to hire someone that had been declared to be compromising patient safety, then, indeed, the RHA would reject the proposal that that person be hired.

Mrs. Driedger: How is this bill going to affect the autonomy of faith-based organizations? There seemed to be a significant amount of concern tonight that this bill would allow the deputy minister, or I guess the minister or even the, you know, heads of RHAs to interfere, I guess, or take some of the decision making away from these faith-based organizations. Is there some protection where these personal care homes and these faith-based organizations will have their autonomy—keep their autonomy without undue interference?

Ms. Oswald: Yes, as I said earlier, we respect and value the role of faith-based organizations. We enshrined that into law in 2001 to ensure that any directive an RHA may give a health corporation must respect unique role of faith-based facilities.

This does not change and, certainly, as the regulations are developed, we will be actively involved with the faith-based community to ensure that these particular principles enshrined in the law are not compromised. The intent of the bill, of course, is to ensure that there is transparency, accountability, fairness and reasonableness.

I regret to say that there have been a couple of situations in Manitoba in the last couple of years where these kinds of principles have not been applied and that public funds were used in ways that would not be acceptable. And as it currently stands, there is no opportunity within the legislation for anyone really to step in and say, you know, this isn't acceptable. And so we're trying to improve that accountability but protect the autonomy of organizations, as I said earlier today, that have been the bedrock of health care in our country and, indeed, in Manitoba.

So we are trying to strike that balance very carefully. I listened carefully to what the presenter said. I've taken their briefs. I'm going to study them tonight and reflect, very sincerely, on the concerns that they have in the hours ahead.

Mrs. Driedger: Will government or the RHAs themselves, be able to clawback surpluses that are

accumulated by prudent spending within any of these institutions?

Ms. Oswald: I think Mr. Friesen, who presented tonight, articulated the plan the most clearly. When the relationship between the RHA and the faith-based organization or the health corporation is strong, the discussions go on, information is shared and surplus funds that have resulted from efficiencies and innovations absolutely can be used for supports in the public interest and in the public good.

If individuals are—seem to be using surpluses of funds for that which would not be publicly acceptable, as it's currently written, I think the RHA would be able to go in and say that's not on. But certainly the intent of the legislation is not to restrict. It's just to be provided with information so that there's disclosure about what that money is for.

I can tell you my general experience is that the faith-based organizations do very good things with that money. Unfortunately, that hasn't been the case all the way across the board.

Mrs. Driedger: Can the minister tell us what happens to all the service purchase agreements that have already been negotiated and signed, you know, with—prior to amalgamation. What happens now after this legislation with all of these service purchase agreements? Are they null and void? Do they have to be renegotiated?

Ms. Oswald: No, they do not.

Mrs. Driedger: Do they continue to exist then as is within the new structure of the new RHA under which they now fall?

Ms. Oswald: I would have to get confirmation on the letter and the detail of those service purchase agreements. But, at the center of them, those faith-based principles that were enshrined in the '01 legislation would not be compromised in any way.

There may be some consequential amendments—is that the lingo that you guys use?—concerning some of the—you know, some of the issues that would appear in this bill. But they would not be operationally significantly different. But certainly I can get back to the member more specifically on what those minor amendments would be.

Mrs. Driedger: Are all of the legal issues fully dealt with prior to the amalgamation that occurred? Have—are the, all the ducks in a row? Are all the legal documents properly signed or is there still a lot of negotiation because this happened so quickly?

Ms. Oswald: My legal advisor just gave me a good, long answer but I'm going to say yes.

Mrs. Driedger: That's the shortest answer you've ever given. I like it.

Also can the minister also indicate whether all financial issues have been finalized before the amalgamation occurred?

Ms. Oswald: Well, financial issues is a very broad term, of course. But in terms of dealing with the budgets and the transfers of the budgets and the accountability measures that will need to be in place to transfer, you know, access to funds from one entity to another, that work, of course, was certainly legally all set up to flow appropriately at the time that the 11 transferred into the five. But I would dare say that there will be some ongoing work as the new CEOs and boards come into existence in terms of providing education about new constructs. So, I would say, legally, I think, everything is set up to move forward, but operationally, I'm sure that there's going to be continuing education on that front.

* (22:20)

Mrs. Driedger: What happens to RHAs that are undergoing accreditation right now and then they become formed into a much larger RHA? Does a new accreditation then have to take place soon, or will it just follow in a certain time frame?

Ms. Oswald: It's my understanding that they follow. They don't drop off the radar and then have to start new, but I'll double-check that. I believe that ongoing accreditation of facilities and labs and so forth does not cease; that continues.

Mrs. Driedger: Will there be accountability or performance agreements with these new RHAs?

Ms. Oswald: Certainly. These will come in a variety of forms. We've passed legislation last year increasing levels of accountability and public reporting, for example. And so, that will continue. And certainly, there are agreements that are attached to moneys that are given.

So, I mean, this whole bill is about increasing transparency and accountability and discussions of deliverables, and that's exactly what's going to continue to happen.

Mrs. Driedger: I would note that in 2007, the government did have performance agreements with RHAs and got rid of them.

Is the minister now indicating that she is prepared to bring back performance agreements or accountability agreements with RHAs, which then would also lead to a better way of evaluating RHAs, if we want to look at accountability and look at adequate evaluation of RHA performance? Certainly measuring against a performance agreement would make it much clearer.

So, is the minister indicating that she's going to reinstitute performance agreements or accountability agreements with RHAs?

Ms. Oswald: The deputy is working very closely already with the new CEOs, and as the boards come into place, there will be a variety of discussions on measures or on factors by which the RHAs shall be measured that reflect our modern times: issues concerning patient safety, concerning efficiency, concerning how well an RHA stands up to what they'll be required to do in terms of incorporating local health involvement groups, in addition to any number of clinical measures that will be applied by their-led by their vice presidents, medical and so forth.

So, we are looking at new modern RHAs, and certainly the modern way of looking at health care is absolutely to measure and evaluate and ensure that we're living under our Manitoba plan that we published focusing on what matters most: protecting universal health care, which, of course, focuses on having healthier Manitobans, getting even better value, and providing even better care. And that will be at the centre of all that is being measured in our RHAs.

Mrs. Driedger: A lot of the provincial governments—in fact, almost all of them, I think—their department of health puts out an annual strategic plan with targets, deliverables, outcome measurement, expectations.

And I look at, for instance, what Saskatchewan does, and it clearly outlines what the Department of Health's priorities are for the next year. And it outlines the priority, how it will be measured; it puts time frames on it. And so one could easily look at Saskatchewan and see exactly where the provincial government is going, and they do that in concert with the RHAs. All of the RHAs have to bring something forward and prior to the budget and it is all their goals and then it's incorporated by the Department of Health and then they put out one big document that actually shows a strategic plan for that province's Department of Health.

Is that something that is being contemplated at all here in Manitoba?

Ms. Oswald: Regional health authorities have already had to submit annual health plans, capital plans. These come from consultations with their communities on prioritizing—doing some analysis of health status. This won't change. I would argue it will be enhanced and improved.

And, certainly, we're always interested in looking at different ways that we can profile, and measure, and communicate, with Manitobans. And so I would say everything's on the table in that regard in this new construct.

Mr. Chairperson: Seeing no further questions. Okay.

Clause 1 and 2—pass; clauses 3 through 7—pass; clauses 8 through 11—pass; clause 12—pass; clauses 13 through 15—pass; clause 16—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 8—The Highway Traffic Amendment Act
(Use of Child Safety Seats)
(Continued)**

Mr. Chairperson: Does the minister responsible for Bill 8 have an opening statement?

Mr. Rondeau: Yes, I do.

Bill 8, the use of child safety seats, has been introduced to reduce serious injuries and death among children, as motor-vehicle collisions are the leading cause of injury and death.

Bill 8 will require the use of booster seats until the child meets a specific age and physical characteristics, as prescribed in regulations. We assume the criteria is going to be 9 years old, 4 foot, 9 inches in height, or weigh at least 80 pounds. That's what's being proposed.

And the bill will require specifics—booster seat standards that will be prescribed in regulation, and will also prescribe that booster seats must be used in accordance with the manufacturer's instructions.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Driedger: No, I do not.

Mr. Chairperson: We thank the member.

Clauses 1 through 3—pass; clause 4—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 37—The Highway Traffic Amendment and
Summary Convictions Amendment Act
(Bicycle Helmets)
(Continued)**

Mr. Chairperson: Does the minister responsible for Bill 37 have an opening statement?

Mr. Rondeau: Bill 37, on bike helmets, will be—has been introduced to reduce serious injuries and death among children in Manitoba, as cycling injuries for children are one of the most common forms of injury from summer sports and recreation.

Research has shown that correct bicycle helmet use can reduce serious brain injuries by more than 80 per cent. Six other provinces have enacted legislation for bike helmets.

Bill 37 will require all cyclists and passengers under 18 years of age to wear a properly fitted and fastened protective helmets. Parents and caregivers will be required to ensure children wear helmets as drivers and passengers.

And, with this bill, we will continue to move forward on best practices, encouraging kids, having the free helmets are—and, also, the sale of helmets with schools and daycares.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Driedger: No, I do not.

Mr. Chairperson: We thank the member.

Shall clauses 1 and 2 pass?

Mr. Rondeau: I have an amendment for clause 2.

Mr. Chairperson: Clause 1—pass.

Shall clause 2 pass?

Mr. Rondeau: I have an amendment:

THAT the proposed clause 145.0.77(b), as set out in Clause 2 of the Bill, be amended by striking out "stay the proceeding" and substituting "dismiss the prosecution".

* (22:30)

Mr. Chairperson: Shall clause 2 as amended pass?

Some Honourable Members: Pass.

An Honourable Member: Excuse me, Mr. Chair.

Mr. Chairperson: I'm sorry, Mrs. Driedger.

Mrs. Driedger: Can the minister explain what that's about?

Mr. Rondeau: Yes, apparently only Crown attorneys can stay the proceedings, whereas a Justice can dismiss the prosecution. So it's the legal terminology used in the law profession.

Mr. Chairperson: It has been moved by Minister Rondeau that The Highway Traffic Amendment and Summary Convictions Amendment Act,

THAT the proposed clause 145.0.1(7)(b), as set out in Clause 2 of the Bill, be amended in by striking out "stay the proceeding" and substituting "dismiss the prosecution".

Amendment—pass.

Clause 2 as amended—pass; clauses 3 and 4—pass; clauses 5 through 8—pass; clause 9—pass; enacting clause—pass; title—pass. Bill as amended be reported.

**Bill 23—The Local Government Statutes
Amendment Act
(Continued)**

Mr. Chairperson: Does the minister responsible for Bill 23 have an opening statement?

Mr. Lemieux: Just a brief statement.

Thank you. Just to quote, the president of the Association of Manitoba Municipalities is very, very supportive of this legislative change, and we as well, and we look forward to the quick passage of this.

Mr. Chairperson: We thank the minister.

Does the critic for the official opposition have an opening statement?

Mr. Briese: I certainly heard what the AMM said here tonight, too, but I still have a concern about the censure clause in this bill, and I—it has no—there's no guidelines to it and no penalties to it. There's nothing that spells out what censure really means, and I think as it sits right now that clause probably should be pulled right out of the bill.

Mr. Chairperson: We thank the member.

Clauses 1 and 2—pass; clause 3 through 5—pass; clauses 6 through 9—pass; clause 10—pass; clauses 11 and 12—pass; clauses 13 and 14—pass; clause 15—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 33—The Election Financing Act and Elections
Amendment Act
(Continued)**

Mr. Chairperson: Does the minister responsible for Bill 33 have an opening statement?

Ms. Howard: Yes, just briefly. This bill does a few things. One of the—it's a very big bill as has been noted. One of the reasons for that is because it's a plain-language rewrite of the election financing act. And I do want to—I did this in the Chamber, but just in case the Legislative Counsel aren't listening to every word we speak in the Chamber, I want to, here, thank them for the work they did on the plain language rewrite. It was an enormous task. But I also think, hopefully, it provides a bit of a model in where we may go in the future in making sure more of our legislation is written in plain language.

The other changes to note are, of course, moving the date of the next election so it doesn't conflict with the federal election as other jurisdictions such as Saskatchewan have done; changing the way that the public allowance is determined so that we'll use an independent commissioner to make that determination, and committing Elections Manitoba to provide some advice on the potential of a permanent voters' list.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Taillieu: Yes. Thank you, Mr. Chair. We do appreciate the fact that this bill has been written into plain language. I think that is a plus for people to understand, because I think when people do look at this kind of legislation in preparation for running for elected office, I think it's important for people to understand the rules regarding that.

We do have some issues and concerns with this bill and we will be bringing some amendments at third stage and we won't be supporting this bill unless our amendments are accepted.

Mr. Chairperson: We thank the member.

Due to the size and structure of this bill, the Chair would like to propose the following order of consideration for the committee's consideration. For your reference, we will be provided copies of this outline for committee members with the understanding that we may stop at any point where members have a question or wish to propose

amendments. I propose that we call the bill in the following order:

Schedule A, pages nine through a hundred—sorry. Bill clauses, page 1: called in a block conforming to the page; schedule A, pages nine through 140—called in blocks conforming to the 17 parts of schedule A; schedule B, page 141—called in a block conforming to the page; the table of contents for schedule A, pages 3 to 7; The enacting clause, page 1, and the bill title.

Is it agreed as an appropriate order of consideration for Bill 33? *[Agreed]*

We will begin with the bill clauses: page 1, clauses 1 through 3—pass.

We will now consider the 17 parts of schedule A, pages 9 through 140.

Part 1, pages 9 through 11, clauses 1 through 3—pass.

Mrs. Taillieu: I just want to have some clarification on this, if you'll bear with me. You're talking about pages 9 through 140? So anything in that section?

* (22:40)

Mr. Chairperson: Just for clarification, we're on part 1, which is pages 9 through 11. Okay.

Part 1, pages 9 through 11, clauses 1 through 3—pass; part 2, pages 12 through 21, clauses 4 through 19—pass; part 3, pages 22 through 32, clauses 20 through 30—pass; part 4, pages 33 through 42, clauses 31 through 39—pass; part 5, pages 43 through 47, clauses 40 through 43—pass; part 6, pages 48 through 52, clauses 44 through 49—pass; part 7, pages 53 through 61, clauses 50 through 56—pass.

Part 8, pages 62 through 66—

Mrs. Taillieu: I'm sorry. Did you—I thought you just went up to 60.

Mr. Chairperson: For clarification, part 7 was pages 53 through 61, and that's clauses 50 through 56. Okay?

We're now on part 8, pages 62 through 66, shall clauses 57 through 61 pass?

Some Honourable Members: Pass.

Mrs. Taillieu: On page 64, section 61, we will be bringing an amendment which will be an addition into this section—will be 61.1. We will be bringing that amendment at third reading.

Mr. Chairperson: Part 8, pages 62 through 66, clauses 57 through 61—pass; part 9, pages 67 through 81, clauses 62 through 72—pass; part 10, pages 82 through 90, clauses 73 through 77—pass; part 11, pages 91 through 94, clauses 78 through 81—pass; part 12, pages 95 through 106, clauses 82 through 91—pass.

Part 13, pages 107 through 109, shall clauses 92 through 94 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Mr. Chairperson: Mrs. Taillieu?

Mrs. Taillieu: Again, we will be bringing an amendment to the section 93.1.

Mr. Chairperson: Okay.

Part 13, pages 107 through 109, clauses 92 through 94—pass; part 14, pages 110 through 126, clauses 95 through 104—pass; part 15, pages 127 through 131, clauses 105 through 114—pass; part 16, pages 132 through 137, clause 115—pass; part 17, pages 138 through 140, clauses 116 through 123—pass.

We will now consider schedule B, page 141.

Shall clauses 1 through 4 pass?

Mrs. Taillieu: If you would just do this section separated out, because I'm going to have an amendment on section 249.1(3) at third reading, not tonight.

Mr. Chairperson: Schedule B, page 141, clauses 1 through 4—pass.

We will now consider the remaining items in the bill, pages 3 to 7.

Table of contents for schedule A—pass; Page 1, enacting clause—pass; title—pass. Bill be reported.

**Bill 35—The Retail Businesses Holiday Closing
Amendment Act
(Continued)**

Mr. Chairperson: Does the minister responsible for Bill 35 have an opening statement?

Ms. Howard: Yes, just, again, a brief opening statement.

So this bill represents the work of the Labour Management Review Committee and, clearly, from today, not all the constituents of those represented on that committee agree with their position, but I think

they did good work in coming to a consensus on this matter. Not easy, many different views on it.

This bill, as we know, extends Sunday shopping hours to start at 9 in the morning. It continues the ability of municipalities to decide if there'll be any Sunday shopping in their communities. It strengthens the ability of workers to refuse Sunday work and puts in new provisions to make sure that if a worker refuses to work on Sunday and their employer discriminates against them because of that or dismisses them, that they have recourse through employment standards.

I think it's a strong consensus position from the Labour Management Review Committee. Like most consensuses that I've ever been part of, it's not everything everybody wants, but it does certainly move the issue forward, and I think it will be good for businesses in Manitoba and it'll be good for consumers.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Cullen: Mr. Chair, very briefly, I do want to thank, again, the people that came forward to present on behalf of their various organizations, and I will reserve my further comments till third reading. Thank you.

Mr. Chairperson: We thank the member.

Clauses 1 and 2—pass; clauses 3 and 4—pass; clauses 5 through 7—pass; clause 8—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 34—The Public-Private Partnerships
Transparency and Accountability Act**
(Continued)

Mr. Chairperson: Does the minister responsible for Bill 34 have an opening statement?

Mr. Struthers: Just very quickly, this is legislation that is all about public-private partnerships and how we can make those work in this province, how we can make sure that Manitobans receive the consultation on these projects that I think they deserve. It's about making the process transparent.

We heard tonight, I think, some very good discussions from people who are passionate on both sides of this issue. But I think the—I think they really did concentrate on transparency, making that process open, holding the people accountable for decisions

that they make. And I think everybody understands that there's—money's short and projects are many, so we need to get—we need to squeeze as much value out of our money in these projects that we can.

We're very aware that we don't want to set ourselves up to slow a process down or to risk federal involvement in a project and we don't want to be duplicating services. So we'll be working to make sure that that does not happen.

But I appreciated the advice that we received tonight and look forward to hearing from my critic across the way.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Stefanson: Just a few comments. I think what we did here tonight, pretty loud and clear, is that we have a bill before us that's called The Public-Private Partnerships Transparency and Accountability Act, but the process itself was not very transparent, and we have very serious concerns, as others do who were here presenting tonight. They were not part of—they were not consulted on this piece of legislation. They have serious concerns. They are significant stakeholders in the community when it comes to building projects and infrastructure projects in Manitoba.

* (22:50)

And we have serious concern about this on our side of the House because of the lack of consultation that took place in this whole process. As a result of that lack of consultation, we now have a piece of legislation before us that does not accurately reflect what could be a better piece of legislation for all Manitobans and all stakeholders within the community. And that's why I think it's very important.

We heard this across other bills tonight. I've heard over the last number of years that I've sat around committee with respect to a number of pieces of legislation brought forward by the NDP government, that there has been a common theme of a lack of transparency and a lack of consultation when it comes to bringing forward legislation. And I think this is another unfortunate example of that, where, had the proper consultation taken place in the first place, I don't think we would be sitting here before us with significant issues that we have with respect to this bill.

And I know that there's a regulatory process that the minister will go through after, if the legislation passes. And he has said that he wants to be very transparent about that process, that he wants to have all sorts of consultation in that process. But, if it didn't take place in the first place, when it should have taken place with respect to the drafting of this legislation and hearing from all stakeholders in the community, how can we assure and how can he assure that those stakeholders out there will be properly consulted in this process?

That should have taken place when—before this legislation came before the House, and that didn't take place. So—and there were significant concerns. I won't go through all of them tonight, but there were significant concerns brought forward by a number of stakeholders, and concerns that could properly be handled if the process went forward in an appropriate manner.

So, with respect to this piece of legislation, we have difficulty. We—it was mentioned tonight that—by a few stakeholders that it was believed that this should be shelved, this piece of legislation, until the proper consultation takes place, and we can move in an appropriate fashion. And I would agree with that.

Members on our side of the House believe in the consultation process when it comes to forming legislation in our province. And so we have serious problems with this legislation going forward because of the process that's taken place, and because of the serious concerns that were brought forward by stakeholders in the community at committee tonight.

So I will leave my comments there, and I would hope that the minister would take this very seriously, some of the issues that came forward tonight, and would go back to the drawing board with respect to this legislation and come back with the appropriate legislation that would be reflective of all stakeholders in the community, not just some.

Mr. Chairperson: We thank the member.

Clause 1—pass; clauses 2 and 3—pass; clauses 4 and 5—pass; clauses 6 and 7—pass; clauses 8 and 9—pass; clauses 10 and 11—pass; clauses 12 and 13—pass; table of contents—pass.

Shall the enacting clause pass?

Mrs. Stefanson: No. Again, we have serious problems, and as many stakeholders do in the community, with respect to this piece of legislation. And I don't think, I mean I think this is an

opportunity for the minister to do the right thing at this stage and not go further in this whole process. And that's why we are voting against this legislation.

Mr. Chairperson: Enacting clause—pass.

Shall the title pass?

An Honourable Member: No.

Mr. Chairperson: Mrs. Stefanson.

Mrs. Stefanson: Again, I don't believe that the title is—accurately reflects what is in the legislation. It wasn't a transparent process. There is a—there is very much a lack of accountability when it comes to this government with how they brought forward this piece of legislation, and that's why we will not be supporting it.

Mr. Chairperson: Title—pass. Bill be reported.

The hour being 10:55, what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 10:55 p.m.

WRITTEN SUBMISSIONS

Re: Bill 6

May 4, 2012

Clerk of Committees
2 51 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Dear Committee Members:

On behalf of the Association of Manitoba Municipalities (AMM), I would like to provide some comments on Bill 6: The Regional Health Authorities Amendment Act (Improved Fiscal Responsibility and Fiscal Involvement). It is our hope that these amendments will maintain the level of health care and responsiveness provided to Manitobans, and increase both efficiency and accountability.

Firstly, the provisions of most concern to municipalities are those that give the government the authority to amalgamate regional health authorities (RHAs). Given the government's initiative to reduce the number of RHAs from 11 to five, the AMM is concerned the larger RHAs will be less responsive to local needs. Municipalities had already expressed concerns about appropriate representation with the

smaller sized RHAs, in particular the need for geographic representation.

As a result, the AMM would like for the new RHA structure and the composition of the new RHA Boards to focus on being responsive to municipalities and communities. The AMM also continues to lobby for the government to establish elections for RHA Board of Directors representatives on a ward system, as we believe this will result in better geographic representation.

Secondly, the AMM is please that the Act will require RHAs to have local health involvement groups to replace the existing advisory councils and to advise RHAs about issues that impact the delivery of health services in the region. We are hopefully this will help to address issues with responsiveness and accountability.

In addition, the AMM supports new regulation-making powers to allow the government to establish rules for how RHAs and health facilities deal with certain revenues and budgetary surpluses. Measures to increase accountability in spending ensure funds are spent appropriately and hopefully they will also increase confidence in the delivery of health services.

The AMM maintains our support for streamlining health care services in Manitoba. However, the amendments in Bill 6 must not increase fiscal responsibility at the expense of a receptive and reactive relationship with local communities.

Sincerely,

Doug Dobrowolski
President

* * *

Re: Bill 34

June 8, 2012

Clerk of Committees
2 51 Legislative Building
450 Broadway
Winnipeg, MB R3C OVB

Dear Committee Members:

The Association of Manitoba Municipalities would like to express some concerns regarding Bill 34: The Public-Private Partnerships Transparency and Accountability Act.

Although we support improved transparency and accountability for public spending decisions, the

AMM is concerned about the effects Bill 34 would have on public-private partnerships (P3's), particularly smaller projects. The AMM believes P3's are important tools for municipalities with infrastructure projects they are unable to fund completely on their own. By imposing new requirements for P3 projects, Bill 34 may discourage or prevent future P3 's.

The AMM is concerned the resources required to conduct the cost-benefit analysis and public consultations required in Bill 34 may be prohibitive for some municipalities. This will make it even more difficult for municipalities to make use of the P3 model to address infrastructure deficits in their communities.

P3's provide benefits such as cost certainty, risk transfer, and the ability to start the project quickly to avoid inflation of construction costs. By increasing requirements and potential delays for P3 projects, it may affect their ability to complete projects on time and it may decrease the value for money achieved. As well, municipalities are concerned Bill 34 may affect their ability to access the P3 Canada Fund. The AMM supports the City of Winnipeg, which has expressed similar concerns about the potential for uncertainty created by Bill 34.

Thank you for your consideration.

Sincerely,
Doug Dobrowolski

* * *

Re: Bill 34

June 11, 2012.

Clerk of Committees
2512 Legislative Building
450 Broadway Winnipeg, Manitoba R3C OV8

Dear Chair & Committee Members:

Re: Bill 34—THE PUBLIC PRIVATE PARTNERSHIPS TRANSPARENCY AND ACCOUNTABILITY ACT

I regret not being able to present the below comments in person, but do wish this letter to be a matter of your public record.

I wish on behalf of Maple Leaf Construction, a heavy construction firm employing more than 400 people operating in Manitoba since 1943 in the fields of paving, earthmoving, sewer & water, the building and rehabilitation of new and existing core

infrastructure, to note concerns associated with the proposed Bill 34.

We are members of the Manitoba Heavy Construction Association (MHCA), have read and support its brief.

We have witnessed over the last number of years, a dwindling capacity by municipalities, provincial governments and the federal government to address the size and scope of the municipal infrastructure deficit across this country in a sustained manner.

Public private partnerships (PPP) provide a unique opportunity to merge the strengths of the public and private sector partners to find ways and means of offering cost certainty, competitive pricing and performance based contracts. This is an advantage to the public sector and certainly to the taxpayer who at the end of the day is tasked with paying all of the costs, whether the project is successful or not.

PPP agreements are used across Canada and in many other jurisdictions across the globe and Manitoba should not preclude nor be seen to preclude their being used in our province.

Having said all of the above, as a company and participant in PPP agreements we are concerned about the following:

1. There was no advance notice or consultation with the private sector that we are aware of that the government had any intentions of tabling the legislation.

There is plenty of private sector participation and experience in Manitoba and certainly beyond this province, that could and should have been consulted before the Act was presented.

2. As a private sector company we would be reluctant to participate at all if our commercial, intellectual and financial strategies and strengths were the subject matter of disclosure.

When the government purchases computers from Microsoft or Apple, does it require the disclosure of its computer programming codes? And even if it did would either supplier provide that? Not likely for clearly competitive reasons. The government would rely on the strength of the contract enforced through courts if in dispute to protect and safeguard its legitimate interests.

The same is true here. If we have to disclose our competitive strategies to our competitors, we

will go out of business. There must be protection in the Act against the requirement to disclose intellectual property that creates the competitive advantage to the company and benefits the public in the process.

The certainty of contract is also the tool that protects the public and the public sector partner in PPP agreements. The contract provides that the public sector pays a fixed price and pays only when the private sector partner performs.

3. We have read the comments in the City of Winnipeg Media Release and quite frankly share many of the concerns expressed by the Mayor.

We don't like to have to be put in a position of siding with one level of government over another, but in this case we are left with little choice, given no consultation either with the city or the private sector.

As a company we appreciate the difficulties and challenges associated with governing, but in this case we are surprised and disappointed that the tool and advantage of PPP is being almost removed from us in an Act that leaves all interpretation to regulation.

For all of these reasons we would hope that the government would see to deferring consideration of the legislation and appoint a group of knowledgeable people to review what the case in other provinces is and come up with a solution that will work for Manitoba and will help attract public private partnership agreements that benefit all of us.

Yours truly,

Maple Leaf Construction
Barry Brown, P.Eng., P.GSC
President

Re: Bill 35

June 4, 2012

Clerk of Committees
251 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Dear Committee Members:

On behalf of the Association of Manitoba Municipalities (AMM), I would like to express our support for Bill 35: The Retail Businesses Holiday Closing Amendment Act.

The AMM believes the extension of shopping hours on Sundays and certain holidays will be a positive step for businesses to allow them to compete with other jurisdictions. More and more jurisdictions in Canada are moving toward expanding Sunday shopping or eliminating existing bans, and many Manitoba communities currently have bylaws that allow Sunday shopping.

The AMM appreciates the flexibility provided to municipalities in Bill 35. As we indicated in our comments to Honourable Jennifer Howard, Minister of Family Services and Labour, the extension of

shopping hours is not necessarily appropriate in every community. We are pleased to see the legislation allows for municipalities to exercise full discretion on Sunday shopping hours in their community. This will allow the shopping rules for retail businesses to reflect the wishes of a municipality's residents.

The AMM hopes this legislation reflects our concerns and we would like to thank the Committee for the opportunity to provide feedback on this issue.

Doug Dobrowolski
President

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.gov.mb.ca/legislature/hansard/index.html>