

Fifth Session – Forty-Second Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Social and Economic Development

Chairperson
Mr. Andrew Micklefield
Constituency of Rossmere

Vol. LXXVII No. 4 - 6 p.m., Tuesday, April 25, 2023

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Tuesday, April 25, 2023

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Andrew Micklefield
(Rossmere)**

**VICE-CHAIRPERSON – Mr. Blaine Pedersen
(Midland)**

ATTENDANCE – 6 QUORUM – 4

Members of the committee present:

Hon. Messrs. Ewasko, Khan

Messrs. Altomare, Brar, Micklefield, Pedersen

Substitutions:

Mr. Bushie for Mr. Brar at 11:42 p.m.

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

PUBLIC PRESENTERS:

Arienne Cloutier, private citizen

Joy Smith, The Joy Smith Foundation

Joel Swaan, Garden Valley Teachers' Association

Scott Durling, private citizen

Amy Warriner, private citizen

Gabriel Hurley, private citizen

Sam Zurzolo, private citizen

Augustine Watanabe, private citizen

Rachelle Dunlop, private citizen

Jay Ewert, Evergreen Teachers' Association

Sean Giesbrecht, private citizen

Elizabeth Bourbonniere, private citizen

Gregory Walker, private citizen

Cameron Watson, private citizen

Sonja Blank, private citizen

Nicole Bobick, Swan Valley Teachers' Association

Karla Rootsart, private citizen

Mike Urichuk, private citizen

Jon Bettner, private citizen

Shelagh McGregor, private citizen

Kevin Rebeck, Manitoba Federation of Labour

WRITTEN SUBMISSIONS:

Beth Burrows, private citizen

David Wall, private citizen

Jennifer Engbrecht, private citizen

MATTERS UNDER CONSIDERATION:

Bill 35—The Education Administration Amendment Act (Teacher Certification and Professional Conduct)

* * *

Clerk Assistant (Mr. Tim Abbott): Good evening, everybody. Will the Standing Committee on Social and Economic Development please come to order.

Before the committee can proceed with the business before it, we do have to elect a Chairperson.

Are there any nominations?

Hon. Wayne Ewasko (Minister of Education and Early Childhood Learning): I nominate MLA Andrew Micklefield to be Chair.

Clerk Assistant: Mr. Micklefield has been nominated. Are there any further nominations?

Hearing none, Mr. Micklefield, please take the Chair.

Mr. Chairperson: Our next item of business is the election of a Vice-Chairperson.

Are there any nominations?

Mr. Ewasko: I'll nominate MLA Mr. Pedersen.

Mr. Chairperson: MLA Pedersen has been nominated. Are there any other nominations?

Hearing no other nominations, MLA Pedersen is elected Vice-Chairperson.

This meeting has been called to continue consideration of Bill 35, The Education Administration Amendment Act (Teacher Certification and Professional Conduct).

I would like to remind everybody that the Standing Committee on Social and Economic Development—that's this one—will meet again if required on Wednesday, April 26th, 2023, at 6 p.m. to continue consideration of Bill 35.

I would also like to inform all in attendance of the provisions in our rules regarding the hour of adjournment. A standing committee meeting to consider a bill

must not sit past midnight to hear public presentations or to consider clause by clause of the bill, except by unanimous consent of the committee.

Written submissions. Written submissions from the following people have been received and distributed to committee members: Beth Burrows, private citizen; David Wall, private citizen.

Does the committee agree to have these documents appear 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 a committee. 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. Questions shall not exceed 30 seconds in length, with no time limit for answers. Questions can be addressed to presenters in the following rotation: first, the minister sponsoring the bill; second, a member of the official opposition; third, an independent member. And that's the order.

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.

The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter—okay, this is the part that usually goes wrong—each time someone is—wishes to speak, be it an MLA or a presenter, I first have to say the person's name so that the people who are recording know who is speaking. This is the signal for the Hansard recorder to turn the mics on and off.

As previously agreed, the committee shall hear presentations from Arianne Cloutier and Nicole Lafrenière, members—as the first and second presenters at the meeting scheduled for today.

Is this agreed? *[Agreed]*

This was—okay, yes. We did that last night. Agreed and so ordered. Okay.

Okay. On the topic of determining the order of public presentations, I do need to note we do have an out-of-town presenter in attendance, and I'm wondering if there's leave of the committee to allow that individual from out of town to go first, after the two French presenters we already agreed on.

Is there leave for that out-of-town person to go first? *[Agreed]*

Okay. Agreed, perfect. Then, Joy Smith will be speaking following the two French presenters that we agreed on earlier.

Okay. Thank you for your patience. We are now going to proceed with public presentations.

**Bill 35—The Education Administration
Amendment Act (Teacher Certification
and Professional Conduct)**

Mr. Chairperson: I'd like to call—I hope I'm saying this correctly—Arianne Cloutier, is that right? Forgive me if I'm mispronouncing either. Welcome, and you do have the floor.

Ms. Cloutier, please go ahead.

Arianne Cloutier (Private Citizen): Bonjour, je me nomme Arianne Cloutier. J'enseigne depuis 2005 dans la Division scolaire franco-manitobaine. J'enseigne présentement à la maternelle, mais j'ai enseigné dans ma carrière tous les niveaux de la maternelle à la douzième année. J'ai enseigné en région, comme en ville : j'ai donc une expérience très variée et complète.

* (18:10)

Je suis ici aujourd'hui parce que j'ai des inquiétudes au sujet de loi—du projet de la loi 35, Loi modifiant la Loi sur l'administration scolaire. Pour être claire, je soutiens pleinement les lois qui améliorent la sécurité des enfants. En fait, le premier point du code de déontologie des enseignants est que notre principale responsabilité professionnelle est envers nos élèves.

Je suis une enseignante qui s'assure que les élèves qui sont dans ma classe et dans mon école se sentent inclus et en sécurité. Mes élèves savent que c'est correct de faire des erreurs parfois, et qu'ils peuvent me poser n'importe quelle question sans aucun jugement de ma part ou des autres élèves de la classe. Ils savent aussi que je ne tolère aucune violence physique ou verbale ou quelconque forme de harcèlement ou de discrimination.

Ainsi, vous n'entendrez aucun argument de ma part pour soutenir les lois visant renforcer la protection de l'enfance. Si je suis ici devant vous aujourd'hui c'est pour vous parler de moi, de mon expérience personnelle, afin d'essayer de vous faire comprendre le mal que le Projet de loi 35 pourrait causer aux enseignants dans sa forme actuelle.

J'ai débuté ma carrière dans une école de campagne à 350 kilomètres de Winnipeg. J'enseignais à 28 élèves de la 7^{ème} et 8^{ème} années combinées, où tout le monde était cousins, cousines, frères et sœurs. Moi et un autre élève étions les seuls à ne pas être apparentés avec personne de la classe. Même les auxiliaires étaient la tante ou la grand-mère de mes élèves.

Cette année-là, qui était ma première vraie année d'enseignement, les parents portaient constamment plainte contre moi. Je vais vous en donner quelques exemples un peu plus tard. Je ne dis pas que certaines plaintes n'étaient pas fondées—comme que je ne parlais pas bien anglais, que je ne pouvais donc pas enseigner l'anglais, chose que j'avais partagé avec ma direction d'école lors de mon embauche, mais ils m'avaient dit que ce serait ok, que je serais capable de le faire. Et j'ai vraiment fait tout que j'ai pu.

Il faut aussi comprendre que j'avais fait mes stages en maternelle, donc enseigner en 7^{ème}, 8^{ème} année était un choc et une courbe d'apprentissage énorme. Mais, encore une fois, j'ai fait ce que j'ai pu, et j'ai demandé l'aide dont j'avais besoin pour accomplir ma tâche.

Le reste des plaintes étaient cependant frivoles et injustifiées. Ma directrice d'école m'appelait dans son bureau chaque fois qu'elle recevait une plainte. J'étais plus souvent dans son bureau que mes élèves à problème. Et quand je dis problème, je veux vraiment dire problème. J'ai dû suivre cette année-là des cours d'auto-défense pour enseignant. Certains élèves ont mis des agrafes dans mon verre d'eau, des punaises sur ma chaise—mais selon ma directrice, et les parents de la communauté, c'était ma faute.

Après quelques mois de me sentir incompétente et rejetée de la communauté où je vivais, j'ai averti ma directrice que s'il y avait une autre plainte contre moi, je quitterais l'école. Ça a pris deux jours pour qu'elle m'appelle dans son bureau pour me partager une autre plainte. J'ai donc avisé que je quitterais pour de bon à la fin de la semaine.

J'ai commencé par prendre deux semaines de congé de maladie pour essayer de figurer ce que je ferais, et pendant ce temps-là, ma directrice m'a suppliée de revenir et m'a offert un changement de niveau. J'allais donc à mon retour enseigner une autre semaine en 7^{ème}, 8^{ème} année, puis j'allais changer en 1^{ère}, 2^{ème} année—quand même les frères, les sœurs, les cousins, les cousines de tout le monde.

Ça ne faisait pas deux jours que j'étais de retour que ma directrice m'appelait dans son bureau pour me parler d'autres plaintes portées contre Mme. Arianne. Et la portée de la plainte portée contre Mme. Arianne est très importante. Elle a commencé à me dire que les parents se plaignaient que je ne faisais pas la prière avec les élèves le matin. Je me suis mise à rire à ce moment-là. Et j'ai compris que les plaintes n'avaient pas été contre moi.

Elle m'a regardée avec un air étrange, mais elle continuait en disant que les parents s'étaient plaint que je n'avais pas de contrôle sur ma classe depuis quelques semaines. J'ai ri encore plus fort. Elle a alors m'a demandé qu'elle était mon problème? Je lui ai demandé de regarder mon horaire et de me dire ce que mes élèves avaient à la première période de la journée, heure où on faisait la prière. La réponse était que c'était anglais, et que donc, ce n'était plus moi qui enseignait ce cours. Les parents avaient finalement eu gain de cause à ce sujet — à mon grand bonheur, je dois le dire. Puis, j'ai demandé à ma directrice qui était dans ma classe les dernières quelques semaines, et c'était à ce moment-là qu'elle a réalisé la folie des plaintes.

Pendant mon séjour là, les parents s'étaient plaint que je n'allais pas à l'église, que j'avais m'enseigné à mes élèves que mon meilleur ami était gay, qu'il y avait trop de chansons en français dans mes cours de français, que les mathématiques que j'ai enseignées étaient trop difficiles—même si je suivais le programme d'études à la lettre.

Je me suis aussi faite reprocher de ne pas pouvoir empêcher un des élèves—qui avait des rages de colère subite inattendues—de frapper les autres élèves, ou moi. Cependant, mon absence—pendant mon absence, ma remplaçante n'a pas pu faire mieux, même si c'était la tante de la majorité des élèves.

Cette longue histoire est pour vous faire comprendre que si la loi 35 avait existé dans mes débuts, les parents auraient porté plainte en masse contre moi, et quelqu'un qui n'est pas dans le domaine de l'éducation et qui ne connaît pas la réalité des petites communautés éloignées—qui n'aiment pas quelqu'un juste parce qu'ils sont de l'extérieur—aurait probablement donné gain de cause à ces parents.

Et si leurs nombreuses plaintes n'avaient pas été fondées, le fait de perdre mon brevet temporairement et d'avoir à passer devant un comité disciplinaire sans représentation, j'aurais quitté la profession et je ne serais pas l'excellente enseignante que je suis maintenant.

J'ai eu quelques accrochages avec des parents pendant mes années, mais même avec mon expérience, le processus par lequel j'aurais dû passer chaque fois m'aurait détruit—parce que je suis une enseignante. Je passe tout mon temps à penser à mes élèves et à m'inquiéter de leur sort. Et de me faire juger parce qu'un parent pense que leur enfant a subi un préjudice émotionnel importante m'aurait anéantie.

En terminant, j'aimerais donc, au vu de ma propre expérience, vous proposer les amendements suivants :

Supprimer la compétence du projet de loi. Quand je commençais ma carrière, je n'avais définitivement pas les compétences que j'ai présentement.

Veiller à ce que les comités d'audience soient composés d'une majorité d'enseignants, conformément à la composition des comités disciplinaires d'autres ordres professionnels au Manitoba. Si des enseignants m'avaient jugée, ils auraient rapidement compris la situation dans laquelle je me trouvais.

Inclure le droit exprimé à la représentation quand on fait l'objet de l'enquête. Au début de ma carrière, je ne connaissais pas nécessairement mes droits, et avoir droit à une représentation m'aurait probablement beaucoup aidée.

Limiter les signalements par les employeurs aux suspensions et le licenciements, par opposition à toute mesure disciplinaire pour faute professionnelle ou incompétence. Si ma directrice avait signalé toutes les plaintes, le comité disciplinaire aurait été surchargé par seulement les signalements à mon égard.

Définir préjudice émotionnel important. Juste le fait de ne pas aller à l'église et d'avoir un meilleur ami gay auraient suffi à donner un préjudice émotionnel important à la majorité des élèves dans la classe cette année-là.

Protéger la vie privée des enseignants qui sont déterminés comme de ne pas avoir la capacité d'assumer les responsabilités professionnelles d'un enseignant en raison d'un handicap physique ou mental.

Je vous remercie d'avoir pris le temps de m'écouter.

Translation

Hello. My name is Arianne Cloutier. I have been teaching in the Franco-Manitoban School Division since 2005. I currently teach kindergarten, but I have taught all levels from kindergarten to grade 12 in my

career. I have taught in rural areas as well as urban ones, so I have a very varied and complete experience.

I am here today because I have concerns about Bill 35, An Act to Amend the Education Administration Act. To be clear, I fully support legislation that improves the safety of children. In fact, the preamble to the teachers' code of ethics is that our primary professional responsibility is to our students.

I am a teacher who ensures that the students in my classrooms and schools feel included and safe. My students know that it is okay to occasionally make mistakes, and that they can ask me any question without any judgment from me or the other students in the class. They also know that I do not tolerate physical or verbal abuse, or any form of harassment or discrimination.

As such, you will not hear any argument from me against laws that strengthen child protection. The reason I am here today is to tell you about myself, about my personal experience, and to try and make you understand the harm that Bill 35, in its current form, could do to teachers.

I started my career in a rural school about 350 kilometers from Winnipeg. I taught 28 students in grades 7 and 8 combined, where everyone was cousins and siblings. I and one other student were the only people not related to anyone in the class. Even the teaching assistants were my students' aunt or grandmother.

That year, which was my first real year of teaching, parents were constantly complaining about me. I will give you a few examples later. I am not saying that some of these complaints did not have merit—like the complaint that I did not speak English well, so I could not teach English. However, I had shared that issue with my principal when I was hired, and they had told me it would be okay, that I would be able to do it—and I really did everything I could.

You also have to understand that I had done my internships in kindergarten, so teaching a grade 7, 8 class was a shock and a huge learning curve. Again, I did what I could, and asked for the help I needed to get the job done.

The rest of the complaints, however, were frivolous and unwarranted. My principal would call me to her office whenever she received a complaint, and I was in her office more often than my problematic students. And when I say problematic, I really mean problematic: I had to take teacher self-defence classes that year, some students put staples in my water glass and

thumbtacks on my chair—but according to my principal, and parents in the community, it was my fault.

After a few months of feeling incompetent and rejected by the community I lived in, I warned my principal that, if there were one more complaint against me, I would leave the school. It took two days for her to call me to her office and share another complaint. Consequently, I advised her that I would be leaving for good at the end of the week.

I started by taking two weeks off sick leave to try and figure out what I should do. During that time my principal begged me to come back and offered me a class change. If I came back, I would teach just one more week in grade 7, 8 and then switch to a grade 1, 2 class. Meaning a class where all the students were siblings or cousins of my former students.

I had barely been back two days when my principal called me to her office to tell me about more complaints against Mme. Arienne—and the scope of the complaints against Mme. Arienne is significant. The principal started telling me that parents were complaining I was not doing morning prayers with the students. I started laughing at that point—and I realized that the complaints had not been against me.

The principal looked at me strangely, but she went on to say that the parents had complained I had had no control over my class for the previous few weeks. I laughed even harder. She then asked me what my problem was. I asked her to check my schedule and tell me what my students had in the first period of the day, which was the time were prayers were done. The answer was that it was English—and I was no longer teaching that class. The parents had finally found some vindication on that issue—much to my delight, I must say. Then I asked my principal who had taken over my class the last few weeks, and that is when she realized how crazy the complaints were.

During my time there, parents complained that I did not go to church, that I had told my students my best friend was gay, that there were too many French songs in my French classes, that the math I taught was too difficult—even though I followed the curriculum to the letter.

I was also criticized for not being able to prevent one of the students, who was prone to unexpected fits of sudden rage, from hitting other students—or me. However, in my absence, my substitute had not been able to do any better, even though she was the aunt of the majority of the students.

I am sharing this long story to make you understand that, if Bill 35 had been a law in my early years, parents would have filed a massive quantity of complaints against me, and a person not working in the field of education and ignorant of the reality of small remote communities – where outsiders are not much liked just because they are from somewhere else—would have probably sided with those parents.

Even though most of these complaints had been unfounded, temporarily losing my certificate and having to appear in front of a disciplinary committee without representation would have led me to leave the profession—and I would not have become the excellent teacher that I am today.

I have had a few run-ins with parents over my years, but even with my experience, the process this bill would have put through each time would have destroyed me—because I am a teacher. I spend all my waking hours thinking about my students and worrying about them. To be judged because a parent thinks their child has suffered significant emotional harm would have destroyed me.

So, in closing, I would like to offer the following changes, based on my own experience:

Remove the notion of competency from the Bill. When I started my career, I definitely did not have the skills that I have now.

Ensure that review boards include a majority of teachers, as it is the case with disciplinary boards of other professional colleges in Manitoba. If it had been teachers assessing the complaints in my case, they would have quickly understood the situation I was in.

Expressly include the right to representation when under investigation. At the beginning of my career, I did not really know my rights, and having representation would have probably helped me a lot.

Limit employer's disclosure to suspensions and terminations only, not every disciplinary action for misconduct or incompetence. If my principal had reported all the complaints about me, the review board would have been overwhelmed with reports about me alone.

Clearly define the notion of significant emotional harm. Not going to church or having a gay best friend would have been enough to cause significant emotional harm to the majority of the students in my class that year.

Protect the privacy of teachers who are found to be unable to fulfill a teacher's professional responsibilities because of a physical or mental disability.

Thank you for taking the time to listen to me.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Ewasko: Merci, Mme. Cloutier, and your passionate—passion and your story.

And I just want to assure you that some of the things that you mention in your past and, again, sorry that you had to go through some of that. But from reading through the bill, some of the things that you had gone through would not carry on to the commissioner as the bill is written today.

So—but thank you very much for coming to committee today and sharing your story.

Mr. Chairperson: If you would like to respond, you're welcome to, but not obligated to.

Okay. Are there any other questions?

Mr. Nello Altomare (Transcona): Thank you, Mme. Cloutier, for your presentation this evening, and for being here to exercise your democratic right to bring your thoughts forward on bills that have consequence here in Manitoba.

Every bill has consequence, of course, and is important. And it's certainly—this is why we have committee here in Manitoba, so that we can hear from everyday Manitobans and have their voice added to this very important process.

So, can you tell us just a little bit about how this bill may affect your day-to-day practice as a teacher?

Mr. Chairperson: Mme. Cloutier, go ahead.

A. Cloutier: You'll see that my English has improved a lot since I started teaching.

Being a teacher, even experienced teacher, I always have in the back of my head the parent's voice. And that is something that I think about every day.

* (18:20)

And I'm experienced; I know my rights; I know what I can do; I know what I can't do, and if I may say so, I'm an excellent teacher. I'm a great teacher. But I always have, in the back of my head, what are the parents going to think about what I'm doing.

And that is scary. That might be one reason one day that I decide not to go to work. If a parent comes to me and says well, I didn't like when you did that, that's a big reason why this bill could affect teachers in their every day live, just having—just being always scared that, oh, what are they going to think about that.

But I just—one simple example: I teach in a French school, so mostly Catholic, but in the past month, we talked about Ramadan because it was the Ramadan month. And I have a lot of students in my classroom that does Ramadan, so we made it as a big thing in my classroom that I did for Christmas and Easter. And I was scared of doing that because I know that some parents are not going to like it and they might think that it's something that have an effect on their kids.

So, everything that I'm doing I always have the thought of the parents in my head.

Hon. Jon Gerrard (River Heights): Vous avez reçu beaucoup de plaintes qui sont vexatoires, qui sont difficiles à—mais il me semble, c'est très important avec ce projet de loi que nous ayons un projet de loi qui protège ceux qui sont enseignants.

Translation

You have been the subject of many vexatious complaints, which is difficult. It seems to me that we should have a bill designed to protect teachers.

A. Cloutier: Je suis parfaitement d'accord avec ce que vous dites. On a besoin de quelque chose pour protéger nos élèves, mais pas au détriment de la protection des enseignants.

Je suis parfaitement d'accord que si un enseignant fait quelque chose qu'il ne devrait pas faire, il doit y avoir des conséquences—comme il y en a présentement. Si un enseignant se fait accuser de harcèlement physique ou sexuel, il y a des choses qui sont déjà mises en place présentement pour faire en sorte que cet enseignant-là soit retiré de la salle de classe et perde son brevet.

Donc, il y a déjà des choses mises en place présentement pour ça.

Translation

I completely agree with what you are saying. We need something to protect our students, but not at the expense of protections for teachers.

I completely agree that if a teacher does something they should not be doing, there must be consequences—as there are currently. When a teacher is accused of physical or sexual harassment, there are

measures in place right now to ensure that teacher is removed from the classroom and loses their certification.

So there are currently already measures in place to deal with such situations.

Mr. Chairperson: We do have 15 seconds, or are there any other questions? Mme. Cloutier, any—oh, Mr. Brar. We have just a few seconds, literally.

Mr. Diljeet Brar (Burrows): Just wanted to say thank you for your presentation and I appreciate your courage to share your experiences.

Mr. Chairperson: Thank you for your presentation, Mme. Cloutier.

We are grateful to members.

We are going to move on now to the next presenter—*[interjection]*—okay, we've been made aware that Nicole Lafrenière is not able to present this evening.

So, I'm going to propose that if the committee meets tomorrow—and if the committee meets tomorrow to hear public presentations, is there leave to hear Ms. Lafrenière first? *[Agreed]*

Great. Okay. Now, as previously agreed, we will hear our out-of-town presenter.

I'd like to invite Joy Smith to the podium.

Joy Smith (The Joy Smith Foundation): Good evening.

Mr. Chairperson: Oh, Mrs. Smith, welcome, and you have 10 minutes to make your presentation.

We welcome you to the Legislature.

J. Smith: Good evening. Thank you for this opportunity to speak to you on this very important bill.

You know, I was a teacher for 23 years, at the junior high level mostly, and my husband was a teacher for 26 years. We know how hard teachers work and—most of them, how dedicated they are to their profession.

We both left the profession with—we're very proud of all the years that we spent there and all the students we influenced, and we still see some of those students.

I am so glad that Bill 35 is being presented here in Manitoba; excellent leadership. You know, right now we've worked to suppress human trafficking in Canada. We've worked over 7,000 files and that means 7,000 survivors of human trafficking; plus their

families, you can add three or four or five or six to that number.

Now, some of you I know around the table because I was an MLA and it's so nice to see you, Dr. Gerrard. You're one of my lovely favourite people.

And so, when I went to Parliament to be an MP, I went to Parliament—I can't say I'm a very good politician; I never thought I was—but, you know, I was very moved by the plight of young people who were trafficked across this country.

So, we talk about schools. You know, there's a lot of wonderful teachers, but there are others too. In any profession, whether it's police officers, whether it's doctors, whether it's nurses, we have seen victims of human trafficking from every walk of life: football players, hockey players, everybody.

So, you know, it's not about as—me as a teacher—it's not about me as a teacher; it's about the kids. Protect the kids. There is evidence, great evidence and we have some cases in our office where kids were trafficked by, you know, I hate to say it, but they were professional teachers.

So, you know, and this is—I would want to say it's rare. We have a lot of cases, but in this day and age, I think we have to think about one thing. And all the stories you hear from teachers, you know, we were under scrutiny, as teachers, by parents all the time. And why shouldn't we be? Parents raise their children, but also, wonderful teachers across the country impact the children immensely and really enrich their lives.

But in every segment of society, in the year 2023, we have to protect the children. Every profession, whether it's law or medicine or anything else, all those professions are under accountability for how they treat the children. Now, we are especially cognizant of what happens when kids are sexually exploited or human trafficked.

There are other things that, you know, kids might complain about or parents might complain about, like mental, you know, they're being intimidated or bullied or whatever. There is nothing that intimidates or hurts a child as much as sexual exploitation or human trafficking, where they're bought and sold like cattle. Traffickers earn in excess of \$280,000 per victim per year. It happens less than a kilometre from where you're sitting right now. We've had five cases around this area: two of them came from the church and three of them came from a school.

And teachers, per se, will not be blackballed because of this bill. They will be respected, and good teachers would support this bill because they want to protect the children. And so, sometimes it can be uncomfortable when a child will accuse someone of doing something. I know my husband, as a male teacher, he always made sure there was another teacher in the room when he met with a student on his own, because that protected him.

And I think the emphasis has to be on, first of all, protecting the children and, secondly, protecting the integrity of the very good teachers that we have. You know, you've heard the expression one bad apple spoils the barrel, and that's true. We've seen police officers, pastors, heads of corporations who were traffickers. We have seen johns from all walks of life.

So, I think—I compliment the government. I compliment the minister for putting this forward with your committees. It's a nonpartisan issue.

* (18:30)

When I look at Dr. Gerrard and people like that, I mean, there's so—that I know personally—there's very 'integrous' people on all sides of the House.

And I took the liberty, since I taught so much and for so long, I took the liberty of calling my colleagues before I came here tonight. Every one of them said, this is an excellent bill. This is an excellent bill.

Now it's up to the students' union—or the teachers' union—to take care of the teachers, and they should. I represented the student—the teachers' union in my career. I love teachers. I love schools. I love books.

But most of all, I love children, and children should never be put in any compromising position because the most of our victims of human trafficking, and most of the sexually exploited children we have talked to were always afraid to tell anybody because they weren't believed. They carried the blame and shame for years. And I have to say, this bill is an excellent first step in carefully protecting the children. That's first of all.

It's not about me as a former teacher. It's not about my husband who is a teacher. It's about the kid in front of you because they are at your mercy in many ways, in the classroom.

And I believe parents need to be very much a part of a child's education. They should be fully informed of what's going on. And they will have their own positions. But you know the school board has policies, and they are the ones, along with the principals and

the superintendents, and the teachers in the individual schools and the administration, that formulate those policies.

And those policies need to be around education in every form. No teacher should be afraid to talk about a subject area, or afraid of parents. And no parents should be afraid of teachers. There should be open communication. I think that is so important.

But sadly, we have dealt with a lot of cases, and one little girl in particular that I want to tell you about. She was sexually abused by her teacher for years, and the teacher followed her up through the grades and she was never—it's like you're listening to the stories coming out of the sports world right now.

I know I'm a personal friend of Sheldon Kennedy's, and I remember having him at a gala to talk about his experience and he opened his book and he cried when it came to the paragraph that said, I was talking to this cop, and he believed me.

Because Sheldon had gone to so many people about his story and no one believed him. And in a classroom, children are afraid to talk to their parents sometimes on this issue and they are afraid to talk to even their best friends.

So, you know, having this is a great step forward. It really brings us up to 2023. All professions do it. No one should be afraid. Open communication should be there. Being a teacher myself for 23 years, and my husband a teacher, we have a deep respect.

But please, everybody around this table, pass this bill. It will keep the children safe. And you know what, it could be a member of your own family. You would be surprised the people we deal with in human trafficking. You think it can't happen to your children or your grandchildren? You would be mistaken.

We should all be open and accountable, and be able to defend what we're doing and why we're doing it when we have the interests of the children in our hearts.

So, I've come here tonight while I have sick husband at home. But I've come here to talk to you because it's so—

Mr. Chairperson: Your time has expired.

Just to recap for members, there's a five-minute allotment for questions. Questions can be up to 30 seconds. The answer is as long as you would like.

So, Minister Ewasko, please go ahead.

Mr. Ewasko: Thanks, Ms. Smith, for coming and presenting tonight.

I know that with your educational background, but then also your experience all across this great country of ours—I mean, as the member from Transcona mentioned earlier, we are fairly fortunate in Manitoba for the public to be able to come and represent and demonstrate their democratic right, here at committee.

So, thank you very much for coming and presenting. And I might have a question for you next opportunity I have.

Thank you.

Mr. Chairperson: If you'd like to respond, Mrs. Smith, you may.

J. Smith: Well, I feel like it's a real honour to be here.

I feel like members around the House that are supporting this, and I don't care what party they belong to—very honourable people—and they're thinking about the kids, not about everybody else. Because education is about the kids when you're a school-teacher. Education is about the kids.

And I've seen the ramification of what happens when a child is exploited sexually or when they're so intimidated they're afraid to go to school. You know, I think there are a lot of very brave teachers who are just very strong and they will stand up for what they do and they will work with the parents.

We need to improve our education system. We need 'incrus'—increase the standards and increase the communication; this should be a room that is filled with people tonight and I'm sad to say it's not. It needs to be filled with people. This is one of the most important things.

So, I really commend you, Minister, and I commend that your committees and the Premier (Mrs. Stefanson)—and it's not a partisan thing; I commend anybody around this—I had friends in Parliament on all side of the House, good 'integrous' people. And I just ask you to think about one thing: and that is the protection of the children when you work out all the details around this particular important piece of legislation.

Mr. Altomare: Thank you, Mrs. Smith, for making your presentation this evening. It is important that we hear all perspectives.

A part of this bill is a composition of the panel and in many other professions, the composition of

panels that adjudicate their members are made up of majority of their members.

Tell us about your thoughts about how the composition of the panel here should reflect or be part majority teacher. *[interjection]*

Mr. Chairperson: Mrs. Smith.

J. Smith: Sorry, Mr. Chair.

I think it should be—there—should have a teacher representative on it, sure. But I think the majority should be from the public. I should think it should be parents. I think it should be law enforcement that bring their expertise. I think some NGOs should be part, because we all have children, right? I raised six of them.

I think that panel should not be laced only with educators. I'm very in favour of educators but we need to take this away from the political field. We need to take this into your world, into your—what you see around you, to bring the voice there. It should not be political and this is what I'm fearing about this particular bill.

I went to Parliament for 12 years, passed two laws that made Canadian history and the politics that got into it was what messed it up. You have done something here, all of you, that is real leadership in this country, real leadership.

And I have to say, when you make up the panel, you should have representation from all facets of the community. And there should be a teacher element, of course, or a teacher representative but it shouldn't be only that. In my view, it should be from all walks of life, like a doctor, a lawyer, a teacher, a parent, a grandparent, because there's lots of grandparents now raising young children. And then you will get the actual idea of justice for the children, so they're not exploited.

Thank you for the question; it was a very intelligent one.

Mr. Chairperson: We have 20 seconds, Mr. Gerrard.

Mr. Gerrard: Very quickly, you've got international experience.

How does Bill 35 compare with what other jurisdictions have?

J. Smith: Unique and new.

You know, Winnipeg—I mean, we're in the centre of Canada, Dr. Gerrard. And I have to say to you,

we're making this country notice that here in Winnipeg, we are leaders—

* (18:40)

Mr. Chairperson: Mrs. Smith, your time is expired.

Thank you, Mrs. Smith. We're very grateful. I really do not like cutting people off, but I have to because if I let one go for X amount, then I have to let the next person, and before the evening's over, there's—

Floor Comment: It's 5 in the morning.

Mr. Chairperson: It's 5 in the morning, yes.

Okay, we're going to keep working our way through the list here. Mr. Adam Hildebrandt, are you here? Or online? We're just checking online. It does not look like Adam Hildebrandt is here. We will drop him to the bottom of the list.

Ms. Gina Cerqueira. I hope I'm saying that right. Are you here? Or online?

For any who are participating online, there is a feature to raise your hand. If you could do that, then our tech people will be able to find you quickly.

So, we're going to keep working our way down the list. We're going to put Gina Cerqueira to the bottom of the list.

Mr. Joel Swaan. Is Joel here? Or online? I believe Joel is online.

We'll just give a moment for that to—Joel, for you to get hooked in here, and once I get the go-ahead, I'll recognize you to speak.

You'll have 10 minutes, and then there'll be a five-minute question period. *[interjection]*

Joel—*[interjection]*—Joel, you know what? Before you get started, for the sake of the proceedings, I'm obliged to recognize you.

We certainly welcome you virtually to the Legislature and, Mr. Joel Swaan, please go ahead. You have the floor for 10 minutes—up to 10 minutes.

Joel Swaan (Garden Valley Teachers' Association): Good evening. My name is Joel Swaan, and I've been a teacher for 20 years, 12 of them in Garden Valley School Division, most recently teaching grade 4, middle-years band and French. And I'm also the president of the Garden Valley Teachers' Association, representing more than 400 teachers, clinicians, principals, vice-principals and substitute teachers.

Sorry, I had to run up the stairs.

I'm here tonight because like many others, I have some concerns about Bill 35, The Education Administration Amendment Act.

I'm proud of the many teacher-teaching colleagues that I've seen presenting from their living rooms, kitchens and homes, teachers and parents taking the time to stay up late or take time away from their own children, from marking assignments, or planning tomorrow's lessons to come and speak on legislation about which they have significant concerns.

My spouse and I have three children in preschool, in grades 1 and 3. And as a parent, I am in full support of laws that improve child safety.

In fact, the first point of the teacher code of professional practice is that our primary professional responsibility is to our students. It's our duty to ensure that schools are always safe places, not just safe places for making mistakes or for asking difficult questions, but also safe places that are also free from harm and abuse for every child.

You will get no argument from me about supporting laws to enhance child protection. However, this bill goes beyond the protection of children from harm, and delves into how effective teachers are at teaching the curriculum and the methods they use, with its strong focus on teacher competence.

I've heard the minister state several times that the bill isn't about competency and that there's a commitment to work with MTS to define competency. But to be clear, we're presenting on the bill as it is written, and in its current form, the bill allows for people to make only two kinds of complaints: 8.9(a) professional misconduct; and 8.9(b) that a teacher has been or is incompetent.

Competency is literally only one of the two things people can report on teachers about, so if this passes in its current form, it will do a disservice to educators and education.

I fail to understand how investigating and adjudicating complaints related to a teacher's knowledge and skills or their ability to instruct and assist learning of the Manitoba curriculum addresses the safety of children, which at one time was the stated intention of this bill.

I've heard the minister say in these meetings that this bill is not intended to remove the division's responsibilities toward teacher competency; however, it obviously isn't clear in the legislation as written.

Again, to be clear, I'm not opposed to standards and regulation. My colleagues and I want classrooms to have the best teachers, and we work hard to be the best teachers, to ensure that we're responsive to the growing and evolving needs of our students. Our code of professional conduct requires us to continuously improve professionally, and we aim to improve our competency endlessly. But competency and conduct are two separate issues, and they're inappropriately linked in this bill.

I'm hired, supervised and evaluated by my employer, Garden Valley School Division, but under Bill 35, the commissioner has the power to address issues of competence. And I've heard the minister indicate in these meetings that the Bill 35 process through the commissioner will act alongside this process.

But what it's really doing is setting up a dual track process. And more than that, in addition to this dual track process, in 8.14(2)(b), the commissioner can investigate on their own initiative the competency of any teacher in this province, with no requirements or limitations on this allowance within the act.

The hearing panel will also be made up mostly of non-teachers, which is another example of why competence should not be part of this bill on misconduct. It creates a situation where individuals without expertise in education are now responsible for judging teacher competency.

And I've heard the minister say that the—that MTS will be appointing one of the three panel members. But the bill actually states that MTS only nominates three of the four teachers on the roster. With the fourth member coming from an independent school, it's possible that any public school teacher coming before the panel might be adjudicated by someone who has never worked in a public school.

To improve fairness, the panel composition should be consistent with other regulated professions in Manitoba, where most of the panel is made up of members from the profession.

The broad definition of misconduct, which includes 'significant'—significant emotional harm is another red flag. Significant emotional harm or incompetency could be associated with anything from how a student is graded to classroom management practices to resources or teaching of topics considered sensitive.

In our school community, we're not immune to parent concerns around 2SLGBTQIA+; using affirming language; having certain books in our libraries, if

you're familiar with the South Central Regional Library controversy going on right now in southern Manitoba; using Manitoba Education's own curricular materials that address family composition, comprehensive sex education or even having members of the 2SLGBTQIA+ community working in our buildings as teachers and support staff.

To say that, again, simply being a member of the rainbow community has proven to be enough for members of the public to question teacher conduct. Under Bill 35, teachers are being put at risk not just for teaching the approved curriculum regarding gender and sexuality, but even just for simply being who they are in a building with children, these people are under attack.

And while the minister may suggest that frivolous complaints will be dismissed, this decision is left to a partisan-appointed commissioner, who themselves are not protected from attacks from the public if there's a perception that they're not doing their job to the fullest extent.

To use a less extreme example, in Garden Valley, teachers, principals and even the school board were accused of inflicting significant emotional harm on students simply by enforcing the provincial mask mandate during the pandemic.

The reassurance that frivolous, vexatious or malicious complaints will be weeded out by the commissioner offers little comfort, as the impact on the accused teacher can be significant depending on whether or how far the investigation proceeds before it's deemed unfounded. In meeting with teachers from my association on this bill, one member referred to it as guilty until proven innocent.

Qualifying significant emotional harm more narrowly would help to minimize this vulnerability for teachers while ensuring protections are in place for students.

In addition, this bill is silent on whether teachers can have union representation at public hearings. Other regulated professions specifically have wording that makes the right to representation clear. This essential representation is missing from Bill 35. And I've heard the minister say in these hearings that it was not intended that teachers be disallowed representation, but the ask here is for the expressed right to representation to be included in the final wording of the bill.

Finally, I'm also concerned about the ability through the bill for it to be determined that a teacher

may not have the capacity to carry out the professional responsibilities of a teacher because of a physical disability. This part of the legislation, found in section 8.29(1)(d), addresses a matter of ableism that isn't otherwise addressed or referred to in any other part of the bill, and its lone appearance in this part of the bill is very disconcerting, especially in this bill that purports to be about student safety.

* (18:50)

I would like to propose the following amendments:

- (1) Remove competence from the bill.
- (2) Ensure that hearing panels are composed of a majority of teachers, in line with the composition of disciplinary panels of other professional bodies in Manitoba.
- (3) Include the expressed right to representation for a teacher being investigated.
- (4) Limit reports by employers to suspensions and terminations as opposed to any and all discipline for professional misconduct or incompetence.
- (5) Define significant emotional harm; this includes specific language related to psychological harm to the pupil or child where the act is based on a characteristic protected by The Human Rights Code, repeated conduct that could reasonably cause a pupil or child to be humiliated or intimidated, or a single occurrence that could reasonably be expected to have a lasting and harmful effect on the pupil or child; and
- (6) Protect the privacy of teachers who are determined not to have the capacity to carry out the professional responsibilities of a teacher because of a physical or mental disability.

Thank you for your time.

Mr. Chairperson: Mr. Swaan, thank you for your presentation.

We will now proceed with a five-minute question period. Each question can be up to 30 seconds, and the answer, Mr. Swaan, is at your discretion, but the five-minute limit on the entire time does remain.

Mr. Ewasko: Thank you, Mr. Swaan, for taking the time out of your busy schedule to come tonight to give your presentation.

I know that you've got some—I think you said Cub Scouts to get back to or—so thanks for your presentation again.

So, just to clarify—not to clarify—but just to inform you, on the section of the bill that you mentioned in regards to incompetence due to a disability, that's misconduct, and that's because of a disability; that's why the teacher is being found incompetent.

I do have another question for you, but I've run out of my 30 seconds.

Mr. Chairperson: Mr. Swaan, if you would like to respond you are free to, but not obligated.

J. Swaan: Thank you. I appreciate that.

Thank you, Minister. I think the fact that it's only in one place without any definition about what that might look like—there's no terms of reference on how a teacher's physical disability might lead to their incompetence, and so I would look for that clarification before the bill is passed as opposed to passing the bill and coming up with the background later.

Mr. Altomare: Thank you, Mr. Swaan, for your presentation this evening.

I do echo what the minister says when it comes to the extra stuff that you're doing later this evening and how important that is as well. You did talk about how this bill may create what you described as a dual-track process.

Can you expand on that a little bit more please?

Mr. Chairperson: Mr. Swaan, you're welcome to respond but not obligated.

J. Swaan: Thank you.

Currently, if there is a concern about teacher misconduct, a parent may approach me or may approach my principal. They'll be directed to me. If it's not resolved there, then my principal will be involved.

If it's not resolved there, then my superintendent will be involved. And at some point in that process, it may be determined that some sort of disciplinary action is necessary. So for that, there might be some sort of penalty.

And then, through the commissioner system, there may be, again, another determination of competency which would require, perhaps, a second penalty for the same offence.

And for clinicians, who are also guided under the act and also report to their professional body, it's potential that they may even have a third track of responsibility regarding the same offence, and they may be penalized even a third time.

So, I think that we're taking something away from school divisions that school divisions are doing well around teacher competency, and we're sending it to another party without removing the obligation from the first party.

Because I've been told that both parties will work simultaneously or hand in hand or alongside each other, which creates two or three possible mechanisms for discipline for a teacher or clinician.

Mr. Gerrard: I'd like a little bit more clarification over this concern that teachers with a physical, or it could be mental, disability could be declared incompetent because of their disability.

Which clause is that, and why are you so concerned about it?

J. Swaan: In section 8.29(1)(d), and I'm sorry that I'm working off of loose-leaf here and not a binder, so for me it is on page 21 of the bill: "determine that the investigated teacher does not have the capacity to carry out the professional responsibilities of a teacher because of a physical or mental disability."

So, I know that the employer might be involved or MTS might be involved in whether a teacher has an injury or disability and requires short-term disability, requires long-term disability, requires access to assistance, aided devices to teach in the classroom, but the only part in the bill that physical disability is mentioned, is where the commissioner can determine that a teacher doesn't have the capacity to teach because of a physical disability. And there's no other reference to that in the bill.

Mr. Chairperson: We have 20-something seconds. Are there any further questions, or—

Mr. Altomare, we have 14 seconds.

Mr. Altomare: Thank you, again, Mr. Swaan.

It's good to hear from people out of town as well, and I enjoy. It's great that we have this process where we can present virtually.

Mr. Chairperson: Mr. Swaan, we thank you for your presentation.

The time is over. We now move to the next presenter, Mr. Scott Durling.

Mr. Scott Durling, are you here?

Welcome. You have the floor for 10 minutes, Mr. Durling. Please go ahead.

Scott Durling (Private Citizen): So, my name is Scott Durling. I'm a teacher, a husband of a pediatric fellow in Winnipeg. I'm a master's student at the University of Manitoba and also a former student of Kelsey McKay. And although I was not a student that was impacted by him in the ways that some of my friends and peers have, I do take this matter very seriously.

As a student in the faculty of education at the University of Manitoba, studying education in my master's, my current thesis is looking at competency. When we're thinking about student safety, I have direct—directly challenge the idea of competency in this bill. I do not believe, as written, that this bill produces student safety in describing competency, and there's—what I'm speaking to you specifically is, in section 5, that the minister establishes competent standards that a teacher must be—meet in order to be issued and to maintain a teaching certificate. And also, 8.14(2), that the commissioner may initiate and investigate, on the commissioner's own initiative, if it is in the public interest, on the conduct of a teacher and also the competency.

So, like Mr. Swaan, the only two things that the commission can engage in is either the conduct or the competency, and I'm failing to understand how competency is directly related to student safety. The idea of competence as a standard in teaching is to provide a framework for defining the knowledge, skills and dispositions that teachers need to possess in order to take effect—or to effectively educate students, and we're using competency, also, in education, through its recent learning framework document that was published last year.

There's several limitations to competence, particularly as they relate to teaching. Standards—or, sorry—these competencies don't reflect current research for a community's culture. So, competence standards are typically developed based on current research and best practice, but these can often be delayed or based on poor models of education that are political dependent.

* (19:00)

When we rely on perhaps outdated forms of competency to determine whether a teacher is able to teach, we might be actually moving towards and relying on harmful colonial perceptions about what teaching and learning is, and that can, in fact, be detrimental.

We're also relying on an idea that a community might have specific ideas about what they require out of teachers, and like bill 64, which tried to centralize power and decide, sort of, what was happening through the governance of communities—competency coming from an overarching institution might actually hinder innovation and also might impact the ways in which teaching and learning is required, and—or is—the kinds of things that is, kind of, expected out of a community. And so, what's best left to competency is, rather, a divisional approach that—where the nuances or ideas of competency is based not on an overarching sort of idea, but rather from a divisional community or school culture.

These kinds of competencies can also be too broad or too specific. Competence can either—and it can be difficult to apply some of these into practice, specifically in that they might not provide enough guidance on how to implement them effectively and also, if they're too specific, that they might not be relevant, even based on some of what we know in educational research.

Competencies are also contextual factors. So the language of competencies for students, for example, is based on an international level and articulated down to a national level, and then basically described through a province-to-province basis. So, the way in which we describe a teacher or the way in which we're looking at competency from an international level might not actually be relevant or, in fact, innovative in the way that we know education needs to move towards.

Competency also may not reflect the full range of a teacher's responsibility. So competency focuses on instructional practices, but they do not fully reflect the broad range of responsibilities that teachers have, such as building relationships with students, collaborating with colleagues and engaging in professional development. So, competency can narrow the defining features of what a good teacher is, and that is based on, I think, an archaic way of viewing what teaching and learning should be.

Furthermore, this doesn't necessarily promote the idea of professionalism, but rather as a technical model where teachers are acting as a technician rather than as an intellectually thinking teacher.

So, when we're thinking about this bill, I'm also unsure about how this bill is proactively protecting children. As far as I can tell, many of the qualities of this bill are based on retroactive protections for children. In section 8.12(1) with the complaint of a

teacher, the commissioner can determine not to investigate or to investigate, but at—in this case to not investigate or take further action if the complaint was frivolous, trivial or, in the sense of what Mr. Swaan was talking about, which—whether or not emotional harm is being caused.

My question around the emotional harm component of this bill is how that might be determined and whether or not—if any community member can perhaps, like, learn about the things that I'm teaching in school, and they have an exception to that, how that relates to the parental responsibility of engaging me in conversation about the kinds of things that I'm teaching about.

So, for example, learning experiences that are related to gender-affirming care, abortion, transgender rights, drag storytime, Land Back or white supremacy, how might somebody who takes exceptions to these ideas connect to whether or not I'm emotionally harming children or acting in professional responsibility for being a teacher in 2023.

And, lastly, one of the thing that I'm concerned about is the way in which these kinds of complaints might occur that actually drives good teachers out.

When we have many kinds of injustices in our society, and we are teaching about them with students, is the way in which a student might—or, is a way in which somebody makes a complaint, or multiple complaints—or, you know, there's something that I'm thinking about, which is online presences and creating like groups of people to go and attack teachers.

These kinds of stories are well documented in the United States that push educators out. Overall, I do not believe that this bill as written demonstrates that it actually solves student competencies—or, sorry, solves students safety, but rather tries to make an over-reaching system that attacks teachers and their professional responsibilities.

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

We will now move to a time of questions.

Mr. Ewasko: Thank you, Mr. Durling, for coming tonight and presenting, and good luck on your masters as you continue to do that.

Just in—just to let you know. So, bill 34, right now in its present form—because you've mentioned that many times—it is set up as a legislative forum and opportunity to then go forward and then write some of the regulations and the standards and that.

And so, we've committed to working with Manitoba Teachers' Society, additional teachers, Manitoba School Boards Association, to write those standards.

So, do you agree or not that we should be writing those standards in Manitoba for teachers?

S. Durling: As an idea of competency around standards, written from an overarching perspective, no.

I think that writing these kinds of things can be used in ways that don't reflect current research, and they can be used in ways that limit the ability to decide what good teaching is, and what good teaching is not.

And those can become, I think, politically motivated, that move us away from things like reconciliation, or moving towards climate justice.

Mr. Altomare: Well, thank you, Mr. Durling, for presenting tonight.

It is interesting that you're in a master's program right now that's dealing with competency. I'd like you to expand on that a little bit more.

What does the current research say about how teacher competency can be defined, and how—what can it be founded upon?

S. Durling: My specific research is not directly towards teacher competency, but rather global competencies that are being developed.

I think one of the things that worries me around competency is that the way in which competencies have been defined over international institutions are based on colonial mindsets that further perpetuate many of the injustices that we see in our society.

And so, if we have governmental bodies moving towards defining what a good teacher—or, good teaching, or bad teaching—is, those can be used in ways that perpetuate the kinds of colonial violence that we see happening in Canada and around the world. And so, you know, for us to—and I'm thinking about particularly in the United States—is a good teacher one that speaks to critical race theory.

And I think that's one of the problems that we see coming out of these, is that we have many politically motivated parts of what good teaching is and good teaching—or, bad teaching is. And so, if we're relying on these kinds of models, we're setting ourselves up to further injustices.

* (19:10)

Mr. Gerrard: As we heard from an earlier presenter, there is already a mechanism to look at teacher competency. You're studying this.

Tell us what that mechanism is currently, and how well it's working.

Floor Comment: For teachers?

Mr. Gerrard: Yes.

Mr. Chairperson: Sorry—Mr. Durling. I have to do that so when they type it out—you know. Anyway, Mr. Durling, go ahead.

S. Durling: So, as far as I'm aware—so, if there was an issue of competency, like Mr. Swaan said, that goes to my principal or myself, and there's dialogue. If that is unresolved it goes up to superintendents.

And I think that's one of the things that I'm kind of pointing out, is that the—it's—competency is—and capacity is nuanced. It's based on community. It's based on research and innovation. It's based on teachers' abilities to, like—and—teachers' abilities and who they are.

And so, like, currently there's already systems—if I'm not practicing in ways that I think are appropriate, there's ways already for us to approach that.

Mr. Chairperson: The honourable minister, we have 15 seconds.

Mr. Ewasko: Mr. Durling, thank you for your presentation today. And because we've only got a couple seconds, it's more of a comment.

So, you made a couple references to a couple situations earlier on, and just to let you know that the commissioner must follow The Human Rights Code, which has already been confirmed that that would not be followed under this legislation. So, I'd just—

Mr. Chairperson: Your time has expired.

Mr. Durling, thank you so much. We must move on to the next presenter, Ms. Amy Warriner. I'm told Amy is virtual.

Amy, we'll give you a moment to link in here, and as soon as I can see you, I'll recognize you to speak for up to 10 minutes.

How is everyone doing for temperature? Just while we're—the windows are good? Yes, okay, all right. Want everyone to be comfortable.

Hello, Amy. Welcome to committee. You have the floor for 10—up to 10 minutes, and we look forward to hearing from you. Please go ahead.

Amy Warriner (Private Citizen): Good evening, everyone. I'm just grateful to have this opportunity to address the committee today.

I know that many have already said it, but it bears repeating, my presentation today should not be taken as any indication that I'm not in favour of legislation to protect children. Their protection and care have always been, and remain, one of my primary concerns.

So, my name is Amy Warriner, and I'm speaking here today as an educator of 27 years of experience. I've worked rurally for 13 and now in the City of Winnipeg for the past 14 years, and I've loved both experiences.

Over the course of my career, I've taught every grade from kindergarten to grade 12. I've been a school counsellor. I've occupied the roles of vice-principal and principal. I have three degrees 'includ-ing' a master's in educational administration. I'm also the president of my local division's administrators association.

In addition, I'm currently involved in two ministerial projects. First, to support the renewed vision of French immersion, working with the Bureau de l'éducation française principal advisory team, as well as a member of the provincial principal learning network, focusing on the pillar of improving student engagement.

Today, however, I'm appearing in my most important roles, that of citizen and parent. I have three children who have been well served by our current public education system. As a member of the teaching press-profession, I take great pride in the work that we do and I firmly believe that teachers need to subscribe to standards of professional values and conduct which are currently reflected in our code of professional practice.

With my experience as a parent, teaching professional to—and teaching professional to frame my presentation today, I'd like to begin by noting that the education administration amendment act risks appearing as a knee-jerk response to allegations of teacher misconduct, and especially those coming from media.

It's an unfortunate association to make, as it is my belief that a formal body for teacher certification is actually a positive one and would be a positive move if done properly. It could elevate the teaching profession for the sake and well-being of our students. It's a lofty and admirable goal, a goal that, in principle, I support.

I have some concerns, however, regarding language and intent presented in Bill 35 that I wish to bring to your attention. I request that this committee consider altering the scope and refining its intent in the areas of teacher competence; the number of teachers on hearing 'panimal'—panels—on the hearing panels, pardon; the concept of significant emotional harm to a student; and elements of procedural fairness.

It's important to me that you understand that as I speak to you day—today, over the course of my vast experience in education, I've encountered very few teachers who were not entirely committed to student success and well-being. I feel—fear that current discourse risks giving public a false sense that their education system is failing their children when the public narrative seems to revolve around outlier behaviours and other components of a failing education system. And those are untrue.

My experience has led me to value and experience hundreds of dedicated professionals who consistently demonstrate kindness, compassion, knowledge, commitment, understanding and professionalism, and we cannot lose sight of this as we discuss this proposed legislation. Further, let me note that as an educator and parent, I've experienced a collaboration, creativity and innovation of the public school system as it has worked to meet the needs of children, my own included.

And today, as I address you, I would like to speak to you both about the strengths and pitfalls of Bill 35, and I propose to you a series of alternatives so that as you reflect, you do so armed with research and additional information.

First, I would like this committee to consider removing all references currently written in the act which refer to teacher competence. Teacher competence is a very complex concept and needs to be assessed in light of current research with a deep understanding of professional practice, and it cannot be fairly adjudicated by a panel that includes members who are not knowledgeable, educated, trained or experienced in a school setting. It's not a black and white question, and in order to assess it, the person evaluating a teacher's competence must exert a subjective use of professional judgment.

Professional judgment relies on supervisory use of professional knowledge, contextual understanding balanced with the systemic application and—of support. The research highlighted in the report of the Commission on Kindergarten to Grade 12 Education

underscores the need for appropriate professional development to occur with a community—within a community of professional learners, and it highlights the need for professional standards to be clearly articulated. In fact, the research cited by the commission works to define teacher excellence and does so by citing multiple factors that would influence and support such standards.

Competence does not belong in legislation, but rather, it must exist as part of a process, which is better supported in the field by qualified, educated and experienced professionals in a supervisory role—in fact, that of the employer.

In addition to the idea of adjudication of competence, the assessment of complaints to the hearing panel must be informed by experience from the field, and therefore, the members of that hearing panel must have majority representation from people with experience teaching in a classroom.

Further, when school leadership is the object of a complaint, the panel must also have a majority representation of members having school leadership experience. Just as we would not want a doctor to be judged by teachers, for example, the inverse is also true, which makes the point that expertise matters.

Again, the report of the Commission on Kindergarten to Grade 12 Education highlights the need for a profession to govern itself. The research cited from that report clearly supports my assertion. A balance, though, must be struck for public accountability and legitimacy. There must be a majority teacher representation on the panel when discussions of teacher certification occur.

As I've cited previously, expertise really does matter. This is why I strongly recommend that the wording of a significant emotional harm to a student be removed from this legislation. It's a slippery slope when dealing with the complaint. Who is to define the meaning of significant emotional harm? Who has the expertise? How can it be measured? And until these questions are answered, the risk to those of us who diligently serve our students is too high.

Additionally, we have current processes in place that serve the protection of children well, and allow us at a school level to do our jobs and support children with appropriate programming. There's systemic oversight and dispute resolution processes already legislated in The Public Schools Act on appropriate educational programming.

Further, there exists bodies assigned to advocate for children and their families through the office of the Manitoba Advocate for Children and Youth, and the inclusion of this wording is unnecessary and creates multiple system redundancies.

Let the wording of the legislation reflect, for example—yesterday's presenter, Ms. Dobbelaere's definition, as it was clear, comprehensive and targeted on student safety, all of which are concepts that I support.

* (19:20)

Finally I'd like to address the lack of adequate procedural fairness for teachers who are the object of a complaint. There are two main failings in this legislation as it's currently written: first, it does not explicitly state that a teacher shall receive representation during an investigation. This is a significant shortcoming. If the purpose of the legislation is to protect the safety of children in our care, we must also ensure that the process itself is designed for the safety of all parties for it to be considered just. As a system, we must always uphold its values for everyone.

Secondly, the report of the commission on kindergarten to grade 12 education stresses the need for transparency. Anonymity is, in fact, the opposite. It has no place in a fair and just process. Additionally we allow—when we allow complaints to be made anonymously, we create a climate for abuse. If a person is feeling victimized, there are procedural accommodations that can be made to allow that person a sense of safety. But the process itself cannot be undermined by 'complainant' anonymity. We have an obligation to provide a process deemed fair for all parties.

In summary, the report of the commission on kindergarten to grade 12 education clearly outlines what a professional teacher college, for example, should consist of, and this legislation clearly misses the scope of those recommendations and instead focuses solely on concepts of discipline. This legislation is missing an important opportunity to elevate our profession.

As a parent, I want high quality instruction for my children with a view to their unique talents and gifts. As a taxpayer I want to avoid waste and redundancy, and as a member of the teaching profession I want to protect its integrity. I don't want bad teachers; I want great teachers.

I support the development of a teacher professional certification body to elevate our profession, protect our children and support public accountability,

but I request that this committee re-evaluate the language and scope of this legislation as it is currently written.

Mr. Chairperson: Ms. Warriner, thank you for your presentation.

We will now proceed to five minutes of questions, each question not longer than 30 seconds.

Minister Ewasko, please go ahead.

Mr. Ewasko: Thank you, Mrs. Warriner, for coming on tonight and exercising your democratic right coming to committee and thank you very much for bringing forward also a few ideas in regards to amendments to the bill.

So just for—just a quick point of clarity: any anonymous points or things that I brought forward to the commissioner is automatically denied and not looked at. Anonymous complaints are not looked at.

Secondly, just a quick question: you mentioned a teachers college. Would you be in favour of a teachers college? Why or why not?

Mr. Chairperson: Ms. Warriner, please go ahead, if you'd like to.

A. Warriner: Yes, thanks. No, I think I would like that reference to be understood as a body of self-government. Whether I use the term correctly or not, I think it is an important aspect that can be dealt with and is dealt with in many professional areas and dealt with fairly by representation from the field that it represents.

So, I think that that's the clarity I'd like to bring to that comment.

Mr. Altomare: And thank you, Ms. Warriner, for your presentation. Thank you for your work on Bureau de l'éducation française advisory team. It's really important work, work that can't go understated.

As a school principal, I'd like you to reflect on how this bill may alter your practice as a school leader. *[interjection]*

Mr. Chairperson: Ms. Warriner, please go ahead.

A. Warriner: Sorry.

Yes, I've heard you ask that question of other people, and I've reflected on it. I think that, in large part, what's already been stated and answered in that is quite true. I think that the effects can be, you know, in terms of the types of complaints that might be brought forth and how those would be dealt with in

dual systems and dual analysis or investigations, both by the employer and then by the hearing panel or the commissioner, in which case I think that those types of things can become extraordinarily time consuming for me in a role as a school leader. And that when they're frivolous, those things can cause a great deal of harm beyond the scope of what people understand.

I think that, in terms of wanting to elevate and protect our profession, we need to have oversight; we do need that. I think it's currently provided very well by our employers and I think investigations are thorough when it comes to many, many issues. I support the bill in principle for the protection of children and to protect them from exploitation; there's no denying that.

I think in terms of the day-to-day impacts of the work that I do, the scope is actually quite large and probably would bear a deep analysis.

Mr. Gerrard: Thank you for your presentation.

Just as I understand it, you were talking about the assessment of competence. And we have, already, an approach. And I think you're suggesting that the current approach is designed so that if you've got a teacher who's struggling, you can take that teacher and help the teacher to become a great teacher.

Whereas, you're concerned about the process in this bill for assessing competence might actually be more penalizing and not helpful.

Mr. Chairperson: Mr. Gerrard, your time has expired.

Ms. Warriner, if you wish to respond, you may do so.

A. Warriner: Yes, I think that's a fairly excellent summation of, sort of, the point that I was trying to make around that.

I think that teacher competence is contextual sometimes, and so different things can happen to support teachers to be great teachers. And I think, in the process of supporting, we have opportunities to address when competence is lacking.

And, should other steps and actions be required, there are processes in place for that that allow those people a fair and due process.

Mr. Chairperson: We have 28 seconds remaining. I see Minister Ewasko.

Mr. Ewasko: Thanks, Ms. Warriner. And you know what? I think you mentioned it, but I think we all echo it: we do want continued great teachers.

We already do have great teachers in this great province of ours. I think at the same time, with Bill 35, I think when we come to the—writing the standards and that, I think we're going to protect kids and teachers.

So, thanks for your presentation tonight.

Mr. Chairperson: Ms. Warriner, we've run out of time. Thank you for sharing with us, we are very appreciative.

We now move to the next presenter, Ms. Jacqueline Ross. Is Jacqueline Ross here? I see movement in the room, but I don't think that's Jacqueline Ross. I think someone's just—not online. We will move Ms. Jacqueline Ross to the bottom of the list.

Is Ms. Clare Burns here or online? And again, online presenters, if I do call your name, please raise your hand so that our moderators can see. Okay, Ms. Clare Burns will move to the bottom of the list and ask in—later on this evening.

Ms. Rebecca Sulkers. Ms. Rebecca Sulkers? Is Rebecca here or online? Ms. Rebecca Sulkers will be moved to the bottom of the list.

Mr. Gabriel—or, I hope I'm saying it right—Hurley. Is it Gabriel or Gabriel? [*interjection*] Gabriel, my apologies.

Welcome to committee. We invite you to share your thoughts with us. You have 10 minutes, and please go ahead.

Gabriel Hurley (Private Citizen): In the month of February, 2021, an Ontario science teacher named Chanel Pfahl, made a mistake which I hope none of you have ever made: she posted a political opinion on Facebook.

On a non—a public facing page, the teacher criticized what she called, critical race theory, which she believed to be a political movement associated with promoting anti-capitalism and the idea that all white people are inherently racist.

She wrote, quote, kids aren't in school to be indoctrinated with critical race theory. Schools should be non-partisan. Focus on modelling kindness to everyone and speak out against any form of discrimination you see. End quote.

Another teacher on this Facebook group reported her for voicing her opinion. As a result, she was

suspended for one week from her job, without pay, and subject to an investigation by the Ontario College of Teachers, an investigation which threatened her licence to teach in Ontario.

* (19:30)

Some of you may be less concerned by this event than others. Perhaps you may disagree strongly with the opinions that she voiced, but should we only support due process for those who have the opinions we support?

Consider that Ms. Pfahl is not just a science teacher but also a private citizen, and that she wrote the offending comment outside of school hours in a private discussion group on a topic that is very much now a matter of public debate in Ontario. There is no evidence that she had ever in her own classes had a complaint from her students on what she taught or from the parents of those students. Instead, the complaint came from another teacher, and it was only about the Facebook post.

After a year of investigation, the Ontario College of Teachers issued her an oral caution, a warning not to voice her opinions again, lest she face more severe consequences next time.

I bring this story to light because it relates to the proposed changes in Bill 35. These changes allow for a complaints process that is overly broad in scope and lacking in due process.

The bill would create a government commissioner with the power to investigate and ban from the teaching profession any teacher found guilty of professional misconduct. The bill gives some examples of what professional misconduct means, but it also specifies that the term is not limited to those examples. In fact, professional misconduct could mean anything that the commissioner believes makes the accused unsuitable to be a teacher.

No doubt, anyone found guilty of child abuse should be kept as far away from the teaching profession as possible, but professional competence is best judged by a teacher's employer. The bill creates a hearing panel composed mostly of non-teachers to decide on a teacher's professional competence, circumventing the responsibilities of the school principal and divisional superintendent.

If a school division has no concern about keeping its employee in the classroom, then why should a Manitoba commissioner or a panel of non-teachers get involved?

There are also problems with the process itself. The legislation allows any person to make a complaint about a teacher's alleged professional misconduct or incompetence. The complainants need not be the teacher's student or the parent of the teacher's student or have ever come in contact with that teacher. It could simply be somebody who sees a teacher having a little too much to drink after a Friday night hockey game and decides that this teacher doesn't meet their puritanical standards for what an educator ought to be. Or someone who spots a teacher's risqué photo on a dating app, and figures that anyone with a teaching licence should be a paragon of Victorian virtue.

The Manitoba Teachers' Society already has a code of professional practice. This exists to maintain standards of professionalism and an orderly school environment.

One key element of the code is that, quote: "A member first directs any criticism of the professional activity and related work of a colleague to that colleague in private. Only after informing the colleague of the intent to do so, the complainant may direct in confidence the criticism to appropriate officials through the proper channels of communication." Close quote.

And furthermore, that, quote: "A member does not bypass immediate authority to reach higher authority without first exhausting the proper channels of communication."

Bill 35 encourages colleagues to act in an unprofessional manner by acting against the code of conduct, just like the teacher who thought that Ms. Chanel Pfahl should suffer for her inadvisable Facebook opinions.

The teaching profession is constantly affected by public debate and rightly so. Even for those who do not have children, teachers are involved in shaping the minds of people who make up their communities, but it also means that teachers are often subject to unfair criticism from multiple directions and from people with a variety of political agendas.

By creating an overly broad definition of misconduct, usurping the responsibility for professional standards, and creating a complaints process that is unfair and easy to abuse, the drafters of this bill have strayed from its original purpose.

Respected members of this committee, I ask you: Narrow the focus of the bill to match the original purpose: protecting children from sexual abuse and physical harm.

Thank you.

Mr. Chairperson: Mr. Hurley, thank you for your presentation.

We will now begin the five minutes allotted for questions; no question more than 30 seconds, the answer is as long as you would like.

Mr. Ewasko, please go ahead.

Mr. Ewasko: Thank you, Mr. Hurley, for making it back here today, and thanks for your presentation.

So, quick couple questions I have for you. So, first of all—and it's more of a comment, and then you can comment on it. We've had some education stakeholders or partners chime in on the bill and basically say that the definition is not broad enough, first thing.

Secondly, because I've only got a couple seconds, so, what is the present practice, from your opinion, on how misconduct is dealt with?

Mr. Chairperson: Mr. Hurley, please go ahead.

G. Hurley: So, in regards to the first question, I saw the presentation from the Canadian Centre for Child Protection yesterday. What I understand her concerns to be is that there are specific examples that she would like included in the definition. That's not my concern. Adding more specific examples does not concern me.

What concerns me is the part at the beginning where it says professional misconduct of a teacher means conduct that makes them unsuitable to be a teacher, including, but not limited to, the following.

So, the problem isn't that adding more examples would cause an issue. The problem is that those examples are including but not limited to. So, for example, she gave an example of, oh, gosh what was it—conduct towards students—no, conduct towards children who are not your students. That is not a concern for me. And just for the record, I am a teacher.

The concern is that adding that would not limit the definition at all. There are no limits other than that it's in the opinion of the commissioner that the conduct would make them unsuitable to be a teacher, with no definition of what those things could be.

Mr. Altomare: Thank you, Mr. Hurley, for coming on day two of committee hearings.

It's great that you're participating in this process. Your voice is an important one, and I want you to expand a little bit more regarding the lack of due process. What portions of this bill raise your concerns around lack of due process?

Mr. Chairperson: Mr. Hurley, please go ahead.

G. Hurley: Thank you for the question.

I'm concerned that it could lead to opinion shopping, where, for example, if you have a concern about what your—what the teacher in a classroom is doing, you could either go to the school, or you could go directly to the commissioner, or if you don't like the response from one you could go to the other.

As I've already mentioned, the code of professional practice, as it stands for teachers, is that if you have a concern about professionalism, then you need to talk to the teacher, your colleague, first. But, because the—this bill allows anyone to make a complaint, that could lead to unprofessional conduct, or at least encourage unprofessional conduct, by encouraging teachers to contact a commissioner with regards to what they believe to be unprofessional conduct rather than contacting their colleague.

Mr. Gerrard: I'm struggling trying to understand why the bill has competency.

We seem to have a pretty good way of addressing teacher competency, so why do we need to duplicate it and to impose a different definition or a new way of doing it? *[interjection]*

Mr. Chairperson: I'm sorry, my mic was not on.

Mr. Hurley, please go ahead.

G. Hurley: I don't know.

Certainly, concerns about competence are something that everybody should care about for teachers. I—I've—so—but I can't speak for why it's included in this bill.

Mr. Ewasko: So, Mr. Hurley, just—quick question.

I had asked you earlier about what the present process is and you didn't quite answer that, but just in regards to competence, we've already committed that in regards to teacher standards here in Manitoba, and as it's been mentioned from a couple prior presenters, here in Manitoba—and the Manitoba Teachers' Society agrees as well—that we actually have to sit down and create those standards for teachers and to write them.

Those consultations are going to happen with teachers, with employers, with teacher representatives, et cetera. So, give me 15 seconds of your comments on both.

* (19:40)

Mr. Chairperson: Mr. Hurley, go right ahead.

G. Hurley: Nothing wrong with establishing standards, but the question is, how are they addressed in the school?

Currently, teachers are observed by principals in their teaching, and that's where the discussions about competence should start.

Mr. Chairperson: Mr. Hurley, thank you. Thanks for your presentation, and thank you for coming out. We do appreciate it.

I'm going to call Terri Willard, who's the next presenter. Terri Willard, are you here virtually or in person? Not virtual, it appears, not in person. Terri Willard will go to the bottom of the list.

Mr. Sam—I hope I say it correctly—Zurzolo. Mr. Zurzolo is online. We will—Hello, Mr. Zurzolo, do I say it right?

Sam Zurzolo (Private Citizen): Mr. Zurzolo, Zurzolo. However you want to say it. Don't mind.

Mr. Chairperson: Okay, we were discussing it here. Welcome to the committee. You have 10 minutes to present. We look forward to hearing your thoughts.

You have the floor for 10 minutes.

S. Zurzolo: Forgive me, as my attention will be on my screen. Chair, Minister, esteemed members of the committee and honoured guests: my name is Sam Zurzolo, and I'm a teacher of the Winnipeg School Division at Elmwood High School, and I've been a teacher for 16 years.

I come before this committee to voice my opinion and propose a change to Bill 35. This bill purports to provide safeguards against ill-intended actors in the education system. It sets up a process, whereas a member of the public fearing for the safety of a child, either in their direct care or their periphery, may present to the commissioner their fears of grave misconduct.

The commissioner is then guided to act on their best understanding of the situations and initiate investigations into the misconduct, form a review panel to judge the founded information and enact a form of punitive action against the purveyor of said misconduct.

I am not against addressing the issues that this bill is designed to protect. I do not oppose the attempt to offer avenues for the public to address concerns about misconduct and misbehaviour of those who are in care of children.

It must be said, without question, that any and all methods to which we could protect children from physical and psychological harm should be explored. We should and must install strong policies and systems from which we can ensure the safety of the students in our schools.

We've listened to many presenters address the content of this bill. If it has not been obvious, what this bill purports to do and what it actually may do seems to be at odds with its intent. I'll be brief—excuse me—I will be brief in my critique and try to summarize the statements of those who have preceded them.

If the intent of this bill is to ensure that students are safe from physical and psychological harm, then the question of the role of competency arises and must be addressed. There has been no connection drawn in this bill between the safety of the student and the competency of a teacher.

In fact, in a previous presentation, a representative of the Centre for Child Protection offered an example where it was a highly competent teacher that used their competency to lure students, not a low competency teacher.

So, why then, does this bill seem to insert the words incompetency as in section 8.9, reading that a complaint could be made that a teacher has been incompetent to carry out the professional responsibilities of a teacher?

Is there data that exists, that draws parallels to the competency of a teacher and their likelihood to harm a child? Further, the minister has repeatedly pointed out that we should have a one-table system from which concerns regarding teacher behaviour should be reviewed and brought into the purview of a single entity.

Perhaps the minister could elaborate on why a one-table system is the best we can come up with. In those jurisdictions which have adopted a similar review board and commissioner model, is there data that shows that there's been a link between the competence and the incidences of abuse?

I will not belabour this committee with more of the same. Let me just say that I believe that the word competency was inserted here, when we could have just used a different phrase. Perhaps a better definition of what this bill should be looking at is teachers not being dutiful, teachers ignoring their duty to report, ignoring their duty to keep students safe.

Competency does not ensure that a teacher will perform their duties. I propose that the word incompetency be removed and replaced with the word undutiful.

That's the end of my presentation.

Thanks for your time.

Mr. Chairperson: Thank you for your presentation.

We now move to five minutes of questions.

Minister Ewasko, you have 30 seconds, as does any other question-asker. Please go ahead.

Mr. Ewasko: Thank you, Mr. Zurzolo, for coming on tonight and presenting. And you know what? You're the first one out of the many presenters I've listened to over the last night and a half, here, that has brought forward that type of amendment.

Just a quick question—or a quick comment. You asked me about why a—one table. So when you talk about misconduct and you talk about competence—

Mr. Chairperson: Five seconds.

Mr. Ewasko: —and apparently I've only got five seconds, so I'm not even going finish that.

I'm going to be able to just say thank you for your presentation. Hopefully I'll have enough time to finish that up later on.

Mr. Chairperson: Mr. Zurzolo, if you wish to respond, you're welcome to.

S. Zurzolo: No response to that.

Mr. Altomare: Thank you, Mr. Zurzolo, for your presentation this evening.

It did pique my interest around the term undutiful. Where did that come from? How does that—how do you believe that makes—this amendment would make this bill a little bit better?

S. Zurzolo: I think the term incompetence is way too general and really brings itself to start to question things that belong with professionals, with principals, with superintendents, with the Minister of Education himself, to sort of judge whether a teacher is doing what their tasks are.

Now, when we talk about duties of a teacher, some of the duties of a teacher are very well laid out in the public schools act, and one of the duties of a teacher is, of course, to have safety in your classroom, to have safety with all your students; we also have a duty to report when we suspect abuse. It's these duties

that I think are failing in terms of what's happening and where these abuses are coming from.

And, now, don't get me wrong. These abuses are not as widespread as some members of the legislative seem to purport, but they are things that do need to be addressed, and I have a sense that if we can simply just talk about the duties of a teacher as laid out in the public schools act, and perhaps the duties in terms of reporting harassment specifically, that would address the concerns that this bill is purporting to address.

Mr. Gerrard: I'm just trying to clarify what you're proposing. I think you're talking about section 8.9, complaints: Any person may make a written complaint to the commissioner that alleges, and then (b) that a teacher has been or is not dutiful in carrying out the professional responsibilities of a teacher.

Is that the change that you would suggest?

S. Zurzolo: Perhaps simply replacing the word wouldn't do it the full justice.

Now, once you're talking about duties, you're kind of moving yourself away from the necessarily—the professional responsibilities and more into the specific duties outlined in the public schools act, and I believe it's the child protection act—I'd have to verify that—but where we have our duty to report. And really, that's the crux, is the duty to report abuses.

So, any involvement with a competent teacher, like I said, it's—it doesn't seem to be—there doesn't seem to be a link between competence and abuse, and if there is, I have yet to see it. It does seem to be a very simple, you know, a very easy thing to point to and say, oh, these must be incompetent teachers, but I don't see the data. I haven't come across that data, and I'd love to see if there is any reports available to where incompetence is the problem.

Mr. Ewasko: Mr. Zurzolo, just in regards to the single desk for teachers or for parents or students to be able to bring forward complaints of a teacher.

So, you mention that you have not seen any of the incompetence piece. Incompetence—what can happen is this becomes a pattern, and if that becomes a pattern, that's where the commissioner and the panel can come into play and then be able to offer various different things, whether it's a suspension of a certificate or something that the teacher would have to do to carry on with upgrading or get themselves—

Mr. Chairperson: Minister, your time has expired.

Mr. Zurzolo, unfortunately we have very few seconds, about 15 seconds or so, but please go ahead.

* (19:50)

S. Zurzolo: Okay, yeah.

So, if we could, I would simply report—or, I would simply say: find me that connection that incompetence leads to safety—or, excuse me, that competence leads to safety, and incompetence leads to abuse.

Mr. Chairperson: Mr. Zurzolo, thank you for your presentation.

We must move now to the next presenter, and I call forward Mr. Augustine Watanabe. Am I saying that right? I hope so. Is Mr. Augustine—

Floor Comment: My name is Augustine Watanabe. So, Irish, English, Japanese.

My wife is Japanese, I took her name.

Mr. Chairperson: Welcome, Mr. Augustine Watanabe.

Augustine Watanabe (Private Citizen): Yes, that's right.

Mr. Chairperson: You have the floor for 10 seconds—actually, you know what we'll extend that to 10 minutes. You do have it for 10 seconds, and also 9 minutes and 50 seconds after that.

Please go ahead. You do have the floor. Thanks for being with us.

A. Watanabe: So, as someone who has worked in education for the last three plus decades, I take my role as a—I take my job as a role model very seriously.

And with experience from elementary school to grade 12, in a variety of subjects, in multiple jurisdictions, I feel it's my duty to speak as a professional to the issue of teacher certification, professional misconduct and competence as an educator.

I was in Ontario in 1997 when they started their college of teachers. It was established to protect the public interest. It was about professionalism. Nobody mentioned protecting children at the time; it wasn't an issue. It's about teacher professionalism.

And, by the way, the college of teachers of Ontario has a 37-member council, and of those 37 members, 23 are professional educators. So, 23 out of 37, that's 60 per cent of the College of Teachers of Ontario. So, I heard last night that we want to have standards that are similar to the rest of the country. Well, Ontario has 60 per cent of the college of teachers being professional educators.

Children do need protection. I agree with that, of course. Everyone—who doesn't agree with that? And, as a citizen, I'm also going to tell you I'm a survivor of childhood sexual abuse.

I'm a product of the '60s scoop mentality. I can't say I'm a '60s scoop survivor, because I'm not Indigenous, but anything that's gone—happened to the '60s scoopment survivors, yeah, it happened to me.

I was moved from—4,600 kilometres from Newfoundland to Ontario, against my will, when I was five, as an example. So, it helps me understand, as a high school guidance counsellor, the issues that both students and adults are living with and the icky issues that no one really likes talking about. That's my job.

If Bill 35 is truly about the safety of children, why are the powers of the minister conflate competence with protecting children?

And I'll get to what Ms. Classen said last night. There's a contradiction, right in part 2, where it allows for re-consideration of a refused licence. How does that make children safer?

I fundamentally—by the way, I might disagree with some of my colleagues—but I fundamentally agree that we need to support the Mani—teacher—toba teachers' society's role as a union, from its role as a professional regulator. They need to be two separate things in my opinion—my professional opinion. Teachers need to be seen as professionals.

There is, however, one major cultural difference in our society towards educators as opposed to other professionals. Everyone has been a student. Everyone has an emotional connection to the school system. Whether it's a wonderful memory or a terrible one, our experiences colour how we see the school system.

Most people think they know how schools operate, but they don't. Most people working within the school system don't fully comprehend all the ins-and-outs of how it actually works on the ground. They don't understand the funding models, they don't understand the policy decisions or the most recent research, and that's because they're too busy with the group of students right in front of them on a daily basis.

So, how are people who don't have any sense of how the school system actually works and how the profession operates—they're supposed to understand it? For decades—decades—I have heard colleagues comment on wanting professional respect from the public, both in Manitoba, and Ontario and Japan.

While I think COVID helped change the image of the profession in some minds, I do think the college of teachers would do more about professionalism. I do ask you, though, to look up at the governance makeup of professional law societies, colleges of physicians, surgeons, nurses and social workers. Again, they're regulating themselves, because they know what they're doing.

The majority of people sitting in governance positions should be professional educators. And when I hear some say we can't trust educators to help themselves—or, to police themselves, I wonder why doctors and lawyers don't hear those same things, because not everyone's been a doctor or a lawyer, but everyone's been a student.

The minister repeatedly referred to the hearing panels as having three people and was all even, last night. And while I respect that opinion, I'm going to ask you, what about the rosters of hearing panel members being comprised, four out of the 12 are professional educators. That's one third, 33 per cent, from that—from the roster.

Why can't the roster—and this is an amendment suggestion—why can't the roster of panel hearing members be 20? How about having 10 professional educators, five Manitoba School Boards Association members and five members from the public at large?

Why can't hearing panels be five people instead of three? Three professional educators, one Manitoba School Boards Association member and one member from the public at large?

And while we're at it, I don't agree that the commissioner has too much power. I think the commissioner needs to be someone with a Ph.D. in education; needs to be a university professor of education.

Bill 35, from my point of view? I was sexually abused when I was a child. I know that protecting children is fine, but to label this bill as protecting children negates the whole idea of professional respect.

Bill 35's inclusion of teacher competence, along with certification and professional misconduct, takes away—and I know it's been said before—a vital employer responsibility. I want you to remove section 9.9(b)—incompetent to carry out professional responsibilities of teachers—explicitly says that.

Because, by the way, The Child and Family Services Act dictates we have—someone was talking about duties earlier tonight—we have a duty to report.

I don't think many Manitobans know that every adult in Manitoba has a duty to report a suspicion. They're not—we're not responsible for doing a—the investigation. We have a duty, if we find something, to report it. That's for every Manitoban.

And besides, again, who decides what constitutes competence? People who have never worked in education?

In my life, I've had the pleasure of working with wonderful, caring parents over the years. I also worked with someone who was accused of sexually abusing a young girl in his class. He had no idea where the accusation came from. He knew he hadn't done what he was accused of. He also knew if the public became aware of the accusation, his career was over, guilt or innocence aside.

He was put on leave during the investigation and after a lengthy and stressful time, he was exonerated. And here's the thing: the girl was being sexually abused. It's called transference. She was being abused by her father and her brother. And he got tagged for it, for a year.

Now, luckily for him, his father died, so he had to go home and take care of his carver—father, and used that as cover for why he wasn't working. To this day, there are many people who don't know he was ever under an investigation, which is as it should be.

I had another colleague who was also put on leave for alleged sexual misconduct with a teen girl. He was working with incarcerated youth. She did not like being told what to do, and she blatantly said, I'm going to get you in trouble.

Again, after investigation, he was exonerated, but it was much more difficult for him to explain to friends and neighbours and family, over many months why he wasn't at school, why he was at home for those many months. What story did he have to come up.

Now as painful as those experiences are for those educators, the system worked. And we have to protect the children and as it's been alluded to, it hasn't worked in the last couple of years for some young athletes in the city—student athletes, and also that not all predators in the school system are teachers.

But I want you to contrast those two investigations I just mentioned to the parent who said to my face, "I don't want my daughter engaging with any of these gay people." To my face. And I knew that students, colleagues and parents that I work with are part of the LGBTQ2+ community. I don't want that

person anywhere near, judging my incompetence—or competence.

Contrast that to the parent who emailed the teacher at 6 p.m. on a night, and didn't get a response, so emailed again and again and again. And, angry about not getting a response, emailed the principal, then emailed the superintendent's office, then emailed the trustees, in one night.

The teacher had two, three kids at home. Of course she didn't answer it. I don't want people who have nothing to do with the education system commenting on our competence.

I had a parent—parents vehemently disagree with me. I'm a high school guidance counsellor right now. I taught, like, all grades, but now I'm a high school guidance counsellor. They thought I was biased against them, that I wasn't doing right by their daughter.

And then later on, like years later on—because you know, grade 9 to 12—when the kid was in grade 12, they were talking to me about self-identity, self-determination and how teens build identity. And they would not have imagined the first time they met me, would we be having that conversation a couple of years ago, later. I did because that's my job. My job is to have difficult conversations. That's my job.

* (20:00)

And it's also because I'm a professional with experience and the training that goes with it. I could talk about teaching pedagogy, Maslow's hierarchy of needs, Bloom's taxonomy, Hattie's ranking, Carl Rogers or the effect of trauma on the nervous system: how it effects learning and behaviour—means nothing to parents.

They're emotionally attached to their parents, as they should be, and they want what's best for them. And they're also coloured by the emotional experiences they had while they were students. And emotion blinds reality for sometimes, okay?

I've opened novella-length emails; seeing who it was from, what it was about, I didn't even bother reading it. I just phoned the parent right away, because I knew that a phone conversation would be much more constructive than any response to that.

So, protect children of course. Recognize the professional of educators, yes. Judge them on an arbitrary understanding of competence, no. So, I see my time there is—it's like planning a lesson plan, right? Yes, I recognize the minister's—and actually minister Nello is also, both former teachers.

Mr. Chairperson: Thank you for your presentation.

We're going to move to five minutes of questions. So, I'm just going to set the clock here.

Minister Ewasko, please go ahead.

Mr. Ewasko: Thank you, Mr. Watanabe, for coming in and giving your presentation, and the courage to share this story, as well. It doesn't sound like it's the first time you've shared it, but I'm sorry that you've gone through some of the things that you've gone through.

But also, as a guidance counsellor, myself, before this wonderful gig, I applaud you for what you're doing on a day-to-day basis, and I'll ask you a question after I get another chance.

Mr. Chairperson: Mr. Watanabe, you have the option—you're welcome to respond if you want to.

A. Watanabe: There was no question, but thank you.

I guess I would just say that I'm not here for myself. I'm this close to retirement. I'm here for the integrity of the profession, and I'm—yes, sure, protect the kids, but I'm here for the integrity of the profession.

Because this bill, just like the ones that when I was—I started my career in Ontario, under Mike Harris in the mid-'90s, early '90s. And the effects of those changes in the education system felt, you know, 25 years later. And this bill is also going to have a decades-long effect.

So, I'm here for the children, the parents and my colleagues that I will never meet.

Mr. Altomare: Thank you, Mr. Watanabe, for your presentation; certainly well-researched, well thought out. I'd like to ask a question about how Bill 35 may impact your practice as a guidance counsellor in a high school.

Mr. Chairperson: Mr. Watanabe, please go ahead.

A. Watanabe: Like I said, it's not here about me. And frankly, I'm this close to retirement, it won't affect my practice at all. Because I'm always going to do what's in the best interest of the child, and if people disagree with that, I don't care.

The best interest of the child is what guides my professional judgment and my professional competence. But what I will say about this bill, and also about Ontario, because that's—I was educated in Ontario, although I did graduate from U of M—you know, Lakehead and University of Western Ontario—

Ontario published a report over 20 years ago talking about why are there such a lack of males and male role models in the education system: 20—over 20 years ago.

And the conditions they can—the conditions they identified, one of them being the fear of males being accused of something sexually inappropriate with a student. That was one of the significant factors why men don't go into education. And 20-plus years later, nothing's changed.

We do have to respect that, but I also think that we have a paucity of role models for these young boys, and even the teen boys. And the males that do go in education usually go into high school or maybe middle school. Most elementary schools are almost a hundred per cent female.

Mr. Gerrard: Yes, I give you an example of incompetence that was brought up to me recently. I've been helping children with learning disabilities, and families, all right? And one of the families came to me and said, we've got a teacher who's completely incompetent in helping a child with his difficult learning disability.

Not surprising, because it's not mandatory for teachers to have training about learning disabilities in Manitoba, right? So, it seems to me that would be much better dealt with by the teacher and the supervisor, superintendent in the school board, rather than going through this sort of a process.

Mr. Chairperson: Mr. Gerrard, your time has expired. Mr. Watanabe, please go ahead.

A. Watanabe: Yes, so, like I said, I want the word competence—and we've heard how many times the professional teachers have said we want the word competence removed from this legislation. That should say some—the sheer number of people asking, that should say something.

But I will say—because some people tonight, just didn't seem to understand that Noni Classen from the child centre—protection for children, Canada, last night testified—and I agreed with her. I agree with her that in some cases, predators use the guise of extra help as a cover for abuse. And I think that's what you're referring to. She also pointed out last night that the employer should be addressing issues of competence as it relates to job performance.

So, she actually used the word from my perspective, here's what I'm talking about. That's kind of word jumbling to put in a legislation. I understand the legislation is a framework, and then after framework

you've got regulations. And the devil is always in the details, right?

But how do you bridge that divide between, I'm talking about job performance versus someone using their professional position as cover? So, in my case, I actually had an idea—I had a thought about that last night, and this is an idea not new to some people, but enshrining the rule of two in law.

Not as a suggestion, as a must. It won't be easy; it can't be black and white, it has to be nuanced and it has to be—what's the word for it? It has to be—it can't be black and white. So, rule of two if you're a volunteer outside of school hours.

Mr. Chairperson: Thank you for your presentation, we do appreciate it.

We now call Ms. Rachel [*phonetic*] Dunlop—or, Rachele Dunlop. Is—they are never going to ask me to chair one of these things again after butchering so many names.

My apologies, is it Rachele?

Rachele Dunlop (Private Citizen): Rachele, yes.

Mr. Chairperson: Dunlop, okay. Welcome.

You have—we look forward to hearing your comments.

R. Dunlop: I just want to preface this with, I've loved watching all the different educators coming up here because I love seeing the vast array and variety of different educators that we have amongst the province.

Like, it's really cool that so many of us are here, and we're all bringing forward different points. Anyway, so I'm going to bring forward my point now.

Good evening. My name's Rachele Dunlop. I've been a teacher for three years, and prior to that I was an educational assistant for 14. After 17 years' experience in education, I'm quite familiar with the inner workings of a school.

I'm here tonight because I have some concerns about Bill 35, the education admin amendment. This is my first time speaking against a bill. Originally, I was so scared to make a mistake in front of the Minister of Education, I just wanted to stick to the very non-Rachele sounding guide I was given.

You see, I'm neurodivergent. And that leaves me with a wonderful bag of anxiety that I constantly carry while I'm on patrol for things I might say or do, that might be misconstrued. Then I heard all the speeches

from so many outstanding and caring colleagues in my field.

They were vulnerable, and real, and I wouldn't make the impact I wanted to make without speaking in my own words. Let me be extremely clear here: I always want what's best for my students, and I will always advocate on their behalf for their needs.

Their safety and emotional well-being is my top priority. And I take my responsibility of *in loco parentis* very seriously. It is an honour that parents have so much trust in us.

Yesterday, when Ms. Classen spoke about the Centre for Child Protection research report for 2018, she mentioned that over a period of 20 years, 95 per cent of the Canada-wide child abuse offenders were educators or involved in the field of education. That's a terrifying number if you say it that way.

Upon further investigation—I looked up the information, and in 20 years there were 714 abusers from the field of education. I then went to my trusty calculator. Divide 714 by 20, round it up, you get 36; 36 offenders in one year in all of Canada.

Although I agree that even one offender is too many, let's look at the real data here for just a minute. How many teachers with an active teaching licence do we have in Canada currently? A quick google gave me some varying responses: anywhere from 395,000 to 408,000.

Lets say, on average, there are 400,000 teachers in Canada. Thirty-six divided by 400,000 is 0.00009 per cent. I think that is something that Ms. Classen forgot to point out when giving us her numbers.

* (20:10)

That still leaves us with that miniscule amount of offenders we do have—which I want to reiterate that any offenders is always too much, and I'm glad we already have a process in place in Manitoba to deal with those kinds of perpetrators. We already have a child abuse registry, so there is no need for a bonus teacher child abuse registry, especially a registry that puts teacher competence in question. The two are completely unrelated and irrelevant. Ms. Classen did mention that a lot of the abusers went under the guise of being competent. So, in that case, it's not even protecting kids.

The next point I want to make is that the bill still does not clarify what significant emotional harm is. Yes, I've heard the Minister of Education say multiple

times last night, that, yes, they are going to work with MTS on a better definition. But until I actually see it written in the bill, I'm going to keep bringing it up.

I also need to get a drink of water because I was not shock-surprised at how much nervousness I was going to have. Okay.

All right. Cari Satran and Lise Legal, who both spoke—or, Lise Legal—who both spoke last night, absolutely hit the nail on the head last night when they addressed the issue of emotional harm. If the government cares about emotional harm so much, why are they underfunding schools? Students are in harm's way when there are staffing shortages and classrooms stuffed to the brims with no extra support. It seriously does take a village to raise a child, but that's a village that I assume has the resources it needs to do that raising.

When I was an educational assistant, the biggest thing we all knew in the fall was that our schedule was going to change at least a dozen times throughout the school year. We all knew that if a child had the appropriate documentation, diagnosis or funding, wasn't a behaviour, violent flight risk—okay, I'm going to say that again so it's clear. We all knew that if a child had the appropriate diagnosis and documentation or funding, if they weren't a behaviour, violent flight—or, violent flight risk, we as the EAs would get pulled from that class to go work with someone else that was having a harder time. That child who still needed support lost their right to an EA just because they were hitting—they weren't hitting anyone, right?

We can't provide the highest quality care when we're pulling EAs from students that have the right to an EA, only to put them with a student that is deemed a higher risk at that time.

I was an EA for longer than I've been a teacher, so a lot of my experiences with the lack of funding for education comes from that perspective.

I mentioned at the beginning that I am neuro-divergent. I specifically have ADHD. This benefits me as an educator, because my empathy towards my students is extremely authentic due to the difficulties I had as a student. It also benefits me as an educator, because if Mme. Rachelle is bored, the kids are bored. So, I make sure that my lessons are engaging and fun.

The not far—the-wow, did I just say fart in the ministry? Anyway—the not-fun part of being a teacher with ADHD is the constant scrutiny I give myself. I'm always afraid I'm going to say something wrong by accident. My anxiety about this can be extreme.

Weekends and evenings are sometimes ruined by this, because my anxiety can get carried away with: maybe I didn't handle the situation the right way, maybe I should've been more validating to that student, maybe I should've et cetera, et cetera, et 'ceretera.'

Anyway, the story has a point, and I'm getting to it. If this bill goes through without defining emotional harm, we're going to have a whole lot of capable, fantastic, caring and authentic teachers also going through the constant anxiety that I go through, and nobody deserves that, ever.

In closing, what I'm asking for tonight is that this bill—or at least the parts of the bill that are not clear—be scrapped. It is a waste of time, resources and money. The research from the Centre for Child Protection doesn't prove it's necessary. If we need to improve the system we already have, an uncrease in—I'm going to say this clearly—if we need to improve the system we already have, an increase in funding would certainly help us to do that.

Thank you for listening.

Mr. Chairperson: Ms. Dunlop, thanks for your great presentation.

We're going to move along to some questions. The questions are going to be 30 seconds or less, and we'll do this for about five minutes. You get as much time, though, as you like to respond.

Minister Ewasko, why don't you start us off here?

Mr. Ewasko: Thanks, Ms. Dunlop, for coming.

And I do know that there is, at times—and I'm hoping we're proving to you that this isn't a scary process and—because I thought you dud—you did very well in your presentation. Not that you need that or not, but I just wanted to say this isn't a scary place to come and give your comments and your concerns, and I want to thank you for coming tonight and doing that.

And in regards to a couple of the amendments, I would argue with you a little bit on the funding over the last few years, but that being said, that's not what we're here to talk about today.

Mr. Chairperson: Minister, I'm obliged to tell you your time is expired.

Ms. Dunlop, if you would like to respond you're welcome to; not obligated.

R. Dunlop: I have no comment.

Mr. Chairperson: Okay, Mr. Altomare, please go ahead.

Mr. Altomare: Thank you, Ms. Dunlop, for coming.

I would've loved to have been on a staff with you, it would've been a great experience. I think certainly the kids would've—your kids continue to benefit from your background and what you bring to the classroom, it's important. Especially when kids see themselves in their teacher. Never discount that.

Question I have for you is: How can this bill be intended to reflect its intended purpose of child safety? *[interjection]*

Mr. Chairperson: Ms. Dunlop, I'm sorry, I have to recognize you for the recording.

Ms. Dunlop, please go ahead.

R. Dunlop: The competency part; that part isn't relevant at all. That part can come out.

And we really need to define emotional harm, because I have watched and experienced so many actually frivolous and vexations complaints come to the school, and principals are stressed dealing with that. Admin is stressed. Co-workers are stressed.

Because people will complain about everything. Like, one time I was in a school and a kid was not supposed to bring the Pokémon card to school. Well, the teacher heard about it when that Pokémon card went missing, when the kid was not supposed to even bring it to school, and that parent was livid with—and she went straight to admin. She didn't even talk to the teacher. Like, things like that are ridiculous, and I think it adds extra stress that we don't need.

Mr. Gerrard: Thank you.

What you say about, well, the need for smaller class sizes and better funding—I've been hearing repeatedly that when you've got children with ADHD or autism or learning disabilities, that you really need to have smaller class sizes in order to be able to help them appropriately.

Maybe you could comment on that.

R. Dunlop: I waited that time.

No, I absolutely agree. We need more support in the classroom, and EAs, like—EAs are the lifeline of a lot of teachers, and I think it's important that more funding in—comes for them. More support for teachers.

Because ultimately we are here for the children, right? We want them to succeed; we want them to have the best experiences they can at school, and they can't do that when all the resources aren't there.

Mr. Ewasko: Thank you, Ms. Dunlop.

So, just a quick example, if you may—if you've seen an example of a complaint, and how was it handled? And, sort of, what was your opinion of it?

R. Dunlop: What kind of complaint?

Mr. Ewasko: A complaint that's been handled appropriately at school.

Mr. Chairperson: Ms. Dunlop.

An Honourable Member: And how was it handled.

R. Dunlop: Okay, well, I'm just going to go back to the Pokémon card complaint, because that's the one that's in my head right now.

But that parent called the principal, and he actually ended up dealing with it because the parent was so upset. And then eventually he was able to explain to that parent and calm them down, like, no, he's not supposed to have the card at school and the school isn't responsible for that card.

But that's something that administrator did—like, that shouldn't be something that they have to deal with, nor a commissioner should have to deal with that.

An Honourable Member: A clarification?

Mr. Chairperson: On a clarification, Mr. Ewasko.

Mr. Ewasko: So, in that example you just gave, that would be the administration, and that would not come to the commissioner. So, just for—just so you're aware.

Thank you.

Mr. Chairperson: Mr. Altomare, we have 25 seconds.

Mr. Altomare: Ms. Dunlop, how would this bill impact your day-to-day practice in school?

R. Dunlop: It wouldn't, because I'm always scrutinizing myself big time. It's my co-workers I'm worried about.

Mr. Chairperson: Thank you, Ms. Dunlop. You did great, and we really appreciate you taking time to come down and share with the committee.

I'm going to move along here. We have received a written submission from Jennifer—*[interjection]* Engbrecht; I hope I'm saying that right.

Is there leave to have it included in Hansard this evening? *[Agreed]*

* (20:20)

Okay, great, we're going to do that then. We're going to include Jennifer Engbrecht's written submission in Hansard, and I do want to encourage all committee members to take a couple minutes to read that.

I'm calling Mr. Jay Ewert. I believe Jay may be out of town, and possibly virtually. Is that the case? We do have Jay with us virtually.

Jay, as soon as I see you I'm going to recognize you, you're going to have 10 minutes. Welcome to the Legislature.

And, Jay, if you notice that someone else is sitting here, I'm going to take a momentary—excuse myself for a moment here, but you have the attention of the committee, and I ask the Vice-Chair just to sit here.

Jay, please go ahead. You have 10 minutes.

Mr. Vice-Chairperson in the Chair

Jay Ewert (Evergreen Teachers' Association): Can you hear me all right?

I'll presume as much and carry on. Good evening to the Chair, Minister Mickleson [*phonetic*], Minister Ewasko, Minister Altomare, Minister Gerrard and additional ministers present, and to all the esteemed presenters and observers this evening. Thank you for having me.

My name is Jay Ewert, and I'm proud to be a Manitoban educator with over 15 years of professional experience. [*inaudible*] And tonight I come to you as the president of that association to suggest ways to improve Bill 35.

As many people have said before me, child protection is of the utmost importance. And I don't ask you not to pass this bill, I think it should be passed, but not in its current form. The protection of children is one of the main priorities of teachers, myself included.

We all adhere to Abraham Maslow's hierarchy of needs. We understand, as educators—as we're all taught that physiological needs and safety and security are the precursors. Love and belonging, self-esteem and self-actualization, where learning happens, can't happen before that.

And so, without safety and security of students, a teacher has no vocation. It's the basis of our pedagogy. We're aware of the term *in loco parentis*. We have a sacred responsibility of protection of children when their parents are not there.

And this bill lays bare so that, although we would love for any apparently incompetent teachers, as part of this bill—but I would say offending teachers—to be eliminated, this also puts the rest at risk who are creating safe spaces for our pupils.

Reporting allegations of abuse is a right. It's a human right. It's something I encourage in my students, it's something I encourage in my—

Mr. Vice-Chairperson: We're just having some technical difficulties here, the screen is frozen up, so just give us a moment.

Your time is not running right now, just give it a moment. [*interjection*]

Mr. Ewert, go ahead.

We just had a technical interruption there, but go ahead Mr. Ewert, thank you.

J. Ewert: Oh, wow. Geez, I was going there. Did you hear any of it? Should I start again?

Mr. Vice-Chairperson: No, go ahead from where you were, we got it all up until—okay. Go ahead.

J. Ewert: Well, let's get on with what I would suggest for Bill 35.

Competence of teachers. This term competence is very problematic. First off, it's not part of the protection of children. When Noni Classen was speaking last night, she mentioned this guise of competence. We have this idea that competent teachers are luring, and so it doesn't seem to be the canary in the coal mine. And I'm not sure if someone has a lack of curricular understanding suddenly becomes a sexual predator, or someone of misconduct, because when you say competence, I think what you mean is misconduct.

Now, MTS and the ETA, we support professional development and competence in our teachers. It's enshrined in our code of professional conduct. In the K-to-12 ed plan from April 2022 that was submitted by MTS, they encouraged professional standards to guide educational—educator development, practice and evaluation.

In our locals, PD funds are often jointly managed by local associations and divisions. We as teachers support competence, but competence is in the realm of the employer. The authority of the Minister of Education also mandates days of professional development that each division must adhere to.

Now, if you also look at what Tom Schioler said, we have existing structures of competence in place,

but attacking competence does not address protection of students.

Protection by way of regulation is absolutely, absolutely necessary. I agree with that. But professional conduct frameworks do not currently have the word competence. Why now? How does it address that protection? As Sam Zurzolo so succinctly put: show me the connection. What lawyer would defend having a word in a law that does not apply to the expressed intent of that law?

Now, you also need a hearing panel, and that I agree with. You need people who can judge, who are well informed and have the ability to remove teacher-contracts—I'm trying to think of the word.

But this bill proposes a hearing panel of non-teachers, people who aren't educated in what the teaching profession entails, what competency, apparently, is and what is misconduct, which is the most important part. That panel should not be made up of a majority of non-teachers any more than I should be on a panel judging doctors. And I think The Regulated Health Professions Act of Manitoba would agree, which is the majority of which are health-care, medical and nursing professionals.

Why are we looking not within Manitoba for like-minded organizations, for the guidance? Are they insufficient? Have they not been able to identify misconduct, and if they have been, why are we not following their suit?

Something I have a real problem with, though, is significant emotional harm. The words vexatious have come up. This one brought the term hellacious to me. Oftentimes, laws have, in the first few pages, predefined terms, predefined so as to negate any chance of misrepresentation or misinterpretation in the application of that law. Significant emotional harm: what is that? The bill does not identify. It's personally subjective, an evaluative term that's lacking in definition. Without proper definitions, this can go, as I said, hellaciously wrong.

During COVID, when teachers were asked to promote health protocols mandated by our employer, enforced by teachers as agents of the state, we were met with vehement resistance by certain folks, including online bullying, in-person accusations, appeals to trustees. I recall one in particular that likened their child's experience to that of someone in an internment camp. That sounds like significant emotional harm. Should those teachers who encouraged six feet apart and mask wearing as mandated be on a registry?

Reports of parents complaining of teachers for teaching acceptance of 2SLGBTQIA+. I have an ally poster on my classroom door so students can be assured that the conversation is open. It is a safe space. If this bill is put into action, do I then wonder that I'm taking a risk? If so, it shall still remain. But why should it be a risk, only because of a law that refuses to define the very words that it uses to enforce its expressed intent?

What of the parents that complain about classroom teachers teaching curriculum-based that it is an emotional harm to them. Should they be allowed to make this complaint. And I hear it. You can say that the commissioner can deny this but what commissioner would deny this when an undefined term, such as significant emotional harm is what governs it. Because if they deny this, and it turns out there is a terrible event happening, they are complicit. And yet, here they have to make that judgment on an undefined term.

* (20:30)

These are instances of teachers making every attempt to follow the direction of their employer to educate and make school safe, and yet their very employer is about to consider not even defining the destruction of that ability to provide that safety. Please properly define significant emotional harm so that proper justice to protect our children can be put into place.

Having such ill-written and unfinished bills could harm the ability of the intent to protect the very children that it was written for.

In closing, the protection of our children is of the utmost importance. Please ensure this bill does come to pass, but not in its current form. I am a teacher and this is a second draft, and you need a third one.

I'm giving you some great suggestions and I've heard them from many people. I would like to see that third draft, something we can send home, get the parents to sign. But, please, remove competency from the bill, provide a hearing panel with proper representation of teachers to adequately inform their decisions, and please define significant emotional harm before you remove those that are actively protecting our students with this yet-to-be finished piece of legislation.

Thank you.

Mr. Vice-Chairperson: Thank you, Mr. Ewert.

We will now go into five minutes of questions.

Mr. Ewasko: Thanks, Mr. Ewert, for your presentation tonight, and bringing forward some of your amendments that I—that do sound a little familiar, but that's okay. That's part of this wonderful democracy we have in Manitoba where you're able to come here, virtually now, to be able to share your opinions.

So, Jay, just a quick question or a comment. You do know that this bill is a legislative form and an avenue for us to then get going towards the regulations and being able to come up with those—

Mr. Vice-Chairperson: Minister, your time is up.

We'll go to Mr. Ewert.

J. Ewert: Yes, absolutely. Well, as a teacher, formative feedback is of the highest form of learning. A student needs to have formative feedback so they can have those discussions, improve and then grade what they do.

And that's what I'm providing. We have formative feedback and, not only that, these points that you say seem to be coming up a lot, and you'll see a theme: they're coming from teachers, because we're providing that formative feedback; we're providing voice as a democratic society. In fact, the division that I work in, part of their mandate is getting kids that are active members of a vibrant democracy. I'm proud to be here to provide this formative feedback because this kind of discourse, if we are ever closed to it, we're no longer a democracy.

So, yes, I am aware this is a process, and that's why I'm here in good faith and in confidence, hoping that these points are being made so that you can come back with a bill that will sufficiently protect children.

Mr. Altomare: Thank you, Mr. Ewert, for your presentation this evening, and thank you for your service to the kids, families up in Evergreen School Division. It is something that is, I'm sure, as creating a safe space in your classroom, a very important thing to continue to do.

My question for you is: The panel being majority teachers, talk to us a little bit about why that's important to you. *[interjection]*

Mr. Vice-Chairperson: Mr. Ewert.

Mr. Ewert: Sorry.

Made in Manitoba. The first place we should be looking at is what we have here. I did refer to The Regulated Health Professions Act of Manitoba, and I think Tammy Tutkaluk also referenced this saying

how she wouldn't feel proficient to judge doctors, and nor would I.

I don't know, but I'm one of those people who listens closely to a doctor and accepts that I don't have a medical degree. But I am also a professional. I went to school for many years, and not only that, it takes 10,000 hours to become an expert in something. I'm well in excess of that in my career. I know what good teaching looks like.

You put me on that panel. I can do a good job. You put someone else on that panel that doesn't have an education degree, that hasn't pursued 15-plus years of teaching, they're going to have less ability to judge teachers. And if we're going to do this adequately—and why wouldn't we; why would you protect children without doing it right—then we need to look at what Manitoba is doing, what other professional organizations are doing, ask ourselves what's working and put it to action.

Mr. Vice-Chairperson: Thank you.

Mr. Gerrard: It's true that we can, you know, define words like significant emotional harm in a bill or in regulations, but it seems to me that this is such a critical component that would be a mistake to put it in regulation.

Mr. Vice-Chairperson: Mr. Ewert, you've got a minute and five seconds to reply.

J. Ewert: I didn't register a question on that, but the word mistake.

When we're talking about the protection of children, there isn't room for mistakes. We are here as a formative process to make sure that we make sound legislation. It exists.

The second presenter—I'm sorry, the name has gotten away from me—he said he admired a well-crafted, logical argument and a well-crafted legislation, as do I.

I'm a proud member of this province and this democracy, and I stand here in respect, humbled knowing that I'm part of this process. Mistake is not what can be part of protecting these children. Take a pause, take a moment, don't discount that you've heard these points before. You've heard them because they're being heard loud and clear by Manitobans.

Thank you.

Mr. Vice-Chairperson: And our time is up.

Thank you, Mr. Ewert, for your presentation.

We will now go to our next presenter, Mr. Sean Giesbrecht.

He's online, so Mr. Giesbrecht, whenever you're ready to go, I will give you the go-ahead to go. Okay. We'll just wait a minute for you to get online.

There we go. Mr. Giesbrecht, go ahead. You've got 10 minutes for your presentation.

Sean Giesbrecht (Private Citizen): Good evening. My name is Sean Giesbrecht, my pronouns are he/him. I'm in my ninth year of teaching. I have degrees in economics, history and education, and I also hold a master's in education. I currently support students, teachers and other staff as a high school teacher-librarian. I'm also the parent of two young children.

The safety of my own children, and for those students in my care when at school, are of the utmost importance to me. So I'm here this evening to share concerns I have with some aspects of Bill 35 as proposed, and I do appreciate this opportunity to share those concerns with you; specifically, how folks may weaponize this supposedly well-intentioned legislation.

As has been stated by many of the previous presenters, I'm in full support of laws that improve child safety. It's my professional responsibility as a teacher to keep student needs and safety at the top of mind. One need only look at how I organize and operate my library learning commons to see this commitment. So, I'm going to try to paint a picture for you.

Gone are the days of a silent environment, where shushes stifle student conversation, collaboration and co-operation. I have spaces for group work, independent work, silent reading, board games, crafting; I have a quiet space for kids to listen to music or podcasts and spaces for kids to just chill with their friends. The room is bathed in natural light, and my walls are lined with provocative, inspiring and interesting student art. It's a beautiful space.

My only rule is be a good human. Make sure your actions don't impair anyone else's access to this space as a safe space. And luckily, I don't have to enforce that rule often.

My students come to me for book recommendations, research support and tech support. I also serve as the primary contact for many students struggling with all that life can throw at them. In the past few months, I've had students say, why do I feel like I want

to drown in alcohol right now? Or, I don't think I can get all of my work done this week; to, I don't know if I can make it.

I have students that sip on tea and tell me about their hopes for a future and I have students that confide in me that they don't see a future for themselves. I'm not a counsellor but I do everything I can to get those students to the folks who can best meet their needs. So when a student tells me that they're hurting themselves or they may be using drugs and alcohol, I don't judge; I take that as a call to action. We get them help.

I also have students that code robots with me and build Minecraft worlds with me and share their accomplishments with me. In the last month, a student shared that they won a scholarship for \$20,000 a year for four years.

I'm free to act in place of the caring parent. I'm able to interact with my students so that their academic, social and emotional needs are met without worry that someone will use this against me.

* (20:40)

Further, I manage a large catalogue of learning resources: books, magazines, videos and subscriptions. It's this catalogue that provides me great comfort—and unfortunately, with this bill, great trepidation.

See, I'm comforted that students who need access to a broad range of texts have that access. They explore worlds which mirror their own, truths with which they have no experience. They look at philosophies, they question things, and they read for enjoyment. When someone discovers Murakami's magical realism or Scalzi's sci-fi futures or even the wonderful world of Harry Potter, I have a front-row seat to a student's world growing by leaps and bounds. It's truly a gift.

I have an active community of readers who forward requests. They create displays; they host book clubs. And I will—I love these kids, but I don't honour every student request. I follow curricular guidelines, and I evaluate texts based on their suitability for a K-to-12 learning environment.

But not everyone shares the values that our school system holds. See, today's students also explore topics which, admittedly, cause discomfort for some members of our community.

I have books, both fiction and non-fiction, on residential schools and their generational impact. I have

texts which feature 2SLGBTQIA+ content. Community members would find books on drug use and abuse. There are books with depictions of intimate relationships in my stacks. Students check out books on mental health, how to cope with suicidal thoughts and self-harm. Books and their teachers save lives.

My 106-year-old grandmother—she turns 107 in two weeks—she'd take umbrage with the presence of curse words in my pages. And as much as I love and respect my Oma G, her discomfort does not trump my professionalism, nor does anyone else's in the community.

See, if I tallied the number of books which are found in my stacks that also have made their way onto banned book lists, we'd be well into the hundreds. In fact, it's language like that found in this bill which give salivating, bigoted community members the ammunition they need to remove these books—specifically, that teacher conduct which causes significant emotional harm is grounds for review under this legislation. Those folks who don't want children learning about the harms of Canada's past and present will state that a book's very existence is going to or has caused harm. They've done it in other jurisdictions. They will do it here.

Mr. Chairperson in the Chair

Now, I welcome challenges to any and all resources in my space. My division has a robust policy outlining the process by which a book can be challenged for removal. This process involves conversations with me, with other teachers, school leaders and the complainant. There's a panel of educators who review the material for its curricular relevance, and the complainant is given mechanisms to discuss, receive and even appeal the decision a panel makes.

I take the curation of my collection very seriously, but I can't possibly read the hundreds of books I purchase each year. I get reviews from trusted sources, consult with colleagues, check suitability guides, consult Common Sense Media, School Library Journal and other fabulous resources provided by public libraries. But still, some books may be challenged, and I welcome that.

With this process, I'm telling you now that teachers with classroom libraries and teacher-librarians are worried. We know how bigoted individuals will take this well-meaning legislation and twist it to meet their political or ideological bent. The fact that these folks can make a complaint to a body made up of mostly non-teachers is not just concerning,

it's terrifying. My career and my livelihood is now at the hands of folks who have no training or expertise in adjudicating my professional choices? That has to go. And I need my actions to be judged as they have been for my entire career: by my peers.

Finally, I need language in this bill to guarantee my right to representation from my union. Other regulatory bodies enshrine this right, and we deserve the same respect. If someone's coming at me, I need them to have my back.

My asks are the same of the majority of the previous presenters: remove competence, guarantee union rights, better define significant emotional harm and protect the privacy of myself and my colleagues who may be under investigation.

Thank you for your time.

Mr. Chairperson: Mr. Giesbrecht, we thank you for your presentation, and we're going to move to five minutes of questions. No question is going to be longer than 30 seconds; it's your discretion how long you'd like to answer.

I'm going to start with the minister. Minister Ewasko, please go ahead.

Mr. Ewasko: Thanks, Mr. Giesbrecht, for being with us tonight and bringing forward your presentation and with some of your suggestions on your amendments as well. Give a big happy early birthday to your oma, Oma G. And, wow, every day is an absolute blessing.

So, thank you very much for coming here with your presentation. I've only got a couple seconds left. If I've got some time, I've got a question for you later on.

Mr. Chairperson: Mr. Giesbrecht, if you wish to respond, you may.

S. Giesbrecht: Yes, thanks, I'll pass that on to her.

Mr. Altomare: Thank you, Mr. Giesbrescht, for your presentation this evening.

Books do indeed save lives. That is a very important comment and one that I know a lot of students take comfort in. It's absolutely important that that phrase is on the record this evening.

I would like to you—for you to expand a little more around your views on how this bill can alter your work as a teacher-librarian.

Mr. Chairperson: Mr. Giesbrecht, please go ahead.

S. Giesbrecht: I—yes, thanks for the question.

See, the choices that I make, as I said, I consult a lot of reviews, journals, I talk to colleagues, I read as many books as I can. But, again, I have like 7,000; it's a bit too much for me. And I worry that the books that some of our most vulnerable students need, right—the students who are questioning their identity, who are—understand their identity and need to find themselves represented in texts, students that want to learn about traumatic events in history so that they may learn how people have overcome the—those struggles.

I worry that this legislation and this broad, this loose definition of emotional harm—or the lack of a definition of emotional harm, I worry that that may impair my ability to get the best material into the hands of students that need it for their survival. And maybe—okay, let's take away the super dire circumstances, so that their existence in my space is one that they know they are welcome, they are safe, that they have a place, they have a home, so that if things do get bad, they know they can rely on me to help them get what they need down the road.

So, I worry that, with this legislation, it's going to cause me pause—more pause than I already take—before I make choices that I know benefit the kids of our province.

Mr. Chairperson: Are there any other questions?

Mr. Gerrard: Yes, I've been hearing a lot recently about the importance of teacher-librarians, so thank you for what you do. It's vital.

Now, the process, which is ongoing at the moment, seems to work, so why should we change it when it comes to buying books and things like that?

Mr. Chairperson: Mr. Giesbrecht, please go ahead.

S. Giesbrecht: Yes, that's a great question. I don't think it's just the process that works for buying books, right? It's a process for the evaluation, the process for raising concerns with conduct.

When I was in the classroom, when I was a classroom teacher, you know, I'd had—I had a few moments where parents were—had concerns about how I taught or what I taught or my approach to assessment or what have you, right? It usually went something like they either contacted me directly or they talked to my principal, Never went above that, but I know it can.

And my principal would direct them to me, and I'd sit down and I'd have a conversation with that parent, that—those students, those community members. And I'd explain, hey, this is what I'm doing, this

is my intent, this is the result of those actions and we gained a mutual understanding, at least of what I was hoping to do and what I ended up doing.

If it was more significant than that, then my principal would sit down with me and say hey, Sean, I'm not sure that this is meeting the needs of our students, I'd like you to consider this, this or this. I haven't had those conversations, but at least it was an option for me. Right? It was private, it supported my own professional growth, my dignity was retained, I didn't appear on some list that somebody may use for untoward reasons down the line.

So, yes, the processes, both of books and teacher evaluation, I think they're strong when it comes to competence.

Thank you.

* (20:50)

Mr. Chairperson: Mr. Giesbrecht, thank you for your presentation.

We're going to move along to the next person. Thank you for being with us, though.

We have Ms. Elizabeth Bourbonniere. Do I say that right? I'm told that I do. Let's hope that I do. Is Elizabeth with us this evening? Yes, virtually, is that right? Okay, terrific.

Hi, Ms. Bourbonniere. Do I say your name correctly? Can you help me out there?

Elizabeth Bourbonniere (Private Citizen): You do, but my family pronounces it Bourbonniere, but you did pronounce it correctly in French.

Mr. Chairperson: Bourbonniere. Well, welcome to the Manitoba Legislature, virtually.

You have 10 minutes to make your presentation; you don't have to take the whole time if you don't want to, but we are all ears, and the floor is yours.

Please go ahead.

E. Bourbonniere: Good evening.

My name is Elizabeth Bourbonniere, and I've been teaching in Manitoba for 24 years. I'm currently a high school English language arts teacher.

I'm not an exceptionally political sort of person, and I haven't been involved with MTS or a local association very much, but this bill concerns me enough to feel that I need to speak.

While I agree that students should be protected from teachers who pose a danger to students, I'm concerned about the possible unintended effects of Bill 35.

My major concern is that the plan casts a wide net, inviting anyone to make complaints related to alleged misconduct or incompetence. Any teacher could be affected. It also raises the question of how competence and significant emotional harm are defined and by whom.

Classrooms are busy places and teachers have hundreds of interactions with students in a day. While most teachers endeavour to interact with students in a respectful way and do their jobs of educating students responsibly, there's always the possibility of a teacher's words or actions being misinterpreted or misrepresented.

At times, students will misrepresent a teacher's words or actions to their parents to try to avoid getting in trouble for their own behaviour, and sometimes students will push, trying to provoke a reaction from a teacher.

In Manitoba school divisions, there exists a concern protocol for families to follow when they have a complaint. In most cases, concerns can be addressed at teacher or administrator level, and in a timely manner. My concerns at offering a centralized complaint process for any aspect of a teacher's conduct or competence may encourage parents to immediately take the extreme option, rather than engaging at the teacher's school or division level first to solve the problem.

I'm also concerned about the possibility of complaints being made for political or advocacy purposes, and harming reputations of good teachers. In my view, the scope of the registry, and the complaint and reporting process, should be reserved for cases of serious misconduct dangerous to students, with minor complaints being redirected to divisional concern protocols and employer HR processes.

Teacher registries like the one being proposed in Manitoba have been around for some time in Ontario and BC since 2015, and in Saskatchewan and Alberta since 2022, and there have been some problems. It's important that the Manitoba government learns from some of the drawbacks in other provinces. Looking at what has happened in other provinces shows that Manitoba teachers' concerns about Bill 35 are not unfounded.

Teacher discipline cases and consent resolution agreements are posted in detail on the BC teacher registry page, and as a result, news outlets regularly report on both serious and less serious cases when they are released on the site as recent discipline decisions, resulting in teachers being named and publicly shamed in the media.

Of course, the reporting in the media of misconduct affects the reputation of a teacher within a school community, even if that misconduct was momentary, unintentional and minor. This is something that would affect how students and parents view the teacher, and I fear the public shaming could cause parents and students to view anything the teacher does as potential wrongdoing, prompting gossip and fuel further complaints in an attempt to get rid of the teacher.

Substitute teachers will be at risk. In 2017, the BC commissioner of the Teacher Regulation Branch, Bruce Preston, commented in the *New Westminister Record* that teachers on call, who are often new teachers, tend to be a group often named in complaints, saying that, quote, teachers who are teaching on call, well, you remember. It's a game that students play with the teacher on call. You have to be pretty good with classroom management skills to navigate the TTOC, Teachers Teaching On Call, role now. And students are much less respectful of authority than they were a number of years ago. They're far more challenging. End quote.

The commissioner in BC is aware that substitute teachers have been a group vulnerable to complaints as a result of students playing games, but it's unclear how substitute teachers are being supported or how the difficult nature of their job is being considered in misconduct investigations.

In Alberta, the minister has refused to allow for the names of deceased teachers to be removed from the registry, and the registry has been criticized for creating privacy concerns for transgender teachers by including their birth name under their legal name.

Also in Alberta, while minor cases can be viewed on the registry, major ones involving criminal convictions for sexual offences against minors are sometimes missing because the case has been subject to a court-ordered publication ban. This, of course, defeats the purpose of the registry, if the goal is to protect children by identifying abusive adults.

A 2019 CBC article highlights the fact that Ontario has included snitch-line tips about teachers

teaching about same-sex marriage and their problems with sexting, as misconduct under the same category as teachers, quote, using racial slurs and making sexual advances toward students, end quote.

In BC, a parent has created an organization called Speaking Up BC, identifying herself as taking an advocacy role, and encouraging parents to make complaints against teachers seemingly in order to advocate for their children with special needs.

When you google BC teacher complaint, the site appears as the result immediately under the BC education commissioners webpage. The parent leading the organization has personally made complaints against four teachers, appealing to the provincial ombudsman when her concerns were not addressed by the commission.

She warns her followers of risking a legal challenge for fear of being responsible for the other party's costs if they don't win the case in court. It is concerning the complaint process against individual teachers is seen as an inexpensive alternative to a court case when advocating for greater resources for their children.

But what is the impact on individual teachers, reputations, their mental health, and their careers, when a complaint like this is launched against them for advocacy purposes?

In the US, we are seeing states that encourage the reporting of teachers who use diverse texts that represent marginalized groups, or social justice issues, so that teachers can be fired, fined, charged, or lose their teaching licence. Will the availability of a centralized discipline body for teachers encourage parents to bypass divisional protocols for re-examination of learning materials by simply reporting a teacher for misconduct when the class is using materials that the parent doesn't like?

In other provinces, complaints unrelated to a teacher's professional work have been seen. Stefanie Quelch, legal counsel for the BC Teachers' Federation wrote in a feature for a bar talk, a publication of the Canadian Bar Association in 2019, that, quote, not only do matters end up before the TRB, the Teacher Regulation Branch, following discipline by an employer, but any member of the public can file a complaint against a teacher with the TRB. These complaints sometimes have nothing to do with the teacher's work. For example, a confrontation with a neighbour or strata has led to complaints to the TRB. While matters that do not relate to a teacher's work are

usually, eventually, dismissed, it takes multiple months—often more than a year—for this to happen. End quote.

She further points out that the processes created, quote, a significant increase in the level of legal services required by teachers to assist them in navigating the variety of proceedings that they face, end quote.

If the goal of this registry is to prevent teachers who've committed serious offences against children from working with children in the future, then that should be the focus of the registry.

I am asking the committee to take a careful look at this plan, to separate competence from conduct, and to limit the scope of complaints and reports examined by a centralized discipline process, and listed on the registry.

Thank you.

Mr. Chairperson: Thank you so much for your presentation. We're really appreciative.

We're going to go into five minutes of questions. None of the questions are going to be more than 30 seconds, and you're free to respond for as long as you'd like within that five-minute period.

Minister Ewasko, please go ahead.

* (21:00)

Mr. Ewasko: Thank you, Ms. Bourbonniere, for your presentation. It seems like you put a lot of effort into doing some research and that.

And so, quick question for you: Is there a regulatory framework that treats competence separate from misconduct in the research that you've done?

Mr. Chairperson: Ms. Bourbonniere, please go ahead.

E. Bourbonniere: I haven't looked specifically at that.

I know that, looking at the one in BC, there were a whole lot of different categories of things that can be items that people can complain about, and I was a bit concerned by how full those categories were and the kinds of things that were in there.

So, I'm just hoping that in our province, some of the things happen—other province and—taken in account in terms of planning this to make sure that this is done properly.

Mr. Altomare: Thanks, Ms. Bourbonniere, for your presentation this evening.

I did hear that you were talking a bit about substitute teachers. Can you talk to us a little bit more about your concerns regarding substitute teachers and this bill?

Mr. Chairperson: Ms. Bourbonniere, go ahead.

E. Bourbonniere: For substitute teachers, it's a hard job, right? You're going into a classroom that you're not familiar with, a student's not familiar with. A lot of times students think, hey, we have a sub, right? And the behaviour goes from there.

And sometimes, you know, if they kind of feel they smell blood, right? All sudden, there are some students who'll kind of push it, and will try to get a rise to deliberately not be listening and that kind of thing, and—so, it's a hard thing.

Oftentimes substitute teachers are newer teachers. They may not be familiar with the building, and I'm concerned that, you know, the commissioner's aware, hey, this is a big category of people that are struggling with this, and getting lots of complaints about substitute teachers. They call them teachers in call, I guess, in BC.

But, you know—so, what does that mean? What does that mean for discipline process? How are, within the system, substitutes being supported so they're not running into the same difficulties?

Mr. Gerrard: Yes, you raised a concern about the potential for, if this bill is passed, exactly as it is now, that we may have some of the problems happening here that we're hearing about in the States.

What is the—you know, the most significant changes that you feel need to be put in place to prevent the problems that are happening in the United States from happening here?

Mr. Chairperson: Ms. Bourbonniere, go ahead.

E. Bourbonniere: I think that, you know, when there are place—in divisions, there are concern protocols, especially for, you know, selection of materials about kind of what is being taught. I think that something like that should be going through division processes first, to be able to have a conversation about those things, to go through a process to have evaluated.

I'm not sure who it really serves to go to a centralized process for that, and it could be a year before it's actually even looked at, right? So, I just, I guess, would like this to be something where we're

focusing on, you know, serious misconduct, and not so much focusing on some of these things that can be dealt with through processes through a division.

Mr. Ewasko: Thank you, Ms. Bourbonniere, for that.

Just taking a look at some of the comments you've made in regards to how we move forward, you've done some cross-jurisdictional comments and that. So, what do you—what's your ideas in regards to some of this reporting, then, if you've stated some of the things that have happened in Alberta and in BC?

We in Manitoba have taken a look jurisdictionally—cross-jurisdictionally and feel that we've come up with a fairly decent Bill 35, so—

Mr. Chairperson: Minister, I have to cut you off. Your time has expired.

Ms. Bourbonniere, please go ahead. We have about 20 seconds.

E. Bourbonniere: Well, I guess I hope that the minister and the committee will consider the views of teachers as have been presented to you over the last couple days.

You know, there are some major concerns about this, and there are things that have happened that are a concern in other places, where things aren't being handled properly or people are being—not having privacy, and that kind of thing with names on registries.

Mr. Chairperson: Ms. Bourbonniere, thank you for your presentation.

Mr. Altomare: I ask for leave for a 10-minute break.

Mr. Chairperson: It's been asked that we would have a 10-minute recess. *[Agreed]*

We're going to take a 10-minute recess and come back at about 9:15.

The committee recessed at 9:05 p.m.

The committee resumed at 9:21 p.m.

Mr. Chairperson: Welcome back, everybody, to the thrilling and exciting committee of Social and Economic Development. We are here discussing Bill 35.

I call the committee back to order. And we are going to resume our list. Ms. Jordana Etkin. Is Jordana Etkin here?

We do not see Jordana Etkin. We will move Jordana to the bottom of the list.

Mr. Gregory Walker. Is Mr. Gregory Walker here? Mr. Gregory Walker is with us online.

Mr. Walker, we'll just wait until we can see you, then we'll give you the floor for 10 minutes.

Just to remind everyone: following 10 minutes from the presenter, there is 5 minutes of questions. No question is longer than 30 seconds and the answers can be at the discretion of the presenter.

I see you there, Gregory. Welcome to the Legislature, virtually. You have the floor for 10 minutes. We're all ears and we look forward to hearing what you have to say.

Please, go ahead.

Gregory Walker (Private Citizen): Good evening to the committee. My name is Gregory Walker. I have been a teacher for 20 years in the Winnipeg School Division. I am also the President of the Winnipeg Teacher's Association.

I have been fortunate enough to earn five degrees from the University of Western Ontario, the University of Alberta, and my most proud moment, when I earned my bachelor of education at the University of Manitoba.

My teaching, my classroom has been—excuse me—has been inspired by my family. On my father's side, my grandfather was a farmer in the rural RM of Forrest, outside Brandon. A very simple decision by the Province of Manitoba under Duff Roblin's leadership has sort of led my destiny.

When the premier decided that children in rural areas, when they were finished with a one-room schoolhouse, would be permitted to go into the cities, into the towns that had high schools and continue to pursue their education and get a high school diploma. That changed everything for my paternal family. My father, my aunt and my two uncles all received high school diplomas and then pursued post-secondary educations.

On my mother's side, my educational philosophy is inspired by my grandmother, who would take me and my cousins, twice a day on Sunday, to mass at St. Ignatius church, and she would stop us at the door and she would look at us very seriously and she would say: your job, when you go through these doors, is to listen carefully but never turn off your brain. Think, ask and

assess before you make any sort of commitment or devotion.

This was a very serious, devout woman but she always encouraged us to be critical thinkers in every part of our lives, and I have tried to add that to my repertoire of skills I want my high school students to leave my classroom with.

I am here tonight because I have a concern about Bill 35, the education admin amendment act. My concern is about the inclusion of teacher competence in this bill.

I fail to understand how investigating and adjudicating complaints related to a teacher's knowledge and skills or their ability to instruct and assess learning of the Manitoba curriculum addresses the safety of children, which is the stated intention of this bill.

In my 20 years as an educator, I have taught economics at the grade 11 and 12 levels. I would expect, with the negotiations of the standards under competency, that part of that assessment of my professional competence is based on curricular outcomes and objectives.

The Province designs thoughtful curriculum documents, which teachers must expertly meet the priorities of skills and knowledge that the Province has established as necessary. In this regard, I am unclear how my competence as a teacher can be assessed when the Province of Manitoba lacks any curriculum documentation on the subject of economics. How can I be held to a provincial standard by a commission when my province does not have any standard for the teaching of economics?

In the past 12 years, I have spoken directly to political leaders of all three parties as well as the last two mayors of the city of Winnipeg and to the head of the chamber of commerce, of which I am a member. All have agreed with me that the public education system should be emphasizing economic and financial literacy as well as fostering entrepreneurship for the next generation. But developing a curriculum document has, so far, been a failure.

I am a trained economist. That was my first profession before I decided to join the ranks of a teacher. I think of individuals and the choices they make based on self interest: What is their benefit and what is their cost? Those lead to concepts of incentive: What is in it when I make a decision? What is the cost I accept? What are the benefits that I accept? And I have spent many years around seminar tables and conference tables, at government levels talking about incentive

and thinking about incentive because incentives are what guide and motivate people's decision making.

The problem when we think about dissent with—about incentives is that we often forget to think about the unforeseen disincentives that we may create. As the president of the WTA, I hear a lot from my members, and I worry about this bill having an unintended disincentive for teachers. This all links to their professionalism and their competency being linked to child safety, which is the first and foremost priority that I respect. But I think that we are creating a disincentive when we give opportunity for teachers to feel or be vulnerable, and I think that is what's happening with my members now.

I think if we create this disincentive, we are also going to create a circumstance where future generations of teachers will think twice about entering the profession. I think, by weakening this profession and perhaps finding a shortage of teachers, which they've already experienced in the United States, and I have seen statistics that right now, in our province, we are seeing between six and 670 teachers leave the profession every year, but the three universities are producing 600 teachers; you're already at deficit. How are you going to give an incentive for people to go into teaching?

* (21:30)

I don't think I know explicitly what that answer might be. I think what we're doing is we're creating a situation where you will not have another generation of teachers with university, professionally trained certifications. And I think that if you weaken the profession, and you weaken the professional status of teachers, all you're going to do is create a disinflation spiral of public education provisions.

It is concerning to me many times when policy is developed—and I have been at the table when policy gets developed at various levels—we don't think much about what are the incentives in the legislation and what are the disincentives.

And so, I come from this from a slightly different angle. I think of it in terms of my economics and I know the power of public education and how it feeds the economy. I don't think this was the intention of Bill 35, to create these disincentives, but I think we are starting to see it.

I see it on a daily basis with the struggles our employers have in trying to fill substitute positions. We struggle in the city, unlike before, to find enough

substitutes to fill the open jobs that regular teachers are unable to attend because of illness or other things.

I just received information in the last week from the Manitoba School Boards Association that it appears that the number of full-time equivalent teachers working in my division has dropped from last year to this year by 312.

Now, I don't know how that's happened or why it's happened, but my biggest worry is you are having teachers—my members—who have decided the vulnerabilities, the pressures, the strains, it's not enough anymore. And I don't think we're finding replacements.

So, I think we've created disincentives that we did not anticipate when we thought about this legislation.

Thank you for your time.

Mr. Chairperson: Mr. Walker, thank you for your presentation, and I appreciate your perfect landing at zero seconds. That was impressive.

We now go to a five-minute question time. No question will exceed 30 seconds.

Mr. Walker, you—it's up to you how long you wish to take to answer the questions. I'm going to start off with Minister Ewasko with the first question.

Minister, please go ahead.

Mr. Ewasko: Thank you, Mr. Walker, for attending this evening and staying up with us. I mean, I guess it is only 9:30—this is the second evening so it feels a little later than 9:30, but thanks for your presentation. Thanks for your words of advice and your comments in regards to some potential amendments moving forward.

I do definitely want to understand from you why teachers would not want to be part of a regulated, responsible organization such as the teaching profession here in Manitoba as there—

Mr. Chairperson: Minister, your time has expired.

Mr. Walker, if you wish to respond, please go ahead and do so.

G. Walker: Thank you for the question. I'm not a hundred per cent sure that this legislation is not part of a larger picture and my impression of the numbers that I have looked at is that we are starting to head towards a crunch.

And, to use a Malcolm Gladwell term, there is always a tipping point. And I am usually not a pessimistic person but I think, fundamentally, the challenging or linking child safety to competence is—and I'm sure you've heard it from many others, but I'm looking at it from an economic perspective—I think that creates the disincentive that might be a tipping point for those who may be professionals now, or those who were thinking that they were going to enter into the profession, to think twice and look for other opportunities.

And for me, that disappoints me more because it doesn't give me a chance, as a teacher, to be able to do the things that I care about most: economic and financial literacy, and trying to foster entrepreneurship. I have had students graduate from my classrooms who have gone on to start some extremely successful businesses; some of them here in the province of Manitoba, others in other parts of this country. I've had students who decided that they were passionate enough about economics that they wanted to pursue it. One of my former students is a graduate of the London School of Economics. I've had five Loran Scholars in my classroom.

And I would hate to think that the next generation of teachers, or possible teachers, won't have some of the same opportunities that I did. And that all will create damage to the economy, because we all know that literacy, numeracy, are all key skills that we have to have coming into our economy. And I'm thinking of it from an economic perspective only, and that is why I am most concerned about this one issue of connecting competency to the safety of children in schools.

Mr. Altomare: Thank you, Mr. Walker, for your presentation.

I'm really quite fascinated with the disincentive argument that you've posited this evening. Can you itemize some other disincentives that you see in this bill that have you concerned?

G. Walker: Well, one of the—one of my favourite stories to tell my students is that there was a nursery school in Israel that had a problem.

Parents were not coming back to the nursery at 4 o'clock to pick up their children. And so, in fact, the nursery decided that they were going to try and change behaviour by applying a disincentive; they were going to punish parents for being late, and they were going to charge them \$10 if they showed up after 4 o'clock.

What they didn't think about or understand was they were really, actually, creating an incentive for the parents. By charging them only \$10 for being late after 4 o'clock, and not having limits to it or anything, what they started to find in the parents' behaviour is they started to show up at the nursery at 7, 8, 9 and even 10 o'clock. Why? Because they got that many hours of babysitting for \$10. They could go to the movies. They could enjoy, you know, a nice romantic dinner before they had to go and pick up the kids.

In the meantime, you have workers at the daycare working, essentially, for free, because it was only a \$10 disincentive. So, it goes both ways.

Mr. Chairperson: Mr. Walker, thank you.

We, unfortunately, have run out of time. But we do appreciate your remarks and you taking the time to be with us. Thank you.

We will now move to Mr. Cameron Watson. Is Mr. Cameron Watson with us? I'm told Mr. Watson is online, and as soon as I see you, Mr. Watson, you will have 10 minutes, and a five-minute question period.

Mr. Watson, thanks for being with us, just test your mic so we can hear you.

Cameron Watson (Private Citizen): Is it good? Can you hear me?

Mr. Chairperson: Perfect. Go ahead; you have 10 minutes. The floor is yours.

C. Watson: Right on.

Thank you for the opportunity to speak today. This is the first time I've ever actually spoken at a committee. I'm a grade 9 social studies teacher, and I was actually talking to my class today a little bit about how government works, and I was mentioning the fact that I would be speaking at a committee today. And I'm looking forward to taking part in my democratic right, so, thanks for having me.

I'm a teacher of 13 years at William Morton Collegiate in Gladstone, Manitoba. I have previous teaching experience in Ontario, Saskatchewan and South Korea. I have a bachelor of arts, master of arts, a bachelor of education and a post-bacc in education. I have won an award for my craft in 2018 from Brandon University. And I'm a proud teacher.

I support the government's interest in student safety, but I worry about the makeup and the provincial panel that would oversee teacher misconduct and competency claims.

* (21:40)

I was accused of teacher misconduct several years ago. A parent contacted my principal and accused me of bullying his child. I was immediately put on leave, and an investigation took place. My superintendent and principal investigated the claim. I was devastated by the claim. I contemplated quitting. I felt that my reputation would never recover. I take my professionalism and my abilities as a teacher very seriously.

Thankfully, once the accusations were investigated, I was cleared of all wrongdoing. The evidence presented by the parents was that I put their child on a third line of a hockey team when he believed that he should be on the first line of a hockey team.

The issue was dealt with in a confidential, professional manner by my principal and my superintendent. If the panel you propose had existed, would a second investigation occur? The accusation of bullying is something that would be deemed significantly emotional, from what I'm—expect.

The composition of the panel worries me, as the bill proposes that only one teacher will be on the panel. Would others on the panel have—with no personal relationship to me or the parents or others that do not understand the realities of my profession adequately understand the situation? Would this panel have taken away my teaching certificate?

I'd like to report that I have continued to teach and I've excelled in my position and I'm proud of what I've done. I worry about a dual-track investigation on teacher misconduct.

I would like to propose an amendment to the bill that would enshrine the panel with at least 60 per cent public school teachers. I would also like to see a right to MTS representation when a teacher accused of misconduct—and that that is enshrined in this bill.

I don't think that—teachers, when they're accused of these things, it takes a really big toll. That happened many years ago; I still bear that scar.

The rural division in which I teach has difficulty retaining teachers and principals. Mr. Walker mentioned before that Winnipeg School Division has trouble with retention. Our school division has really struggled for retention of teachers, principals and attracting staff. This is one more thing that I think would really push people out of this profession. It would—it's a thing that if—I worry if this was in place when I was a younger teacher, I don't know if I'd be doing this today.

Our division suffers from chronic underfunding, despite the minister's claim of historic funding. Our division has less funding in 2023 than it did in 2017, despite student enrolment increases and inflation. The emotional harm this has caused students is really significant. There's been a loss of staff, a loss of special needs support, a loss of extra-curricular activities, loss of tons of opportunities for rural kids, unrepaired buildings, cancelled projects, the list goes on.

If you want to stop emotional harm, fund all schools and divisions appropriately. I don't really have anything else to say, so I will yield the rest of my time to the panel. I know that you guys have a busy schedule tonight.

Thank you for your time and attention.

Mr. Chairperson: Thank you for presentation, Mr. Watson.

We are going to begin a time of questions, and I will give the minister the first question.

Minister Ewasko, please go ahead, you have 30 seconds.

Mr. Ewasko: Thank you, Mr. Watson, for being with us tonight, sharing your presentation, your story, your passion. And I see how frustrated you are, and not only frustrated, but emotionally affected by those allegations how many ever years ago; you didn't mention that, but I don't need that answer.

Mr. Watson, I'm not bringing forward this bill lightly. As a teacher myself, I guess I'm going to have to wait, because my 30 seconds are up—

Mr. Chairperson: The minister's time has expired. Are there any other questions—*[interjection]*—sorry, yes, Mr. Watson, if you wish to respond, please do go ahead.

C. Watson: I don't doubt that the panel is—I believe that you guys have done your homework, but I do think that there's some things that I hope you hear from the people that have spoken tonight. I really think that the panel needs to have people that understand our profession on it. I really strongly believe that because I find that people that—outside of our profession judging our misconduct or our competency is just a recipe for disaster.

I really strongly believe that it's got to at least have 60 per cent teachers. That's similar to Ontario. I don't disconnect the fact that a panel should exist. I believe in student safety. I believe that students and

parent concerns should be taken forward to a public panel. I don't think that's a bad idea.

I do worry about a dual track, though. Like, if you're investigating warrants, it's tough emotionally and then you, if you had to do it again, like, you could wreck people. You could wreck them in their career. And I think that has to be taken really seriously, so.

Mr. Altomare: Thank you, Mr. Watson, for your presentation this evening. Certainly, it does give us a lot to think about when we're looking at amendments for this bill. And we will take the—your presentation seriously when doing so.

I want to ask you how the bill, as it is written now, can impact your daily practice as a teacher.

Mr. Chairperson: Mr. Watson, please go ahead.

C. Watson: I do worry, outside of the misconduct part, but we're living in a very hypersensitive world right now. From the time that I started teaching to now, I do worry about how much just differences in opinion on culture and other things, it can really put teachers at risk.

And I know that this panel is not supposed to hear frivolous complaints and I really hope that that is what they will do and the commissioner will—won't prevent that from happening. But I think that you—it might be an underestimation of how many frivolous complaints that might be put forward and how many of them might go on to this panel, and how serious that could be for the people in our profession.

I really think that the panel needs to be constructed properly and I really do disagree, like a lot of people before me, that competency should be really looked at. I think—I see those as two completely different things.

Misconduct, as you understand it, like, just by being accused of it, everybody should have that right. If my child—if I thought my child was being bullied, I'd want an avenue to be able to kind of see that through and investigate it.

I do think that the process that's in place right now is not a bad one. I think that what happened in my case was fair. I give my superintendent, my principal, total respect for what happened. It was dealt with quite well. I just hope that—two investigations would be wrong, so you can't have both at the same time. And the panel has to be made up appropriately.

Mr. Gerrard: Thank you for sharing your story and the difficulties that you went through and the false allegations.

The process for you seemed to work. Why do we need to change it at this juncture?

Mr. Chairperson: Mr. Watson, please go ahead. You have 30 seconds.

C. Watson: I think that's an excellent question. I think that this bill is asking to do way more than maybe—I think that a focus on egregious offenses, is this bill could be a little bit more focused. Like, a panel that concentrates on things that are, you know, especially like of a sexual nature or a physical nature, but I think that it's too broadly focused and that is very problematic.

Mr. Chairperson: Mr. Watson, thank you for your time.

Our time for your presentation has, unfortunately, expired, but we do sincerely thank you for coming and joining us this evening.

C. Watson: Okay, thank you.

* (21:50)

Mr. Chairperson: Yes, you're welcome.

We're going to move on to Ms. Sonja Blank. Is Ms. Sonja Blank with us?

I'm told Ms. Blank is with us virtually, is that accurate? Okay, we're going to try Sonja Blank one more time.

Sonja, I think we can see you, I'm going to ask the tech people if we can get better visual at our end here, and Sonja, you have 10 minutes, please go ahead. We welcome you to the Manitoba Legislature, thanks for coming.

Sonja Blank (Private Citizen): Yes, and thank you for having me.

As you said, my name is Sonja Blank, and I want to acknowledge that I'm joining you today from Treaty 2 territory.

I've been a teacher in Dauphin, Manitoba, for the past 24 years, and just like my fellow colleagues, I'm here today because I care about students. Because I believe in protecting children, and because I believe that Bill 35 poses a risk to both teachers as well as our students.

Yesterday and today, we've heard from many extremely knowledgeable, caring and committed

colleagues of mine, as well as other presenters, proposing amendments to Bill 35. They've asked for those amendments because of their fears on how Bill 35 will affect them, their colleagues, and even their students.

I agree with all those proposals for amendments. We've heard about teachers seeing themselves walk on eggshells, being targeted as members of marginalized groups, and potentially judged by outdated beliefs.

We've heard about concerns related to retaining and recruitment of teachers at a time when these are real—not imagined—realities in public education in Manitoba. On the other hand, we've heard the minister talk about supports from stakeholders for a single-door approach, which is easy to do when you're a stakeholder who's not directly affected by the bill, and your livelihood and mental health are not at stake.

We've heard the term democracy used a few times in this room as the fundamental structure important in the process of making decisions around the values we share. In this case, our common value is keeping students safe. But will Bill 35 achieve that?

I agree with this bill's primary purpose, as stated by the minister, as the protection and safety of children, which—to a teacher, there's nothing more important than that.

We stand with our students behind locked doors during a lockdown, and we are the last to leave our classrooms in a fire drill, or a real fire—which happened at my school. Keeping students safe is our mandate.

This bill, with its intent to define and provide a process on evaluating teacher conduct is, in my humble opinion, it's out of order for several reasons.

In terms of the issue of conduct, I agree with Mr. Parry [*phonetic*], who spoke so eloquently yesterday that this bill is an overreach of the democratic decision-making powers that lie within the purview of the legislative powers of the Provincial Assembly.

Mr. Parry's—Parry-Hill's well-spoken comments yesterday pointed out that there are already democratic structures in place to address cases of misconduct. The specific conduct cases that Ms. Noni Classen, from the national centre of child protection, made reference to yesterday—the approximately 1.2 per cent—and that might be a number that goes higher or lower—of all Manitoba teachers are cases of

sexual misconduct—those are criminal cases and, therefore, belong in the judicial arms of the democratic system, not the Legislature, because legislation already exists to ensure sexual predators are dealt with according to criminal law. And, hopefully, there they will be held accountable.

So, in essence, we are creating a new law for 1.2 per cent—or, we've heard, even maybe lower—of teachers. However, that law will affect 100 per cent of teachers of Manitoba, when laws already exist to address those 1.2.

However, I know we all agree that even 0.0001 per cent is too much when it comes to abuses of powers against children. So, something does need to be done to reduce or hopefully eliminate, even, the slightest number of those cases.

Last night, after we concluded the first round of these presentations at midnight, I had a number of questions run through my head and keep me up until 2 o'clock in the morning. So, if I'm a little bit rambling on today that's why.

Some of those questions were: How can we improve the system to do better for students as it pertains to their safety? How do we eliminate the blind spots Ms. Classen referred to and identify those who hide under the guise of competency? What part does the government have to play? And what role does my employer have in all of this?

As has been mentioned by others, local school divisions are our employer and are responsible for teacher supervision and evaluation. But Bill 35 further makes me wonder, is there any evidence that this responsibility has not been fulfilled by school divisions to warrant handing this task over to a government-regulated body? And if that responsibility has not been fulfilled by school divisions, what measures were taken to rectify that shortfall? And if no measures were taken to rectify that shortfall it begs to question why not.

It seems that Bill 35 puts the responsibility of an apparently faulty system at the feet of 98.8 per cent of innocent teachers, instead of putting it where it belongs: at the base of a system that has apparently allowed, as Noni Classen pointed out, for said blind spots, missing warning signs and bad actors hiding behind the guises of competency.

It appears that for 98.8 per cent of the teaching force the existing system has been effective and efficient. So, to finish this line of thinking: in my school division and in speaking with colleagues

around the province, I'm not aware of any training or professional development at the division level or school level related to what Ms. Classen rightly points out as the existence of early warning signs.

The skill of early detection of such warning signs is obviously something that according to the national centre of child protection—and I wholeheartedly agree—should be ensured to protect our students. So as for the role of the government, has there been a mandate given to local school divisions to ensure that this kind of training is made mandatory for all employees?

For me this ties back to bill 64. Bill 64—the people of Manitoba clearly expressed that local school divisions have a place in the province and that with—and that we want them to continue to do their job. Supervision and evaluation of teachers is part of their job.

On a personal note, keeping students safe is not only a responsibility for me as a teacher, but an obligation I take very seriously. Believe me, when it comes to my students, I become a mama bear. And not just me; I've witnessed my colleagues fiercely safeguarding their students whenever this was necessary.

But saying that we can't have at least 50 per cent of educators making up the disciplinary panel is honestly insulting to me. This suggests that I and other teachers are biased and cannot be trusted to make the right decisions when it comes to judging the competence of our colleagues. And even more troubling is the inference that we would choose to turn a blind eye and protect someone who abuses children. Truly, that is offensive on a deep level.

Public school teachers like myself work hard every day with limited resources and increasingly growing needs, and still we are and will always be fiercely committed to our students. And we'll continue to put students' needs and protection first.

Finally, I think consideration has to be given to another aspect of these investigations. As pointed out numerous times yesterday and today, many of us believe that there are already processes in place at the school and divisional levels to investigate complaints, as is their mandate. And school divisions can do so successfully.

* (22:00)

And although Bill 35 reassures that frivolous, vexatious and malicious complaints will be weeded out by the commissioner, with approximately 700 schools

and over 200,000 students around the province, not only does that seem an onerous and unrealistic expectation in terms of the number of potential complaints that can come forward, but, given that a provincial commissioner cannot know the entire context and circumstances surrounding a situation, again it begs the question: Can the length and involvement into such investigations really be justified when an existing local authority can complete those investigations more efficiently?

To summarize, I am, too, very worried about children being at risk and believe wholeheartedly that we need to put protections and training in place to ensure the safety of our students. At the same time, I am worried about this bill. Given the potential risks to innocent teachers of not only losing their hard-earned professional reputation but possibly even their livelihood.

So, to ensure the best outcome for everyone involved, we need to ensure that we protect both students and teachers.

Mr. Chairperson: Ms. Blank, thank you for your presentation. Unfortunately the time has expired.

We're going to move to five minutes of questions. Each question can be 30 seconds. The answers, though, are at your discretion, Ms. Blank.

Minister Ewasko, please go ahead.

Mr. Ewasko: Thank you, Ms. Blank, for your presentation. I've only got 30 seconds, so, a couple things.

So, yes, I have sent out a mandate letter for respect in schools and commit to kids to be taken by all school personnel. So that's to answer your earlier question.

There's also been respect in sport has been sent out to all schools and coaches that have to—that are doing those positions as well.

Quick question for you: Have you ever seen an example of a complaint that was handled appropriately, and what did it look like?

S. Blank: Thank you for that question. Yes, I have. In fact, personally I've been involved in one.

A student that I tried to redirect a few times, he was pushing—or they, I should say—they were pushing in the bus line and several times I said, you know, it's time for you to come a little closer to me so that, you know, we'll need to keep an eye on your behaviour a little bit here.

And so, the child didn't feel like doing that at the time, continued to push. I needed to redirect the child by gently putting my hands around their shoulder. And later that day I was informed by my principal that a charge of inappropriate behaviour and conduct had been filed against me.

And, long story short, just like Mr. Watson said earlier, the amount of emotional distress on me, I can't even begin to imagine what that would have been like had that gone to a public panel.

The child was very angry with me at the time. We went through meetings—multiple meetings—that involved the principal, that involved the parents, the child, the divisional office staff. And yes, it turned out that, you know, it was just an issue of anger against me at the time, but luckily there was a witness, and—several witnesses, as there were other children in line who, you know, back—who were interviewed as well. And they—I was, you know—it was determined that I had done nothing wrong.

However, I still—the other day I was talking about this in preparation for this—for speaking to this committee, and I broke down in tears. Because, as a teacher, I think nobody has as high expectation of us than we do of ourselves. And to think that anyone would think that we would have harmed someone, it's just—yes, emotionally, sometimes, unbearable.

I hope I answered the question.

Mr. Altomare: Thank you, Ms. Blank, and thank you for acknowledging that you're on Treaty 2 territory. Appreciate you living what we're teaching our kids right now, and it's very important.

You mentioned at the outset of your presentation that Bill 35 poses a risk to kids. Can you expand on that a little bit? *[interjection]*

Mr. Chairperson: Ms. Blank, go ahead. I just have to recognize you for the sake of the Hansard written notes.

So, yes, Ms. Blank, go ahead.

S. Blank: My apologies.

Mr. Chairperson: That's okay.

S. Blank: Yes, so how does it pose a risk to children?

You know, when we as teachers who are still, you know, we're still in an environment right now where COVID has lingering effects of what we—of our daily life in the classroom, both for the children and for ourselves. And so, to add to that the psychological

load and emotions of all the risks associated with this bill, you know, marginalized teachers being at risk, the fact that we have a sub shortage, a failure-to-fill rate, you know, not—the financial strains, the lack of funds moving into the classroom, it affects a teacher.

And we know that teachers' working conditions affect students' learning conditions. So, what happens to me ultimately will have an effect on children. I mean, as a parent, you will know that if, you know, if you spend days and days walking on—

Mr. Chairperson: Ms. Blank, I'm sorry, I'm obliged to tell you that the time has expired.

An Honourable Member: —have leave?

Mr. Chairperson: Mr. Altomare has—there's a request for leave for Ms. Blank to finish her statement. Is that agreed? *[Agreed]*

Yes, Ms. Blank, we'll give you a few extra seconds to finish your comments.

S. Blank: That's very kind. Thank you so much.

So yes, to sum it up, Mr. Altomare, I think that everything we do, whether we are parents, whether we are teachers, when we are emotionally upset, our students pick that up.

Mr. Chairperson: Ms. Blank, thank you for sharing with us this evening. We really do appreciate it. The point of these committees is to hear from the public, and we appreciate your remarks. Thank you for coming.

Committee will now move to, on the list, Mr. Chance Henderson. Is Mr. Chance Henderson with us? It does not appear Mr. Chance Henderson is with us. We'll review that at the end of the evening.

Mrs. Breanne Kanaski. Is Mrs. Breanne Kanaski with us? Mrs. Breanne Kanaski does not appear to be with us at the moment. We'll try at the—*[interjection]* Drop her to the bottom of the list also.

Ms. Nicole Bobick. Is Ms. Nicole Bobick with us? It appears that Ms. Bobick is with us.

And we'll just give you a moment, Nicole, to get set up there. You're going to have 10 minutes to make—up to 10 minutes to have a—make a presentation, followed by five minutes of questions.

Nicole, welcome.

Nicole Bobick (Swan Valley Teachers' Association): Can you hear me?

Mr. Chairperson: We can hear you. You have 10 minutes. The floor is yours. Please go ahead.

N. Bobick: Good evening, and, of course, my name is Nicole Bobick, and I'm the president of Swan Valley Teachers' Association, and I'm joining you from Swan River, on the beautiful Treaty 4 territory.

I've been a teacher for 15 years and served on our local teacher association for over 10 of those years. I'm here today to share concerns regarding Bill 35 as a teacher, a public citizen and representing the voice of the teachers within the Swan Valley.

It has been made clear over and over that we all want to protect students from harm; this is an absolute. In fact, I commend the government, who is willing to move forward to do so. However, a quick bill will not solve this problem.

Passing a bill that sounds like it is incomplete or vague can ultimately do more harm than help. Just ask anyone within our Swan River community about the arrest-and-release policy of the federal government. Crime has increased by 50 per cent over the past five years and our current crime rate is six times higher than the country's average. The fact of the matter is that not all bills help those who they're trying to protect.

* (22:10)

I have three specific areas regarding Bill 35 that are a concern, that I would like to address here tonight: (1) teacher misconduct and teacher competency and why they should not be addressed together. And, really, we already have systems in place to address child abuse allegations, teacher misconduct and competency. And, thirdly, Bill 35 creates another way for teachers to be attacked and falsely accused; this will happen, and the result will be damaging to teachers' mental health and to the profession itself.

I will try to help the minister and the committee members to understand what this bill looks like, feels like and sounds like to the teachers teaching in the classrooms of today.

Teacher misconduct and teacher competency should not be addressed together for many reasons. Number 1, teacher competency is something that grows over time. We all enter into this profession with various skills that we build upon and grow. A teacher is, in fact, a lifelong learner and should model that to their students and to the community. A teacher should be supported to grow and feel comfortable asking questions about how to improve their skills.

When teacher misconduct and teacher competency are grouped together with protecting children from child abuse, as they are in Bill 35, the trust of protection and fair process is lost, and fear replaces that trust as teachers may not want to be open anymore about the areas they need to improve upon.

A colleague has previously mentioned the trust cookies. Some trust cookies from our current government need to be placed in the cookie jar. This can be done by amending Bill 35. In Swan Valley, the school division has adapted their teacher evaluations to a professional growth model to promote growth and to not tear down teachers who are learning and growing. This also hinders collaboration and confidence.

Secondly, that brings me to speak about the growing number of uncertified teachers teaching in classrooms right now. Never before have we seen numbers like this. Here in Swan Valley, approximately 10 per cent of our teachers are uncertified. How can you reprimand someone who has not been taught to be a teacher? Workplace health and safety guidelines here in the province say that it is up to the employer to train employees for their job. This, in the teaching profession, is a gradual process.

With the lack of subs and budget cuts, PD for teachers is limited, as teachers cannot get a sub to cover their class, nor does the division have extra funds to pay for division-wide professional development like they used to. It's usually the first thing on the chopping block for the school boards. Teachers would love to have time to develop their skills even more than they already do, but teaching is not a profession that ends at the end of the school day; it involves our evenings, early mornings, weekends, summers, everything in between, being good parents and community members.

Last but definitely not least, this bill, as written, looks as it is creating another avenue for those who do want to damage teachers, for those who do want to take their anger out on teachers and who do not—and do want to get them in trouble. We pay their wages anyway, they say to me. I've heard this from words in—from parents in our community over and over.

This bill looks like it wants to protect children, but it does not look like it wants to protect teachers. What about the significant emotional harm to teachers who will live through the investigation process and have been falsely accused? In my experience as a teacher and a principal, angry parents may lie; it does happen, especially if they think they are protecting their children.

When you look up the bill and read it, this is what the teachers in Swan Valley are interpreting. Instead of adding to the cookie jar, you are eating the last one right in front of us. Right now we already have systems in place that are responsible for teacher misconduct and teacher competency, as well as to protect children from abuse. School divisions and MTS are currently responsible for teacher competency and misconduct; child protective services, human rights commission, the RCMP are all systems in place to protect all people from abuse.

It feels like the government proposing this bill does not trust school divisions to do their job. It feels like all teachers are being punished for the crimes of very few. We would not do this to the students in our classrooms. We would not punish all of them for the behaviour of one or two.

Let's be honest: these disturbing events have happened, and they started this process. But let's get it right. We need to make adjustments; let's do that, but let's first ask ourselves: does the general public know about the systems in place already to report these abuses?

Sometimes, if things are not working, it stems from a lack of communication, and I believe this is the case here. Parents may not know the process and systems in place already to protect their children, and they need to feel that they do to believe their children are safe. The bill reads: Any person may make a written complaint to the commissioner that alleges professional misconduct by a teacher or that the teacher has been incompetent to carry out the professional responsibilities of a teacher.

How is a member of the general public able to determine the teacher is incompetent? Is it fair to allow parents to bypass talking about issues with their children's teachers, principals, resource teachers, superintendents?

I'm not talking about abuse here. To be clear, I'm talking about the concerns regarding teaching practices or other parental concerns. Do we not want to lead by example and model good communication, problem solving, relationship building, conflict resolution skills? Accountability keeps people honest, and open communication—with those we have concerns with is a skill that is currently becoming lost.

This bill feels like every complaint will be treated as guilty until proven innocent.

Teachers who—want to protect students from harm but they also want to be protected from the harm

they already endure in their day-to-day jobs. This bill will create yet another platform for teachers to be attacked, judged and falsely accused. Every day, teachers deal with false accusations. This bill allows those with vindictive intentions to voice their attacks without consequence.

This scares teachers, to put it simply. Teachers are leaving the profession at a staggering rate. New teachers, after one, two, three years, are saying no; no way I'm doing this for the rest of my life. I had a call today, fourth-year teacher, asking me how to resign.

Teachers are retiring earlier and as soon as they can. I'm getting out of here as soon as possible, they tell me. The amount of sick leaves is suddenly increasing and the substitute list is dwindled into a handful, at best. Teachers who have been teaching for over 25 years tell me that they have never felt like this before. Universities are disclosing that they are receiving 40 to 50 per cent less enrolment in the Faculty of Education.

This bill, simply put, does not make teachers feel safe and protected from attacks. Why would you enter a profession that has no safeguard to protect teachers from false attacks?

I am, as far as I know, the first and only openly queer teacher in the Swan Valley School Division. I am fearful and have had many attacks. My—I am fearful that this bill will subject our 2SLGBTQIA teachers to more hateful attacks and discrimination that they already endure.

I'm also a teacher who teaches in a unique way—ways parents are not used to or understand sometimes. I also fear for those teachers as myself teaching and guiding students through topics such as residential schools, Indigenous perspectives, diversity, culture, homophobia, transphobia, biphobia, mental health, puberty, evolution, Holocaust, just to name a few.

Mental health for our society is not okay. Teachers are not okay. Teachers have had a hard time saying that they're not okay because they've had to be okay every day for their students, your children. It is my job to tell you they're not okay. They have nothing left to give. Gas tanks are empty. They cannot do more. They cannot take much more.

Help them. Support them. Use this bill as an opportunity to protect students and teachers. Put some trust cookies in that cookie jar.

I'm here to tell you that we must work together to develop and write a bill that we can all stand behind.

Imagine a bill that teachers trust is not going to harm them. Remember the point of this bill is to protect children from abuse. I propose adding protection for teachers from abuse, harassment, discrimination and significant emotional harm as well.

When I was young, I always felt it was my purpose to help support and protect people. I—

Mr. Chairperson: Ms. Bobick, I'm sorry I'm obliged to tell you the time has expired.

We're going to move along to the questions now, and there is five minutes allotted for questions.

Minister Ewasko, the first question does go to you. Please go ahead.

Mr. Ewasko: Thanks, Ms. Bobick for joining us this evening and bringing forward your presentation and also your recommendations for possible amendments.

I am working hard, as is our government and the department, on those trust cookies, so hopefully you will—you and other presenters will see that we are listening, have been listening for 15, 16, 17 months—plus, already.

I've got a quick question for you. Is there a regulatory framework that treats competence separate from misconduct?

Mr. Chairperson: Ms. Bobick, please go ahead.

N. Bobick: It's not my role to review and look at all policies and all procedures and all areas of the country.

I do feel that this bill, the way it is written, the way that it has been put together—I heard tonight that it's a decent bill. Decent isn't good enough.

* (22:20)

So, to answer your question simply, I'm not sure if there's any that are doing really well. What I see, from what I read from this bill, is it puts teachers in a very risky position, and we are in a place where we cannot have any more harm placed upon us. It is a crisis. It—we are having a teacher shortage crisis. And this is not going to help us.

Mr. Altomare: Thank you, Ms. Bobick. And thank you for acknowledging that you're coming from Treaty 4, also living the work that you do every day by making that statement.

You noted at the beginning of your presentation that this is a quick bill, and that it could do more harm than good. Can you expand a little bit more on that?

Mr. Chairperson: Ms. Bobick, please go ahead.

N. Bobick: Thank you for the question. The optics of this was the allegations that came out through the media. It was referred to last night. We all know that this may happen within schools.

But I think more consultation needs to happen. This bill just came out of those situations that I see—and yes, I agree, we need to look at how we can do this better, how can we protect our children better. We can't do this with a quick read. We can't do this on opposite sides of the table. We need to find a way where we can meet in the middle.

Mr. Gerrard: Yes, as you point out, the bill came out of situations like that of Kelsey McKay and the abuse that he perpetrated toward kids.

Will this bill actually improve the reaction to individuals like Kelsey McKay?

Mr. Chairperson: Ms. Bobick, please go ahead.

N. Bobick: I don't think that this bill will improve it.

I think that we need to look at the systems that are in place and why they're failing. Let's look at that first. What's the data? Were any reports previously made there? Why were they not investigated? What are some avenues that people could make reports if they didn't feel that their school divisions were looking into this the way they thought? Do parents know all of the ways that they can make a complaint? Do parents know all the agencies that are out there to protect children?

I think that we need to look at these things first before we propose a bill that is, to speak frankly, just very vague and not clearly defined. I do hear that those definitions will be clarified, but right now, it does not look like that, it doesn't not feel like that and, when you read it, it definitely doesn't sound like that.

Mr. Ewasko: Ms. Bobick, we've shone the light on many of this—many of the issues going on right now in regards to grooming and all those types of things.

I just want to alert you to a couple quick stats, and it was brought up by Mr. Gerrard.

Did you know that Kelsey McKay, the football coach, was charged with multiple sexual offenses against children? There were over 10 complaints about this coach ending in over 30 criminal charges dating back to the late '90s, and those complaints are going through the court system right now.

I feel that we do have to act. I do feel that this bill will provide the safety for teachers and for students, especially when we start writing the regulations in regards to the standards.

Mr. Chairperson: Minister, the time has expired.

Ms. Bobick, we thank you for your presentation and for coming and sharing with us this evening.

We are going to move along the list now to presenter No. 26, Mrs. Bobbi-Lynn Geekie.

Is Mrs. Bobbi-Lynn Geekie with us? We do not see her at the moment. We will drop her name to the bottom of the list.

Mrs. Karla Rootsart. Is she with us? Yes. Okay.

Mrs. Karla Rootsart, welcome. We—you'll have 10 minutes to present. As soon as I see you on the screen, I'll give you the floor, followed by five minutes of questions, no question being more than 30 seconds, and your answers can be as long as they want within that five-minute limit.

Thanks for joining us this evening, Karla. You have the floor for up to 10 minutes. If you want to take the whole time, you're welcome to, or finish early—whatever you prefer. We're all ears.

Karla Rootsart (Private Citizen): Okay.

Good evening, and thank you to the committee for the opportunity to speak today.

My name is Karla Rootsart. I have been a teacher for 27 years in a number of schools in Manitoba, most recently in the Garden Valley School Division for 21 years.

As teachers, student safety is our No. 1 priority. The first point of the MTS teacher code of professional practice is that our primary professional responsibility is to our students. It is our duty to ensure that schools are always safe places—not just safe places for making mistakes or expressing one's identity or for asking difficult questions, but safe places free from harm and abuse for every child.

I am in full support of laws that improve child safety and enhance child protection. Protecting children is paramount.

I am here tonight because I have some concerns about parts of Bill 35. One of my concerns is about the inclusion of teacher competence in this bill.

Competency and conduct are two distinct entities. Competence is the responsibility of the employer

which, in this case, would be the school division. School divisions already have robust frameworks in place to evaluate teacher competence. In addition, these evaluations have been customized to specific teacher roles and specialties.

Having your direct supervisor evaluate your performance and discuss it with you creates relationships and provides mentoring for teachers to grow in their professional practice. In addition, these evaluations have been created by staff with classroom teaching experience, and they understand the areas of growth and proficiency that would be required for teachers.

I do not understand how investigating and adjudicating complaints related to a teacher's knowledge and skills or their ability to instruct and assess the learning of the Manitoba curriculum addresses the safety of students, which is the stated intention of this bill.

I am hired, supervised and evaluated by my employer, the Garden Valley School Division, but under Bill 35, the commissioner has the power to address issues of competence. This allows for a third party, comprised mostly of non-educators, to evaluate teacher performance. It creates a situation where individuals without expertise in education are now responsible for judging teacher competency. It also leaves teachers with no avenue to improve their practice.

To address this concern, the panel composition should be consistent with other regulated professions in Manitoba, where most of the members are from the profession.

I know that the minister has previously stated that the government will work with education stakeholders to create a competency framework. So, my question is, will that framework replace my division's evaluation documents? Or will there be two separate competency frameworks that teachers will be held responsible for? Does one supersede the other? And will there be two investigations for each allegation?

Another concern for me is the undefined term significant emotional harm within teacher misconduct. This is vague and allows room for interpretation. The bill specifies that the commissioner would be able to dismiss frivolous and vexatious claims, but the bill does not explain what would qualify as either significant emotional harm or what would be considered frivolous.

This means that the public also does not have specific guidelines for reporting under this category.

My concern is this would lead to complaints from the public due to misunderstandings, lack of knowledge or different perspectives.

In our school division, parents have always been encouraged to talk to the person they have an issue with first. I have been able to have insightful—and sometimes intense—conversations with a number of parents throughout my career about a range of topics, including: having certain books in my library; the strategies I use to teach math; interpersonal conflicts between students; mask wearing; or teaching certain curricula topics. Without these conversations, would parents have made a report to the commissioner instead, especially knowing that they are able to make that complaint anonymously?

* (22:30)

This does not lead to better understanding between teachers and parents, nor does it allow for resolutions of issues at a school or divisional level.

As it stands now, significant emotional harm could be associated with anything, from how a student is graded, to classroom management practices, to resources in the classroom, or teaching of topics considered sensitive. In my own experience, topics that have been considered sensitive include residential schools, Indigenous culture, certain types of instruments or music, anti-racist education, anti-biased education and the inclusion of 2SLGBTQIA representation in classroom resources. Concerns on these topics could be reported as causing significant emotional harm, which could result in many teachers avoiding these topics. This would leave students and teachers from equity-seeking groups vulnerable.

Our job is to keep students—all students—safe in school. Students and teachers from these groups need to know that they are represented and supported in our schools. Teachers need to know that supporting these students will not result in being reported by individuals who are not in agreement with certain viewpoints or lifestyles.

The reality is these attitudes exist in all of our communities, despite human rights provisions, and are on the rise. The threat of having complaints placed upon you for addressing some of these topics will cause some teachers to remain silent out of fear and, as a result, students to feel unsupported and alone. This is contrary to the stated goal of student safety.

The reassurance that frivolous or vexatious and malicious complaints will be dismissed by the commissioner is not encouraging without a clear definition

of these terms. The impact on the teacher could be significant, depending on whether or how far the investigation proceeds before it is deemed unfounded. This would have significant and possibly devastating career and personal repercussions and even more so in smaller communities. Qualifying significant emotional harm more narrowly would help to minimize this vulnerability for teachers while ensuring protections are in place for students.

Finally, the bill does not have specifically stated provisions for MTS representation at public hearings. Other regulated professions have wording that makes the right to representation clear. This should be clearly defined in the bill.

Based on these concerns, I would like to propose the following: removing competence from the bill; ensuring that hearing panels are in line with the composition of disciplinary panels of other professional bodies in Manitoba; include the expressed right to representation for a teacher being investigated; and defining the term significant emotional harm.

Thank you for your time this evening.

Mr. Chairperson: Ms. Rootsart, we thank you for your presentation.

We're now going to move to five minutes of questions, and I'm going to start by acknowledging Minister Ewasko.

Please go ahead.

Mr. Ewasko: Thanks, Mrs. Rootsart, for your presentation and being with us tonight. Thank you for bringing forward some of your amendments, as well, near the end there.

A couple things I do want to just say quickly; I've only got 30 seconds. The anonymous allegations or whatever else, that's not on, and the commissioner is definitely going to have that authority, because it's pretty hard to do an investigation when you have nothing to link it back to.

Thank you again for your presentation.

Mr. Chairperson: Minister, your time has expired.

Mr. Altomare.

Mr. Altomare: Her turn to respond.

Mr. Chairperson: Forgive me. Sorry, folks, I—that's my error. It's getting late.

Okay. Mrs. Rootsart, please feel free to respond to the minister, if you would like to.

K. Rootsaert: No response. I'm good.

Mr. Chairperson: Thanks for being gracious.

Mr. Altomare, please go ahead.

Mr. Altomare: I apologize for, you know, mixing that up a little bit.

Ms. Rootsaert, thank you for your presentation this evening. Certainly listened with interest, especially around what you were describing as a teacher's professional growth.

How could this bill, as you understand it, affect a teacher's professional growth over time?

Mr. Chairperson: Ms. Rootsaert, please go ahead.

K. Rootsaert: When we have evaluations with our principal, they see us many times, they know us personally.

We have reviews every five years, so they have five years of data to look at. They can have conversations with you. They can discuss your areas of growth, they can mentor you, they can provide funds for PD, they can link you to other teachers.

And I don't see that kind of provision in the bill as it stands for allegations that are related to competence.

Mr. Gerrard: My question is this: This bill came forward in part because of what happened with Kelsey McKay, and it wasn't picked up for many years; do you think that this bill will enable situations like that to—this—like that to be identified earlier, and problems prevented?

Mr. Chairperson: Ms. Rootsaert, please go ahead.

K. Rootsaert: I'm not sure that I would be qualified to make that assessment.

I mean, certainly, the misconduct piece is important. Protecting kids from harm and keeping them safe from sexual predators is absolutely important.

But, yes.

Mr. Ewasko: Ms. Rootsaert, I just want to assure you and others that are online and in this committee room tonight that definitely we're going to make sure that we develop those standards together—teachers, employers, teacher representatives—to make sure that those standards, those teaching standards, are written together as the teachers' society also had wanted back in the K-to-12 commission.

So, thank you very—

Mr. Chairperson: Minister, your time has expired.

Mr. Altomare. *[interjection]* Oh, forgive me. Ms. Rootsaert, don't take it personally. It's been a long day.

Please, go ahead and feel free to respond.

K. Rootsaert: Yes, I appreciate those statements.

I also think that the definitions will be very important, not only to reassure teachers, but also for the public and parents to know what the parameters are in—related to misconduct.

Mr. Altomare: So, Ms. Rootsaert, would you be open to a clear and succinct definition of teacher competency in the bill?

K. Rootsaert: I'm sorry, I didn't quite catch that.

Mr. Altomare: *[interjection]* Okay. Yes.

Can I ask—can I have leave for—yes. Thank you.

Mr. Chairperson: Is there leave? *[Agreed]*

That's fine, we'll go a few seconds over.

Mr. Altomare: Appreciate that.

Ms. Rootsaert, I just—are you open to a clear and succinct definition of teacher competency?

K. Rootsaert: I think if it is developed with teachers and works in—with the divisional ones as well, that would make sense.

Mr. Chairperson: Mrs. Rootsaert, thank you for coming and sharing with us this evening. We do appreciate it.

We're going to move now to the list of—continue down the list.

Mr. Michael Flett. Is Mr. Michael Flett here? It appears Mr. Michael Flett is not here. He was called last night, and so this is the second calling. He will be struck from the list.

Ms. Paula Calado. Ms. Paula Calado. Is Ms. Calado here? Ms. Calado is not here. She was called last night and this is the second calling. She will not be called again.

Mrs. Catharine Foy. Mrs. Catharine Foy was called last night. This is the second calling. She will not be called again.

Mike Urichuk. Mike is with us. Mike, we look forward to seeing you momentarily on the screen here.

Mike, as soon as I see you, I'm going to give you the floor for 10 minutes, then there's five minutes of questions. The questions are 30 seconds each.

You can take as long as you want to answer them within that five-minute window.

So, once I see you, I'm going to give you the floor.

Mike, welcome. Great to have you here. Just test your mic for us, Mike.

* (22:40)

Mike Urichuk (Private Citizen): You got it, man.

Mr. Chairperson: Awesome.

M. Urichuk: How is that going?

Mr. Chairperson: It's perfect.

Okay, we're off to the races, Mike. You have the floor for 10 minutes, and we're all ears.

M. Urichuk: Good evening.

I want to start today by acknowledging the many people that have come before me to speak to Bill 35 and their concerns regarding child safety in our schools. So, thank you to all of you fellow advocates and presenters for consistently bringing the conversation around Bill 35 to the central concern of child safety and how safety is much more than just a disciplinary process.

Thank you to the presenters that have spoken about how poverty impacts student safety; how underfunding impacts student safety. Thank you to the presenters that have spoken about equity-seeking groups and how their safety is tied to the harm of exclusion, xenophobia, homophobia, transphobia, misogyny and other forms of societal hate.

I speak today to remind the committee of what has been said, to thank those who have said it and to add my perspective on needed changes within this legislation.

My name is Mike Urichuk, and I have worked in schools in various roles for over a decade, and most of my experience has taken place in the Garden Valley School Division, and mostly in Winkler.

I'm here tonight because I have some concerns about Bill 35, The Education Administration Amendment Act (Teacher Certification and Professional Conduct), as it is currently written. As a teacher, the code of professional practice states that my primary professional responsibility is to my students. I take this responsibility seriously and I am concerned because Bill 35 falls short of protecting my students.

In the second edition of the Canadian Centre for Child Protection's research titled Child Sexual Abuse

and Victimization by K-to-12 School Personnel in Canada, the first key recommendation of that report is to, quote, establish a framework supported by legislation that ensures all complaints and concerns of a sexual nature related to any person working in a school environment—i.e. teachers, administrators, bus drivers, therapists, educational assistants, the custodial staff—are reported to a singular, specialized and child-centred public body that is fully independent and free from the conflicts of interest present in many existing systems. End quote.

In Bill 35, a commissioner is appointed to review and address complaints and reports on the misconduct of teachers. So, this fails to meet the key recommendation of the CCCP report, as it does not include all school personnel. To protect our students, the commissioner should be tasked with reviewing and addressing complaints and reports on the misconduct of all school personnel and volunteers, not just teachers.

Given that this data-driven recommendation clearly would require the commissioner to provide oversight of misconduct by all school personnel, what was the reason that non-teacher school personnel were not included in the commissioner's scope of authority within Bill 35?

In addition to misconduct, the commissioner can address complaints and reports regarding teacher incompetence and, when addressing a complaint or report regarding incompetence, the commissioner can order a hearing and appoint a hearing panel. This hearing panel will be made up mostly of non-teachers. This means that most of a hearing panel to determine incompetence may not, themselves, understand the required competencies of a teacher.

Further, depending on the regulations that arise from this legislation, you could have a clinician—who is deemed to be a teacher for all purposes of the educational administration act, such as a speech-language pathologist—brought before one of these hearing panels, where not even one of the panellists would understand the competencies required of an SLP.

Bill 35, as currently drafted, can create situations where individuals without expertise are responsible for judging the competency of education professionals. To improve fairness, the hearing panel composition should be consistent with other regulated professions in Manitoba, where most of the panel is from the profession. While the ordering of these panels may be infrequent—such is the case in BC and other jurisdictions—they should be functional and fair when they are appointed.

Further, the bill is silent on whether teachers, inclusive of clinicians, can have union representation at public hearings. Other regulated professions specifically have wording that makes the right to representation clear. Why is this missing from Bill 35?

The broad definition of misconduct. Very common topic that has been heard by this committee already, including significant emotional harm. Significant emotional harm or incompetency could be associated with anything from how a student is graded to classroom management practices to resources or teaching of topics considered sensitive.

In my home community, there is a small but vocal and motivated group of people who complain when teachers strive to create an inclusive classroom. The inclusion of 2STLGBQIA+ people has been categorized by some complainants as persecution of their child's religious beliefs and, thus, causing alleged emotional harm to their child.

These complaints are draining to handle and cause a great amount of distress to all involved. Some teachers in my region have removed books from—some teachers in my region have removed books with representation of gay characters, taken down signs signalling safe spaces to 2STLGBQIA+ people, and refrain from discussing topics regarding human diversity altogether, just to avoid experiencing these complaints.

And, I want to be clear, these teachers are trying their best in these situations. Teaching can be a stressful job and avoiding another complaint can be a self-preservation technique to protect teachers from burnout.

I am worried about further removal of resources that promote respect for human diversity within our classrooms. I am worried about the number of the 2STLGBQIA+ teachers who would choose only to work in areas with more tolerant communities.

School should be a safe place for everyone where we can learn to respect diversity, and the reassurance that frivolous, vexatious or malicious complaints will be weeded out by the commissioner offers little rapport—offers little comfort, as well as the repeated statement saying that human rights must be followed. Because the impact on the teacher could be significant depending on whether—or how far the investigation proceeds before it is deemed unfounded, and how long the decision takes to be made.

Some complainants in our region have gone as far to claim that teachers are grooming their children or

exposing their children to child pornography. These are serious accusations and should warrant an investigation.

But, sometimes it turns out that they just suspected the teacher is not heterosexual and, therefore, feel like these terms would categorize that teacher. And the time from a complaint being submitted to a complaint being determined as substantiated or unfounded can be significant.

While the complaint is pending, a lot of damage can be done, and the damage in a substantiated claim is obvious. The damage in a frivolous claim can include increased stress, reduced teacher performance, reduced student and teacher well-being and permanent impacts on working relationships.

To reduce all forms of harm, Bill 35 should define its terms as clearly and specifically as possible to allow for the processing of these complaints to be done as efficiently as possible. Qualifying significant emotional harm more narrowly would help to minimize this vulnerability for teachers while ensuring protections are in place for students.

Further, as has been previously stated in past presentations made to this committee, competence and conduct are inappropriately linked in this bill. Please address student safety by addressing misconduct. And then address teacher competence separate—separately, as has been committed to by the Education Minister to do so by consulting education stakeholders such as the Manitoba Teachers' Society.

In conclusion, I would like to propose the following amendments:

(1) Task the commissioner with overseeing misconduct for all school personnel and volunteers, not just teachers.

(2) Remove competence from the bill.

(3) Ensure hearing panels are composed of a majority of members of the profession, in line with the composition of disciplinary panels of other professional bodies in Manitoba.

(4) Include the express right to representation for a teacher being investigated.

(5) Limit reports by employers to suspensions and terminations, as opposed to any and all discipline for professional misconduct or incompetence.

* (22:50)

(6) Define significant emotional harm, and this includes specific language related to psychological harm to the pupil or child, where the act is based on a characteristic protected by The Human Rights Code, repeated conduct that could reasonably cause a pupil or child to be humiliated or intimidated or a single occurrence that could reasonably be expected to and has a lasting harmful effect on the pupil or child.

(7) To protect the privacy of teachers who are determined not—

Mr. Chairperson: Mr. Urichuk, you know, we can give you another few seconds. You don't have to read at a hundred words a second, here. You know, if you're reading the last paragraph, please, go ahead.

I need to request leave. Is there leave to let him finish? [*Agreed*]

Mr. Urichuk, if you're down to your last paragraph or so, please go ahead.

M. Urichuk: Just on the last one, I'll start at:

(7) Protect the privacy of teachers who are determined not to have the capacity to carry out the professional responsibilities of a teacher because of a physical or mental disability.

Thank you for your time.

Mr. Chairperson: Thank you for your presentation. We're going to move along to five minutes of questions.

I'm going to start with Minister Ewasko.

Mr. Ewasko: Thanks, Mr. Urichuk. I'm going to make this quick because I only get 30 seconds.

So, in regards to why not all staff is because the Department of Education and Early Childhood Learning only regulates the teaching profession and not other professionals within the education sector. And it limits the department's role to the regulation of the teaching certificate.

Secondly, earlier on in your comments you mentioned professional organizations within the province. Are you alluding to at all a teaching college?

M. Urichuk: No, I was saying that there are other colleges that have—that are, sorry—there are other professions seen as clinicians within our schools such as SLPs or school psychologists or social workers that do have colleges. I was just saying that if there is a hearing panel, if someone is deemed to be a teacher we should follow some of those practices that have been working for us.

I wasn't making a value judgment about saying that there should or shouldn't be a teacher's college, but saying that the process that we administer misconduct should align with an existing practice that we deem as reasonable and appropriate.

Mr. Altomare: Thank you, Mr. Urichuk, for your presentation this evening.

I was especially interested in the comment that you made early on in your presentation around the central concern of child safety and how it is more than just a disciplinary process.

Can you expand a little bit further on that?

M. Urichuk: Yes. It seems like child safety seems to be synonymous with the number of professionals that are brought through this disciplinary process that's outlined within this bill. Child safety is so much more than just making sure that those who have committed offences or misconduct are, for lack of a better term, brought to justice, as that line of thinking would say.

You really need to protect child safety through so much more, whether it be through supporting families or implementing programs that are early intervention, or funding enough staffing supports in order to properly assess emotional learning needs earlier on within careers. The list can go on and on and on. But as Bill 35's scope seems to be, it's largely just around making sure that transparency exists—which is important—and to make sure that people are disciplined, as opposed to necessarily ensuring safety in the first place. It's more about disciplining people that made sure that—or disciplining people that violated the trust and the safety of our kids.

Mr. Gerrard: Right at the end of your comments you referred to the clause which dealt with the capacity to carry out professional responsibilities of a teacher because of a physical or mental disability.

I'm going to give you a chance just to elaborate a little bit on what your comment was there, because it was pretty quick.

M. Urichuk: Yes, there's a lot in my presentation that I kind of just added as a recommendation because I feel like it's elaborated pretty well from other presenters. But protecting the privacy of teachers who are determined unable to carry out professional responsibilities of a teacher due to a physical or mental disability.

Those are very serious situations, and privacy for those people—it's rarely due to an intentional wrongdoing or anything of that sort, and so the hope would

be that the privacy of those teachers going through a difficult time in their lives would be protected.

I hope that answered your question.

Mr. Ewasko: So, Mr. Urichuk, I just want to be clear. I want to tell you how this works today, and how the bill is going to work.

So, the current legislative framework as of today gives the full authority to the minister to address any complaint or concern, including misconduct and competence, without limitation. The new act will assign an independent commissioner, ensure standards are developed and the frivolous complaints are dismissed—among other things.

So, just a quick 10, 12 seconds for you to comment back.

Mr. Chairperson: Mr. Urichuk, you've got 10 seconds.

M. Urichuk: Yes, and I have no qualms about trying to identify how this—how that would be a limiter specified going ahead, but the issue is more when we are crafting something that we are all going to be governed by going into the future, we don't want to tie ourselves just to what has been done in other jurisdictions.

So, we want to listen to the professionals in the field who are telling us that if we are specifying what is going to happen, let's make sure that we specify properly and include what is deemed as important from those who are involved within this profession and might have some first-hand knowledge.

Mr. Chairperson: Mr. Urichuk, thank you for your presentation. We really do appreciate you taking the time and staying up late with us here at the Manitoba Legislature. Thanks again.

We're going to move along to Mr. Randy Quiring. Mr. Randy Quiring appears to not be with us. He was called last night; this is his second and final calling.

Ms. Barbara Gajda? Ms. Gajda appears to not be with us; that was her second and final calling.

Mr. Jon Bettner? Mr. Bettner does appear to be with us.

Mr. Bettner, welcome to the Manitoba Legislature. We're going to let you—wait until we can see you on the screen, there. As soon as I can, I'm going to give you the floor for 10 minutes. You get up to 10 minutes. You can take the full time or only part of it, it's your choice. Then we've got some great questions for you, five minutes of those. The

questions are only 30 seconds each, but you can take as much of that five minutes as you want to answer those questions.

And I can see you on the screen. The timer is set at 10 minutes. And welcome, Mr. Bettner, to committee. We are here to listen to you and you do have the floor for up to 10 minutes.

Jon Bettner (Private Citizen): I want to firstly apologize for my absence yesterday when first called to present to this committee. I direct the Dauphin community band, which rehearses on Monday nights.

I'm Jon Bettner, I'm a teacher in the city of Dauphin on Treaty 2 territory and I'm a proud Mountain View Teachers' Association member.

I will confine my criticism of Bill 35 to two distinct areas: composition of review panels and proposed competency standards as included in the bill.

I personally believe that efforts to make public serious, proven instances of misconduct by teachers against children in their care are long overdue and bring education into line with other professions. That said, this legislation is critically flawed by its oversights in the aforementioned areas, and I remain unconvinced that this government has soberly considered the full ramifications of these provisions.

Firstly, review panel composition is wildly out of step with other professions. When other professionals are brought before review panels for misconduct, they are judged by a jury composed mostly of their professional peers. This has a purpose, and it isn't to rig the deck in favour of the accused; it is to bring the needed lens of experience to render informed judgment on an accused actions.

I am not moved by concerns that a review panel made up of mostly teachers could create the opportunity for interference akin to the blue code of silence, to take an analogous example from US law enforcement. And the rationale is simple: teachers care about students and their well-being and safety far more than they care about closing ranks around colleagues that dishonour the profession, full stop.

Although everyone passes through the education system as a student, this, perhaps to their surprise, does not make them experts on education, best practices in teaching or the school system. The idea that review panels should be composed of mostly non-teachers who have never once been in charge of a classroom opens up teachers to the types of miscarriages of justice that this government has claimed

to want to avoid in Hansard transcripts on Bill 35. Teacher review panels must feature similar composition to other professions, with the majority of participants holding active teaching certificates. Anything less is unacceptable.

* (23:00)

This brings me to the most contentious section of this bill, which is an attempt to tie teacher competency standards to misconduct and the protection of children. This legislative non sequitur does not belong in a bill regarding teacher misconduct and, furthermore, will not achieve desired results.

The current system of teacher certification allows a licensed teacher to teach all subjects in the public school system, regardless of grade level or subject area. Someone educated, trained and experienced in the discipline of senior-year science is certified to teach senior-year science, kindergarten homeroom, middle-school art, elementary music and more under our current system.

In rural Manitoba, the staffing shortage is far more acute than in Winnipeg, and we experience far more difficulty attracting applicants to positions. As a result, teachers routinely serve where we are most needed by our divisions, rather than where we are most competent. We undertake these efforts at great personal cost to ourselves in service to public education, and under Bill 35 this service would become unacceptably risky for teachers.

As an illustrative anecdote, I was involuntarily reassigned this year from teaching middle-school band, which I've taught for my entire career, to teaching a grade 8 homeroom this year due to budget constraints and music program enrolment collapse due to the COVID-19 pandemic. Like many Manitoba music specialists, I am a world-class expert in the area of instrumental music education. However, I've had very little formal training outside my discipline, and classroom teaching versus band are two completely different worlds. Most of what I know about classroom teaching has been self-taught, and I worked long, hard hours last summer and throughout this year to acquire resources, adapt them for my students, acquire content knowledge in multiple disciplines and learn pedagogical strategies to ensure I would be effective in my new assignment.

My teaching career is proof positive that teachers go where our employers need us and take on the work of professionally developing in order to improve our

own working conditions, and it's a point of personal pride in our work. Teachers care about their own competency more than any government ever could, and teaching is a brutal job with a devastatingly high burnout rate. In this way, teachers self-select for competency in the profession.

My story of being involuntarily reassigned is not unique, especially in smaller, rural divisions. Any teacher competency standards must recognize and allow for the common experience of being involuntarily reassigned. I would have significant misgivings about being measured by competency standards potentially designed to evaluate veteran teachers with extensive training in their disciplines. And I would have grave concerns knowing that a parent could complain that I am incompetent after having been involuntarily reassigned to a discipline which I have no training or experience in, with my licence to teach hanging in the balance.

An unscrupulous employer could even require that a teacher be reassigned to an area they know they have no skills in, which would be consistent with their right to manage. That same division could then have that teacher brought up on incompetence charges in a cruel game of gotcha and, as written, a teacher would be at the mercy of the commissioner under Bill 35.

Even if a savvy commissioner were to sniff out a bad-faith charge in such a scenario from the division involved, a parent who sees that the reassigned teacher doesn't hold a candle to the 30-year veteran down the hall wouldn't know the difference and would not be afforded the same skepticism. Worse still, if that teacher incorporated controversial subject matter into their teaching, such as topics including reconciliation and Canada's past and current crimes, the Holocaust, social justice, 2SLGBTQIA+ perspectives, family life or any other flashpoint issues, a parent may organize a campaign to ensure that this teacher loses their licence.

In an age where social media accounts such as Libs of TikTok actively weaponize outrage culture to try to punish teachers for being openly queer or for perceived progressive indoctrination, Bill 35 appears to hand them gasoline and a box of matches.

It defies belief to assume that a teacher competency bureau in Manitoba could effectively ensure that every teacher operates to standards of pedagogy and content knowledge by a specific grade level or subject area while simultaneously maintaining the current

system of broad teacher certification. It appears to imply two logical end results to teacher competency efforts, neither of which are desirable: (1) that these competency standards will be utterly meaningless, applying broadly to all teachers, regardless of their discipline, and functionally amounting to a rubber stamp for generic common practices across all the varied educational settings in K-to-12 public school; or (2) that our education system will go the way of the United States and require certification of teachers by subject area, which would destroy public education in this province overnight. It would leave a staggering number of teaching positions unfilled in rural Manitoba by artificially starving the education job market of applicants. It would saddle new graduates with additional regulatory burdens, and it would increase teacher unemployment and attrition for wanted positions in their disciplines at a time when the Manitoba government should be doing everything in their power to ameliorate the labour shortage in teaching.

Ensuring teacher competence is already the domain of my school administrators who know my work, my reputation; the parents of my students and my students themselves. Involving a commissioner appointed by the government of the day to intervene in this process will not improve outcomes, ensure efficiency or adequately protect teachers from baseless accusations.

The core aims of Bill 35's provisions regarding the publicization of serious proven misconduct by teachers against children in their care are, in my view, reasonable and necessary. I implore you, however, to amend the bill to bring a review panel composition in line with other professions and remove teacher certification provisions from this bill.

I yield the remainder of my time. Thank you.

Mr. Chairperson: Thank you, Mr. Bettner, for your time. We really do appreciate it.

I'm going to open the floor to questions for five minutes. I'm going to start with the minister.

Minister Ewasko, please go ahead.

Mr. Ewasko: Thanks, Mr. Bettner, for joining us this evening.

Absolutely, I know, as a teacher myself that extracurricular activities sometimes just clogs up and definitely has conflicts with other things. So, definitely, good on you for being there last night and joining us tonight.

Thank you very much, and thank you very much for bringing forward some well-thought-out amendments, as well. Thanks, sir.

Mr. Chairperson: Mr. Bettner, if you'd like to respond, you can. There are other questions, as well, if you want to just go to the next question.

J. Bettner: No comment.

Let's go to the next question.

Mr. Altomare: Thank you, Mr. Bettner. Thank you for acknowledging that you're coming from Treaty 2 territory, again, living the work that you do as a classroom teacher and bringing it to this committee in that way.

You mention that there are some oversights in this bill that have you concerned. Can you briefly review what those oversights are?

Mr. Chairperson: Mr. Bettner, please go ahead.

J. Bettner: So, those oversights are failing to account for involuntary reassignment when considering teacher competency standards, the fact that teacher competency standards by grade level or subject area are incompatible with our current system of broad teacher certification, which certified teachers to teach all subjects and, given that discrepancy between the two of them, there is no real way to reconcile those two.

You cannot have teachers certified to teach every subject in Manitoba while simultaneously ensuring that they are fully competent in all of those subject areas, from kindergarten, homeroom, all the way up to, you know, specialty area senior years education.

And any attempt to sort of cut that Gordian knot by saying, well, then, let's certify teachers by subject area or grade level, is a can of worms that cannot and should not be opened because it will have disastrous consequences on the education job market.

Mr. Gerrard: Yes, thank you, and thank you for stepping up in a rural area when the need was there.

Just tell us a little bit more about your experience and your feeling after having taught students subjects which you weren't necessarily trained in but had to learn on the fly from books or online or wherever. *[interjection]*

Mr. Chairperson: Mr. Bettner, please go ahead.

J. Bettner: Sorry about that.

Well, to put it bluntly, it was—at first it was devastating because I, again, I'm an expert in my field.

And then to suddenly sort of leave all of those knowledge and skills by the wayside and have to juggle multiple subject areas, which I know my colleagues are far more competent than me in, but I've still been called upon to do a competent job with my students, it is extremely nerve-racking.

It involves an absolutely insane workload that pulls teachers away from their families at night and other activities. And at the end of the day, I'm still left wondering, gee, you know, will—in a regulatory framework like Bill 35, would parents have ammunition to try to pull my licence, especially if they had sort of a nefarious angle based on, you know, my teaching style or the types of content that I might cover in an ELA curriculum, consistent with curricular guidelines, such as including, you know, perspectives on Indigenous and gender and sexual minorities.

It is supremely, supremely stressful, and I think adding the potential charge of incompetence to a teacher who is already in survival mode will only increase teacher burnout and attrition, which should be a major demon that is on the radar of this government to try to fight it.

Thank you.

* (23:10)

Mr. Chairperson: Minister Ewasko, 50 seconds.

Mr. Ewasko: Thank you Mr. Bettner, and thank you Mr. Chair for the opportunity.

So, right now when you're—as a certified teacher, as myself, yourself, Mr. Micklefield and, of course, Mr. Altomare, we can go in and teach anything that we are hired to teach. And you know that, and so that's really not going to change.

And when you talk about competency, this—that is something that the commissioner would be definitely looking at to see what type of situation that teacher has been put in as well.

So, with the commissioner, with a member of the Manitoba Teachers' Society, with a member of Manitoba school—

Mr. Chairperson: Minister, sorry, you're time's expired.

I'm—Mr. Bettner, I'm going to give you a few extra seconds there, the minister did go over. But if you want to respond briefly, you know, 15 seconds or so.

J. Bettner: Well, I'm heartened by that generous interpretation of what is actually written.

What is actually written there does not in any way place an obligation upon the commissioner to behave in that manner, especially a potentially hyperpartisan one appointed by a bad-faith government.

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

We're going to move along to the next presentation.

Mrs. Ann-Marie Robinson. Is Mrs. Ann-Marie Robinson with us? It appears Mrs. Ann-Marie Robinson is not with us. She was called last night, we will strike her from the list.

Mrs. Shelagh McGregor? We think that Mrs. Shelagh McGregor is with us.

Hi, Mrs. McGregor. You're going to get 10 minutes as soon as I see you on the screen there, followed by 5 minutes for questions.

Hi, Mrs. McGregor. Thank you for joining us. You do have the floor for 10 minutes—up to 10 minutes. Please go ahead.

Shelagh McGregor (Private Citizen): Okay, thank you. So, I've already been introduced. My name is Shelagh McGregor and I've been a teacher for 23 years in the Winnipeg School Division, in the North End of Winnipeg, which is located on Treaty 1 lands. I have a bachelor of arts, a bachelor of education and a post-bacc in special education. And in 2021, I was acknowledged with a teacher of excellence by the Province of Manitoba from my peers, who nominated me.

I am here tonight because I have some concerns about Bill 35, the education amendment act, the way it is currently written. But I just wanted to pause for a moment and say that I'm so honestly moved by all the previous speakers and I am—I'm really proud of how we are standing up for our profession over the last few days. And I've been nodding my head all night.

So, I'm going to keep my presentation to two specific areas. And the first area is student safety. And I'd like you to think of school as our students' workplaces. That's where they go to work; that's their workplace. We have workplace health and safety legislation for all workers in the province of Manitoba

Students need their own version of legislation—I definitely agree, and in fact I am—I have my own legislation within my classroom on how—my expectations

on how people need to behave in my room. And I'm adamant in explaining to students that how we feel directly impacts our ability to learn.

And if we don't feel safe, there is legitimate brain research that tells us that there is an amygdala in our brains that will prevent our neurons from accessing the frontal lobe, which is the very important piece that we need to think and to question and where we make our decisions and so on. And it is so essential for that safety piece.

And the safety can look so many different ways, as previous presenters have mentioned. Having something to eat in the morning, having a safe place to sleep at night and the list goes on and on.

But an area that's become very worrisome in the last few years is violence in the school as a workplace—a workplace for teachers and a workplace for students. The school scenes can be more volatile than maybe I've witnessed in my own career. They're also volatile online which, even though it happens after the school day, it permeates into the next school day. And many, many hours are spent dealing with this sort of issue at school and—instead of learning. Parents, they don't necessarily know everything that is going on, so there's a lot of miscommunication going on there.

Okay, once upon a time, if a physical fight broke out between students on school property, there would likely have been no hesitation for any teacher to just step in to break the students up so that no one becomes further injured.

But now, there—at one time—let me just back up for a minute, at one time we had a certification process that teachers could go through called a non-violent crisis intervention, which gave us some assurances that we were somewhat protected if we had to physically intervene in something or help remove a student from an unsafe situation. That program has sort of rebranded and we're not entirely, in my division and—anyways, we're not entirely sure the trajectory of that program and how that's going to come around.

But, like I was saying, once upon a time I would have no hesitation to step in and do what I thought was the safe—I have—*loco parentis*; I want to make sure that everybody is safe as best I can. And now, teachers are liable if they step in and try to make a situation safer, and they're also seen as being liable if they're standing back and not physically intervening, if they are using their words, if they're calling the police.

So, the optics of what the right thing for the teacher to do doesn't seem to be clear for the parent

community, for the student community and for the teachers. And the—I am the on the executive for the Winnipeg Teachers' Association and I know it was a source of big conversation, what to do in these incidences. We've had, you know, things happen this year, or experiences happen this year, where it makes us really question, well, what are our limitations, how are we going to be protected, how are the students going to be protected?

We are human and, obviously, we do have the best intentions. But we are concerned, and when misconduct is brought up in this manner—and I know that the original thrust of this bill was—you know, it is an absolute tragedy what has happened with the—one of my former colleagues who would've been mentioned in previous presentations. That is just—we're—I'm not talking about sexual 'predation' in my particular presentation because I believe that those processes need to be handled in a judicial, criminal manner.

But the concern and where I'm scared, personally, is the definition of what significant emotional harm will be. What I have a window a tolerance about will be much different than my neighbour. We all have different windows of tolerance.

I can tell you that, coming from a school with incredible inner-city characteristics moving to a school with a different 'socioeconomic' background, the level of tolerance and what I saw in day-to-day school life at my newer school, the staff had a completely level—a different level of tolerance than what teachers would be experiencing in different buildings. And that's in the same division and it's maybe five kilometres away from each other. So what definition is this significant emotional harm?

* (23:20)

And teaching has recently has arrived on the top 10 most violent job lists. We're hit, hit and sworn at on a daily basis, and not just by students. And this year alone, I'm aware of at least two no trespassing orders placed on parents from coming onto school property, either for being extremely disrespectful, harassing school staff or coming and making other children—harassing, intimidating, bullying, yelling at children on our school property.

So, you know, we do have processes in place to facilitate the restoration process. And, often, and in my experience over 23 years, I've have phone calls from parents who were quite upset about something—someone has gone home and said something—and once we've had an opportunity to have a conversation—a

calm, respectful conversation—you know, light bulbs go off and everybody understands and we move on, and processes are in place already at the school level and with the school divisions. We do seem to use restorative practices, and the problem-solving protocols are there.

So I'm just wondering, and help me understand, why this process of responsibility would be taken over from the division, and perhaps I'm not understanding it correctly, and then be taken over by a commissioner and a panel. And what is the committee's opinion of frivolous? So, for me, this is one area that needs improvement and in—and clarity in this bill.

All right, the second area I'd like to speak about is teacher competency. I believe it does not belong in this bill. If this is for—

Mr. Chairperson: Mrs. McGregor, I'm sorry. I'm obliged to let you know that your time has expired.

What I'm going to do is we're going to move along to five minutes of questions, and maybe some of the things that you were just about to share, you can work into those. I'll leave that up to you.

We're going to start—we're going to head into the questions. I'm going to recognize, as I have—has been the pattern, the minister first.

Minister Ewasko, you have 30 seconds to ask a question. Please go right ahead.

Mr. Ewasko: Thanks, Ms. McGregor, for coming on tonight and bringing forward your presentation.

Just to inform you just about—because you asked a quick question about current process. So the current legislative framework—that's today without the bill being passed—grants full authority to the minister to address any complaint or concern, including misconduct, incompetence, without limitation.

The new act, Bill 35, will assign an independent commissioner, ensure standards are developed and that frivolous complaints are dismissed, amongst other things—

Mr. Chairperson: Minister, I'm sorry.

Mrs. McGregor, if you'd like to respond, you're free to. *[interjection]*

Yes, Mrs. McGregor, yes, please—please, go right ahead.

S. McGregor: Oh, I'm sorry, yes, protocol.

Mr. Chairperson: That's okay.

S. McGregor: Sorry, Minister, could you give me an example of what you would consider to be an example of something frivolous?

Mr. Chairperson: Minister, please go ahead.

Mr. Ewasko: Thanks for the question my way, actually; this is the first one in two nights.

So, in regards to frivolous types of allegations that might be out there, could be something just as simple as, I didn't like the teacher giving me this certain mark on this certain project, and so they went straight to the commissioner, as opposed to going through the administration, which that power from the administration is not being lifted.

The employer's responsibilities are still the assessment of performance, investigation and discipline. We're talking egregious misconduct going to the commissioner.

Mr. Altomare: Thank you, Mrs. McGregor, for coming here tonight, for acknowledging our presence on Treaty 1 territory in our lands—again, living the work that we do every day, even at the committee stage of which we're at right now. Commend you for your 2021 award for teacher excellence.

You did mention that you were moved by previous speakers. What specifically resonated with you from listening to the previous presenters and through participating in this committee process?

Mr. Chairperson: Mrs. McGregor, please go ahead.

S. McGregor: Oh, I waited for you to let me do that. Okay, thank you. I—see? I'm getting better at this.

The presentation I believe by the gentleman from Gladstone, perhaps the last name was Watson, and he shared an experience where he was falsely accused of bullying and how—the toll that it took on him.

Because we are human beings, after all, and I think sometimes—well, I know our students don't think that we're real human beings or that we even have first names, I am an elementary school teacher—and sometimes I think the public forgets that we are actually real people as well.

And yes, so it was moving to hear some of the stories of my colleagues.

Mr. Gerrard: Yes, Shelagh, you mentioned that you were—found yourself unsure of how to react when there's a physical fight on a playground, and I wonder where you think that we need guidance from.

Is that standards at a provincial level? Is it decisions made locally? What's needed to help teachers deal with such situations?

Mr. Chairperson: Mrs. McGregor, please go ahead.

S. McGregor: Thank you for that question.

Do we have another hour to discuss this? I would love to pass along suggestions in terms of help that we as a, you know, a collective profession would know, you know, we don't have that—like I was saying—we don't have the good Samaritan rule as first aiders, as teachers, being—trying to be 'locol' parentis and so on.

So yes, I think this area needs a little bit of rebranding, revamping, a little bit more clarity. And linked into the workplace health and safety, I know that violence in the workplace—not just violence towards teachers, but violence between students—there could be an area that gets written in there.

And just because I know I have very little time, I was just going to talk about that professional certification—

Mr. Chairperson: Mrs. McGregor, I'm sorry, we are unfortunately out of time, but really do appreciate your comments, your thoughts, your time, your presentation. Thank you so much for joining us this evening.

S. McGregor: Okay. Thank you for your time.

Mr. Chairperson: Thank you for yours.

An Honourable Member: Mr. Chair?

Mr. Chairperson: Yes, Mr. Altomare?

Mr. Altomare: I ask for leave for five minutes to discuss further procedures.

Mr. Chairperson: Okay, I—so, it's been requested that we take a five-minute break—recess. Is that agreeable to the committee? [*interjection*]

Okay. There's not agreement to do that right now.

I'm going to propose that we see who else is waiting to present and then, when we make it through the list of presenters, perhaps, Mr. Altomare, if you want to still do that, then you can raise that again with the committee.

Okay, we're going to go down this list here. Ms. Glynnis Eyford? Ms. Glynnis Eyford does not appear to be with us. That's the second time we've called, and her name will be struck from the list.

Mr. Sean Free? Appears not to be with us. Also the second time called, and struck from the list.

Mrs. Serena Klos? Also not with us, second time called, struck from the list.

Mrs. Brittany Okatch. Also second time called and struck from the list.

* (23:30)

Mrs. Delilah [*phonetic*] Jacob. Delia, sorry, Jacob. That is her second time and struck from the list.

Mr. Kevin Rebeck. Mr. Kevin Rebeck does appear to be here.

Mr. Rebeck, welcome to the committee. As soon as I can see you, I'll give you the floor for up to 10 minutes. And I do see you so, please, you have our attention for 10 minutes followed by five minutes of questions. Please go ahead.

Kevin Rebeck (Manitoba Federation of Labour): Thank you and good evening.

My name's Kevin Rebeck and I'm the president for the Manitoba Federation of Labour. The MFL is Manitoba's central labour body and unions affiliated to the MFL together represent more than 125,000 working Manitobans in the public and private sectors as well as the building trades, including manufacturing, government offices, retail stores, hospitals, natural resources, tourism, agriculture and, of course, schools.

I'm proud to say that the Manitoba Teachers' Society is one such affiliated union and I'm here tonight to echo their concerns with this bill on behalf of working families in our province.

I want to start by saying that public sector—public school teachers do tremendous work and I know everyone sitting at that committee table tonight can think of at least one teacher who had a positive impact on your life, a teacher who recognized a talent you had and who encouraged you to follow your dreams. Aside from parents and guardians, teachers have some of the biggest impacts on our lives, and I've been lucky to have many dedicated and hard-working teachers in my life.

I'm not a teacher and I'm not here to speak for them tonight, but I am here on behalf of working families across this province who appreciate the work that teachers do each and every day. And I know that teachers have been through a lot in recent years.

When this government came to power, they passed draconian legislation known as bill 28 that attacked the collective bargaining rights of teachers and other public sector workers and froze their wages. The government followed up with bill 64, which threatened to completely upend our public education system and threw K-to-12 schools into the kind of chaos that this government's put the health-care system through. Thankfully, through the leadership of our public education unions like MTS, this government finally backed down on that bill.

The public schools and teachers continue to struggle with years of underfunding by this government. And we've seen all too clean—clearly in the news, in recent weeks, how school divisions are still struggling to maintain services and programming after so many years of starving our education system. And I'd be remiss if I didn't thank our teachers for their dedication to students throughout the COVID-19 pandemic and the way they stepped up in a big way.

I know that teachers care deeply about the safety of their students. And, as many have mentioned here tonight and last night, the first point of the teacher code of professional practice is that their primary professional responsibility is to their students. It's their duty to ensure that schools are always safe places, not just safe places for making mistakes or for asking difficult questions, but safe places free from harm and abuse for every child. And it's clear that teachers support laws that enhance child protection.

The teachers who presented last night and tonight and that are waiting to present, including MTS president Nathan Martindale, have raised concerns about other aspects of this bill. And we hope that all parties will act to improve this bill based on the recommendations of MTS.

The first is the issue of inclusion of teacher competence in this bill. Like others who have presented, I fail to understand how investigating and adjudicating complaints related to a teacher's knowledge and skills or their ability to instruct and assess learning of the Manitoba curriculum is related to the safety of children, which is the stated intention of the bill.

Competence and conduct are two separate issues and they're inappropriately linked in this bill. This bill would give a commissioner the power to address issues of competence even though teachers are employees of school divisions. I don't think any Manitoban—working Manitoban—wants a third party

rather than their employer evaluating their job performance.

The bill opens the door to situations where people who don't have expertise in education would be responsible for judging teacher competency. And as others who've raised here tonight and last night, it's concerning that the right to union representation during investigations is not explicitly mentioned in the bill.

We hope this committee will seriously consider the amendments that have been proposed here, and include the explicit right to union representation.

Again, I want to thank Manitoba's public school teachers for the work they do. I don't think it was ever in question before, but I'm sure the value of your work was highlighted for many parents during the last few years. And I'd also like to thank MTS for their leadership on this and other issues that affect teachers in our province, and a thank you to all the presenters tonight and last night, and those coming up, who speak from their direct experience in working with students.

From the MFL's perspective, it'd be a lot better to have a provincial government that works with teachers and other public sector workers on improving the public resources and services that we all count on. Consulting with them in advance of introducing legislation would be best; adopting the amendments they're suggesting would be a step in the right direction.

Thank you for your time.

Mr. Chairperson: Thank you, Mr. Rebeck, for your presentation. We do appreciate it. We're going to move to five minutes of questions, and I'm going to start by recognizing the minister.

Minister Ewasko, please go ahead.

Mr. Ewasko: Thank you, Mr. Rebeck, for joining us here this evening and bringing forward your presentation.

Again, you know, you sort of ended off on the consultations piece, and as you obviously don't know, we've consulted actually with many of our education partners across this great province of ours on this bill.

Quick question for you: you mentioned misconduct, you mentioned competency; what is the current process for teacher misconduct in the province today? *[interjection]*

Mr. Chairperson: Mr. Rebeck, please go ahead.

K. Rebeck: Sorry about that, thank you.

I'm not an expert in the current process, I—and I don't think that MTS is saying that the current process is perfect. The issue that I'm really raising a concern with, and I think I'm echoing concerns raised by teachers, is that this new bill would have a third party—not the employer, not someone who necessarily has the skills and knowledge or background in education—playing the role where they're going to make judgment calls on the competency of teachers performing their role.

I think that should be done by your employer; that's why people have employers, and that's part of their primary duties and responsibility. So, if we're creating a new law that's going to help address issues of child safety, then that's what that law should focus on: how do we deal with accusations of abuse or things that are putting children in danger. We shouldn't use that same excuse of a law to then say we're going to create a new third party method of evaluating how you do your job.

We think that that's inappropriate, and that should be untangled from this bill and that the employer should be the one that does job performance evaluations and has those skills and knowledge to know what expectations they have of teachers, and whether they're meeting them or not.

Mr. Altomare: Thank you, Mr. Rebeck, for your presentation and for your words this evening.

Can you talk to us a little bit about the importance of having representation whence it gets to the disciplinary portion of this particular bill?

Mr. Chairperson: Mr. Rebeck, please go ahead.

K. Rebeck: Thanks for that question.

Yes, union representation is critically important. The reason people join a union and belong to a union is to make sure that they have an advocate who helps make sure the rules are being followed and are able to be there for them to help them understand the process and to help them navigate whatever steps are in place and to make sure that they're being treated fairly.

And unions take that role seriously. Not only do we take it seriously, it's a legal obligation of ours. So we must represent our members and provide some guidance and support and voice for them when they're being dealt with in a way that could be negative.

So, if it's a performance issue in the workplace, we deal with that there. But if there's an issue that may have a consequence that causes a teacher to lose their job or to face some other penalty or issue, then we want to make sure that unions are there to be able to help them understand everything about that process, and to be able, there, to give them some advice and help them work through that process in a way that ensures folks who aren't experts in, necessarily, labour relations or in legislation—like new legislation like this—have someone who helps them along and is there to listen to their side of things and make sure that they have full understanding of what's being—what they're being accused of and what the process is on how it's investigated and dealt with.

* (23:40)

So, explicitly saying that they are entitled to that representation and that that third party, the union, is able to have access to information to be able to do their job to help them understand the steps involved, and the possible outcomes and consequences is a critically important thing, and we think it should be clear in law that that's an entitlement that they have and can exercise it.

Thank you very much.

Mr. Chairperson: Honourable Mr. Gerrard, 45 seconds remaining.

Mr. Gerrard: This bill was introduced in part because of situations with people like Mr. Kelsey McKay, who was a teacher who abused kids. Do you think this bill will help to prevent situations like that in the future?

K. Rebeck: So, I think this bill, certainly, is attempting to provide some mechanisms to do that. I think it needs some work to be able to focus on the area that it would then address those types of complaints and issues, and it shouldn't be expanded in a way that deals with competency and regular employment issues that workers might have with their employer and how they might have to have those dealt with.

It shouldn't create yet another mechanism and another party that gets involved when you're dealing with those types of things.

Mr. Chairperson: Mr. Rebeck, thank you for your presentation. Unfortunately, time for that has expired, but we do thank you for coming to the Legislature.

Committee Substitution

Mr. Chairperson: I'm just going to see if—order, please. I'd just like to inform the committee on rule 85(2), the following membership substitution has been made for this committee effectively—effective immediately: Mr. Bushie for Mr. Brar. Thank you.

* * *

Mr. Chairperson: Mr. Joel Blain, are you with us?

Mr. Joel Blain appears not to be with us.

Mr. Tait Palsson—*[interjection]*

Okay, Mr. Joel Blain will be struck from the list.

Mr. Tait Palsson is not here. Mr. David Harack is not here. *[interjection]*

Okay. Mr. Tait Palsson has been sent to the bottom of the list. Mr. David Harack is next on the list. He's not present; also sent to the bottom of the list. Okay.

Okay, we're just going to review the people who were sent to the bottom of the list from—throughout the evening.

Mr. Adam Hildebrandt, is he with us?

Mr. Adam Hildebrandt is not with us. That's his second calling, and he's removed from the list.

Ms. Gina Cerqueira. Also not with us.

Ms. Jacqueline Ross. Okay.

Ms. Clare Burns. *[interjection]*

Yes, Ms. Jacqueline Ross is removed from the list.

Ms. Clare Burns?

Is not with us, and removed from the list.

Ms. Rebecca Sulkers?

Is not with us, and removed from the list

Terri Willard?

Is not with us, and removed from the list.

Ms. Jordana Etkin?

Is not with us, and removed from the list.

Mr. Chance Henderson?

Is not with us, and removed from the list.

Mrs. Breanne Kanaski?

Is not with us, and removed from the list.

Mrs. Bobbi-Lynn Geekie?

Is not with us, and is removed from the list.

Ms.—we have just two more people.

Mr. Tait Palsson, called for a second time tonight, is not with us and is removed from the list.

Mr. David Harack, second time tonight, is not with us and is removed from the list.

Okay, there's one last presenter that we just need to review: Ms. Nicole Lafrenière.

As previously agreed, Nicole was unable to join us earlier tonight and it was agreed that, if we finished presenters this evening, which we are doing, and Nicole is unable to come, that she would unfortunately be struck from the list. So, we're going to follow through with that previous agreement, and I just state that for the record.

Mr. Altomare: I ask for leave for five-minute recess.

Mr. Chairperson: Mr. Altomare is asking leave for a five-minute recess.

Mr. Blaine Pedersen (Midland): Just a question.

If we're approaching midnight, are we going to recess at midnight? Or if we're going to have a leave to discuss whether we're going to go after midnight? Is that what—that the purpose of the leave?

Mr. Chairperson: Mr. Altomare, go ahead.

Mr. Altomare: Yes, the purpose of the leave is to speak with the minister and staff just to get—just next steps around amendments and that kind of thing. Okay?

Mr. Chairperson: Okay, is there leave to have a five-minute recess?

Mr.—I'm getting tired—Gerrard.

Mr. Gerrard: What—just, I mean, is this committee going to continue tomorrow to finish its work or is it—

Mr. Chairperson: I believe that's the question under consideration in the recess.

Is there leave to have a five-minute recess? Yes? Okay. *[Agreed]*

We are recessed for five minutes.

The committee recessed at 11:47 p.m.

The committee resumed at 11:54 p.m.

Mr. Chairperson: Will the committee—will the standing committee of Social and Economic Development please come to order.

That concludes the list of presenters I have before me.

* * *

Mr. Chairperson: We will now proceed with clause by clause of Bill 35.

I see a question from the honourable minister.

Mr. Ewasko: Can we canvass the committee to see that the—we see the clock as midnight?

Mr. Chairperson: Is it the will of the committee to call it midnight? *[Agreed]*

As previously announced, the Standing Committee on Social and Economic Development will meet again at 6 p.m., April 26th, to continue clause-by-clause consideration of Bill 35.

The hour being 12 midnight, committee rise.

COMMITTEE ROSE AT: 11:55 p.m.

WRITTEN SUBMISSIONS

Hello,

My name is Beth Burrows, and I have been a teacher for around 10 years in multiple divisions throughout the province, including Kelsey School Division, Lord Selkirk, 7 Oaks, Marymount, and currently Winnipeg School Division.

I am also the current chair of the Winnipeg Teacher's Association Equity and Social Justice Committee.

I am writing because I have some concerns about Bill 35 – The Education Admin Amendment Act.

To be clear, I am in full support of laws that improve child safety. In fact, the first point of the teacher code of professional practice is that our primary professional responsibility is to our students, and it is something we live every day. It is our duty to ensure that schools are always safe places in multiple ways.

What does "safe places" mean to me? It means they are places in which making mistakes or asking difficult questions can occur without our students feeling scared or concerned that they'll face repercussions as they learn and grow as humans. It means students know that the spaces they come into every day will be free from harm and any form of abuse for every child. That we are all working and

striving together to ensure their safety as well as our own on physical, mental, emotional, and spiritual levels.

So, you will get no argument from me about supporting laws to enhance child protection.

My most prominent concern is about the inclusion of teacher competence in this bill because I fail to understand how investigating and adjudicating complaints related to a teacher's knowledge and skills or their ability to instruct and assess learning of the Manitoba curriculum addresses the safety of children – which is the stated intention of this bill.

I am not opposed to standards and regulations, and in fact, embrace them as a way for myself and my colleagues to govern ourselves within the profession to ensure the safety of All people in the education system.

My colleagues and I want the best teachers in the classroom.

We also work hard to be the best teachers - to ensure that we are responsive to the growing and evolving needs of our students.

In fact, our Code of Professional Conduct requires us to continuously improve professionally.

But competence and conduct are two separate issues.

They are inappropriately linked in this bill.

I am also concerned because I am hired, supervised, and evaluated by my employer – Winnipeg School Division, which is as it should be. But under Bill 35 the commissioner has the power to address issues of competence, which is frankly, ridiculous when there are already steps in place to ensure teacher competence is upheld and enforced within our profession that already do this.

Why is a third party evaluating my ability to perform my job, and what makes them competent enough to evaluate the job I'm doing?

The hearing panel will also be made up mostly of non-teachers.

This is another example of why competence should not be part of this bill on misconduct. It creates a situation where individuals without expertise in education are now responsible for judging teacher competency.

To improve fairness, the panel composition should be consistent with other regulated professions in

Manitoba, where most of the panel is from the profession.

Regarding "misconduct" in the wording...the broad definition of misconduct, which includes "significant emotional harm" is another red flag. Significant emotional harm or incompetency could be associated with anything from how a student is graded to classroom management practices to resources or teaching of topics considered "sensitive".

I once had a parent complain that my teaching about Indigenous history was causing their kid emotional harm...because they felt that "teaching that stuff about Residential schools was just dragging garbage up from the past, and trying to make us white people guilty of stuff we never did."

The reassurance that frivolous, vexatious, or malicious complaints will be weeded out by the commissioner offers little comfort.

Because the impact on the teacher could be significant depending on whether - or how far - the investigation proceeds before it is deemed unfounded.

Qualifying "significant emotional harm" more narrowly would help to minimize this vulnerability for teachers, while ensuring protections are in place for students.

Finally, the bill is silent on whether teachers can have union representation at public hearings. Other regulated professions specifically have wording that makes the right to representation clear. Why is this missing from Bill 35?

I would like to propose the following amendments:

1. Remove competence from the Bill.
2. Ensure hearing panels are composed of a majority of teachers, in line with the composition of disciplinary panels of other professional bodies in Manitoba.
3. Include the expressed right to representation for a teacher being investigated.
4. Limit reports by employers to suspensions and terminations, as opposed to any and all discipline for professional misconduct or incompetency.
5. Define "significant emotional harm". This includes specific language related to psychological harm to the pupil or child, where the act is based on a characteristic protected by The Human Rights Code, repeated conduct that could reasonably cause a pupil or child to be humiliated or intimidated, or a single

occurrence that could reasonably be expected to and has a lasting, harmful effect on the pupil or child.

6. Protect the privacy of teachers who are determined not to have the capacity to carry out the professional responsibilities of a teacher because of a physical or mental disability.

Thank you for your time.

Beth Burrows

As a private citizen and holder of a Manitoba Teaching Certificate for over 20 years, who chose this city, this province, this country to live in for its rights based values I want you to hear that Bill 35 exercises those values and should be passed as is written.

Bill 35 protects teachers from frivolous complaints.

Bill 35 protects teachers from School Divisional Administrations.

Bill 35 protects teachers from Manitoba Teachers Society.

First and foremost, Bill 35 Protects our most vulnerable citizens, our children.

Bill 35's definition of misconduct is quite specific and focuses on sexual abuse and causing physical or significant emotional harm to a child. The Panel reviewing any complaints will be able to determine if a complaint is frivolous or not. Bill 35 clearly lays out the make-up of the panel as representative of professionally designated individuals to ensure transparency.

It is integral to not have time limits on reporting - I repeat - it is integral to not have time limits on the reporting of complaints. This must be coupled with an in-school solution to allow students to submit complaints anonymously. Survivors of sexual assault, bullying and abuse often do not report allegations until years later, and people fear reprisals for doing so.

Competency is directly linked to long term predatory behaviours. These behaviours are sustained over time and with a recorded history will support the identification of sexual predators within the education community. Cultures of silence, exclusion and gaslighting only serve to put the lives of students at risk.

As Cameron Haussmann from University of Manitoba stated "right now we do not know how many teachers are involved in misconduct types of situations on a yearly basis. Right now we do not know what

disciplinary procedures look like, let alone what the consequences of substantiated misconduct look like"

Manitoba Teachers Society knows!

School Division's know!

How might it be referred to when an organization actively suppresses information that may conceal and active abuser or abusers as protecting policy and procedure?

What is the number of complaints that Manitoba Teachers Society determines is the correct number of complaints against an individual that indicate the individual should be disciplined for gross sexual misconduct, bullying or abuse?

We need to think about it - has the fox been managing the chicken coop?

Suggested amendments:

1. A teacher under investigation must be supported by an appropriate independent, third party organization.
2. Provisions must be made for an in-school solution to allow students to submit complaints anonymously.
3. The commissioner must be fully conversant with all Manitoba education policies including Appropriate Educational Programming, Mamàhtawisiwin, and all curriculum to understand the breadth of content and innovative engaging teaching styles afforded to all learners.

Bill 35 must pass as it is written to protect all teachers and most importantly protect all students.

David Wall

I would like to see Bill 35 amended from how it is currently written.

I agree with the Manitoba Teachers' Society in that I support "child protection, as well as fair processes for managing teacher misconduct." However, I am concerned as well of "the inclusion of teacher competence in the legislation."

As the Manitoba Teachers' Society points out, "investigating and adjudicating complaints related to competence (such as professional practices and the teacher's knowledge, skills, and ability to deliver, instruct, and assess learning of the Manitoba curriculum) do not address the safety of children or enhance child protection laws."

There is definitely commitment to teacher competence in every division, and certainly my division, the Louis Riel School Division, and from the Manitoba Teachers' Society. Conduct is different than competency, and this legislation is mixing the two of them together.

I will outline MTS' issues with the Bill as it is currently written, as I completely agree:

I object "the inclusion of competence in a professional misconduct framework." "The Bill provides the commissioner with powers to address competency issues in accordance with the professional standards." The view I share with MTS is that "this is the purview of the employer." They go on to write what I believe as well, which is "at no time has the purpose of professional standards been connected to child safety and suspension or cancellation of a teaching certificate. Introducing it as part of a misconduct framework is problematic because supervision and evaluation of teacher performance are the responsibility of the employer."

"Pursuing professional excellence is how MTS safeguards the status of the profession and supports a robust public education system. The Society has promoted the development of teaching standards to foster a shared understanding of what it means to skillfully teach.

Standards also support teacher education, career long learning and identification of professional development needs. In fact, our Code of Professional Practice obligates teachers to continuously improve professionally." We must follow the Code of Professional Practice.

They go on to share that "in the Excellence in Teaching and Leadership pillar of Manitoba's K to 12 Education Action Plan (April 2022), the establishment of "professional standards that guide educator development, practice and evaluation" was identified as a future action to be initiated by April, 2024. Not only does MTS support this, but the Society also recommended it in its submission to the K-12 Education Review Commission." I support MTS' view here.

The fact that the "hearing panels composed of a majority of non-teachers" is problematic:

"Public representation is vital, however, the balance of individuals judging the conduct of a professional should hold that professional designation themselves. This is the case with disciplinary panels of other

professional bodies, such as The Regulated Health Professions Act."

There is "the unqualified inclusion of a teacher causing a student "significant emotional harm" in the definition of professional misconduct."

I agree with MTS that "the broadness of this definition leaves teachers vulnerable to value-laden and biased perspectives which could prompt frivolous, vexatious, or trivial complaints. It is true that under the legislation a commissioner has the authority to take no further action on a complaint deemed to be frivolous, vexatious, or trivial. However, the impact on the teacher could nonetheless be significant, depending on whether—or how far—the review and/or investigation proceeds and if a summary to the public is provided, even if it is without identifying information." This is very concerning for me.

I am very concerned as well about the "deficits in procedural fairness, such as:

- The acceptance of anonymous complaints.
- No requirement to provide a teacher with a copy of a complaint.
- No clear time limit for making a complaint.
- No expressed right for an investigated teacher to be represented by counsel.
- The obligation on employers to report any and all discipline for professional misconduct or incompetence as opposed to limiting reporting to suspensions and terminations.
- A lack of assurance that—given the commissioner will be governed by regulations, which are subject to

change—investigations and hearings will be conducted fairly and under the principles of natural justice." This is very troublesome and worrying parts of this Bill. There is already a teacher shortage. This will completely exacerbate the situation.

As MTS says, please "remove competence from the Bill. This is a separate matter." As well, please:

- "Ensure hearing panels are composed of a majority of teachers, in line with the composition of disciplinary panels of other professional bodies.
- Include the expressed right to representation for a teacher being investigated.
- Limit reports by employers to suspensions and terminations, as opposed to any and all discipline for professional misconduct or incompetence.
- Define "significant emotional harm". This requires specific language related to psychological harm to the pupil or child where the act is based on a characteristic protected by The Human Rights Code, repeated conduct that could reasonably cause a pupil or child to be humiliated or intimidated, or a single occurrence that could reasonably be expected to, and has a lasting harmful effect on, the pupil or child.
- Protect the privacy of teachers who are determined not to have the capacity to carry out the professional responsibilities of a teacher because of a physical or mental disability."

Respectfully,

Jennifer Engbrecht

Teacher

Louis Riel School Division

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.manitoba.ca/legislature/hansard/hansard.html>