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Standing Committee on Legislative Affairs

Chairperson
Mr. Daryl Reid
Constituency of Transcona

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Thursday, June 1, 2006

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

VICE-CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

ATTENDANCE – 11 QUORUM – 6

Members of the committee present:

Hon. Messrs. Rondeau, Struthers

Mr. Altemeyer, Ms. Brick, Messrs. Cummings, Dewar, Eichler, Faurschou, Reid, Reimer, Santos

MATTERS UNDER CONSIDERATION:

Bill 4–The Dangerous Goods Handling and Transportation Amendment Act

Bill 37–The Labour-Sponsored Investment Funds Act, 2006 (Various Acts Amended)

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Mr. Chairperson: Good evening, everyone. Will the Standing Committee on Legislative Affairs please come to order.

Our first order of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Gregory Dewar (Selkirk): Mr. Chair, I nominate Ms. Brick.

Mr. Chairperson: Ms. Brick has been nominated. Are there any other nominations?

Hearing no other nominations, Ms. Brick is elected as Vice-Chairperson of this committee.

This meeting has been called to consider the following bills: Bill 4, The Dangerous Goods Handling and Transportation Amendment Act, and Bill 37, The Labour-Sponsored Investment Funds Act, 2006 (Various Acts Amended).

We have no registered presenters to speak here this evening to these bills. Is there anyone in attendance here this evening who may wish to make a presentation to any of these bills?

Seeing that there are no public presentations, we will conclude with the public presentations portions for these bills.

How late does the committee wish to sit this evening?

An Honourable Member: Until the business is done.

Mr. Chairperson: Until the business is concluded. Is that the will of the committee? *[Agreed]*

In what order of business does the committee wish to proceed on bills?

An Honourable Member: Bill 4 and Bill 37.

Mr. Chairperson: Bill 4 and Bill 37. Okay, thank you.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, I will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

We will now proceed with clause-by-clause consideration of the bills.

Bill 4–The Dangerous Goods Handling and Transportation Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 4 have an opening statement?

Hon. Stan Struthers (Minister of Conservation): Mr. Chairperson, just very briefly, this is a very good bill.

An Honourable Member: Pass.

An Honourable Member: Next.

Mr. Struthers: Is that all I needed to say?

It deals with harmonization with the federal regime. It accepts the polluter-pay theory when it comes to contaminations, and it provides liability protection for employees when they are attending to

a site. That is basically what I wanted to make sure was on record.

Thank you very much, Mr. Chairperson.

Mr. Chairperson: We thank the minister for the opening statement.

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

Mr. David Faurschou (Portage la Prairie): I would agree in principle that the bill is one that we can support. However, I will not totally share the minister's carte blanche that it is a tremendous bill. We have considerations that we will follow up with amendment here this evening. We believe that the harmonization of the dangerous goods and transportation legislative language be harmonized with the federal government, but we do have concern in regard to the terminology that is laid out in definition that relies very, very heavily on regulation, and if the minister wanted to look specifically on page 4, that "safety requirement" and "safety standard," the terminology relies on regulation to effectively see the rubber hit the road as far as this legislation is concerned. Through amendment this evening, we will address this particular issue.

The other concern we have also is the movement by this government in making extraordinary powers available to inspectors that possibly come close to infringement upon civil liberties here in the province. We do believe, though, that there should be a consideration that the minister responsible for the various departments have the ability to entertain appeal and have persons air with their concerns directly to the minister, rather than being only left with court action as their appeal mechanism. Those are issues with which we are concerned.

Also, the polluter pay, although we are not in disagreement with the polluter-pay concept, now having the ability for the department to impose or include departmental personnel, their wages and expenses, towards the overall cost of the accident, I would believe there are no persons that want to see our environment polluted. So I refer to the dangerous goods as being accidental if they do impact on our environment. I caution the government in making the accidental polluter responsible for all the costs of the department because in some cases it is perhaps beyond the capability of the individual to provide for that additional expense as well.

So, with those short few comments, I will conclude my opening remarks.

Mr. Chairperson: We thank the critic for the opening statement. Are we ready to proceed clause by clause?

Clause 1–pass; clause 2–pass; clause 3–pass.

Shall clause 4 pass?

Mr. Glen Cummings (Ste. Rose): I wonder, under this section, if the minister can explain the differences that we now have as a result of this legislation from what previously existed.

Mr. Chairperson: We have not passed clause 4 yet. Is it all right then if we pass clause 4 and then proceed to clause 5?

An Honourable Member: Okay.

Mr. Chairperson: Clause 4–pass.

Shall clause 5 pass?

An Honourable Member: No.

***** (18:10)

Mr. Cummings: I would like the minister to put on the record what the rationale is behind these clauses. What makes this different from what currently exists? I thought an officer could do most of this under current authority.

Mr. Struthers: The first point that we need to keep in mind is that this simply is a harmonization with what is already existing on the federal scene. The federal level of government has moved forward, in terms of making their changes with their act and their regulations. That law exists now. What we are doing is simply harmonizing to the same level as the federal legislation, which I have here with me, a big thick book that I am resting my elbow on as I speak. This is a harmonization of what the federal regime is already.

So there will not be an appreciable difference between what the feds have already moved forward on and what we are moving to here. This was an approach that we took on a number of years ago. In terms of this act, what we want to do is bring it in, in a phased kind of an approach, so that people have, especially producers, who would have to make some changes, can have some time to keep up with the new regulations that are being put in place, regulations that were put in place, I think, for some very good reasons, in terms of liability protection, polluter pay and all those sorts of things. So the key thing we need to understand is that this is a harmonization with the federal regime.

Mr. Cummings: Well, 18.1(a), for example, an officer may enter without a warrant, inspect any place or premises other than a dwelling. Is that a change from the authority that the officers currently have?

Mr. Struthers: The main difference from one to the next is a move away from the word "vehicle" to the phrase "means of transport." That is the main difference between the two that I believe the Member for Ste. Rose has got his finger on.

Mr. Cummings: What I really wanted to know was in that clause would that be the only increased authority that an officer of the Manitoba department would now have that they do not currently have?

Mr. Struthers: Yes, there is not an appreciable difference, that what we are really pointing towards here is the difference from "vehicle" to "means of transport." There really are not a lot of other areas that I think that I can point my finger to that are substantial.

Mr. Cummings: Can the minister say the same about the rest of the clauses? In case my question seems unnecessary, what I want to establish is that the government has introduced several pieces of legislation in this section, all of which provide for increased enforcement, which mainly is based around increased ability to enter private property without permission. That might be a coincidence, but it certainly is prominent in this piece of legislation as well.

The minister is telling me that that section is all about harmonization. Can he say the same about the others? Or can he explain any changes in the others from what their current authority might be?

Mr. Struthers: Yes, I can reiterate that the changes are ones that are driven by harmonization with the federal act which is already in place. The only appreciable change is the one that I have mentioned already from vehicle to means of transport. While I am thinking of it, I am, in this section, going to bring forward an amendment as well that might help the Member for Ste. Rose (Mr. Cummings) with his question. I have a handle on his question anyway.

Mr. Cummings: I am asking the question perhaps in reverse of how it would normally be asked, but I want to ask the minister what is different in these other clauses or provides increased capacity for his officers that they do not currently have. Harmonization is a good answer, but it is not the one I am looking for. I want to know what the increased capacity for inspection, entrance, all of the things that are referenced here, what is different from the current authority because, while the minister is checking that out, I want to put on record that there are a number of people in the agricultural community particularly, and obviously this is much broader than that, but there are people in the agricultural community who wonder what the intent behind amendments at this time are, and what it might mean for them ultimately and particularly in terms of enforcement or, under other sections I may be able to ask, increased responsibility they do not currently have.

Mr. Struthers: We are not increasing the powers that they currently have. We are not increasing those powers. We are not making changes from the old to the new. It is a harmonization with what the feds have. Like I said, the only appreciable change would be "vehicle" being changed to "means of transport," but specifically what I think the member is asking, we are not proposing changes in Bill 4 under Section 18 to what the Member for Ste. Rose is asking.

Mr. Cummings: The reason that I asked for a halt on Section 4, the committee, and well within its right to, has proceeded to pass the first sections, and the fact is that there is some concern in the agricultural community. I would ask the minister to indulge me, if he would, because this is not a trick question. Under Safe Handling, are there licensing requirements that are not currently in place for the handling of, for example, herbicides in the agricultural community, most of which we consider pretty benign, but the fact is we know they are not? They get handled in large volumes in very busy seasons. Are there any increased requirements for training, transportation safety or management of those products that are not currently in place?

Mr. Struthers: No.

Mr. Ralph Eichler (Lakeside): Just for clarification again for the minister to put on the record, I did not have the opportunity to be at the briefing, but in your notes that were passed on to us, you have said that it will have no greater effect on the farming community than existing legislation. Livestock waste is considered a contaminant not dangerous goods. Yet, in Section 18(d): "the inspector reasonably believes contains or has contained, a dangerous good or contaminant or anything relating to a dangerous good or contaminant," so which is it? Is it going to become an issue for a farmer that is taking a load of manure out to the field down a public highway? Is he

going to be issued then a summons for a contaminant that is going to be delivered to the field?

***** (18:20)

Mr. Struthers: In the example that the Member for Lakeside has given, manure would not be considered a dangerous good. So, really, we are actually sticking to what I had indicated in my notes, and that that would not end up being something that was onerous on a farmer. So it would not be a dangerous good.

Mr. Eichler: Thank you. Then, would the minister define contaminant for us, because in his briefing notes he says it is not a dangerous good, but it is a contaminant. Yet in your bill it is very clear that it is a contaminant. So we need to have that very clear on the record so that the farming community will have a clear understanding of what the minister means by this particular piece of legislation.

Mr. Struthers: That definition that the member is looking for is found in the act itself. It is a contaminant. It is not the physical property itself. It is the way in which it is released that becomes the question. It is on page 2 of the act. "Contaminant," at the top left, is defined in the act itself: "any solid, liquid, gas, waste, radiation or any combination thereof that is foreign to or in excess of the natural constituents of the environment."

And it goes on in: "(a) that affects the natural, physical, chemical or biological quality of the environment, or (b) that is or is likely to be injurious or damaging to the health or safety of a person."

So manure would not be a dangerous good and would, I believe then, not fit the definition of contaminant in that situation in the truck.

Mr. Cummings: Well, my colleague has the right, it has the definition of "contaminant" on his copy. My copy goes from "container" to "hazardous waste" to "offer for transport." So–

An Honourable Member: This is the actual act.

Mr. Cummings: Okay, I have the bill. Okay. Thank you. I understand.

Mr. Chairperson: Any further questions?

Mr. Eichler: I do not want to belabour this, but I want to make sure that the farm community is protected, and the minister indicated that he has an amendment and we have an amendment we will be bringing forward, and hopefully they will be harmonious in covering off the agricultural sector. I am just wondering if this is the precise method of which we need to be going through to make sure we are covered off for safety. Does the minister have a comment on that?

Mr. Struthers: Mr. Chairperson, I would like to bring the amendment forward because I think that might help us in the discussion that we are having. If I could do that, then we continue on with the questions, comments.

Mr. Chairperson: Please proceed.

Mr. Struthers: *THAT the proposed clauses 18(1)(b) and (c), as set out in Clause 5(1) of the Bill, be replaced with the following:*

(b) to determine compliance with this Act or a regulation or order,

(i) inspect and test any installation, equipment or machinery, or any process of handling or disposal relating to a dangerous good or contaminant, at or in a place, premises or means of transport entered under clause (a),

(ii) open, inspect and test any container, or its contents, located at or in a place, premises or means of transport entered under clause (a), and

(iii) take and retain, for purposes of testing or analysis, samples of any raw or manufactured substance or material used in or relating to an installation, equipment, machinery, process, container or its contents inspected or tested under subclause (i) or (ii);

Mr. Chairperson: It has been moved by the honourable minister

THAT the–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order. The floor is open for questions. Any questions?

Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: The question before the committee is that–Mr. Cummings?

Mr. Cummings: I was wondering if you would just indulge us for a minute to read the amendment in context before we vote on it.

Mr. Chairperson: Yes. All right.

Mr. Cummings: There are a lot of questions being raised in the rural community that I cannot answer about the implications of these amendments. Of course, the common line of thinking is that the legislation might be more readily understood if we knew any relevant regulations that were going to go with it.

So, while we are stopped on this section, I would like to ask the minister if there is any intent for the placarding of agricultural transport for the moving of herbicides? Agricultural transport is my terminology, a three-quarter ton truck carrying several pails of spray.

I will tell you why I put that forward. It is that there was a very bad experience in Ontario about 10 years ago where regulatory change came forward, and as always with these things, everybody has the best of intentions. But we had a situation, as I was led to understand, that depending on where you parked your half-tonne, if you had chemical in it whether or not it was legal or illegal, I mean, if you did not get far enough off the roadway, past the public roadway line when you parked your half-ton, all of a sudden you were liable to have been in violation of some of the regulations.

So, just simply, can the minister express an opinion on whether or not there could be a requirement to placard agricultural transportation in small amounts of these products that we use a lot of?

Mr. Struthers: I want to remind all members that the key to understanding our legislation is to understand that this is harmonization with what is there already federally. The concern that is brought forward by the Member for Ste. Rose in terms of placarding is already contained within the federal regime, and we are not planning to add to that. We are simply harmonizing with what the feds have in place already.

Mr. Cummings: Well, on that point, the minister is saying, yes, that now that we are harmonized, we would be expected to placard. Is that what he just said?

Mr. Struthers: I am expecting that farmers would need to be aware of what the federal regulations are because that is what is in place. That, I understand, is covered at the federal level and we are not adding to that.

Mr. Eichler: I understand that the bill, the way it was proposed, was submitted to the Department of Agriculture for their input, and they are fine with it. Did the minister run this by the Department of Agriculture's people for approval before submission tonight?

***** (18:30)

Mr. Struthers: Yes, the Department of Agriculture has been involved with this. Keystone Agricultural Producers has been involved. There has been a long list, over the years, actually, of meetings that have taken place in terms of the federal regulations and in terms of our move to harmonize with the federal regulations. So, yes, the Department of Agriculture did take a look at these.

Mr. Eichler: In respect to the second clause: "open, inspect and test any container," does this apply to slip tanks and this type of thing as well?

Mr. Struthers: I want to make sure that we are very clear on this. Slip tanks are containers. What we are doing here is not adding to the regulations. What we are saying is that we need to have the ability to test what is within the container, which is not a great deal of difference than what exists already in terms of determining what actions to take next in terms of our officers out in the field. Certainly, the key word there is "test," because we do not have that ability now.

Mr. Eichler: Well, that is not clear enough. I think that the way it is worded here, it says test it, the "container, or its contents" at or place of premises. So I am not reading it the same way. I would like the minister to re-explain that. It is not making sense the way it is worded.

Mr. Struthers: What we are talking about is a container of which we need to know what is on the inside, right? We need to have in our legislation the ability to test what the content of the container is. That is what this, in section b(ii), attempts to clarify.

Mr. Faurschou: Well, just very specifically, it states to "inspect and test any installation," that is the actual container, in my understanding, "equipment or machinery." So those are actually the containment vessels of dangerous goods. So this is allowing the department to actually physically test, as my honourable colleague from Lakeside has alluded to, that being portable containment vessels such as slip tanks, as they are known in the countryside, for a conveyance of fuel, gasoline fuel to field operations. So this clearly is specific to actual equipment. I

would consider a slip tank to be equipment. So I think that this legislation is indeed being specific to what the honourable Member for Lakeside (Mr. Eichler) has determined.

I also want to add to the question on the floor at the present time: Does this allow the minister and his department to effectively inspect and allow use of uniquely crafted or engineered fuel storage, for instance, installations that cannot be certified in any other fashion because they are unique and they have been engineered as a one time installation?

I will speak specifically of a farmstead that I know had engineered and installed fuel storage on their farm that does not effectively carry a serial number because it is not of mass production. It has been engineered and uniquely constructed, specifically tailor-made to that farming operation's requirements or needs. Does this section allow the minister then to inspect that installation and allow its use?

Mr. Struthers: Mr. Chairperson, the first caution I want to give is that I do not want us to confuse what we are dealing with here today as an amendment to The Dangerous Goods Handling and Transportation Act with what is already in existence either at the federal level or what is already in existence through the storage and handling of petroleum products and allied products regulation. It is already there. What we are talking about is the ability, should we need to have the ability, to test what is in a container, what is in actually the container which the Member for Portage la Prairie (Mr. Faurschou) references. It is simply the ability to test what is in the container if our officers are in a position where they need to know what is in the container, but much of what we are talking about is already in existence, either through the federal act and its regulations or the storage and handling of petroleum products regulation.

Mr. Faurschou: Well, then, we are then in need of another word in this amendment, because if the intent is to test the actual contents, then it should say that, to inspect and test the contents of any installation equipment or machinery. But the way it is worded, as distributed here, is to inspect any installation, so you are actually inspecting the actual container because that is the installation or the equipment. But, if you wanted to test the contents of the installation, equipment or machinery, then it should have the word "contents."

Mr. Struthers: In section (b)(iii) of the amendment, I think it does address what the Member for Portage la Prairie is putting forward, where close to the end of that paragraph it does say that it is the "container or its contents inspected or tested under subclause (i) or (ii)." So it is the container or the contents.

***** (18:40)

Mr. Faurschou: Thank you, Minister, for the clarification. So, then, within this amendment, you are looking at the ability to test either the contents or the actual physical containment under this particular clause. I refer back to my example of the uniquely engineered fuel storage facility that has been constructed for the particular needs of this individual.

Does this then allow your department to inspect those facilities and to garner approval for usage?

Mr. Struthers: My understanding is that that is covered underneath the storage and handling act that I just referenced in terms of those kind of inspections. One of the things we have done in relation to those is that we have agreed to do an extension to the end of December 31, '06, for those sorts of things to have and to have those kind of upgrades take place.

Mr. Faurschou: I am afraid to say that the act to which the minister referred does not allow that for that provision because any uniquely engineered dangerous goods storage facilities that do not have a prescribed serial number are not availing themselves to be inspected and certified as for use. So someone, specifically speaking, that has a uniquely engineered facility, tailored to their individual needs, is not able to be certified under the act to which the minister refers.

I am looking for the minister's understanding as to how it may be able to be modified in this legislation to allow for the uniquely engineered dangerous goods storage facilities. I believe the minister now understands where I am going with this because under the legislation that he has referenced, there is no proviso for that. So I am looking for the ability to see this particular uniquely engineered facility provided for so that it can be used and that the investment is not lost to this farming enterprise.

Mr. Struthers: I want to make clear that the concern that the member is bringing forward is not a concern that is found within the amendment that we are dealing with on Bill 4. In Bill 4, it is very clear it is the container or the contents. What the Member for

Portage is referring to is found, is simply restated in the storage and handling petroleum products regulation. That is the regulation under The Dangerous Goods Handling and Transportation Act that is specifically there to handle that concern that the member has brought forward. As far as this amendment today, this is separate from that.

Mr. Cummings: When I asked the minister earlier, his answer was that we are now in compliance with the federal regulation, and universality is generally considered a reasonable thing in a multijurisdictional country like we have. We do not want to change the regulations on your slip tank. When you go across the border with a skid tank full of diesel fuel in the back of your truck, that should not be considered contraband, or, in the case of a different jurisdiction, under different rules.

That I understand. But I ask the minister and I would like him to acknowledge within the context of moving forward that there are now, it would appear, a number of federal rules which are already in place but, generally speaking, have not been well known, documented or enforced across rural Manitoba. So I am wondering if the question that I had to the minister at that time about placarding and the question of transportation of dangerous goods other than the liquids that I was referring to, for example, treated seed.

The minister should know what he is doing and I want to make sure he knows what he is doing. Fifteen hundred kilograms of treated Canola seed is less than what most Canola growers in this province use. There are many, many agricultural operations out there who would transport more than that. Even I would use more than that, and I am just in the road out there in terms of the size of my farm.

So I ask the minister to put on the record, would vehicles now need to be placarded and does he agree with my interpretation that about 1,750 pounds of treated Canola seed would now be required to be a placarded transport in this province?

Mr. Struthers: As I said earlier, the rules around placarding are federal. We are simply harmonizing ours with theirs. Under the federal regulations, the treated Canola seed that the Member for Ste. Rose references would not be treated as a dangerous good. So, therefore, the federal rules on placarding are pretty clear and we are harmonizing with theirs. That is my understanding of where we are at with this.

***** (18:50)

Mr. Faurschou: I am a recognized dangerous goods and product handling establishment, and I beg to correct the minister. Canola seed does contain lindane in most of its products, and although the new seed treatments are lesser, there still are ones on the market that would be considered dangerous goods.

Yes, the honourable Member for Ste. Rose is quite correct with his concern that this amount is approximated to 300 acres of Canola, and there are many producers throughout the province now that do seed a significant number of acres more than 300, and to transport their Canola seed home from their retailer, this would be very restrictive.

Mr. Struthers: As I heard around the table, it is not the Canola; it is what is on the Canola. That is what it comes down to. If it is treated with a product that is subject to the federal placarding rules, whether lindane is or not, then it still falls under the federal rules of placarding. We are not changing that. If it is treated with something that is not a dangerous good, that is not under the federal rules as a dangerous good, then there is nothing to worry about. Still, I bring everybody back again to the fact that we are harmonizing with the federal regime. If it is a dangerous good on the federal regime, then the federal placarding rules would apply.

Mr. Faurschou: Well, thank you very much. Harmonization, as we have explored here at the committee level, is the minister now prepared to go to Ottawa to lobby the federal minister to recognize the increased size of farmsteads here in the province of Manitoba, and to make a greater allowance for the exemption as it is now provided for in the federal legislation?

Mr. Struthers: There are a whole number of groups that lobby the federal government, Manitoba groups at the forefront, to make those kinds of changes drawn. I want the Member for Portage to know that I would go to great lengths representing Manitoba farmers to make their lives a little bit easier, because they have not had it so nice over the last little while; that, Mr. Chairperson, I would believe is an understatement.

Mr. Cummings: The minister has not answered any of these questions with a straight yes or no. It has all been couched in the vein of harmonization.

What has been the shortfall of us not being harmonized?

Mr. Struthers: Well, I think the best case I have heard in a long time was about 10 minutes ago when the Member for Ste. Rose–

An Honourable Member: No, it was five minutes.

Mr. Struthers: –five minutes ago, when the Member for Ste. Rose (Mr. Cummings) made a very eloquent speech convincing all of us around this table of the need for harmonization.

You do not want different rules as you cross one boundary to the next. You do not want unclear rules for farmers. So, as the Member for Ste. Rose pointed out, it is an improvement when we can harmonize with the federal regulations.

Mr. Cummings: I know that the minister has some of the most knowledgeable people in this area sitting directly across from me, but it has been brought to my attention that, without the agreement of the provinces, the federal harmonization in itself would not occur. Does the minister agree with that? Pardon me, be enforceable.

Mr. Struthers: That the federal rules would not be enforceable without the province–I want to be clear on what the member is saying.

Mr. Cummings: Help me be clear, because I am just looking at this, and it would appear that there needs to be agreement by the provinces with the implementation of the federal act, administration of that act. Is this harmonization that the minister is putting in place necessary or voluntary?

Mr. Chairman, to try and illuminate my problem, is the harmonization necessary to accomplish any particular ends within the province, or is it a voluntary harmonization which has some of the impacts that we have just been talking about?

Mr. Struthers: Maybe the Member for Ste. Rose could help me out a little bit on this one. My understanding is that there is an agreement that has been signed between the province and the federal government, an agreement signed for all the right reasons that the Member for Ste. Rose pointed out here a few minutes ago. Maybe he can assist me and tell me whose signature at the bottom of that agreement it is. Would it be the Member for Ste. Rose's signature on the bottom of that agreement?

Mr. Cummings: Therefore, my question is valid. If it has not happened before now, why is it happening now?

Mr. Chairperson: Any other questions?

Is the committee ready for the question?

Mr. Cummings, did you have further comment?

Mr. Cummings: I think I am losing ground here. When you are in a hole, do not use a shovel.

Mr. Struthers: The big change in this was made in 2001 to the federal regulations. I am kind of hoping that kind of gets the pressure off the Member for Ste. Rose a little bit. But I fully support the agreement that works towards providing a mechanism to implement the harmonization of the federal and provincial regulations, as so eloquently defended a few minutes ago by the Member for Ste. Rose.

Mr. Faurschou: Before we leave this very specific situation on the Canola seed which the Member for Ste. Rose has indicated, with the agreement, does this then allow you, sir, as minister, to go above and beyond the existing regulations that the federal government has in place, which restricts agricultural usage and their exemption for placarding and transport to 1,500 kilograms?

Mr. Struthers: Our agreement is to enforce the federal legislation, as agreed upon, as signed off by whoever's signature is at the bottom, on highways. So, we are simply providing the mechanism by which we implement the harmonization of the federal regulations.

Mr. Faurschou: I just want to ask whether or not the minister, under the current agreement, has the purview of actually recognizing larger farms now that are existing here in the province of Manitoba to provide for a higher threshold than the federal regulation does in the conveyance of what would be considered a dangerous good, i.e., treated Canola seed, higher than the federal exemption at 1,500 kilograms. Could the minister put in place regulations under this amended act that would, say, increase that threshold to, perhaps, 3,000 kilograms, even though the federal regulation only has 1,500 as an exempted amount for agricultural use?

Mr. Struthers: My understanding is we could for intra-provincial transportation, but not for inter-provincial, and that again speaks to the reasons for which we signed an agreement to harmonize.

***** (19:00)

Mr. Eichler: Could the minister indicate whether or not his plan is to increase the number of inspectors from its current level, or will they be staying the same once the changes are implemented?

Mr. Struthers: Not at this time. No.

Mr. Eichler: Well, that definitely left it open. Today is today and tomorrow is tomorrow. What is the long-term plan whenever we are talking down the road? Are we talking one year, five years, ten years? What is the department's plan on where they are going with this?

Mr. Struthers: We are simply providing a way to harmonize to the regulations of the federal government. This is not going to, in my estimation, mean a whole lot of an increase in inspectors to be out there. I am not going to bind future governments to what I have just said, but I do not have those plans right now to do that.

Mr. Cummings: Mr. Chairman, I think one of the issues that I want to leave with the minister around these changes is that there is probably going to be, in the agricultural community, a lot of people who will be very conscious of this and who will be quite prepared to respond to any additional requirements that are being put on them.

But, as the minister would know, there is going to be a good size portion of the agricultural community who will not be in that position, partly because they will not know. Secondly, they might not be all that willing to respond given what they would see as the immediate pressures of, for example, how we store and transport the treated seed, that we were just talking about, and fuel, which is something that we have all handled, probably, in sometimes too cavalier a way, but certainly ways that are very much traditional in a bulk-handling process in a rural setting.

There is going to be a need for implementation that is going to be somewhat different than what often happens in the changing and handling of highly identifiable hazardous goods and waste. Is the minister prepared to give any commitment about how he sees the education and ongoing enforcement being handled around this issue?

There are a lot of questions that I cannot answer, and one of them is the storage. The storage even–this very quickly gets from transportation into storage of the treated seed. But just leave it with the transportation, not to confuse the issue. It is a policy issue about what the government intends to do in terms of implementation. I think the farm communities and the people that I talk to would like to know what the intent is and how severe their problem is going to be when this act becomes law.

Mr. Struthers: I think the Member for Ste. Rose has his finger on something that is very practical and that I think we always have to be cognizant of when we are dealing with the public, especially when you are dealing with farmers who really have to depend on these activities for their livelihood.

Having said that, I want to be sure that everybody understands that I do not expect my officers to be jumping out behind trees looking to pinch somebody who is out of conformity with the rule. I want our officers, I want our staff in the department, I want all those folks working with the agricultural community so that we are not playing a fancy game of cops and robbers out in rural Manitoba.

I want the implementation of this to be one that is very much an education process because I understand that most farmers know of these regulations, that they know of safe ways of handling dangerous goods. It is not my opinion that farmers are going to purposely mishandle dangerous goods, because I believe that farmers are concerned about this. They are honest folks who simply want to get their seeding done and their crop off and try to get a little bit of a living eked out of a very poor amount of money for a bushel of wheat. I know those pressures.

Having said that, these are simply a harmonization of the federal rules that have been in place for a number of years which farmers have been working with for those numbers of years, and I am not going to be instructing my guys to be hiding behind rocks and trees and bushes simply to nail somebody. I have been clear about that in terms of enforcement because I think enforcement works better when you get people to buy into the need for a regulation and buy into the objectives of this amendment to the bill and buy into the federal act which we are harmonizing to.

Mr. Cummings: I am not going to pursue this any further under this section of the–

Some Honourable Members: Oh, oh.

Mr. Cummings: Well, now that it comes to my attention I want to put the minister on notice that we will be asking more questions about storage when we come to an appropriate clause.

Mr. Chairperson: Amendment–pass.

Mr. Faurschou: Before we leave this section on inspectors, I would like to have the minister's comment in regard to actual personnel with the

extension of the responsibilities of staff of his department. Is he expecting to have to hire more personnel, or what are the existing staffing levels and also to vacancies? Do you have a lot of vacancies in this area of your department of enforcement?

Mr. Struthers: As I have indicated just a little bit earlier, I am not anticipating this to be a huge pressure area. Because of this amendment, I am not anticipating a great deal of pressure to increase in those positions. As I said, I am not going to be sending legions of people out there to nail farmers and to hide and look for them. These are rules that have been in place. These are rules that have been enforced, at least from a federal perspective, and we have an agreement to implement those rules. So I am not expecting, if we pass this through here this evening, that tomorrow I will have to go and look for a whole bunch of other staff positions. I always go looking for more and more staff positions for my very, very good Department of Conservation and squeeze as many out of my colleagues as I can, but I am not expecting that because of this amendment today.

***** (19:10)

Mr. Chairperson: Is committee ready for the question?

Clause 5 as amended–pass; clause 6–pass; clause 7–pass.

Shall clause 8 pass?

Mr. Cummings: Mr. Chairman, I would like to think that I understand the recovery of costs and polluter-pay principles reasonably well, but the same question holds true here: Is anything different under these amendments than what currently exists as regards able to recover costs?

Mr. Struthers: I think the principle that we are dealing with is clear with everyone, and I think there is understanding of that. I think there is an acceptance that polluters should pay. Our problem sometimes, in the past, has been identifying the polluter, identifying the people who have contributed to a contaminated site. Sometimes it could be a number of different companies over the past that have contributed to a site. What we want to do is strengthen and extend our ability to recover costs that are incurred by the government for third-party goods, goods and services, the ones that are needed in order to carry out the action that we are doing when we have to move on the site without a polluter available to pay. It could be, from years ago, a gas station that had leaked. We want to get the polluter-pay principle right across the board, and part of what we want to do is make sure that we are able to recover some of our costs. We will have staff from our department who get despatched to work at a site where contamination has taken place when they could be out doing other jobs, their regular jobs, in the Department of Conservation, for example.

I think we, on behalf of the Manitoba taxpayer, need to be able to find a way to recoup some of those costs.

Mr. Cummings: I understand that. I wanted to know if anything in this section or the one immediately previous to it changes from what is currently existing.

Mr. Struthers: The real change is 22(3.1)(b) where it begins: "the costs to the government of using government employees, equipment and materials to carry out any part of an order under subsection (1)."– we have encountered problems in that in the past, and what that paragraph does is clarify our ability to collect those costs.

It is a clarification, I suppose, more than an extension. So what we are doing is clarifying that to put us in a better position, I think, to recover those costs than we were previous to this amendment.

Mr. Cummings: I can appreciate that in terms of where there have been large spills and large costs of recovery and elimination of the damages.

Is there anything changed in this legislation relative to or from sites? I say that without seeing anything here that would identify it, but because it references recovery in several sections here, there is nothing here that would influence the orphan-site legislation which at one time was considered one of the leading pieces of legislation for good environmental protection in the country.

Mr. Struthers: No, nothing in this amendment is going to affect the concern that the member has about orphan sites. It just does not deal with it.

Mr. Eichler: Mr. Chair, I noticed in the definitions, when you talk about harmonizations, and I know farmers are the best stewards of the land, but sometimes we have accidents through no fault of our own, and I noticed the way the federal act is defined, they have accidental release in their interpretations for definitions, and yet it has not been included in the act of Manitoba.

I was wondering if there would be the will of the minister or their department to have that included. I feel that in light of a possibility of an accident, I think that that would help in the determination if the minister sees fit.

Mr. Struthers: I agree with the Member for Lakeside, but wiser minds have been at this before he and I got to it and have already included that in The Dangerous Goods Handling and Transportation Act. Under definitions, it is page 2 in the act. I would like to take credit for it, but maybe it was Glen who, when he signed that agreement, he did this at the same time.

Mr. Chairperson: Any further questions? Is the committee ready for the question?

Clause 8–pass; clause 9–pass.

Shall clauses 10 to 12 pass?

An Honourable Member: No.

Mr. Chairperson: With the will of the committee, we will break the clauses up into individual components.

Clause 10–pass.

Shall clause 11 pass?

Mr. Cummings: Under storage, the changes in volume that was referenced in transportation, does the same hold true for, first of all, the standards of storage and the volume of storage for placarding and making sure there is appropriate containment? Do we have changes in that area regarding our storage from what currently exists? Again, the example of treated Canola, that once the farmer gets that 1,500 kilograms home, what conditions does he have when he gets home?

***** (19:20)

Mr. Struthers: These regulations that we are harmonizing with do not deal with storage. They deal with the transportation of the good. Any of the storage, the closest we would have to that is what I referenced earlier with the petroleum regulation, the storing and handling regulation that is already in existence. So this is not adding to that.

Mr. Chairperson: Are you ready to proceed?

Some Honourable Members: Yes.

Mr. Chairperson: Clause 11–pass.

Shall clause 12 pass?

Mr. Faurschou: I have an amendment that has been distributed to all the committee members, and I shall move

THAT Clause 12 of the Bill be amended by renumbering it as Clause 12(1) and adding the following as Clause 12(2):

12(2) The following is added after subsection 40(2):

Requirement respecting agricultural purposes
40(3) The regulations made under subsection (1) must not impose more stringent conditions and requirements on the use, transportation and storage of dangerous goods used for agricultural purposes than are imposed by regulations made under authority of the *Transportation of Dangerous Goods Act, 1992* (Canada).

So moved.

Mr. Chairperson: It has been moved by Mr. Faurschou–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order.

Mr. Faurschou: In regard to the amendment that I am proposing to the legislation, it addresses the concerns that we have in the agricultural sector that, once the minister has the amended legislation before him, perhaps maybe there may exist a situation with not a complete and clear understanding of the agriculture and the practices that we currently undertake in our farming operations, and may be encouraged by department personnel to perhaps restrict some of the exemptions now in place for persons engaged in agriculture.

So this amendment actually, should it be adopted here this evening, would effectively safeguard and give assurance to the farming community in Manitoba that his department would not solicit further regulation that would make greater restrictions imposed upon the agricultural sector here in the province of Manitoba. With that assurance in black and white, in legislation, it would be safeguarding the farming community in the province and going forward from this point in time.

I know that the minister is himself very supportive of agriculture here in the province of Manitoba, but he may not always be the Minister of Conservation. Should the successor be unenlightened of agricultural activities carried on in the rurals of Manitoba, he/she may seek to impose greater

restrictions on the farming community, and that is why we have proposed this amendment this evening that would give the assurances to the agricultural sector that we would be provided for with exemptions within our farming operations. So I appreciate the opportunity to present this amendment this evening.

Mr. Struthers: I understand the reason for bringing forward the amendment that the Member for Portage does. I understand the concerns in the farming community in terms of these regulations, and I can understand the reason for bringing this forward. I think it is unnecessary, though. I think it is unnecessary to do the amendment here. What we are doing, what we have been very clear about, is that we are harmonizing with the federal regulations. We are not adding to the federal regulations. We are not looking to add or pile on top of federal regulations our own regulations to make it even more onerous for farmers to survive in rural Manitoba. We are not looking to do that, and we have been clear on that. We do want to put in place regulations that help in terms of this harmonization, that help in terms of reinforcing and clarifying the polluter-pay principle. We want to make sure that we put in place regulations that help people who have to deal with a contamination. We think we are accomplishing that.

Like I have said, it is not our intention to add, to make more stringent conditions unnecessarily upon farmers. That is not what this is about. I think I have been clear in terms of the enforcement approach that I want to see with our regulations. So, on the basis of that, I do not think it is necessary to include the amendment that is brought forward by the Member for Portage la Prairie (Mr. Faurschou), but I do want to make it clear that our regulations are attached to our act, are harmonized with the federal act, and their regulations are attached to their act. It is not our intention to go beyond that.

Mr. Eichler: I thank the minister for his comments in regard to the amendment that was brought forward from the Member for Portage, but, having said that, I know that the farmers have come through an awful lot in the last three years. I know the minister was on record not more than five, ten minutes ago, saying that the farmers are the best stewards of the land and he had all kinds of faith in them.

What this amendment really does is it brings forward the safeguard that needs to be in place for the agricultural people. We are not talking about the people that carry these dangerous goods. We are talking about the agricultural sector specifically, and this is a safeguard to put in place that the regulations will not be overbearing and the bill will not be overbearing for the farm producers and farm families of the province of Manitoba. So we would encourage the minister to live up to the words he said just a few minutes ago and support the proposed regulation and amendment to Bill 4 as it was put forward by the Member for Portage.

Mr. Struthers: Just to finish up, the other point that I think we need to be mindful of is that, should the federal government, even today's federal government of whom members opposite are very well aware, and I would not suspect that their cousins in Ottawa would want to pile up more and more stringent regulations in the farm community to begin with, but even if they did take that approach we would be going through another period of consultation to changes, just as we did to the changes that were brought forward in past times.

It would be my intention as the minister to make sure that farmers had a say in developing those federal regulations, and that every effort was made to make sure, should Ottawa go ahead with any regulations, that they are well aware of the impacts that would have on the farm community that we all represent around this table. So I would hope that the member would forward on the amendment that he has here to Mr. Chuck Strahl to make sure that that government does not come up with any onerous regulations that would impact farmers negatively, but I would not recommend that we vote in favour of these here today.

Mr. Eichler: That is exactly my point, Mr. Chair, that this would ensure that the federal government would not impose anything upon our farmers that this government would not be unfairly . . . So we agree with the minister in what he said and, obviously, the minister is in agreement with what we have to say. So let us pass the amendment. *[interjection]*

The Member for Selkirk (Mr. Dewar) seems to be wanting to end the debate on a very important bill, and, if he has some place to go, I suggest that he goes ahead and goes. We do not have a rush here to get through this particular bill. So, if the Member for Selkirk is in a hurry, let him go for his walk.

***** (19:30)

Mr. Faurschou: Mr. Chairperson, I really intently listened to the minister and his response to the

question from the honourable Member for Lakeside, and I would believe that is going beyond even my own argument for the necessity of this amendment. If in fact we have this adopted within our legislation, then it is an example to the federal government that they have to be very recognizant of the impact of any changes in regulation.

Let me not underemphasize the importance of regulation to this legislation. Virtually all of the main definitions which this legislation is based upon rely upon regulation to actually be defined. So it is vitally important that we do have the assurance to those individuals that this legislation does have an impact that not just you, sir, but your successors will not impose any greater restriction than already exists at the federal level.

Conversely, that argument then can be made to the federal government that perhaps they should look at our regulations of which the minister made mention that they may very well be of a greater latitude, more encompassing exemptions to recognize larger farming operations today than currently the federal government does recognize.

So I believe that the minister has made a very, very good argument in support of adoption of the amendment here this evening, and I am very much looking forward to his positive vote on this amendment.

Mr. Chairperson: Is the committee ready for the question?

Some Honourable Members: Yes.

Mr. Chairperson: The question before the committee is the motion moved by Mr. Faurschou

THAT Clause 12 of the Bill be amended by renumbering it as Clause–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

THAT Clause 12 of the Bill be amended by renumbering it as Clause 12(1) and adding the following as Clause 12(2):

12(2) the following is added after subsection 40(2):

Requirement respecting agricultural purposes
40(3) *The regulations made under subsection (1) must not impose more stringent conditions and requirements on the use, transportation and storage of dangerous goods used for agricultural purposes than are imposed by regulations made under authority of the Transportation of Dangerous Goods Act, 1992 (Canada).*

Voice Vote

Mr. Chairperson: All those in favour of the amendment, please signify it by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, signify it by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In the opinion of the Chair, the Nays have it.

The amendment is accordingly defeated.

Formal Vote

Mr. Faurschou: I believe this is important enough that we be recognized with a recorded vote.

Mr. Chairperson: A recorded vote has been requested.

A COUNT-OUT VOTE *was taken, the result being as follows: Yeas 3, Nays 6.*

Mr. Chairperson: I declare the amendment defeated.

*** * ***

Mr. Chairperson: We will move on to clause 12 then.

Clause 12–pass; clause 13–pass; enacting clause–pass; title–pass.

Shall the bill as amended be reported?

Mr. Faurschou: All kibitzing aside here, I do believe this legislation is very important legislation. We as agriculturalists who are now MLAs believe in farming in harmony with Mother Nature and are very much protective of the environment. I believe this legislation is in sync with that.

However, I do want to emphasize to the minister that, in dialogue here this evening, there is a need for examination of the regulations that are currently in existence as they pertain to the exemptions allowed for persons engaged in farming here in the province of Manitoba, that a review be considered by the minister to be more reflective of the changes in agriculture that have taken place over the last few years, because, where a 10,000-acre farm five years ago was an extreme rarity, in my own area of Portage la Prairie there are numerous 10,000-acre farms now

operating. When one looks at 1,500 kilograms of seed being able to be conveyed, that is, perhaps, three or four hours of seeding by multiple seeding units under the same farming enterprise. So one would be very hard pressed even to keep up in hauling that amount in a three-quarter-ton truck where tandems currently are required to tender to those type of seeding operations.

So I leave that with the minister. I encourage him to review, in fairly short order, the regulations that I refer. Thank you very much.

Mr. Chairperson: Bill as amended be reported.

Thank you to members of the committee for Bill 4.

Bill 37–The Labour-Sponsored Investment Funds Act, 2006 (Various Acts Amended)

Mr. Chairperson: We will now proceed with Bill 37, The Labour-Sponsored Investment Funds Act, 2006 (Various Acts Amended).

We will proceed now with Bill 37.

Does the minister responsible for Bill 37 have an opening statement?

Hon. Jim Rondeau (Minister of Industry, Economic Development and Mines): Yes, I do. Thank you very much, Mr. Chair. I will go through a little bit of a chronology, and then go through the issues.

The Labour-Sponsored Investment Funds Act, 2006 (Various Acts Amended) follows on the Auditor General's examination of the operation and procedures of the Crocus Investment Fund, which was concluded on May 30, 2005, and released its report, the *Examination of the Crocus Investment Fund*.

What we did was we established an implementation team to oversee and co-ordinate the implementation of the report and its recommendations. The team members included John MacDonald, a retired manager of Deloitte & Touche; Winston Hodgins, President and CEO of Manitoba Lotteries Corp.; Ewald Boschmann, Deputy Ministry of Finance; and Hugh Eliasson, Deputy Minister of Industry, Economic Development and Mines.

The team had a mandate to consult with interested stakeholders and experts in the field of labour-sponsored venture capital. It also conducted a legislative review to address not only the recommendations made in the report, but to review and make recommendations and other changes that may be required to reflect best practices for labour-sponsored funds.

The acts that are being amended are The Crocus Investment Fund Act, The Labour-Sponsored Venture Capital Corporations Act, The Income Tax Act. Then the funds themselves are governed by other acts, also, which may be in play.

The Labour-Sponsored Venture Capital Corporations Act has the first amendments that were made in Bill 51. What that was was a very quick response to some of the major recommendations by the Auditor's report, and then this act builds off that.

What I had done is I had provided the Legislature a copy of the implementation team's report. I did that in December, and then everyone was provided a copy to show that what we were trying to do is indeed work with the Auditor General and others to make sure that we brought more stability to the labour-sponsored venture capital corporations.

The legislation transfers monitoring, as per the recommendations by the Auditor General and the implementation team; that is where this bill is flowing from. So the legislation transfers monitoring compliance with relevant legislation to the Minister of Finance; in particular, the Manitoba Securities Commission is responsible for ensuring that disclosure of obligations respecting governance, which were enacted in Bill 51 in June 2005, in investment policies and the valuation of shares.

***** (19:40)

The newly created independent administrator, who is not a civil servant, and is appointed by the Minister of Finance, respecting all other provisions and the governing of legislation including the authority to investigate and audit a fund in order to ensure complete and accurate compliance with all legislation. Each fund must file a separate annual report to the administrator and to the Manitoba Securities Commission indicating compliance with the legislation. The administrator and the MSC must each file an annual report to the Minister of Finance on the administration and enforcement of statutory provisions. The independent administrator will have the authority to declare an ineligible investment to be an eligible investment where the investment meets the guidelines established by the administrator and approved by the Minister of Finance. Previously, this

was ministerial discretion without any second opinion or discussion.

The independent administrator must also declare an investment by a fund in a company to be a replacement investment where the proceeds are used by the investing company to allow that fund or labour-sponsored fund to divest itself of a prior investment and disallow the investment pacing for the credit fund. The issue also had to deal with penalties, and that all has to do with the independent administrator.

Some of the provisions that were ambiguous, such as the investment pacing test, have been simplified and clarified. It has been put into understandable language. The actual amount, the 10 percent rule, where you can only put 10 percent of the value of assets, has been clarified.

The fact of accountability to shareholders, a majority of the members of the board must be elected Class A shareholders, people who actually invest in the fund and receive tax credits of the fund. The shareholders must receive a business plan. That becomes very, very important, because it talks about the objectives in the past year and how to fulfil the plan.

The legislation also introduces more flexibility for a fund to meet its business plan objectives and to increase its rate of return. An example would be the 15 percent reserve fund. Now they have to have reserve requirements and a plan to deal with those reserve requirements, not just take 15 percent of the fund and put it aside. They have to have a plan to meet their liquidity.

We also have flexibility, so that, if a fund voluntarily deregisters, the Minister of Finance can deal with the issue of clawback of the tax credit. So what we have done, and it is very important, Mr. Chair, is we have looked at Bill 51 as a first provision; we have looked at Bill 37 as a second. In both cases, what we did was we looked at the issues that came out of the investigation of the labour-sponsored venture capital. We made sure that we reacted to what the Auditor General recommended, and also what the implementation team, a team that was very expert, dealt with. I think it is very important to say that we did include the Auditor General with the report, the Crocus Investment team report, and the Auditor General mentioned that he felt it was an appropriate way to deal with his concerns.

So we are hoping to bring back more confidence into the market, more reporting and a better governance. That is the purpose of the act.

Mr. Chairperson: We thank the honourable minister for the opening statement.

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

Mr. Glen Cummings (Ste. Rose): Thank you, Mr. Chairman. I thank the minister for his comments. I will keep my comments brief.

The debate that has ensued around Crocus, in main flowing from the report of the Auditor, I think we would agree with the response to the Auditor's report. The issues that were raised there certainly were of significant concern.

What has happened, however, is that we believe there were many opportunities about four years earlier when the government, through its monitoring role, should have known and should have had an opportunity to have taken action or provided advice that would have offset where we ended up now with the Crocus Fund, where we have significant losses which have accumulated, people who are demanding answers, and people who believe that they have, and, I think, in all assurance, lost the major portion of their investment as a result of actions that occurred within and on behalf of the fund.

Having said that, in direct reference to this bill, one of the most important aspects of this bill, in my opinion, is the administrator. We will have some discussion when we get to that clause. I, frankly, do not have an amendment that I can offer, but I certainly seek friendly advice all the way around the table in how the advice, through the act, can be best given to any minister about the nature of the person who should be appointed. That is so key, to have someone with appropriate experience, so that they (a) do not panic, and (b) provide solid response to issues as they come up, based on long-term experience and appropriate knowledge. That is not something that can be defined easily in legislation, but I think it is very important. I think I saw the minister nodding out of the corner of my eye here. It is so key to the success of future funds. It is pretty obvious that Crocus will not rise from the ashes anytime soon, but I think there are long-needed opportunities in this province to have appropriate funds where venture capital can be accumulated.

When I look at the legislation in front of us, the first thing that is obvious is that, when you are

dealing with more than one bill in terms of amendments, more than one previous bill when you are dealing with amendments, it takes some time to sort it out to the best of my appraisal. The amendments, I think, can be followed. I will have some questions for the minister as we move forward on that.

I want to put on the record now, and will seek the response from the minister at some point, in respect to the amounts designated. I believe it is under The Tax Act, 11.1(5), where limitations are referenced for the "approved shares purchased or subscribed for by an individual and a qualifying trust for the individual shall not exceed $5,000." It is my understanding that the industry believes that there is opportunity out there for more dollars to be appropriately placed. That $5,000, in fact, is a very limiting factor in terms of having some of the larger, and if you will, significant players in the industry participate. They probably will not be participating at the $5,000 level.

I would look to the minister to seek some understanding where we might be able to go with this, if there is a worry about kickback from the official opposition. I think in the interest of knowing that these funds play an important role in our province, that we should be talking about a bigger figure. We should, at least, be doubling that, and perhaps more. But there is expertise that we need to seek in order to determine what would be the correct amount. I think the minister has access to that as well as I do. We might be able to discuss that before we are finished this evening.

So I am ready to go clause by clause. I would invite the Chair to approach this more in a clause-by-clause fashion, so that we can think our way through this, because, as I say, where there are a number of amendments for more than one bill, we have to make sure that we know what we hope we are passing.

Mr. Chairperson: I thank the critic for the official opposition for the opening statement.

Is the committee ready to proceed with clause-by-clause?

Clause 1–pass; clause 2–pass; clause 3–pass; clause 4–pass; clause 5–pass.

***** (19:50)

Mr. Cummings: On the withholding and remittance of tax, which would be under clause 4, which we just passed. So, if you would bear with me–

Mr. Chairperson: Is there leave of the committee to revert back to clause 4 for questions? *[Agreed]*

Please proceed, Mr. Cummings.

Mr. Cummings: For the record, can the minister indicate briefly the changes that this brings into play? From the existing situation, really, is what I need to know.

Mr. Rondeau: Basically, what this has done is that, previously, there was a clawback of the 15 percent if it was redeemed prior to the 8 years. There was also a problem with the repayment of the capital if you allowed to give back the provincial tax credit and the federal government had agreed to match ours.

This is allowing the repayment of the 15 percent provincial tax and also the return of capital, so the return of capital invested. It also allowed that, if the money was returned after six years, you could get a prorated return of the tax credit. So it allowed more flexibility for the tax credit so that, if the firm voluntarily deregistered at seven years, you would be able to have a prorated return of the tax credit rather than the full return of the tax credit.

I will try it again, Mr. Chair, to make sure that it is easy. Basically, what it is, it is ensuring that, if there is a clawback, if there is a redeem or a return of capital within eight years, then the 15 percent tax credit can be clawed back. It is closing the loophole, but it is also, on the other side, what it is doing is, if the fund is voluntarily deregistered, if the fund was sold, then that allows you some flexibility in the clawback or getting the 15 percent tax credit back.

Mr. David Faurschou (Portage la Prairie): I would like to ask the minister, though, in the case of a non-voluntary type of requirement–I forget the minister's terminology if the fund is liquidated or disposed of, but, if that is not the case, if the fund continues to operate, and the individual that has invested has, perhaps, had the monies in the investment fund for six years per se, and is requiring of the monies, is there provision to provide for a prorated type of reflection of the six years of investment less one year, or less two years, perhaps, that not all tax credits could be required to be paid back?

Mr. Rondeau: There are two conditions that I will go through, two scenarios, just to be very simple. If an individual, a person, requires their money early, consistent with most other jurisdictions, if the person needs their money early, there is a clawback of the 15 percent. So, if you leave after four years, you

would lose your 15 percent tax credit and the federal 15 percent tax credit. That is pretty consistent throughout. That is part of the eight-year hold, and that is part of the provisions that you are given.

However, if there is a deregistration or voluntary closing of the fund–let us say you have a fund and the entire fund closes down–the shareholders would not have a penalty on the tax credit. It would be applied against the fund itself, and it is based on the average number of years of everyone holding. So the fund would pay the penalty if the fund closed voluntarily or involuntarily. If a person decided to withdraw after two or three years, it is not a prorated. You just lose your tax credit.

Mr. Faurschou: There are no conditions under which withdrawal would provide an exemption to what the minister describes of a complete clawback of the provincial 15 percent tax credit?

Mr. Rondeau: There is a case where you might not have the tax clawed back. In the industry, we call it the three Ds, death, divorce and disaster. In practical terms, the corporation is notified in writing that the individual became disabled and permanently unfit for work, terminally ill or death. In those cases, that is when the clawback does not occur. It is basically for catastrophic conditions. Then, there is not a clawback at all. Generally, the feds always follow the provincial rules, so when we do not clawback, they do not clawback.

Mr. Faurschou: Has there ever been any consideration of prorating if we have virtually gone to term? After seven of the eight years, to lose 100 percent of the tax credit requiring funds outside of the situation as addressed, which the minister describes–because I can think of a whole bunch of other reasons that one might require monies that were unforeseen, and to lose and be penalized to that extent is quite extensive.

***** (20:00)

Mr. Rondeau: Mr. Chair, as in other provinces, we have it where there are cases where, if a person is facing a huge hardship, cannot work, etc., there is no clawback at all–zero percent. Even if they held it for two years and they faced a catastrophic issue, they would not get any clawback. But it is like a GIC. If you buy a five-year GIC and you decide to cash it, there are penalties, and you know that when you sign in for a five-year GIC, a guaranteed income certificate.

If you have signed for a certain mortgage, or whatever, and you decide to get out, there are penalties, and part of that is the financial institution. You want to make sure that people know what they are investing in. You make sure that they are aware of the rules, and that is part of the whole Securities Act.

Mr. Chairperson: Is the committee ready to proceed?

Clause 4 is already passed, so we will go to clause 5.

Clause 5–pass; clause 6–pass; clause 7–pass.

Shall clause 8–

Mr. Cummings: At some point–you are on the top of page 5, part 2, Section 7?

Mr. Chairperson: Yes.

Mr. Cummings: At some point, I would like to discuss the minister's thoughts on the administrator. If you would like to do that now–I expressed my view of what needs to happen in terms of appointing an administrator. Can the minister indicate what direction he plans on moving to find an administrator?

Mr. Rondeau: Mr. Chair, I agree very, very fully with the critic when he said it takes a very unique individual. We have had this sort of person in the tax commission, where we have actually had people who we had to find a way of not having it part of the Civil Service, but not having to have a person who has a very specific job and fills a very specific need.

So we actually followed the advice of the Crocus implementation team, the advice of the Auditor to make sure it is not direct control of a minister. What we are going to have to do is do it very closely to the tax commissioner or an independent administrator in the Leg, where what we actually have is a person who has a very specific job description, very specific responsibilities, and works within those. As with the tax commissioner, it is not something that we try to do. The minister would not be hands-on. That is the whole purpose, is give it to an expert who knows what they are doing. It is like the implementation team. We found Mr. MacDonald, who is unbelievably good, very experienced in finance, experienced in investments, knew what he was doing. So, I think, by dealing with a senior partner in Deloitte & Touche, who knows that, he gave us advice, and he gave us very, very good advice, as I see it now. So we would be looking at

Mr. MacDonald, and we would be looking at other people to give us very good examples, advice on how to do a job description to make sure that we get it right, and, again, following the tax commissioner's role.

Mr. Cummings: Well, I thank the minister for his comments, and I would agree that–well, it is hard to put to paper–someone with the qualifications and the stature of Mr. MacDonald would be an example of someone who could do the job.

Mr. Chairperson: Is the committee ready to proceed?

Clause 7 has been passed already. We will move to clause 8.

Clause 8–pass; clause 9–pass.

Shall clause 10 pass?

Mr. Cummings: Look at, under clause 10, where the minister may cancel registration based on the administrator's report. I am having a little trouble reconciling this, or he may cancel. The corporation is in substantial compliance. What am I reading? On the one hand, we are talking about the cancellation, and then I see that the–if I am reading this correctly, unless I am interpreting it wrong.

Mr. Rondeau: Generally, Mr. Chair, in Section 10, you read 4.2(1), 4.2(2), and, basically what it is, is when the corporation is applying for deregistering. So let us say that you have a labour-sponsored venture capital A, and they want to move it to a labour-sponsored venture capital B, or set up another fund or whatever, then this is basically voluntarily closing down one fund and maybe setting up another one. So this is a request. So let us say that, if Crocus was still in business, you could have a Crocus 1, a Crocus 2, a Crocus 3, and you close one, open another. That way their fund might only exist for 10 years or 16 years or something like this.

Mr. Chairperson: Is the committee ready to proceed?

Some Honourable Members: Okay.

Mr. Chairperson: Clause 10–pass; clause 11–pass; clause 12–pass; clause 13–pass; clause 14–pass.

Mr. Cummings: On Composition of board, "(a) a majority of the members of the corporation's board of directors must be persons elected to the board . . .; and (b) at least two members must be elected to the board by the holder or holders of the Class B shares." I am looking at process here. Are those holders easy enough to assemble so that they could be put in a position to have a normal election process?

The reason for my inquiry is, perhaps that is where the minister is already going. Does he need to prescribe the nature of how that would occur, or will that be left to the board?

Mr. Rondeau: Generally, it is left to the organization itself. So, generally, most will have an AGM; some will get proxy shares, there is an election; some send out, like the co-op. I remember that the Red River co-op board sent out circulars and people sent out information on the individuals and you then cast your ballot. You form a nominating committee; you get nominations; you send out the information to the shareholders; they vote; and you elect people. So it would be the same as any other corporation or organization, and they decide their own procedure–the small procedures, but in general that is the pattern.

Mr. Cummings: Well, the example the minister gave is a little different than what I might have envisioned, but he said this would be very similar to which a co-op would elect its board of directors. This would be more sophisticated than that, I would assume.

Mr. Rondeau: Generally, in all the cases whether you are with a small board or a large organization or a huge corporation, basically what happens is there is usually an nominating committee or you find out who wants to stand for office. You then send out the information to everyone who is eligible to vote. You send the information out; you set the rules by which they vote; and then people are elected, usually at the AGMs. Then what happens is then the board is comprised. You can do that through any class of shareholder.

Mr. Cummings: Well, it is a very small point, and I should not dwell on it, but I am thinking about the comment that the minister actually began with, I think, where people could be represented by proxy as opposed to–and that is the reason why I picked up on the election of a co-op board. That is not generally the process. It is just a majority of the vote. One member, one vote.

***** (20:10)

Mr. Rondeau: Generally, this is done by most corporations. ENSIS now elects some of their board members. Most corporations do. One of the interesting parts about this that I have been informed on is that this provision will not be implemented

immediately. Some of these provisions will be implemented over time to make sure that the boards have procedures in place to allow members to have their input.

Mr. Cummings: I agree with what the minister just said. I just do not know whether I see that in the way the act is written.

Mr. Rondeau: Mr. Chair, if you look at Section 5.1.1(2), it basically says that they can have an AGM, and then this provision takes place after the first AGM, so that they can work through their shareholders and sort of propose at the first AGM: Here is how we are going to do the business, and make the people who have the shares, who have the investment in the company, decide.

An Honourable Member: Is that what that says?

Mr. Rondeau: That is what this says, in legalese, yes.

Mr. Chairperson: Any other questions on this section, this clause?

Clause 14 is already passed, so we will proceed to clause 15.

Clause 15–pass.

Shall clause 16 pass?

Mr. Cummings: I have a question on that clause. The board of directors must approve a business plan. Because it does not mention it, because it does not use the word "binding," I take it this is similar to a prospectus?

An Honourable Member: No.

Mr. Cummings: I chose the wrong word there, and I realized it as soon as it was out of my mouth that I had, but, I guess, for lack of a better word, is it a non-binding future prognostication?

Mr. Rondeau: Yes, it is a business strategy plan. So it is not talking about specific things that they are going to buy or whatever. It is sort of the direction, where it is going to go, what it is looking to do. So what it is doing, it is a general plan, general strategy on how they are going to conduct business.

The prospectus is something that is very, very formal, designated very formally by the Manitoba Securities Commission, and provides very specific information as to where the investments are, et cetera, and cash positions and all the rest. The prospectus is sort of like a picture in time of what they have invested, what they have done and where the financial resources are. The strategic plan is the go-forward.

Mr. Cummings: I just want to establish that there is nothing binding about this clause, other than that a plan has to be put forward.

Mr. Rondeau: It is not binding, but what usually happens is, if you stray from the business plan, that is what the annual general meetings are for. I have been at some annual general meetings for the executive, and the people who are running the company have strayed. It is not a pleasant sight. When you have published a business plan, you are planning to do A, B, C, and you do not do A, B, C, your shareholders often quite vocally express discontent. So that is part of the thing.

It is also important, Mr. Chair, that in legislation they have to report at the annual general to the shareholders a description of the corporation's business plan for the year being reported and the extent to which the corporation met its business objectives for that year. So they present what they were doing and how they met their objectives. That is very, very good corporate governance, because then you are not saying what you just are doing now; you are saying what your plan is in the future, how you met your objectives in the past, and where you are moving forward to.

Mr. Chairperson: Any further questions?

Is the committee ready to proceed with the clauses?

Clause 16–pass; clause 17–pass; clause 18–pass; clause 19–pass; clause 20–pass.

Shall clause 21 pass?

Mr. Cummings: On the investment and pacing, I may not be familiar enough, if there is a clause that amends this along the way, but will this only be a one year–year-by-year check, if you will, or is there an ongoing element to this?

Mr. Rondeau: One of the strong recommendations by the Auditor, who said that there is confusion about pacing–and the Crocus implementation team–was that this should be cleaned up because no one understood it. After I read the act the first time, I can understand why no one understood it. It was confusing right from the start. So what they have done is, they have said 24 months after the sale season you have to invest the money, and it is a once-a-year test. The old test was monthly, and it was confusing. It was hard to report. So what we

have done is, we followed the Auditor's and the implementation team's advice, and said 24 months from the selling season and–from the fiscal year, sorry, fiscal year. So the labour-sponsored venture capital funds do not have to change at fiscal year, if they do not want to. So 24 months after the fiscal year they have to have the money invested, and once-a-year reporting makes it easy.

On the same token, Mr. Chair, the opposition had said that they were interested or willing to support increasing the limit allowed, or supported through the tax credit system, to allow larger contributions. We had said that we would investigate, explore this, and I understand officials are doing that. We hope to soon have a proposal to address some of this.

Mr. Cummings: Can the minister expand a little bit more on the–obviously, there is a huge disparity between monthly, which has been somewhat discredited, to 24 months. I would like a little more justification for the 24 months.

Mr. Rondeau: Mr. Chair, the measurement is tested every year, but they have 24 months from their annual report to invest the money. So, when you are talking about millions of dollars and finding the appropriate investment period, et cetera, they have 24 months to get 70 percent of the money they collect into investments in Manitoba that are eligible. What they will generally try to do, in past experience, is they will try to look for good investments and invest them as fast as they can to get a return, but they have up to 24 months to invest 70 percent of the money earned that year. But we do get a report annually to make sure that they are making their public policy objectives.

Mr. Cummings: Well, there is a fine line between what the minister just described–maybe the line is not so fine, but there is a difference, vast difference between forced investment, which might mean that it would end up in less than appropriate areas to–I take it that, through this change, the minister is hoping–and these are my words, and, given the debate we have had before, I would think they have some meaning to the minister–that appropriate due diligence is done so that investments are placed appropriately. Is that the intent of this change?

***** (20:20)

Mr. Rondeau: Well, the new money test was always 24 months. This is just clarifying the period. But we do hope that by spending less time on filling out forms to make sure that every month there is a form filled out on this, what we are hoping is that appropriate due diligence is successful.

What we hope to do is bring back more confidence in investors, and we also want to bring more confidence to the whole marketplace. So what we are trying to do is make sure that, through having Class A shareholders sitting on the board, through appropriate disclosure, through simplified, understandable pieces of legislation and regulations, people will understand what their obligations are, the labour-sponsored venture capital corporations understand their roles, and then it will make sense. What we hope is then they will spend their time on making good investments that will bring a good return to the shareholders.

Mr. Cummings: Well, I think I understand what the minister said, but I still have this uneasy feeling that there is an unanswered question about whether monitoring is occurring in a way that is suitable, appropriate, timely. The minister is saying that this will be a once-a-year accounting as opposed to an ongoing accounting. This act aside, does it leave any, or will there be any, onus on monitoring on an ongoing basis?

Mr. Rondeau: Well, it has always been a once-a-year accounting, although the pacing was reported more often. But the key to this is that you have an administrator, that his function or her function will be the administration of the act, the monitoring, the compliance of the act. I think it is important to note that the Auditor General said that it was, in hindsight, difficult to have the promotions and the compliance or enforcement in one department. Here you are trying to work together to get more investments to Manitoba to make sure that you have investments in labour-sponsored funds. On the other hand, you are trying to regulate them and see what they are doing and make them comply. Well, those two functions are hard when they are in same person or the same branch.

I think the key to this is you have a third party. You have to get a good quality person who can look at a bank statement, who understands investments, who understands the financial services, whose whole function is to look at these funds. I think I agree with the member opposite. What we have to do is find someone who has the faith of the business community, of the community in general, and the public, where what you have is you find somebody who is going to do a good job like the person on the

Crocus implementation team that will bring faith and more belief that it is a good investment and that you can trust the information you are getting.

Mr. Cummings: Well, I thank the minister for his discussion. We probably have moved into Section 23, the administrator's responsibilities. So we can move forward here.

Mr. Chairperson: Clause 21–pass; clause 22–pass.

Shall clause 23 pass?

Mr. Cummings: Well, in terms of clause 23 and references to appoint an independent administrator–and we have discussed a couple of aspects of this already–is the minister saying that the administrator will be in an ongoing position to do ongoing monitoring? In other words, this will not be a minor responsibility; it would be more of an ongoing responsibility that would strike a balance between what we were talking about in terms of the original legislation and at the extreme, which I know overstates it, but the 24-month period or the yearly period. Will the independent administrator's role be complete enough to be termed as ongoing during the course of the year?

Mr. Rondeau: Yes. It is envisioned that the administrator will have an ongoing responsibility, and he or she is able to ask for, and obtain, additional information at any time from the fund. It is not meant that this is a very light role. This is a role to bring confidence to the industry.

Mr. Faurschou: I just want to query the minister in regard to the reporting after the fiscal year-end, three months has been chosen as the required time that both the administrator and the commission are to report to the minister, is that consistent with other jurisdictions? Three months is a fair amount of time. If you have got all of your accounting records in place, is it necessary to be that–that amount of time required–to give the minister the picture of what is happening?

Mr. Rondeau: Well, the fund has six months to file the information return. So three months is–what you have to do is you have to make sure that it is appropriate. You get the information, and you submit an accurate report. Sometimes these things are done earlier. But, when you are setting up a system, you do not want to crush for time. You want to make sure people do it right.

Now, given that, the independent administrator can go to the fund at any time. Let us say that they do not believe that they are making the public policy objectives on pacing, or they are not placing the money fast enough, the independent administrator can go to the fund and say, listen; I want to know how fast you are placing the money, or, whatever it might be. So, if the independent administrator has any issues with how the fund is being administered, or has questions, they have the right to access.

So an example is, when the Auditor did not know whether they could get into Crocus or not, and Crocus management was fending them off, et cetera, the Auditor went to the Finance Minister and myself and asked to be authorized persons, right? They did that so that they could make sure they got in quickly to get the information. Well, in this case, the independent administrator is an authorized person, does not have to go through us, and has access to the information. So it is a direct link, and they can get that at any time.

Mr. Faurschou: Well, I am just asking the minister: Is this language consistent with other jurisdictions that have made proviso for labour-sponsored investment funds, as far as reporting to the minister?

Mr. Rondeau: Not all provinces have an independent administrator, yet. This was a good recommendation from the implementation team to, sort of, get it out of the hands of the minister; get it to an expert. Yet have someone who is going to monitor the funds. So this is, sort of, from the Auditor saying, hey, you should look at this; there is a problem with the two things in one department, to the second stage where the implementation team looked at the tax commissioner, which works really well. If you want an opinion on taxes, you go to them. It is very good, as far as the tax commissioner's role. So the implementation team said: This is something you can use. This fulfils all the jobs that you need done.

It is interesting, when the implementation team gave their report to the Auditor General, he, sort of, said, yes, this is a good idea to move forward to address the issues, and said this is a good way of moving forward to create a more confident environment.

Mr. Chairperson: Is the committee ready to proceed?

***** (20:30)

Mr. Cummings: One question on process regarding the administrator under 10.1(6): provide reports "within three months" in each fiscal year. Is there

anything that precludes him from providing information to the minister? It says anything that "the minister requires about the administration and enforcement of the provisions of this Act for which the administrator is responsible."

The minister and I, and others as well, have had ongoing disagreement about the role of monitoring and what that means for government, for the funds and for protection of the public. Without compromising the independence of the administrator, does the minister feel that he would be getting, or would be entitled to, ongoing information from the administrator, if a fund were to be coming off the track, as an example?

Mr. Rondeau: It is important to note now that the administrator must prepare and provide the minister a report within three months, but also whenever else the minister requires. So, therefore, if the minister required it in case pacing was not happening, the minister could require information earlier. I would believe that it would be that the administrator is now looking at, say, the pacing, how fast the money is invested in the economy. Say if there was an issue, the administrator would bring that up to the minister's attention, and the minister would then receive more periodic reports.

Mr. Cummings: Well, I hear what the minister is saying. Nobody is going to argue with what he has said, but I am asking, in some respects, about what he has not said and what is not on the service, at least, in print in these amendments and, in this particular case, new clauses.

What onus is there on the administrator to inform the minister at any time during the year? Is the minister satisfied that information as the minister requires–that does not quite do it for me. I am not saying something has to be in the act, but when it is already mentioned–I do not have an amendment prepared, but it strikes me that there is an open question there.

Is it the obligation of the minister to ask, or is it the obligation of the administrator to inform?

Mr. Rondeau: I think that will be a discussion that we are going to be having on the job description and on the roles and responsibilities of the administrator. I would be very pleased to have your input on the roles and responsibilities. We will take this very, very seriously when we are dealing with the roles and responsibilities and outlining the job duties, and we will put that in as part of the job duties.

Mr. Cummings: Mr. Chairman, I seek your advice, but I want to be able to leave this in such a situation as when we rise this evening that it could bring in a report stage amendment as a potential.

Mr. Chairperson: I have been advised that option is available to the member regardless of what happens to the bill, making sure that the bill is passed this evening, of course.

Mr. Rondeau: One of the important things is that the independent administrator's major function is the public policy objectives bringing back the fact that they are going to comply with the legislation. There is a second area that you have to be aware of in order to understand where this law fits, and it has to do with The Securities Act. The Manitoba Securities Commission also has a role. The Manitoba Securities Commission has a role to ensure that the prospectus is accurate. The issuer of the prospectus has a role to make sure that they portray accurate information, and the firm's auditor has to make sure that the firm follows generally accepted accounting practices.

What happens is that, in this whole finding out if something goes off the rails, there are four separate roles. One is the public policy objectives compliance with the act; that is the administrator. The administrator, as job duties, will have to let the minister know, and we will take that as good information, if the public policy objectives go off the track.

It is the duty of the Manitoba securities council to make sure that the prospectus is filed, it is accurate, and it follows the law of disclosure. That has to happen, and it is law. There are people in the Manitoba Securities Commission where that is their function. The auditor of the fund has to sign off on the books, just as happened in the past, and they have to follow generally accepted accounting practices. Then you also have to have the people who issue the prospectus.

So those all have to happen. The minister cannot ever authorize the valuations, nor can the independent administrator. That has to follow the normal practice. Just as the public policy objectives have to follow. I would take under advisement that the administrator should flag it to the minister if the public policy objectives are not being met, and that could be part of their role.

Mr. Cummings: Well, I am of the opinion that perhaps this could be a little bit more prescriptive

and prepared to pass so we can amend it. We may have an opportunity to amend it in third reading.

Mr. Chairperson: Is the committee ready to proceed?

An Honourable Member: Proceed.

Mr. Chairperson: Clause 23–pass.

Shall clause 24 pass?

Mr. Faurschou: I know it was a question past, but I was trying to hand-gesture to the minister when he was asking about the three months. Where did the minister pull the three months as a required reporting in period 2, you, sir, from the administrator and from the commission? How did you pull out three months as your required reporting period?

Mr. Rondeau: Mr. Chair, we felt that a three-month period was a reasonable time to follow the year-end statements of the report, prepare it, and provide it. It was just 90 days to prepare a report and make sure they submit it. Again, it might be done a little earlier, but we thought it was a prudent amount of time. We figured six months was too long and one month was too short. So we came to something that made sense. Three months would–

Mr. Faurschou: Well, no, I appreciate it is an arbitrary amount of time. Certainly, after the fiscal year-end, I would suspect that the administrator or the commission would only require a shorter period of time, because I believe it is very important that the minister get a report from both entities as soon as is possible, to make the effort to keep the people's representative, if you will, informed of the investments in the situation or the condition of the fund.

Mr. Rondeau: Well, it would not be the administrator's job to give the investments, to say: Hey, here, these investments are good, et cetera. That would be the financial people. We are talking public policy objectives. What the administrator would do within the three months is they would get the information on the pacing or the public policy objectives. Let us say the administrator had questions about that. The three months allow the administrator a chance to go back to the fund. It gives them a chance to prepare a report, make sure it is accurate, and present the report.

***** (20:40)

What you are often doing, in the financial business, if you do not get all the information the first time, and you assume you might but that it might take a little bit of time, then you might ask the fund for additional information, like when they made this certain investment. They might have it in question, whether it is a Manitoba company or whether the majority of the business is done in Manitoba. I know that some of the questions we often were asked: Was the company a Manitoba company? Was it moving to Manitoba? Did it have the majority of its employees and activity in Manitoba? Those are not always easy questions to answer. So what would happen is that the administrator might have to make judgment calls. A company might be operating in Saskatchewan and Manitoba. The majority might be in Manitoba, but then you want to make sure the pacing makes sense.

These three months give them a chance to talk to the labour-sponsored venture capital fund and make judgments, get the information, make a report. It does take a little while to do that, to make sure you are accurate.

Mr. Chairperson: Is the committee ready to proceed?

Clause 24–pass; clause 25–pass; clause 26–pass; clause 27–pass; clause 28–pass; clause 29–pass; clause 30–pass; clause 31–pass; clause 32–pass.

Shall the enacting clause pass?

Mr. Cummings: Mr. Chairman, before we put the final stroke to this, in the bill, as I recall, looking at it when it was introduced, but I have missed it tonight, there was a clause where the minister may not require the clawback. We were discussing clawback earlier and did not ask about that. At the time, I saw that as a clause that would be used very seldom.

If the minister, for the record, would indicate what possible need there is for that clause.

Mr. Rondeau: An example would be if there was a voluntary or non-voluntary ending of the fund. What would happen is the minister at the time could figure out whether they would claw back the tax credit or not. I will give you an example. In the case of the Crocus Investment Fund, it became–well, it is not trading, and the Minister of Finance (Mr. Selinger) made a statement that we would not claw back our tax credit. This is in case something happens in the future. It gives the Minister of Finance the ability to claw back or not claw back, depending on the conditions.

The other example would be, say, if the fund had some financial distress, there might be some issues there. So there are certain provisions. When you are making the legislation, you want to make sure that you have as much latitude to take any future incident into account and give people a chance to react within the legislation.

Mr. Cummings: I appreciate the minister's willingness to be flexible on discussion of particularly this matter when we are going way back to almost the beginning of our discussion this evening, but I did view this as being the Crocus clause. It strikes me now that there is one other question that flows from that, because of all of the amendments that we made moving certain requirements out of the Department of Finance's responsibility into a new act. I am sure somebody has vetted this, but, frankly, how does this work? Does the Minister of Finance provide advice, or does he actually have the authority?

Mr. Rondeau: Well, it is discretionary. But here is an example of another case where it might work. The Minister of Finance would ask for input on this.

Here is an example, if the corporation deregisters because something has happened financially and it cannot financially carry on. So a corporation may be going out and, all of a sudden, something happens so that, financially, it can no longer operate. Well, what you do not want to do is you do not want to penalize the shareholders in the future. It might not just be in the case of Crocus; it might be in a case in the future where something might happen. They might have their investments all in one area and, in that part of the area, the economy goes down. Well, you do not want to penalize the shareholders anymore, so the Minister of Finance at the time does have some latitude as to whether they claw back the tax.

Why would you double-penalize the investor if, through no fault of their own, they may want to continue to keep the money there, and the company cannot operate?

Mr. Chairperson: Is the committee ready to proceed?

Mr. Faurschou: Just in regard to this act coming into force, can the minister perhaps give us some idea as to when this act will be proclaimed?

Mr. Rondeau: We have had discussions with people in the industry right now. They have asked for certain times to put some provisions in. This does deal with elections and the board. It does deal with reporting. So what we will be doing is proclaiming it over the course of some months, in fact, over time. What will happen is, like the elections; they have to work to figure out how they are going to do the elections. We are talking about the elections of the–sorry, I woke him up–the elections of the board of directors, who are ultimately responsible for the fund. What we want to do is give them time to implement those systems. They will have an annual general meeting this year, and then next year they will probably be expected to comply with the act.

We do want to work with the industry. They have been under economic stress, and we want to try to work with them to implement this in a good manner, where we do have better governance but we do not impose it immediately. So we will work with the industry to make sure it works.

Mr. Faurschou: I appreciate the minister's response. Yes, I am personally supportive of the bill as we have it before us. The minister has been very forthcoming in explaining many of the aspects of it, but we all recognize that the legislation that we have before us is emanating from the demise of the Crocus Fund here in Manitoba. For many months, we as opposition have asked the minister to consider a public inquiry into the Crocus Fund debacle.

I will say, from personal contact with a constituent of mine, where the Crocus Fund shares were effectively granted to her in a divorce settlement, they were substantive, and this middle-aged woman is now back waiting tables at a restaurant, who, after working her entire life, is now impoverished.

I do believe that it is incumbent upon government to clearly answer all of the shareholders' questions. I cannot understress the importance of a public inquiry into the demise of the Crocus Fund. For that, sir, I look to you to do the responsible act, and to impress upon your colleagues and the First Minister the importance of a public inquiry, without question. There are other shareholders out there who have similar stories as to the importance of understanding how they could have possibly ended up impoverished through the loss of the Crocus Fund here in Manitoba.

***** (20:50)

Mr. Rondeau: I have to compliment both individuals from the Conservative Party and the Liberal Party with whom we had briefings on the

bill, who provided input on the bill. I would like to thank all members of the Chamber who have provided information on a go-forward basis. I would like to thank you on a very professional basis, because it was done in the spirit of how to move forward and make sure that we can do something on a go-forward basis.

Looking backwards, though, I think what we have to do is ensure that, whenever we are looking at governance, the board of directors, the administrators, are always responsible. It is really incumbent on all of us to learn that what we have to do is make sure, not only do we have people responsible, but the people who invest have to be responsible.

In hindsight, it would have been nice to have more Class A shareholders on the board who really had their money, had their investments in the fund. I think that is a very strong piece of this legislation, because those people who are the shareholders, who have the money invested in the fund, they should have a way of talking to the administration on a regular basis. They should have elected reps there, because it is the board of directors who are ultimately responsible for running the company, making sure that they contract with the appropriate auditors who are going to provide the legitimate information, the real information, accurately, and they are the ones who contract with the underwriters who send out the prospectus, who sign off on the investments and all the rest.

I do not think there is ever going to be a case where the government would sign off on an independent, or a third-party venture capital fund, or any fund, but what you do is you want to make sure that people understand who is responsible. You try to make sure that people have involvement in the management, in this case through the election of Class A shareholders, and you want to make sure that they get accurate information. If that was not the case, what we are trying to do in this bill is move it forward so that that is what happens.

I have dealt with many people in retirement, et cetera, and I have heard some of the terrible stories. I would hope that our legacy of this entire Chamber is to not ever have that happen again.

An Honourable Member: On that note.

Mr. Chairperson: Is the committee ready to proceed?

Enacting clause–pass; title–pass. Bill be reported.

That concludes the business of the committee. What is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: The hour being 8:52 p.m., committee rise.

COMMITTEE ROSE AT: 8:52 p.m.

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