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of BRITISH COLUMBIA

Second Session, 42nd Parliament

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THE HONOURABLE RAJ CHOUHAN, SPEAKER

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LIEUTENANT-GOVERNOR

Her Honour the Honourable Janet Austin, OBC

Second Session, 42nd Parliament

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Proceedings in the Douglas Fir Room

WEDNESDAY, NOVEMBER 24, 2021

The House met at 1:34 p.m.

[Mr. Speaker in the chair.]

Routine Business

Prayers and reflections: J. Tegart.

Introductions by Members

Hon. R. Kahlon: I have two sets of introductions to make today. First, we have Margo Wagner, the chair of the board of directors for the Northern Development Trust, and also CEO Joel McKay — who are, I believe, in the chamber. They're up in the chamber here.

[1:35 p.m.]

We also have Tracy Redies, who is a colleague of everyone in this House and was a member of the opposition but also, now, is the CEO of Science World. With her is Nancy Roper, who is the VP of development for Science World.

I'm hoping the House can please join me to welcome all to the House today.

J. Rustad: With us today in the gallery is Sarah Nathan. She is the manager of the provincial operations of Ducks Unlimited Canada. Ducks Unlimited is doing great work across this province, work on our wetlands and trying to further the cause of conservation in B.C.

I'd ask the House to please make her welcome.

B. Bailey: I, too, would like to introduce representatives visiting us here from Science World, which is such a gem in my riding. I think most people do know Science World for the wonderful experiences you can have when you go there but might not know that they also provide direct education to 340 communities in British Columbia.

I would like to introduce Tracy Redies — who, of course, is very well-known in these chambers, having served as MLA from 2017 to 2020 — and the vice-president, Nancy Roper. We all know the world needs more nerds.

Please join me in welcoming them here.

S. Bond: I'm delighted to introduce a number of parents who are joining us today here in Victoria. I can say to every member of this House that they've made it very clear they wish they weren't here, but they feel it's absolutely essential that they are here today.

I know that members in this House will want to welcome with me Louise Witt, Cathy Nash, Nicole Kaler and Juliane Khadra.

Hon. G. Heyman: I want to join the member for Nechako Lakes in recognizing Sarah Nathan, the manager of B.C. provincial operations at Ducks Unlimited. We all know, I think, the tremendous work Ducks Unlimited does to protect important waterfowl wetlands.

I particularly want to note that with the healthy watersheds initiative, funded through the Ministry of Environment as part of our StrongerBC recovery program, Ducks Unlimited Canada has been an important partner in that initiative with projects at 148 Mile Marshes as well as the Alaksen national wildlife area and salmon monitoring project.

Again, welcome.

L. Doerkson: I, too, have two groups of people to introduce. I wanted also to acknowledge Margo Wagner and John MacLean. John is the CAO of our Cariboo regional district. Margo Wagner is, of course, the chair. I want to thank them for their tireless work during the wildfire season in the Cariboo-Chilcotin. The work that you did to protect our communities will never be forgotten. I thank you for that work.

I also wanted to thank Joel McKay, who is the CEO of the Northern Development Initiative Trust, who funds a number of incredible projects as well, so thank you to that first group.

Also in the gallery today, I have Grant Breckenridge, Mike McNeil and, of course, longtime friends Jon and Sherry Bullock. They're visiting today as a better option to Mexico. I want to say that Sherry and Jon Bullock are longtime friends, and Sherry has been an unbelievable Stampede mom to both my daughters. So thank you very much for visiting us today.

B. D'Eith: I have two sets of introductions today, if you'll indulge me. Today we have the NDP caucus legislative assistants in the House. I wanted to say, before I just start introducing them, how important our legislative assistants are to all MLAs and to the work that we do in this House. We couldn't do the work that we do without them, and I really want to thank them for that.

[1:40 p.m.]

I'd like to recognize Paige Falkins, Hannah Harris Hope, Yahya Jama, Trudy Maygard, Laura Parent, Pavan Sodhan, Kaylee Szakacs, Cindy Tomnuk and Patrick Vachon, our newest LA. Thank you so much to our LAs and all of the LAs that work for all of us. Fantastic.

My second set of introductions is to my constituency assistants, who are here in the House for the first time. It's the first time ever they've been in the House. Obviously, during COVID it has been very difficult for many of our staff to sort of understand what we do here, so it's really important that they do come and see us in action.

I'd like to welcome Alysa Huppler-Poliak, Sunny Schiller and, virtually, Sophia Kreuzkamp. I just wanted to say to both Alysa and Sunny.… Well, Alysa first. I mean, I've got somebody who will go to bat for people, will not give up and is tenacious.

Thank you so much, Alysa.

And Sunny. She lives up to her name every day, and we really appreciate that for her.

For those who've known Sophia, she has been with me from the beginning, and we all know who the boss is in our office. I really appreciate everything Sophia has done.

Please give a big round of applause for my CAs.

Hon. S. Robinson: I have just a couple of quick acknowledgments that I'd like to make.

Last week, there was an important birthday in my family. My baby turned 30. My youngest, Leya Robinson, turned 30, which was quite a spectacular event, mostly because I can't believe I'm the mom of a 30-year-old, and I want to know where the 30 years went.

The second one is that this weekend I'm going to have a new role. I'm going to become a mother-in-law. My son is getting married to a wonderful man named Kyle Demes.

I hope that everyone here in the chamber will give the happy couple a warm round of applause.

K. Kirkpatrick: I would just like to ask you all to welcome some more parents, service providers and advocates for children with autism. In the House, joining us today, we've got Jean Lewis, David Marley, Nancy Walton and Dione Costanzo. Thank you very much.

Please, if we can welcome them.

P. Alexis: It's my very first time to actually have someone come from home and join me here today, so I'm very, very happy to see my CA, my constituency assistant, Seamus Heffernan. I can't thank him enough for his grace and his guidance every single day that we've been together.

Welcome, Seamus. Thank you so much for being you, and without both of you — I'm missing one — I'm nothing. So thank you so much.

Hon. B. Ma: I'm so thrilled to hear from the member for Maple Ridge–Mission that his constituency assistant, Alysa Huppler-Poliak, is here in the House, because she is also very important to me as well. She and her partner have been two of my most devoted volunteers. She lives in Vancouver, works in Maple Ridge, volunteers in North Vancouver. The whole region benefits from her brilliant smile and her energy and her devotion to making life better for British Columbians.

Would the House please join me, again, in welcoming Alysa to the House.

M. Bernier: It's an absolute honour to introduce some people to this House today that are here to ensure that their voices are also heard around autism funding and the importance for their families.

Please welcome to the House Lama Alsaafin, Rozann Pedersen and Deborah Antifaev. Please welcome them to the House.

Hon. S. Malcolmson: Just a week into my minister's office, our new administrative assistant, Erica Greenup, has already had a big impact. She is helping me in the Ministry of Mental Health and Addictions.

Will the House please welcome her, her first time in question period.

[1:45 p.m.]

R. Merrifield: I, too, have the pleasure of introducing some parents, service providers and advocates for autistic children today. I've got Shivaun Martz, Cason Martz, Mira Martz and Hazel Martz.

Would the House please join me in welcoming them today.

G. Kyllo: As I've shared with this House previously, I do have four beautiful daughters, but I do have one godson. I'm very proud to be able to introduce to the House my godson, Gabe Davis. He's down visiting from the great state of Alaska, but he is a diehard Canadian, just in case there's any concern there.

Would the House please welcome Gabe Davis to the House.

S. Furstenau: I'm pleased to introduce a group of friends who are up in the gallery today: Pam and Richard Demontigny; Pat Nichols; Dev Percey; Nick Dickinson-Wilde; Waterfall Good; Vaalea Darke; Derek Pinto; Mark Neufeld; and a dear old friend of mine from 28 years ago — I actually met her when I was pregnant with my first baby — Anke Van Leeuwen.

Please make them feel welcome.

T. Halford: I'd like to introduce four of my constituents today who have made the trek over to the Legislature to advocate for their children and their siblings: Roxanne Black, Brad Black, Ben Black. I'd like to lastly point out Ella Black, who today spoke out on the front steps of the Legislature and passionately advocated for her siblings.

I ask the House to please make them welcome.

A. Olsen: Today I have the honour of welcoming Catherine Nash here to the viewers gallery. Catherine is the mother of the late Darwyn Danesh, whose plight struggling for services to support him through the challenges he had with autism and other conditions were made light through an editorial written by his father, Dr. Roshan Danesh, Catherine's partner.

Could the House please make them feel welcome.

T. Stone: I just wanted to take a moment to pay tribute to a very special person in my life. Today is my dad's 80th birthday. He's probably one of the ten people that are watching the proceedings at home these days, faithfully.

My dad was born in Yorkton, Saskatchewan, back in 1941. He met my mom in Regina in 1966. They made their

way to Vancouver in 1967. My dad was quick to join the Vancouver fire department in 1968 and was a firefighter until we moved to Kamloops in the early 1980s. To this day, he's a diehard Roughriders fan. His blood is green, he says, unless the Roughriders get knocked out of the playoffs. Then he quickly switches allegiance to the Lions. So he has both baseball caps.

An avid fisherman. He's lived a great life. He always been there for myself, my sister and my brother — obviously, my mother as well. Just a typical dad in the sense of just being such a grounding influence that teaches you that right from wrong and, at the end of the day, when you make decisions and you decide to do things, just do what's right. I really learned that from my dad.

He's a very good man. A great sense of humour. Lots of integrity. Always has put his family first. I'm very, very lucky to call him my dad.

I'd ask the House to please make Ken Graham Stone, my dad, feel very special today and wish him a happy birthday on his 80th birthday.

G. Kyllo: I'm very proud to rise and to introduce two constituents to the House today, who've made it all the way down from the Shuswap to advocate for funding for autism. That is Mark Avery and Ryan Avery.

Would the House please make them feel very welcome.

[1:50 p.m.]

Statements
(Standing Order 25B)

MULTICULTURALISM IN RICHMOND

H. Yao: I rise today to welcome my colleagues to join me in celebrating Multiculturalism Week and how multiculturalism has strengthened Richmond.

Let us start with food. Richmond South Centre is one of the physically smallest ridings in B.C., yet in this tiny riding, we can all enjoy the taste of different cuisines. Here are some examples.

For dim sum, there is Sea Fortune, Royal Seafood and Golden Paramount Seafood Restaurant.

For Cantonese-style dining, there is Redbud Café, Master Hung BBQ and Wing Kee.

For Taiwanese, there is Potelicious, Bubble Waffle Café and Chatime Richmond.

For Japanese, there is Sushi Aria, Kiriri Japanese Cuisine, Otaru and Pokey Okey.

Vietnamese, Pho Lan Beef.

Malaysian, John 3:16.

Filipino, Kumare.

Afghan, Chopan Bakery and Diner.

Indian, Ginger Indian Cuisine.

Korean, Daan Korean Cuisine.

Middle Eastern, Uncle Sal's Shawarma.

And many more in the small riding of Richmond South Centre. This is the reason why I can't seem to lose weight in Richmond.

In other parts of Richmond, located in my colleague's riding of Richmond-Queensborough, we have the No. 5 Road, also known as the pathway to heaven. It is called the pathway to heaven because there are so many faith-based institutions on one street. There is Islamic Academy, Christian churches, the Sikh cultural society, Tibetan monasteries, a Buddhist temple, a Jewish school, a Hindu temple and many more.

Of course, we cannot forget the crown jewel of Richmond-Steveston, the Steveston village, located in my colleague for Richmond-Steveston's riding as well. It is the best place for anyone to experience Richmond's history and heritage.

Of course, we can also not forget about Richmond North Centre. It has the most diverse supermarkets where different cultural groceries, snacks, supplies and artwork can be found. It is also Richmond's economic hub.

The Richmond mosaic is truly Canada's gateway to the Pacific. Every unique business, cultural tradition and innovation strengthens our society.

Multiculturalism doesn't just strengthen our economy but also helps us appreciate inclusion, diversity and self-determination.

CHILDREN WITH SUPPORT NEEDS

K. Kirkpatrick: The powerful words "Nothing about us without us" communicates the principle that no decision should be made without the full participation of the people affected by that policy.

When it comes to the well-being and the care of children, especially children with support needs, parents should be — they must be — directly involved. The autism community, often marginalized and vulnerable, have been struggling, but thankfully, they've found comfort in their access to the autism funding currently in place to pay for supports, such as certified behavioural analysts, occupational therapists, to help promote skill development for their children. In most cases, it involves spending a long time to vet and hire the right service team, and it can take time for their children to build trust and familiarity.

Unfortunately, these long and well-established relationships and resources are on the verge of being taken away and replaced by a one-size-fits-all model that families and experts say simply will not work. All children in this province, all children with support needs, deserve to have the specialized care that they deserve.

We must understand the profound impacts these sweeping changes will bring, as transitioning is one of the most difficult things for children with autism.

Mr. Speaker: Member, the statement. Keep it non-partisan, please.

K. Kirkpatrick: Sorry, Mr. Speaker. I will just finish for you.

My thanks and appreciation for the hard work that these families, organizations and service providers have done to bring their important concerns to this House where all of our jobs are to represent them.

ACTIVISM AGAINST GENDER-BASED VIOLENCE

B. Anderson: Tomorrow starts 16 days of action to end gender-based violence. I want to speak to survivors and people experiencing gender-based violence now. What I want you to know is that you are not alone. What you have gone through has been tremendously difficult. The fact that you get up every day and function in society is a testament to your perseverance.

Saturday marked the annual Transgender Day of Remembrance, a day for remembering and mourning transgender, non-binary and two-spirit people murdered each year for being who they are. I want all people, of course including transgender people, in my community to know I am here for them as their representative.

[1:55 p.m.]

I want to tell a personal story about a friend. When I was a teenager, I made a friend at work, Jay. They were super funny and witty and great to be around. We both moved on from those jobs and lost touch.

A few years later I bumped into them. Immediately, we launched into a conversation, and it was clear that my friend had been through a lot. They had faced rigorous cancer but were currently in remission.

At the end of our conversation, my friend asked: "Are you really not going to say anything?" And I said: "What? What would you like me to ask?" And they said: "Well, can't you tell I'm a man now?" And I said: "Yeah, of course, and I think it's great, and I'm so happy that you're able to be who you are and show the world that you're a man."

My friend had almost died of cancer, but as a transgendered person, they were worried that I was going to judge them when they showed me and the rest of the world their true selves, a man.

Please help keep my dear friend safe. Let's cultivate a society of compassion so people like my friend Jay, who also happens to be a distant cousin, can thrive.

MATERNAL HEALTH AND KITTY CARR FUND

R. Merrifield: Mr. Paul Carr is a resident in my riding, and recently he told me his personal story of how his daughter was born.

Twenty-seven years ago he and his wife drove to the hospital, excited and prepared, but nothing could have prepared him for that day. His daughter was born at 4:20 p.m. on New Year's Eve, but his wife passed away from complications just four hours later. He described his shock and devastation and how he went home with his baby girl to read baby books in one hand while parenting his daughter in the other.

As traumatic as this was, his sole focus after grieving was to care for his daughter, but now he finds himself with a renewed focus that was birthed out of this painful experience. Paul Carr devoted his free time to studying maternal mortality and actively pursue ways to contribute to get Canada out of 39th place in the world. Learning that the Society of Obstetricians and Gynaecologists of Canada, alongside the Canadian Foundation for Women's Health, needed help, Paul began to bring this work to fruition, and this last week the dream became a reality.

Along with the CFWH, Paul launched the Kitty Carr fund, named after his late wife, to support the creation and implementation of a confidential inquiry system in Canada. It will support research, education and initiatives to improve access to the highest quality of obstetric care to improve outcomes for mothers, their babies and their families.

Dr. Popadiuk, chair of the CFWH, stated: "There is nothing more unexpected or tragic for a family than losing a mother in childbirth. Mr. Carr so poignantly has shared his family's personal tragedy and wants to see something positive come of it for Canadian mothers."

We are so thankful for Mr. Carr for his steadfast support to help us begin this journey to eliminate preventable maternal death in Canada.

We owe it to the families left behind to learn from each other and every maternal death and prevent them from happening again in the future. And we can do it.

MAPLE RIDGE–PITT MEADOWS–KATZIE COMMUNITY NETWORK

B. D'Eith: Lately we've really come to understand the importance of cooperation in our communities. We are stronger together. And today I'd like to celebrate the Maple Ridge–Pitt Meadows–Katzie Community Network.

This network was established in the 1990s and is made up of service providers, not-for-profits, local and provincial government reps and business and community members, and they all work together to build a stronger society. Today there are over 80 different organizations that participate in the network, so it's impossible for me to name them all today, but they've accomplished so much together.

Now, the meetings allow participants to learn more about each other and what's happening in the community. A huge shout-out to Brenna Ayliffe, who's recently finished her amazing term as chair. The network also provides a structure for organizations of similar populations to come together and work together.

Working groups of the network include the Ridge Meadows Community Children's Table, which is coordin-

ated by Roberta O'Brien; the community literacy committee, which is coordinated by Elaine Yamamoto; Golden Ears FEAST, which is coordinated by the amazing Candace Gordon; and the local immigration partnership team, coordinated by Carolina Echeverri.

[2:00 p.m.]

Another group led by Kim Dumore, Stop Overdose Ridge Meadows Community Action Team, brings together service providers, government reps and those with lived experience to really come up with solutions that work in a local environment. This approach has been adopted right across the province, and we're really proud of that.

The also active and passionate Seniors Network group, which is headed up by Heather Treleaven, is continually working to make the community more age-friendly and having fun along the way. For example, they have a scooter rodeo where they have seniors that get to try out different mobility devices, which is a lot of fun. Having this community network in place is such a positive impact in our community.

By working together, the participants of the network are contributing to the sustainability of Maple Ridge, Pitt Meadows and Katzie communities.

PARENTING

J. Tegart:

I have a special secret that I'd like to share today.
I'm going to give some little hints and require you all to play.
The first question that I have to ask — raise your hand if this is you:
A parent of a girl or a boy, maybe more than just a few.

How many parents?

I myself first had a girl, shortly followed by a son,
But God said, "Go forth and multiply,"
And, wow, those twins were fun.
We guided them through childhood. Hockey, music and dance became our life.
School plays, mud pies and playdates — our life was full of spice.
Then came those challenging teenage years,
where 'good morning' becomes a grunt.
The clothes, the hair, the attitudes,
Boyfriends, girlfriends — the eternal hunt.
Here comes a second hint I have, as this story has been told.

Raise your hand if you've had the thrill of grandchildren joining the fold.

The day that first grandchild is born,
Your perspective of life is changed.
The hugs, the snuggles, the baby smells,
Your future is now arranged.
A nana of nine, plus three who have joined,
Our family continues to grow.
When we come back to this place,
Perhaps we can all bring some pictures to show.
Shhh, here it comes — the secret.
"The secret — what is it?" you say.
The next title I wear when I return to this House,
Great-grandma, I'm proud to say.

[Applause.]

I assure you, I was a child bride.

Special congratulations to my granddaughter Morgan, and Gavin, and new grandparents Lisa and Travis, Scott and Natalie.

Oral Questions

SERVICE MODEL CHANGE FOR CHILDREN WITH SUPPORT NEEDS

S. Bond: Well, anybody who spent a few minutes outside today knows that it was chilly, with rain threatening. But it didn't stop hundreds of parents. The Legislature lawn was filled today with families who wanted to make sure that every single MLA in this Legislature heard their stories. It was that important to them.

Some of those families are in the gallery today, including Rozann Pedersen, the parent of two children on the autism spectrum who are thriving under the current system. She points out that waitlists in Ontario have doubled with the introduction of a hub model. Dione Costanzo's son has received individualized support for 15 years, and she worries that the hub model will be "a disaster."

Ella Black is 12 years old, and she has a question on behalf of her autistic brother. She's here today, and she asks: "Why are you taking away the only treatment that helps him and many others?"

[2:05 p.m.]

Thousands of families across this province have been asking the same questions as Ella. Ella came here today to get an answer from this minister, so today I'm hoping the minister will do the right thing.

Can she explain to Ella why she has decided to dismantle a system that is working for Ella's brother and thousands of children like him across the province?

Hon. M. Dean: Thank you to Ella for being here today. I do understand the concerns of families who currently have successful packages of services for their children with autism. I do want to reassure them and all British Columbians that services will continue to be provided to those children. We will work in partnership with parents to make sure that the unique needs of all of these children are met and will be met.

Children and youth who have a diagnosis of autism will receive services, so will children and youth with other diagnoses who are currently left behind. Children and youth who are waiting for a diagnosis of autism can receive services rather than waiting for that diagnosis. Services will be delivered through an accessible, culturally safe one-stop point of access, based on the unique needs of each of the children and youth.

Mr. Speaker: Leader of the Official Opposition, supplemental.

S. Bond: The minister knows that what she says simply doesn't address the concerns of the parents that are here

today on behalf of families across British Columbia. The minister knows that.

Let's be perfectly clear. Neither those families, the opposition, the leader of the Green Party — no one — has said that there isn't a need to support other families in British Columbia. But what we have said, and parents have said with loud voices, including on the Legislature lawn today, is that there is no need to dismantle a model that is working. Instead, the minister could choose to build on it. It's not a case of either-or for families in British Columbia, and she knows it.

It's time for the minister to recognize the distress, the anxiety and the fear that the announcement…. Blindsided parents across this province.

Perhaps the member for Vernon-Monashee will recognize this story. It's Becky Buff from Vernon, who wants her MLA to know what she has to say. She said: "Your announcement brought me to tears. I am terrified that what you propose with this new system will uproot our already fragile and delicate day-to-day life. I am begging you to reconsider. Please don't take this away from us." I am certainly hoping that the MLA for Vernon-Monashee is speaking to the minister to say: "My constituent is asking you to listen."

Will the minister do the right thing? It's not an unreasonable ask. Press the pause button. Consult in a way that should have taken place long before now. On behalf of the parents that are here today and across this province, please, we're asking the minister to do the right thing.

Hon. M. Dean: It is really important to listen to families. Parents are experts in the lives of their children. And of course, parents who have children with support needs have been very powerful advocates for them.

In 2019, we started a consultation process. We spoke to thousands of people — advocates, service providers, families. We were gathering information and hearing stories of how the patchwork of programs doesn't serve people well.

Then the pandemic hit, and I understand that people pivoted. Services and families were just surviving. But we also saw even further weaknesses in the patchwork and the way of delivering some services to some families.

For over ten years, we've been hearing from the Representative for Children and Youth, as well, who also has been listening to families. Today she issued a statement. She says: "The current CYSN system does not work for many children with support needs and their families and must be transformed. All children and youth with support needs deserve access to equitable, timely, culturally attuned and community-based care, resources and supports." That is what we are doing.

[2:10 p.m.]

SERVICE MODEL CHANGE FOR CHILDREN WITH SUPPORT NEEDS AND SERVICES FOR INDIGENOUS CHILDREN

K. Kirkpatrick: The Representative for Children and Youth certainly had some recommendation in terms of what has to happen with the CYSN framework, but nobody recommended clawing back individualized funding. The minister completely ignores the recommendations that were made, such as increasing service provider capacity, addressing wait-lists for services and assessments and supporting diverse delivery options with family choice.

For weeks now, families and advocates have been begging and pleading with the NDP government to stop this clawback, yet they believe government is not listening and that their MLAs are not listening. Now the First Nations Leadership Council calls it "a significant step backwards, and one which we wholly reject. Like thousands of families across B.C., we unequivocally reiterate that you must stop the rollout of your planned hub model."

Will the minister listen to Indigenous voices and stop the clawback?

Hon. M. Dean: We know, actually, that in the current patchwork of programming, Indigenous children and youth are underserved. We know that under the current patchwork of programming, many children get left behind, especially Indigenous children and youth. Our government is committed to building a culturally safe, trauma-informed, accessible system — a system of supports that will wrap around each unique child.

We have been consistently engaging with the First Nations Leadership Council, and we will continue to meet with Indigenous leaders and rights and title holders. This week I was at an engagement session hosted by FNLC and have started that conversation with rights and title holders, because we need to have that ongoing engagement and discussion so that we can deliver services for their children and youth in the way that they want.

Mr. Speaker: West Vancouver–Capilano, supplemental.

K. Kirkpatrick: I'm not sure that the minister has read the letter which was recently delivered to her and shared with all members here, from the First Nations Leadership Council. I'll quote from it.

These are their words: "It is bewildering to us that in 2021, given the understanding of the legacy of residential schools, you could dream up any proposal that involves increasing the role and responsibility of MCFD."

Not in my words; the words of the First Nations Leadership Council. Not only that, but "your hub model will result in deepening the racism and discrimination our children face."

What does the minister have to say to the First Nations Leadership Council?

Hon. M. Dean: Hon. Speaker, we're putting children and youth at the centre of this work, and we are recognizing that Indigenous children and youth have been underserved for far too long. We've started to engage with Indigenous rights and title holders, and we'll continue that work.

There are many different pathways that Indigenous communities can take. They might want to exercise their jurisdiction. They might want to partner with an Indigenous agency or work with some other kind of partnership of service delivery for their children and youth. We're going to continue that really important work, and we will continue demonstrating our commitment to making sure that we tackle the overrepresentation of Indigenous children and youth in the child welfare system as well.

We've been working with communities. We've changed provincial legislation. We've increased the funding to support out-of-care placements so that children and youth can stay connected to family, to community and to culture. There's a lot more work to do, but we are committed to doing that in this area, serving children and youth with support needs, as well as other areas of need.

INDIGENOUS GOVERNANCE AND WORK OF B.C. GOVERNMENT WITH WET'SUWET'EN NATION

A. Olsen: On Monday, the Minister of Indigenous Relations and Reconciliation thought my rhetoric was "harsh and unhelpful." He blamed the disunity in the Wet'suwet'en territory on the Wet'suwet'en people, even though the disunity is rooted in the actions of this Crown government over decades.

[2:15 p.m.]

The people in this House know that they've amplified the chaos created by the Indian Act, that has wholly disrupted Indigenous governance structures that took good care of domestic and international affairs. The minister said on Monday: "There has been — it's no secret — conflict between the elected and hereditary system. But we continue to do this historic work." Historic work. What historic work? Manipulating boundary disputes that were created by the modern treaty process to further divide and conquer in this colonial project?

It's unhelpful that the minister scapegoats Indigenous people for the divisions that this Crown government policy deliberately created in our communities. The minister knows, like all the ministers before him, Indigenous people divided against each other are challenged to be united to do the real historic work: reconciling the history of Crown-Indigenous relations.

My question is to the Minister of Indigenous Relations and Reconciliation. From his perspective, has the historic work in the Wet'suwet'en territory been successful?

Hon. M. Farnworth: I thank the member for the question. I think all of us know that the work around reconciliation is difficult and challenging, but I can tell him that every minister in this government, every member of this government has been actively working to ensure that we are able to work to resolve the challenges that we face, whether it's with Wet'suwet'en or other Indigenous nations around this province.

It is why we introduced and unanimously passed in this House the United Nations declaration of Indigenous peoples legislation, which is a foundation in terms of reconciliation. We know that there are challenges. They are long-standing. But I think all of us in this House are committed to resolving them.

Mr. Speaker: Member for Saanich North and the Islands, supplemental.

A. Olsen: What we've actually seen is basically a throwback to the 19th century. The minister and this government continue to advance and defend a resource-colony mentality.

It was the Minister of Indigenous Relations in the 1990s who, when he was the provincial negotiator, suggested that we'd want to leverage residential school healing funds to "sweeten the deal" for Indigenous nations to sign these rights-extinguishing treaties.

As we are talking about this right now, as I'm asking this question, fully armed, militarized RCMP are rolling into the Wet'suwet'en to do exactly what they have always done on behalf of the political and corporate leaders of British Columbia: clear the land of Indigenous people.

This government is still acting like that 19th century resource colony. The Minister of Indigenous Relations is okay, apparently, with us utilizing an injunction process that has elevated a corporation's potential economic losses over Indigenous rights. It's deliberate. This province has always used the RCMP to protect corporate interests. On Monday, it was the minister who was offended by me raising these questions.

To the Minister of Indigenous Relations and Reconciliation, same question that I asked in my first question. From his perspective, has the historic work in the Wet'suwet'en territory that he talked about on Monday been successful?

Hon. M. Farnworth: I thank the member for the question, and I will reiterate the answer that this House, this government, is committed to reconciliation. This House, this government, is committed to ensuring the implementation of the rights of Indigenous people through that legislation. It's also about bringing together unity, which the

Minister of Indigenous Relations and Reconciliation has spoken about in this House.

It's why we have provided funding to help resolve some of the issues, the challenges, that the Wet'suwet'en are facing between the elected and the Hereditary. We are continuing that work and will continue that work. I'd remind the member that this takes place in the context of courts that have a role, of this House that has a role.

As I said when I got up, this government is committed to that work, and that work is going to continue.

[2:20 p.m.]

SERVICE MODEL CHANGE FOR CHILDREN WITH SUPPORT NEEDS

P. Milobar: Earlier we heard the minister quote a statement from the Representative for Children and Youth. I'm not sure if she was reading from the same statement that came out today for immediate release or not, but let's take another look at that.

It also says: "Sadly, the announcement has resulted in uncertainty, fear, anxiety and stress for many families." It also says: "It is time to take a step back…."

Parents are rightly worried about this minister's just-trust-me attitude. A government document shows the government has zero plans to increase resources for children with diverse needs. In fact, it says: "Based on the ministry's research, the current complement of professionals will make up the professionals in the new system." The government is not even planning on adding any more professionals.

This is what the Speech and Hearing B.C. people have to say: "We are concerned with the NDP government's response that suggests there are enough skilled professionals to meet the demand for service in these new hubs."

How can the minister possibly tell parents in the gallery and on the front lawn today that not only are there already enough service providers but that the system can handle up to 10,000 more children into it, all at once?

Hon. M. Dean: What the representative says is it's time to "step back to address the uncertainty and fears and ensure clear information is available to families and advocates, while not losing sight of the need to build a much better system of care" for children and youth with support needs.

I have heard from a lot of families, and I understand that there is concern and anxiety in the community. Starting from Monday next week, there are lots of engagement sessions for families and for service providers to be having conversations with ministry staff to hear and understand more detail about what the new system will look like.

It's going to be delivered by community, for community, in community. We're going to be having those conversations to make sure that we're delivering a safety net, a system of supports that's based on needs, so children and youth in their community will be able to access services — and in a timely way, so that they're not held back, waiting for a diagnosis.

As soon as a parent has a concern for their child — or an elder in the community or a teacher at kindergarten — that child will be able to access services. Their unique needs will be identified, and a team of multidisciplinary professionals, as required, will be wrapped around to deliver services, in partnership with those parents, in order to help that unique child achieve their goals.

SERVICE MODEL CHANGE FOR CHILDREN WITH SUPPORT NEEDS AND TRAINING FOR SERVICE PROVIDERS

C. Oakes: Wendy Duke is a speech language pathologist. She says that the government actually didn't consult with practitioners prior to this announcement.

She says: "Given the shortage of therapists in this province, where the heck is this government going to come up with the probably hundreds of clinicians needed for these programs? They're not going to get that resolved in three years."

Will the Minister of Advanced Education outline what she is doing today to increase the seats and training needed to meet the impacts of her government's changes?

Hon. M. Dean: Thank you to the member for the question. I appreciate that there are some highly professional service providers out there, across the whole of our province. I want to thank them for all the work that they're doing. I've met with many of them as well, and I've been hearing from them.

Many service providers actually already deliver services to children and youth pre-diagnosis because they are being presented with needs. They're telling us that they are looking forward to building capacity. They can see how a multidisciplinary team approach is successful for families. They're excited that, in their community, they're going to see a pathway forward of building capacity and building services.

Again, the statement made by the Representative for Children and Youth today….

Interjections.

Mr. Speaker: Members, let her answer.

[2:25 p.m.]

Hon. M. Dean: She says:

> "As B.C.'s Representative for Children and Youth, I have long been calling for a fundamental shift in the CYSN system…. I am in favour of the long-term direction as laid out by Minister Dean.
>
> "In particular, I support the shift towards a needs-based rather than a diagnostically driven CYSN system. This shift will enable children to receive timely supports based on assessed developmental needs even before they receive a diagnosis, which currently

can take many years. I also support the intention to enhance community-based access to a diverse array of care and supports, from infancy through to young adulthood."

And that's what we're doing, hon. Speaker.

SERVICE MODEL CHANGE FOR CHILDREN WITH SUPPORT NEEDS AND ROLE OF COMMUNITY LIVING B.C.

D. Davies: Hopefully, I get an answer to my question this afternoon.

Katie McCready is the parent of an older child with autism here in Victoria. She says that her child's conditions do not disappear at 18 years old. Parents now have no idea what is going to happen as their children grow older without new resources in place.

The big question mark is: what will happen to youth th diverse needs who age out of the Ministry of Children and Families and move into the care of Community Living B.C. under the Minister of Social Development?

With the Minister of Children and Families' ill-thought-out plan, we've heard nothing from the Minister of Social Development.

Can the Minister of Social Development tell concerned parents, like Katie, what changes he has made to accommodate the new pressures that will be put on CLBC?

Hon. M. Dean: We're putting children and youth at the centre of this system that we're building. We know that there is a patchwork of programming that is leaving too many children behind. So what we're doing is we're making sure that children and youth with support needs…. As soon as an issue is identified, they'll be able to receive services.

Now, the question of a diagnosis is…. It can be a good tool. It can be a useful tool. But children shouldn't have services locked away from them whilst they're waiting for a diagnosis. That is too much of a critical time in a child's life, hon. Speaker.

Children will still be able to access a diagnosis….

Interjections.

Mr. Speaker: Members. Members, let the minister answer, please.

It's okay. No argument with the Chair.

Minister will continue.

Hon. M. Dean: The development of this system that's going to better serve children and youth across British Columbia does not have an impact further down the line on services as it does….

Children and youth will continue to be supported as they are in the current system. Children and youth will continue to be supported by support workers from our ministry to make sure that a transition into another system is successful.

SERVICE MODEL CHANGE FOR CHILDREN WITH SUPPORT NEEDS

J. Tegart: Well, Mr. Speaker, I'm hoping that I can get an answer.

Families have been begging and pleading with NDP MLAs to end their callous clawback, but the NDP are not listening or even responding to their emails.

Tanya Kemp is a constituent of the Finance Minister. She says: "What is it going to take for you to listen to the real people whose lives are affected? I no longer trust that parents will be heard by the NDP government. It's like speaking to robots."

Will the minister finally listen to tens of thousands of parents, including those here protesting today, and end her clawback?

Hon. M. Dean: It is really important to be listening to families. All the way in the journey of supporting and serving children and youth, we will always continue to listen with, work with, partner with families.

We started our consultation with families in 2019. Then the pandemic hit, and we saw in 2020, even more woefully, the inadequacy of the way that programming was delivered. We are continuing our engagement with families. There are engagement sessions that families are able to take part in, starting on Monday next week. As we roll out the early implementation areas, we'll also be doing evaluations and hearing from families as well.

[2:30 p.m.]

I just want to restate our commitment. Children and youth who need services will receive services. They will receive them based on their needs and in a timely way. That includes children who currently receive services, and it will include children who are left behind, currently, as well. It will include children who might be waiting for a diagnosis, but it means that they will get services earlier.

S. Cadieux: Nicole Kaler is here from Surrey. She's worried — really worried — about the minister's decision to claw back funding for individualized autism programs, and she has an added worry.

As a Black woman, she's worried that the hub will exacerbate the bias and discrimination that many feel when interacting with the provincial government. Having the ability to put her child's interests first, she has created a system that works for the family in a culturally sensitive way.

Can the minister explain to Nicole how the hub system can possibly know her child's needs better than she does?

Hon. M. Dean: It is absolutely vital that we put children and youth at the centre of our service provision, and we

will make sure that the unique needs of all children and youth are recognized in the system. That includes all personal and unique lived experiences and identity as well.

The member's asked, earlier on, about Indigenous children and youth, so we will absolutely make sure, as I've said, that we are going to create an Indigenous pathway for services to be delivered in Indigenous communities in ways that Indigenous communities want those services to be delivered.

Again, the Representative for Children and Youth said today: "If we as a society are going to meet the call of article 23 of the UN convention on the rights of the child, which speaks to the rights of all children and youth with special needs to access care and support and live a life of dignity, belonging and connection, then the current system needs to be transformed." We're following the recommendations of the representative.

U.S. TARIFFS ON SOFTWOOD LUMBER

M. de Jong: More bad news today for forest-dependent families, forest-dependent communities in B.C. The U.S. Department of Commerce has released its final determination on the duties being imposed on B.C. lumber exports, softwood lumber exports, to the U.S. Starting next week, the combined countervail anti-dumping duty will double — double — to 18 percent.

What's that going to do? Access to the U.S. market is going to become that much more difficult. Large producers here in B.C. are, undoubtedly, going to shift production from B.C. mills to American-based operations, and more B.C. workers are going to be put out of work.

The government was warned back in May. They were warned in May that this was going to happen, and they've done nothing to prevent it. In fact, you can say they've made it worse by introducing their own set of policies that they know and admit will cost thousands of jobs in the B.C. forest sector.

Will the minister confirm today, now, that the American tariffs are doubling, will she explain why her government has done nothing to secure a negotiated settlement to this long-standing trade dispute, and will she tell the House how many more forestry jobs are going to be lost in addition to the thousands of jobs that will be lost because of her own misguided policies?

Hon. K. Conroy: I thank the member for the question.

We are committed to defending our forest industry against unfair and illegal tariffs. Our government continues to engage with our counterparts in Ottawa and Washington to fight for a fair deal for workers, industry and communities.

In fact, my colleague, the Minister of Jobs, has met with Canadian and American officials responsible for international trade to discuss this very issue. Alongside our federal partners, we will fight these unjustified duties through the dispute settlement process available to us.

[2:35 p.m.]

Separately, we recognize the boom-and-bust cycle of the past has hurt communities. That's why our new vision for forestry focuses on long-term, innovative jobs like made-in-B.C. wood products, so communities can thrive for generations to come.

Interjections.

Mr. Speaker: Members.

Hon. K. Conroy: We're supporting workers. We're supporting communities to overcome the challenges of the sector.

Interjections.

Mr. Speaker: Members will come to order. Order. Order.

The minister will continue.

Hon. K. Conroy: Resolving the softwood lumber dispute is a top priority for our government. The members might think this is funny, but they did nothing. They did nothing under their watch.

Interjections.

Mr. Speaker: Members. Members.

Hon. K. Conroy: The U.S. Department of Commerce has dragged out this dispute and imposed unfair and unfounded duties on Canadian softwood exports. Our forest policies are trade compliant, and we will continue to defend the tens of thousands of British Columbians who rely on the forest sector for their livelihood.

Interjections.

Mr. Speaker: Members.

Interjections.

Mr. Speaker: Member for Abbotsford West. The member for Abbotsford West will come to order now.

The minister will continue.

Hon. K. Conroy: In partnership with the federal government, we will fight these unjustified duties through the dispute settlement process that is available to us. In addition, our government will continue to pursue growth in markets for B.C. wood products, both at home and abroad, by promoting innovation and expanding trade relationships with global markets.

As part of our new vision for forestry, we are already working with the sector, including workers, communities, First Nations and industry, to ensure that it remains competitive now and into the future, unlike those members.

[End of question period.]

T. Halford: I seek leave to present a petition.

Mr. Speaker: Proceed, Member.

Petitions

T. Halford: I present a petition signed by over 19,000 concerned parents and advocates, some of whom are in the gallery today, calling for the Minister of Children and Family Development to end the clawback of individualized funding for autism and protect other important services. I present this petition on behalf of its organizer, Jen Biddlecombe.

Orders of the Day

Hon. M. Farnworth: In this chamber, I call Committee of the Whole, Bill 28, Forest Amendment Act.

In the Douglas Fir Room, Section A, I call continued committee for Bill 22, the FOIPPA amendment act.

[2:40 p.m.]

Committee of the Whole House

BILL 28 — FOREST AMENDMENT ACT, 2021

The House in Committee of the Whole (Section B) on Bill 28; S. Chandra Herbert in the chair.

The committee met at 2:41 p.m.

The Chair: All right, Members. I think we're ready to get going on the committee stage of Bill 28, Forest Amendment Act, 2021.

Would the minister like to start with an opening statement?

J. Rustad: I'm wondering if we have quorum.

The Chair: We do. Thank you, Member.

On clause 1.

J. Rustad: I thought that you were going to the minister so that she could introduce her staff for the bill, but that's okay. Perhaps I'll start, then, with a more general question on Bill 28. Bill 28 is a rather lengthy bill that obviously goes across a wide range of topics. I'm just wondering if the minister could provide a brief explanation of the intention behind this bill.

Hon. K. Conroy: Right now, with me I have Jordan Goss, the ADM for the Minister of Finance, and Tonya Young, the manager of the income tax taxation branch from the Ministry of Finance. The first few sections of this bill are all around the Ministry of Finance issues, so we were hoping that the member would be starting with those bills and keeping to the bill as we process through it.

The purpose of the Forest Amendment Act. It's being proposed to ensure that government has the tools to support a diverse and competitive forest sector and reconciliation with Indigenous nations and to set out clear and fair compensation rules, where timber harvesting rights are impacted.

The key changes include amendments and establishing a new legislative tool called "special purpose area" that will enable the government to take timber volume from a designated area of Crown land for an access purpose, non-timber production purpose or other defined special purposes, such as redistributing the timber harvesting rights to First Nations communities in B.C. timber sales to support the market pricing system.

[2:45 p.m.]

Amendments make changes to the process, where the allowable annual cut of forest licensees are reduced in a timber supply area.

The amendments allow licensees' volumes to be grouped to ensure that those who control more volume carry a greater proportion of the reduction. Changes set out clear and fair rules for compensation where a licensee's harvesting rights have been impacted. Compensation will be based on the net income that the minister determines would be earned on the sale of harvested timber from when the licensee's rights are impacted for the remaining term of the licence.

Amendments will require area-based tenure holders to maintain and share inventory information with the chief forester to ensure that the province has complete, current and accurate information to support planning and decision-making. This will result in better forest management decisions on provincial lands to support forest sustainability.

Why are we introducing this new forest act right now? These amendments are intended to be the first step in modernizing the forestry framework. It's a continuation of our intentions paper that we announced this spring. The amendments allow for the government to support meaningful reconciliation with Indigenous nations where there are currently increased pressures on the province's available timber supply due, in part, to the beetle epidemic and wildfires.

Clear and fair compensation rules are intended to protect British Columbians, as taxpayers, from windfall settlements while providing certainty to forest tenure holders.

J. Rustad: I did not get an opportunity, in advance, to ask the minister about…. This is why I asked a general question at the beginning, which has been the practice as we have gone through a number of pieces of legislation, between the minister and I. I'm wondering if the minister would be willing to allow some latitude for some general questions at the start of this, with regards to the overall bill, or whether she wants to insist on going section by section.

Hon. K. Conroy: I'd like to go section by section, because the Ministry of Finance staff do not have to be here for the entire bill.

I'd also like to introduce my associate deputy minister, Melissa Sanderson, who is joining us as well.

J. Rustad: It is unfortunate, as the bill does go across many things, including the financial side of the bill, but there's also implications — financial implications — throughout the entire bill in terms of the structure and the events done. Hence, why I thought it might be acceptable to be able to have some more general questions.

Maybe I will ask this question and see if the minister is willing to entertain this question. Part of this is because of the jamming of time that we have in terms of our ability to actually be able to go through this bill, due to closure.

What I'm wondering is…. With regards to the components that are in this bill, whether it's the financial components, whether it is the redistribution and the components of compensation for that redistribution or whether it is the special purpose areas, has there been a financial analysis as well as a supply analysis on the impact of this bill to the forest sector and to the people involved in the forest sector?

Hon. K. Conroy: Just for clarity, which section is the member referring to?

J. Rustad: As I said in my statement, the question actually relates to the entire bill as opposed to individual sections, because there are components associated both in the first section of the bill, which talks about fees-in-lieu, as well as going on to the other components, including the redistribution of fibre due to reductions, the compensation formula associated with that, as well as going into the special purpose areas and potential impacts of that. That is why I'm asking this from a general nature, across the entire bill, while there's an opportunity for all staff to be able to be present to give the minister advice.

[2:50 p.m.]

Hon. K. Conroy: The government doesn't expect that there will be direct economic impacts of the amendments to Indigenous nations or stakeholders. The intention is that redistribution of forestry tenure and diversification of the forest industry will lead to a more robust and resilient economy for the province of B.C. When a special purpose area is being considered, the direct economic impacts would be considered by cabinet and Treasury Board.

Clauses 1 and 2 approved.

On clause 3.

J. Rustad: We are in the initial component here of this bill in terms of the fee-in-lieu components. I ask this question sort of in this section, although it applies throughout the next number of sections associated with this.

I'm wondering if the minister can provide some examples of fee in lieu. I understand what fee in lieu is, obviously, but the question is for those following along at home, so they have an opportunity to understand what we're talking about, as well as, potentially, some examples that the minister may have come across where there is suspected that fee in lieu has not been paid by companies or individuals.

Hon. K. Conroy: The Forest Act provides for fees to be paid to the government for timber exported under an exemption from the requirement to manufacture timber in British Columbia, and that's what a fee in lieu is. No fee in lieu is due for timber or logs that are not exported. We don't have specific examples at this time.

J. Rustad: Maybe I could ask this question, as well, which once again applies to many of these sections associated with this. I could say this is not so much attached directly to the definitions component.

There's obviously a purpose for bringing in this section, and we will go through in some detail around the components of going in and doing this review or this audit. There must be some concern that the minister has with regard to fee in lieu and, potentially, the non-payment of fee in lieu, for the minister to want to go through, in pretty significant detail, the ability to go in to audit and to collect and/or estimate and/or collect fees, penalties, interest, etc.

[2:55 p.m.]

I'm wondering. Surely, there must be some component or some information that the minister has that suggests that this has not been undertaken, that fees in lieu have not been paid, and therefore there's a need for this kind of oversight to be introduced into this legislation.

Hon. K. Conroy: The Ministry of Finance is currently responsible for administering Part 11.1, which is the inspection, audits and assessments of the Forest Act. That legislation was actually brought in, in 2006. Part 11.1 of the Forest Act relates to audits and assessments in respect of stumpage, which is the amount that the holder of a timber licence must pay to the government for timber that is cut under the licence and scale. So the amendments to the Forest Act are required to allow the Minister of Finance to audit and make assessments in respect of the fee in lieu.

The ability to audit is an important compliance and enforcement tool. It helps to promote voluntary compliance and to recover amounts that are not voluntarily reported or are reported incorrectly, which creates a fairer playing field for everyone.

J. Rustad: I appreciate the minister's response. I think the ability for auditing and the need is an important one. But obviously this is…. You know, since 2006, a lot of years have gone by. Surely there must be some examples of where there have been potential problems or identified potential problems to trigger this type of a shift or this type of a change in the act. So once again I ask whether or not there have been some examples or some suspicions that there has not been an appropriate fee in lieu being paid under the circumstances after harvesting.

[3:00 p.m.]

Hon. K. Conroy: We do this with stumpage. We do this with other royalties. This is to ensure a level playing field for everyone.

J. Rustad: My understanding is that the ability to be able to do that sort of assessment is before…. There seems to be a shift here, and the shift is why I'm asking for these questions. I'm just wondering what has led to this or whether or not there was some deficiency. If there was some deficiency in the previous legislation, if the minister could, perhaps, provide that example as to why.

Hon. K. Conroy: As I said, there is no ability to audit within the current legislation. So we're bringing in the ability for the Minister of Finance to audit the fee-in-lieu system to make a fair playing field for everyone.

J. Rustad: I'm wondering if the minister could, perhaps, provide some examples of why it hasn't been fair?

Hon. K. Conroy: Because there's no ability to audit the fee in lieu. For other things like stumpage, taxes, royalties, the Ministry of Finance has the ability to audit all of those.

J. Rustad: Fee in lieu is driven, of course, from wood that's exported, that is not processed. It's a levy that's put in place.

I want to see if the minister could confirm that the fee in lieu is charged based on volume that goes across the scale, that is then adjusted accordingly, due to the formulas, and charged so that, really, that fee in lieu is being driven by information that comes across the weight scale.

Hon. K. Conroy: Yes.

J. Rustad: This is from my own knowledge. I'm not quite 100 percent clear, but wood that is harvested is subject to stumpage. Then there's a fee in lieu put in place on that wood that would then be exported. Can the minister confirm that?

[3:05 p.m.]

Hon. K. Conroy: Joining me, as we are adding staff, is Peter Jacobsen, the executive director of compensation and business analysis, and Tim Bogle, the director of compensation and business analysis.

The answer, which I just wanted to confirm for the member, is yes.

J. Rustad: I'm glad to see we have five professionals helping the minister to respond to that question. I do appreciate the answer, because I wasn't 100 percent sure myself. I assumed that was the answer because all wood that is harvested is, of course, subject to stumpage at varying levels, depending on how it's set and scaled and all the rest of those components.

The minister, I think, has confirmed earlier that the Minister of Finance has the ability to audit wood that is harvested, trees that are harvested for stumpage. There's a process of being able to review to make sure that the wood that is harvested has stumpage that is collected and that the process that can be audited and is audited. We know, therefore, the amount of wood that's being harvested that goes across the scale, that stumpage is collected on…. We know what that amount is.

I wonder if the minister could confirm, as well, that for companies that are simply harvesting, whether they're export or otherwise, there is a record or a reporting as to that wood that is sold, whether that wood is sold to other mills — because, obviously, it would be a flow-through in terms of stumpage, and who would end up paying the stumpage — or whether that that wood is sold to somebody other than a domestic producer.

Hon. K. Conroy: To clarify, which section is the member referring to?

J. Rustad: When I originally started asking the questions around this, this obviously applies to this whole section of 3 through — whatever end it is — I think it is clause 16. But the point of asking this question here, as opposed to at any one specific question, is because this applies to this section. The purpose for asking the question is I'm trying to determine the need for being able to do the audits on fee in lieu when my understanding is, and the question once again to the minister is….

The volume comes in, goes across the scale, and stumpage is collected. My understanding is that companies have to report when they sell that timber or that other companies have to report when the timber is purchased. So we know, roughly, the volume that is harvested, the volume that is sold to companies within British Columbia,

which leaves a net volume that would be potentially exported or that the company may report as being exported.

So the reason I'm asking for that is if we know all of that information, then we would know from that what the fee in lieu would be, because, obviously, there's an amount of wood that would be there. I'm just curious if we have that level of information available to the Finance Ministry and through to the Minister of Forests.

[3:10 p.m.]

Hon. K. Conroy: Just so that the member has this clear, the audit is a function to ensure that we do know what is happening with the fee in lieu with the export timber. If it appears to be wrong, then this amendment gives the Ministry of Finance the power to access that information. If there is a bill owing, Finance can reach out and get that bill.

This is all similar power used with respect to stumpage. That was brought in, in 2006 and has never been brought in for a fee in lieu. That's what this is about.

J. Rustad: The reason for asking the question around this is that if you have the ability to audit the fibre that is harvested, if you have the ability to audit the fibre that transfers to another mill, that leaves what is left, which is what is exported.

Given that's the case, between the wood that is harvested and the wood that is sold off to mills in British Columbia to use it — and the wood that is left to go out is that piece remaining — have there been any discrepancies between the fee in lieu on the wood that is being exported versus the other information that has been collected that can identify how much wood a fee in lieu should have been collected on?

[3:15 p.m.]

Hon. K. Conroy: What the member is implying is that every single load of wood in this province is audited. It's not. It's an audit. I am pretty sure the member knows what an audit is. They're audits.

What we don't have right now is the ability for the Ministry of Finance to audit fee in lieu, like going out — the timber being exported. They don't have the ability to recoup funds if they find out it's missing. So now they can do an audit to find out if it is in fact missing.

J. Rustad: I'm not arguing with the minister with regard to the necessary need or the outcome that I think the minister is talking about, but I am questioning the need to do it. If all the wood that comes across the scale is measured….

It may be audited or may not be audited, depending on whether there's a need for audit, but it's all coming across the scale. It's accounted for on the scale. Scale receipts are submitted to the ministry. All of that information goes through. So all that's accounted for in terms of the wood that comes out of the forest. Companies may be audited. They may find discrepancies in that. But all that's accounted for.

The wood that is then sold by a company — I'm assuming a logging company as opposed to a processing company, but it may be a processing company — is accounted for as well, which means the wood that is exported would be accounted for by simply what didn't fall in the other categories.

What I'm wondering is if there have been any discrepancies that have come up within the ministry data between the wood that's accounted for and stumpage that has been utilized versus the wood that has gone out. If there have been, that's good. I'm curious.

It's not good; there shouldn't be discrepancies. But if there have been discrepancies, that's good to know, because obviously that means there needs to be a focus within the ministry. If there haven't been discrepancies, it's the reason for asking the question. I'm wondering why this would potentially be redundant in terms of the ability to go out and do the analysis.

Hon. K. Conroy: The objective of this whole change is to permit the Ministry of Finance to have the same capabilities to audit the fee in lieu of manufacturing as are currently administered to the audits, like for stumpage fees.

We need to have a modern tax system that works for everyone. It includes the abilities to conduct audits and assessments. Being able to collect that appropriate revenue is important to the Ministry of Finance, obviously, and they need to collect that from the public resources, which, of course, builds confidence in our system to determine checks and balances.

[3:20 p.m.]

I think it's important that, in addition, it's been proven that the mere existence of an audit program can promote voluntary compliance, which we don't have right now. This is a way of ensuring that we have the ability to audit for the existing fee-in-lieu system.

J. Rustad: I don't dispute the rationale that the minister is providing here. I'm just disputing as to whether or not there is a need, because there are other ways to get at the data, which is what I have been trying to describe through this process.

Because all of the rest of it is accounted for as part of the reporting in to the ministry, to the best of my knowledge, that means what isn't accounted for would be what would be potentially applied as a fee in lieu, which is why I'm asking the question of whether or not there have been any discrepancies in that information between what has been accounted for and what hasn't been accounted for and the fee in lieu that's applied for what hasn't been accounted for.

Hence, surely the ministry has been doing some sort of analysis that would have looked at that data and said: "It matches or it doesn't match, and we need to be able to take a closer look."

Hon. K. Conroy: Because we were doing amendments to the Forest Act, it was discussed with the Ministry of Finance that this was the time to ensure that we had proper auditing procedures and the ability to issue assessments, which we don't have right now. The Ministry of Finance does not have that ability right now — not only the ability to audit and issue assessments but the ability to collect.

We know mistakes are made, and we want to make sure that those mistakes aren't made — that it's a fair playing field for everyone. You're audited with stumpage. You're audited with other royalties in other ministries. This is one that wasn't audited, so this was an opportunity to bring in this amendment to the act to ensure that this happens.

[3:25 p.m.]

J. Rustad: Maybe I'll try this in a little bit simpler form. Has there been any discrepancies between the stumpage that has been brought in, the amount of wood that has been utilized locally and the amount of wood that has been exported, based on the scale information that has come in, or has the ministry not done this analysis?

Hon. K. Conroy: This is really not as simplistic a matter as the member is trying to make it out to be. We need the audit to ensure whether there are examples of this or not. We are pretty sure there are.

The Minister of Finance is very concerned about this — enough to want it as an amendment to the Forest Act to ensure that we can do the audit. Then we will know the numbers. We will know what's happening. But we need to do that audit. The Ministry of Finance needs to have the ability to do that audit so they can determine what the differences are, if there's difference — exactly the same as when the member's party introduced the legislation in 2006 for stumpage.

There is an audit process for stumpage. There is no audit process for this. So we are going to be bringing this in to ensure we now have an audit process for this. That's what it is.

J. Rustad: The minister is refusing to answer the question, which is fine. I'll just make the assumption that there has not been analysis done between those two, and the ministry doesn't know, and there's just the desire to put this in place. That's fine, if that's what the minister would like to do.

It's a simple question to ask: whether analysis had been done on the data, on the core information that was there and available, that the ministry has collected. But that's okay.

Hon. K. Conroy: Of course an analysis was done, and the analysis showed we needed to do an audit. That is why this legislation was being amended, so that we can now do audits.

J. Rustad: It's a shame that we got to the point of having to be frustrated to try to get just that simple answer.

[3:30 p.m.]

[N. Letnick in the chair.]

What I'm wondering now is: can the minister make that audit information or that review information available so that it can be plain and simple? I'd be able to understand, as opposition, and others would be able to understand that there seems to have been some discrepancies, and therefore, this is coming in place.

I mean, I understand the desire and the want to be able to audit this, but if there was information available, I'd certainly like to see it. It would help me understand what has gone on in the process of developing this piece of legislation.

Hon. K. Conroy: I'm just going to try to explain this one more time, because I think the member might have misheard.

A system analysis was done, a process analysis was done, to identify a gap in the legislation. The gap showed that the Ministry of Finance had no ability to confirm or not.

[3:35 p.m.]

Once an exemption had been made so that someone could export, there was no way to confirm that the fee in lieu paid was the right fee in lieu. That was what the analysis showed, and that's why this legislation is here. I just wanted to make sure the member understood that.

J. Rustad: I understand the analysis that was done on the legislation. That's not the analysis that I think the minister talked about just a few minutes ago. We can perhaps go back to *Hansard* and look at it, if you'd like.

The analysis that I was asking about is on the data of the logs that are coming in, that are harvested, that go across the scale and any discrepancies, versus what has been exported and whether or not that analysis has been done. The minister seemed to have indicated that analysis was done, and I was asking if that analysis could be available to the Legislature, which was the question I had previously asked.

Hon. K. Conroy: That is not what I indicated.

J. Rustad: Well, then maybe I can ask the question again. I can repeat it for the minister, if she'd like.

Is that data available, any kind of analysis available, between the wood that is exported, versus the wood that comes through the scale, to indicate if there are any discrepancies in terms of a fee in lieu that may or should have been charged or collected?

[3:40 p.m.]

Hon. K. Conroy: I'm trying to get this so that it's…. What's really important to acknowledge is that all other systems in our ministry have those checks and balances, have audits available, and this is the only part of the ministry that doesn't. And when you're doing self-reporting, mistakes can be made. So you have to ensure that if mistakes are made, we have an audit that can drill down and find out if those mistakes were made.

The member is trying to simplify it by saying: "When you do this and this, you get this." It's like — I don't know — one plus one equals two. Well, we don't have the ability to determine if those are the actual numbers. We need to have an audit to show that, yes, this is what is happening. We need to have an audit to make sure that those are the right numbers that are coming back, because mistakes get made, and we want to make sure that there is an audit in place to determine if there were mistakes made. It's exactly what happens with the stumpage system.

J. Rustad: The minister could have just said: "No, the information hasn't been done. It's not available." That would have been fine. But we've been dancing around this same question now for some time, so I'm just going to have to take that as the minister says: "No, there has not been analysis that has been done between the stumpage information that has been collected and the fee-in-lieu information that has been collected to see if there are any gaps." That's okay if the minister hasn't done that. It still doesn't change bringing forward this amendment to the legislation, and that's fine.

I was trying to find out if there had been data that had been available to point to the fact that there may have been a problem. Now, that doesn't change the minister's desire to want to do this, the Minister of Finance's desire to want to do it. I'm just trying to understand if there was empirical data that said: "Hey, we've got a problem, and this is the solution."

I'm assuming the minister has had enough consulting with her staff on that and, like I say, has refused to answer that question. But maybe if I could ask this question, then, since we can't seem to get to the data side. Is all wood that is potentially exported or all fee in lieu that is potentially charged…? We'll deal with wood residue in a minute. But if all timber has the potential to be exported, does that go through an excess test before it is allowed to be exported?

[3:45 p.m.]

Hon. K. Conroy: The overwhelming majority of all timber exports are put through a surplus test.

J. Rustad: I'm happy to hear that, because my understanding is that that is required. Maybe I need to just tighten that question up a little bit in terms of: is all the wood that is exported from Crown land that's subject to stumpage — does that all go through an excess test?

Hon. K. Conroy: There are small amounts of timber that have exemptions. Those could be exemptions for distance to the domestic markets or the cost of extraction. Any of those exemptions have to be approved by OIC.

J. Rustad: I wasn't aware of that, so that's good information from the minister. Thank you for that.

We have the excess test, which obviously puts a certain amount of volume that is out there that is coming off that is available — for potential to be blocked or purchased by local mills, by local production facilities.

Once again, we've got scale information from stumpage that it comes from. We've got information that's available from the excess test. Has there been any analysis on that to see if there are any differences between what has come across the scale versus what have been put up on the excess test?

[3:50 p.m.]

Hon. K. Conroy: I just want to clarify with the member, because the member seems to be insinuating that this is not required and that for some reason, this is just…. I don't know if he thinks it's frivolous or whatever or not required.

But this is actually sound financial management. This is ensuring audits are in place. This is ensuring that if there are mistakes made, the Ministry of Finance has the ability to audit. That's what this amendment is about. It's sound financial management.

J. Rustad: No, that's not what I'm trying to insinuate. I understand the need for audits. I understand the need for a process that goes forward.

What I am trying to understand, though, is — after this length of time, 15 years after the bill was put in place — whether or not there have been any identifiable problems in the system, whether there are discrepancies, whether the analysis has even been done to understand if there are inconsistencies, which then would have put a red flag up to say: "Hey, we got a problem."

I understand the need to audit. I understand the need to want to make sure that information is there and accurate. I support that government needs to make sure that it's collecting its revenue.

But I wanted to understand whether or not the ministry has gone through and actually done the work to do the analysis leading into this or whether this has just been brought in because it happened to be missing or there was a perceived problem.

Hon. K. Conroy: I believe I've answered this, but I will say it again. This was brought in because we do not have the ability to audit as we do with stumpage. Stumpage audits have shown that there have been mistakes, so it is assumed that in a perfect world, people do make mistakes. The audit process is being brought in so that checks and

balances can be put in place to ensure that if a mistake was made it could be rectified.

J. Rustad: I'll take the answer to that question as also a no. There hasn't been analysis done on either levels, as I have mentioned. Like I say, that's up to the ministry and the minister in terms of how she wants to manage her ministry. That's fine. Every minister is different in their approach as to whether or not they ask for that kind of information or if they just proceed with legislation.

It's unfortunate, because it would be nice to know if there had been problems. In particular, it would be nice to know whether that type of information had been collected and analyzed. If there had been problems, it should have been flagged. It should have been looked at years ago, quite frankly, if there had been problems that had been identified.

Moving on with that, since there isn't an answer to either of those questions on the analysis, I've looked at the definition under section 127.1 of the Forest Act associated to wood residue. I'm wondering if the minister can provide that here for the purpose of this discussion. This is still under section 3, under (c), where it talks about wood residue.

Hon. K. Conroy: It's a very long list, so I have some examples: wood chips, slabs, edgings, shavings, sawdust and hog fuel.

[3:55 p.m.]

J. Rustad: I believe that was the list that was actually in the Forest Act, so that's good. Thanks to the minister for doing that, particularly so that people understand what we're talking about in terms of my next questions associated with this.

This is something that I'm sure of, so I'm going to ask this question. It may seem obvious, but I need to know in terms of this. If we're talking about an audit — we're talking about auditing the fee in lieu — is there a fee in lieu charged on wood residue if it is exported?

Hon. K. Conroy: No.

J. Rustad: That being the case, I'm just curious why there's a reference to wood residue as part of this process that sets up the potential for audits.

[4:00 p.m.]

Hon. K. Conroy: This is a way of having checks and balances in place. I'll use a pulp mill as an example. A sawmill is sending their hog fuel to a pulp mill. The pulp mill already has a big huge pile of hog fuel, can't take any more at the time. The sawmill will ask for an exemption. For instance, I know it happens in Castlegar. They send their chips across the line to Kettle Falls, and they get an exemption to do that.

This is a way of ensuring that that's audited and what is being requested as an exemption is being exempted.

J. Rustad: Hon. Chair, I have another follow-up question on that, but could I ask for a brief recess?

The Chair: The House will recess for five minutes.

The committee recessed from 4:03 p.m. to 4:10 p.m.

[N. Letnick in the chair.]

J. Rustad: The minister gave the rationale, but I'd just like to say I'm just curious in terms of what there is to audit in terms of the revenue to the province for wood residue?

Hon. K. Conroy: This is a process of checks and balances. That's what this is about.

J. Rustad: Checks and balances I do understand. My understanding from our conversation before is that this section, this part of this bill, is being put in to make sure that things are being treated fairly so that their revenue that's expected to the Crown will be collected.

However, I'm just trying to understand. If there is no revenue collected from wood residue — assuming that revenue would have been collected during stumpage — I'm just curious as to why that component would be part of an auditing process.

Hon. K. Conroy: It's a process of checks and balances to ensure that when an exemption is requested that it's appropriately carried out.

J. Rustad: Okay. So I'm assuming, then, that auditing on the wood residue that would be exported…. We're talking about the chips and hog components that would come from processing a log — or chipping a log, I suppose.

Like I say, if this is the Minister of Finance that's going in and doing the auditing, why would the Minister of Finance be going in and auditing the utilization or the export of wood residue when there is no revenue component? There is nothing in here associated with the Ministry of Finance.

[4:15 p.m.]

Hon. K. Conroy: Again, it's about ensuring that checks and balances are in place. It ensures that the ministry isn't limited when they go into an audit — that they're looking at all the information as to what has been exempted and what has been exported.

J. Rustad: In the next part, (d) — so we're talking section 3(b), or (2)(d) — it says, "a fee in lieu and the payment of a fee in lieu if the fee in lieu relates to" and then under (ii): "timber referred to in section 127.1 (a) or wood

residue referred to in section 127.1 (b) that is removed from British Columbia on or after the date…."

Could the minister please explain why it's referring to a fee in lieu being collected on wood residue?

[4:20 p.m.]

Hon. K. Conroy: This is done because we want to have a comprehensive and holistic approach to reviewing the process to ensure we know that the actions are undertaken in a timely manner. For instance, when you have a permit to export, there's a time frame attached to it. This is ensuring that those are carried out in an appropriate way.

J. Rustad: The minister's answer doesn't make any sense, and I apologize for saying it that way. Under this part (d), it says that "a fee in lieu and the payment of a fee in lieu if the fee in lieu relates to…(ii) timber referred to under section 127.1 (a) or wood residue referred to in section 127.1 (b) that is removed from British Columbia on or after the date on which the paragraph comes into force."

It clearly says a fee in lieu associated with wood residue. The minister has said that there is no fee in lieu charged on wood residue. So I'll ask again. If this is an error in here, I don't have a problem with making an amendment, but it doesn't make any sense that this is referring to a fee in lieu on wood residue — something that is actually going to be audited and that is not actually charged or collected.

[4:25 p.m.]

Hon. K. Conroy: Because the existing legislation authorizes the potential, this provision covers the full scope.

J. Rustad: If I could just ask the minister to clarify. The potential for charging a fee in lieu on wood residue — is that what the minister has just said?

Hon. K. Conroy: Yes.

J. Rustad: Interesting. Okay. Perhaps, then, I really do need to ask this question: do the minister and the ministry intend to start charging a fee in lieu for wood residue? Exactly how would that work, given that wood residue comes from processing a log provincially, and not processing a log provincially is what a fee in lieu is charged for — a fee in lieu of processing provincially? What we're talking is the residue that comes from processing a log. How is it that a fee in lieu could potentially be charged on residue that has already been processed locally?

Hon. K. Conroy: That's a question the member might want to ask the people who, when he was in government, originally wrote this legislation. We are not contemplating a fee in lieu on wood residue.

J. Rustad: This piece of legislation amends and removes other things, repealing section 2, and adds and replaces this. Why would the minister replace something that was flawed with something that is flawed? I don't understand why.

[4:30 p.m.]

This isn't an issue of a wording change to an existing piece. This is an actual piece of legislation that goes against a section that has been repealed. That doesn't make any sense. If it doesn't apply, it doesn't make any sense to have this in this piece of legislation. If I can ask the minister why, and if there isn't a good rationale as to why that should be in there, then shouldn't we remove it from this piece of legislation that is before this House?

Hon. K. Conroy: The intent of this amendment is to add audit powers. That's it. It's to add audit powers.

J. Rustad: We are going in a circle here, but I will ask the question again. I understand the need for audit.

[S. Chandra Herbert in the chair.]

I understand why the intention is in here, but there is nothing to audit if there is no revenue collected. Therefore, that's why I'm so confused on wood residue. If there is no revenue that comes from it, because a fee-in-lieu is charged on a log that is not processed in British Columbia….

We're talking about a log that has been processed. We're talking about the residue that comes from that log that is being processed, and no fee is attached to it. So it makes no sense for me at all to see that referenced in this piece of legislation, to be able to provide an audit function on something that isn't generating revenue.

Hon. K. Conroy: This amendment is a process audit as much as it is a financial audit.

J. Rustad: That confuses me a little bit, as there is a reason for the Minister of Finance representative to be here. It's because this particular audit is about revenue, as the minister had stated earlier, with regard to this particular section, these sections of this bill.

Is the minister saying this audit is more than a financial audit, that it is also auditing components that are non-financial? That being the case, what is the benefit or what is the analysis that the minister is looking for to be able to improve how our forests are managed or revenue to the province? I don't understand, when we're talking about residue.

[4:35 p.m.]

Hon. K. Conroy: The amendment was drafted to align with the current framework, which does provide the authority for a fee-in-lieu.

J. Rustad: What we've determined so far, in the first three sections of this bill, is that we have a piece of legislation which seemed to have been rushed into the House. It's being jammed through without proper debate. It hasn't had analysis done on data that's available, and there are clear errors in the bill, providing for auditing something that isn't generating revenue and doesn't require to be audited and provides no actual information or data to the ministry.

I have no more questions on section 3. I'll move to section 4.

Clause 3 approved.

On clause 4.

J. Rustad: The minister is shaking her head. She should know her file. The answer to the questions I've been asking up to date have not been answered. There isn't information available, so clearly what I've stated is true. If it's not true, then the minister could provide the answers to the questions that I have been asking.

On section 4. We're in a situation here where I'm just curious whether the minister could provide any examples of what has been outlined here in this section.

[4:40 p.m.]

Hon. K. Conroy: This amendment allows for an auditor to enter at any reasonable time onto the land or premises to conduct an inspection or audit, as has been referred to in the following sections, for a purpose of ensuring compliance with the provisions of the act. So (a) and (b) are existing, (c) and (d) are the new ones, and (d) is, for instance, a place of business where the records might reside. This gives the auditor the ability to go into a business, whereas right now we don't have that ability.

J. Rustad: I'm pretty sure the minister, in an earlier answer, provided the rationale that the ministry does have the ability to go in and look at records associated with stumpage and the payment of stumpage or, for that matter, the harvest of Crown timber, and the fee in lieu was the reason for this audit.

So I'm just curious. There seems to be overlapping, I guess…. Unless this is replacing the previous ability to go in and do audits, it seems to be that it's overlapping in terms of going in and looking at things in two different areas, I suppose, of the act now. It may be that I'm just not as familiar with the act as I need to be and that this actually replaces the auditor's ability to go in and to look at (a) and (b) anyway.

Hon. K. Conroy: The previous powers to enter were repealed, and we're adding a more comprehensive amendment.

J. Rustad: That's what I thought, but I'm glad I've got that confirmed.

Perhaps the minister could provide information with regards to the removal for British Columbia of timber referred to in section 127.1(a), wood residue referred to in section 127.1, and there's a (b) afterwards. I'm assuming that's in reference to section 127.1, as opposed to a typo on this particular bill.

The reason for asking that is that I'd be interested to know whether that's a typo or not. But the reason for asking that particular thing is I would like to understand what value or what benefit, what we're trying to track by doing an audit on wood residue that is exported.

Hon. K. Conroy: The amendment was drafted to align with the current framework.

J. Rustad: That didn't answer either question as to whether the (b) in parentheses is a typing error or whether that is actually referencing the bill, the Forest Act bill. That's the first question. The second question is: what benefit is being driven from doing an audit on the wood residue that is exported?

Hon. K. Conroy: This is not a typo. The amendment was drafted to align with the current framework, and it is around the fee in lieu.

J. Rustad: If the minister could perhaps answer the second part of that question….

Hon. K. Conroy: It's a process audit around the timely…. When wood residue has been given a permit to export, if it's done in a timely matter, it's a process audit.

J. Rustad: I keep focusing on this because I'm trying to understand the need to audit this.

So you've got a permit to export it. If it's exported, great. If it's not exported, great. I don't understand what the requirement here is. Is the intention of this piece to see if more wood residue is exported than what is permitted? I'm trying to understand the reason for the audit on wood residue.

[4:45 p.m. - 4:50 p.m.]

Hon. K. Conroy: Just to clarify, this amendment just gives the auditor the ability to enter the place of business where the records are kept, which is different from past legislation.

J. Rustad: It gives the auditor the ability to go into a place to audit for (a), (b), (c) and (d). I'm asking a question about the value or the need or the information collected on (c), which is the wood residue. I'm curious about it because where this goes is if there is…. I guess what I'm trying to understand is: are there penalties? Are there

interest charges? Are there any other penalties, I guess you could say again, associated with wood residue being exported when there's no revenue due to the Crown?

I'm trying to understand once again. You're entering into a place of residence so that they can audit for those four values. One of those values is wood residue. I'm curious about why that would even be here, as I've been talking about before, because it doesn't seem to relate, unless there is some form of penalizing a company that may or may not export more or less wood residue.

Hon. K. Conroy: This could identify an issue of process. Parts of audits can be about providing information about compliance. There is value in that.

J. Rustad: Later in this particular part of the bill, it talks about interest being charged or penalties, etc., for late payments and these types of things. How do those apply to wood residue being exported?

Hon. K. Conroy: I want to point out that we're not on that section. But if there are no funds owing, there would be no penalty, so there would be no funds owing.

J. Rustad: This seems like a make-work project. The minister has not provided any sort of rationale or reason as to why this sort of information would need to be audited, collected or processed. I know the minister is shaking her head and thinking this is kind of a crazy question, but I'm trying to understand why that piece, why wood residue, is in the bill — and why the process we're going through in terms of this. I understand the other components, but it just doesn't seem to make any sense.

[4:55 p.m.]

Unless the minister has more information that would clear that up, I'll move on to another question. That is, obviously, through here, through putting this in…. The minister has talked about there being some discrepancies in whether it's on stumpage or other things. There's a concern in here. Does the minister have an estimate as to how much may not be collected associated with fees in lieu?

Hon. K. Conroy: As I said previously, we will not know numbers such as the member is requesting until we have the ability to conduct audits.

J. Rustad: Is the minister saying there has not been any kind of analysis through the Ministry of Finance as to the potential for lost revenue?

I know when the Minister of Finance goes through and looks at all other components of the budget, there are provisions that are put in there. There's analysis that is done to look at revenue collected or, for example, personal taxation or corporate taxation. All of those sorts of things have that kind of analysis that is added into it in terms of what they think is not being collected. I'm wondering if that kind of analysis has been done here for fees in lieu.

[5:00 p.m.]

Hon. K. Conroy: The Ministry of Finance roughly estimates up to 5 percent, but they need an audit to confirm that.

I want to reiterate that the purpose of the amendments we're bringing in is to bring in audit and compliance powers that are similar to audit and compliance powers that the Ministry of Finance currently has to ensure compliance with all of their revenue programs. These amendments are brought in to help to ensure a level playing field for all companies in the province, and it would be through a fair regulatory system.

It isn't always about money. It's also about a fair regulatory system so that we and the Ministry of Finance know what we're working with and industry knows what they're working with.

For the record, I don't think anybody that is developing the bill is doing it as a make-work project. I think the people in the Ministry of Finance, and I know full well the people in the Ministry of Forests, have plenty of work to do. This is not a make-work project. This is to make a fair regulatory process for industry across the province.

J. Rustad: Just to be clear, I wasn't referring to this — on doing the audit — as a make-work project. I was referring to the portion that is relating to wood residue as a make-work project, because there doesn't seem to be any components to that. The minister shakes her head, but she still has yet to provide any reason or rationale as to why that needs to be audited. If she wants to provide that, that's good. We'll get a chance to talk about that some more when we get to section 10.

That was my last question on section 4.

Clauses 4 to 9 inclusive approved.

On clause 10.

J. Rustad: Clause 10, of course, gives the individual who's doing the audit a fair range of information. In particular, I want to start near the bottom of 10 — well, not the bottom, I suppose, but a little ways down on 10 — because I want to come back to this wood residue. Once again, it's mentioned here. It's asking for the commissioner to be able to do an assessment and an estimate of a person who removed from British Columbia the timber or wood residue.

Once again, if there isn't a financial component associated with this or penalties associated with it, I'm wondering why, once again, the commissioner would be required to try to estimate the wood residue that would be exported.

Hon. K. Conroy: It's a comprehensive amendment. It aligns with the current framework.

J. Rustad: Thank you for that non-answer, to the minister. Under (1), it talks about "may estimate the amount of the fee in lieu." Could the minister explain what the process would be for creating that estimate?

Hon. K. Conroy: Could you just clarify that question, please?

Deputy Speaker: Could the member.

Hon. K. Conroy: Sorry, through the Chair.

[5:05 p.m.]

J. Rustad: Under clause 10, 142.52(1), "If it appears to the commissioner, from an inspection or audit of any records or from other information available, that an amount of a fee in lieu is required to be paid in respect of a permit granted under an exemption, the commissioner may estimate" the amount of fee in lieu required.

I'm just wondering on what basis, and what goes into a commissioner making that estimate?

Hon. K. Conroy: It's based on the information found in the audit and the information gathered from the exemption holder.

J. Rustad: It says here: "If it appears to the commissioner, from an inspection or audit of any records or from other information available." Could the minister provide what "other information available" may mean?

Hon. K. Conroy: An example of other information that could be acquired is information from the Ministry of Forests, for example. Sometimes the Ministry of Finance gets tips. They get other information through a tip from another company, and they would be able to utilize that.

J. Rustad: I understand what that may be, but I'm a little confused as to what information may come from the Ministry of Forests with regards to information that the auditor or the commissioner may be looking at.

[5:10 p.m.]

Hon. K. Conroy: Some examples are the load slips for transportation of materials, like logs, hog fuel; the compliance and enforcement reports; the investigation material information that is acquired through those compliance and enforcement reports. Because we want to ensure that the forests are being properly managed, we have that information that the Ministry of Finance would have access to.

J. Rustad: I understand the load slips coming in and the wood that's going across the scale. I understand the compliance, the audits that are done on wood that does go across the scale to make sure that — what do we call them? — the stratas are done properly and assessed.

[5:15 p.m.]

I understand all of those sorts of components that go in. But all of that information is known and recorded, which goes back to the earlier question that I had. If all of that information is recorded and it lines up with what's being exported, what I'm trying to understand is how a commissioner would come to a conclusion that more wood — or less wood, potentially — has been exported without a fee in lieu charged when all of that information has already come across the scales and already gone through that auditing process. What additional information may lead a commissioner to believe that additional wood has been exported?

[5:20 p.m.]

Hon. K. Conroy: This is something that we have canvassed before, but this is a process of checks and balances. We have to ensure that we have a system in place that works, that the information that we're getting is accurate, because mistakes can be made.

We know with stumpage systems that sometimes mistakes are made, and we only know that because there's an audit in place for the stumpage system. That's why we need to have a system in place for the fee-in-lieu. We have to make sure that we have audits in place so that we can ensure that if there are mistakes happening, we can catch those mistakes.

I think British Columbians expect this. They want to see value for their asset. I mean, the asset belongs to the people of British Columbia, and they want to see that they are getting fair value for their asset. I believe industries in British Columbia expect a fair regulatory process. This ensures that that's in place.

J. Rustad: I'll thank the minister for that passionate speech. It wasn't the question I asked, I guess.

But what other information may be looked at? As the minister had said from the Ministry of Forests, Lands and Natural Resource Operations, that would be part of information that would inform a commissioner to come to a conclusion that there was a variation or a problem with the amount of wood that's being recorded under a fee-in-lieu.

Like I say, I understand stumpage, and I understand the recordkeeping across the scales. I understand all of the auditing and those components that help to verify the stratas that all of the wood comes into. I'm just wondering if there is any other information that is available that would be available to an auditor, and, if so, what that other information might be.

[5:25 p.m.]

Hon. K. Conroy: I provided the member information

with what the ministry would provide, including things like weigh slips and information like that. I did say we do need the audits to get more information, which is one of the reasons we're doing the audits. It's process as well as financial.

The other information, as listed in the amendment, gives us to use information in individual audits other information that may be acquired. Because all audits…. They're individual, but they're also unique. They're all different. It's not one-size-fits-all when it comes to an audit.

J. Rustad: Maybe I need to put it in a different perspective. When the information is available, the trees move across the scale. Trees come in, and they move across the scale. If it goes by the scale, if it doesn't go on the scale, obviously there is an error that is being made, intentional or otherwise, and that needs to be picked up by an audit.

The challenge here is that there is a commissioner that is going to need to create an estimate. In order to create an estimate, there has to be some way to be able to assess what information should have been there. For example, if every second load doesn't go across the scales, there's got to be some way to be able to create an estimate as to what that is.

My concern with this is if the commissioner doing the audit needs to start looking at things like cruise data or inventory information from an area that has been harvested, that creates all kinds of challenges, because that information can be very inaccurate. A 20 percent plus or minus is not uncommon in that kind of data.

So that's why I'm asking about what kind of information may go in to the commissioner with respect to trying to do an estimate if the commissioner thinks that there is an error, or that there is wood that is unaccounted for. That's why I'm asking these questions. I want to understand what goes in and what the commissioner could potentially look at and have some assurances that the data that they'll look at will be accurate, and that it won't create some distortions that perhaps don't exist.

[5:30 p.m.]

[N. Letnick in the chair.]

Hon. K. Conroy: We've given some examples of what would be used in an audit. I don't know if the member has ever been audited before, but when you're audited, there is not a set example of the things that are itemized in an audit process. The auditor is not going to be able to say what they're going to ask until they actually get in and see the information that they're looking at that the company has. We're not trying to withhold information here. That's the way audits are done.

I'm not quite sure what the member is asking for. I mean, we've given you the information that we know that an auditor would use, like the load slips — things like that. But it's totally dependent on the auditor, and they will develop their information that's required once they get in and see the information, once they get in and start doing the audit. That's the way audits are done in any sector, not just in this one.

J. Rustad: I have been audited. I've gone through audits more than once, both in the company that I had as well as personal. So I do understand the information that an auditor looks for and the types of questions that an auditor does ask.

But like I say, the purpose for asking the questions around this is particularly because of my concern about the accuracy of data and whether or not data like that would be considered to be used as part of an audit. I understand entirely if it's the information that the minister described, because that information is obvious and would need to be looked at to make sure that there is the comparison on that.

But when you're in a situation where there may be a discrepancy between what is estimated to come out of the woods and what has gone across the scales and what may have been exported, that's the question that I'm looking at — how far back an auditor would look in terms of trying to get an estimate of information and whether or not the source data is accurate or reliably accurate enough to be able to have an audit come through and be reasonable.

[5:35 p.m.]

That's why I'm asking that question about things like inventory, things like crews information, that may be flagged and be looked at as a consideration. If the minister is suggesting that that won't be used, then that's good. But if it is something that could potentially be used, then that raises a concern for me.

So that's why I'm asking that question. I don't know if the minister can confirm that sort of answer or not, but I'll give her an opportunity if she'd like to.

Hon. K. Conroy: Audits are not a one-sided process for the ministry. There are ongoing discussions with the industry. It's an iterative process. There is an opportunity to raise concerns. If the company is concerned about any of the information that is gathered, they can have those discussions; they can talk about it. And if they're still not happy with the process, there is an appeal process, which is coming up in a clause further on. But there is that whole appeal process as well. It's in the amendment.

J. Rustad: Hon. Chair, I have to apologize. I'm getting a little tired, but I would like to ask the minister if she could just explain…. When it talks about "an amount of a fee in lieu…required to be paid in respect of a permit granted under an exemption," could you just explain "exemption" again? Sorry, this is once again under 10, just the first, 142.52(1), where it just talks about "a permit granted under an exemption."

I guess I'm just getting tired. I apologize for this. It's a

simple question. But just if the minister could explain what the exemption is?

The Chair: The House will recess for five minutes.

The committee recessed from 5:39 p.m. to 5:49 p.m.

[N. Letnick in the chair.]

Hon. K. Conroy: Just for those people riveted to this that are watching, the question was: what is an "exemption" in this amendment?

[5:50 p.m.]

The provincial export is a two-step process. You need to set exemption from requirement for domestic manufacturer, so you have to make sure that the item can't be utilized somewhere domestically. An exemption can be either an OIC or a ministerial order. Once you have the exemption, you need a permit. You pay the fee in lieu on the volume on the permit.

J. Rustad: Sorry for having to ask that question. I thought that's what it was, but I was worried about the next question that I need to ask. I wanted to make sure that I was clear on that.

Now on (2), we're back down to wood residue and doing this audit associated with wood residue. When we get to section 13, I guess, or 12 — somewhere in there, when it starts talking about penalties and interest and those sorts of things — I'm just wondering. If wood residue is exported under a permit and is found to be more or less than what was in the permit — more, I suppose, than the permit — is that potentially subject to a penalty or some sort of a charge?

Hon. K. Conroy: Under these amendments, under these powers, there are no penalties, because there are no fees in lieu on residue. But there could be non-compliance with the Forest Act.

[5:55 p.m.]

J. Rustad: I think I understand what the minister said, then, because a permit is required to export wood residue. If more wood residue is exported than what was in the permit, there could be, potentially, a penalty or charge associated with the export. Even though that excess wood residue could be taken to the dump and gotten rid of or whatever else the case may be, there would be an accounting, in some way, for a product that collects no revenue for the province, that is considered a waste product, although obviously it's utilized by the forest sector.

But there could be a potential penalty. That, as I assume now, from our conversation before, was the reason for doing an audit on wood residue.

Perhaps the minister could just confirm that.

Hon. K. Conroy: We do have the ability to share the information that we would acquire under an audit if information like that came up. That would be passed on to enforcement and compliance under the Forest Act.

J. Rustad: It would have been nice if the minister had said that right from the beginning. It would have saved us a bunch of time talking about wood residue in terms of the process of going through an auditing on it.

I'll move on and talk about…. A little bit farther down, it says: "the person who removed from British Columbia the timber or wood residue." I just want to confirm. I'm sure that the minister isn't talking about the truck driver that goes across the border with a truckload of chips or whatever the case may be.

In referring to "person" under this, just to have confirmation, is that the permit holder, which would likely be a corporation or some other entity? Potentially, it could be an individual in terms of woodlot or otherwise. But most likely, that reference to "person" is not meant to be an individual but to an entity that would hold the permit or have the rights for harvesting.

[6:00 p.m.]

Hon. K. Conroy: In this amendment…. So (4) is if a person has a permit, and (5) is in the case where a person doesn't have a permit. So it's either the person driving the truck and has timber on that truck and removed it from B.C. and did not have a permit, or the person that owned the wood and exported it without a permit. So either of them would be liable, because you can't export unless you have a permit to export.

J. Rustad: But as the minister knows…. The reason for asking this question is if company XYZ hires somebody to take wood across the border, is the minister saying that the person that takes wood across the border without a permit or in excess of the permit is the one who is liable, or is it the company that has the rights to the timber that is responsible? That's why I'm asking — when it defines it as "person," whether it would include an entity.

[6:05 p.m.]

Hon. K. Conroy: It depends on the circumstances. It might not necessarily be the truck driver. It's generally the owner. The owner could be the truck driver. So we're just covering all bases.

J. Rustad: Thanks. I didn't realize this question was so complex. So Canfor, if they happen to take stuff across the border…. If a truck driver takes stuff over the border and it was Canfor that was the original logger of that wood, I'm assuming it's not Don Kayne or shareholder XYZ but the corporation that's responsible in terms of it.

Hon. K. Conroy: If the corporation has the permit, they're covered under section 4, so they would pay the fine.

J. Rustad: That's why I just wanted to make sure that when it talked about a person, we weren't talking about the person. It may be the person, but it may go back to whoever hired the person.

The next thing that it talks about, still under clause 10…. We get to (7), where it says: "(a) a fee in lieu estimated under subsection (1) is deemed to have been due on the date on which the permit was granted, and (b) a fee in lieu…under subsection (2) is deemed to have been due on January 1 of the year in which the timber or wood residue referred to in that subsection was removed from British Columbia."

I won't bother going into the repetitiveness of the wood residue. What I'm curious about, in particular…. A permit could be good for five years. The wood might not have been exported. Well, maybe…. Sorry. I'm thinking about a cutting permit that could be good for five years. I don't know about an export permit. I'm seeing your staff behind you shake their heads, nod their heads, so I'm getting guidance from them in terms of it.

But I guess I should ask what length of time a permit is valid for and whether that permit could be extended. If that permit, obviously, is for a number of years or a rather lengthy period of time and wood isn't harvested till near the end of that, there would be quite a discrepancy between when the penalty would be charged versus when the infraction would actually have occurred.

Hon. K. Conroy: An export permit is six months.

Clause 10 approved.

On clause 11.

J. Rustad: Under (3.1), it says…. Maybe I'm reading this wrong, but I just wanted to confirm this: "If a person referred to in section 142.52(4) or (5)(a) or (b) files a document with the commissioner in a form and containing the information required by the commissioner within a period of six years from the date of the fee in lieu referred to in section…."

Does this mean that the audit or, I guess, the audit that would be undertaken by the commissioner could go back potentially six years, in terms of the length of time, and that the individual would be required to go back six years?

Hon. K. Conroy: Yes. That's the same for stumpage.

J. Rustad: That's interesting. The reason for asking is that if memory serves me correctly, Revenue Canada, for example, when they do their audits, are only able to go back three years, I believe, in terms of doing audits. That's why I was wondering about the period of six years. I may be wrong about Revenue Canada. But I seem to recall, when I was audited by Revenue Canada, that's what they said they were able to go back on.

Obviously, I'm not asking about whether or not it's confirmed — the difference between Revenue Canada and the province. But six years seems to be a fairly lengthy period of time for which an audit can go back on. If that's the same as the stumpage, is that the same in terms of all other audit functions within government — within the Ministry of Finance — whether it's going back on personal taxes or corporate taxes?

Hon. K. Conroy: It's consistent with the acts administered under the income taxation branch. They're all six years.

Clause 11 approved.

On clause 12.

[6:10 p.m.]

J. Rustad: On 12, in (b), it talks about how "the commissioner may do one of the following: (a) if the penalty is assessed in relation to an assessment made under section…" etc. I'm just wondering what we're talking about in terms of potential penalties and what also we're talking about in terms of potential interest that would be charged on those penalties — if there are set rates or what sorts of variables would go into that.

Hon. K. Conroy: If it's a wilful contravention of the act, the penalty is up to 100 percent of the fee. If it's not wilful, it's up to 25 percent. The person made a mistake; mistakes happen.

J. Rustad: Just to confirm, that's the fee in lieu, right? The charge is on the fee in lieu is I believe what the minister just said, up to 100 percent of the value of the fee in lieu or up to 25 percent of the value of the fee in lieu. If the minister is nodding her head, I'm okay to go by that.

The second part of that question I had asked the minister to confirm. That second part is the interest that may be charged, how that interest rate is set — through a penalty like this or a fine that would be put in place.

Hon. K. Conroy: The interest rate is determined by the Financial Administrative Act. That's the same for all of the acts underneath the Ministry of Finance. Just to clarify for the penalties, it's the amount assessed for that they didn't pay. So it's the fee in lieu that they were assessed for and didn't pay. It's 100 percent of that or 25 percent of that.

J. Rustad: Got it. Thank you. Just to confirm, obviously, with no fee in lieu being paid on wood residue, if there was an infraction there, that would then get moved over to the Ministry of Forests and be charged under a non-compli-

ance portion of the Forest Act. I think your staff are nodding their heads, so I won't need to worry about having the minister answer that question.

That's it for 12.

Clause 12 approved.

On clause 13.

J. Rustad: Actually, sorry. It's actually once we get down to the appeal process on this.

[6:15 p.m.]

Clauses 13 and 14 approved.

On clause 15.

J. Rustad: In terms of a penalty or fine that is charged, what sort of time frame is given to the person who would have created that infraction to be able to make the payment?

Hon. K. Conroy: You're required to pay immediately, and interest would accrue 30 days after the notice is issued.

J. Rustad: Assuming the notice, of course, is mailed or some other form. I know that was in the part before, but obviously, there could be some sort of delays or other issues in terms of actually getting to the individual for the notice, which is why I'm wondering about the period of time. But 30 days before interest is charged explains that to me.

Where you've got a situation where an individual or a corporation or whatever the case may be — a person, as I guess it was defined in the previous sections — is required to pay a penalty, what is the process for appealing that by the individual or by the corporation?

Hon. K. Conroy: I wanted to also clarify that people know that the proposed assessment is happening. So when they get the notice that they have to pay, it's not out of the blue. It's something that they know is coming. I just wanted to make sure the member knew that.

Appeal under this section may be commenced by serving a notice of appeal by the Minister of Finance within 90 days of the date that the notice of assessment referred to is served on the appellant. The notice of appeal has to be in writing. It has to be addressed to the Finance Minister and the city of Victoria, set out clearly the reasons for appeal and all the facts relevant to it. When the notice is sent to the appellant, they would get all this information on how to appeal it.

J. Rustad: That's helpful. The appeal process — I think what the minister just said is 90 days for being able to file an appeal. If that appeal goes forward, does that mean that interest is charged during that period of time, or was interest waived as the appeal is being brought forward?

Hon. K. Conroy: Yes, they have to start paying right away, so they would be charged right away with the interest. If after the appeal process they won the appeal, the minister would have to refund the assessment with their interest paid.

J. Rustad: An appeal is to the Minister of Finance, the ministry that is responsible for issuing the penalty. What sort of independent opportunity is there for an appeal or a review of the information that is brought forward?

[6:20 p.m.]

Hon. K. Conroy: The information I'm going to share is the same for all the tax acts, underneath the Minister of Finance. There's a separate branch in the Ministry of Finance. They do analysis of the appeal process. They provide that information to the minister before it is decided, and it's either decided by the minister or the minister-designate.

J. Rustad: Is there an avenue to be able to take this appeal directly to the minister for a potential order-in-council, as an appeal?

Hon. K. Conroy: If they're not happy with the minister's or the minister-designate's decision, there is an avenue to appeal to the court.

Clauses 15 and 16 approved.

On clause 17.

J. Rustad: I guess the minister can send the staff from Finance over?

Interjection.

J. Rustad: Okay, sorry. Over to the minister, on 17.

The Chair: Committee will recess for two minutes.

The committee recessed from 6:22 p.m. to 6:24 p.m.

[N. Letnick in the chair.]

J. Rustad: This section, and going through a number of sections, goes into a very important issue, which are of course these special purpose areas. Starting off with some definitions.

[6:25 p.m.]

I'm just curious as to why the area-based licence has been defined as a list as opposed to just defining it as

an area-based licence? You've included tree farm licence, community forests, First Nations woodland licences and woodlot licences. I'm just wondering why those have been laid out, as opposed to just defining it as an area-based licence.

Hon. K. Conroy: I have new staff joining me. Lesley Scowcroft is our director of legislation, and Ryan Munroe is our senior legislative analyst.

This is done, the area-based licence…. We've added in these four areas because we refer to area-based licences a lot in the legislation. So we just want to be really clear what area-based licence means. It means these four areas: a tree farm licence, a community forest agreement, a First Nations woodland licence and a woodlot licence.

J. Rustad: The reason I'm sort of asking about that is when we get to 18 and we start talking about the special purpose area, the special purpose area, from my understanding, is an area as well. Would a special purpose area potentially remain as a licence unto itself? Or was it going to be just an area that then would be divided up under some other form of licence?

Hon. K. Conroy: A special purpose area is an area which is used to change the status of the land as defined by an OIC.

J. Rustad: The reason for raising this under 17 as opposed to waiting till 18 is that my understanding of a special purpose area — and maybe I don't have a clear picture on this — is an area that will be defined out of a timber supply area, potentially out of a tree farm licence or a woodlot licence, or any other area that the minister so desires through the process. It's a defined area.

[6:30 p.m.]

Now, if that area gets added into, say, timber sales, which is one of the options that could be available — timber sales, of course, is volume-based, not area-based — that would mean that unless those boundaries become firm on a map, it would be potentially that any other licensee could still go in and operate within that particular timber sale area.

We seem to be creating this new entity, with this new line around it, which will be area-based. If it goes into community forests, I understand that. If it goes into First Nation woodland tenure, I understand that. If it goes into a tree farm licence, I would understand that, because then it's an area base. But if it goes into something at B.C. Timber Sales, which is one of the options, how does it not then be considered as an area-based tenure?

Hon. K. Conroy: For BCTS purposes, it would be added to the B.C. Timber Sales timber supply areas, which are defined as Cascadia and Pacific.

J. Rustad: Sorry, I'm a little confused by "defined as Cascadia and Pacific." I'm not quite sure what's meant by that, so if the minister could just explain that. It's just a term I hadn't heard before.

Hon. K. Conroy: The B.C. Timber Sales timber supply areas are actually defined by two names, by two areas. The interior of the province is called Cascadia. The coastal part of the province and the Lower Mainland is called Pacific.

J. Rustad: I got an opportunity to learn something new today. That's good.

Now, around the province — maybe I need to ask for some clarity, as well, around this — I've often seen, particularly in my area, in the neck of the woods in the Prince George supply area, where B.C. Timber Sales and other companies would compete within the same supply sales to going after wood. It didn't necessarily mean that a supply sale was exclusive to just one company.

[6:35 p.m.]

Now, that may be the case in all B.C. Timber Sales, and maybe I just didn't realize that, but I've often seen where companies will be racing around trying to get at wood, and there's competition around that.

The question, I guess, to the minister is: these supply sales that would be considered for B.C. Timber Sales purposes, are they exclusive to just B.C. Timber Sales' ability to be able to access wood in there?

Hon. K. Conroy: Just to clarify, all section 17 does is clarify the area-based licence area and the licence area. I believe the member is getting into section 18, around special purpose area. Is that accurate?

J. Rustad: Yes. It does relate, though, unfortunately, to 17, because we're talking about area-based tenures. So maybe I'll just not even refer to a special purpose area. I'll just ask the question about B.C. Timber Sales and supply sales where B.C. Timber Sales operates. Are those exclusive to B.C. Timber Sales, or are multiple licensees operating within those supply sales?

[6:40 p.m.]

Hon. K. Conroy: We think that we've got the member's question. Yes, Pacific and Cascadia are exclusive areas for BCTS.

J. Rustad: Since the B.C. Timber Sales areas are exclusive to one company operating with an area, why is that not an area-based tenure? If it's one area and it's one operator, isn't that the definition of an area-based tenure?

Hon. K. Conroy: Because B.C. Timber Sales is issuing licences in those areas.

J. Rustad: Okay. So I assume that a forest company that

has a tree farm licence that issues the rights to cut to somebody else would be considered different? But the main point of the issue, I think, with this — and the reason for asking this question around area-based and the list that defines area-based — is that we're talking about, when we get to section 18, the definition of a very special area, which is an area that then would be operated on as an area. I'm trying to understand just what the parameter differences are between that and the requirements under area-based that are being listed here.

[6:45 p.m.]

Hon. K. Conroy: B.C. Timber Sales is not considered a licensee. It's an agency of British Columbia, whereas the four groups listed under the area-based licence are licensees. The tree farm licensee, the community forest agreement, First Nations woodland licence, a woodlot licence — they're all individual licensees.

Section 17 approved.

On section 18.

J. Rustad: The definition of "special purpose area" means "an area of Crown land that is designated under Division 2 of Part 15 as a special purpose area."

Could the minister provide some examples of areas that would be considered as potential special purpose areas?

Hon. K. Conroy: Due to the hour.… We're all tired. This is actually under clause 62. I'm going to answer the question. We're just jumping ahead quite a bit, but I'm answering the question.

A special purpose area is an area that can be designated for a particular purpose, and it's done by the Lieutenant-Governor-in-Council. They can designate an area of Crown land for any of the following special purposes by regulation.

It could be disposing of land in fee simple to a First Nation, entering into a forest agreement or licence with a First Nation, increasing the licence area or AAC of a forest agreement or a licence being entered into with a First Nation, entering into B.C. Timber Sales licences or entering into or increasing the licence area or AAC of community forest agreements.

I move the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 6:50 p.m.

The House resumed; Mr. Speaker in the chair.

Committee of the Whole (Section B), having reported progress, was granted leave to sit again.

Committee of the Whole (Section A), having reported progress, was granted leave to sit again.

Hon. K. Conroy moved adjournment of the House.

Motion approved.

Mr. Speaker: This House stands adjourned until 10 a.m. tomorrow.

The House adjourned at 6:51 p.m.

Proceedings in the Douglas Fir Room

Committee of the Whole House

BILL 22 — FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY AMENDMENT ACT, 2021
(continued)

The House in Committee of Supply (Section A); M. Dykeman in the chair.

The committee met at 2:47 p.m.

On clause 21 as amended *(continued)*.

B. Banman: As I started to yesterday, there is a letter that I've received, and it is applicable to this clause and subsequent clauses. As such, I would like to get that onto the record.

It is a letter that has come to us from the Union of British Columbia Indian Chiefs, dated November 23, 2021, addressed to the Premier and to the Minister of Citizens' Services. It's an open letter, and it calls for the immediate withdrawal of Bill 22, Freedom of Information and Protection of Privacy Amendment Act, 2021.

"Dear Premier and Minister:

"On October 18, 2021, your government introduced amendments to British Columbia's Freedom of Information and Protection of Privacy Act, FIPPA, through Bill 22. We have learned that Bill 22 is quickly proceeding through the Legislature and is anticipated to receive royal assent before the end of the current legislative session on November 25.

"However, the bill in its current form fails to uphold First Nations' unique rights of access to information, as many of the proposed amendments will create new barriers for First Nations requiring access to provincial government records to substantiate their historical grievances against the Crown.

"Further, several proposed amendments disregard significant concerns we identified in formal submissions to the public engagement process and introduce measures about which we were never informed, contravening article 19 of the United Nations declaration on the right of Indigenous peoples, UN declaration, and your government's legal obligations under the Declaration on the Rights of Indigenous Peoples Act, DRIPA.

"We call on your government now to withdraw Bill 22 and establish a process of substantive engagement with Indigenous gov-

erning bodies affected by FIPPA to ensure that transparency, openness and fairness are enhanced and First Nations' rights under the UN declaration are upheld.

[2:50 p.m.]

"The right to access information is a fundamental component of First Nations' efforts to resolve historical land-related grievances, such as specific claims. Because First Nations are required to produce a wide range of records to substantiate their land claims and historical land-related grievances against the Crown. Freedom of information has direct impacts on the ability of First Nations to achieve justice through government mechanisms of redress, a right articulated in Article 28 of the UN declaration.

"In April 2018, the Union of British Columbia Indian Chiefs made a formal submission to the Ministry of Citizens' Services engagement process, in which we identified key barriers First Nations routinely experience when attempting to obtain provincial government records through freedom of information, including prohibitive fees and the denial of requests for fee waivers, prolonged delays, overly broad applications of exceptions to disclosure, widespread failure to create, retain and transfer records, and the exclusion of subsidiaries from duties of disclosure. We emphasized that the barriers faced by First Nations seeking information access must be specifically and systematically targeted such that the rights to redress are advanced and protected.

"The provisions in Bill 22 ignore our concerns and further entrench barriers to access. The introduction of an application fee for all freedom-of-information requests will disproportionately harm First Nation requesters, since they experience higher levels of poverty and often lack resource capacity.

"Your characterization of the new fee as modest displays astounding ignorance and insensitivity, since legal processes of redress for historical losses require First Nations to make multiple formal requests for records from various public bodies in order to obtain evidence. It is nonsensical that a government publicly committed to reconciliation, transparency and accountability would impose further financial hardships on First Nations who require access to provincial government records to substantiate claims of government wrongdoing. The bill also prevents the Information and Privacy Commissioner from waiving the application fee if the request is in the public interest.

"It is especially egregious that the introduction of an application fee was never discussed with First Nations or their representative organizations and, as such, contravenes Article 19 of the UN declaration, which requires governments to consult and cooperate in good faith with Indigenous peoples to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. The provincial government's selective application of Article 19 violates the DRIPA and betrays a colonial attitude towards its implementation.

"Bill 22 introduces no penalties for public bodies that exceed legislative timelines for providing requested information, which will do nothing to address delays and the under-resourcing of the information management system which accounts for it. The bill continues to exclude subsidiaries from mandatory disclosure, compromising First Nations' abilities to obtain complete historical records required for their claims to succeed.

"Alarmingly, the bill removes the Office of the Premier and executive council operations from the list of public bodies covered by the FIPPA and fails to create, enforce or oversee a duty to document. This amounts to wilful obstruction and hampers First Nations seeking access to information.

[2:55 p.m.]

"While specific claims are historical grievances that occurred at least 15 years prior to the filing of a claim, this bill effectively absolves your office of any legal responsibility to disclose records related to the actions or decisions which may be subject to future claims. The same can be said about the bill's failure to make it mandatory for public bodies to create records of all actions and decisions, something the provincial NDP championed when it was in opposition and about which it now, holding a majority in the Legislature, seems to regard with disdain.

"Advocates for government accountability and transparency, organizations committed to human rights and the provincial Information and Privacy Commissioner are condemning this bill, calling it a highly unethical step backwards. The amendments introduced through Bill 22, as discussed above, will have concrete negative impacts on First Nations' access to justice. This is a fundamental concern for the communities we represent.

"We reiterate our call for you to withdraw Bill 22 and take immediate steps to make meaningful, direct dialogue with First Nations a priority. This work must be guided by transparency, due process and full enactment of the government-to-government approaches articulated within the UN declaration and outlined in DRIPA.

On behalf of the Union of B.C. Indian Chiefs."

It's signed Grand Chief Stewart Phillip, the president; Chief Don Tom, vice-president; and Judy Wilson, secretary-treasurer. Carbon copies have been sent to the UBCIC Chiefs Council, B.C. Assembly of First Nations, First Nations Summit and the Special Committee to Review the Freedom of Information and Protection of Privacy Act.

Now, after reading through that…. I had asked previously whether or not there was meaningful consultation done, with First Nations specifically. After hearing what the Union of B.C. Indian Chiefs have had to say in this letter, I think I would like to offer the minister an opportunity to respond to this letter in a meaningful, transparent way and address the concerns as outlined in the letter.

I know the minister has a copy as well and has had a chance to review it, I would hope.

[3:00 p.m.]

Hon. L. Beare: Thank you to the member for the question. I want to thank the Union of B.C. Indian Chiefs, as well, for the important input that they provided. Our government is committed to reconciliation and to working with Indigenous partners as we move forward on things like this legislation.

I have, in this House, outlined the engagement process that we have undertaken on this bill, including Indigenous engagement. I've repeatedly stressed the importance of the broad input that we did receive on the proposed amendments.

For the member, again, our ministry had a number of meaningful discussions with the First Nations Leadership Council. The conversations included representatives from the Union of B.C. Indian Chiefs, the First Nations Summit and the B.C. Assembly of First Nations.

[3:05 p.m.]

Now, their discussions helped us inform a number of the proposals which specifically relate to Indigenous peoples and are embedded in the legislation we have here today.

We did also provide an invitation to the leaders of First Nations across the province to complete an online questionnaire to gain that perspective of Indigenous peoples and their views on access to information and privacy.

We did have a request from the Tk̓emlúps te Secwépemc Nation to meet with the ministry directly, which was held in early September 2021.

We did send a formal invitation to the leaders of the Union of B.C. Indian Chiefs, the First Nations Summit, the B.C. Assembly of First Nations and Métis Nation to discuss the proposed amendments.

Within the treaty established First Nations notification framework, the ministry also engaged with representatives from the Maa-nulth Nations, the Tsawwassen First Nation and the Nisga'a Lisims Government.

All of that did build on engagement that we had in 2018-2019, when ministry staff held discussions with the UBCIC and the First Nations Summit on the impacts, and the unique impacts, of access and privacy to Indigenous peoples.

We received, in 2018, a submission from the UBCIC, which the member referenced in the letter. A number of the concerns raised in that 2018 letter are also raised in the letter here before us. There's only one substantial difference — that being the Office of the Premier. I know we'll get to that.

Actually, what has happened is that a number of those concerns have been addressed in this legislation. I know the member, over the next four hours that we're here today, is going to take us through these concerns. They're going to ask a number of questions on the concerns. So I'll be able to address how we're actually meeting a majority of those concerns, within that letter here, within our legislation.

Absolutely, I believe access to information — particularly, the importance of access to Indigenous information — is vital to reconciliation here in our province. I'm always very happy to receive feedback from any partners in government around work that we're doing.

I want to make sure that we clarify the record on what actually is being done through this legislation. I look forward to the next four hours, where we're going to be able to do that.

B. Banman: This is now the second piece of correspondence. One is from the Privacy Commissioner laying out a number of shortcomings — I'm going to be polite with the word "shortcomings" — and oversights, or lack of oversight, that they have seen.

This particular letter, however, is an open letter. I'm going to read to the minister one more time, if I may. It calls for the immediate withdrawal of Bill 22, Freedom of Information and Protection of Privacy Amendment Act, 2021.

Will the minister, here and now, declare that she will heed the request of the Union of British Columbia Indian Chiefs and withdraw this bill?

[3:10 p.m.]

Hon. L. Beare: Thank you to the member for the question. I think it's important to take a look at what this legislation is. It's before the House today because it's outdated, because it hasn't been substantially updated since 2011 and because it's no longer reflecting the expectations and the needs and the experiences that our public are having.

We want to make sure that this legislation keeps pace with new technology. We want to make sure it enhances privacy protections. We want to make sure it provides the level of service that people expect of government.

Now, what we've done with this legislation is balance all the input that we've received since 2018. This legislation has been before the House for like a month and a half now, so I think I'm going to go back and just outline some of the consultation. I won't do all of it, because I have talked about it before with the member. I'm going to talk about some of the consultation, just in 2020-21. I think it's important, when we talk about input, that we're balancing all the input that we're receiving around this legislation.

In 2021, on May 28, we had an assistant deputy round table, which was all the K-to-12 school districts. On June 3, we did a minister round table with the health authorities and other representatives. On June 8, we did a minister round table with the tech sector.

[3:15 p.m.]

On June 15, we did a committee presentation to ministry privacy officers. On June 15 again, we launched our public survey on information and access to privacy to the general public. On June 17….

Interjection.

Hon. L. Beare: On June 17, we had a stakeholder committee presentation to the information security advisory council. Also on the 17th, we spoke with ministry chief information officers. On the 17th, we had a minister round table with post-secondary institutions.

On the 24th, we did an assistant deputy minister round table with local governments. On July 8, we did a stakeholder committee meeting with broader public sector chief information officers. On June 21, we did another survey out to the general public on information and access to privacy. That's in addition to the First Nation engagements that I outlined in my previous answer.

What we have with the legislation before us is a balanced approach to all the input that we've had, as freedom of information and privacy protection serves all British Columbians. So we want to make sure that we're balancing the input we receive, that we're addressing a bill that has not been substantially updated since 2011 and isn't meeting people's needs. We've got that before us today.

The Chair: Just before we go on, Members — all Members — just a very friendly reminder that we are on clause 21, which has some very specific provisions. Although the letter speaks very broadly to the whole bill and the con-

sultation speaks very broadly to the whole bill, it's a friendly reminder to just stay, please, on clause 21.

Over to you, Member.

B. Banman: Thank you very much. I would remind the Chair, respectfully, that this particular letter affects not only this clause but subsequent clauses that are going to follow it.

I now have two…. I appreciate the minister's words — that she wants to modernize the legislation, that she wants to have a balanced approach. I'm confused. There was an opportunity to put this through the special committee, and it was not done. I have a letter from the Privacy Commissioner, whose opinion this House values greatly, that outlines several flaws within this legislation. And I now have a letter in my hand from the Union of British Columbia Indian Chiefs that also outlines some serious concerns.

I would ask the minister…. She talked about wanting to ensure that there was meaningful consultation. I'm going to quote, because it was an awfully long, lengthy letter: "The bill, in its current form, fails to uphold First Nations' unique rights of access to information, as many of the proposed amendments" — current clause and future, I'm going to put in for your benefit, Chair — "will create new barriers for First Nations requiring access to provincial government records to substantiate their historical grievances against the Crown."

Does the minister agree or disagree with that statement?

[3:20 p.m.]

Hon. L. Beare: Each of the concerns that are outlined in the letter are reflected in substantial clauses that we have in the bill, moving forward, so we're going to be able to address all these concerns in the appropriate sections as we move forward.

I think it's going to be very important to inform the member, inform the House and inform those who have written in, including the UBCIC, what this legislation actually means and how the input we've taken from the 2018 input that they provided, which is very similar to the letter received there, is actually reflected in the substantial changes in the bill.

B. Banman: I didn't hear a yes or no in that, but I will look forward to finding the answer as we go further.

The next question I have, through you, Madam Chair, to the minister is….

Interjection.

The Chair: All through the Chair, please. No heckling. Member.

B. Banman: Thank you.

My question, then. Again, it was a fairly lengthy letter.

"Several proposed amendments disregard significant concerns we identified in formal submissions to the public engagement process" — I think it's worth repeating: disregard significant concerns we identified in formal submissions to the public engagement process — "and introduce measures about which we were never informed, contravening article 19 of the United Nations declaration on the rights of Indigenous peoples and your government's legal obligation under the Declaration on the Rights of Indigenous Peoples Act, DRIPA."

I'd be interested in the minister's response to that in particular — what I consider to be almost a damning statement — from the Union of British Columbia Indian Chiefs, with regard to this process.

Hon. L. Beare: Again, a number of the concerns that are outlined in that letter are addressed in this legislation. We took the input from 2018, which was very similar to the letter that the member has before him now. Actually, the concerns are met in this legislation. I'm very excited to explain to the member how we're addressing those concerns — and addressing those needs through the legislation — in the coming sections.

A. Olsen: I think it's important to acknowledge that it's going to be incredibly challenging to get to all the sections of this bill and to give it the dutiful work that we're supposed to be doing, considering the fact that they're closing debate in four hours on this bill. All along this process, the minister has suggested that she can't wait to provide the responses, yet has been very challenged, I think, to actually provide coherent responses to many of the questions that have been raised by the members of the opposition.

The question I have is: did the Indigenous leadership — specifically, here, the Union of B.C. Indian Chiefs and the First Nations Leadership Council — see the bill that we're talking about today, the contents of the bill?

[3:25 p.m.]

Hon. L. Beare: Thank you to the member for the question. As I've outlined — and as I want to assure the member, and all members, of the House — there was consultation done, which I've outlined, with Indigenous organizations, including the UBCIC, and the general public, as well as public bodies, stakeholders, businesses and people. So the bill reflects what we've heard from all our engagement across all sectors.

FOIPPA, as a general piece of legislation, does impact everyone in B.C. Our government considered how FOIPPA impacts Indigenous peoples. We did that through the consultations, which I've outlined previously in the House. I highlighted some of it in my earlier question.

We developed proposals, which we have in the legislation before us today, to address those impacts, to address the impacts on Indigenous peoples. There's increased information-sharing with Indigenous peoples, especially when they're exercising their rights and title. There are

protections on the information that's provided to government, by Indigenous governments. There's a whole suite of things that we're doing in this bill.

There are a number of ways we've addressed the concerns that were in the letter. They're in the subsequent articles in our bill — which I'm looking forward to talking about, so that we can explain how the bill incorporated the feedback provided by the UBCIC in 2018 and by other organizations.

[3:30 p.m.]

I think it's important to note that we continue to develop our legislation and our policy from that feedback. The legislation we have before us today had substantive changes made to it from the proposals we received from the UBCIC and others.

As we go through each section of this bill, we are going to be able to talk about the concerns that are in the letter that are addressed in sections, moving forward. We're going to be able to talk about how this legislation…. We took that into consideration — the impacts on not only Indigenous peoples, but the general province of British Columbia as well.

A. Olsen: It's really tough to actually sit here and listen to this mockery of this democratic process, almost reducing this committee stage to a farce, frankly. I asked a question that I think anybody who's been in government or anybody who's been close to government knows the answer to. All the minister had to do was stand up and give the answer, "No, nobody in the consultation process saw this legislation," because the legislation….

It only is a very unique scenario in which legislation is shared, and very strict NDAs are signed. I know the process; I've been through the process. Instead, the minister wants to use a bunch of words to talk around the issue. So let's get to the point. The point of the question, of course, is because the only way for the Information and Privacy Commissioner, the Union of B.C. Indian Chiefs and a variety of other stakeholders to provide comment on this is once the legislation has been tabled — this part of the process.

If the government is going to just simply put their head down when substantive organizations raise equally substantive concerns, then what we have is exactly that — a farce of democracy, one in which the minister can stand up and almost say anything. We've seen it in other debates of bills. I was in a debate yesterday where a minister stood and literally just read the clause back to the people who were asking the question, like that's some sort of a respectable response to a legitimate question.

We see it here. The minister is suggesting we want to get to the other sections of the bill, knowing full well that they've already moved a closure motion on this debate. You don't actually want to get to the debate.

The question…. I think I know the answer to it, but I'm going to ask it again. It's a very simple question. Did the Union of B.C. Indian Chiefs see this legislation, see the specific language in the amendments that are made, prior to the legislation hitting the table and being on the debate here in this session of the Legislature?

[3:35 p.m. - 3:40 p.m.]

Hon. L. Beare: The policy intention of the bill was broadly shared as part of our consultation process on clause 21, which we're on right now. Deeper policy discussions did occur around the information-sharing, which enables information-sharing with Indigenous governing entities who are exercising their rights and title.

That's one of the concerns, for example, in the letter that I can talk about here in clause 21, as part of that deeper discussion that we had around Indigenous consultation.

T. Stone: I'm happy to rise and participate in some of these questions as well.

I certainly appreciated the question from the member for Saanich North and the Islands. It's hard to square that circle when, on the one hand, the government is saying that there was engagement and consultation and, on the other hand, the minister can't or won't confirm that the actual legislation, the draft legislation, was shared with the First Nations in question, whether it's the Union of B.C. Indian Chiefs or other similar organizations.

The reality is this. The decision to proceed with this piece of legislation was made by cabinet on March 31, 2021. Any of the stakeholders…. Or at least, our understanding is that stakeholders that were part of this engagement process were required to sign NDAs, which is another standard operating procedure for this government.

We have obtained an FOI request, or the results of an FOI request, that contains a number of interesting documents. Unfortunately, as is typical with FOI requests, there are all kinds of pages that are blacked out, and so forth.

In these documents, one of the more interesting ones that has fewer redactions than elsewhere is speaking notes for the minister as she briefed her caucus, the government caucus, on June 15, 2021. In this, she very clearly states that many stakeholders, including the Information and Privacy Commissioner and others, will not agree with some of the amendments and will voice their other concerns.

Nowhere in these speaking notes, by the way, is there any mention of reconciliation or engagement in consultation with First Nations.

I think it's a bit much for the minister to be continuing to go back to this notion that there was meaningful engagement and consultation done, when she can't confirm if draft legislation was shared with First Nations, and confidential documents, at least the unredacted components that we're able to obtain through FOI, indicate that it didn't appear to be on her radar screen.

I've got to say, I understand why the Union of B.C. Indian Chiefs is so darn frustrated and why they would feel

compelled to come forward with this letter that my colleague from Abbotsford has read into the record and that we've tried to focus some of our questions on.

I'd like to ask the minister this. This is germane to section 21. It's germane to every section, because it does involve the input and the engagement that the minister says took place. Again, in light of the fact that this particular letter from the Union of B.C. Indian Chiefs, dated November 23, 2021…. I mean, this is pretty much real time. We're talking yesterday.

The letter says very clearly: "We call on your government now to withdraw Bill 22 and establish a process of substantive engagement with Indigenous governing bodies affected by the FIPPA to ensure that transparency, openness and fairness are enhanced and First Nations' rights under the UN declaration are upheld."

[3:45 p.m.]

That's a pretty direct request from this organization, the Union of British Columbia Indian Chiefs. If the government continues to extol the virtues of the DRIPA legislation we have in this province and the requirements that are contained within it, then I would expect the government would heed the call of this organization and withdraw this bill so that meaningful engagement can take place.

I'm asking this question on behalf of the Union of British Columbia Indian Chiefs. Will the minister withdraw Bill 22 and ensure that they establish "a process of substantive engagement with Indigenous governing bodies" affected by freedom of information? Will the minister commit to that? What is her answer, on that question, to the Union of British Columbia Indian Chiefs?

Hon. L. Beare: Thank you to the member. I'm happy to re-answer the question, which was posed also by the member from Abbotsford earlier. The member and I spoke just a little bit ago about how our government values reconciliation and how I thank the Union of B.C. Indian Chiefs for their important input that they provided in this letter, which is very similar input to the letter that was provided in 2018. The member and I spoke a little bit ago about how important it is to take all of the broad input that we've received around this legislation and draft it into the amendments that we have before us today.

We have been consulting meaningfully on this legislation since 2018, and we outlined that. We outlined some of the consultation we did in 2021. I took the time to go through that. I could go back and talk about the consultation, right from the beginning, if the member would like. We talked, also, about the Indigenous consultation that was done and how that information and that feedback made substantive changes to the legislation that we have before us today.

We have before us legislation that balances all those concerns. It balances the concerns we've heard from our engagement with UBCIC and the letter we received from them. It balances the input we've received from representatives of the 2,900 public bodies and representatives from the business community, including the tech sector, particularly in our public bodies. It's also the input we've received from our health authorities, our local governments, our universities on how this legislation is out of date and how it's not meeting the needs of British Columbians.

[3:50 p.m.]

The legislation has not been updated since 2011, and it's not meeting the needs of British Columbians, particularly during COVID.

I have said to the member, as well, that a number of the concerns that are outlined in the letter that the member is referencing and the letter from 2018 are actually addressed in this legislation. I'm very excited, as we move through the sections, to be able to talk about how we've met the needs and how we've addressed those concerns and how those concerns and those proposals have actually fed into the draft legislation before us today.

The Chair: Just a very friendly reminder to all members of the House here today to remain mindful of section 11.5.1, the relevancy rule. Also, just a gentle reminder to be cautious, as the use of props is not permitted.

T. Stone: With all due respect, it's not up to the minister, it's not up to me, to suggest whether a piece of legislation, which the minister continues to talk about as a modernization of outdated legislation…. So if it's not up to her and it's not up to me to determine if it meets the needs of Indigenous peoples and First Nations…. It's not up to us to make just unilateral declarations that the requirement — it's not an objective — for engagement with First Nations has been met.

The fact of the matter is this. It's not anyone in the opposition that is expressing the frustrations and the concerns and the issues that we are canvassing here today in this section. It is the Union of British Columbia Indian Chiefs, in their letter, dated November 23, 2021, yesterday.

I find it frustrating, increasingly, that the minister keeps coming back to: "Well, we're trying to modernize the legislation. We're trying to move the ball down the field, so to speak. We're trying to improve freedom of information in British Columbia."

Those objectives are all honourable, but equally honourable, and I would argue, extremely important, is that the requirements laid out in DRIPA, that legislation, whether it's a significant change or a minor change to the laws of British Columbia, must adhere to the requirements in DRIPA and must involve the engagement, the consultation, of First Nations. If that's not the case….

Increasingly, we see in examples from this government where they've, on several occasions, had to actually withdraw other pieces of legislation because it became abundantly clear that the required engagement in the DRIPA legislation hadn't happened.

I would suggest that having a few conversations with some First Nations leaders prior to introducing legislation — putting out a public survey and asking a few questions, asking for written submissions, and so forth, from anybody and everybody, including First Nations — then taking all of that feedback and that input, and crafting a piece of legislation, a substantial overhaul of an existing act, in this case, relating to FOI, and bringing forward legislation, bringing it to this House, imposing a time allocation….

The member for Saanich North and the Islands rightfully pointed out…. Although I think he suggested that the debate in committee on this bill was going to end today. My understanding is we actually carry through to tomorrow, so I think we have today and tomorrow. Still, the point is that there's a heck of a lot of detail to cover in this bill, and it's doubtful that we're going to get through to the end of it because of the time allocation that's being imposed.

[3:55 p.m.]

I digress. The point I'm trying to make here is…. Asking a few questions, getting some input, crafting substantial changes and then bringing forward a piece of legislation which, in and of itself, becomes the legal changes…. It becomes the document, if passed, that is going to actually change the laws in British Columbia.

Not providing a copy of that legislation, the bill, to First Nations ahead of bringing it forward for consideration in the Legislative Assembly would, in my mind, constitute a gross violation of the spirit and the intent and, I think, the legal requirements as contained within DRIPA.

Does the minister agree with that, and if she doesn't, why not?

[4:00 p.m.]

Hon. L. Beare: There has been broad and lengthy consultation on this legislation since 2018. There have been thousands of people, of businesses, of Indigenous groups and organizations who have provided input through that extensive consultation over several years.

We spoke with UBCIC on parts of clause 21. We're discussing clause 21, which is the section we're on, before us today right now, specifically clause 21, 33(2). Now, we made significant changes to this section based on the input that we heard from our consultation and from UBCIC. We changed how the section operates. We changed how it references Indigenous rights.

[D. Coulter in the chair.]

In essence, we have made this section better through our consultation with UBCIC. This section, section 21, allows us to share information with Indigenous governing entities. The intent of this section responds to concerns raised and ensures that we can share information with Indigenous governing entities without the need for an FOI.

B. Banman: Moments ago we heard the minister talk about a similar letter that stated out similar concerns from the Union of British Columbia Indian Chiefs. I've heard the minister say, "We want to modernize freedom-of-information laws," and I think everybody in this House is in agreement that's probably overdue. That's not the argument.

The minister has mentioned a few times about balance. Well, there's an issue with that. Clearly, there is more than just balance. There is a duty with regards to DRIPA, the declaration on the rights of Indigenous people, to take their concerns, which are very valid, under consideration. Here we are on clause 21, which talks about the very thing of engagement. Yet the minister has dismissed the previous concerns of not only….

There seems to be a lot of frustration in the room. You hear frustration from the member from North Saanich. You hear frustration from the member for Kamloops–South Thompson. You're hearing frustration from the Privacy Commissioner. You're hearing frustration from the Union of British Columbia Indian Chiefs. It's all down to one thing, which is a lack of meaningful consultation. It's more than just balance. DRIPA tips the scales. We have a duty.

My question is: if, in the minister's own words, she's had previous correspondence from the Union of British Columbia Indian Chiefs which shared the same sentiments as expressed in this letter, why were those concerns not heeded?

Hon. L. Beare: As I've said multiple times, this question has been asked and answered, that we have addressed the concerns. They're in the clauses that we have before us, and I'm very excited to talk about how those concerns are addressed and how we've incorporated the feedback that we've heard into the amendments we have before us today.

[4:05 p.m.]

In section 21, which we have before us, we had meaningful consultation on specifically 33(2), which is before us. We made significant changes to this section based on the input we heard from UBCIC and from Indigenous partners. We changed how section 33(2) operates. We changed the references to Indigenous rights within this clause.

The section allows us to share information with Indigenous governing entities, which is one of those concerns that is addressed, and I'm happy that we're able to talk about that in section 22 before us. The intent of this section is to respond to the concerns raised and to ensure that we are able to share information with Indigenous governing entities. We were able to make this bill better in section 22, which we're discussing before us right now, through our consultation with Indigenous partners.

With that, Chair, I request a 15-minute recess.

The Chair: Okay. The committee will be recessed for 15 minutes.

The committee recessed from 4:06 p.m. to 4:21 p.m.

[D. Coulter in the chair.]

T. Stone: Section 21, which is the focus of our line of questioning at the moment, provides for a new section in the act, which deals with disclosure outside of Canada. So it's a new section — 33.1. Again, this deals with data residency.

The new section, if this amendment passes, 33.1, says: "A public body may disclose personal information outside of Canada only if the disclosure is in accordance with the regulations, if any, made by the minister responsible for this act." So my first question would be this: why would the minister include in this new section the words "if any"?

Frankly, this would seem to provide an out for the minister and government not to actually develop any regulations pursuant to this section, which, again, involves the disclosure of information outside of Canada. It would have been tighter and a bit more reassuring, I think, for the public and for British Columbians, if it had just said "in accordance with the regulations made by the minister responsible for this act." That would basically say there have to be regulations. But it doesn't say that. It says "if any."

So I'm curious, again, as to why the words "if any" are included in this new section 33.1. Frankly, the ideal here would have been if the minister had heeded the calls of the Privacy Commissioner and had provided draft regulations to the commissioner's office ahead of time so the commissioner could have actually provided some input and feedback, and so forth, with the oversight role that the commissioner has. The minister decided not to do that.

The minister has said consistently through this debate that we're going to see regulations at some point in the future. We have no idea what they're going to look like or what sections they're going to pertain to or not.

[4:25 p.m.]

Again, this new section 33.1, which would come to life if section 21 of the bill actually passes, provides the minister with a very useful out to not develop any regulations pursuant to disclosure outside of Canada, again, in relation to a public body being able to disclose personal information outside of the country. So I really just want to ask the minister: why does it say "if any," as opposed to just requiring the provision of regulations?

[4:30 p.m.]

Hon. L. Beare: Thank you to the member. I appreciate the question.

This is a common legislative drafting approach. It's enabling to stand the test of time over the legislation. This legislation, as it stands right now, hadn't been updated in over ten years. Specifically, the provision works in conjunction with section 46 of the bill, which enables the minister to issue regulations that support public bodies in taking the necessary steps to protect personal information that is being disclosed outside of Canada. It is our intention to have regulations, following completion of this legislation.

T. Stone: I appreciate the minister's statement of intent around drafting regulations and bringing regulations forward. I would be remiss if I didn't, as we're talking about regulations, again, very specifically related to this section 21 and this new section, 33.1, that would be added to the act…. It leaves the door open to there being regulations or not.

I suppose I'll move on, but it seems very strange, on a section as critical as the disclosure of personal information, the personal information of British Columbians outside of the country, that there is this wiggle room built into the legislation on this section.

The advice that the minister has received on this I think is correct in the sense of…. Every act has the enabling ability for regulations to be developed through order-in-council at a later date. But it is not a black or white thing. Regulations are….

This whole "if any" provision, leaving the door open, is not something that is attached to every single instance of potential regulation. There are many pieces of legislation in this province that require the development and the provision of legislation. Don't leave the door open and say the minister "may" or such-and-such will apply "if any regulations are in place."

There was a choice that was made here to make this as broad as possible, again, on a section that involves the disclosure of personal information outside of the country and regulations that, yes, are made possible to be developed, potentially, at a later date, pursuant to subsequent sections in this bill. But a choice was made to leave the door open for regulations to be developed or not developed.

I would ask the minister again: does she continue to stand by and defend the choice that she and her government have made to not be definitive, detailed and transparent with what the government's intent is insofar as regulations that really need to be developed here, that will contain the nuts and bolts of the protections of the personal information, the disclosure of that information outside of Canada?

Does the minister, looking at it now, realize or think that the choice that was made perhaps wasn't the best one, that it might have been better, in the interests of assuring the public, to actually be more specific here in not allowing for wiggle room, not allowing for the potential of regulations but, rather, requiring regulations?

[4:35 p.m.]

Hon. L. Beare: The last time this legislation was

updated was ten years ago. I know the member will agree with me that a lot has changed over the past ten years. We certainly couldn't have contemplated where we are today in the legislation when it was drafted ten years ago. Primarily, a lot has changed in the needs of British Columbians and how they're accessing services. The member and I have talked a bunch about it — whether it be in accessing education or health care, or whether it be connecting with loved ones — and how we're using these services.

My intention, as I've said to the member, is to have regulations upon completion of the legislation. This is an enabling clause that we have before us, and I do believe it's the best approach to stand the test of time for the legislation — which may not be updated again, potentially, for another ten years.

T. Stone: Well, I would suggest that it's actually not the best approach to leave so much in the dark. Again, not to recanvass what we've already talked about, but the statutory committee was completely bypassed in the crafting of this legislation and everything that's in it and in bringing it forward. We've just canvassed a number of questions with respect to the Union of B.C. Indian Chiefs — and the apparent lack of engagement as required under DRIPA — with this legislation.

[4:40 p.m.]

The oversight, which we'll get to, with respect to the commissioner, and the significant watering down of oversight…. I wouldn't suggest that these are really good, positive steps forward in modernizing the legislation, as the minister has talked about. Nor would I suggest that it's a good step forward to basically bring forward this extremely significant overhaul of the FOIPPA act without any sense of what the regulations are going to say.

The commissioner was very clear about that in his letter, which again, we went through pretty thoroughly in previous sections, and we'll come back to it, I'm sure, in subsequent sections. He was very, very clear that he believes it's a significant failing of process and the choices that the minister has made in the process insofar as regulations go, not following the lead of other jurisdictions that have often brought forward draft regulations for public exposure or, at the very least, if not provided to the public, were provided to their respective freedom-of-information and protection-of-privacy commissioners or equivalents for feedback, again, drawing upon the expertise of folks like our commissioner.

I'll ask a specific question. Again, once these amendments, if this bill passes, are incorporated into the act, so much of bringing it to life, bringing the changes to life, will depend on the regulations. When will the regulations be approved by this government and be known to the public?

[4:45 p.m.]

Hon. L. Beare: My intention is to have the regulation in a timely basis shortly after royal assent, because this clause is important for protection of people's privacy. So I thank the member for the question to clarify that that protection will be there in a timely manner following royal assent.

T. Stone: The minister just said shortly after royal assent. How does the minister define "shortly"?

[4:50 p.m.]

Hon. L. Beare: I know that the member knows there are processes internal to government that we have to follow for this. As I've said, our intention is to be as timely as possible. I'm saying to the member a.s.a.p. We're going through the processes to ensure that this regulation is available shortly after royal assent.

T. Stone: Well, a.s.a.p., shortly, timely fashion — frankly, that's ridiculous. Because this is one of the sections there's, frankly, only…. We'll talk about section 74 — if we ever get to it, based on the closure that the government has imposed. But there are only two sections that this government and this minister have decided to bring into force by regulation, because it's a choice, as I said earlier. Every single section of a bill can be brought into force either through regulation or upon royal assent or at another date that's specifically named in the legislation.

The government opted to provide for this section 21, which contains these changes to the disclosure of personal information outside of Canada. That's the new section 33.1. The government opted to bring this section 21 and every other section in this bill, except for section 25 and section 49, by royal assent — the provisions of every one of these sections. They just automatically….

I know that the Chair probably knows this now, but that's how the process works. We pass the legislation. Once it goes through committee, it goes into third reading. Then we pass the bill there. We pass the title. Then when the Lieutenant-Governor comes into this building and she nods, that's the royal assent. It becomes the law at that moment.

The minister can't sit here and actually give us a date when the regulations pertaining to the disclosure of personal information outside of the country…. She can't give us a date as to when the regulations would provide, presumably, the protections of that personal information disclosed outside the country, other than to say that those regulations will come forth a.s.a.p. Or they'll come forth in a timely fashion. Or they'll come forth shortly. That's not good enough.

This is a critical component of this legislation. Again, I sound like a broken record: the protection of the personal information, the disclosure of personal information outside of Canada.

An initial choice was made by this minister not to have this section come into force upon regulation, which would mean the cart would be where it's supposed to be, which

is behind the horse. If you pass the legislation, it's regrettable that the ministry didn't bring forward the draft regulations for public input or for commissioner input or whatever, but you pass the new provisions. Then the provision doesn't come into force and become the law until the regulation underneath that section is developed and deposited.

[4:55 p.m.]

That's how it's often done. It's rare to bring in a provision that immediately takes force or becomes enforceable. That really means there's a big black hole, a big, big grey area, insofar as the regulations that bring that section to life are just not there until some later date after.

I would suggest it would have been a better approach to develop the regulations, include this section in the bill. The section passes. If the regulations are developed a week after the bill passes or two weeks or a month or whatever, at least there's some congruency there — the coming together of the section and the regulation. That's how it's supposed to work.

Again, why is this section 21, which includes this critical component of the disclosure of personal information outside of Canada…? Why are the regulations pertaining to this…? Why does this section not become enforceable until the regulations are developed?

And I'll ask one more time to the minister: can you please be more specific as to what time frame British Columbians can expect? I don't think a.s.a.p. is an acceptable response when we're talking about the disclosure of personal information outside of Canada.

Hon. L. Beare: The question has been asked and answered. It'll be shortly after royal assent.

T. Stone: Well, with all due respect, I haven't asked the question previously as to why the minister opted for this section and the multitude of other sections in this bill to come into force upon royal assent, as opposed to coming into force with respect to regulations that pertain to the section. I haven't asked that question. She couldn't possibly have answered it if I haven't asked it.

I'll ask the minister again. Why is this section 21 coming into force upon royal assent, which presumably is going to be tomorrow, without the regulations having been developed that provide the protections on the disclosure of personal information of British Columbians' data outside of the country?

That's the question. I'm asking for the minister, on behalf of…. A lot of British Columbians are, I think, going to come alive to this. Why did the minister opt to have this section become enforceable upon royal assent and not wait until the regulations were actually developed that fit into this section?

[5:00 p.m.]

Hon. L. Beare: Yes, we did answer this. This section is enabling, and it's designed in the way it is to stand the test of time to ensure that the legislation is future-proof. But I want to draw the member's attention to further on. In section 38, we do talk about ministries and public bodies must conduct a privacy impact assessment and do so in accordance with the directions of the minister responsible for the act.

There will be no disclosures outside of Canada without the PIA. The protection is in place for people. Their privacy is protected, and we're ensuring that we're protecting that information and that the regulation will be available shortly after royal assent.

T. Stone: Again, the minister has opted not to answer the question, which was….

Interjection.

T. Stone: No. With all due respect to the minister, she did not legitimately answer the question.

The Chair: Okay. Through the Chair.

[5:05 p.m.]

T. Stone: I just said, through the Chair, with all due respect to the minister, that she did not answer the question.

The question was: why did the minister decide that this section would become law upon royal assent as opposed to via the critical regulations which need to exist underneath it? That was the question. She didn't answer that question, with all due respect, through you, Chair.

I still find it appalling that at this point in the discussion and the concerns that have been raised far and wide, including by the Union of British Columbia Indian Chiefs in their scathing letter yesterday, including in the Office of the Information and Privacy Commissioner's letter and many others, the minister continues to sit here and think that it makes sense to respond with very straightforward, reasonable questions such as the timing of regulations that relate to the protection of information and the disclosure of personal information…. And all we get is " shortly," or "a.s.a.p." or "in a timely fashion."

Here are a few other…. Maybe the minister wants to say "presently" or "in a trice." It doesn't matter which words you choose. We're looking for a tighter sense of the timeline here on when we can expect regulations pertaining to this section because of the sensitive nature of this section.

If the minister is not willing, through you, Chair, to give us a specific date, instead of saying "a.s.a.p." or "in a timely fashion" or "shortly," whatever other general term she wants to use, can she at least let us know what her objective is around the timeline? Will we have it within a month, within 30 days, within three months? What is the minister's objective with respect to the timeline of the regulations that pertain to this section actually being

developed, actually having been adopted by government through the OIC process and known to the public of British Columbia?

Hon. L. Beare: The question has been answered: shortly after royal assent.

T. Stone: The question has not been answered, and it's a sad day. It's another example of just the abuse of process, of the inability, the unwillingness, the intransigence on the part of this government and of this minister in being transparent about their intentions and answering direct questions. This is not how this process is supposed to work.

I'll move on, because clearly, the minister refuses to tell British Columbians when they can expect to have regulations in place to protect the disclosure of their personal information when this government decides to ship that information outside of the country. Clearly, she's decided that "shortly, a.s.a.p." is a reasonable response.

The minister said, during debate earlier on this bill: "Our regulations that will be implemented will go above and beyond every other jurisdiction in Canada that doesn't even have the power to put in regulations as we do right now or will with this bill. We are going above and beyond."

We heard that phrase "above and beyond" over and over, but the minister has been reluctant to clarify what the regulations will actually say, what they will actually provide for. Again, the minister keeps saying that the regulations requiring privacy protection will go above and beyond, above and beyond.

Is she able to say this because the regulations have actually been developed and are in draft form? What gives the minister confidence that these regulations are going to be any better than anywhere else in the country?

[5:10 p.m.]

Have these regulations actually been developed? Are they being considered in government at the moment? Are they in a draft form somewhere?

Hon. L. Beare: As the member knows, and as I've answered previously in this debate, regulations are developed as part of a separate process which is not part of the legislation which we have before us here. I have said previously, and I commit to the member, that the regulations will add protections for British Columbians' data.

[5:15 p.m.]

T. Stone: Well, the minister has introduced, many times in our discussion and debate on this bill, that work is underway on the regulations. And a news flash for you, Chair: the regulations that the minister is going to bring forward are going to be above and beyond any regulations that pertain to similar subject matter in any other province in the country. She has said that over and over in this debate, on previous days, on Bill 22.

Again, I think British Columbians have a right to know what underpins the minister's confidence to the extent that she's willing to go so far as to say that the regulations that she intends on bringing forward pertinent to this bill will go above and beyond similar provisions in other provinces in the country. What gives the minister the confidence to be able to say that?

[5:20 p.m.]

Hon. L. Beare: All throughout this legislation, I've been very clear to the member and to the House, and I think it's important to restate that our government is committed to protecting people's information. We've made it very clear that those protections are the top priority in this legislation. We have been operating this way for the past 20 months. We have already been doing this, and we already have this experience. We've been doing it safely since the ministerial order, and we heavily canvassed earlier in the debate on the ministerial order and how we've been operating.

People have had their privacy protected throughout that ministerial order. We've been providing services that people are counting on through the COVID-19 pandemic. This legislation and our updated data residency requirements bring us in line with the rest of Canada, who have been managing information safely without similar restrictions over the past decade.

I know how important it is for people to know that their privacy and their information are being protected, and we are committed to that.

A. Olsen: I think it's important for British Columbians, as we're assessing this, especially if we're going to be qualifying and quantifying things, to understand what, actually, the meanings of those are. Are there definitions of "above and beyond" in this legislation so we can understand some context as to how far and to what extent the minister is going to take her actions?

[5:25 p.m.]

Hon. L. Beare: All throughout this bill and our debate, I've been outlining the ways this bill is going to benefit British Columbians, how it's going to ensure that their privacy is protected, how their data is protected. It's going to allow them to continue accessing services. We've talked about some of the pieces in the bill that are improvements to the bill that are giving those types of tools to British Columbians.

[R. Leonard in the chair.]

We're implementing mandatory breach reporting to the Office of the Information and Privacy Commissioner. We're implementing mandatory breach reporting to individuals.

[5:30 p.m.]

We're strengthening the PIA requests for the broader public service. We've put in a new requirement for privacy management programs. We're adding ministerial power to add subsidiary entities as new public bodies. We're adding new offences for wilfully evading FOI, and there's more.

These are all the ways we've talked about, throughout this bill, that we are improving protections for British Columbians. We're improving their access to services, and we're improving the legislation through these amendments.

A. Olsen: You know, I think the answer just kind of indicates the problem that we have. That was that the question that was asked previously, from the member for Kamloops South, was along the lines of looking for a specific answer about — the minister uses the terms and the words — "going above and beyond." Now, listing out the things that the bill does, there's no context to the question that's being asked.

If the minister is going to stand up and suggest to the people of British Columbia — who we represent and we're trying to ask questions on behalf of; our job here is to ask questions on behalf of all British Columbians — that she's going to go above and beyond, presumably there's some level of understanding of what "above and beyond" means.

You see, being specific is important. The language in this bill is very specific, for a reason. In fact, as we've drafted private members' bills or amendments, the legislative drafters want us to be very specific, because when you're not, there are all sorts of problems in how that bill gets applied or in what the expectations of British Columbians should be.

When the minister chooses to answer a question and use the terms "We're going to go above and beyond" or "It's going to be done shortly" or "It's going to be done a.s.a.p.," those are fine to use those words, but it's not the level of specificity that should be included in a law-making process.

I would probably ask the question again of the minister but would probably not get a response about how she intends on actually implementing it or on what timeline she's going to implement it, whether it be in the regulations or this law, and why one type of commencement was chosen over another.

It's important that when these questions get asked and the minister decides to use language, we understand that that language actually has meaning. I think I've registered my frustration in this debate; I've registered it in previous debates. The fact of the matter is that it's really felt that the ministers, especially in this last week, are just trying to get to the end of the day, and that's it. It's really doing a disservice to this democratic process, the democracy that we've been elected to. Anybody who sits back and watches this sees the affront to democracy that's occurring in this last week.

So I'd just encourage the minister, if she is going to go above and beyond, to have and to provide some indication to the people of British Columbia, who this law is going to apply to, as to when, where, what and how those words actually.… What do they mean? And how are they going to be applied?

Hon. L. Beare: As I answered a few minutes previously in the debate, regulations are developed as part of a separate process which is not part of this legislation we have before us today. I have previously committed, all throughout this legislation, to ensure that British Columbians' information is protected.

[5:35 p.m.]

B. Banman: As I'm sitting here, I'm looking at a recent Ipsos poll that said that 73 percent of respondents across the province were opposed to specific changes proposed in Bill 22, 61 opposed requirements requiring people to pay a fee for freedom of information, and 73 opposed government bodies storing their personal information outside of Canada. I can't help, as I'm sitting here….

I'm sorry, but the minister's response, sadly, reminds me of a saying that came from Buzz Lightyear: above and beyond, a.s.a.p. It's comical if it weren't dealing with people's privacy and information.

The member for Saanich North and the Islands has mentioned a few things about the whole process and his frustration. The Privacy Commissioner has mentioned a problem with the process. Members of the special committee have mentioned a problem with the process.

Now we have the latest. The Union of British Columbia Indian Chiefs, for a second time, have expressed a problem with the process. They've all expressed, as did 73 percent of British Columbians…. What they're really saying is: "We have a trust problem. We do not trust this process."

When the minister stands before us and uses words like "above and beyond" and "a.s.a.p.," I don't think it's too much to ask for British Columbians to have an idea when their data can be protected. Maybe it's a little personal to me because I've just seen what a breach can do and what that does with the flood waters in an entire community. And this is very similar. Once this data is breached, unlike the Sumas Prairie, we can't suck it back. We can't get it back.

This minister chose to do the process this way, not the citizens of British Columbia. So I would respectfully ask the minister: are there draft regulations already around? Will those draft regulations be talked with, with the Privacy Commissioner and the Union of British Columbia Indian Chiefs? And when can we, respectfully, ask for that process to be anticipated, estimated to be done?

This becomes law, as we've heard, upon royal assent, probably tomorrow. I don't think it's too much to ask, to say: "We expect it within six months." I don't think it's too much to ask to have an answer that we have draft regulations already. "Yes, we're going to discuss them with the

Privacy Commissioner and the Union of British Columbia Indian Chiefs, and we expect it within approximately this time period."

"Above and beyond" just is not good enough, and it really is becoming comical.

Hon. L. Beare: Chair, this question was asked and answered.

I request a five-minute recess, please.

The Chair: Okay. This committee will recess for five minutes.

The committee recessed from 5:39 p.m. to 5:46 p.m.

[R. Leonard in the chair.]

B. Banman: As we mentioned a moment ago, the minister is half right. The question has been asked. Sadly, it hasn't been answered.

Above and beyond, a.s.a.p., is not really an answer to asking whether or not there are draft regulations that are in the preliminary stages and, not getting an answer to that, whether or not the Union of British Columbia Indian Chiefs and the Privacy Commissioner and, heaven forbid, the actual special committee that has been put in place to deal with exactly these such things will be consulted. The minister has not been transparent in her answers.

I think the minister knows full well that there's a game plan. I think the minister has probably an idea of a timeline as to when those regulations are expected to be done but, for whatever reason, is hesitant to answer those questions. I find it disturbing.

I think this is about people's most private information. It includes their health information. It includes the collecting of their information. I go back to 73 percent of British Columbians have a concern with their data being stored outside of Canada.

My question is: does the minister think that 73 percent of British Columbians are wrong?

[5:50 p.m.]

Hon. L. Beare: We've outlined very clearly, in this House, the consultation that has been done to get to where we are in this bill — a very balanced approach.

The member is referencing a third-party survey not done by government. We have surveys here in front of us. We have round tables that were done by government. We have consultation with the public. We've taken all that feedback, all that consultation that has been done since 2018, and have put it into the draft regulations that we have before us today. I think it's important for the public to know that we've been listening.

There are strong voices on all sides of this debate and of this legislation. Our job as government is to balance those voices and put forward legislation that we have before us today, legislation that protects people's information, legislation that allows people to continue accessing the services that they've come to count on during COVID-19. That's what we're doing with this legislation.

B. Banman: Well, respectfully, I would say that 73 percent of British Columbians disagree. Clearly, the Union of British Columbia Indian Chiefs disagree, and the Privacy Commissioner disagrees, respectfully.

We've covered an awful lot about social media comments. My question now goes: for youth in care — or youth, period — how will their social media interactions be specifically protected by this act?

[5:55 p.m.]

Hon. L. Beare: I think we need a little clarification from the member on what he is seeking here. Previously, the member and I discussed — in 33(2)(w) — social media. That was surrounding disclosure. So I'm unclear as to what…. We had that full discussion on how it's disclosure, and it's not collection of information in that sense. We talked about it previously.

Is the member referring to that section, and is that what the member is trying to ask?

B. Banman: Well, in this act, there's reference to both the collection…. In clause 21, there's mention of compiling the data for the purpose of engagement, and then there's data-linking, which is also part of this. It's mentioned in it.

I guess my question is: if I'm a parent now and a youth in care of government is now interacting with one of the government websites — or I have a minor that's my child, let's say, that is now interacting with government — what will be there to protect that minor? What are the purposes of collecting…? How will this government know whether or not the data and the engagement they're collecting is from a minor or not?

Hon. L. Beare: We discussed, and I want to make it clear to the member, that the bill does not change what information is collected, used and disclosed on social media. We thoroughly canvassed that. That remains intact here in the bill. The only change that has been made, with respect to the bill, regarding social media is to remove the definition, because the current definition lists sites — for example, Myspace. So it's removing that outdated list of a definition.

The bill does not change what's currently in practice right now. We've thoroughly canvassed disclosure versus collection previously.

B. Banman: I just want to go over something again. The member for Saanich North and the Islands asked the question: can a public entity, a public body, store data in any country in the world, once the government gets its way and repeals this section, in any jurisdiction in the world?

[6:00 p.m.]

I guess what we've seen from the speculation tax with regards to the privacy impact assessment is that there was a gap. It was not executed exactly perfectly, I think we can all agree. It was completed before the rollout of the new programs.

How will the minister ensure that the privacy impact assessment will have adequate safeguards, when it's being done behind closed doors and behind the scenes?

Hon. L. Beare: I know we're going to get into it in a later section with the member, but FOIPPA — and it's coming up in a later section — does require that privacy impact assessments be conducted during the development of a proposed initiative providing that protection, and that's not changing with this bill.

The Chair: Okay. Again, on clause 21 as amended.

B. Banman: On clause 21. Thank you, Madam Chair.

Would the minister agree with the statement that a privacy impact assessment is a legal responsibility of government?

[6:05 p.m.]

Hon. L. Beare: This is all jumping us up into section 69. But just in the interest of time, I will answer this. Maybe we can continue on PIAs in section 69.

But as I've said, FOIPPA, the legislation, requires privacy impact assessments to be conducted during the development of a proposed initiative, and that's not changing under this bill.

I'll read what is in 69, for the member. The requirement hasn't changed, but there's some language change in here. Subsection 69(5): "The head of a ministry must conduct a privacy impact assessment and must do so in accordance with directions of the minister responsible for this Act." And then we have 69(5.3): "The head of a public body that is not a ministry must conduct a privacy impact assessment and must to do in accordance with directions of the minister responsible for this Act."

Again, FOIPPA does require that assessments be done and conducted during the development of a proposed initiative.

The Chair: Member, just a reminder again to ensure that the questions are relevant to clause 21 as amended.

B. Banman: Absolutely. Thank you, Madam Chair, for that advice. I would say that FOIPPAs are connected when we're collecting data. That privacy impact assessment is directly related to this particular clause, but thank you for that.

I'm confused slightly by the minister's answer. Is that a ministerial regulation, or is it a legal requirement?

Hon. L. Beare: What I just read from section 69 to the member is clearly from the law in section 69.

B. Banman: Again, when we go back to the fact that the cart got before the horse with regards to the speculation tax, where clearly there was a misstep in that process, it would appear to some as if this has been downgraded from a legal requirement to a policy request, a policy then, policy process.

Moving forward, how robust will the privacy impact assessments be when clearly there was a misstep in the past?

[6:10 p.m.]

Hon. L. Beare: I have answered previously in this debate — and very specifically, around these questions — that regulations are developed as part of a separate process, which is not part of the legislation we have before us today.

B. Banman: Madam Chair, as I recall hearing just a moment ago, the minister did say that it is a legal requirement to do a privacy impact assessment.

I guess the question is…. Let's say that under clause 21, as we're gathering this, if this is done incorrectly — or in an inappropriate time, even, such as was done with the spec tax — what methods of redress are there if there's a flaw in that privacy impact assessment process?

The Chair: Member, I'd just like to refer to *Parliamentary Practice*, chapter 11, section 5.1. It refers to Standing Orders 61(2) and 43, which require that debate "must be strictly relevant to the item or clause under consideration."

I'd just request…. It says then that the Chair may direct a member who "persists in irrelevance or tedious repetition…to discontinue speaking." I've let you ask the question three times. I'd like us to be able to remain relevant to clause 21 as amended.

B. Banman: Thank you very much, Madam Chair.

Let me ask this, then: is a privacy impact assessment required for portions of clause 21?

[6:15 p.m.]

Hon. L. Beare: Section 21 does not make reference to a PIA. I did read the legal requirements out for the member, which come in section 69. I have said to the member during this debate that details of PIAs are done through regulation, which is a separate process outside of this legislation.

B. Banman: Now I'm really confused. Through you, Madam Chair, to the minister, a moment ago she said a PIA was a legal requirement. And now did she just misspeak when she said it was a regulation?

Hon. L. Beare: The legal requirement is outlined under

section 69. The details are part of regulation, which is part of a separate process.

B. Banman: I'll move on and save part of that, I guess, for 69, unless the minister is willing to answer the simple question: what methods of redress are there if there are flaws in a privacy impact assessment?

The Chair: Member, that question is not relevant to this clause.

B. Banman: As you wish, Madam Chair. I will ask it later.

In 33(3)(h), gathering of information for statistical research, while it's good to see that there is oversight by the commissioner and the head of public bodies, there's also language that protects an individual when it comes to data linking. Again, that's a positive step.

Can the minister please provide a specific example of what couldn't be done before and what can be done now with this section?

Hon. L. Beare: This section hasn't changed. All the existing abilities that were there before are there now.

B. Banman: To the minister, is she 100 percent certain that there has not been any change of what could not be done before and can now be done with this section?

[6:20 p.m.]

Hon. L. Beare: As I said, this doesn't enable any new disclosures or data-linking ability. We have renumbering. We have grammatical changes. I'll read out one line, just for an example, to the member. It used to be 35(1)(a).

That was: "the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form or the research purpose has been approved by the commissioner."

That's now 33(3)(h)(i): "the research purpose cannot be accomplished unless the information is disclosed in individually identifiable form, or the research purpose has been approved by the commissioner." Minor changes — numbering and grammatical changes.

B. Banman: In subsection 33(3)(h), it's a fairly massive change. We've taken some legislation, and this is all brand-new. I'm looking at the proposed bill. Would the minister please like to comment on subsection (iii): "any data-linking is not harmful to the individual the information is about and the benefits to be derived from the data-linking are clearly in the public interest"? Was that data-linking existing prior?

Hon. L. Beare: Yes, that existed prior. It's not a new section. As I said, it has moved number, and then there are some changes in it. If I'm holding the act as previous…. We have the amended legislation before us. In the previous act, it is: "Disclosure for research or statistical purposes." That's 35, and then there's subsection (1)(a), (a.1), (b), (c)(i), (ii), (iii), (d); subsection (2); and it goes on. So no, this is not new. It's already existing in the act.

B. Banman: Under 33.1, this becomes now the only protection for information disclosed outside of Canada. That's my understanding. Would the minister please explain what is the rationale to repeal the data residency provisions in the current act and, more importantly, make that beyond the oversight of the Privacy Commissioner?

[6:25 p.m.]

Hon. L. Beare: Just for clarification, there is no change to the commissioner's office regarding oversight on this matter. I'm wondering if the member wants to clarify or dive deeper into his question and explain what he's looking for.

B. Banman: I guess, then, let's start with: what's the rationale to repeal the data residency provisions in the current act?

Hon. L. Beare: The member and I have actually had a lot of chance to talk about this since this bill was tabled six weeks ago. We've talked about how important it is to listen to what's going on in people's lives.

[6:30 p.m.]

We've talked about how people want to be able to continue accessing the services that they've had under COVID, like telehealth, like online education. We've talked about how businesses and universities and health authorities have all repeatedly told us that our data residency rules are out of date, and it's stopped them from being competitive and responsive to the needs of British Columbians.

We're listening. We have this legislation before us. B.C. fell behind, and this legislation is bringing us in line with the rest of Canada, ensuring that we're able to deliver the tools and services people need, while continuing to protect and manage their information safely.

The member and I talked about how, when the pandemic hit, the world changed and how important it was for British Columbians to be able to access services. We talked about being able to conduct FaceTime visits with your doctor or your nurse. We talked about being allowed or having the ability for Google classrooms so that our kids could move to online learning during the pandemic. We put in that temporary ministerial order, which allowed us to meet those needs.

I know — we've talked about this also with the member — that all sides of the House will agree with me that these services were essential over the past 20 months. It's how we were able to continue providing those services to British Columbians. It resulted in good outcomes. It resulted in being able to provide services people count on.

Combined with all the input we've heard from the sectors, like we outlined — like the university sector, the tech sector, the health sector — we need to update our legislation, which hasn't been updated in over a decade. So it's time to listen to what's going on in people's lives. It's time to be able to give them access to services that they need. That has resulted in good outcomes during COVID-19.

That's what we have in the legislation before us. I know the member and I have talked about this. I'm very happy to address it again, because I think it's important for people to realize what this allows — the ability to be competitive, the ability to be innovative and, most importantly, the ability to be able to access services that people so greatly count on right now.

B. Banman: I think that much of what — or some of what, would be more accurate — the minister has just said British Columbians would agree with. The issue we have before us is, I think, the rapidness in which this came through and the lack of what many consider to be proper channels. The Privacy Commissioner has talked about it. The Union of B.C. Indian Chiefs has talked about it — that consultation that's important.

I do thank the minister for going through that. We knew that we were going to probably touch base on some things, because I think it took us a while to get through the first few sections, even.

The commissioner has sent a rather long, lengthy letter with a lot of concerns, one of which is about leaving any potential protections to regulations. Does the minister share the commissioner's concerns with leaving these protections to regulations?

[6:35 p.m.]

Hon. L. Beare: Just for the member, there are protections in this legislation. I want to draw the member's attention to section 30, which we canvassed. I'll read it into the record here: "A public body must protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized…collection, use, disclosure or disposal."

So we have the legislated protections embedded into the legislation, in section 30. There also will be additional measures through the regulation process, which we've already heavily canvassed here, as a separate process outside the legislation, but I did want to draw the member's attention to section 30, where that is outlined — the protections within the legislation.

B. Banman: If, for instance, the commissioner finds out that the data that's going to be stored is in an area of the world that they have an extreme problem with, that they think is a hazard to Canadians' private information, which is now going to be stored off our soils, does the commissioner have the authority to basically say: "No, you may not store it there"? Or does government have the ability to store it anywhere they wish in the world?

[6:40 p.m.]

Hon. L. Beare: The requirement for protection is in section 30, protection of personal information: "A public body must protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized collection, use, disclosure, or disposal." The commissioner has the power to adjudicate whether the public body has met this requirement under section 30. The upcoming Part 5 outlines all the commissioner's authorities later on in the bill.

Noting the hour, I ask that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 6:43 p.m.

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For inquiries contact:
Hansard Services
612 Government Street
Victoria, BC V8V 1X4
Telephone: 250-387-3681
Email: hansardservices@leg.bc.ca

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