



Legislative Assembly of Alberta

The 30th Legislature  
First Session

Standing Committee  
on  
Alberta's Economic Future

Office of the Property Rights Advocate

Tuesday, July 23, 2019  
9 a.m.

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**Legislative Assembly of Alberta  
The 30th Legislature  
First Session**

**Standing Committee on Alberta's Economic Future**

van Dijken, Glenn, Athabasca-Barrhead-Westlock (UCP), Chair  
Goehring, Nicole, Edmonton-Castle Downs (NDP), Deputy Chair

Allard, Tracy L., Grande Prairie (UCP)  
Barnes, Drew, Cypress-Medicine Hat (UCP)  
Bilous, Deron, Edmonton-Beverly-Clareview (NDP)  
Dach, Lorne, Edmonton-McClung (NDP)  
Dang, Thomas, Edmonton-South (NDP)  
Gray, Christina, Edmonton-Mill Woods (NDP)  
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Jones, Matt, Calgary-South East (UCP)  
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Rowswell, Garth, Vermilion-Lloydminster-Wainwright (UCP)  
Stephan, Jason, Red Deer-South (UCP)  
Toor, Devinder, Calgary-Falconridge (UCP)  
Yao, Tany, Fort McMurray-Wood Buffalo (UCP)\*

\* substitution for Garth Rowswell

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**Standing Committee on Alberta's Economic Future**

**Participant**

Office of the Property Rights Advocate  
Karen Johnson, Property Rights Advocate



9 a.m.

Tuesday, July 23, 2019

[Mr. van Dijken in the chair]

**The Chair:** Okay. Thank you, everyone, for joining us. I'd like to call this meeting of the Standing Committee on Alberta's Economic Future to order. Welcome to all members and staff that are in attendance.

I'm Glenn van Dijken, MLA for Athabasca-Barrhead-Westlock and chair of this committee. To begin, I'm going to ask each member and those joining the committee at the table to introduce themselves for the record, and then I will address members on the phone. I'll begin to my right.

**Ms Goehring:** Good morning. I'm Nicole Goehring, MLA for Edmonton-Castle Downs.

**Ms Gray:** Good morning. Christina Gray, MLA for Edmonton-Mill Woods.

**Mr. Dach:** Good morning. Lorne Dach, MLA for Edmonton-McClung.

**Mr. Dang:** Good morning. Thomas Dang, Edmonton-South.

**Mr. Bilous:** Good morning. Deron Bilous, Edmonton-Beverly-Clareview.

**Ms Johnson:** Good morning. Karen Johnson, Property Rights Advocate.

**Mrs. Allard:** Good morning. Tracy Allard, MLA for Grande Prairie.

**Mr. Stephan:** Good morning. Jason Stephan, MLA for Red Deer-South.

**Mr. Yao:** Tany Yao, Fort McMurray-Wood Buffalo.

**Dr. Amato:** Good morning. Sarah Amato, research officer.

**Dr. Massolin:** Good morning. Philip Massolin, manager of research and committee services.

**Mr. Roth:** Good morning, everyone. Aaron Roth, committee clerk.

**The Chair:** On the phones?

**Mr. Jones:** Matt Jones, MLA for Calgary-South East.

**Ms Issik:** Whitney Issik, Member for Calgary-Glenmore.

**Mr. Toor:** Good morning. Devinder Toor, Member for Calgary-Falconridge.

**Mr. Barnes:** Good morning. Drew Barnes, MLA for Cypress-Medicine Hat.

**The Chair:** I'd note a substitution for the record: Mr. Yao is substituting for Mr. Rowswell.

A few housekeeping items to address before we turn to the business at hand. Please note that the microphones are operated by *Hansard*. Committee proceedings are being live streamed on the Internet and broadcast on Alberta Assembly TV. I would ask that all members please set their cellphones and other devices to silent for the duration of this meeting.

We have approval of the agenda in order here. Does anyone have any changes to make?

If not, would a member please move that? Moved by Member Allard that the agenda for the July 23, 2019, meeting of the Standing Committee on Alberta's Economic Future be adopted as distributed. All in favour? Opposed? On the phones? The motion is carried. Thank you.

Item 3, approval of the minutes from our last meeting. Are there any errors or omissions to note with the draft minutes?

If not, would a member move adoption of the minutes?

**Mr. Yao:** I move that.

**The Chair:** Member Yao moves that the minutes of the June 26, 2019, meeting of the Standing Committee on Alberta's Economic Future be adopted as circulated. All in favour, please say aye. Opposed? On the phones, all in favour? Any opposed? That motion is carried.

Item 4. We have a briefing from the Property Rights Advocate office. As members know, the Assembly passed Government Motion 27 on July 3, 2019, which referred the 2017 annual report of the Alberta Property Rights Advocate office to the Standing Committee on Alberta's Economic Future.

Mr. Reid, would you please introduce yourself for the record?

**Mr. Reid:** Yes. Roger Reid, Livingstone-Macleod. Apologies. I couldn't get the code to work.

**The Chair:** Okay. Thank you.

Pursuant to section 5 of the Property Rights Advocate Act the committee must report back to the Assembly within 15 days after the commencement of the next sitting. Members should keep in mind that it is anticipated that the committee will be considering main estimates after the fall session commences, so our time frame with this review is somewhat limited.

In previous reviews of the annual reports of the Property Rights Advocate office the committees to which they were referred have heard from the Property Rights Advocate. Further, in two of the last four reviews the committee also invited officials from ministries referenced in the recommendations of the Property Rights Advocate office to make a presentation.

Following any presentations, the committee deliberates on the Property Rights Advocate office annual report and makes specific recommendations to be included in the committee's report back to the Assembly. These types of recommendations have previously included but are not limited to endorsing recommendations of the Property Rights Advocate, recommending comprehensive government reviews of the Property Rights Advocate Act, and suggesting the introduction of legislation surrounding matters affected by the annual reports of the Property Rights Advocate office by the government.

Hon. members, members of the subcommittee on committee business recommended that the committee hear first from the Property Rights Advocate as it commences this review. Today we have with us Ms Karen Johnson, Property Rights Advocate, to speak about the report from her office and the recommendations it contains.

I would like to welcome you, Ms Johnson, and would now invite you to make a presentation in regard to the annual report.

**Ms Johnson:** Thank you. Good morning, Chair Glenn van Dijken, Deputy Chair Nicole Goehring, and all members of the Standing Committee on Alberta's Economic Future. Thank you for the opportunity to appear before you today to talk about the Property Rights Advocate office's 2017 annual report. The 2017 annual report discusses protection of property rights in the context of renewable energy operations. Energy is an important driver of

Alberta's economic future, and I hope to show today that observing property rights helps energy sector investment in Alberta. I'll speak more about that later, but first I'd like to touch upon the role of the office.

In 2011 the Property Rights Task Force was formed to listen to Albertans voice their concerns and ideas about how their property rights should be respected. The government responded to the task force's report on what was heard and announced the creation of the Property Rights Advocate office. The Property Rights Advocate office was created under the Property Rights Advocate Act and opened in Lethbridge in December 2012. Today the office is in Edmonton and has been in operation about six and a half years. The office listens to Albertans and stakeholders, documents the concerns and issues raised, works with ministries and other organizations to raise awareness about systemic property rights issues, and advocates for those issues to be addressed.

The office offers general advice and referrals that may support individuals but does not represent parties in individual case files. The office makes recommendations to address systemic issues and works with ministries and organizations, but the ministries design and implement solutions in accordance with that ministry's priorities and with support, as requested, from the Property Rights Advocate office. The office also writes an annual report such as the one before this committee today and includes recommendations for how property rights can function more fairly, which brings us to the Property Rights Advocate office's 2017 annual report.

We can't always predict what will matter in the future. In 1883, when natural gas was serendipitously discovered near Medicine Hat, how could anyone foresee the challenges faced by the oil and gas industry today? In the 1900s the western world began to move away from steam and electric engines towards gasoline-fuelled internal combustion engines. The demand for oil and gas increased, and the rest is well-documented history.

Today we know that landowners, at least, and often a broader community have an interest in seeing expended structures on their land removed or perhaps repurposed. We also know there are costs to removing large structures at the end of their economic life. We've lived this in many ways, including with oil and gas structures, and it is reasonable to expect that the same will be true for larger renewable energy structures. We've learned that when a company's revenues are dwindling, as experienced by the oil and gas industry, it is not realistic to expect the company to invest in cleaning things up because the primary focus is to remain profitable or at least viable, which implies deferring nonessential costs. We can recognize that in spite of increased understanding from scientific and technological advancements, we may not know today all of the potential impacts of long-standing infrastructure such as wind farms or solar fields.

#### 9:10

We know that assets have an end of life, that landowners will want the structures removed, that there are costs to removal, and that impacts are yet to be fully assessed. What if we asked sustainable energy industry firms to make small investments today that gently build toward future reclamation costs? If we did this, a company would be faced with one less cost to worry about if or when its profits started to decline. The firm's own construction crews, with use of those same funds, could clean up and reclaim sites that are no longer economically viable. Doing so could help to moderate the unemployment effects of the business cycle. Albertans and landowners would have one less liability to worry about.

We know that not every firm plans adequately for the future, and of those who do, unexpected financial pressures can tempt

liquidation of any reserve fund in the hope that profits in the future would be sufficient to pay back the liability created by dipping into the reserve or retirement fund. That is why the retirement or reserve fund should be managed under the control of a government investment agency. Government needs to have the ability to call in the chips when the time comes to restore and reclaim so the land can be returned to landowners.

We can recognize responsible companies by requiring all players to contribute toward funding their own estimated future liabilities, the future cost to take down their infrastructure and to reclaim the land over the life of their assets. Amortizing the contributions would keep the contributions reasonably low yet provide security for landowners and Albertans. Companies would then be responsible for their own liabilities and not for the liabilities left behind by insolvent industry players.

The Alberta Energy Regulator said in an early 2019 news release regarding oil and gas:

We know we must change the way we manage liability to ensure that end-of-life obligations are addressed in order to continue protecting Albertans, our environment, and our province's many responsible operators . . .

We recognize that funds are limited in many insolvency cases and that there may not be enough to fully address all end-of-life obligations, which reinforces the need for further changes.

The news release was referencing oil and gas industry challenges that were not anticipated at the beginning and that became known over a long period of time.

Today, if we choose, we can benefit from the lessons of the past and reduce uncertainty for industry, for Albertans, and, of interest to this office, for landowners' property rights. Assessing contributions on a company-by-company basis for removal of their structures, land reclamation, and operational issues provides incentive for companies to employ best practices throughout the life cycle of their assets. Best practices should mean fewer headaches for landowners.

As the industry evolves, landowners will become more knowledgeable about the desired and undesired aspects of entering into a contract with a renewable energy company seeking to operate on their land. By developing a retirement fund used primarily for structure removal and land reclamation, the landowner has some assurance that they will get their land back in decent shape even if the company becomes insolvent. Companies who can and do honour their operational requirements and meet contractual obligations could earn credits or a refund when their contributions exceed actual costs to govern their operations and reclaim expended structures.

There are other concerns to consider such as whether the terms and conditions of the negotiated agreement will be honoured by all parties, and if not, what recourse would landowners have? Landowners could be left with a legally enforceable contract but one that would cost more to enforce than the value of the damages incurred. Often what landowners want is: yes, they want their lease payments, but they want the contractual terms they negotiated in good faith to be honoured. They want to protect their property rights. If a contract is breached and the landowner was to deny the company future access to the property, the landowner might be found liable if anything went wrong because the company could not access and maintain their structure. But how else could the landowner protect their rights?

If enough cases developed where landowners believed contractual obligations were going to be ignored or forgotten, landowners could start rebuffing requests by firms to negotiate sustainable industry leases. Well-designed government policies and laws that support, cultivate, and nurture a healthy, mutually respectful relationship

between renewable energy companies and landowners would encourage landowners to participate in lease negotiations and further industry development.

If a retirement fund was established for removal of sustainable energy assets, the primary purpose should be to ensure that the cost for removal of structures and reclamation of land does not fall to landowners or Albertans. This same fund could also reimburse costs incurred to remedy operational issues, including contractual issues, when the firm cannot or will not address those issues. Delayed or unpaid annual lease payments or a firm's actions that impact an adjacent owner's property rights without mitigation or fair compensation could be withdrawn from the retirement fund to pay the landowner or to repay government if government paid those costs. If a company's contribution towards the retirement fund was withdrawn to pay for or reimburse operational and contractual costs, the following year's contributions could be proportionately increased to offset that withdrawal. This would encourage the parties to avoid operational and contractual problems in the first place.

The legitimacy of a landowner's claim and the appropriate settlement amount should be made through an accessible – that is, timely and cost-effective – tribunal. Ultimately, landowners should not sustain any cost to regain what was rightfully theirs in the first place. We are potentially at the beginnings of a new energy era when we can in effect travel back in time and ask: if we knew in 1883 what we now know, what might we have planned differently then for today's reality that can be applied to sustainable energy?

I ask this committee to endorse the first two recommendations contained in the Property Rights Advocate office's 2017 annual report, that

Alberta Energy and Alberta Environment and Parks develop policy and legislative options to promote greater fairness in the treatment of landowners by operators who lease private property for renewable energy development

and that

Alberta Energy and Alberta Environment and Parks develop policy and legislative options to increase access to justice through processes external to the courts that are designed to promote resolution of disputes between property owners and developers.

The first recommendation seeks for government to consider and establish ground rules that balance the interests of landowners and renewable energy operators more fairly. The second recommendation seeks to establish an accessible, less adversarial means to enforce those ground rules, to bring those ground rules into reality. A retirement fund is only one of many options. Other financial and nonfinancial options should also be explored, but the end goal is to enhance protection of property rights.

Included in the Property Rights Advocate office's 2017 annual report are other ideas for the government to consider, including creation of a standardized agreement and mandatory filing of surface leases by companies, as is done in British Columbia, to facilitate and simplify enforcement. The report also outlines several elements for the government to consider when developing policy and legislative options and which I hope this committee will urge the government to contemplate.

Now I'd like to talk a bit about compensable takings. The February 2012 government of Alberta document entitled Government Response: Property Rights Task Force Report states on page 3 that

the functions of the Property Rights Advocate Office will be to disseminate independent and impartial information about property rights to landowners, including information about the right to compensation where land is expropriated or where an owner claims to have suffered a compensable loss.

This ensures that the advocate can act beyond what is described as a loss infringement or encroachment in the Expropriation Act.

Does the phrase "act beyond what is described in the Expropriation Act" imply that when there is a loss or diminishment of use or enjoyment of property with no explicit process at law, there may still be a compensable taking? This suggests there is room for the office to consider compensable takings beyond legislation, but it is not clear how that might work. The Property Rights Advocate Act provides a definition of compensable taking:

"compensable taking" means, in respect of land, the diminution or abrogation pursuant to an enactment of a property right, title or interest giving rise to compensation in law or equity.

It also outlines the function of the Property Rights Advocate as providing

information to land owners about the right to compensation where land is expropriated or where land owners claim to have suffered a compensable taking, and about the procedure for any claim to compensation.

#### 9:20

The Property Rights Advocate office hears complaints from Albertans who claim to have suffered a compensable loss resulting from an act of a municipality, provincial ministry, industry, business, or neighbour. When property is expropriated under the Expropriation Act, either the court or the Land Compensation Board can hear cases and determine appropriate compensation. Other tribunals such as the Surface Rights Board or the Municipal Government Board can hear cases within their jurisdiction, but outside of the courts there's no tribunal to determine whether a compensable taking has occurred in the general sense.

Without a clear, plain-language definition of what a compensable taking is, it is hard for landowners to understand what is recognized as a taking that is compensable. The Property Rights Advocate Act doesn't outline rules for compensation like those contained in the Expropriation Act, so landowners can't quantify their losses, which is something else they would want to do if they want to decide whether or not to pursue a lawsuit. The office has heard from Albertans who claim loss of enjoyment or use of their property and believe something of value was taken from them. They want those rights fully restored, or if not, they want their losses compensated.

A timely and cost-effective tribunal is needed, a tribunal with jurisdiction to determine if a compensable taking has occurred and, if so, to apply a common set of principles for determining appropriate compensation. A plain-language definition and guiding principles of compensation are needed so Albertans can understand what a compensable taking means and assess for themselves whether pursuing a claim is practical. A clear, easy-to-understand definition is the starting point to practical application of the principle of a compensable taking, and for that reason I ask this committee to endorse the third recommendation, that

Alberta Justice and Solicitor General develop policy and legislative options to promote a greater sense of understanding by Albertans on what compensable takings are and how appropriate compensation is determined. Options to be considered include whether to create a real property bill of rights or public education initiatives.

Clearly defined roles and responsibilities for managing compensable takings would help Albertans to feel that their property rights are given genuine consideration and are protected.

Thank you again for inviting me here today and for providing me with the opportunity to speak to this committee. I look forward to further discussion and will be happy to make myself available to answer your questions throughout the review process.

Thank you, all.

**The Chair:** Thank you, Ms Johnson, for your report.

Members have had the report for a while now and have been able to peruse the report. At this time, members, I will open the floor for questions to Ms Johnson regarding the annual report and the recommendations contained therein. I have Mr. Dach to lead off. Any other members wishing to be in the queue? Mr. Bilous. Okay. Go ahead, Mr. Dach.

**Mr. Dach:** Thanks very much, Chair. Good morning. Thank you, Ms Johnson, for your comprehensive report and presentation. I'll just get into the questions right now on an issue that's very important to me. Having spent 30 years in the real estate industry, property rights are something that are a major interest to me, and it was very interesting listening to your detailed discussion of it in your report.

On page 7 of that report you mentioned that input from your office was considered or consulted on for changes made by various industries to property rights related laws. Can you provide some clarity for this committee on what those changes were?

**Ms Johnson:** Sure. I just need to find the clause. Are we talking about the fourth paragraph down?

**Mr. Dach:** Yeah. Changes by various ministries to property rights related laws is what you referred to.

**Ms Johnson:** There have been various initiatives over time, and they're at various stages within government, but at one point there were discussions regarding the liability management system of the Alberta Energy Regulator. I participated on all of those panels. There has been discussion with Alberta Environment and Parks and Alberta Energy regarding just looking at the Surface Rights Act. I had discussion with Municipal Affairs back when the Municipal Government Act was changed, before that happened. What else was there? There was something. Oh, input on some of the changes to the condominium act.

**Mr. Dach:** Okay. Again from the same page you mentioned that "the Standing Committee on Resource Stewardship continues to be an important facilitator of positive change regarding property rights," yet for the purposes of this review the 2017 report was referred to this committee. Now, looking over past meetings, your office deals largely with Municipal Affairs, Energy, Justice, and to some extent Agriculture and Forestry, but in this report you speak about renewable energy, which, you would assume, would then include Environment and Parks, and this committee does not deal with any of these ministries on an ongoing basis. Now, do you think that having your annual report referred to an alternate committee will create any consequences for your office?

**Ms Johnson:** I have no say over which committee the report is referred to. I'm just happy that it's followed through with by a committee, and it's interesting to see that it's a new committee this year. I'll be interested to see what flavour that provides to the report.

**Mr. Dach:** Okay. So no consequences that you initially had concerns over with its designation to a new committee?

**Ms Johnson:** I have no reservations about it, no.

**Mr. Dach:** Okay. Now, on page 8 you mention that the office "is working to enhance its ability to analyze and research information reported." Are there any current barriers to your ability to do this?

**Ms Johnson:** Yes and no. It's a long process. What has to happen is that the system has to be put in place so that the following year

the information can be entered and so that the year after that we can analyze and look at it and see if we're getting out what we want. It's a long-term process, and we're still working towards it.

**Mr. Dach:** Okay. On the same page you also mention that your office is looking "to increase stakeholder awareness of sources for property rights information" as well as increasing "opportunities to share information with the office at a time and place that is convenient." Can you expand on this a little bit? Are you working towards more digital engagement in education?

**Ms Johnson:** We haven't directly worked towards more digital engagement yet. That's still on the plate. As far as providing more resources to landowners, we recently updated our list of referrals that we give to make sure that they're still active, that we've got the right contact people, and that sort of thing. We've updated that just recently, and it's an ongoing process.

**Mr. Dach:** All right. Well, I'm also, as you may know, the critic for Agriculture and Forestry, so I'm wondering if indeed you do interact with the Farmers' Advocate office at all given that they're responsible for surface rights, which I would imagine interact with property rights.

**Ms Johnson:** Absolutely, they do. They cross over. We work with the Farmers' Advocate office, refer to one another frequently.

**Mr. Dach:** Is this, like, an ongoing channel of communications that are intersecting, or do you just have competing interests?

**Ms Johnson:** It's certainly one of the major connections that we have, yeah.

**Mr. Dach:** Is there any interest in combining the two offices?

**Ms Johnson:** Well, I happen to know that that's something that's in the UCP platform, but as to where that's at and what that looks like, I haven't had any direct input.

**Mr. Dach:** All right.

**The Chair:** Thank you, Mr. Dach. I hesitate to interrupt, but if you have more questions, we'll come back to you later.

We have Mr. Bilous.

**Mr. Bilous:** You know what? I'm happy, Chair, if you want to alternate, if you want to go to a UCP member next, and then I'll go after.

**The Chair:** Okay.

**Mr. Stephan:** I just have a question. In most annual reports there is usually a financial statement. I'm just wondering: what is the budget of your office, and do we have any information on that?

**Ms Johnson:** We do have information. The exact number is not in my head, but it's around half a million.

**Mr. Stephan:** How many employees are there?

**Ms Johnson:** Right now three.

**Mr. Stephan:** Thanks.

**The Chair:** Okay. Mr. Bilous.

**Mr. Bilous:** Great. Thank you, and thanks for coming to present to the committee. A couple of questions for you. You had talked, you

know, quite extensively about the fact that one of your recommendations is looking at a fund for, again, larger renewable project companies to put into so that we don't end up with a situation of abandoned assets or reclamation that falls to the landowner. I appreciate that you're looking at that. I mean, we know, from lessons learned from the gas sector, that there are countless numbers of orphan wells and not enough in the fund to reclaim them, so I'm curious to know what work you've done with the Orphan Well Association in order to inform your proposal. How do we know that what you're looking at or recommending as far as requirements for companies to put into is sustainable for the company and at the same time ensures that there will be adequate funds so that should a company, unfortunately, go belly up, there is enough to cover the cost of reclamation so it doesn't fall to the landowner?

9:30

**Ms Johnson:** When I make that recommendation, I look to the ministries, and those are excellent questions that I would hope the ministry would take into consideration when they're designing a solution.

**Mr. Bilous:** Now, on pages 9 and 10 you talk about, again, experiences from oil and gas. Do you have any recommendations, or can you comment on or even come up with, like, the top three issues that policy and legislative options have to have as a minimum when we're talking about, again, greater fairness in the treatment of landowners. I mean, is there a minimum that you're looking for?

**Ms Johnson:** I would sum it up as one, and that is protecting property rights.

**Mr. Bilous:** Okay.

**Ms Johnson:** These are all just ideas that are thrown out, things to be considered. Some may work; some may not work. At the end of the day, what I'm looking for is an easy mechanism for landowners to know that their rights are protected.

**Mr. Bilous:** Just two quick questions, Chair. One is: have you done a cross-jurisdictional scan? Have you looked at other provinces and what protections they have in place?

**Ms Johnson:** I would love to do that, but I don't have the resources.

**Mr. Bilous:** Okay. What is the current enforcement mechanism? Your factors recommend "potential merits of a standardized agreement to prompt landowners to ask the right questions and so contractual terms can be more easily enforced." I'm wondering: at the current moment what is the enforcement mechanism?

**Ms Johnson:** Well, it depends on what we're talking about. When we're talking about surface rights, there's the Surface Rights Board. If you don't get your lease payments, you can apply for a section 36. The issue with that is that under the Surface Rights Act section 36(3) says:

Where any money payable by an operator under a compensation order or surface lease has not been paid and the due date for its payment has passed, the person entitled to receive the money may submit to the Board written evidence of the non-payment.

It's a little difficult to provide written proof of nonpayment. What it does is that it requires the board, long story short, to have a hearing, which can take up to two years to get. It could be, with a standard agreement and with the agreements being registered, a simple process over the computer where a landowner could click a button and say: "I didn't get my lease payment. Here's my name, here's the lease number or my legal description, the amount that's

owed, and the date that it's due from this company." The computer would have that information and would be able to simultaneously ship out a letter to the company and say: send us proof of payment.

**Mr. Bilous:** Instead of it falling to the landowner and being costly and, I'm sure, complicated.

**Ms Johnson:** Yeah. There would be no cost then. Click a button.

**Mr. Bilous:** Okay. Thank you.

**The Chair:** Thank you, Member Bilous.

Ms Issik, on the phone.

**Ms Issik:** Thank you. Some of the questions I had have actually been asked already, but I have one question with respect to the retirement fund of which you spoke. I wonder if you have consulted with the renewable industries on this issue. I know there's been a lot of work on the orphan wells issue. I just wondered if specifically the renewable industries have been consulted with respect to the impact of a retirement fund on perhaps their investment decisions and how they think it might affect, actually, their propensity to reclaim.

**Ms Johnson:** I haven't consulted with the renewable energy industry. I do make mention in my report that I think they should be certainly included in discussions on what that would look like. There are a lot of differences between renewable energy and oil and gas. For instance, with renewable energy there is no Surface Rights Act. So it's a little bit different between the landowner and the company than it is between oil and gas and the landowner. Those are definitely discussions that should take place between the ministry and the industry.

**Ms Issik:** Thank you.

**The Chair:** Okay. Moving on, Ms Gray.

**Ms Gray:** Thank you very much. Thank you very much for coming to make the presentation and for your report. Regarding your third recommendation, I first want to say that I think it's really important to have plain-language definitions, clear definitions, so that landowners themselves can kind of understand what we're talking about and, you know, where to go, because even for myself, having reviewed the report, it's not always fully clear. So I wanted to just talk a little bit about the administrative or quasi-judicial process you're recommending and how that differs from the Land Compensation Board process. You were just talking about the surface rights process. If you wouldn't mind helping me with that.

**Ms Johnson:** I'm talking about any and all compensable takings, so in clarifying what those are and what the different factors of compensation would be, there'd be several factors. You could use the Expropriation Act. You could point to the Expropriation Act, but that would be a matter of how the ministry chooses to define and set up parameters. I know that under I think it's the Responsible Energy Development Act there's discussion about a board to make the type of determinations as to whether or not there was a taking and what the amount of compensation would be, but that's in reference to regional plans. I'm not clear on whether that is a new board that they're contemplating or whether they're in fact referring to the Land Compensation Board.

**Ms Gray:** Okay. Thank you.

My other question has to do with other jurisdictions around the real property framework or bill of rights, but you mentioned not being able to do cross-jurisdictional analysis.

**Ms Johnson:** Yeah. Nothing in depth, just quick . . .

**Ms Gray:** Okay. Then my two follow-ups to that would be – and you may not be able to answer this. Perhaps, crossjurisdictionally, these are questions that we'd be able to ask the ministries. Are you aware if they might have more of that information if we were to have them come and present to the committee? Do you know if . . .

**Ms Johnson:** Yeah. Right from the start you'd have to ask the ministry.

**Ms Gray:** Okay. Fair enough. I knew when I asked you that you might not know, but the ministries might be paying attention to our discussions, so perhaps we can call them.

**The Chair:** Yeah. Perhaps we can do some of that through the Leg. Assembly Office research team.

**Ms Gray:** Oh, fair enough. Thank you.

My second follow-up. We were talking earlier about your budget, and I believe that your office was under budget in the last fiscal year. Potentially, could some of the resources that were not fully used last year be used for a crossjurisdictional review?

**Ms Johnson:** There's, I mean, all kinds of potential when there is that underuse. The reason for that is that we are down 25 per cent staff, so we're down one FTE. That's why we're under budget. If we were fully staffed, we would be over budget.

**Ms Gray:** Okay. Thank you.

**The Chair:** Okay. Thank you.

We'll move on to MLA Jones.

**Mr. Jones:** Yeah. Thank you. My question has been asked, but I was just curious if you have an estimate for what a cross-jurisdictional analysis would cost and what jurisdictions you have looked at quickly, if you can name them.

**Ms Johnson:** We looked quickly at B.C. and Saskatchewan.

As to the cost of a crossjurisdictional study, I don't know.

**The Chair:** Any further questions?

**Mr. Jones:** Thank you.

**The Chair:** Okay. Thank you.

Member Dang.

**Mr. Dang:** Thank you, Mr. Chair. I have a couple of questions, mostly around recommendation 2 here. Let me find the exact wording of the recommendation. It's to increase the policy and legislative options for justice processes that are external to the courts essentially – right? – so something like a dispute resolution service or the RTDRS. I guess I wonder: would you say that there's a ministry that you think would be best suited to offer that service?

**Ms Johnson:** I haven't turned my mind to that.

**Mr. Dang:** Okay. Sure.

Or perhaps for a service like that, because, of course, as a quasi-judicial body it would have to have a certain number of appointments and whatnot, would you have a thought on the composition of that board, whether it should have people from the industry side or the government side or externally? Who may be on that board, and, I guess, who would be good to have on that board?

**Ms Johnson:** Just to clarify, when I make a recommendation, I'm basically pointing to things that I think need to be looked at and addressed, and when it comes to fleshing out the details for a lot of that – the questions you're asking are all good questions and all things that I would hope the ministry would take into account when they're looking at and developing options.

**Mr. Dang:** Okay. Sure.

Can I continue?

**The Chair:** Fine.

**Mr. Dang:** Thank you. Also, you've spoken a bit in your report and today as well about your work with some of the energy companies, and particularly in your report on page 27 there are a couple of possible scenarios where disputes could arise between landowners and operators. Are these based on what you've heard from Albertans in dealing with certain companies?

9:40

**Ms Johnson:** Yes.

**Mr. Dang:** Since wind energy is not a new thing coming in – it's been around for quite a bit of time now – are you aware of any land disputes that have arisen as a result of those installations?

**Ms Johnson:** I'm sorry; I didn't catch that.

**Mr. Dang:** Have you received a number of complaints around wind energy about disputes that are ongoing or have been resolved?

**Ms Johnson:** Not in regard to renewable energy. No, I haven't.

**Mr. Dang:** Okay.

**Ms Johnson:** A lot of that is conjecture.

**Mr. Dang:** Okay. That's all I've got for now.

**The Chair:** Okay. Thank you.

**Mr. Stephan:** I appreciate the logic with the reclamation fund concept, and I think you answered one of my questions with MLA Dang. So you haven't actually seen real-life issues in Alberta with renewable energy firms abandoning, in a sense, their installations and not reclaiming the land properly, but based on logic and conjecture, in your words, that could happen in the future. Is that correct?

**Ms Johnson:** Exactly.

**Mr. Stephan:** Okay. Here's just a question or a thought. Not all but some renewable energy firms and installations are subsidized at this point just with the technology, so I guess the question I have – and I'm curious if you've thought about it – is about, first of all, the capacity of these firms to pay into the fund and whether or not ultimately, because in some cases they are subsidized, it would be, in fact, the taxpayers indirectly paying into the fund.

**Ms Johnson:** Correct. I guess that indirectly taxpayers are subsidizing. I have thought about that, but what I'm looking at is for the ministry to find if there's a mechanism to do it and what the right time would be to do it. My main point is that by starting small in the beginning and working your way up and perhaps earning some interest on that fund, it could actually make it easier in the long run. So today may not be the exact right time.

**Mr. Stephan:** Just one other quick follow-up question?

**The Chair:** Yes.

**Mr. Stephan:** Again, I'm definitely not an expert on the reclamation costs of renewable projects, and they probably differ depending on the project itself and the type of energy that is being utilized. Do you have a sense of the cost of reclamation, say, relative to the traditional fossil fuel type of reclamation costs?

**Ms Johnson:** My guess is that it would be less, but I don't know that.

**Mr. Stephan:** Yeah. Okay. Thank you. I appreciate that.

**The Chair:** Okay. Thank you.

Mr. Dach, did you have further questions that you would like to ask?

**Mr. Dach:** Yes, Mr. Chair. I have a couple if I may.

**The Chair:** Okay.

**Mr. Dach:** Thank you, Mr. Chair. Ms Johnson, on page 9 you mention:

When it comes to enforcing rights, property owners are in a significantly weaker position than developers are. Laws should be established, or in some cases changed, to protect landowners more and to provide a better balance between the positions

in regard to planning ahead for the renewable energy projects. Is this imbalance of power something that you say your office hears about frequently from Albertans who contact your office?

**Ms Johnson:** Not in regard to renewable energy, but in regard to oil and gas we hear of situations. For example, there was a situation where landowners received notices from companies that their surface lease payments were being cut in half and that their choice was: you take 50 per cent, or you get nothing. So that type of intimidation happened enough that the Farmers' Advocate actually sent out a bulletin notifying landowners as to what their rights were. Again, for landowners, when they don't get their payments from a company, it can take up to two years to get a hearing, and landowners are sometimes not even getting their costs awarded for going to that hearing. I haven't looked recently, but there have been cases in the past where a landowner spent, say, \$2,500 to get a \$1,200 order, so they're out \$1,300.

**Mr. Dach:** May I be so bold as to imply that what you're doing with the report is actually trying to get government to anticipate future difficulties that might occur, similar to oil and gas installations, with renewable energies and to get ahead of the curve on it and prepare the table to be more balanced than it has been in the oil and gas industry with respect to rights of landowners?

**Ms Johnson:** Being proactive in the sense of recognizing that there is that inequality – I mean, we have AMVIC, which looks after issues in terms of people wanting to buy a vehicle. We have the Utilities Consumer Advocate. These are all attempts by government, I believe, to try to help level the playing field, and this is an area that I think needs to be looked at.

**Mr. Dach:** All right. Sounds good.

Now, on page 10 you mentioned that there could be "benefits of requiring operators to register with government copies of their agreements with landowners." Now, I have a background in the real estate industry, and, of course, many documents are searchable. They're registered on the land title and are searchable through the SPIN 2 system. I'm sure you're familiar with that to a large extent.

Is that the type of registration mechanism that you had in mind when you're looking at registering these documents that could be accessible by the public and those interested in seeing . . .

**Ms Johnson:** Well, I think we'd have to look at the freedom of information and protection act and make sure that we're protecting information the way that it needs to be protected. So you may have to limit who can access that information whereas the SPIN documents, they're public documents, and anyone can access those. You pay the fee, but you can access them.

My suggestion with having them registered by industry is that there have been a couple of attempts in the past recognizing that having a registry would be a benefit, but landowners have been reluctant to file their agreements for one reason or another, and sometimes they can't find them. My suggestion is to just simply make government, as they do in B.C., required to file those agreements, and then that gives us the background information we need if we go to enforce.

**Mr. Dach:** Okay. And that filing system could potentially be SPIN 2 as long as it was password protected somehow?

**Ms Johnson:** I would imagine. Yeah.

**Mr. Dach:** Okay. All right. Interesting.

**Ms Johnson:** The exact mechanism I hadn't . . .

**Mr. Dach:** I've often thought that SPIN 2 could be a mechanism to register numerous documents, including real estate condominium property documents as well.

Now, on page 20 you discuss the connections made with your office in 2017 in relation to historical connections; 1,023 connections is almost triple the amount received in 2016. To what do you attribute this increase? Do you think it's due to an increase in property rights issues or an increase in public awareness about your office, in other words, a success story for your office?

**Ms Johnson:** It could be a combination of both. I haven't any way of analyzing what the reason for that is.

**Mr. Dach:** All right. Well, that's it for now. I can come back.

**The Chair:** Thank you.

MLA Barnes, on the phone. Excuse me, MLA Barnes.

Mr. Horner, would you please introduce yourself for the record?

**Mr. Horner:** Hello. Nate Horner, MLA, Drumheller-Stettler.

**The Chair:** Thank you.

MLA Barnes, go ahead with your question.

**Mr. Barnes:** Okay. Thank you, Mr. Chair, and thank you to the Property Rights Advocate for your information and being here. One of your recommendations in part of your report, of course, was about strengthening property rights to, I guess, improve the competitiveness of the economy in Alberta, and I'm wondering a couple of things. I'm wondering, first of all, if bills 36, 24, and 19 still being on the books is creating some uncertainty still and if you're hearing about that. Secondly, it's been dry again in the province, and water rights are always an important issue between different user groups. I'm wondering your thoughts on property rights in agriculture and water rights.

Thank you very much.

**Ms Johnson:** I haven't heard regarding the – you're talking about the legislation in the past that originally caused quite a few

landowners to get together and suggest that government might be taking away property rights? Is that what you're referring to, bills 36, 19?

**Mr. Barnes:** Yes. The Alberta Land Stewardship Act. I believe it was Bill 36 in 2011-2012.

**Ms Johnson:** I haven't heard about those lately. I know there was a lot of concern at the time. I know some changes were made to at least two of those acts in response to those concerns that were raised. I haven't heard anything lately on that. In terms of watershed areas, I have attended a couple of meetings, and I've heard some interesting things, but I haven't received any formal complaints in that realm. In terms of agriculture, that's much more something I think the Farmers' Advocate office would hear about.

9:50

**Mr. Barnes:** Okay. So you're not aware of much conflict and opportunity for people to be concerned about losing their water rights and concerned about, you know, the future of their agriculture operations?

**Ms Johnson:** Oh. Sorry. Water rights. No, I haven't heard anything about water rights. Again, I think that would be something that you might want to ask the Farmers' Advocate office if they've heard.

**Mr. Barnes:** Okay. Thank you.

And if I could, one more question, please?

**The Chair:** Yes. That's fine.

**Mr. Barnes:** Thank you, Mr. Chair. Renewables: I don't believe that they've gone forward on Crown land or lease land. I believe it's all been on private land; that is, a lot of landowners, a lot of rural people have asked me questions about that. If I could, ma'am, if you could confirm that and if there's a reason for that. Sorry. Thank you.

**Ms Johnson:** So you're asking whether or not the wind farms are being placed on private land versus Crown land?

**Mr. Barnes:** Yes.

**Ms Johnson:** That I don't know. I do know that landowners have been approached for leases, so that at least some are on private land. I think it's fairly early days, too soon to know how that's going to play out or how that's playing out. The Farmers' Advocate does have a guide out to help landowners understand what questions to ask and how to deal with companies that are seeking a lease on their property for renewable energy, but I don't have . . .

**Mr. Barnes:** I actually think it's the opposite, that they're only on private land. Wind farms and solar have not been placed on lease land or Crown land, and I'm wondering if you're aware of that. I'm wondering if there's a reason why.

**Ms Johnson:** I haven't actually looked into, you know, percentage, whether it's a hundred per cent, 50 per cent. I don't know.

**Mr. Barnes:** Yeah. Many rural landowners believe that's the case. It would be nice to know a little bit more about that.

Thank you.

**The Chair:** Any further questions? Ms Gray, yes.

**Ms Gray:** Thank you very much. I note that this is the first annual report that had responses from ministries added to the back, which

I think is good to have, that transparency and to have the ministries kind of provide to you a formal recognition of what they've done with recommendations and where things sit. Because of the timing, now the responses from ministries are a year or coming up on a year. I was just wondering. To your knowledge, are there any further updates from the ministries that you can inform the committee of?

**Ms Johnson:** I don't have any updates. My intent and what we're looking at doing was putting their responses in on an annual basis. So, yes, there is that gap in time. But as to information interim reporting, I don't have any mechanism to do that.

**Ms Gray:** Okay. Thank you very much.

**The Chair:** Any further questions? Mrs. Allard.

**Mrs. Allard:** Yes. Thank you for being here today. I just wanted to ask specifically about the other category. On page 8, concerns heard by the office, the top of that category is adverse possession, which has come up in my riding a few times already. I'm just wondering. I understand we're the only jurisdiction in Canada that still has adverse possession as an option. I see it in your report, but do you have a quicker way to resolve that?

**Ms Johnson:** Adverse possession?

**Mrs. Allard:** Yeah. I see the recommendation to create a bill for property rights and to remove it there, but is there a faster mechanism to do that?

**Ms Johnson:** Well, back in 2014, I think it was, my predecessor had made the recommendation to abolish adverse possession. That's gone through a few iterations, but I believe it was last year that the committee actually endorsed having adverse possession abolished. Where that is in the process in government, you'd have to seek an update probably from Justice and Solicitor General on where that's at.

**Mrs. Allard:** Okay. If I could have a follow-up?

**The Chair:** Yes, you may.

**Mrs. Allard:** I just wanted to know about some of the other ones, specifically neighbour-to-neighbour and divorce disputes. Between those three, how large a grouping of claims is that to your office? How significant are those?

**Ms Johnson:** There are quite a few neighbour-to-neighbour disputes that we hear about. Occasionally we hear about divorce disputes. Neighbour to neighbour: we're usually looking at referring to, hopefully, a community. Some communities have neighbour-to-neighbour dispute resolution services, but we hear a fair bit about neighbour-to-neighbour issues, for sure, divorce disputes not so often.

**Mrs. Allard:** Okay. Thank you very much.

**The Chair:** Any further questions either at the table or on the phones?

**Mr. Dach:** I just have a quick follow-up.

**The Chair:** Okay. Mr. Dach.

**Mr. Dach:** Certainly. Thank you very much. On page 22 you note that one of the referral destinations from your office is the Farmers' Advocate office, and I did know from you that you have a working

relationship with the Farmers' Advocate office and that you frequently go back and forth to communicate with him. Could you elaborate, just so I'm clear, on the differences between the areas of responsibility of your offices and where the overlap occurs, if any?

**Ms Johnson:** Well, in a general sense I would say that the overlap is that farmers have property rights, and we look after property rights. That's where I would see the overlap. To get into an analysis of what the Farmers' Advocate does versus what the Property Rights Advocate does, to do that just on the fly, I'm not prepared to do that right now.

**Mr. Dach:** Okay.

**Ms Johnson:** I could provide that information later.

**Mr. Dach:** All right. Now, on page 23 you mention the concerns heard by your office. I'm just wondering. In a general sense, what would you say that you hear about the most? I think you've touched on that, certainly, to a certain extent.

**Ms Johnson:** It used to be surface rights, but I think more recently it has become issues with municipalities. With recent changes where the Ombudsman can now hear about the fairness of processes with municipalities, we may see that change again in future. I'm not sure. It's fairly early days with that.

**Mr. Dach:** What types of issues with municipalities are you referring to?

**Ms Johnson:** A lot of it was unfairness or perceived unfairness, where landowners make an application and are turned down for one reason or another, and there is not always an understanding as to why. So the question becomes: was it a fair process that was followed? That's what the Ombudsman is empowered to follow up on.

**Mr. Dach:** Have you had any discussions with Municipal Affairs about that at all, relayed those concerns and gotten any response back?

**Ms Johnson:** We did. That's part of the reason for the changes with the Municipal Government Act. There was a recognition that when council makes a decision for a town, they're an elected body, so you can't question their decision. But what you can look at is: was the process that was followed fair? That's part of the reason for that change in the Municipal Government Act.

**Mr. Dach:** One of the major themes of your report seems to be fairness overall. I think that fairness is a two-way street, so when property rights are spoken about – I mean, I know from my real estate career that you deal with a bundle of rights. There's more than one party at the table, so both parties have rights and obligations. I'm thinking that in order to be fair and equitable, both of those sides have to be considered no matter whether you're trying to balance the playing field or level the playing field or not. So I'm thinking that your office is probably looking to make sure that both parties to an agreement are kept under your consideration even though there is currently, in your view, an imbalance. It's important to note that both parties have rights and obligations as well that go with those property rights. The obligations of property owners are something that really didn't get a lot of mention in your report, but I think it must be an underlying acknowledgement of yours that there are obligations as well as rights.

**Ms Johnson:** I think there is. The difficulty is balancing because each side has rights. So how do we do that in a fair way? How do

we find some common ground? That's why I'd like to see less adversarial methods outside of court. Courts don't preserve the relationship between the parties. If you can find ways to preserve the relationship between the parties, a lot of people can work things out themselves. Neighbour-to-neighbour disputes are a really good example. Yes, you can have a body to say: you're right; you're wrong. But at the end of the day, they're still neighbours. They have to work together. So it would be far better if they could come to an understanding and then in the future if there's a dispute be able to talk to one another and resolve it.

**Mr. Dach:** All right. Thank you.

**The Chair:** Thank you, Mr. Dach.

Any further questions either at the table or on the phones?

**10:00**

**Ms Issik:** It would appear to me that there has been much work done on many of the issues presented in this report but the work most likely has been done within agencies or within ministries. While the report does lay out the appendices with responses from the ministries with respect to previous recommendations, since this is the 2017 report and it's now 2019 and we know that in particular the renewables industry has really marched forward in the last number of years, I wonder if it wouldn't be useful for the committee to have an update from the ministries involved – I would suspect Justice, Municipal Affairs, Energy, and maybe a few others – to understand where the current situation lies, what work has been done with respect to some of these issues. I suspect there's been much, and perhaps it would be useful for us as a committee to hear from the ministries.

**The Chair:** Okay. Thank you for that, Ms Issik. Did you have a question pertaining to that for the advocate or that can be covered in our next steps within the review and our next agenda item? Is there a question within your comments to the advocate there?

**Ms Issik:** No. I think we can probably handle it within the next steps.

**The Chair:** Okay. Thank you.

Any further questions?

Seeing none, then I would like to thank all hon. members for their questions but also thank Ms Johnson for the work your office does and for attending here today to answer questions from the committee. I would also suggest that any response or comments that would be forthcoming, particularly to Mr. Dach's questions around the interrelations with the Farmers' Advocate, if you could please submit those to committee clerk Aaron Roth so that we are able to distribute it amongst all committee members, that would be helpful. You're welcome to stay for the duration of the meeting, but feel free to move on, too, if you'd like at this time. Thank you.

**Ms Johnson:** Thank you very much.

**The Chair:** Okay. Item 4(b), members. The committee should now consider how it wishes to proceed with its review of the 2017 annual report of the Alberta Property Rights Advocate office. As I mentioned in my opening comments, for 2 out of the last 4 reviews the committee also invited officials from ministries referenced in the recommendations of the Property Rights Advocate to make a presentation, to give some feedback to the committee. I know, Member Issik, that you had talked with regard to some of this concern or with regard to this topic.

Do any members have questions or any discussion on how we should seek to proceed? Member Dang.

**Mr. Dang:** Thank you, Mr. Chair. I'm not sure what the proper phrasing of this should be – perhaps the LAO could help me out a bit here – but I would actually move a motion, then, that perhaps we request the ministries of Alberta Energy, Alberta Environment and Parks, Municipal Affairs, Justice and Solicitor General, as well as Service Alberta to come and present to this committee on the contents of the report.

**The Chair:** Okay. To present oral presentations at our next meeting, you're suggesting?

**Mr. Dang:** Yes.

**The Chair:** Okay. Thank you for that, Member Dang.

I do have a possible motion that is presented, and if the committee clerk could put that up on the screen, then we can see if it meets with your approval. The ministries were Energy, Environment and Parks, Municipal Affairs, Justice, and Service Alberta?

**Mr. Dang:** Yup.

**Ms Issik:** May I ask which department the Farmer's Advocate office falls under? Is it Justice?

**The Chair:** Can you repeat that question, please, Ms Issik?

**Ms Issik:** Which department would the Farmer's Advocate office fall under? Justice or Service Alberta or Agriculture?

**The Chair:** Do we know the answer to that question? We're checking into that, Ms Issik.

**Ms Issik:** I would just ask that whatever department that is, we include that in our research.

**The Chair:** Does that make sense to the mover?

**Mr. Dang:** Yes. This is good.

**The Chair:** Okay. We are looking into that at this time.

Moved by MLA Dang that

the Standing Committee on Alberta's Economic Future invite Justice and Solicitor General, Environment and Parks, Municipal Affairs, Energy, and Service Alberta . . .

And then, we're also checking – we might end up adding the ministry responsible for the Farmer's Advocate office.

. . . to appear before the committee to make oral presentations in regard to the recommendations from the 2017 annual report of the Property Rights Advocate office at the next meeting of the committee.

We have clarification that the Farmer's Advocate is under the jurisdiction of the

Ministry of Agriculture and Forestry,

so we will add that if that's acceptable to the mover.

MLA Stephan.

**Mr. Stephan:** Yeah. I just want to speak to the motion.

**The Chair:** Okay. Just wait until we're sure that we've got . . .

**Mr. Stephan:** Sure. That's fine.

**The Chair:** We do things a little bit differently in committee, where we can draft motions kind of on the fly here.

MLA Dang, does the motion look acceptable?

**Mr. Dang:** Yes, this is acceptable. Thank you.

**The Chair:** Okay.

Any comments, questions, or input? MLA Stephan.

**Mr. Stephan:** Sure. I do. I just want to make sure that we are economic in the scope of who we're asking to come. When I look at the report, like, in terms of the content of the recommendations, I'm just wondering if we can kind of narrow the scope of the number of ministers who come to speak. In particular, I'm wondering if Service Alberta is really kind of one of the key ministries in respect of this report. And Municipal Affairs: I wasn't really sure there.

I know that Ms Johnson did speak to receiving, you know, concerns related to municipalities, but the content of the report doesn't speak to too many municipal issues as I was going through it. Energy, for sure – I can definitely see that – and environment, with the reclamation fund, that seems to be intuitive, and of course Justice, with some of the legal ramifications of changing laws. I'm just wondering if it's a good use of the time of the other ministries and if we couldn't just focus on maybe the main ministries dealing with the contents of the report.

I know that that's a bit of a subjective determination, but I raise that as a question for the committee.

**The Chair:** Thank you, MLA Stephan.

**Ms Issik:** Mr. Chairman.

**The Chair:** Okay. Yes. We have you on the speakers list.  
MLA Dang.

**Mr. Dang:** Thank you, Mr. Chair. I think it's important that we do hear from the ministries that submitted to the advocate.

In particular, I think that Service Alberta, for example, would be very important because of their expertise on things like dispute resolution services. Considering they administer the RTDRS, the residential tenancy dispute resolution service, which is an exact recommendation from the advocate, that could be important. I think it's important that we hear from Municipal Affairs when we talk about things like substantive changes to the MGA over the last few years here. I think that they're all very important.

I understand the member's concern that it might take up his day to hear from the ministries. To be very clear, we're not looking necessarily to hear from the ministers; we're hearing from the ministries, so department officials could come on their behalf, deputy ministers, assistant deputy ministers, and so forth. But I think it's important that when we're dealing with these recommendations, all the expertise that we have available to us is brought forward to this committee.

Thank you.

**10:10**

**The Chair:** Thank you, MLA Dang.  
MLA Issik, comments?

**Ms Issik:** I would concur with Member Dang in that Municipal Affairs is in fact important given that in the report the advocate references definitions of compensable takings with respect to regional planning, and I think that's one of the very important reasons we need to talk to Municipal Affairs and Service Alberta with respect to the registration of documents that she has proposed in the report as well.

**The Chair:** Thank you, MLA Issik.  
Any further comments? Okay.

**Mr. Bilous:** I just wanted to comment further to the question. I appreciate Member Stephan's intention of trying to make this a little more efficient although I do agree with MLA Dang that I think there is a role for Service Alberta and for Muni Affairs. I mean, you know, I don't know if we need to amend the motion to put a time limit on them, but I think either the subcommittee or the chair and co-chair can determine how much time each of them needs. Maybe a ministry like Service Alberta doesn't need as much time as Energy or Environment and Parks, but I do think that it'll be worth while to get them to weigh in.

The other thing is, I can tell you, for us to look as much as possible at mechanisms to ensure that the government departments are not siloed, which is a natural tendency. So bringing various ministries together to look at what is the potential proposal or legislation – if the government decides to bring forward legislation, it would be a number of ministries having to work together on this anyway because it would cross into their different boundaries, so at least initiating that conversation may not be a bad thing by this committee.

**The Chair:** Thank you for that.

**Mr. Stephan:** It makes sense to me. I appreciate that discussion. Thanks.

**The Chair:** Good. Thank you.

I would ask the committee if they want clarification on the motion with regard to comments made by MLA Bilous, also comments made by MLA Dang with regard to inviting officials from the ministries of Justice and Solicitor General, if that would be necessary for clarification.

If not, if we're comfortable with the motion as is, then . . .

Ms Gray.

**Ms Gray:** Thank you. This is just another aspect of the motion I just wanted to make clear. I don't think we need to change the motion. Each of these ministries – and we can see this through the reports that they submitted – have been working on a lot of these issues like the liability management system and so on. I just want to make sure that when we invite them, they know that the annual report is the basis on which we are inviting them but that we would welcome them to talk about any current initiatives or work that they've started along this topic. I don't think we need to change the motion. I just wanted to put that idea out there to make sure that the scope was clear.

**The Chair:** Okay. I don't want to interfere with the discussions here, but we do have: inviting oral presentations in regard to recommendations of the advocate. If the committee is okay with also . . .

**Ms Gray:** I'm not suggesting a change. When we invite them, if you could just please clarify that it's around the annual reports, so not limiting them to just the annual report. We're interested in topics related to . . .

**The Chair:** Right. Okay.

Receiving counsel, the advice is that we can take out the words "to recommendations" and open up the scope of the motion if that would be favourable.

**Ms Gray:** Then I would like to move that subamendment, because we also know that there are outstanding recommendations from previous reports that the ministries may want to comment on.

Thank you.

**The Chair:** We've got an amendment to the motion before us, essentially to remove the words "recommendations from." Can we see the wording of the amended motion? The amendment is to strike out "recommendations from,"

and the new wording of the motion would be essentially: moved by MLA Dang that

the Standing Committee on Alberta's Economic Future invite Justice and Solicitor General, Environment and Parks, Municipal Affairs, Energy, Agriculture and Forestry, and Service Alberta to appear before the committee to make an oral presentation in regard to the 2017 annual report of the Property Rights Advocate office at the next meeting of the committee.

Any discussion on the amendment?

Seeing none, all those in favour of the amendment to strike "recommendations from" from the original motion? On the phones, in favour? Any opposed?

That amendment is carried.

Now we're back on the main motion again, as amended. Any further discussions with regard to the motion as amended?

**Mr. Yao:** As Ms Gray suggested, that they be allowed to comment on previous recommendations: does the wording tie them to just 2017, or do they have flexibility?

**Ms Goehring:** I would say that there's flexibility because the recommendation cites previous reports. I think we're looking at this report, but that report talks about previous reports, so it's a fairly open wording.

**Mr. Yao:** Perfect.

**The Chair:** I think that would be accurate, yes.

Okay. Then I believe we're ready to vote on the motion at hand. All those in favour of the amended motion? Any opposed?

That motion is carried.

Thank you, members.

Any other questions or discussion with regard to the next steps? MLA Bilous.

**Mr. Bilous:** Thank you, Mr. Chair. I'd actually like to move another motion to the committee, and that's to direct research services to conduct a crossjurisdictional scan of provinces and territories and report back to our committee at the next meeting, looking at, if we can make it a little specific, what systems or policies are in place for reclamation procedures on renewable instalments as well as frameworks for compensable losses and any quasi-judicial boards that may exist for property rights related issues.

Really, it's hopefully specific enough for Dr. Massolin's team to be able to go out and do a bit of a crossjurisdictional scan. As we heard from the property rights office, I mean, they don't have the ability or the resources to be able to do it. I know that the LAO has done similar crossjurisdictional scans for previous committees. This might be years ago, but I know that they have had the capacity to do it. I think that whatever the LAO could come back with might help inform this committee in our deliberations.

Sorry for speaking to it. I should have just read the motion.

10:20

**The Chair:** Okay. We will try and develop a motion pertaining to your intent. Some clarification around the scope of the crossjurisdictional review is probably helpful. You talked about compensable takings.

**Mr. Bilous:** Yeah. A framework for compensable losses: what systems or policies are in place for reclamation procedures of

renewable instalments? Then the third piece would be any quasi-judicial boards that may exist on property rights related issues.

**Ms Issik:** Mr. Chair.

**The Chair:** Okay. Yeah, I've identified you, Ms Issik. MLA Stephan.

**Mr. Stephan:** Sure. I agree with it. The reclamation of renewable energy, whether or not there are sinking funds or reclamation funds: that was the scan, I think, as well. Is that right?

**Mr. Bilous:** Renewable energy or renewable instalments. I'm just using the language of the office.

**An Hon. Member:** Installations?

**Mr. Bilous:** Yes. Installations. I don't know. It makes much more sense than "instalments."

**Ms Issik:** Mr. Chair, while you're developing the motion, I wonder if we can specify, with respect to the retirement fund for any involved installations, that perhaps we can scan beyond Canadian borders for that.

**The Chair:** Okay. We will have to have those discussions going forward. Crossjurisdictional review of frameworks in Canadian jurisdictions: Mr. Bilous, is that a consideration, that we would go beyond Canada?

**Mr. Bilous:** Just one clarification to the motion as it's currently written: if we could add "and policies" to a "review of frameworks," please.

Now, my only question – and I'm open to that suggestion, but really it's a question to the committee and to the ability of research services to be able to do not just a crossjurisdictional scan in Canada. I don't know if they have the time and ability to do it outside of Canada. I'm interested in that, but I'm not sure if that's realistic for the next meeting.

**The Chair:** Can research services comment?

**Dr. Massolin:** Yes. Thank you, Mr. Chair. I think that Mr. Bilous has anticipated my concern with this as well. It's a lot to ask in a short time frame, I think.

**The Chair:** Yeah. Our committee is charged with working towards a report to the Assembly within about two and a half months now. The extra work could create a problem timewise.

**Ms Issik:** Mr. Chair, to be clear . . .

**The Chair:** Yes.

**Ms Issik:** . . . I'm specifically referring only to the retirement fund piece, not to the remainder. I believe that there are many other jurisdictions that could be easily scanned, obviously ones in the United States, where we might find some very good ideas to borrow for retirement fund structures.

**The Chair:** Okay. MLA Issik, possibly we could do that under a separate motion if you so desire. After we deal with this motion, we could deal with that under a separate motion.

Okay. I guess since we're still in the drafting portion of it, I would look to MLA Bilous for comments, being the mover, on whether or not that would be a favourable amendment.

**Mr. Bilous:** MLA Issik, are you looking at only within the U.S., or are we looking at a broader scan? I mean, I appreciate that it's only on that one topic. You know, what were you hoping to include? Where in the world do you want to go?

**Ms Issik:** I would suspect that if we looked specifically at the U.S. – I recognize that there are probably also really good models in Europe and other places, but I'm not sure that language barriers might not propose a problem for the scan. To the extent that we could look at the United States, with 50 states down there, to just look for models for retirement for renewables – I'm specifically talking about renewables, though.

**Mr. Bilous:** I mean, Mr. Chair, I'm open to that amendment. Again, you know, I'm happy to broaden the crossjurisdictional scan. Again, it just goes back to Dr. Massolin and his team for capacity, but if they're able to do some form of crossjurisdictional scan as it relates to what Ms Issik is proposing in the U.S., then I'm open to amending the motion.

**The Chair:** Okay. Dr. Massolin.

**Dr. Massolin:** Okay. Thank you, Mr. Chair. What I can offer is this. Just depending on the time frame, I think – and again that's fairly limited here – can we just meet in the middle and somehow say, like, Canadian jurisdictions and select U.S. jurisdictions as well? I think that doing all 50 is quite a considerable task in the time frame. If we can be selective about that, you know, if there are any suggestions at this point or offline as to which jurisdictions would be most relevant, we can look into that. But I would think that doing a scan of all 50 would be a little bit too big of a task at this point.

**The Chair:** Thank you, Dr. Massolin. MLA Issik, do you have a select . . .

**Ms Issik:** I can certainly provide that offline.

**The Chair:** Okay. Possible wording in the motion?

**Mr. Bilous:** Sorry. Mr. Chair, my only question, then, would be – and I'm open to saying "select U.S. states." I just don't know how we as a committee land on which states and if there are any that any of us feel must be included.

**The Chair:** MLA Stephan.

**Mr. Stephan:** Sure. I mean, I think we could pick the larger states with more sophisticated legislative frameworks, you know, probably California, Texas, Arizona. We could probably land on half a dozen kind of larger jurisdictions that would have had the resources to develop some good, if they exist, in fact – and perhaps we could also select a few European countries, again, a few of the larger ones, maybe, that have sophisticated legislative frameworks or presumed. It's probably not that hard to land on maybe 10. We can do that offline.

**The Chair:** Yeah. I understand that it's probably not that hard, but it would be helpful in the scope of the motion that we currently have that we're able to land on it at this time. I'm not sure if we're giving Legislative Assembly research services enough to go on here, if they're comfortable with it, if it's going to meet the expectations of the committee.

MLA Jones, you have comments?

**Mr. Jones:** Yeah. What I'm open to is, briefly: the top five U.S. states in terms of wind power generation were Texas, Iowa,

California, Oklahoma, and Kansas. Personally I'd be satisfied with those five plus Canada.

**Ms Issik:** I think that we can look at the number of wind turbines and the development of the industry in various states, but I would suggest that there may be states that have reasonably good ideas that maybe aren't on that list. But I think it's a list we can develop offline and limit and work bilaterally between the two parties to ensure that everybody is in agreement. I don't think this is that difficult a process. I just think that to the extent that we can have a good look at good ideas, we should.

10:30

**The Chair:** Committee members, my concern with trying to fit this with regard to retirement funds in select U.S. jurisdictions into the motion that we have is that we're confusing the intent of the motion. We need good clarification so that research services is able to do the work that the committee is expecting from them, and if we don't have the wording right, we get back a product that is possibly not meeting the expectations of the committee.

I recognize MLA Dang and then MLA Stephan and then MLA Bilous. Okay. Dang refers to MLA Bilous.

**Mr. Bilous:** I'll just make a quick recommendation, then. Let's just move around "the reclamation of renewable instalments" to the end of this motion to clarify that the reclamation of renewable instalments relates to select U.S. jurisdictions and also to the Canadian ones. Like, the way the motion reads right now, "all Canadian and select U.S. jurisdictions" applies to the three different areas. So let's just, you know, ensure that only that one piece relates to the U.S. jurisdictional scan. For simplicity's sake, I'm okay personally with it being decided offline, even between the chair and the co-chair. That way both caucuses can put forward their recommendations on which states and keep this simple as opposed to us continuing to debate which U.S. states will be looked at.

**The Chair:** Okay. MLA Stephan, any further comments?

**Mr. Stephan:** No.

**The Chair:** Okay. From what I hear, then, we need to add at the conclusion of the motion "including select U.S. jurisdictions as approved by the chair and deputy chair."

**Mr. Yao:** U.S. and international.

**An Hon. Member:** No. No. Canadian. We need "Canadian" in there.

**The Chair:** Well, no, we don't have to have "Canadian" in there.

**Mr. Bilous:** Should it say "in Canada" and not "to Canadian," "in Canada and select U.S. jurisdictions"?

Might I recommend, Mr. Chair, that we read this for the members that are on the phones, who can't see this in front of them?

**The Chair:** Okay. Where we're at at this current time, for the members on the phone especially, is that we have a motion by MLA Bilous, a draft motion, that the Standing Committee on Alberta's Economic Future direct research services to conduct a cross-jurisdictional review of frameworks and policies in Canadian jurisdictions of compensable losses, quasi-judicial boards that may exist regarding property rights issues, and the reclamation of renewable installations with respect to Canadian and select U.S. jurisdictions as approved by the chair and deputy chair.

I have MLA Allard for comments and then MLA Dach.

**Mrs. Allard:** I just wondered: compensable losses. In the report it says "compensable takings." I don't know if it really matters, but if you want the language to be consistent – I don't know if that matters.

**The Chair:** Thank you for that.

**Mr. Dach:** Well, just with respect to the comment just made, compensable takings are things that are taken. Compensable losses result from the takings, so I think we should leave it as "compensable losses."

My further comment is that after the word "renewable" the word "energy" should be placed.

**Ms Issik:** I would also add after the word "reclamation" that the word "funds" . . .

**The Chair:** MLA Issik, just a minute. We're doctoring it up.

To the mover: compensable losses or compensable takings?

**Mr. Bilous:** My only question is around the last comment, with adding the word "funds." Does that then limit the scope too much, to only reclamation of renewable energy instalments related to funds as opposed to other methods of reclamation?

**Ms Issik:** I guess what I'm a little concerned with is that we don't end up asking research to search out the myriad of ways of reclaiming a wind turbine or a solar panel. That's why I put "funds" there.

**Mr. Bilous:** Is it possible, then, to put in the motion "including funds" so that it ensures that, you know, the LAO looks at that and doesn't omit it?

**Ms Issik:** Or perhaps we say "liabilities"?

**The Chair:** I'm looking for clarification as to where the additional wording would be installed.

**Ms Issik:** The last piece after the word "reclamation" could read "reclamation liabilities" or "reclamation fund," recognizing that liabilities include more than funds.

**The Chair:** Okay. What we're trying here is: "and the funds available for the reclamation of renewable energy installations with respect to Canadian and select U.S. jurisdictions."

The mover is wishing to speak.

**Mr. Bilous:** Yes. The way it's written now, I think it significantly alters the scope, and now the LAO will only be looking at the funds available for reclamation, which is not the only purpose of this piece. I would suggest saying: "and the reclamation of renewable energy installations, including liabilities, with respect to Canadian and select U.S. jurisdictions."

**The Chair:** Okay.

**Ms Issik:** Specifically, the reason I raised this issue to begin with was because of the reference in the report that the advocate has made, which, you know, she spent some time on, describing possible methods for industry to contribute to a funding mechanism for reclamation related to work that's been done in the Orphan Well Association, for instance. It's related to the liability management piece.

10:40

**The Chair:** Okay. I'm also going to suggest one edit here at the end of the motion. We talked about the chair and deputy chair approving

the select U.S. jurisdictions. The way it's reading now, I'm not sure that it's just identifying the chair and deputy chair to approve the U.S. jurisdictions. I'm thinking we should put that in brackets, "as approved by the chair and deputy chair," right after "jurisdictions" and remove that comma after "jurisdictions."

**Mr. Yao:** Back to MLA Issik's concerns around funds. Does "liabilities" cover all of that? Would funds be part of liabilities, I guess? It's a financial liability.

**The Chair:** I would think so. I'm comfortable with it.

MLA Issik, the wording is: "and the reclamation of renewable energy installations, including liabilities, with respect to Canadian and select U.S. jurisdictions." MLA Issik, are you comfortable with that wording?

**Ms Issik:** I am although I still think there's a bit of a scope issue there. What we don't want is for research to be looking at various methods of reclamation. We want to look specifically at how reclamation affects property rights; therefore, it's a liability issue. Does that make sense?

**The Chair:** I'm looking to research services, if the wording is clear for them.

**Dr. Massolin:** Well, I mean, just with those words there, if that's the committee's will, we can certainly interpret this motion as such, right? You don't have to necessarily stipulate this in the motion, assuming it's okay with the committee.

**Mr. Bilous:** You know, I appreciate narrowing the scope to liabilities, but I don't want it to be exclusionary. My fear is that research services now will only look at the liabilities as opposed to the reclamation of renewable energy installations because it may go beyond just the liabilities to look at: what are either policies or programs that are in place in other jurisdictions to ensure that renewable energy installations are reclaimed at the end of their life? It may go beyond liabilities. I appreciate flagging that as something to be focused on by the research team, but I like the way it's currently written so that they have a little bit broader of a mandate.

**The Chair:** Again, we are looking at reviewing frameworks and policies, essentially, in other jurisdictions. I believe it covers it off well there for research services to be looking at those frameworks and policies.

Any further comments? Is the mover comfortable with the wording of the motion as is and the discussion that has come about? As Dr. Massolin has indicated, based off discussions here, through *Hansard* documentation, research services has a good understanding of the will of the committee, I believe, and will be able to come back to us with a report that covers that will of the committee. Is the mover comfortable with the motion as worded?

**Mr. Bilous:** I am. I just want to thank all committee members for their input in drafting this motion.

**The Chair:** Thank you. I will read the motion out for everybody's clarity. Moved by MLA Bilous that

the Standing Committee on Alberta's Economic Future direct research services to conduct a cross-jurisdictional review of frameworks and policies in Canadian jurisdictions of compensable losses and quasi-judicial boards that may exist regarding property rights issues and the reclamation of renewable energy installations, including liabilities, with respect to Canadian and select U.S. jurisdictions (as approved by the chair and deputy chair).

Any further discussion with regard to the motion? We are now on a motion. We're not on a draft motion. We've had thorough discussion in order to get to the point of having a motion.

Seeing no further questions or comments, all those in favour of the motion as presented by MLA Bilous, say aye. Any on the phones? Opposed?

That motion is carried.

Thank you. That was a lot of work. Thank you, Members. Good job.

Next steps in the review. I believe we pretty much got it covered, but we're still on item 4(b). Any further discussion necessary with regard to next steps in the review? We will have officials from the ministries coming to report and then also research services doing their work on this motion that's just been approved.

**Mr. Jones:** Mr. Chair?

**The Chair:** Go ahead, MLA Jones.

**Mr. Jones:** Yeah. I guess I'm struggling to make recommendations based on the recommendations in the report because there is no financial information. Like, I don't know what the impact is to industry, to landowners, to taxpayers. There's no financial information at all on anything. Just a general comment that for me personally I need to know the financial implications of these recommendations.

**The Chair:** I would suggest that when we have the ministries giving their oral presentations, there will be opportunity for us to ask questions and possibly get some guidance and insight from the ministries when they do their oral presentations.

**Mr. Jones:** You're right, but it's unlikely that they'll have those prepared for that Q and A session. That probably requires quite a bit of research.

**The Chair:** MLA Jones, the ministries will come prepared to respond to the report and the recommendations within the report. If they do not have the answers at hand, they do have opportunity to acquire those answers and report back to the committee at a later time.

Now, we do have a tight timeline, so we will want to try and ensure that we fit within the timeline and not dive too deep into some of the – it's hard to find the word – weeds. It's not necessarily the right word. I think that we will have officials that come before us and will be able to answer questions that the committee has.

**Mr. Jones:** Well, I hope so. I'm more concerned about making good recommendations than fitting into a timeline, particularly when the author of the report indicated that this is not a problem that necessarily needs to be dealt with immediately. We're more trying to be proactive for the future, so I would advocate that we take the time to get the information required to make good recommendations rather than to fit into the timeline, but I don't know how all that works.

**The Chair:** Okay. With regard to my opening comments, we have until 15 days after the fall sitting begins to have our report filed with the Legislative Assembly, and it's up to the committee to be prepared to have their report done at that time. We work with regard to that timeline to present a report as best we can within that timeline. I believe that we will be able to provide a thorough report that meets the mandate that was put before us as a committee in Motion 27 instructing us to do that work.

**10:50**

Any other questions or comments with regard to the next steps in the review?

Seeing none, item 5 is other business. Does anyone have any other committee business they wish to raise at this time?

Seeing and hearing none, item 6, date of the next meeting. Based on the work that has to get done both by Leg. Assembly Office research services and the ministries, we will as a subcommittee probably look towards finding a time and then polling members on availability. We'll have to have a discussion with research services on their abilities and the time that they will need to get the work done, so date of next meeting – Ms Gray?

**Ms Gray:** Thank you. Not to suggest a date, though I would expect it to be maybe September or October – and I think the subcommittee is the perfect one. I just wanted to speak very quickly about the polling and say thank you for polling for the dates for this. I encountered a bit of a technical issue where I only got the e-mail about 25 minutes before the polling was due, so I just respectfully

wanted to request at least one business day's notice on the polling. But, again, thank you very much for working with us to co-ordinate that.

**The Chair:** Okay. Thank you for that feedback.

Date of next meeting: I would suggest at the call of the chair if that's okay.

With that, we move on to item 7, adjournment. If there's nothing else for the committee's consideration . . .

**Mr. Yao:** Hear, hear.

**The Chair:** . . . I'd call for a motion to adjourn. MLA Yao. MLA Yao moves that the July 23, 2019, meeting of the Standing Committee on Alberta's Economic Future be adjourned. All those in favour? Opposed? Thank you. The motion is carried.

Thank you, everyone.

[The committee adjourned at 10:52 a.m.]









